



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



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April 18, 2019

TO: Elvin W. Moon, Chair
Pat Modugno, Vice Chair
Doug Smith, Commissioner
David W. Louie, Commissioner
Laura Shell, Commissioner

FROM: Bruce Durbin, Supervising Regional Planner *BD*
Ordinance Studies Section

Grace Ramirez-Gaston, Director of Civic Art
Los Angeles County Arts Commission

**SUBJECT: PROJECT NO. 2017-000213
ADVANCE PLANNING CASE NO. RPPL2017008325
AMENDMENT TO TITLE 22 TO ESTABLISH THE PERCENT FOR ART
IN PRIVATE DEVELOPMENT ORDINANCE
AGENDA OF APRIL 24, 2019 – AGENDA ITEM #6**

On April 11, 2019, staff transmitted materials for the above noted project on Percent for Art in Private Development for the public hearing to be held on April 24, 2019. Since then, staff received additional letters of support and opposition. Attached are additional materials relating to this project.

Attachments:
Letters of support and opposition

BD:GRG:as

April 11, 2019

Dear Supervisor Hahn and Board Members:

I am writing in support of the proposed Los Angeles County Percent for Art in Private Development Ordinance.

Public art is proven to foster economic vitality in communities, revitalize urban areas, and improve the overall business climate by creating a more desirable community within which to live and work. Well-conceived and executed works of art enhance the actual value of a development project, create greater interest in leased space within the development project, promote cultural tourism, and make a lasting and visible contribution to the community, which helps to mitigate the impacts of development.

As an L.A. County Arts Commissioner, I encourage the Board of Supervisors to create a 'percent for art' requirement for commercial and residential developments in unincorporated areas of the County. This will match similar programs in many cities throughout the region. It will raise the profile, enhance the pride, and improve the quality of life in our unincorporated neighborhoods.

Thank you,

Constance Jolcuvar



Los Angeles/Ventura Chapter

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April 17, 2019

Elvin W. Moon, Chair, District 4
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Doug Smith, Commissioner, District 1
David W. Louie, Commissioner, District 2
Laura Shell, Commissioner, District 3
Department of Regional Planning
320 West Temple Street, 13th Floor
Los Angeles, CA 90012

Re: OPPOSE – Percent for Art in Private Development Ordinance

Dear Chair and Commissioners,

The Los Angeles/Ventura Chapter of the Building Industry Association of Southern California, Inc. (BIA), is a non-profit trade association representing 1,200 companies employing over 100,000 people all affiliated with building and development. On behalf of our membership, we would like to submit a letter opposing the Percent for Art in Private Development Ordinance. Our primary concern is the inclusion of residential development, which was previously exempted. Making the choice to add costs to housing construction, in the midst of a housing crisis is absolutely the wrong approach.

That being said, we know we are in a housing crisis, but we haven't determined that we are in an art crisis. Imposing an art fee without taking stock of the civic art in the County, and the art needs of the community or individual Districts seems to be putting the cart before the horse – while driving up the cost of housing to those that already can't afford it. Residential development is different than other forms of development, it is uniquely subject to a variety of community benefit fees such as; school district, and park and recreation fees. A portion of these fees are often used to provide art at schools and parks. To illustrate this, below, we have outlined our concerns with this ordinance.

Inclusion of Residential Development and Lack of Incentives

When this ordinance was first produced and shared with stakeholders, in 2017, it rightly excluded all residential development from



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applicability. In fact, County Planning, and Art Commission staff came to the determination that residential development should not be included in the art fee ordinance. This is reflected in their original staff report with reasoning such as, “...another hurdle to the building process could negatively impact housing production,” and that “...the unincorporated County produces such few housing units that the fees collected would not be significant enough to impact public art.” Despite this original finding, over a year later, the housing crisis has gotten worse, yet at the November 2018 Regional Planning Commission meeting the Los Angeles County Regional Planning Commissioners asked that staff ignore previous research and craft a new ordinance that includes all residential development. While this was disappointing and unwarranted the Commissioners also asked that staff add incentives to encourage developers to include art in their projects instead of just requiring a mandated fee. Strangely, there is not a trace of a single incentive, let alone an alternative incentive-based compliance option in the 19 pages that make-up this ordinance.

Increased Cost to Housing

In California, housing is more expensive to produce today, than ever before. The costs of construction, materials, land acquisition, labor, and design have all increased. Other factors include federal, state, and local housing regulations and mandates; an increase in interest rates, mandated solar for all new housing construction, and the strictest environmental standards in the nation and regionally. In Los Angeles County, in this year alone, builders are being faced with a Significant Ecological Areas Ordinance, the LA County Rent Control and Stabilization suggestions, a Cool Roofs Ordinance, the Safe & Clean Water Parcel Tax Proposition, and the Affordable Housing Action Plan – which will include an Inclusionary Ordinance. This does not take into account the current developer impact fees, permits, regulatory costs, and even the push for some housing projects to voluntarily include subsidized housing. All of these expenses target home construction. Ironically, home construction is overwhelmingly the most important component in helping LA County out of its housing crisis – by increasing the production of housing. Sadly, the costs don’t stop there. It’s not just those market cost expenses.

In addition to adding costs to the production of housing, this ordinance will add administrative expenses and bureaucracy that didn’t exist before, making housing more difficult to produce. The entitlement process is lengthy, expensive and challenging to maneuver. An art fee or art component will add another layer to that process. In order to house more low and middle-income households more quickly we need to reduce processing times, not add to them.

Missing Middle

Hundreds of thousands of hard-working families and individuals cannot afford to live where they work and are facing a housing cost burden, defined as paying more than 30% or more of their income on housing. As an example, most Los Angeles area teachers are faced with this cost burden, earning between \$50,000 - \$54,000 – above 80% Average Median Income (AMI) which is the highest threshold to qualify for below market-rate housing. They are then left to compete against other



households with more financial resources for the scarce market-rate units that are still up for grabs. These middle-income families and individuals do not qualify for assistance, yet do not make enough money to live unburdened.

Any increase in housing construction cost, such as a residential art fee, pushes working families and individuals further from housing affordability and exacerbates the “missing middle” housing gap. These expenses continue to rise, making housing too expensive to build and still deliver a product that’s affordable to middle-income earners. The County is now in a situation where developers are either building subsidized housing or luxury housing, resulting in the production of zero moderate income housing units. Applying the art fee to residential development will likely make the situation worse, not better.

Art in Development & Affordable Units

Building to today’s standards, market-rate housing is already art-rich, especially when providing homes for those who are most vulnerable. Our members provide various types of art integrated building within their housing developments including; unique building articulation, creative landscape design, designated community gathering areas, multifunctional and inviting entryways, ornamentally designed gates, pavers and facades. All these creative building components are designed with an artistic perspective. Housing producers are already deeply committed to the healing qualities of art production for their clients through programs and aesthetic design.

In addition to the fact that art is already being prioritized in current construction, in this ordinance there is an exemption for housing that is 100% affordable at various income-levels. In the near future, all housing in the County (that this art ordinance applies to) will also be subjected to an inclusionary housing ordinance. This would require market-rate developers to include affordable units on all of their projects. The exact same arguments for exempting affordable housing production from this art fee ordinance can and should be extended to market-rate housing producers. Described in the staff report, “...it is harder to produce affordable housing than market-rate housing because affordable housing is 20 percent more expensive. These increased costs come from contractual obligations of paying government-mandated prevailing wages to contractors and installing quality building materials that will endure for as long as the dwelling units remain contractually affordable.” These challenges will also be faced by market-rate builders, too. The County staff working on this project, should be considering the other ordinances that their departments are imposing on the same population of people – holistically, instead of working in a vacuum.

Other Considerations

It is very concerning to us that the assumed, not yet approved, new Department of Art and Culture will have such power over the issuance of building permits. According to the draft ordinance, “no building permit shall be issued until the County has received and accepted a Civic Art Plan...” “...A certificate of occupancy may be issued, and the deposit returned with clearance by the Department



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of Arts and Culture.” This is a barrier between people either having a home or not. We are in a housing crisis. Making it harder for people to acquire housing opportunities, especially based on such subjective criteria from a Department that doesn’t yet exist and may not have adequate staffing to fulfill these compliance procedures does not make sense. We are deeply troubled with this concept. Prioritizing the most important aspects of home construction should be taken into consideration when implementing new building mandates, such as an art fee.

Suggested Alternatives to this Ordinance:

Below we have listed alternatives to this ordinance that would enhance the intent of its creation and better serve the production of housing and civic art in the County of Los Angeles.

Art Audit & Development Community

As mentioned, imposing an art fee without taking stock of the existing or stored art in the County seems to be putting the cart before the horse. We suggest that instead of rushing passage on this ordinance, which has been developed as a solution without fully understanding the problem, the County should take the time to audit the state of art in the unincorporated territory, and even within County cities. An audit or study could help determine what type of art intervention is truly needed including; understanding what art programs – especially if they are County run – may be underutilized, determining what existing volunteer organizations or art focused groups could be included in the art creation effort, or if there is a saturation of art in one District versus another, or finding out what specific art forms are being produced or shared. All this information would be helpful not only in the short term for guidance and direction for this ordinance, but for the long term, as well. This could inform how a potential “Private Development Art Fund” should be distributed most effectively.

Furthermore, if art is being prioritized because of the major equity deficit (although we are unsure of that finding because there has not been a study), shouldn’t all industries be a part of the solution? If the result of this ordinance is meant to affect the entire public through art, shouldn’t everyone in the County be contributing to the creation and the implementation of art in their communities? Why is the development community being singled out to solely solve the perceived art deficit? Perhaps it should be a priority of the County Planning Commission and Planning staff to allow home builders to more easily build homes to increase the supply of housing and therefor reduce the cost of housing, instead of tacking on more fees to housing production. Maybe the nearly three years that County Planning staff has dedicated to this art ordinance effort would be better focused on the goal of housing creation.

Voluntary, Incentive-Based Residential Art Component

We agree with the Commission’s direction to staff to create an ordinance with an incentive component to encourage builders to include art within their developments. A fee for not creating art is the wrong approach. With that direction in mind we have made the following suggestions; As



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previously stated, today's building requirements and individual developer agreements require a significant amount of aesthetically pleasing designs. It is no longer the case that developers build simple, square-box housing. These design decisions not only benefit the builder and their project when presented to future residents, but the aesthetics benefit the entire community. Residential development designs enhance neighborhood surroundings, streetscapes, and affect those who walk past or interact with the building, and ultimately provide civic art where it wouldn't be otherwise.

For these reasons, instead a of a punitive art fee, there should be a voluntary incentive for developers to keep creating these types of art focused designs. The incentive-based approach should reward developers who chose to incorporate the reasonable amount and definition of civic art by prioritizing their project for approval. This incentive could take form through a streamlined approval processes that fast-tracks the permit and/or entitlement process. By offering developers an offset for the time, cost and consideration of providing art, this would more than likely produce the art goals that the County is seeking. Adding duplicative or redundant mandates and fees should not be the aim of this ordinance. Moving to a process that recognizes and encourages aesthetically pleasing art design and art components, with clear, flexible, and reasonable definitions should be at the forefront of a non-punitive art ordinance.

Meaningful Offsets

If the County were to impose a 1% project valuation art fee on residential development, there would need to be a 1% cost reduction in another part of the County building process. This would offset the cost of providing a 1% art component by reducing overall cost by 1% in another part of the project approval process. Those offsets could be included through a menu of options that added up to a 1% cost reduction, including, but not limited to the following, based on individual project needs:

- Increased buildable area
- Higher density options
- Reduction of open space
- Reduction or elimination of County building fees
- Reduced outdoor or common space requirements
- Reduced setbacks
- Reduced or exempted parking requirements
- Expedited or by-right approval process
- Etc.

An offset program should have flexible incentives to negate the increase of an art fee for art production. This would ensure that projects are financially feasible.

Conclusion



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We urge the Commissioners to take more time to consider whether the art fee is a solution in search of a problem. There is not enough valid, supporting information to prove that we truly have a civic art deficit problem and a need for this ordinance. We ask that you provide staff more time to research the state of civic art in the entire County before adopting a rushed policy.

We hope you sincerely consider all the points made by the residential development community in this letter. Also, we would be remiss if we did not address the apparent miscommunication between County staff and our members. Despite what is reflected in the April 2019 staff report, all the points listed in this letter (aside from the County art stock, and disproportionate impact to housing producer comments) were communicated to County staff during one of the many in-person meetings and other correspondence held between November 2018 and April 2019. Should you have any questions please contact, BIA-LAV Director of Government Affairs, Diana Coronado, at (213) 797-5965 or at dcoronado@bialav.org.

Sincerely,

Tim Piasky
Chief Executive Officer
BIA-Los Angeles/Ventura

CC:

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Los Angeles County Art Commission
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