



## AGENDA REPORT

**Meeting Date:** March 4, 2014

**Item Number:** F-3

**To:** Honorable Mayor & City Council

**From:** William R. Crouch, AIA, NCARB, AICP, LEED (AP), Urban Designer

**Subject:** A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE MILLS ACT PILOT PROGRAM AND APPROVING A THREE YEAR EXTENSION OF THE PILOT PROGRAM

**Attachments:**

1. Resolution of Approval
2. Planning Commission Staff Report, September 12, 2013

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### INTRODUCTION

It is recommended that the City Council of the City of Beverly, on the recommendation of the Planning Commission and with the support of the Beverly Hills Unified School District Board, adopt a resolution amending the Mills Act Pilot Program and approving a three year extension of the Pilot Program from January 1, 2014 to December 31, 2016.

### RECOMMENDATION

Staff recommends the Council of the City of Beverly Hills adopt a resolution amending the Mills Act Pilot Program and approving a three year extension of the Pilot Program from January 1, 2014 to December 31, 2016, as recommended by the Planning Commission, Cultural Heritage Commission and the joint sub-committee of Planning and Cultural Heritage Commissioners, and with the modifications recommended by staff. It is recommended that the City Council approve an increased annual cap on lost property tax to the City not to exceed \$100,000.00 per annum and further, that the Pilot Mills Act Program be made available to all single-family dwellings, multi-family dwellings, all commercial and non-residential properties in the City of Beverly Hills with tax assessed values not exceeding \$7.5M with the possible exemption from the property value limitation in exceptional circumstances for properties with significant cultural-historic and/or architectural value to the community.

Additionally, it is recommended that the City Council allow property owners of individual properties already listed on the National Register optional automatic listing onto the Local Register. This provision would allow property owners wanting to participate to have their National Register properties automatically listed onto the Local Register, thereby making application for the Mills Act incentive immediately available for qualifying properties.

## **SUMMARY**

This report presents recommendations from the Planning Commission, Cultural Heritage Commission and a joint sub-committee of Planning and Cultural Heritage Commissioners, suggested clarifications and adjustments to the City's Pilot Mills Act Program and a possible three (3) year extension of an amended Mills Act Pilot Program beyond the initial two year Pilot Program (which expired on December 31, 2013), until December 31, 2016.

## **BACKGROUND**

The City's Pilot Mills Act Program is a self-directed, financial incentive program for owners of locally designated historic properties. The purpose of a Mills Act contract is to provide property tax relief for owners of locally designated landmark properties in return for the long-term preservation and maintenance of the landmark property's historic features and distinctive character. A Mills Act contract between an owner of a City designated landmark property and the City of Beverly Hills is for an initial 10-year contract period, with annual one (1) year extensions unless otherwise not renewed.

The current Pilot Program that expired on December 31, 2013 was capped at \$50,000.00 per annum, maximum fiscal impact each year to the City through lost property taxes and with a corresponding cap of \$40,000.00 per annum, maximum fiscal impact each year to the Beverly Hills Unified School District. Seventy percent (70%) of the available funding for the initial two year Pilot Program has been encumbered and two Mills Act Contracts have been awarded, to the landmark Saban Theatre and the Beverly Hills Post Office - Wallace Annenberg Center for the Performing Arts.

At the meeting of December 5, 2013 City Council reviewed a staff report regarding the goals and policies of the City's Pilot Mills Act Program and the proposed three (3) year extension of a revised Mills Act Pilot Program beyond 2013. At that time City Council directed staff to reach out to the Beverly Hills Unified School District Board to review the current program and the fiscal implications of a possible three (3) year extension of an amended Mills Act Pilot Program beyond the initial two year Pilot Program with an increased cap on lost property tax to the City not to exceed \$100,000 in a single year, and not exceeding \$1,000,000 projected over the ten year term for Mills Act contracts with the City. The corresponding fiscal impact on Beverly Hills Unified School District (BHUSD) funding through lost property tax revenue would be up to \$80,000.00 per annum and not exceeding \$800,000 when projected over ten years.

On January 7, 2014 City staff made a presentation to the Beverly Hills Unified School District Board to discuss the fiscal implications of the proposed three (3) year extension of a revised Mills Act Pilot Program. On that occasion the School Board offered their support for the three year extension of the revised Mills Act Program and requested the City and the School Board to partner in providing educational opportunities for students to increase awareness of local history and architectural heritage. The Cultural Heritage Commission has expressed their willingness to assist in this endeavor.

## **PILOT MILLS ACT PROGRAM**

On October 18, 2011, the City Council established a two year Pilot Mills Act Program with the following criteria for participating properties:

- A single-family residential property or a commercial property constructed as a public theater as a primary use;
- Located entirely within the City of Beverly Hills;
- Privately owned;
- Not exempt from property taxation; and
- Individually listed on the City of Beverly Hills' Register of Historic Properties, based on its architectural significance.

Additionally, the City Council directed the following information be used for the priority ranking of applicant properties in the event that applications exceed available program funding:

- Property is a theater, or performing arts building;
- Designed by a master architect (as listed on the City's list of Master Architects);
- Listed on the National Register or State Register;
- Date of filing of Mills Act Contract application.

City Council also directed that the following priority requirements be considered in making recommendations for program participation:

- Necessity. The residential or commercial project will require financial incentive in addition to any mortgage financing, private capital or public loans, to help ensure the preservation of the property. This criterion will establish that the property is in danger of deterioration and in need of substantial rehabilitation that has significant associated costs.
- Uniqueness. The project is a unique architectural example of a residential or commercial property. The unique characteristics of the designated landmark will be identified under this criterion.
- Investment. The residential or commercial project will result in additional private investment in the property other than for routine maintenance that may include seismic retrofitting and substantial repair or rehabilitation work. This criterion will estimate the costs for the restoration and rehabilitation of the property that the owner is committed to undertaking.
- Sustainability. The preservation plan included in the applicant's application has "green" or sustainable features, such as reuse of original or salvaged materials (including retaining interior plaster); restoration of missing sun-shading features such as porches, awnings, or shutters, etc. The retention, reuse, or recreation of these features should be consistent with the Secretary of the Interior's Standards and the historic character of the property. Applicants must also submit additional information in their applications to justify consideration under this priority consideration criterion.

## **PROGRAM REVIEW**

Following review of the City's Pilot Mills Act Program goals and objectives by the Cultural Heritage Commission (CHC) at their meetings on January 9, 2013 and March 6, 2013, a joint sub-committee meeting of Planning and Cultural Heritage Commissioners was convened on May 14, 2013, to consider the CHC's recommendations relative to the policies shaping the City's Pilot Mills Act Program. The joint sub-committee meeting comprised Planning Commissioners Rosenstein and Yukelson and Cultural Heritage Commissioners Waldow and Furie.

At their meeting on September 12, 2013, the Planning Commission received the recommendations of the joint sub-committee and the Cultural Heritage Commission and reviewed and re-evaluated the goals and policies shaping the City's Pilot Mills Act Program. To that end, and to further reinforce the program goals, the Planning Commission recommended the following clarifications and adjustments to the City's Pilot Mills Act Program goals and policies:

1. Require local landmark application by applicants independently of and before any Mills Act application, regardless of whether a Mills Act application would eventually be successful. The Mills Act Program is a historic preservation incentive and participation in the program should be limited to owners of local landmark properties.
2. Consider giving property owners of individual properties listed on the National Register automatic listing onto the Local Register just as the State currently automatically lists any National Registrations. This provision would be optional for property owners wanting to participate and will assist property owners of Landmark properties by making the Mills Act incentive automatically available for qualifying properties.
3. Introduce a cap on the tax assessed value of participating properties to \$10.0M for all single-family dwellings, multi-family dwellings, and all commercial properties (no longer limited only to commercial properties constructed as a public theater as a primary use), with the possible exemption from these property value limitations in exceptional circumstances for properties with cultural-historic and/or architectural value to the community. The \$10.0M cap on the tax assessed value of participating properties is an amount that would encompass most properties in the City and the provision of a possible exemption to this rule for outstanding properties of greater value seems prudent and fair to all property owners.

To be considered for possible exemption from the cap on the tax assessed value for participating properties, the following criteria will be used to establish exceptional circumstances:

- a) The structure has significant cultural-historic and/or architectural value to the community.
- b) Granting an exemption will assist in the preservation of a locally significant structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, substantial alteration affecting the integrity of the structure, or relocation.

- c) Properties applying for a valuation exemption should be required to provide (as a part of the application) a Historic Structures Report (HSR) to substantiate the exceptional circumstances for granting the exemption. The HSR shall conform to the requirements outlined in National Parks Service, Preservation Brief 43 – The Preparation and Use of Historic Structures Reports. The City of Los Angeles currently requires a HSR be supplied for all properties valued above \$1.5M.
  - d) Granting of any exception will not cause the maximum annual cumulative loss of property tax revenue to the City or to Beverly Hills Unified School District (BHUSD) to be exceeded.
4. Allow for an acceptable mediation process to assist in the remedy of any breach under an approved Mills Act contract, including a process whereby the property owner would agree to reimburse the Beverly Hills Unified School District (BHUSD) for all loss of tax revenue associated with the property in breach of contract over the entire Mills Act Contract duration. In return the City Council would agree as part of the Mills Act contract to pursue litigation to remedy the breach and agree in the event of a breach not to cancel the Mills Act Contract and impose the associated cancelation penalty costs of 12.5% of the property value against the owner.
  5. Consider a three year extension of a Pilot Mills Act Program beyond the initial two year Pilot Program with an increased annual cap on lost property tax to the City not to exceed \$100,000 in a single year, and not exceeding \$1,000,000 projected over the ten year term for Mills Act contracts with the City. The corresponding impact on Beverly Hills Unified School District (BHUSD) funding through lost property tax revenue would be up to \$80,000.00 per annum and not exceeding \$800,000 when projected over ten years.

## **ANALYSIS**

Staff agrees with the actions of the Planning Commission (supported also by the Cultural Heritage Commission), to recommend a three (3) year extension of an amended Pilot Mills Act Program, but suggests that the cap on the tax assessed value of participating properties should be reduced from \$10.0M to \$7.5M for all Single-Family Dwellings, Multi-Family Dwellings and all Commercial Properties. This will limit participation in the Pilot Program to properties valued under \$7.5M unless recommended exceptional circumstances are met including that a subject property has significant cultural-historic and/or architectural value to the community. Although the cities of Santa Monica, West Hollywood, and Glendale do not institute a cap on the assessed value of participating properties, the Cultural Heritage Commission and Planning Commission felt that high property values in Beverly Hills warrant some limitation to prevent an abundance of high value properties consuming available resources and precluding participation of properties with lower assessed values.

Staff supports the proposed incremental increase to the annual cap on lost property tax to the City from \$50,000.00 to \$100,000.00 per annum, (with a corresponding maximum annual loss to BHUSD of up to approximately \$80,000.00 per annum) to allow for additional properties to participate in the Pilot Program over the next three years.

Staff also agrees with the proposal to give property owners of individual properties listed on the National Register automatic listing onto the Local Register just as the State currently

automatically lists any National Registrations provided that automatic listing onto the Local Register is optional on the part of property owners wanting to participate. This provision would allow participating property owners to have their National Register properties automatically listed onto the Local Register, thereby making application for the Mills Act incentive immediately available for owners of qualifying properties.

All of these recommended program adjustments have been incorporated into the attached resolution.

### **ENVIRONMENTAL REVIEW**

A three (3) year extension of an amended City of Beverly Hills Pilot Mills Act Program from January 1, 2014 to December 31, 2016, was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Finally, it has been determined that approval of a three (3) year extension of the City's Pilot Mills Act Program would not have a significant environmental impact and is exempt from CEQA pursuant to Sections 15061(b)(3) and 15331 of Title 14 of the California Code of Regulations because approval of a three (3) year extension of the City's Pilot Mills Act Program is an action of the City to protect and preserve a historic resource.

### **GENERAL PLAN CONSISTENCY**

Approval of a three (3) year extension of an amended City's Mills Act Pilot Program from January 1, 2014 to December 31, 2016, is consistent with the objectives, principles, and standards of the General Plan. General Plan Policy "HP 1.3 – Promote National, State, and Local Designation of Historic Resources" encourages the establishment of programs encouraging the nomination of landmarks.

### **FISCAL IMPACT**

There are fiscal impacts associated with the recommended three (3) year extension of an amended City's Pilot Mills Act Program from January 1, 2014 to December 31, 2016, including the loss of property tax to the City of up to \$100,000.00 per annum and up to \$1 Million over a ten year term. The corresponding impact on BHUSD funding through lost property tax revenue would be up to \$80,000.00 per annum and up to \$800,000 over a ten year term.

Additional staff administration costs associated with extending the City's Mills Act Pilot Program by an additional three year term will be partially offset by payment of application fees.

Susan Healy Keene, AICP,  
Director of Community Development

  
Approved By



## **Attachment 1**

Resolution of Approval

RESOLUTION NO. 14-R-\_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
BEVERLY HILLS AMENDING THE MILLS ACT PILOT  
PROGRAM AND APPROVING A THREE YEAR EXTENSION  
OF THE PILOT PROGRAM

Section 1. On April 21, 2011 the City Council directed City Staff to develop a Mills Act Program for the City of Beverly Hills to incentivize the preservation, maintenance, and rehabilitation of historic properties.

Section 2. On October 18, 2011 the City Council approved the establishment of a two year Pilot Mills Act Program in the City of Beverly Hills from January 1, 2012 until December 31, 2013.

Section 3. The City's Pilot Mills Act Program provides property tax reductions to property owners of qualified properties who agree to invest in the preservation and rehabilitation of qualifying historic properties. Pursuant to Government Code Section 50280 et seq. ("the Mills Act"), the City Council may establish a program pursuant to which the City may enter a historical property preservation agreement ("Preservation Agreement") with an owner of a historic property for the purposes of preservation, rehabilitation, and maintenance of a designated historic resource in accordance with the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and applicable City codes ("Mills Act Program"). The Preservation Agreement allows the owner to receive a reduction in property taxes in exchange for the property owner's commitment to repair, restore, rehabilitate, and/or maintain the historic property.

Section 4. The preservation and rehabilitation of historic properties enhances the character of Beverly Hills by retaining the City's sense of place and continuity with the community's past. As a matter of public policy, the identification, designation, preservation, enhancement, perpetuation and use of improvements, buildings and structures within the City that reflect special elements of the City's cultural, historical, agricultural, architectural, artistic, educational, or economic heritage is in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. Preservation of historic resources is an important aspect of tourism. By encouraging property owners to maintain and restore historic buildings and landscapes, the City is preserving its history and supporting the local economy.

Section 5. The City's General Plan Historic Preservation Element includes policies related to preserving resources that represent the City's history and culture or contribute to the City's special character and unique identity. Specifically, General Plan Policies HP 1.4 and 1.4a, and Program 2.3, focus on the development of financial and regulatory incentives, such as the Mills Act Program, to protect significant historic resources.

Section 6. The City of Beverly Hills Municipal Code has established procedures for identifying and designating historic resources. The Historic Preservation Code (City of Beverly Hills Municipal Code, Title 10, Chapter 3, Article 32. Historic Preservation) is intended to protect buildings, structures, and sites that are of particular historic or cultural significance and define the City's heritage and historic development. The City's Cultural Heritage Commission is designated to serve in an advisory capacity to the City Council on the preservation of historic and cultural landmarks. In this capacity, the Cultural Heritage Commission and the Community Development Department, which is the department that

supports the Cultural Heritage Commission, are positioned to administer programs the City establishes for rehabilitating, restoring, maintaining and preserving historic structures, including a Mills Act Program.

Section 7. On December 4, 2012, City Council requested the Planning and Cultural Heritage Commissions to review the goals and policies of the City's Pilot Mills Act Program and report back to City Council regarding the Pilot Program and its possible extension beyond 2013.

Section 8. At its meeting on September 12, 2013 the Planning Commission received the recommendations of the joint sub-committee and the Cultural Heritage Commission and reviewed and re-evaluated the goals and policies shaping the City's Pilot Mills Act Program. To further reinforce the program goals, the Planning Commission recommended the following clarifications and adjustments to the City's Pilot Mills Act Program goals and policies:

1. Require local landmark application by applicants independently of and before any Mills Act application whether or not a Mills Act application would eventually be successful. The Mills Act Program is a historic preservation incentive and participation in the program should be limited to owners of local landmark properties.
2. Consider giving individual properties or districts listed on the National Register automatic listing onto the Local Register just as the State currently automatically lists any National Registrations. This provision would apply prospectively to any future National Register properties in the City of Beverly Hills not currently on the National Register and will make the Mills Act incentive automatically available to these properties.

3. Introduce a cap on the tax assessed value of participating properties of \$10.0M for any Single-Family Dwellings, Multi-Family Dwellings or Commercial Properties (no longer limited only to commercial properties constructed as a public theater as a primary use), with the possible exemption from these property value limitations in exceptional circumstances for properties with cultural-historic and/or architectural value to the community. The \$10.0M cap on the tax assessed value of participating properties is an amount that would embrace most properties in the City and the provision of a possible exemption to this rule for outstanding properties of greater value seems prudent and fair to all property owners.

To be considered for possible exemption from the cap on the tax assessed value for participating properties, the following criteria will be used to establish exceptional circumstances:

- a) The structure has cultural-historic and/or architectural value to the community.
- b) Granting an exemption will assist in the preservation of a structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, substantial alteration affecting the integrity of the structure, or relocation.

- c) Properties applying for a valuation exemption should be required to provide (as a part of the application) a Historic Structures Report (HSR) to substantiate the exceptional circumstances for granting the exemption. The HSR shall conform to the requirements outlined in National Parks Service, Preservation Brief 43 – The Preparation and Use of Historic Structures Reports. The City of Los Angeles currently requires a HSR be supplied for all properties valued above \$1.5M.
  - d) Granting of any exception will not cause the maximum annual cumulative loss of property tax revenue to the City to be exceeded.
4. Incorporate into the Mills Act contract, an acceptable mediation process to assist in the remedy of any breach under an approved Mills Act contract. In addition, provide an opportunity for a property owner to agree to reimburse the Beverly Hills Unified School District (BHUSD) each year for the BHUSD loss of tax revenue associated with the Mills Act Contract, and in exchange the City Council would agree as part of the Mills Act contract to pursue litigation to remedy any breach and not to cancel the Mills Act Contract and impose the associated cancelation penalty costs of 12.5% of the property value against the owner.
5. Provide a three year extension of a Pilot Mills Act Program beyond the initial two year Pilot Program from January 1, 2014 to December 31, 2016, with an increased annual cap on lost property tax to the City not to exceed \$100,000.00 in a single year, and not exceeding \$1Million projected over the ten year term for Mills Act contracts with the

City. The corresponding impact on Beverly Hills Unified School District (BHUSD) funding through lost property tax revenue would be up to \$80,000.00 per annum and not exceeding \$800,000 when projected over ten years.

Section 9. At the meeting of December 5, 2013 City Council reviewed a staff report regarding the goals and policies of the City's Pilot Mills Act Program and the proposed three (3) year extension of a revised Mills Act Pilot Program from January 1, 2014 to December 31, 2016. At that time City Council directed staff to reach out to the Beverly Hills Unified School District Board to review the current program and the fiscal implications of a possible extension of an amended Mills Act Pilot Program beyond the initial two year Pilot Program to December 31, 2016 and with an increased cap on lost property tax to the City not to exceed \$100,000 in a single year, and not exceeding \$1,000,000 projected over the ten year term for Mills Act contracts with the City. The corresponding fiscal impact on Beverly Hills Unified School District (BHUSD) funding through lost property tax revenue would be up to \$80,000.00 per annum and not exceeding \$800,000 when projected over ten years.

Section 10. On January 7, 2014 City staff was pleased to make a presentation to the Beverly Hills Unified School District Board and to discuss the fiscal implications of the proposed three (3) year extension of a revised Mills Act Pilot Program from January 1, 2014 to December 31, 2016. On that occasion the School Board offered its support for the three year extension of the revised Mills Act Program and requested the City and the School Board look for ways to partner in providing educational opportunities for students to increase awareness of local

history and our architectural heritage. The Cultural Heritage Commission has also expressed their willingness to assist in this worthwhile endeavor.

Section 11. On March 4, 2014, the City Council adopted this resolution extending the City's Pilot Mills Act Program by three years, from January 1, 2014, expiring on December 31, 2016 and adopted the amendments to the Mills Act Pilot Program as recommended by the Planning Commission and as modified by Staff, and as set forth herein.

Section 12. Staff agrees with the actions of the Planning Commission, supported also by the Cultural Heritage Commission to recommend a three (3) year extension of an amended Pilot Mills Act Program from January 1, 2014 to December 31, 2016 but recommended the cap on the tax assessed value of participating properties be reduced from \$10.0M to \$7.5M for any Single-Family Dwellings, Multi-Family Dwellings or Commercial Properties. This would restrict participation in the revised Pilot Mills Act Program for properties valued above \$7.5M unless a subject property satisfies the requirements for exemption from the cap on the tax assessed value limitations including significant cultural-historic and/or architectural value to the community. Staff also supported the proposed incremental increase to the annual cap on lost property tax to the City from \$50,000.00 to \$100,000.00 per annum, (with a corresponding maximum annual loss to BHUSD of up to approximately \$80,000.00 per annum) to allow for additional properties to participate in the extended Pilot Program.

Staff also agreed with the proposal to give property owners of individual properties listed on the National Register automatic listing onto the Local Register just as the State currently automatically lists any National Registrations provided that automatic listing onto

the Local Register is optional on the part of property owners wanting to participate. This provision would allow property owners wanting to participate to have their National Register properties automatically listed onto the Local Register, thereby making the Mills Act incentive immediately available for qualifying properties.

Section 13. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of approving an extension of an amended Mills Act Pilot Program from January 1, 2014 to December 31, 2016. The extension of an amended Mills Act Pilot Program establishes a property tax reduction for property owners that rehabilitate, restore, maintain, and preserve properties that are determined to be of historic significance. The extension of an amended Mills Act Pilot Program does not authorize any new development or construction of buildings, nor does it authorize any new land uses. The extended program encourages the continued use of existing structures and the continuance of existing land uses. For these reasons it can be seen with certainty that the three year extension of an amended Mills Act Pilot Program will not result in any significant adverse impact on the environment. Thus, the extension of an amended Mills Act Pilot Program to December 31, 2016, is exempt from the CEQA environmental review requirements pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the extension of an amended Mills Act Pilot Program to December 31, 2016, would be categorically exempt from environmental review pursuant to section 15331 of the CEQA Guidelines, which exempts projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving,

Rehabilitating, Restoring, and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) in that it is an incentive program the results in the preservation and maintenance of historic resources in exchange for property tax reductions. In addition, the extension of an amended Mills Act Pilot Program to December 31, 2016, is categorically exempt from CEQA, pursuant to CEQA Guidelines Section 15308 because it is an action by a regulatory agency (the City) to maintain, restore and protect the environment through protection of historical resources in the community.

Section 14. The three year extension of the amended City of Beverly Hills Mills Act Pilot Program (Mills Act Program) from January 1, 2014 to December 31, 2016, shall go into effect at midnight on March 4, 2014, and shall continue in effect, until midnight on December 31, 2016. To allow adequate processing time, new applications for preservation agreements shall be accepted at any time between January 1 and May 31 of each calendar year the Pilot Program is in effect. No new applications will be accepted into the program after May 31, 2016, unless a permanent Mills Act Program is established to supersede the Mills Act Pilot Program. If a permanent Mills Act Program is not established, preservation agreements recorded prior to January 1, 2017, shall continue in effect, unless terminated or cancelled in accordance with the Mills Act.

Section 15. A “qualified historic property” for the purposes of the Beverly Hills Mills Act Pilot Program shall be defined as:

- a. A single-family residential property, a multi-family residential property or a commercial property with a tax assessed value not exceeding \$7.5 million dollars, unless exempted from the maximum tax assessed value through exceptional circumstances;

- b. Located entirely within the City of Beverly Hills;
- c. Privately owned;
- d. Not exempt from property taxation; and
- e. Individually listed in the City of Beverly Hills' official landmark register.

Section 16. To limit any fiscal impact of the Mills Act Pilot Program, the City of Beverly Hills shall limit annual revenue loss from property tax revenues to \$100,000 each year. To further limit any fiscal impact, the City of Beverly Hills shall not enter into or execute more than three (3) preservation agreements per calendar year during the term of the Mills Act Pilot Program.

Section 17. The City Council hereby delegates to the Director of Community Development or his or her designee, with review by the City Attorney, the authority and responsibility to develop, maintain, and amend, as necessary, an application, administrative guidelines, and forms of Preservation Agreements for properties seeking qualification and participation in the Mills Act Pilot Program. The Director of Community Development or his or her designee shall, as necessary, establish priority consideration criteria whereby such criteria shall be used to rank applications in terms of the preservation and rehabilitation needs of each property and prioritize selection of applications. The Director of Community Development or his or her designee shall also report on an annual basis to the City Council the number of Mills Act preservation agreements executed and the effectiveness of the Mills Act Pilot Program. The terms of the Preservation Agreement shall comply with Government Code Section 50280 et seq. The maintenance, repair, rehabilitation, and/or restoration standards applicable to the subject property shall be set forth in the Preservation Agreement. In consideration of abiding with the

terms of the Preservation Agreement, the owner of the subject property shall be entitled to qualify for a reassessment of the historic property pursuant to State Revenue and Taxation Code Section 439 et seq.

Section 18. The City Council hereby delegates to the Cultural Heritage Commission the authority and responsibility to review and make recommendations to the City Council on applications submitted pursuant to the Mills Act Program. The City Council shall be the final authority on the authorization and approval of Preservation Agreements pursuant to the Mills Act Pilot Program.

Section 19. Preservation Agreements will have a minimum contract term of ten (10) years, with automatic renewal on an annual basis, shall be recorded against title to the property and run with the land. Owners shall maintain the regulated characteristics of historical significance of the historic property in accordance with the rules and regulations of the State Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and any applicable local codes and policies. Owners must allow reasonable periodic examination of the interior and exterior of the premises, if a request is made by representatives of the County Assessor, State Office of Historic Preservation Department of Parks and Recreation, the State Board of Equalization, and/or the City's Community Development Director or his or her designee to determine the owner's compliance with the Preservation Agreement. No Preservation Agreement may be cancelled without compliance with Government Code Section 50280 et seq., which requires notice and a public hearing by the City Council.

Section 20. The City Council shall establish fees for the processing of applications for Preservation Agreements and other matters required by the Mills Act Pilot Program, as legally permissible by State and local law.

Section 21. The record of proceedings for a three year extension of an amended Mills Act Pilot Program is maintained by the City as part of the official records of the Community Development Department at 455 North Rexford Drive, Beverly Hills, California, 90210.

Section 22. An amended Mills Act Pilot Program is hereby established based on the parameters included in this resolution to implement the State of California Mills Act in the City of Beverly Hills on a trial basis.

Section 23. The City Clerk shall certify to the adoption of the Resolution and shall cause the Resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

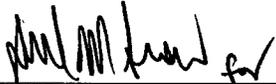
Section 24. This Resolution shall go into effect on March 4, 2014.

\_\_\_\_\_  
JOHN A. MIRISCH  
Mayor of the City of Beverly Hills,  
California

ATTEST:

\_\_\_\_\_  
BYRON POPE (SEAL)  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager  
  
\_\_\_\_\_  
SUSAN HEALY KEENE  
Director of Community Development



## **Attachment 2**

Planning Commission Staff Report, September 12, 2013



**City of Beverly Hills**

**Planning Division**

455 N. Rexford Drive Beverly Hills, CA 90210  
TEL. (310) 485-1141 FAX. (310) 858-5966

## **Planning Commission Report**

**Meeting Date:** September 12, 2013

**Subject:** Policy Direction for the City of Beverly Hills Pilot Mills Act Program.

**Recommendation:** The Planning Commission is being asked to re-evaluate the Pilot Mills Act Program goals and objectives and make recommendations to City Council regarding the Pilot Program and its possible continuation beyond the initial two year term.

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### **REPORT SUMMARY**

This report presents recommendations for consideration by the Planning Commission from the Cultural Heritage Commission and the joint sub-committee of Planning and Cultural Heritage Commissioners, of suggested clarifications and refinements of the City's Pilot Mills Act Program and requests the Planning Commission forward recommendations to City Council regarding the Pilot Program and its possible continuation beyond the initial two year term.

### **BACKGROUND**

The City's Pilot Mills Act Program is a self-directed, economic incentive program for owners of locally designated historic properties. The current program is capped at \$50,000.00 per annum, maximum economic loss to the City through lost property taxes. The purpose of a Mills Act contract is to provide property tax relief for an owner in return for the long-term maintenance and preservation of the property's historic features and character. A Mills Act Contract between the owner of a City designated landmark property and the City of Beverly Hills is for an initial 10-year contract period.

In the Study Session of December 4, 2012, City Council requested the Planning and Cultural Heritage Commissions review the goals and policies of the City's Pilot Mills Act Program and report back to City Council regarding the Program.

### **POLICY REVIEW**

On October 18, 2011, the City Council established a two year Pilot Mills Act Program with the following **criteria** for participating properties:

- A single-family residential property or a commercial property constructed as a public theater as a primary use;
- Located entirely within the City of Beverly Hills;

**Attachments:**

1. Comparative Mills Act Program Tabulation Sheets
2. Cultural Heritage Commission Staff Report January 9, 2013
3. Cultural Heritage Commission Staff Report March 6, 2013

**Report Author and Contact Information:**

William Crouch, AIA, AICP  
Urban Designer  
(310) 285-1116  
wcrouch@beverlyhills.org

- Privately owned;
- Not exempt from property taxation; and
- Individually listed in the City of Beverly Hills' official landmark register based on the property being listed for its architectural significance.

Additionally, the City Council directed the following information be used for the ranking of applicant properties:

- Property is a theater, or performing arts building
- Designed by a master architect (as listed on the City's list of Master Architects)
- Listed on the National Register or State Register
- Date of filing.

City Council also directed that the following priority requirements be considered in making recommendations for program participation:

- Necessity. The residential or commercial project will require financial incentive in addition to any mortgage financing, private capital or public loans, to help ensure the preservation of the property. This criterion will establish that the property is in danger of deterioration and in need of substantial rehabilitation that has significant associated costs.
- Uniqueness. The project is a unique architectural example of a residential or commercial property. The unique characteristics of the designated landmark will be identified under this criterion.
- Investment. The residential or commercial project will result in additional private investment in the property other than for routine maintenance that may include seismic retrofitting and substantial repair or rehabilitation work. This criterion will estimate the costs for the restoration and rehabilitation of the property that the owner is committed to undertaking.
- Sustainability. The preservation plan included in the applicant's application has "green" or sustainable features, such as reuse of original or salvaged materials (including retaining interior plaster); restoration of missing sun-shading features such as porches, awnings, or shutters, etc. The retention, reuse, or recreation of these features should be consistent with the Secretary of the Interior's Standards and the historic character of the property. Applicants must also submit additional information in their applications to justify consideration under this priority consideration criterion.

## **PROGRAM ANALYSIS**

At their meetings on January 9, 2013 and March 6, 2013 the Cultural Heritage Commission reviewed and re-evaluated the goals and policies shaping the City's Pilot Mills Act Program and agreed that the five (5) basic program criteria required by City Council, together with the four (4) priority rankings to be met by any participating property do provide clear parameters to applicants. The requirement that any participating property be a listed local Landmark shows the clear intention for this incentive program to encourage participation in the City's Preservation Program.

To that end, and to further reinforce the program goals, the Cultural Heritage Commission recommended at their meeting of March 6, 2013 the following clarifications and refinements to the City's Pilot Mills Act Program goals and policies:

- *Require local landmark application by applicants independently of any Mills Act application whether or not a Mills Act application would eventually be successful.*
- *Consider giving individual properties or districts listed on the National Register automatic listing onto the local Register just as the State currently automatically lists any National Registrations.*
- *Introduce caps on the tax assessed value of participating properties of \$7.5M for Single-Family Dwellings and \$10.0M for Commercial-Public Theater Properties, with the possible exemption from these property value limitations in exceptional circumstances for properties meeting necessary criteria.*
- *Allow for an acceptable mediation process to assist in the remedy of any breach, provided the City's Mills Act contract cancelation option is not compromised. At the December 4, 2012 Study Session related to Mills Act contract language, City Council did appreciate the challenges owners of highly valued properties face if participating in the pilot program and was not averse to considering a mediation process to assist in the remedy of any breach provided their contract cancelation option was not compromised.*
- *Further clarify the required priority measure for 'necessity' to help staff better target priority properties where property owners are actively rehabilitating their properties (not only maintaining their property) in compliance with the Secretary of the Interior's Standards for Rehabilitation and the California Historical Building Code.*

#### **JOINT SUB-COMMITTEE MEETING OF PLANNING AND CULTURAL HERITAGE COMMISSION**

On May 14, 2013 a joint sub-committee meeting of Planning and Cultural Heritage Commissioners was convened to review the five (5) recommendations of the Cultural Heritage Commission relative to the goals and policies shaping the City's Pilot Mills Act Program.

The joint sub-committee meeting comprising Planning Commissioners Rosenstein and Yukelson and Cultural Heritage Commissioners Waldow and Furie, suggested modifications to the recommendations of the Cultural Heritage Commission as follows:

1. Introduce a cap on the tax assessed value of participating properties of \$10.0M for all Single-Family Dwellings and Multi-Family / Commercial Properties, with the possible exemption from these property value limitations in exceptional circumstances for properties with cultural-historic and/or architectural value to the community.
2. To be considered for possible exemption from the cap on the tax assessed value for participating properties, the following criteria will be used to establish exceptional circumstances:
  - a) The structure has cultural-historic and/or architectural value to the community.

- b) Granting an exemption will assist in the preservation of a structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, substantial alteration affecting the integrity of the structure or relocation.
  - c) Properties applying for a valuation exemption should be required to provide (as a part of the application) a Historic Structures Report (HSR) to substantiate the exceptional circumstances for granting the exemption. The HSR shall conform to the requirements outlined in National Parks Service, Preservation Brief 43 – The Preparation and Use of Historic Structures Reports. The City of Los Angeles currently requires a HSR be supplied for all properties valued above \$1.5M.
  - d) Granting of any exception will not cause the annual cumulative loss of property tax revenue to the City to be exceeded.
3. In addition to an acceptable mediation process to assist in the remedy of any breach under an approved Mills Act contract, allow also for a process whereby the property owner in breach of conditions of approval would agree to reimburse the Beverly Hills Unified School District (BHUSD) for all loss of tax revenue associated with the property in breach of contract over the entire Mills Act Contract duration and in return the City Council would agree to pursue litigation only to remedy the breach and agree also not to cancel the Mills Act Contract and imposed the associated cancellation penalty costs of 12.5% of the assessed property value against the owner.
4. Consider a maximum three year time extension of the Pilot Mills Act Program with a maximum increased annual cap on lost property tax to the City of up to \$250,000.00, and a corresponding annual loss to BHUSD of up to \$200,000.00. (For comparison, a Mills Act contract for a property valued at \$10M would result in an annual property tax loss to the City ranging from \$14,400.00 to approximately \$16,800.00 and to the BHUSD ranging from \$11,800.00 to approximately \$13,800.00).

#### **STAFF ANALYSIS**

Staff agrees with the recommended actions of the Joint Sub-Committee of the Planning and Cultural Heritage Commissions with the added caution that the possible increased annual cap on lost property tax to the City of up to \$250,000.00, and corresponding annual loss to BHUSD of up to \$200,000.00 is beyond any fiscal impacts previously anticipated by either the City or the School District and staff recommends additional outreach.

Staff has contacted BHUSD Superintendent Gary Woods, to advise of the Planning Commission's consideration of the City's Pilot Mills Act Program and to encourage participation by Superintendent Woods in the deliberations before the Commission particularly with regard to sustainable fiscal impacts that BHUSD are able to build into their annual budget in relation to the City's Pilot Mills Act Program.

Given that the two properties currently under consideration for Mills Act in this financial year will, if successful, encumber up to 70% of the current available program funds it is necessary to increase the maximum funding beyond the current \$50,000.00 per annum ceiling if the program is also to be extended by an additional three year term. Staff recommends gradual, incremental increases to the annual cap on lost property tax to the City over time beginning with an initial increased annual cap on lost property tax from \$50,000.00 to \$100,000.00 per annum, with a corresponding maximum annual loss to BHUSD of up to approximately \$80,000.00 per annum.

**RECOMMENDATION**

Staff recommends the Planning Commission re-evaluate the goals and objectives of the City's two year Pilot Mills Act Program, as recommended by the Cultural Heritage Commission and the joint sub-committee of Planning and Cultural Heritage Commissioners and make recommendations to City Council regarding the Pilot Program, its three year continuation beyond the initial two year term and an increased annual cap on lost property tax to the City not to exceed \$100,000.00 per annum, with a corresponding maximum annual loss to BHUSD of approximately \$80,000.00.

Report Reviewed By:

A handwritten signature in black ink, appearing to read 'William R. Crouch', written over a horizontal line.

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William R. Crouch AIA, AICP  
Urban Designer

# Attachment 1

**Comparative Mills Act Program Tabulation**

City	Is there a cap or limit on the value of a property applying for your City's Mills Act program?	Requirements for Buildings Applying for Valuation Exemption	Do property owners that do restoration work on their historic structure get more priority or benefits compared to property owners that only maintain their structure?	Does your City's Mills Act Program have a total expenditure limit?
Los Angeles	<p>\$1,500,000 (single family)</p> <p>\$3,000,000 (multi-family, commercial, industrial)</p>	<p>Properties are required to prepare a Historic Structure Report (HSR)</p> <p>The Cultural Heritage Commission may grant assessment limitation exemptions in exceptional circumstances. Properties requesting assessment exemption must meet the following criteria:</p> <ul style="list-style-type: none"> <li>• Granting the exemption will assist in the preservation of a structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, substantial alteration or relocation; and</li> <li>• The structure is an exceptional Historic-Cultural Monument or a Contributing Structure to an HPOZ; and</li> <li>• Granting the exemption will not cause the annual cumulative loss of property tax revenue to the City to exceed \$2,000,000.</li> </ul>	<p>Properties that are actively being rehabilitated versus regular maintenance would have greater priority in the granting of a contract. Under the annual calculation of Mills Act Value, there could be slightly greater savings depending upon how flexible the assessor/appraiser is in looking at one-time capital costs versus regular maintenance costs.</p>	<p>The City of Los Angeles has adopted a lost revenue cap of \$2 million per year for their Mills Act program. The \$2 million is for all contracts. Currently, the City's lost revenue for 562 contracts (15 years of contracts) is \$886,961.61.</p>

City	Is there a cap or limit on the value of a property applying for your City's Mills Act program?	Requirements for Buildings Applying for Valuation Exemption	Do property owners that do restoration work on their historic structure get more priority or benefits compared to property owners that only maintain their structure?	Does your City's Mills Act Program have a total expenditure limit?
Pasadena	\$1.5 million	<ul style="list-style-type: none"> <li>Exemption for works of Greene &amp; Greene, designated historic monuments, and properties listed individually in the National Register</li> <li>One exception per year may be granted for special circumstances</li> </ul>	Properties that are non-contributing and in a landmark or National Register district may be considered if the historic property contract agreement results in exterior restoration and/or reconstruction of significant historic and architectural features and if the work is based on pictorial, documentary, or physical evidence in compliance with the Secretary of the Interior's Standards for Rehabilitation.	Has an annual loss-of-revenue limit on new contracts, but not a total limit for the entire program. The annual limit is \$75,000. There is also a limitation of \$25,000 for an individual property.
Santa Monica	No cap on property value	None	No	No total expenditure limit
West Hollywood	No cap on property value	None	No	No total expenditure limit
Dana Point	No cap on property value	None	No	No total expenditure limit
Glendale	No cap on property value	None	No	No total expenditure limit

City	Is there a cap or limit on the value of a property applying for your City's Mills Act program?	Requirements for Buildings Applying for Valuation Exemption	Do property owners that do restoration work on their historic structure get more priority or benefits compared to property owners that only maintain their structure?	Does your City's Mills Act Program have a total expenditure limit?
La Canada-Flintridge	No cap on property value	None	No	\$10,000 per year
Sierra Madre	No cap on property value	None	No	No total expenditure limit
San Juan Capistrano	No cap on property value	None	No	No total expenditure limit
Monrovia	No cap on property value	None	At this point the Mills Act Contract is a benefit available to all locally designated landmarks. Conditions of approval are applied to all contracts which may be limited to maintenance items for properties that are fully restored.	No total expenditure limit
Laguna Beach	No cap on property value	None	No	No total expenditure limit
Whittier	No cap on property value	None	No	No total expenditure limit

# Attachment 2



City of Beverly Hills

Planning Division

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## Cultural Heritage Commission Report

**Meeting Date:** January 9, 2013

**Subject:** Re-evaluation of Pilot Mills Act Program Goals and Policies.

**Recommendation:** At the request of the City Council the Cultural Heritage Commission and Planning Commission are being asked to re-evaluate the Goals and Policies for the Pilot Mills Act Program.

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### REPORT SUMMARY

This report makes recommendations to the Cultural Heritage Commission of suggested clarifications and reinforcements of the City's Pilot Mills Act Program goals and policies:

### BACKGROUND

At the December 4, 2012 Study Session, City Council considered a request from the applicant for the Liliore Green Palmer Rains Estate at 603 Doheny Road to modify the City's standard Mills Act contract.

Under the Mills Act statutes, if a property owner breaches the agreement, then the City Council shall either cancel the Mills Act Contract or bring any action in court necessary to enforce the contract. (Govt. Code Sec. 50284.)<sup>1</sup> In the event of contract cancellation, the owner would be assessed a penalty of 12.5% of the unrestricted property value at the time of the breach. In the case of this property, worth as much as \$15.8 million, the penalty to the owner of cancellation by the City could be as much as \$1,975,000.00. The applicant's representative suggested that this would be an unfair penalty in that it bears no real correlation back to any breach that might result from a disagreement with the City regarding compliance with the Repair and Rehabilitation Plan, and in particular no relationship to the actual cost of any disputed repair or rehabilitation projects.

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<sup>1</sup> In 2011, Section 50284 was amended to *require* a legislative body to take one of the two actions (enforcement action or cancellation). Prior to the 2011 amendment the language stated: "The legislative body *may* cancel a contract if it determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The legislative body *may* also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract." (Emphasis added.)

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In order to remedy the applicant's fairness and risk concerns, the applicant proposed additional language in the contract to allow for mediation of any possible dispute(s), regardless of the value of any disputed work(s), and recourse other than contract cancellation by the City.

After deliberation City Council decided that the standard contract language is adequate to address any breach and provide sufficient due process for a property owner to make any arguments to the City Council. Moreover, City Council did not want to limit its right to cancel the Mills Act contract in the event of an uncured breach. City Council did appreciate the challenges owners of highly valued properties face if participating in the program and was not averse to considering some kind of mediation process to assist in the remedy of any breach provided their contract cancellation option was not compromised.

However, after considering the matter before them City Council did consider the broader implications raised by the request and asked the Cultural Heritage and Planning Commissions to re-evaluate and review the goals and policies shaping the City's Pilot Mills Act Program.

#### **POLICY REVIEW**

The Cultural Heritage Commission and the Planning Commission have been asked by City Council to re-evaluate our program objectives and criteria for participating Mills Act properties.

In the City Council Meeting of October 18, 2011 that established the Pilot Mills Act Program, Council directed the following criteria be met by participating properties:

- A single-family residential property or a commercial property constructed as a public theater as a primary use;
- Located entirely within the City of Beverly Hills;
- Privately owned;
- Not exempt from property taxation; and
- Individually listed in the City of Beverly Hills' official landmark register based on the property being listed for its architectural significance.

Additionally, Council directed the following information be used for the ranking of applicant properties:

- Property is a theater, or performing arts building
- Designed by a master architect (as listed on the City's list of Master Architects)
- Listed on the National Register or State Register.
- Date of filing

City Council also directed that the following priority requirements be considered in making recommendations for program participation:

- Necessity. The residential or commercial project will require financial incentive in addition to any mortgage financing, private capital or public loans, to help ensure the preservation of the property. This criterion will establish that the property is in danger of deterioration and in need of substantial rehabilitation that has significant associated costs.

- Uniqueness. The project is a unique architectural example of a residential or commercial property. The unique characteristics of the designated landmark will be identified under this criterion.
- Investment. The residential or commercial project will result in additional private investment in the property other than for routine maintenance that may include seismic retrofitting and substantial repair or rehabilitation work. This criterion will estimate the costs for the restoration and rehabilitation of the property that the owner is committed to undertaking.
- Sustainability. The preservation plan included in the applicant's application has "green" or sustainable features, such as reuse of original or salvaged materials (including retaining interior plaster); restoration of missing sun-shading features such as porches, awnings, or shutters, etc. The retention, reuse, or recreation of these features should be consistent with the Secretary of the Interior's Standards and the historic character of the property. Applicants must also submit additional information in their applications to justify consideration under this priority consideration criterion.

## ANALYSIS

It seems that the five (5) basic program criteria together with the four (4) priority rankings to be met by any participating property do provide clear parameters to applicants. The requirement that any participating property be a listed local Landmark shows the clear intention for this incentive program to encourage participation in the City's Preservation Program. To that end one way to reinforce the program goals would be to require local Landmark designation by applicants before any Mills Act application could be considered whether or not a Mills Act application would eventually be successful. One way to streamline this process would be to consider giving individual properties or districts listed on either the National or State Registers automatic listing onto the Local Register just as the State currently automatically lists any National Registrations.

Additionally, the four (4) priority requirements used in making recommendations for program participation are very helpful with the one suggestion that the required measure for 'necessity' could be further clarified as follows:

Necessity. This is a measure of how the success of a Mills Act application influences the financial viability of any restoration / rehabilitation project. Under this measure projects that involve significant amounts of restoration / rehabilitation, and particularly master architect contributors, are deserving of a higher priority than applications limited to ongoing property maintenance. The 'Necessity' measure could be strengthened by requiring ten year Mills Act project budgets include at least 75% (or some other percentage) for restoration / rehabilitation and not more than 25% (or some other percentage) for ongoing maintenance expenditures. The scope of required work for restoration / rehabilitation could be broadened to include restoration / rehabilitation expenditure within the previous three years, prior to the date of application subject to supporting documentation, provided that not more than 75% of the planned restoration / rehabilitation works have already been completed. Additionally, for properties valued in excess of three million dollars (\$3M) a Historic Structures Report (HSR) could be required as part of the applicant's Preservation Plan to document the complete scope of restoration / rehabilitation

works. The City of Los Angeles currently requires a HRS be supplied for all properties valued above \$1.5M.

#### **RECOMMENDATION**

Staff recommends the Cultural Heritage Commission consider the following clarifications and reinforcements of the City's Pilot Mills Act Program goals and policies:

- Require local Landmark designation by applicants before any Mills Act application could be considered whether or not a Mills Act application would eventually be successful.
- Consider giving individual properties or districts listed on either the National or State Registers automatic listing onto the local Register just as the State currently automatically lists any National Registrations.
- The 'Necessity' measure should be strengthened by requiring ten year Mills Act project budgets include at least 75% for restoration / rehabilitation and not more than 25% for ongoing maintenance expenditures. The scope of required work for restoration / rehabilitation should be broadened to include restoration / rehabilitation expenditure within the previous three years, prior to the date of application subject to supporting documentation, provided that not more than 75% of the planned restoration / rehabilitation works have already been completed. Additionally, for properties valued in excess of three million dollars (\$3M) a Historic Structures Report (HSR) should be required as part of the applicant's Preservation Plan to document the complete scope of restoration / rehabilitation works.

Report Reviewed By:



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William R. Crouch AIA, AICP  
Urban Designer

# Attachment 3



City of Beverly Hills

Planning Division

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TEL. (310) 485-1141 FAX. (310) 858-5966

## Cultural Heritage Commission Report

**Meeting Date:** March 6, 2013

**Subject:** Re-evaluation of Pilot Mills Act Program Goals and Policies.

**Recommendation:** At the request of the City Council the Cultural Heritage Commission and Planning Commission are being asked to re-evaluate the Goals and Policies for the Pilot Mills Act Program in an effort to ensure the Program's success.

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### REPORT SUMMARY

This report makes recommendations to the Cultural Heritage Commission of suggested clarifications and reinforcements of the City's Pilot Mills Act Program goals and policies:

### BACKGROUND

In a Study Session on December 4, 2012, City Council considered the broader implications raised by a request to amend the standard Mills act Contract and requested the Cultural Heritage and Planning Commissions to re-evaluate and review the goals and policies shaping the City's Pilot Mills Act Program.

### POLICY REVIEW

The Cultural Heritage Commission and the Planning Commission have been asked by City Council to re-evaluate the program objectives and criteria for participating Mills Act properties.

In the City Council Meeting of October 18, 2011 that established the Pilot Mills Act Program, Council directed the following criteria be met by participating properties:

- A single-family residential property or a commercial property constructed as a public theater as a primary use;
- Located entirely within the City of Beverly Hills;
- Privately owned;
- Not exempt from property taxation; and
- Individually listed in the City of Beverly Hills' official landmark register based on the property being listed for its architectural significance.

Additionally, the City Council directed the following information be used for the ranking of applicant properties:

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- Property is a theater, or performing arts building
- Designed by a master architect (as listed on the City's list of Master Architects)
- Listed on the National Register or State Register.
- Date of filing

City Council also directed that the following priority requirements be considered in making recommendations for program participation:

- Necessity. The residential or commercial project will require financial incentive in addition to any mortgage financing, private capital or public loans, to help ensure the preservation of the property. This criterion will establish that the property is in danger of deterioration and in need of substantial rehabilitation that has significant associated costs.
- Uniqueness. The project is a unique architectural example of a residential or commercial property. The unique characteristics of the designated landmark will be identified under this criterion.
- Investment. The residential or commercial project will result in additional private investment in the property other than for routine maintenance that may include seismic retrofitting and substantial repair or rehabilitation work. This criterion will estimate the costs for the restoration and rehabilitation of the property that the owner is committed to undertaking.
- Sustainability. The preservation plan included in the applicant's application has "green" or sustainable features, such as reuse of original or salvaged materials (including retaining interior plaster); restoration of missing sun-shading features such as porches, awnings, or shutters, etc. The retention, reuse, or recreation of these features should be consistent with the Secretary of the Interior's Standards and the historic character of the property. Applicants must also submit additional information in their applications to justify consideration under this priority consideration criterion.

## ANALYSIS

It seems that the five (5) basic program criteria together with the four (4) priority rankings to be met by any participating property do provide clear parameters to applicants. The requirement that any participating property be a listed local Landmark shows the clear intention for this incentive program to encourage participation in the City's Preservation Program. To that end one way to reinforce the program goals would be to require local landmark application by applicants independently of any Mills Act application whether or not a Mills Act application would eventually be successful.

Another suggestion to help streamline the process would be to consider giving individual properties or districts listed on the National Register automatic listing onto the Local Register just as the State currently automatically lists any National Registrations. .

Additionally, on January 9, 2013, the Cultural Heritage Commission provided preliminary comments to staff relative to this item and suggested the introduction of caps on the tax assessed value of participating properties as follows:

- Single-Family Dwellings.  
Eligibility would be limited to a property tax assessment value of \$7.5M.
- Commercial – Public Theater Properties.  
Eligibility would be limited to a property tax assessment value of \$10.0M.

The Cultural Heritage Commission also suggested possible exemption from these property value limitations in exceptional circumstances for properties meeting the following criteria:

- Granting of an exception will not cause the annual cumulative loss of property tax revenue to the City to exceed \$50,000.00
- The structure is of exceptional cultural-historic and/or architectural value to the community.
- Granting an exemption will assist in the preservation of a structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, substantial alteration affecting the integrity of the structure or relocation.

Properties applying for a valuation exemption should be required to provide (as a part of the application) a Historic Structures Report (HSR) to substantiate the exceptional circumstances for granting the exemption. The HSR shall conform to the requirements outlined in National Parks Service, Preservation Brief 43 – The Preparation and Use of Historic Structures Reports. The City of Los Angeles currently requires a HSR be supplied for all properties valued above \$1.5M.

At the December 4, 2012 Study Session related to Mills Act contract language, City Council did appreciate the challenges owners of highly valued properties face if participating in the pilot program and was not averse to considering a mediation process to assist in the remedy of any breach provided their contract cancellation option was not compromised.

Additionally, the Mills Act Program should benefit those properties with the greatest need. The four (4) priority requirements used in making recommendations for program participation are very helpful with the one suggestion that the required measure for 'necessity' could be further clarified to help staff better target priority properties. The Mills Act Pilot Program is primarily for property owners who are actively rehabilitating their properties or have a plan to do so that is compliant with the Secretary of the Interior's Standards for Rehabilitation and the California Historical Building Code. The work needed to rehabilitate or restore a property should be pending or recently completed within the previous three years, prior to the date of application subject to acceptable supporting documentation being provided. For applicants who are just starting their rehabilitation project, all work should be completed within the first 10 years of the contract. Owners who enter into a contract and do not rehabilitate or maintain the property as agreed are subject to the City cancelling the contract and the LA County Assessor collecting the 12.5% of current fair market value penalty against the property.

#### **RECOMMENDATION**

Staff recommends the Cultural Heritage Commission consider the following clarifications and reinforcements of the City's Pilot Mills Act Program goals and policies and make recommendations to the Planning Commission as follows:

- Require local landmark application by applicants independently of any Mills Act application whether or not a Mills Act application would eventually be successful.
- Consider giving individual properties or districts listed on the National Register automatic listing onto the local Register just as the State currently automatically lists any National Registrations.
- Introduce caps on the tax assessed value of participating properties of \$7.5M for Single-Family Dwellings and \$10.0M for Commercial-Public Theater Properties, with the possible exemption from these property value limitations in exceptional circumstances for properties meeting necessary criteria.
- Allow for an acceptable mediation process to assist in the remedy of any breach provided the City's Mills Act contract cancellation option is not compromised.
- Further clarify the required priority measure for 'necessity' to help staff better target priority properties where property owners are actively rehabilitating their properties or have a plan to do so that is compliant with the Secretary of the Interior's Standards for Rehabilitation and the California Historical Building Code.

Report Reviewed By:



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William R. Crouch AIA, AICP  
Urban Designer