

March 5, 2019

Grace Ramirez Gaston

LA County Arts Commission

Dear Grace,

Thank you for your generous invitation to provide feedback regarding the possible criteria for including Architecture as Art within the Percent for Art in the Private Development Ordinance. I am writing to express my strong opinion that Architecture as Art should not be included in the Ordinance criteria.

I have been working actively as an Art Advisor in the Los Angeles area for over 25 years, and have overseen the implementation of countless Public Art programs under various "Percent for Art" programs. I am a passionate believer in the power and value of these programs in making arts and culture a priority in our built environments and in directly supporting Artists as a vital part of our community.

When applied properly, a healthy Percent for Art in Private Development Ordinance creates the opportunity for fruitful, groundbreaking collaboration between developers, architects & designers, and Artists, with each contributing valuable insight. The loss of the Artist as a valued participant in this collaboration would be tragic. The Percent for Art Ordinance provides the incentive and opportunity for Artists to have a real voice in the process of community-building and to engage with the public in a way they would otherwise not be able to. The Ordinance also establishes and protects the Public Art budgets that are absolutely vital in ensuring that we have a thriving artistic economy and that Artists are paid fairly for their work.

I have the utmost respect and appreciation for the architectural design community, but it is my firm belief that the purpose of a Percent for Art Ordinance should be to support Artists, and should not apply for use by architects and other designers. I regularly see developers and architects attempt to classify architectural elements as Art, or to make eligible an artwork element designed by an Architect, and it is only because of the clarity of these ordinances these misappropriations can be prevented. The Percent for Art Ordinance is an invaluable tool, and is often the only means by which Artists are able to create significant public work and contribute to the urban landscape of our community in a meaningful way. I urge you to protect these funds for Artists.

Respectfully Submitted,



Michelle Isenberg

Isenberg & Associates, Inc. Public Art Advisory



Los Angeles/Ventura Chapter

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March 29, 2019

Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re - Draft Art Fee Ordinance Housing Providers Comment Letter

To: Los Angeles County Art Commission Staff and Los Angeles County Regional Planning Staff,

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 based on the most recent discussions from the November Regional Planning Commission (RPC) hearing. The November hearing directed staff to craft an ordinance that comprises residential development, affordable housing, and the exploration of an incentives to encourage builders to include art in construction as another option outside of a mandated fee mechanism. Our primary concern is the Commission's direction to include all residential development, including affordable housing – 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.

Over the last two years, and especially since November, BIA-LAV market rate and affordable housing producers have met with the County Art Commission and the County Planning staff to provide feedback on an updated art ordinance based on the new request from the Planning Commission. Our membership has been very clear in voicing their concerns about residential development being included in an art fee ordinance. Residential developers expressed the need to be exempted from this ordinance because, now is not the time to add another hurdle to the home building process. Housing producers feel that if another fee is added to development it's likely that the County's housing numbers will not improve and



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may even decline. Below are the reasons that BIA-LAV members believe that a residential component to this ordinance should not be subjected to a fee. Also listed are suggestions on how residential development could comply with an art ordinance in an incentive-based art production system as an alternative to fees.

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.

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 creates 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.

Art in Development

Building to today's standard's, market rate and affordable 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. As an example, in affordable housing veteran communities, many affordable housing providers integrate trauma informed care to veterans that include therapeutic art and music for military families. Housing producers are deeply committed to the healing qualities of art production for their clients through programs and aesthetic design.

Other Considerations

Also, notable, any Permanent Supportive Housing (PSH) development, and any proposed affordable housing development using Measure HHH funds, or other government funding streams, could be at odds with an art fee ordinance. Funds that were voted on by the taxpayers for the purpose to meet the needs of housing, did not include an expense for art or other non-essential housing components. Prioritizing the most important aspects of home construction should be taken in consideration when implementing new building mandates, such as an art fee. If the County's main goal is to provide housing for vulnerable communities and create enough homes for County residents at a reasonable cost, then the priority should be to make the housing production process as unburdensome as possible.

Alternatives:

Voluntary, Incentive-Based Residential Art Component

We agree with the Commission's direction to staff to create an ordinance with an incentive-based model 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 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. All these creative building components are designed with an artistic perspective. These design decisions not only benefit the builder and their project when presented to future residents, but the aesthetics benefit the entire community. Residential



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development designs enhance neighborhood surroundings, streetscapes, and affect those who walk past or interact with the building, and ultimately provide 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 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

We urge County staff and the Commissioners to sincerely consider all the points made by the residential development community in this letter and that were made during stakeholder



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meetings. Builders need certainty when new regulations are updated or introduced, especially if existing investments and current projects are impacted. Without an exemption to fees the only way residential development can be included in this ordinance is through a voluntary incentive-based approach or with meaningful offsets equal to an imposed art fee cost.

These suggestions have been verbalized and are now captured in the form of a letter to provide clarity, as County staff crafts an updated ordinance. We look forward to continuing to work with staff as the ordinance is finalized, before the April 24th Regional Planning Commission hearing. 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 Regional Planning Commission



**COMMUNITY DEVELOPMENT COMMISSION/
HOUSING AUTHORITY**

of the County of Los Angeles

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Executive Director

April 2, 2019

Ms. Amy Bodek, Director
Department of Regional Planning
County of Los Angeles
320 W. Temple St., Ste. 1390
Los Angeles, CA 90012

Dear Amy:

PERCENT FOR ART IN DEVELOPMENT

As we have discussed, the Community Development Commission/Housing Authority of the County of Los Angeles supports the percent for art in private development ordinance and the expansion to include residential development. However, we would highly recommend an exemption for affordable housing and permanent supportive housing development. As the Regional Planning Commission is aware, we are in the midst of an affordable housing and homelessness crisis in the County – a deficit of more than 560,000 affordable units and more than 53,000 individuals on our streets on any given night.

Faced with the sheer magnitude of this crisis and the need to provide housing for thousands of homeless individuals and families, over the past three years alone, the County has budgeted more than \$120 million through their Affordable Housing Program and \$100 million from the Department of Mental Health's Mental Health Service Act funds to leverage the development of affordable and permanent supportive housing. Our efforts are already challenged by rising costs and we would caution against policies that would further hamper our efforts and negatively impact our reach in a time such as this. Therefore, though we support the policy, we would caution against policies that may create additional impediments to affordable housing and permanent supportive housing development.

We appreciate your consideration of our recommendation and your continued commitment to the development of affordable and permanent supportive housing throughout Los Angeles County.

Please feel free to contact me directly if you wish to discuss this matter further.

Sincerely,


Monique King-Viehland
Executive Director

c: Board of Commissioners
Housing Commissioners

**We Build Better Lives
& Better Neighborhoods**



Marina del Rey
Lessees Association

C/o Mr. Timothy C. Riley, Executive Director
8537 Wakefield Avenue
Panorama City, CA 91402
Telephone: 818-891-0495; FAX: 818-891-1056

April 11, 2018

Honorable Commissioners
Regional Planning Commission
300 W. Temple Street, Room 150
Los Angeles, CA 90012

RE: Percent for Art in Private Development Ordinance
Project No. R2017-000213
Case No. RPPL2017008325
Hearing Date: April 24, 2019

Dear Honorable Commissioners:

The Marina del Rey Lessees Association represents the leaseholders of residential, commercial, marine and visitor-serving properties in unincorporated Marina del Rey. Under long-term leases with the County of Los Angeles, the lessees undertake expensive redevelopment and renovation of a wide array of multifamily residential, commercial projects and anchorages according to contractual agreements agreed to by our landlord, the County of Los Angeles, and all new improvements and developments are subject to the Marina del Rey Design Guidelines that were approved by the Marina del Rey Design Control Board on October 20, 2016.

The process to obtain coastal development permits to build and renovate any development in Marina del Rey is lengthy and cumbersome and involves the payment of many fees that are not typically applied to commercial and residential projects elsewhere in unincorporated Los Angeles County. Additionally, leaseholders of the County-owned land in Marina del Rey, even though they do not own the land, pay possessory interest property taxes in addition to the ground rent paid to the County for the construction and operation of all leasehold developments in Marina del Rey.

The Association understands the objectives of the Arts Commission are to promote on-site public art at commercial and residential projects and to generate private funds for artistic and cultural facilities to benefit the residents of the County. The Marina del Rey community is already active with cultural events, including the summer concert series at Burton Chace Park and the annual ARTsea event that includes outdoor art galleries, interactive art workshops, dance performances and all-day musical entertainment.

Properties in Marina del Rey are subject to design guidelines that "apply to all site types in Marina del Rey." "Public art" is one of the guidelines used by the Design Control Board in "reviewing and evaluating the external design of public and private improvements in Marina del Rey." DG.124 is the Guideline for "Public Art," which states: "Provide unique art pieces in open spaces and plazas to create points of interest."

The Association suggests that the Regional Planning Commission, if deciding to adopt the application of civic art fees to both residential and commercial projects, should specify in the ordinance a Countywide exemption for any new improvement, renovation, and development for any project which is subject to a design review process such as the one that has been created in Marina del Rey with the Design Control Board.

While there are municipal jurisdictions that impose civic art fees on residential developments, the City of Los Angeles most notably has specifically excluded residential properties from the imposition of these fees. Analogous to the situation in Marina del Rey, the City of Los Angeles operates with design guidelines for residential, commercial and industrial projects. The City's Urban Design Studio has recently released a draft of proposed Citywide Design Guidelines to update and consolidate existing design guidelines into a single document, which does include identifying "opportunities for art and culture in the project area" and providing a photographic illustration of an example of public art on private property.

Notwithstanding that there are design guidelines that apply to projects in Marina del Rey, the Association asserts that applying the civic art fee to residential development anywhere in the unincorporated areas of the County adds to the cost of housing construction at a time when the housing crisis has become acute and shows no signs of abating in the near term. Residential developments already are subject to a myriad of fees that act as disincentives to new construction. The application of the civic art fees on residential projects should not be included in the proposed Percent for Art in Private Development Ordinance.

As recently as August 1, 2018, when the Regional Planning Commission held a public hearing on this subject matter, the Draft Resolution prepared for that hearing excluded residential development "in consideration of the shortage of affordable housing in the County and the objectives of the General Plan and the Board of Supervisors to reduce residential development costs." Though residential developments consisting solely of affordable dwelling units would be excluded in the proposed ordinance, adding more costs to residential developments with market-rate units for middle-income families and individuals that do not qualify for inclusion in any category of the income levels targeted for assistance would be counterproductive and damaging to the housing industry.

Following discussion with the Arts Commission, our understanding of the application of the civic art requirement to anchorages had been that the "repair, renovation or rehabilitation" of anchorages that did not "change the purpose or character of use and does not alter the size and occupancy load of the buildings" would exempt anchorages when renovations of the anchorages would be required. The Marina del Rey Land Use Plan, certified by the California Coastal Commission, strives to ensure that adequate support facilities are provided, including, but not limited to, the following: boat slips, a fueling dock, boat repair yards, boat dry storage yards, launch ramps, boat charters, day-use rentals, equipment rentals and on-going maintenance of the marina harbor and entrance channel, bulkhead repair, pollution control, safety and rescue operations, and sufficient parking for boaters."¹ The Land Use Plan encourages the upgrades necessary for the continued use, maintenance and operation of anchorages.

¹ Marina del Rey Land Use Plan, page 3-5

The most recent version of the Percent for Art in Private Development Ordinance has now been amended to indicate that "repair intended to upgrade an existing building or structure that does not change the use or type and does not alter the size or occupancy of the building" would be exempt from the civic art requirement. This amendment has removed "renovation or rehabilitation" from the exemption, leading to an ambiguous interpretation of whether the ordinance's exemption applies to anchorages that must completely renovate their docks and boat slips to stay current with County requirements, industry standards and public safety. The original language needs to be restored with the understanding that anchorages are able to be completely renovated and exempt from the civic art requirement.

In regards to other improvements at anchorages, the Arts Commission maintains that adding such facilities as a new bathroom or a boater's lounge would change the purpose and character of the anchorage and would be subject to paying one percent of the design and construction costs for renovations with a building valuation of \$750,000 or more and not 1% of building valuation. These types of facilities are consistent with upgrading existing anchorages and do not materially change the purpose or character of the use of anchorages that typically are required to provide these amenities for their boaters. The exemption language should be clarified to exempt renovations of this nature.

Thank you for your consideration of the Marina del Rey Lessees Association's position that the County should not discourage the creation of new housing with the imposition of civic art requirements on residential developments, particularly when the industry standards are either governed by design guidelines or the fact that new multifamily projects have evolved with attractive design features that are far removed from outdated buildings of the past that were often designed with blank walls and lack of architectural articulations.

The Association appreciates the Commission's consideration of the requested exemptions and the clarifications to ordinance language in order to recognize the value of the design review process for residential properties and not discourage the renovation of anchorages with new amenities.

Sincerely,



David O. Levine
President

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SCANPH

SOUTHERN CALIFORNIA ASSOCIATION OF NONPROFIT HOUSING

April 11, 2019

Department of Regional Planning
320 West Temple Street, 13th Floor
Los Angeles, California 90012

RE: Percent for Art in Private Development Ordinance

SCANPH's Role

The Southern California Association of NonProfit Housing (SCANPH) is a nonprofit membership association representing affordable housing developers across the five counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura. Our mission is to facilitate the development of affordable homes across Southern California by advancing effective public policies, sustainable financial resources, strong member organizations, and beneficial partnerships.

Our membership consists of developers who provide below market-rate homes for low-to-extremely-low income community members and for people experiencing homelessness. Simply put, we focus on economically disadvantaged individuals and families who are most in need of affordable housing.

Development of the County Art Ordinance

In March 2017, the Los Angeles County Board unanimously passed a motion for the Percent for Art in Private Development Ordinance (PDPA). The Ordinance was also Recommendation #8: Increasing Diverse, Inclusive, and Equitable Cultural Opportunities and Programming in Unincorporated Areas of the Cultural Equity and Inclusion Initiative (CEII) report released in April 2017. It was originally introduced in 2000 along with the County Civic Art Policy. While the PDPA did not pass at the time, the Civic Art Policy was adopted in 2004 and went on to be enacted in 2006.

The first hearing for the ordinance was in August 2018 and on November 28, 2018, the Los Angeles County Regional Planning Commission (RPC) reviewed the ordinance at its second hearing and instructed staff to make the following revisions: Include a residential development component (with no stipulation exempting affordable housing), and provide more incentives for developers to include art instead of just a blanket fee. Prior to this hearing, all residential development was previously exempted.

SCANPH Comment Letter: LA County Art Fee

April 11, 2019

To address developer concerns about including a residential development component in the ordinance, the Community Development Commission of Los Angeles County (LACDC) facilitated several meetings with staff from the Regional Planning and Arts Commission, as well as developers to better understand how development may be impacted by such an ordinance.

As it stands, 33 of the 88 cities within the County of Los Angeles have established an art fee ordinance. The City of Los Angeles is one of the cities that exempts housing in its ordinance; however, an exemption for affordable housing does not exist in the current draft county ordinance.

After considering the arguments for and against the application of this 1% fee on affordable housing developments, SCANPH has come to the conclusion that deed-restricted affordable housing should be exempt from the 1% fee for the arts. Below SCANPH highlights reasons why a 1% fee to affordable housing development would negatively impact efforts to address the housing crisis and we respectfully request that the County consider applying an exemption for 100% affordable housing in the ordinance at the next hearing scheduled for April 24, 2019 at the Regional Planning Commission meeting.

The Impact of a 1% Art Fee to 100% Affordable Housing Development

The LA Housing Crisis

Data for Los Angeles County demonstrates we need 568,225 more affordable rental homes to meet current demand, according to the California Housing Partnership Corporation (CHPC). We are facing a massive housing shortage and low-income Californians in particular are suffering from ever increasing housing costs, thereby putting families and seniors at risk of falling into homelessness. Based on SCANPH's Out of Reach report released in 2018, the median rent for a 2-bedroom apartment in Los Angeles County is about \$2,610 per month. In order for housing to be considered affordable, a family should not spend more than 30% of its income on rent. Thus, a working family needs to earn over \$50 per hour – or about \$104,400 per year – to afford the average rent in Los Angeles.

At \$13.25 per hour, one minimum wage worker supporting a family would have to work 167 hours per week to afford the average 2-bedroom rent. The annual median renter household income in Los Angeles County is \$40,785— indicating that the majority of all renter households earn less than half the average rent.

If a 1% fee is added on to the myriad of other fees and the cost to build housing in Los Angeles continues to rise, then less housing will get built. Since part of the housing crisis is caused by the shortage of supply, then additional fees should not be imposed because they could discourage developers from building more housing, especially deed-restricted affordable housing.

Voters Expect Public Funds to go to Affordable Housing

To address the need for more affordable housing, Los Angeles City voters approved Proposition HHH in November 2016, which provides a \$1.2 billion bond to build approximately 10,000 units of supportive housing in the City of Los Angeles for homeless individuals and those at risk of homelessness throughout the City. A few months later in March 2017, county voters decided again to pass Measure H - a quarter cent sales tax - which is expected to raise an estimated \$355 million annually for 10 years to pay for the services needed to support chronically homeless people.

SCANPH Comment Letter: LA County Art Fee

April 11, 2019

Furthermore, in November 2018, the voters of California passed Proposition 1 & 2 with strong voter support. Proposition 1 is a \$4 billion bond for affordable housing development, while Proposition 2 represents \$2 billion to help Californians living with a serious mental illness who are homeless get off the streets and into supportive housing. Given the healthy capital funding environment bolstered by voter action, SCANPH recognizes how important it is to be as effective as possible right now to ensure the public's faith is not eroded in solutions they supported at the ballot in recent elections. The recent influx of public monies from the local and state government is intended to address the affordable housing crisis head-on and get more Californians housed. As such, voters expect these funds to go toward the development of affordable housing, not to be diverted to meet other public benefit or equity needs.

Affordable Housing is an Existing Public Good

SCANPH understands that the county's art ordinance and the Commission's recommendation that staff not exclude affordable housing is an effort to address concerns of equity by offering all communities increased access to public goods via the requirement of various arts forms in development. SCANPH appreciates the county's intent, as many of our members already include art in their developments for this reason as well. However, affordable housing inherently addresses equity gaps and serves as a public good that brings value to a community—made all the more apparent by the fact that government subsidy funds comprise as much as three quarters of the overall building's development budget. This is especially true for developments with 100% of units designated as affordable.

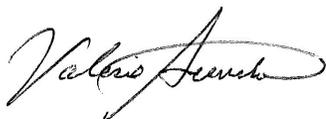
Art programs might penalize 100% affordable housing developers for increased costs.

As SCANPH awaits the announcement of a new Executive Director for the California Tax Credit Allocation Committee (CTCAC), we have been informed that CTCAC will be aiming to increase program efficiency by encouraging affordable housing developers to find ways to decrease housing costs. SCANPH requests the county consider the impact of a mandated art program that will increase the costs of affordable housing development and likely penalize a developer in applying for California tax credit funding for projects in unincorporated areas of the County. If affordable housing becomes less competitive in the application process, this affects equity and access to housing for needy populations.

For these reasons, SCANPH requests 100% affordable housing developments be exempt from the application of a 1% fee on development. Despite the need for an exemption to this fee, SCANPH would like to note that many affordable housing developers currently use existing community spaces in their developments to provide after-school programming to children, such as tutoring or educational activities to learn about multimedia design. For example, LA Family Housing recently partnered with the LA County Museum of Art to conduct a 6-week art program for approximately 15 adult residents in supportive housing. Affordable housing developers are eager to find ways to incorporate art and other activities as part of the on-site services they provide to residents and SCANPH believes this advances the County's goal to increase access to public goods.

Thank you for your collaboration on this policy matter. We greatly appreciate your consideration of our concerns and look forward to continuing our dialogue. Please contact us if you have any questions.

Sincerely,



SCANPH Comment Letter: LA County Art Fee
April 11, 2019

Valerie Acevedo
Policy Coordinator