

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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March 14, 2025

Stephani Yurkanin, The Fillmore Center
Tuija Catalano, Reuben, Junius & Rose, LLP
1475 Fillmore Street
San Francisco, CA 94115

Dear Stephani Yurkanin and Tuija Catalano:

RE: The Fillmore Center Properties, San Francisco – Notice of Violation

The California Department of Housing and Community Development (HCD) is responsible for implementing the state Preservation Notice Law (PNL).¹ HCD has learned that the Fillmore Center Properties (Property) has ended affordability terms as of December 1, 2024. HCD has reviewed correspondence and determined that the Twelve-Month and Six-Month Notices are not compliant with PNL. Further, HCD has no record of receiving Three-Year Notices to Affected Public Entities and Affected Tenants as required by Government Code sections 65863.10² and 65863.11.³

The purpose of this letter is to provide written notice that the Fillmore Center's failure to provide the required notices is a violation of PNL under Government Code sections 65863.10 and 65863.11.

Background

On October 18, 2024, HCD sent a Technical Assistance Letter⁴ to the Fillmore Center (Owner). On November 18, 2024, HCD received the Owner's response letter (Response Letter).

¹ Gov. Code, §§ 65863.10, 65863.11, 65863.13. Available at https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=1.&chapter=4.&lawCode=GOV&title=7.&article=2.

² Available at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65863.10.&lawCode=GOV.

³ Available at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65863.11.&lawCode=GOV.

⁴ Available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/fillmore-center-technical-assistance-no-attachments-101824.pdf>.

The Property is located at 1510 Eddy Street, 1535 Eddy Street, 1545 Eddy Street, 1550 Eddy Street, 1345 Fillmore Street, 1730 O'Farrell, 1755 O'Farrell Street, 1410 Steiner Street, 1420 Turk Street, and 1425 Fillmore Street in the City and County of San Francisco. In total, the Property includes 1,113 housing units, including 56 affordable units.

Three-Year Notices, Twelve-Month Notices, and Six-Month Notices are legally required to be provided to Affected Public Entities and Affected Tenants prior to the anticipated date of the termination of a subsidy contract, the expiration of rental restrictions, or prepayment of an assisted housing development.

HCD is responsible for implementing and monitoring compliance with PNL, found in Government Code sections 65863.10, 65863.11, and 65863.13, and has released templates for the notices required by Government Code sections 65863.10 and 65863.11, located on HCD's website.⁵

Analysis

HCD and the City and County of San Francisco have discussed the terms of the 2019 *Agreement for the Preservation of Affordable Housing Units at the Fillmore Center, By and Between the City and County of San Francisco and Fillmore Center Associates, L.P.* (2019 Regulatory Agreement), attached hereto. As you know, the City and County of San Francisco have no authority to waive PNL requirements, and the 2019 Regulatory Agreement in no way waives the Owner's statutory obligation to issue timely and compliant notices to all impacted tenants pursuant to Government Code sections 65863.10 and 65863.11.

HCD has carefully reviewed the Owner's Response Letter, which claims that Fillmore Center does not need to provide a Three-Year Notice pursuant to Government Code section 65863.10, subdivision (e)(2) because the rental restrictions applicable to the Property ceased to exist as of December 1, 2017, several years before the January 1, 2021, applicability threshold provided in the Government Code.⁶

The 2019 Regulatory Agreement expired on December 1, 2024, well after the January 2, 2021, threshold date referenced above. Moreover, the 2019 Regulatory Agreement expressly notes the Owner's failure to comply with PNL at the expiration of the previous regulatory agreement:

⁵ Notice templates available at <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>.

⁶ Response Letter, p. 1.

[A]s of the date of this Agreement, the affordability restrictions remain in effect as the required notice pursuant to and in compliance with California Government Code Section 65865.10 has not been sent to existing tenants in the units covered by the Regulatory Agreement, although the Owner could have sent the said notices as early as December 1, 2016.⁷

This provision indicates that the 2019 extension of the terms of the original regulatory agreement was, at least in part, to ensure that the Owner complied with its PNL statutory obligations. Because the Owner was subject to rental restrictions (via the 2019 Regulatory Agreement) that were scheduled to expire after January 1, 2021, the Owner is required to issue the Three-Year Notice.⁸

Further, the Owner's claim that it "ceased to be an assisted housing development as of December 1, 2017"⁹ is also inaccurate. As the Response Letter correctly notes:

Per Gov't Code Sec. 65863.10(a)(3), "assisted housing development" means a multifamily rental housing development of five or more units that receives governmental assistance under any of the programs specified therein.¹⁰

Here, the Property qualifies as an assisted housing development as the result of receiving bond funds.¹¹ The PNL statutes contain no authority for the proposition that a development ceases to qualify as an assisted housing development once bonds, loans, or any other qualifying source of funding is repaid. On the contrary, developments can qualify as assisted housing developments for purposes of PNL even when there are no loans, bonds, or other sources of funding to repay. Accordingly, once a development qualifies as an assisted housing development for purposes of PNL, it remains an assisted housing development even if payments are no longer required on loans, bonds, or other funding sources, and where other regulatory agreement restrictions apply.

In sum, because the Property is an assisted housing development with a regulatory agreement/rental restriction that expired after January 1, 2021, the Owner must provide a Three-Year Notice under PNL.¹²

Based on correspondence with the Owner, and the response provided by its legal counsel on November 18, 2024, **HCD finds the following violations of Preservation Notice Law:**

⁷ 2019 Regulatory Agreement, p.2, ¶ D.

⁸ See Gov. Code § 65863.10, subd. (e)(2).

⁹ Response Letter, p. 2.

¹⁰ *Id.*, p. 3.

¹¹ See Gov. Code, § 65863.10, subd. (a)(3)(N)(i).

¹² Gov. Code, § 65863.10, subd. (e)(2).

1. Property Owners did not provide proper Three-Year notices to Affected Public Entities and Affected Tenants as required under Government Code section 65863.10, subdivision (e)(2).
2. Property Owners do not intend to provide the Three-Year notices to Affected Public Entities and Affected Tenants as required under Government Code section 65863.10, subdivision (e)(2).
3. Property Owners did not issue timely Twelve-Month and Six-Month notices, in violation of Government Code section 65863.10, subdivisions (b)(1) and (c).

Conclusion and Next Steps

The Owner's failure to issue required notices violates Preservation Notice Law. Pursuant to Government Code section 65863.11, subdivision (o)(4), HCD is charged with referring violations of sections 65863.10 and 65863.11 to the Attorney General for appropriate enforcement action.

The Owner has until March 28, 2025, to provide a written response to this letter, including a timeline for when, and a description of how, it will cure the aforementioned violations of state law. HCD will consider any written response before taking further action. If you have questions or need additional information, please email Preservation@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability