

Informational Report on Mills Act program, 2022: Pausing new applications for 2022, improving monitoring and inspections, and focusing on opportunities for equitable participation and benefit

The purpose of this report is to inform the Landmarks Preservation Advisory Board (LPAB) that the Bureau of Planning is pausing new applications under Oakland's Mills Act program for 2022. During this hiatus, staff will review and analyze contract compliance to date, consider program efficiencies, and develop ways to better focus the program on social and economic equity. The following explains the timing and impacts of the application hiatus, and the Mills Act-related activities staff will undertake before processing new applications in 2023.

Purpose of Mills Act Application Hiatus

Background:

The Mills Act is a State law that allows California cities to enter into contracts with historic property owners for a potential property tax reduction that must be spent on a recorded, legally binding ten-year work program of necessary and approved improvements that contribute to preservation of the historic character of the property. The tax formula and preservation obligations run with the property in perpetuity, unless the owner gives ten years' notice of withdrawal or the City cancels the contract for noncompliance (with penalty of 12.5% of market value).

The State Office of Historic Preservation describes the Mills Act as "the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. ... 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 " https://ohp.parks.ca.gov/?page_id=21412. Oakland's ordinance implementing the Mills Act allows for an annual \$25,000 property tax revenue reduction to the City's general fund to support each year's new contracts (limits can be exceeded for projects in the Central Business District or with Council approval. Oakland's Mills contract selection criteria include necessity of proposed work, geographical and building type diversity, and catalyst potential for neighborhood improvements.

Because it is a tax benefit, the Mills Act is of greatest advantage to owners of high-tax properties, typically high-value properties and properties that have recently been purchased. While it is beneficial to support all historic preservation in Oakland, the Mills Act does not meet pressing preservation needs such as emergency home repairs (formerly supported by Redevelopment funds), deferred maintenance for properties under longtime ownership, or neglected publicly owned landmarks.

City staff has been diligently administering contracts under Oakland's Mills Act program since its adoption. The City of Oakland can be very proud of what the Mills Act program has accomplished since the first contracts in 2008. Even though the program tangibly benefits only a small number of new participants each year, it educates the public, City officials, and property owners about preservation in a positive way. The program effectively advances historic preservation in Oakland, regardless of who benefits financially.

City staff has successfully delivered a significant number and breadth of Mills Act contracts over the past fourteen years. The application and review process is extremely labor-intensive, designed to assure carefully thought-out work programs and strong owner commitment to the property and the program's preservation goals. Still, with a total of 87 contracts covering 14 years, it is apparent that there is a need to increase inspection and enforcement to ensure successful completion of the contracted work programs and continuing obligations.

Current Status:

While the City continues to receive inquiries about the Mills Act, no complete applications were submitted by the May 1, 2022, deadline, and staff was becoming concerned about issues of inflation and equity. Staff continues to work with customers who have inquired about the program to develop successful applications for the future. Meanwhile, with a lull in applications, staff believes this is an appropriate time to improve procedural efficiencies, ensure delivery of contracted work programs, and consider how better to apply the program in an equitable manner, consistent with State law and City goals and objectives.

In terms of recent Mills Act activity, most contracts have been for single family houses, especially in West Oakland and Lakeshore-Trestle Glen. In addition, staff used the program as an incentive to increase the preservation component of several recent large-scale adaptive reuse residential conversions that were already in progress: 4690 Tompkins and 5701 International Blvd. in 2018 and 322 Broadway and 674 23rd Street in 2020. Mills contracts will also support repairs to two of Oakland's monumental Lakeside condominium buildings, the Bellevue-Staton (2019) and the Regillus (working on a proposal for 2023).

Mills Act Work Program for 2022 Contract Cycle

During the 2022 Mills Act contract hiatus, staff is working to develop strategies to improve the program and better align with City goals and objectives.

Contract Compliance:

Each Mills Act contract has an initial lifespan of ten years, during which the owner is expected to carry out the contracted work program funded by the savings from the Mills Act property tax assessment formula. While the City is expected to inspect properties periodically for compliance and progress with the work program, this has not been consistent and relies mainly on owner-initiated self-reporting, often when major work is completed, problems arise, or properties change hands. There is no established protocol or funding for compliance inspections and enforcement. During 2022 staff will review contract compliance to date and propose ways of improving compliance, if necessary. Staff has been compiling an updated list of owners and contact information for the 87 existing Mills Act contracts recorded from 2008 to 2021 and sending requests for progress reports (virtual inspections) from all the owners, and expects to conduct some real-life inspections.

Program Efficiencies:

The Mills Act program is rewarding but extremely labor-intensive for both staff and applicants, with a non-stop annual cycle of soliciting and winnowing applicants, explaining the program, answering preliminary inquiries, guiding and assisting preparation of the Mills work programs and prerequisite Heritage Property nominations, monitoring fiscal impact, presenting applications and staff reports to the LPAB, Planning Commission, and City Council, obtaining notarized City Attorney, City Administrator and applicant signatures, getting applicants to County Recorder by December 31, and

starting over with a new set of prospective applicants in January. During the 2022 contract hiatus, staff will review possible efficiencies to serve the entire lifecycle of the program, from application to successful contract completion, for example appropriate staffing and manageable class size and possible roles for Landmarks Board members.

Social and Economic Equity:

The Mills Act, a 1972 California law, establishes an income-based property tax assessment formula intended to lower property taxes and free up money for approved restoration and rehabilitation of historically designated properties. After 50 years of real estate inflation and Proposition 13 (1973), the legislated formula results in significant property tax reductions for recent buyers of high-end properties, while it offers no benefits to longtime owners with low base-year assessments, regardless of the historical value or restoration needs of the property. Though the number of properties with Mills contracts is small, a secondary effect is a contribution to rising property values, a factor driving housing inequities in Oakland. This is a statewide concern.

Some cities have restricted Mills Act eligibility to properties with assessed or market values below some limit, such as \$500,000 or \$1 million. Los Angeles suspended its Mills program in 2021, citing “sustainability, fiscal impact, management needs, and equity outcomes,” and it remains on hold in 2022 (a report was promised in 2021 but it is not available yet). Oakland’s existing Mills Act selection criteria (p.3 of the application form, especially the work program’s *necessity* and *catalyst potential*) can support equitable selections, but the criteria need to be applied more rigorously than in the early years when we were grateful for any and all participation in the program. There is a perception among some property owners and real estate advisers that historic property ownership equals a tax break. Pausing the program this year will allow staff to examine the economic equity issues inherent in the Mills Act, and how to manage applicants’ expectations when applications resume in 2023. It is also important to determine how else the City can proactively support historic preservation of at-risk properties that cannot benefit from the specific tax-based mechanism of the Mills Act.

Conclusion

Given a lull in viable applications for the 2022 Mills Act contract cycle, staff is taking the opportunity to analyze ways to bring efficiencies to the application of the program in Oakland, and to determine how the City’s preservation programs including the Mills Act can better contribute to Oakland’s equity goals and objectives.

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