

Communication from Public

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Comments for Public Posting: The West Adams Heritage Association (WAHA) is delighted that the City Council is moving forward to help resolve the many administrative issues -- including the underlying funding -- of the Mills Act program. It is important that the City Council make every effort to better fund the staffing of this program, which is the City's only current incentive for owners of historical properties. In addition, WAHA believes the Mills Act program should be expanded, particularly in communities that do face barriers to opportunity, as discussed by the Planning Department. We are pleased that the Planning Department, based on recent conversations with us and others, no longer is considering wholesale cancellations of older Mills Act contracts, especially as this would most impact Mills Act property owners in the very neighborhoods (especially South Los Angeles) also being targeted by this initiative to have more Mills Act contracts. HOWEVER, WAHA continues to have serious concerns about the deep structural flaws and misunderstanding of basic economics in the underlying Chattel Report. The authors of the Chattel Report completely misstated the economic impacts that the Mills Act program has on the City's budget -- since in fact all property values and therefore the City's revenue portion from property taxes have risen dramatically in recent years, as described in WAHA's attached letter (previously submitted to the Planning Department). As a result, many of the Chattel Report's conclusions and recommendations, stemming from unsound and flawed data, are therefore also faulty (in some cases, nonsensical.) We would therefore urge City Council and the Cultural Heritage Commission to NOT base its directives on the Chattel Report (as is stated in the motion) but rather conduct an independent study and use many of the suggestions by numerous stakeholders to develop a fair and effective Updated Mills Act program.



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September 15, 2022

Ken Bernstein, Manager, Office of Historic Resources
CC: Shannon Ryan, Lambert Giessinger, Melissa Jones
Via email: planning.millsact@lacity.org

RE: Mills Act Historical Property Contract Program assessment report

Mills Act: What Does Equity Look Like?

Dear Ken,

California's Mills Act was established in 1972 as a statewide law to establish preservation incentives for the owners of certain designated historical properties. According to the state's www.OHP.parks.ca.gov website, the Mills Act is also intended to benefit local governments.

OHP writes: "The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitating entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past."

As described above, the Mills Act is a preservation incentive – and more. It can also be an economic catalyst in the community. And whether or not it "loses money," the Mills Act can be reconceived so it creates a positive quality of life for the whole community. It is – or should be – a benefit in many ways and not just the restoration for some pretty historic houses.

Unfortunately, the current proposal to revamp Los Angeles's Mills Act program does not appear to fully embrace these concepts and goals.

For some years, Los Angeles's Mills Act Program has been operating as an increasingly elite incentive program whose entrée is not just "competitive" but limited to property owners who can afford hefty fees and, importantly, rehab costs usually exceeding at least \$250,000 (that is, if you own a property that does not have at least that amount of work needed, or more, the property is *not eligible* for the program). Nothing in the current proposal alters that basic scenario, despite one of the stated goals being to bring more "equity" into the program.

Instead, the report proposes solving the Mills Act Program's problems by cancelling/winding down compliant owners' contracts; proposing what amounts to a permanent reduction in the total number of contracts while expanding the competition for them; proposing *no change* to the eligibility standards while purporting to seek new contract holders in distressed communities (but without would those property owners afford to meet the program requirements?); proposing no real funding solutions despite setting a goal of "fiscal sustainability;" and not proposing any solutions to the simple fact that most people cannot afford to participate in the Mills Act program as this City administers it.

Importantly, **Equity** doesn't mean cancelling contracts in the very neighborhoods staff is targeting to create a more equitable program.

Equity also doesn't mean setting an unrealistic goal of "reducing barriers" to participating in the program by reducing or eliminating application fees for some owners in "equity priority areas." The barrier to participation is the requirement that a participating property have a tremendous amount of structural, systems and historical rehabilitation work that an applicant must demonstrate the ability to pay for. Even in "equity priority areas" the program as currently established would have that requirement, thus potentially leading to the approval of owners who have more financial wherewithal than the community at large. This is a real disconnect from the stated goal.

West Adams Heritage Association (WAHA) also heard from many of our members that the process leading to the Recommendation Report was itself disconnected from the community and, in particular, Mills Act Contract owners themselves. Although it was stated at a public meeting that the consultants "met with" (perhaps virtually) "some" Mills Act owners, no one we spoke to (and no one who testified at two public hearings) had ever been interviewed in any manner. Only one person we are aware of even received the postcard that was purportedly mailed to all owners.

The public hearings were not really a true discourse – especially since they occurred after the report was published – with no discussion and public comments limited to one minute per person. Notably, the final decision you make will have real economic impacts on each and every Mills Act owner, yet they were limited to one minute of comment (after two years of the consultants' work).

So, WAHA decided to hold our own (Zoom) meeting, to provide our members and others the opportunity to learn about this proposal, weigh in more robustly on the proposal, and collectively gather our voices to comment.

Members had researched the mathematics involved in the proposal – and discovered that **the basic arithmetic simply does not add up.**

We learned:

- If the City does eliminate contracts that are ten years old or older, then of the approximate 948 current Mills Act properties, if the proposal is adopted by the end of this year (2022), by 2023 704 of the current contracts would be cancelled (e.g., begin their ten-year wind-down period). That's about 75% of the current Mills Act contracts.
- By 2024, another 62 contracts would be cancelled and start their ten-year wind-down.

- In 2025, an additional 61 contracts would be cancelled. By the end of that year, in other words, 827 of the current 948 contracts would be in cancellation mode – EIGHT out of every NINE current contracts.
- At that rate of cancellation, it would take 40 years to reach the proposed CAP of 1,500 contracts.
- Without any cancellations, if the City only approves 25 new contracts a year, it would still take 22 years to reach that CAP. (This calculation leads to an important question: What is the true purpose of the proposed contract cancellations? Is it actually the fact that the older contracts do not allow for the imposition of new fees for inspections and other potential administrative fees?)

The math for the City’s so-called “loss” of tax revenue also does not add up.

- Although it is true that the City’s reduced property tax revenue from Mills Act properties now exceeds \$2 million, it is also true that the City’s total revenue from its share of property taxes had increased by \$43 million by last year, comparing 2016 to 2021 (up from \$179,926,000 in 2016 to \$222,970,800 in 2021).
- Most of that extra \$43 million is due to increased property values and high sales numbers, but some of the decreased Mills Act “loss” (in other words, increased revenue) is due to the fact that the Los Angeles County Assessor has dramatically raised its annual Mills Act valuations as a result of rising rents.
- The Los Angeles County Assessor reported a Total Tax Roll in 2012 of \$7.5 Billion. The just reported 2022 County Tax Roll exceeds \$1.8 Trillion – a two-and-a-half increase in ten years.

Bottom line: It is disingenuous to complain about an annual “loss” of \$2 million when total property tax revenues are in fact markedly increasing.

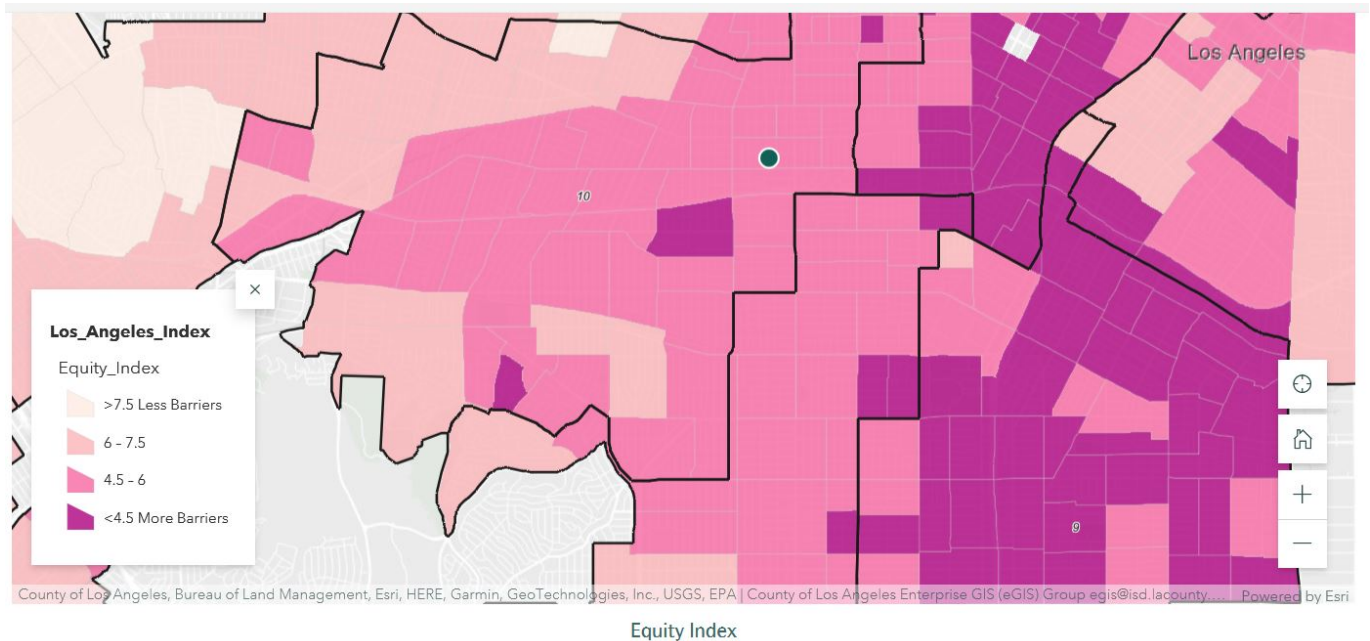
Next, WAHA’s members participating in our Mills Act meeting had a long discussion regarding “Equity.”

The Report’s Executive Summary noted: *“A goal of the assessment was to better understand which communities have benefitted the most – and the least – from the Mills Act, in terms of participation and allocation of property tax savings. The City Controller’s Los Angeles Equity Index was used as a framework to analyze the distribution of existing Mills Act contracts in communities facing varying barriers to opportunity, ranging from ‘low barriers to opportunity’ to ‘high barriers to opportunity.’ An analysis was also conducted of the distribution of Mills Act financial benefits among existing contracts. Based on the outcome of both analyses, the report provides recommendations for enhancing program access to ensure an equitable distribution of Mills Act benefits across the City.”*

However, WAHA counted the contracts. As it turns out, our broader community (that is, the many neighborhoods that comprise the Historic West Adams District) has about 240 of the 948 Mills Act contracts (about 25% of the total) – quite a few of them representing the contracts that are ten years old or older.

Importantly, these 240 contracts happen to be located in the very neighborhoods the Mills Act Program is, in theory, to be targeting: communities with Medium-to-High Barriers to Opportunity, as represented in the Los Angeles Controller's Equity Index Maps.

Here is the portion of the Equity Index Map that represents the West Adams District, with the distinctive dark pink and magenta colors representing Medium-to-High Barriers to Opportunity (again, about a quarter of existing contracts can be found here):



On a citywide basis, 412 of the existing Mills Act contracts are located in census tracts and neighborhoods that have Medium-to-High Barriers to Opportunity. Yet the report implies that the vast majority of Mills Act contracts are in more privileged, wealthier, low-barrier communities, thus creating an impression that cancelling existing contracts would somehow “reallocate” the Mills Act program into more deserving neighborhoods.

But the truth is, the cancellation of older contracts would actually disproportionately impact our community, the Historic West Adams District, the most. This is not an equitable result.

The proposed Mills Act program revamp would also prioritize multi-family housing with affordable units, with added tenant anti-displacement safeguards. This is a laudable goal, but perhaps not realistic for this program, given that the State Revenue Code combined with the Los Angeles County Assessor's implementation procedures do not consider forcibly-restricted rents (whether they are simply RSO units or covenanted affordable units) as the basis for the annual Mills Act valuations. Rather, the Assessor utilizes its own estimate of comparable market-rate rents in the annual calculations; the owner of a Mills Act contract property may or may not receive tax relief as a result. It is surprising that the City's consultants were not aware of this.

In reviewing the Report, and by engaging with community members who are actually potentially affected by the proposed changes to the program, WAHA is now concerned that this effort in fact did not engage in a real evaluation of what is wrong with the local program, what is wrong at the County level, and frankly what is wrong at the state level.

We believe that had the consultants spent any real time talking with current Mills Act contract holders, a different picture of the structural issues with the program would have emerged, along with a different set of recommendations.

WAHA does, however, understand that the current program is administratively no longer workable. We would like to help the Office of Historic Resources find a pathway to be able to continue the program and expand it.

At the same time, as others have observed, the City must investigate additional, less burdensome, initiatives to help provide incentives to historic preservation.

For example, is there a non-profit organization you could work with to help provide technical assistance, low-interest loans and/or grants to the owners of designated historical properties (local, state, or federal – and this would require some redefining of the Character Residential CPIO Districts as “designated”), especially within targeted communities facing barriers to opportunities?

Another preservation incentive would be to encourage LADBS more specifically to exempt historic properties from most building codes. Yes, California does have the State Historic Building Code. But our members report that it is often difficult to utilize it. Conversely, cities such as Taos, New Mexico and Duluth, Minnesota (among others) have more transparent language in their municipal codes that specify exemptions, waivers and other forms of relief.

Building permits for restoration work on designated historic properties could also have reduced fees.

Are there any other creative ideas for preservation incentives we can explore together?

Back to the current Mills Act program revamp initiative, WAHA is supportive of some aspects but, unfortunately, we do not support many of the proposals.

WAHA SUPPORTS:

>> The premise that the Mills Act Program requires greater fiscal sustainability.

However, since this program is intended as (for now) the City’s primary, and for most individual owners of historic properties, the solitary historic preservation incentive program, it is important to NOT put the burden of fiscal sustainability on the backs of the very persons who are seeking incentives. With the exception of increased contract non-compliance fees, which WAHA supports if handled transparently with property owner appeal rights, WAHA frankly would prefer to see fees reduced and instead increased budgetary support from the City’s General Fund.

>> Increased staffing for the Mills Act Program, with the same caveat as above, that the staffing costs come from a General Fund.

>> The implementation of anti-displacement measures within Mills Act Contracts for multi-family properties. The Historic West Adams District has witnessed increasing displacement of our long-term neighbors, and any measure that would help mitigate against displacement is good.

WAHA DOES NOT SUPPORT:

>> Any proposed reduction in the number of current contracts (except for non-compliant owners) OR any proposed limitations on the number of contracts per year. WAHA also opposed a cap of 1,500 contracts.

The 25 annual new Mills Act Contracts referenced in the recently adopted Housing Element was intended as a base number, to demonstrate to the State of California that the City has in place at least one program that supports conservation of historic resources and related incentives. That number should not be considered a ceiling, especially in conjunction with the proposal to expand the program into communities with barriers to opportunities and also to expand eligibility for the program to state and federal historic districts along local Character Residential Districts (CPIOs).

These are mathematically incompatible goals (see more detail above) that, if the recommendations are adopted as presented, would actually result in there being a reduction in the number of Mills Act Contracts to an estimated 250 total contracts 21 years from now. If OHR never cancels any of the existing contracts, it would take 22 years to reach the goal of 1,500 Mills Act Contracts.

>> The entire approach OHR has to the inspection requirements (and subsequent Mills Act “enforcement” proposals).

There is a relatively easy solution to ensuring more compliance with Mills Act contracts: Adjust the program to require annual reporting by each and every property owner with a Mills Act Contract, on a uniform form created by OHR and due by February 1 of each year, in which each contract holder/property owner describes his/her/their compliance with the rehabilitation and maintenance list in the contract; work accomplished in the previous year; costs associated with that work; copies of permits if relevant; and description of work that was completed that may not have been on the initial contract but which was required due to updated circumstances. (for instance, presumably more owners are further upgrading electrical and converting more systems to electrical at this time.)

The current every five years (or longer) detailed inspections have taken on an authoritarian and sometimes very oppressive tone. While there are surely two sides to this story, WAHA has heard many complaints over the years about the angry tone, nit-picking, and adding of items not in the contracts – along with a threatening manner to the follow-up letters. If staff had an annual “picture” of what was going on, and an ongoing dialogue with the Mills Act contract owners, then the required five-year inspections could perhaps be re-thought to be something less intensive (and less expensive in terms of the aforementioned fiscal sustainability goals).

WAHA is **CONCERNED THAT** Staff has spent the past two years *not doing* a number of things:

- Not changing the requirements of what constitutes eligibility. The current requirement is that a property must need major structural and systems upgrades, and usually a minimum of several hundred thousand dollars of work needed. But that conflicts with the stated goal of

bringing the program to communities who/where there are barriers to opportunity (including income barriers). Can those property owners afford to spend this much money?

- Not spending any time lobbying at the state/Sacramento level to change the revenue code – one idea is to simply *un-tie* the Mills Act calculations from (rising) rental revenues, which are most often hypothetical. Rents have nothing to do with historic preservation. This would require a change to the revenue Code (or the removal of the Mills Act from the Revenue Code), and perhaps changing the preservation incentive to a specific percentage tax reduction – one percentage amount for owner-occupied homes (SFR or condo), another for rented-out homes or multi-family housing, possibly a third different percentage for commercial properties. This would provide certainty to all parties – the City, the County Assessor and, of course, property owners.
- Not spending any time lobbying the Assessor to be more fair and transparent in how the agency conducts its valuations. They have not been speaking to the Assessor about the retroactive “escape” billings many Mills Act owners have received in recent years. Is staff even aware that the Assessor did not consider the pandemic and landlords’ loss of rental revenue for its Jan. 1, 2021 valuations, and instead presumed increased rents?
- Not speaking with Mills Act owners in some sort of focus groups or similar. (Noting that the newly posted “answers” to questions raised at Cultural Heritage includes a reference that the consultants spoke with “a few” Mills Act owners. Obviously no one on our WAHA zoom call.)

WAHA members expressed two additional concerns:

- First, that “Equity” may not be served by the proposed evaluation of applicants by the color of their skin or other measure to determine if an applicant is part of an under-represented group. Even if that would pass legal muster (questionable), would such Mills Act contract holders then face restrictions on who they can sell to over the life of the contract? (Noting further that sellers and their agents are not permitted under Fair Housing laws and real estate regulatory agencies’ rules to discriminate.)
- Concerns were also expressed that “Eventually people as seniors may get taxed out of their homes, if these contracts are cancelled and they lose their tax benefits. By the time they lose their Mills Act they may be on fixed incomes, and will lose their homes.”

Thank you for considering all of these issues. WAHA would like to be included in any ongoing discussion of this matter. Again we urge you to have open meetings with Mills Act owners – meetings where they can engage in thoughtful conversation with you and work together to resolve OHR’s administrative sustainability issues while continuing the program for all compliant owners and expanding the program as is described in the Report.

Best regards,

Roland Souza

President, West Adams Heritage Association