November 15, 2018

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

FROM:  Bruce Durbin, Supervising Regional Planner
        Ordinance Studies Section

SUBJECT:  PROJECT NO. 2017-000213-(1-5)
           ADVANCE PLANNING CASE NO. RPPL2017008325
           AMENDMENT TO TITLE 22 TO ESTABLISH THE PERCENT FOR ART IN
           PRIVATE DEVELOPMENT ORDINANCE
           Agenda of November 28, 2018 – AGENDA ITEM #5

At the continued public hearing on October 31, 2018, staff transmitted stakeholder correspondence for the above noted project on Percent for Art in Public Development. Additional stakeholder correspondence were received after the hearing was continued to November 28, 2018 which are attached.

BD:as
David Louie, Chair
Los Angeles County Regional Planning Commission
320 W. Temple Street
Los Angeles, CA 90012

To the Honorable David Louie and Regional Planning Commissioners;

On behalf of the California Apartment Association (CAA), I am writing to share our thoughts and opposition to the inclusion of rental housing in the private art development fee ordinance which is currently under consideration by the commission. The Apartment Association has a deep commitment to upholding the highest standards in rental housing as well as a commitment to creating housing for all in Los Angeles county. From advocating in the halls of our nation’s capital, the offices of our leaders in Sacramento and our local council chambers, we strive to add our expertise to decision makers as they craft good and effective policy.

As the commissioners are aware, there is an acute housing shortage facing the region and localities have placed a high priority on solving the issue. The L.A. County Board of Supervisors recently took the misguided step of placing a temporary rent freeze on rental housing in unincorporated county citing the shortage. According to a recent study done by Next10, “from 2005 to 2015, permits for only 21,5 housing units were filed for every new 100 residents in California, less than any other state except Alaska”. Despite this crisis, it has come to our attention that multi-family housing which was originally excluded from the proposed ordinance due to these very issues was recently placed for consideration.

Adding a development fee for art to new multifamily housing is not only adding another hoop for needed housing to pass through but also places a public benefit that all society enjoys as a responsibility to be paid for by housing providers. It is inappropriate to increase the cost of housing in the County when it is unclear that there is a nexus between private rental housing and public art. Furthermore, it does not appear an impacted study has been commissioned to review the effects on new housing construction.

Given the severe housing shortage, lack of nexus and lack of impact study, the California Apartment Association respectfully requests all multifamily and private rental housing continue to be excluded from additional fee consideration. Adding to the cost of housing at this time would be counterproductive to the aims of the County as a whole. As a community, we must do everything in our power to encourage and incentivize housing during this time.

Sincerely,

Fred Sutton
Vice President Public Affairs
California Apartment Association
October 30, 2018

Chair David W. Louie and Commissioners
Los Angeles County Regional Planning Commission
320 W. Temple Street
Los Angeles, CA 90012

Re: Agenda Item 6 - Project # 2017-000213
Art in Private Development Ordinance – Oppose

Dear Chair Louie and Commissioners

NAIOP, the Commercial Real Estate Development Association, is the leading national organization of developers, owners, and related professionals in office, industrial and mixed-use real estate. NAIOP advances responsible commercial real estate development, researches trends and innovations, provides educational programs, and advocates for effective public policy. The NAIOP SoCal Chapter serves Los Angeles and Orange Counties, and is the third largest chapter in the United States with a membership of over 1,000 members.

We appreciate the subsequent report you have received, yet the fundamental concerns that were raised at the August 1 hearing remain. Thus, we remain opposed to the proposal now before you to mandate art related projects or payment of an in-lieu fee on commercial development. We did submit a letter on July 27, 2018 for the record, yet for some reason it was not included in your agenda packet for the October 31 hearing, so we are attaching it to this letter.

Purpose and Nexus
The Resolution before you says on Page 1, WHEREAS 5, “The purpose of the civic art requirement is to mitigate the added demand on the arts that will result from additional commercial, industrial, and public development.” Yet, all the documents before this Commission contain NO information about what is the art demand in Los Angeles County, how “commercial, industrial”, which is defined, and “public development”, which is not defined, somehow add to the unknown increased art demand, nor what it might cost to meet the unknown increased art demand. No facts or studies of any kind are presented to support the claim in Whereas 5. Thus, it is impossible to evaluate why this proposal is needed or what it would mitigate.

Furthermore, on page 6-7 of the proposed ordinance there is reference to this proposal possibly going to “cultural facilities”, “conservation” of existing private and county owned art, and a list of “artistic and cultural services.” How does new commercial development create any increased demand for any of these items? How does commercial development impact “poetry readings and storytelling”, “training in and about arts and culture,” and on and on including the very vague “Similar arts services as approved by the Arts Commission.”? Again, no facts or studies are presented to evaluate.

It seems the sole purpose of this proposal is to force one small part of the community to pay for a very general public benefit. For example, the July 19 staff
The Ordinance itself clearly points out this entire proposal is solely for a general public benefit. In Section 1 the Ordinance says this will "enhance the quality of life for individuals living in, working in, and visiting the unincorporated area of the county;" So, not only for people working in the county, but every resident and tourist that comes to the County. Again, one small segment of LA County should not be singled out to pay for a benefit for all, including tourists.

Arts Fee/Tax Goes Against "county policy to promote small business retention"
At the August 1 hearing concerns were raised about this fee/tax applying to all projects of $500,000 or more. We appreciate the staff pointing out the value of the $500,000 adjusted by the CPI from the time the $500,000 was first proposed would equal $750,000. This also indicates the need to allow for inflation adjustments in the future.

Yet, this does not fully address the question asked by the Planning Commission. In particular, it was asked how the fee/tax would impact small businesses. No information is provided.

The fact is it would negatively impact small businesses. They operate on very tight margins and, generally, rent their spaces. All cost impacts are passed on to the small business. The more costly it is to build, operate and maintain a building, the higher the rent structure must be to cover those expenses. Thus, the proposal would make it more likely small businesses may not be successful. This is the opposite result from what the Resolution on page 2, number 8, indicates the county policy is to "promote small business retention." (emphasis added)

The negative financial impact cannot be viewed in a silo. Just since 2016 the County has significantly raised the cost of doing business and is already pushing for more increased costs. In 2016 a new per square foot parcel tax was put in place. Then in 2017 the sales tax was increased. On this November's ballot is another per square foot parcel tax. The Board of Supervisors have indicated another new tax may be coming in 2020. This continual piling on of additional fees and taxes is not sustainable. This is very clearly not the time to add on to the increased financial burden small businesses are already trying to deal with.

Our letter of July 27, 2018 contains additional concerns, and we incorporate it herein by reference instead of repeating those points. Thank you for considering our concerns, and based upon all the above, NAIOP SoCal respectfully requests the arts ordinance not be approved.

Sincerely,

Peter Herzog
Assistant Director of Legislative Affairs
Subject: FW: LA County Art Fee - Public Comment

From: Scott Ouellette <SOuellette@williamshomes.com>
Date: October 30, 2018 at 3:47:33 PM PDT
To: "rruiz@planning.lacounty.gov" <rruiz@planning.lacounty.gov>
Subject: LA County Art Fee - Public Comment

Chair David Louie, Vice-Chair Elvin Moon, Commissioner Doug Smith, Commissioner Laura Shell, Commissioner Pat Modugno:

I wish to provide public comment on the proposed LA County Art Fee. I have been employed in the homebuilding industry in Los Angeles County for over 25 years. My primary focus is in the area of land acquisition and project finance. I have a keen sense of economics of homebuilding, and the affects of legislative actions on homebuilding.

At present the homebuilding industry is struggling to produce housing at a market-rate affordable price point. Even more crippling is the proposed added burden of providing affordable housing. The addition of a public art fee on residential construction will further exacerbate the housing affordability crisis affecting Los Angeles County. I strongly urge you to exempt residential construction from the public art fee. The addition of a public art fee will only create a new cottage industry in the housing sector which will increase building costs and suck revenues from a struggling industry.

Builders are struggling to produce housing at a profit in Los Angeles County, and less projects are moving forward. This situation coupled with a public works department that is completely broken from a developer’s perspective, will continue to hinder home construction. The affordability crisis will not get better.

Please exempt residential construction from the public art fee and fix your broken public works department, which fails to move projects forward and communicate within itself.

Sincerely,

Scott A. Ouellette
Vice President of Business Development
Williams Homes, Inc.
21080 Centre Pointe Parkway
Santa Clarita, California 91350
O: 661.600.9722
C: 818.259.0576
Email: souellette@williamshomes.com
www.WilliamsHomes.com

Building Quality For A Lifetime
October 30, 2018

David Louie, Chair
Los Angeles County Regional Planning Commission
320 W. Temple Street
Los Angeles, CA 90012

SUBJECT: Private Art Development Fee Ordinance (OPPOSE)

To the Honorable David Louie and Regional Planning Commissioners;

On behalf of BizFed, a grassroots alliance of more than 170 business organizations that represent 390,000 employers with over 3.5 million employees in LA County, we are writing to express our opposition to the proposed ordinance and express strong concerns about the inclusion of multi-family residential development to the fee. We want to thank Grace Ramirez-Gaston for reaching out to BizFed on multiple occasions, keeping our members engaged and informed through this process.

We are commemorating our tenth anniversary with an initiative to lift one million people out of poverty in the next decade. According to business leaders, housing production and housing affordability are opportunities to prevent and lift people out of poverty in LA County.

BizFed believes that Los Angeles County is already a difficult and expensive place to live and work. In our most recent BizFed Pulse Poll over 80% of business leaders said that taxes and fees are the number one reasons why businesses are leaving the area. This fact has been the very top for the eighth year in a row.

By including multi-family housing as part of the ordinance/fee we are enacting a perpetual cycle that will exacerbate the housing crisis. It will increase the cost of housing on development, which has the impact of reducing the amount of housing that a development could build. Thereby making housing scarcer and more expensive.

When coupled with the policies that LA County leaders are aggressively bringing to the public that will affect businesses in LA County such as; the Interim Rent Control ordinance, the recently increased Linkage Fees, Quimby Fees, implementation of JJJ and most importantly the Stormwater Parcel tax that cumulative impact of these added fees will hurt the very businesses that generate revenues and jobs in our economy and hurt the very residents who need real physical affordable housing for working families.

We need to work together on the many challenges facing Los Angeles. Housing production, Housing affordability and homelessness are just a few of those challenges. BizFed wants to partner with you to comprehensively solve our housing crisis.
BizFed will continue to work with smart leaders like yourself to create the necessary avenues to fund and incentivize housing supply. As we articulated at past hearings we must curb CEQA lawsuit abuse, support high-density transit-oriented zoning, and reduce the impacts of taxes and fees to increase housing supply.

Now is not the time to add more costs and burden to business and housing production in LA County through this fee in the approval of this ordinance. If you have any questions, please contact Jerard Wright, our policy manager on this issue, at jerard.wright@bizfed.org.

Sincerely,

Hilary Norton
BizFed Chair
Fixing Angelenos
Stuck in Traffic (FAST)

David Fleming
BizFed Founding Chair

Tracy Hernandez
BizFed Founding CEO
IMPOWER, Inc.

CC: Supervisorial District 4: Elvin W. Moon, Vice Chair,
Supervisorial District 1: Doug Smith, Commissioner
Supervisorial District 3: Laura Shell, Commissioner
Supervisorial District 5: Pat Modugno, Commissioner

P.S. We have included our letters dated August 2017 and August 2018 for reference because they were not included in public comment section even though BizFed submitted them.
August 25, 2017

Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple St, Suite 383
Los Angeles, CA 90012

Re: LA County Private Developer Civic Art Fee, OPPOSE

We are writing on behalf of BizFed, a grassroots alliance of over 160 business organizations that represent 325,000 employers with over 3 million employees in LA County. We are writing to express our opposition to this fee.

Los Angeles is already a difficult and expensive place to build any project. This would add an entirely new step to the approval process by now requiring plans be submitted to the Arts Commission and getting their approval and sign off before you could allow tenants to occupy a building and add on the 1% of value cost. BizFed members have made it clear for years that taxes and fees are their number one concern. In fact, in the recent BizFed survey, nearly 81% of the respondents said taxes and fees are the number one reason businesses are leaving the area.

Furthermore, this proposed fee will impact the ability for tenant improvements on large scale projects that are important for economic growth and competitiveness with other regions within the state and out of state. We see this fee as an added burden to lure new commercial development and most importantly new jobs and industries to LA County from other areas.

It has been admitted the Arts fee/tax is not to mitigate development impacts, but solely to provide a general public benefit, which raises the lack of a legal nexus to commercial development, and seems inequitable. Furthermore, the arts proposal raises other questions as well, including free speech. On the surface, the proposal says a government entity will mandate public art on private commercial property. This proposal does not allow the private commercial property owner the final say or free speech ability to control the type of art specified by the community and through a selected list of artists while simultaneously being forced to keep the art and cover the cost of maintenance for 25 years.

Now is not the time to add more costs and burden to business in LA County through this fee. Thank you for allowing our input on this matter. Should you have any questions, please contact Jerard Wright, BizFed Policy Manager (323) 919-9424.

Sincerely,

Mike Lewis
BizFed Chair
Senior VP, Construction Industry/ Air Quality Coalition

David Fleming
BizFed Founding Chair

Tracy Hernandez
BizFed Founding CEO
August 1, 2018

David Louie, Chair
Los Angeles County Regional Planning Commission
320 W. Temple Street,
Los Angeles, CA 90012

SUBJECT: Private Art Development Fee Ordinance (OPPOSE)

To the Honorable Chair David Louie and Regional Planning Commissioners,

On behalf of BizFed, a grassroots alliance of more than 170 business organizations that represent 390,000 employers with over 3.5 million employees in LA County, we are writing to express our opposition to the proposed ordinance. We want to thank Grace Ramirez-Gaston for reaching out to BizFed on multiple occasions and keeping our members engaged through this process. We are celebrating our tenth anniversary with a mission to lift one million people out of poverty in the next decade and according to business leaders job creation and housing production are areas that business leaders believe will lift and prevent poverty in LA County.

BizFed believes that Los Angeles County is already a difficult and expensive place to build any project. This would add an entirely new step to the approval process by now requiring plans to be submitted to the Arts Commission and getting their approval and sign off before you could allow tenants to occupy a building and add on the 1% of value cost. In the most recent BizFed Pulse Poll (attached), nearly 81% of business leaders said taxes and fees are the number one reason businesses are leaving the area.

Furthermore, this proposed fee will impact the ability for tenant improvements on large scale projects that are important for economic growth and competitiveness with other regions within the state and out of state. We see this fee as an added burden to lure new commercial development and most importantly new jobs and industries to LA County from other areas.

When coupled with the policies that LA County Board of Supervisors are aggressively bringing to the public that will affect businesses in LA County such as the proposed Interim Rent Control ordinance, additional developer fees and most importantly the Stormwater Parcel tax that cumulative impact of these added fees will hurt the very businesses that generate revenues and jobs in our economy.

Now is not the time to add more costs and burden to business in LA County through this fee in the approval of this ordinance. Thank you for allowing our input on this matter. Should you have any questions, please contact Jerard Wright, our policy manager on this issue, at jerard.wright@bizfed.org and 323.919.9424

Sincerely,

Hilary Norton
BizFed Chair
Fixing Angelenos Stuck in Traffic (FAST)

David Fleming
BizFed Founding Chair

Tracy Hernandez
BizFed Founding CEO

Impower, Inc.
### Highlights from 2018 #BizFedPulsePoll

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<th>Category</th>
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<td>#3</td>
<td>Jump significantly from #10 (2017) to #3 in 2018</td>
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<td>Taxes and Fees</td>
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<td>#1</td>
<td>Remain the #1 concern for business owners since 2011</td>
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<td>#2</td>
<td>Move from #3 (2017) to #2 in 2018; Top 10 concern since 2011</td>
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<td>#4</td>
<td>Drop from #2 (2017) to #4 in 2018</td>
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<td>Education</td>
<td>#9</td>
<td>#5</td>
<td>Jump from #9 (2017) to #5 in 2018</td>
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### Congratulations to Santa Clarita for being identified as the “Most Business Friendly” city in Los Angeles County!
## Top BizFed Issues: 2008–2018

### Ten-Year Trend

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*Poll conducted in early 2011 due to 2010 BizFed Election-year Poll

^ In 2008, the #1 issue was Availability of Monetary Credit and the #3 issue was Controlling Workers’ Compensation Wages
October 30, 2018

Chair David W. Louie, Supervisorial District 2
Vice Chair Elvin W. Moon, Supervisorial District 4
Commissioner Doug Smith, Supervisorial District 1
Commissioner Laura Shell, Supervisorial District 3
Commissioner Pat Modugno, Supervisorial District 5
Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: Building Industry Association Comment Letter on the Draft Art Fee Ordinance

Dear Chair Louie,

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 an updated comment letter on the Draft Art Fee Ordinance, based on the most recent discussions from the August Regional Planning Commission (RPC) hearing. Our primary concern is the ordinance’s potential inclusion of residential development, which is currently exempted. Making the choice to add costs to housing construction, in the midst of a housing crisis, is not helpful to the County or the region.

Over the last year, and through a robust stakeholder process, BIA-LAV has worked with the County to help produce the most current draft of the Art Fee Ordinance. County Planning staff and the Art Commission spent a significant amount of time hearing from everyone who would potentially be affected by this ordinance,
including those that produce housing. Our members were very clear in voicing their concerns about residential development being excluded in an art fee ordinance. County staff came to the determination that residential development should not be included in the art fee ordinance, based on the fact that now is not the time to add another hurdle to the building of homes. In addition, the unincorporated County produces such few housing units that the fees collected would not be significant enough to impact public art. If all that stakeholder input and staff work is reversed, and this Commission decides to include residential development in this ordinance, it’d likely that the County’s housing numbers will not improve and may even decline.

Housing is more expensive to produce today, than ever before. The costs of construction, materials, land acquisition, labor, and design have all increased; and 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. Take into consideration all of the other pressures constraining housing; at the federal level interest rates have increased, nationwide housing mandates, at the State level, regulations - including newly mandated solar for all new housing construction, the strictest environmental standards in the nation, and of course the local mandates that builders must comply with. In Los Angeles County, in this year alone, builders are being faced with a Significant Ecological Areas ordinance fee, 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 that will include an Inclusionary Ordinance. This does not include the current developer impact fees and current regulations, voluntarily imposed affordable housing production, and even the push for some housing projects to include permanent supportive housing. All of these costs target home construction. Ironically, home construction is overwhelmingly the most important thing to help LA County out of its housing crisis - through the increased production of housing.

Also notable in the staff report is the lack of research on the impacts to development and housing costs, in the few jurisdictions that have adopted residential development art fees. Builders need clarity and certainty when new regulations are updated or introduced, especially if existing investments and current projects are impacted. The current exemption for residential development is imperative to provide BIA members and housing producers that certainty and allow fair housing production to battle the housing crisis that has afflicted the region. We look forward to continuing to work with the County as this draft ordinance is finalized.
Thank you for your consideration of these suggestions and comments. 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:
Los Angeles County Department of Regional Planning
Los Angeles County Art Commission