



Date: March 12, 2013

To: Honorable Mayor Foster and Members of the City Council

From: Gary DeLong, Councilmember, 3rd District *GD*
Dr. Suja Lowenthal, Councilmember, 2nd District *SL*
Patrick O'Donnell, Councilmember, 4th District *PO*

Subject: **Reclassifying Real Estate Agents as Employees**

On June 19, 2012, the City Council requested that the City Manager determine the feasibility of replacing the individual contractor business license fees for real estate agents and replacing this fee with a "per employee" fee to the broker. The vast majority of cities in the State of California charge realtors as employees rather than Independent Contractors.

On February 4, 2013, John Gross, the City's Director of Financial Management, issued a memorandum to the offices of the Mayor and City Council indicating the following:

1. Switching the current annual fee of \$202.73 paid by independent contractors (real estate agents) to a fee paid by their employers (brokers) of \$25.74 per employee, with a potential annual inflation adjuster, "is feasible from a technical and workload perspective."
2. This switch in fees would result in approximately \$88,000 in lost "Independent Contractor" revenue to the City.

However, it is likely that an additional 2,000 to 2,500 real estate agents will be levied the \$25.75 fee thru their brokers thus realizing additional revenue of \$51,500 to 64,375.

It is recommended that the City reclassify realtors from independent contractors to employees, for the following reasons:

1. A broker already exercises several controls over real estate agents in the same manner an employer would an employee. For example, brokers prohibit real estate agents from receiving any payment of services from their clients directly; the money goes to the broker who pays the agent.
2. Several aspects of existing State legislation also already view and treat brokers as employers and realtors as employees. For example, the State requires brokers to pay worker's compensation for their real estate agents and also requires brokers to accept responsibility for their agent's actions.

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3. By charging brokers per employee rather than the agents themselves, significantly less City time and staff resources will go in attempting to enforce business license taxes on every agent. Instead only one bill from the City would be sent to the broker, facilitating the taxation process.

Recommendation

Request that the City Attorney draft an ordinance amending the appropriate section of the Long Beach Municipal Code to reclassify realtors from independent contractors to employees.

Fiscal Impact

The annual cost of this change would be approximately \$23,625 to \$36,500. However, there will be a savings in staff time as a result of an easier billing and collections process.