



SAN  
FRANCISCO  
**CHAMBER OF  
COMMERCE**

January 19, 2016

Mr. Rodney Fong, President  
San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

RE: ADOPT STAFF RECOMMENDATION FOR DISAPPROVAL: File #2015-011449PCA/Board File #150731, Planning Code Amendment – Redefine Formula Retail to Include Subsidiaries (**Updated 1/16**)

Dear Commissioner Fong;

The San Francisco Chamber of Commerce, representing over 1,500 businesses, including formula retailers with and without subsidiaries, urges the Planning Commission to adopt the Planning Staff Recommendation to disapprove the ordinance coming before you on Thursday, January 21, 2016 to “Expand Formula Retail to Include Subsidiaries” (Planning File #2015-011449PCA/BOS File #150731).

As you know the Chamber and our partners have been working on formula retail regulation revisions with Planning staff and the Board of Supervisors for several years. Last year we were invited to serve on the Formula Retail Subsidiary Working Group convened by Supervisor Eric Mar and the Planning Department. The Working Group met four times and the Chamber attended every meeting. This legislation, which seeks to regulate subsidiaries of formula retailers as a formula retail use if more than three of a formula retail subsidiary exists anywhere in the world and that subsidiary shares certain common features, was introduced at the Board of Supervisors by Supervisor Mar after the Working Group ceased meeting.

To be clear, there was no consensus achieved or even fundamental agreement among the Working Group members as to whether a problem exists in San Francisco regarding subsidiaries of formula retailers. The number three which appears in this legislation was an arbitrary number suggested at a meeting with no basis or justification. Further, given that this legislation would regulate businesses based on ownership rather than use, it is clearly illegal under land use control laws, which prohibit government regulations used to solely or primarily suppress economic competition.

Land use controls must regulate the use, not the user, of any real property. Permits run with the land and not with the business owner that obtains the permit. This legislation would require Planning Department staff to identify the ownership of any business they perceive could be a subsidiary of a formula retailer. Establishing business ownership is not within the purview of the Planning Department, and is likely not possible in many cases. This legislation therefore not only violates land use laws, it is unenforceable under the Planning Code.

The San Francisco Chamber of Commerce urges the Planning Commissioners to adopt the Planning Staff Recommendation to DISAPPROVE this legislation when it comes before you this week.

Sincerely,

Jim Lazarus  
Senior Vice President of Public Policy

cc: Clerk of the Planning Commission, to be distributed to all Commissioners; John Rahaim, Director, San Francisco Planning Commission; AnMarie Rodgers, Aaron Starr, Planning Department; Regina Dick-Endrizzi and Mark Dwight, Small Business Commission; Board of Supervisors President London Breed; Mayor Ed Lee