



Written by [Michael Tennant](#) on April 8, 2024

## San Francisco May Allow Residents to Sue Supermarkets That Check Out

The San Francisco board of supervisors is considering an ordinance that would force supermarkets to give six months' notice before closing or face potential lawsuits from their former customers.

Supervisors Dean Preston and Aaron Peskin introduced the [legislation](#) Tuesday in an effort to stem the tide of supermarket closures in San Francisco, many of which have [resulted from the city's own policies](#).

The ordinance claims that since supermarkets provide “life-sustaining services” and play a “role ... in strengthening and stabilizing the community,” a grocery store’s owner is not permitted to do as he pleases with his own property. Thus, if he finds it unprofitable to continue doing business in that community, is suffering huge losses from theft, or simply wants to retire, he “has a responsibility as an integral part of that community to undertake a reasonable effort to work with neighborhood residents and the city to explore opportunities to remain open for business, or to identify a replacement supermarket.”

Under the ordinance, the supermarket desiring to close would be required to provide six months' notice to both the city and “its customers and the public.” During that six-month period, the owner “shall meet and work in good faith with neighborhood residents and [city bureaucrats] to find a workable solution to allow for the continued availability of groceries at the supermarket location.” Among the suggested solutions are finding ways to keep the store open (something the owner has probably tried already), helping residents start a co-op, and getting another supermarket operator to continue grocery sales.

Should the owner fail to abide by the notice requirement, “any person affected by” that action — potentially everyone from customers to suppliers, utility companies, and homeless people camping out in the parking lot — can sue the owner for damages and other relief. The city, however, is assuming no “obligation for breach of which it is liable in money damages.” All liability rests with the poor sap who, having spent [several years and hundreds of thousands of dollars](#) wading through San Francisco’s Byzantine bureaucracy to begin his business, now wants to cut his losses and close up shop in a hurry. This isn’t the first time San Francisco has considered such an ordinance. Forty years ago, the board of



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supervisors passed similar legislation; but then-Mayor Dianne Feinstein, in a moment of uncharacteristic restraint, [vetoed it](#), calling it “an unnecessary intrusion of governmental regulatory authority.”

In a January [press release](#) announcing that he would be introducing the current ordinance, Preston heaped praise on the failed 1984 law. “It was a good idea then, and it’s an even better idea now — we need notice, we need transparency, community input, and a transition plan when major neighborhood grocery stores plan to shut their doors,” he said. “Meeting the food security needs of our seniors and families cannot be left to unilateral backroom decisions by massive corporate entities.”

Instead, apparently, it should be left to people who have nothing to lose by browbeating property owners into continuing to operate unprofitable stores or forking over cash because they failed to give the proper notice.

Preston resurrected the idea of mandatory supermarket-closure notice after he managed to frighten Safeway into keeping a Fillmore-neighborhood store open nine months longer than initially planned. On January 4, Safeway notified the city that it intended to close the store in early March. Four days later, Preston fired off a [letter](#) to Safeway management demanding that they “withdraw this plan to close in March, and work with all stakeholders to develop a plan that avoids harming this community by an abrupt closure of this grocery store.” He also submitted a [resolution](#) urging Safeway to “reverse its plans” and to “participate in a community meeting ... to discuss plans for the property and answer questions.” What probably scared Safeway the most, though, was the resolution’s push for all city departments to thwart its plans. The day before the board was scheduled to vote on the resolution, the supermarket chain [announced](#) that it would keep the store open until next January.

As bad as Preston’s ordinance is, it at least has the virtue of containing several fairly large loopholes that, as [Reason](#) observed, “would seem to give supermarkets enough wiggle room to stay within the letter of the law, even if they didn’t provide six months’ advance notice that they were closing down.” According to the proposed law, supermarkets may close without six months’ notice if they can demonstrate that “the Closure is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required”; that “the closure is due to a natural disaster or emergency”; or that, at the time the notice was required, they were “actively seeking capital or business” that would have allowed them to remain open but feared that giving notice would have stymied their efforts. In addition, if someone sues a supermarket for closing too quickly, the supermarket can escape liability by showing that complying with the ordinance “would have required the disclosure of information that is proprietary, a trade secret, or is otherwise protected from disclosure.”

“Abrupt closure of a neighborhood-serving store is no less harmful [now] than it was 40 years ago,” said Preston. “We need to be doing everything in our power to maintain access to groceries in our neighborhoods.”

But Preston’s ordinance, by making San Francisco an even more perilous place to do business, would have the opposite effect.



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