

City of Long Beach Mills Act Program Recommendation Report

Prepared for:

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Introduction

Effective March 7, 1973, the Mills Act legislation¹ grants participating local governments (cities and counties) authority to enter into contracts with owners of qualified historic properties. When the property is entered into the contract, the property owner receives tax relief in exchange for agreeing to restore the property if necessary, maintain its historical character, and use it in a manner compatible with its historical character.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year for a new ten-year term and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. An inspection of the property's interior and exterior prior to a new contract and every five years thereafter by city or county officials ensure proper maintenance of the property.

A qualified historical property is a privately-owned property that is not exempt from property taxation and that is also listed on any federal, state, county, or city register, including the National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied residences and income-producing commercial properties may qualify for the Mills Act program.

The property owner receives tax relief because their property taxes are determined based on a prescribed income capitalization method instead of sales data. The capitalization method determines a fair rental base rate for the property by comparing it to three similar rental properties, when such data is available. Once a rental rate is established for the property, the total year's potential rental income is determined and eligible expenses (e.g. maintenance costs) are deducted to establish the base assessment rate, which is often less than recent sales data for the property.

The legislative body may cancel a contract if it determines that the owner has breached any of the conditions of the contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The legislative body may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the

¹ The actual legislation is contained in the *California Revenue and Taxation Code*, Article 1.9, Sections 439-439.4 and the *California Government Code*, Article 12, Sections 50280-50290.

manner specified in the contract. Alternatively, the local entity may take legal action to enforce the contract, as necessary.

When a property subject to a historical property contract undergoes a change in ownership, a new base year value is established for the property as of the date of change in ownership. Typically, a restricted historical property's base year value will be greater than its restricted value determined under the prior contract but is necessary to calculate the assessed values of the historical property should the historical property contract enter nonrenewal status.

The Mills Act Contract is only subject to whole buildings that meet the eligibility requirements. A newly constructed building, parts of buildings, such as interiors, facades, etc. are not considered eligible historical properties. In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values will be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion.

Note: Owners of properties with comparatively low property taxes because of Proposition 13 will not benefit by a Historical Property Contract because the assessed value under the Mills Act will likely be higher than the existing base-year value of the property. Generally, owners who have purchased their properties within the last 10 years are most likely to benefit from entering into a Mills Act Contract.

Property taxes are reassessed annually on properties with Mills Act Contracts. The tax bill that property owners receive may vary from year to year.

For more information, refer to Appendix A:

- State Assembly Bill No. 654, Hueso. Approved by Governor September 7, 2011.
- California Government Code, Article 12, Sections 50280-50290
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Costs and Benefits

Benefits to the Local Government

The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitation of entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

Cost to the Local Government

Although the Mills Act program does provide the local government the ability to provide incentives to owners of historical properties to maintain and restore their historical properties, the program has some non-recurring and recurring costs for its implementation and long-term administration. The non-recurring costs include the cost to set up the program, develop an ordinance and contract for the program, and the recurring costs include staff time to administer the program if and when property owners elect to participate in the program. However, these costs may be recovered in fees to property owners for the management of the program, as appropriate.

In addition to the direct costs associated with the implementation and administration of the program, the Mills Act program also has some indirect costs through the loss of potential property tax revenue. Because the program provides for an income capitalization method of assessment as opposed to a sales value method, the local government will see fewer tax dollars generated from participating qualified historical properties. However, this is only the case with properties that elect to participate in program, and these properties are limited in number.

Benefits to Owners

Owners of historical buildings may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of their properties for at least a ten-year period. The Mills Act program is especially beneficial for recent buyers of historical properties and for current owners of historical buildings who have made major improvements to their properties.

Mills Act participants may realize substantial property tax savings of between 40% and 60% each year for newly improved or purchased older properties because valuations of Mills Act properties are determined by the Income Approach to Value rather than by the standard Market Approach to Value. The income approach, divided by a capitalization rate, determines the assessed value of the property. In general, the income of an owner-occupied property is based on comparable rents for similar properties in the area, while the income amount on a commercial or multifamily residential property is based on actual rent received. Because rental values vary from area to area, actual property savings vary from county to county. In addition, as county assessors are required to assess all properties annually, Mills Act properties may realize slight increases in property taxes each year.

Costs to Owners

Restriction of property use: Upon the application of an owner or the agent of an owner of any qualified historical property, the legislative body may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purpose of the California Government Code, Article 12, Sections 50280-50290.

Upkeep of Historical Property: Preservation of the qualified historical property, and when necessary, the restoration and rehabilitation of the property must conform to the rules and regulations of the State Office of Historic Preservation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

Fees: The legislative body entering into a contract may require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program. There may be additional costs to consultants to assist with the preparation or processing of the application, if determined reasonable by the City.

Certificate of Appropriateness: Any proposed exterior alterations to the property would be subject to the regular Certificate of Appropriateness process, which is required for all designated Long Beach Landmarks and all properties located within Historic Districts, for compatibility with the Secretary of the Interior's Standards for Rehabilitation. The cost to the property owner would be commensurate with the current Certificate of Appropriateness fees to cover staff time. Additional costs may be necessary to have a professional consultant assist or review proposed alterations. The cost for consultants varies for this type of work and is dependent upon the time required to review the proposed plans.

Cancelation of contract: If the local government elects to cancel the contract after notice and a public hearing because the owner has breached the contract or the property has deteriorated to the extent that it no longer meets the standards of a historical property, the cancellation fee is 12 ½ percent of the property's current fair market value as though free of the contractual restrictions, with such value to be determined by the local assessor.

Recommended Next Steps

Revise Mills Act Contract Template

The City's standard Mills Act Contract template should be revised to reflect changes implemented by AB 654 (see Appendix A), including:

- Provision for an inspection of the interior and exterior of the premises by the City prior to a new contract, and every five years thereafter, to determine the owner's compliance with the contract
- Delete requirement that the owner notify the State Office of Historic Preservation, and instead require that the owner or their agent (could be the City) shall record the contract with Los Angeles County within six months of entering into the contract
- Requirement that the legislative body either cancel the contract or bring an action in court to enforce the contract, if the legislative body determines that the owner has breached any of the conditions of the contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property
- Provision that, as an alternative to canceling the contract, a landowner that is a party to the contract may bring any action in court necessary to enforce the contract

Revise Mills Act Application and Review Schedule

The City's Mills Act Contract application form should be revised to include the following information, at a minimum:

- Owner's contact information
- Real property information
- Property purchase date and most recent assessed value of land and improvements
- Information on the date, architect, style, and significance of building (could be a report prepared by professional architectural historian documenting the significance of the property; may not be necessary if the property is already listed on a national, state, or local register)

- Description of how the property meets the City's eligibility and priority consideration criteria for awarding Mills Act Contracts (discussed in detail below)
- Detailed description of the property and list of character defining features of the property to be maintained and preserved, their location on the structure, and their current condition (all features should appear in the photographs described below)
- Detailed list of all desired modifications and/or features to be restored or repaired, which should include the affected feature, its location on the building, and detailed description of the work to be completed
- 10-year Work Plan and Timeline, which will include those desired modifications and/ or features to be restored or repaired within the first 10 years of the contract. The scope of work must be detailed and specific, and indicate the date by which each individual task will be completed.
- Site plan, with measurements of property and structures, drawn to scale
- Photographs of all sides of the building, each exterior door and window and any other character defining features, plus any historic interior features
- Legal description
- Copy of grant deed
- Copy of most recent tax bill
- Tax adjustment worksheet (to estimate potential property tax reduction)
- Application fee

Additional application requirements for Condominium/Homeowners Association (HOA) Controlled Properties should include:

- Signature of the authorized HOA agents on behalf of all individual homeowners (the contract will be with the HOA, but all the individual homeowners, who comprise the HOA, will each receive individual tax adjustments)
- Copy of Homeowner's Association Covenants, Conditions & Restrictions (CC&Rs)
- Petition of all homeowners, with signatures confirming their support of the application
- Matrix of ownership, real property, and valuation information for all homeowners
- These HOA controlled properties will require variations from the Mills Act Contract template, to include references to the CC&Rs, which should be attached as an appendix, and the HOA's authority to enter into the contract

Additional optional requirements to consider include:

- Eligibility criteria - The City may choose to limit the eligibility of properties based on specific criteria, such as:
 - Historic designation status: The City may require that the property is already a designated landmark to be eligible apply for a contract (as is the case in San Diego and Los Angeles), or may allow owners to submit landmark application concurrently (this is permitted in Pasadena).
 - Historic designation type: The City could make only individual landmarks eligible to apply for a contract, or could allow contributing resources in a historic district as well. The City might consider allowing non-contributing resources in a district if they can be restored based on pictorial, documentary, or physical evidence such that it could be reclassified as a contributor (i.e. Pasadena). Further, the City could require properties be a City of Long Beach Landmark or District, not just listed on the California or National Registers (i.e. Los Angeles) in order to apply, or allow any designation level (i.e. Pasadena).
 - Property valuation: The City could require that the current total assessed value be less than a set limit in order to apply for a contract. For example, Los Angeles, limits single family properties to \$1.5 M, and multifamily/commercial/industrial properties to \$3 M or less. Pasadena limits single family properties only, to a valuation of \$1.5 M or less.
 - Property type: The City could limit the types of properties that are eligible to apply for a contract, such as residential only (i.e. Claremont), or could choose to allow commercial and/or industrial properties as well.
 - The City could choose to make properties in certain areas not eligible to apply, or require additional approvals or sign-offs. For example, in San Diego, properties located within a redevelopment area required sign-off from the redevelopment agency.
 - Other criteria – The City may choose to exclude properties with outstanding code violations and/or orders to comply, or properties with delinquent taxes. In cases where an individual owns more than one property in the City, such violations on any of their holdings could preclude an application for a contract on any of the other properties they own.
- Exemption criteria – The City can choose to exempt properties from the eligibility requirements on a case by case basis. For example:
 - Pasadena allows one property per year that exceeds the property valuation limit.
 - Los Angeles allows properties in the Downtown and Hollywood historic cores to exceed the valuation limit.

- Los Angeles also allows high value properties with exceptional circumstances to apply for an exemption by providing substantial documentation in the form of a Historic Structures Report.
- Priority Consideration criteria – The City can choose to prioritize applications based on specific planning, economic development, or other goals. This could include properties that:
 - Need significant preservation or rehabilitation work, beyond routine maintenance.
 - Are located within a specific plan area where rehabilitation would support the plan's goals, such as former redevelopment areas or State Enterprise Zones.
 - Are threatened by deterioration, abandonment, or conflicting zoning (i.e. landmarked single family home in a high density zone).
 - Would maintain or create affordable housing
 - Would assist in the preservation of a landmark owned by an individual experiencing economic hardship

In addition, an annual application review schedule should be developed and implemented. This will allow applications to be evaluated and processed as a single group each year, enabling the City to weigh properties against each other in making decisions, and using staff time more efficiently. A suggested schedule is listed below.

Sample Annual Mills Act Contract Application Schedule		
Step	Action	Timeline
1	Application Guide and Form Available	Monday, February 9, 2015
2	Pre-Application Consultation	Saturday, April 25, 2015
3	Application Submittal and Fee due	Thursday, May 21, 2015
4	Pre-Contract Inspections	June 8 – July 31, 2015
5	Cultural Heritage Commission hearing	On or before August 28, 2015
6	City Council hearing	On or before September 25, 2015
7	Notify Applicants of Decision	On or before October 2, 2015
8	Draft Contracts Issued	On or before October 16, 2015
9	Executed Contract, Recording Fee due	Thursday, November 12, 2015
10	Contract Recorded with County	On or before December 31, 2015

Examples from Other Cities

Fees

A study of various California municipalities participating in the Mills Act (see Appendix B) indicated that the fees for processing a Mills Act application vary from as high as \$3,832.40 per individual application to no fee². The average fee was \$874 and the median fee was \$513 per application. Some fees were based on the assessed value with a cap at a certain dollar value, others required a deposit with notification to applicant when costs exceeded deposit, and others had differing fees for single-family versus multi-family/commercial/industrial properties.

Additional fees, such as a fee for executing and recording the contract, and an annual administrative fee, are charged by some municipalities (see Appendix B).

If full cost recovery is desired by the City, the table below may assist the City in determining the appropriate fees required.

Estimated Cost to City (in staff time) to process applications for Mills Act Program	
Task	Hours
Process Mills Act Applications (each)	
• Review Application	2 hrs.
• Site Inspection	2 hrs.
• Commission and Council Staff Report	4 hrs.
• Facilitate Execution of Contract	2 hrs.
• Facilitate Recordation of Contract with Recorder/ Assessor	1hr.
<i>Total Staff Time (per application)</i>	<i>11 hrs.</i>

If the City chooses to require the property owner to have a professional consultant prepare the application for the Mills Act program, it would be a direct expense (in addition to the staff time in fees above) that would be incurred by the property owner as part of the application process. However, this up-front cost to the property owner would likely be recaptured in tax savings within the first year or two.

The City is required to conduct interior and exterior inspections of properties participating in the program prior to entering into the contract, and every five

² The low or no cost fees suggest that the municipalities were subsidizing or waiving staff fees for the processing of Mills Act contracts as an additional incentive for property owners

years thereafter, to ensure compliance with the terms of the contract and maintenance schedule. Although not required as part of the program, additional staff time is often necessary to produce annual reports for the City Council regarding the total properties participating in the program as well as the tax revenues forfeited and the adequacy of the program in carrying out the goals of the ordinance. The following table outlines the estimated cost to administer the Mills Act program in staff (or consultant) time.

Annual (ongoing) Cost to City (in staff time) to administer the Mills Act Program	
Task	Hours
Site Inspection (per property, every five years)	
• Coordinate Inspection	1 hr.
• Conduct Inspection	1 hr.
• Prepare Inspection Report	2 hrs.
<i>Total Staff Time (per property, every five years)</i>	<i>4 hrs.</i>

As the improvements made to condominium/ HOA controlled properties will likely be limited to the common areas, the City may wish to coordinate with the HOA, who can act as a liaison to the homeowners and report to the City on the status of the interior of the individual units, in lieu of conducting individual unit interior inspections. In this case, the City would still inspect the common areas, but may choose to only conduct interior inspections of those individual units that the HOA has indicated as having a maintenance issue that might affect the building as a whole (such as water intrusion, major cracking/settling, or other indications of a building systems problem) or affect the common areas (such as windows, balconies, etc.).

In addition to the required site inspection every five years, the City may choose to implement an annual self-reporting system (such a system is used in Riverside) that would be administered via mail and/or e-mail. A letter or postcard and/or e-mail would be sent to homeowners annually, requesting a brief response indicating the work that has been completed by the homeowner this year, including photographs.

Number of Contracts

The City of Long Beach currently has 34 four properties with a Mills Act Contract. This total number includes 31 single family properties, and three condominium buildings: The Villa Riviera, The Lafayette, and El Cordova Apartments (aka Rose Towers).

The three largest Mills Act Contract programs in California include the cities of San Diego, with at least 901 contracts (as of 2007), Los Angeles, with over 600

contracts, and Anaheim, with 286 contracts. The City of Pasadena also has a significant number of Mills Act Contracts, with 238 contracts. The City of West Hollywood has approximately 30. As a point of comparison, the chart below summarizes the number of Mills Act Contracts in these cities, as well as population and area.

Comparison of Mills Act Contracts in Other Cities			
City	Mills Act Contracts	Population ³	Area ⁴
San Diego	901 (as of 2007)	1,307,402	372.4 square miles
Los Angeles	600 (approx.)	9,792,621	503 square miles
Anaheim	286 (as of 2014)	336,265	50.81 square miles
Pasadena	238 (as of 2014)	137,122	23.13 square miles
Long Beach	34 (as of 2014)	462,257	51.44 square miles
West Hollywood	30 (approx.)	34,399	1.88 square miles

In terms of population and area, the city on the list above that is most similar to Long Beach is Anaheim. However, in terms of the number of Mills Act Contracts, Long Beach has about 1/8 the number of Mills Act Contracts as Anaheim.

Multifamily Buildings

As mentioned above, the City of Long Beach has three Mills Act Contracts issued to multiple family properties. Other nearby cities that have issued Mills Act Contracts to multifamily buildings include, but are not limited to, Los Angeles, Pasadena, and West Hollywood. In Pasadena, for instance, the Castle Green, a condominium that was once a turn of the century resort hotel, and the Villa San Pasqual, a mid-century condominium complex, are just two examples of such properties. The Villa Bonita, a historic apartment building in Hollywood, and the Village Green and Lincoln Place Apartments, large garden apartment developments in South Los Angeles and Venice, respectively are a few examples of properties awarded Mills Act Contracts by the City of Los Angeles.

Due to the greater number of owners and residents associated with multifamily buildings, they require more coordination among more interested parties than a typical single family property. Lessons learned from the recent Mills Act Contract inspections conducted in Long Beach include the necessity for all property owners to be party to the Mills Act Contract (the three existing contracts include only a portion of the owners). This ensures all property owners are aware of, and vested in, the responsibilities and rewards associated with the program. The Mills Act Contract can be a powerful tool in helping to ensure historic multifamily properties, which can be large and visually prominent buildings within the City,

³ United States Census, 2010

⁴ United States Census, 2010

are preserved. Moving forward, the cities mentioned above, and others with multifamily contracts, may prove to be a resource to City staff for sharing best practices.

Administrative Procedures

The following steps summarize the information included in the previous sections and represent the typical administrative procedure that would be involved in processing and monitoring new applications for Mills Act Contracts:

- Step 1. The current year's Application Guide and Form are prepared and made available via the City's website in early February. The Application Guide describes the Mills Act Contract Program, who is eligible to apply, the application requirements, any associated fees, and the application timeline. The Application Form will detail the required information and attachments that must be submitted by the property owner to the City.
- Step 2. Potential applicants and any consultant preparing Mills Act applications must attend a required Pre-Application Consultation hosted by the City in late April. The Consultation will allow property owners to become educated on the details of the Mills Act Program and ask questions regarding the program and/or the application process. Applicants will be encouraged to bring their draft application documents with them so that they can receive specific direction. The purpose of the Consultation is to help property owners fully understand the program and its requirements, and help ensure only eligible, fully completed applications are submitted for review.
- Step 3. The property owner completes the Application Form and assembles the required additional documentation. This may include but is not limited to a complete description of the property and its character defining features, a description of how the property meets the Eligibility Criteria and Priority Considerations, a 10-year work plan with a detailed scope of work and specific deadlines, a tax savings estimate worksheet, photographs, and a fee (see "Recommended Next Steps" section above for a more detailed discussion of application submittal requirements).
- Step 4. Property owner submits the completed application to the Development Services Department, Planning Bureau, before the current year's application submittal deadline in late May.

Step 5. Staff reviews all applications to ensure completeness and eligibility to the program. Ineligible applications would not be considered, unless the City has made a provision for specified Eligibility Exemptions and the applicant has requested the exemption. Staff may choose to request missing information from incomplete applications, or ask that the application be completed and resubmitted next year.

Step 6. Eligible and complete applications are scheduled for a pre-contract inspection of the property to verify the condition based on the information provided in the application. The pre-contract inspections will take place in June and July.

Step 7. After all applications have been reviewed and site inspections completed, Staff prepares a recommendation report to the Cultural Heritage Commission.

Step 8. The staff recommendation report is reviewed and discussed by the Cultural Heritage Commission at a regularly scheduled and noticed hearing before the end of August. The Commission will make its recommendation to the City Council.

Step 9. City Council will review and approve (or deny) the contracts based on the Cultural Heritage Commission recommendation at a regularly noticed hearing before the end of September.

Step 10. Applicants will be notified of the City Council's decision by early-October.

Step 11. Staff prepares draft contracts based on the City's standard contract and provides them to the approved applicants by mid-October.

Step 12. Execution of the contract. After approval by the City Council and receipt of the draft contract from staff, the property owners must execute the Contract and return it to the City with the Recordation Fee by mid-November. Staff will coordinate the execution of the Contract by the City.

Step 13. Recordation of the contract. The contract is recorded by the City with the County Registrar/Recorder's office on or before December 31st. The County Registrar/Recorder will send the City

a recorded contract and the City sends a copy of the property owner.

Step 14. The original recorded contract will be returned by the Registrar/Recorder's office to the City Clerk's office. This original document should be maintained by the City Clerk. The Development Services Department, Planning Bureau will maintain a copy on file in the property file.

Step 15. A copy of the recorded contract is delivered to the Los Angeles County Assessor's office by the City staff. The Los Angeles County Assessor will re-assess the property tax. The new assessment will be reflected on the subsequent property tax bill issued.

Step 16. Certificate of Appropriateness. If a property owner chooses to make alterations or additions to a property that has a Mills Act Contract, the standard procedure for COA would be followed in this circumstance. Proposed major alterations to the property would be reviewed by the Cultural Heritage Commission for compliance with the Secretary of the Interior's Standards for Rehabilitation in accordance with the terms of the Contract. Some minor alterations may be reviewed by Planning Staff at the counter. Major alterations may require the assistance of a professional consultant to guide appropriate changes to the building. Applicant is responsible for paying standard COA fees and independent consultant fees for the preparation of any necessary reports or review of project plans.

Step 17. City staff (or a hired contractor) will conduct inspections every five years to monitor properties and to ensure that the property is being properly maintained (or rehabilitated/restored) in accordance with the Historical Property Contract. Inspections are ongoing every five years for the life of the contract. Property owners will be notified in advance of the inspection and will receive an inspection report afterwards. In addition to the required site inspection at least every five years, the City may choose to have an annual "self-report" process by which property owners will provide the City with an update on the status of their property via mail or email.

Step 18. Cancellation of the contract. Should the City elect to cancel the contract because the property owner has not carried out the terms of the contract or because the property has not been maintained in a manner that would protect its eligibility as a

historical property, the City will notify the property owner in writing to rectify the situation. If the property owner fails to bring the property up to a standard of condition as agreed in the Contract, then the City will issue a Notice of Non-renewal. The property would then be assessed and the Contract would be term out after ten-years. The property owner may be subject to a penalty of 12 ½ percent of the property's current fair market value

Appendix A

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Assembly Bill No. 654

CHAPTER 278

An act to amend Sections 50281, 50281.1, 50282, 50284, and 50287 of the Government Code, relating to local government.

[Approved by Governor September 07, 2011. Filed with Secretary of State September 07, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 654, Hueso. Local government: historical property.

(1) Existing law authorizes an owner of any qualified historical property, as defined, to contract with the legislative body of a city, county, or city and county, to restrict the use of the property in exchange for lowered assessment values. Existing law requires contracts under these provisions to include, among other things, where applicable, a provision for the periodic examination of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization whenever necessary, and a provision that requires the owner to notify the Office of Historic Preservation of the contract.

This bill would instead require these contracts, where applicable, to include an inspection of the interior and exterior of the premises by the city, county, or city and county prior to a new agreement, and every 5 years thereafter. This bill would delete from the list of required contract provisions the requirement that the owner notify the Office of Historic Preservation, and would instead require that the contract include a provision that requires the owner to record the contract with the county in which the property is located.

(2) Existing law authorizes the legislative body to, upon entering into a contract, require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program.

This bill would, instead, require that the fee shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

(3) Existing law specifies that the initial contract term is 10 years and provides that on the anniversary date of the contract, a year is automatically added to the initial term of the contract unless notice of nonrenewal is given, as specified.

This bill would also require each contract to provide that after 5 years, and every 5 years thereafter, the legislative body of the local agency shall require an inspection to be conducted, by a party appointed by the legislative body, to determine the owner's continued compliance with the contract.

(4) Existing law authorizes the legislative body to cancel a contract if the legislative body determines that the owner has breached any of the conditions of the contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, and authorizes the legislative body or any landowner to, as an alternative to canceling the contract, bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

This bill would require the legislative body to either cancel the contract or bring an action in court to enforce the contract, if the legislative body determines that the owner has breached any of the conditions of the contract or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical

property. This bill would also provide that, as an alternative to canceling the contract, a landowner that is a party to the contract may bring any action in court necessary to enforce the contract.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 50281 of the Government Code is amended to read:

50281. Any contract entered into under this article shall contain the following provisions:

(a) The term of the contract shall be for a minimum period of 10 years.

(b) Where applicable, the contract shall provide the following:

(1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

(2) For an inspection of the interior and exterior of the premises by the city, county, or city and county, prior to a new agreement, and every five years thereafter, to determine the owner's compliance with the contract.

(3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

(c) The owner or agent of an owner shall record the contract with the county in which the property is located within six months of entering into the contract.

SEC. 2. Section 50281.1 of the Government Code is amended to read:

50281.1. The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee that shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

SEC. 3. Section 50282 of the Government Code is amended to read:

50282. (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. Each contract shall also provide that after five years, and every five years thereafter, the city, county, or city and county shall inspect the interior and exterior of the premises to determine the owner's continued compliance with the contract. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property

subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

SEC. 4. Section 50284 of the Government Code is amended to read:

50284. If the legislative body determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, the legislative body shall do one of the following:

(a) Cancel the contract by following the procedures specified in Sections 50285 and 50286.

(b) Bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

SEC. 5. Section 50287 of the Government Code is amended to read:

50287. As an alternative to cancellation of the contract for breach of any condition, a landowner that is a party to the contract may bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

GOVERNMENT CODE

SECTION 50280-50290

50280. Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 50281 and 50282.

50280.1. "Qualified historical property" for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

(a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title 26 of the Code of Federal Regulations.

(b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

50281. Any contract entered into under this article shall contain the following provisions:

(a) The term of the contract shall be for a minimum period of 10 years.

(b) Where applicable, the contract shall provide the following:

(1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

(2) For an inspection of the interior and exterior of the premises by the city, county, or city and county, prior to a new agreement, and every five years thereafter, to determine the owner's compliance with the contract.

(3) For it to be binding upon, and inure to the benefit of, all

successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

50281.1. The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee that shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

50282. (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. Each contract shall also provide that after five years, and every five years thereafter, the city, county, or city and county shall inspect the interior and exterior of the premises to determine the owner's continued compliance with the contract. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a

notice thereof to all persons as is afforded by the recording laws of this state.

50284. If the legislative body determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, the legislative body shall do one of the following:

(a) Cancel the contract by following the procedures specified in Sections 50285 and 50286.

(b) Bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

50285. No contract shall be canceled under Section 50284 until after the legislative body has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of property within the historic zone and shall be published pursuant to Section 6061.

50286. (a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 12 1/2 percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.

(b) The cancellation fee shall be paid to the county auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

(c) Notwithstanding any other law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238.02 of the Education Code, as implemented pursuant to Section 42238.03 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for purposes of Article 4 (commencing with Section 2570) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

50287. As an alternative to cancellation of the contract for breach of any condition, a landowner that is a party to the contract may bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

50288. In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 50286. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

50289. In the event that property restricted by a contract with a county under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

50290. Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.



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RAMON J. HIRSIG
Executive Director

No. 2005/035

June 2, 2005

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

GUIDELINES FOR THE ASSESSMENT OF
ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1¹ (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

¹ Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;
- A requirement for the periodic examination of the property to ensure compliance with the agreement;
- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and
- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects: (1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that

follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.
- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.
- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:
 1. Based upon market data, estimate the percentage of total property value attributable to improvements.
 2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent ($0.05 \times 0.70 = 0.035$).
 3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.
- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date² or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

² Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.³

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

Supplemental assessment; limitation. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

³ National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.
4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.
5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)

Subject Restricted Historical Property

Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)	
\$1,500 per month x 12 months =	\$18,000
Less: Anticipated vacancy and collection loss	
\$18,000 x 5%	<u>- 900</u>
Effective gross income	\$17,100
Less: Anticipated operating expenses	
Grounds maintenance	\$600
Fire insurance	400
Management Fee	360
Water and garbage	240
Building maintenance	+ 500
	<u>- 2,100</u>
Net Operating Income	\$15,000

Restricted Capitalization Rate

Rate Components:	
Interest rate	.080
Risk (owner-occupied SFR)	.040
Property tax (ad valorem)	.015
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 – 0.014)	+ <u>.014</u> <u>.149</u>

Restricted Value

$$\$15,000 \div .149 = \underline{\$100,671}$$

Taxable Value—Three-Way Value Comparison

Restricted value	\$100,671
Factored base year value (based on prior change in ownership)	\$357,000
Current market value (based on comparable sales)	\$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$93,671 (\$100,671 restricted value less the homeowners' exemption of \$7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

EXAMPLE 2 (OFFICE USE)**Subject Restricted Historical Property**

Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)**Gross Income (Fair rent):**

Offices	140,000 sf @ \$1.75/sf = <u>\$245,000</u>	
	x 12 months	= \$2,940,000

Less: Anticipated vacancy and collection loss

\$2,940,000 x 5%	<u>- 147,000</u>
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Effective gross income	\$2,793,000
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Less: Anticipated operating expenses

Management	\$290,000
Maintenance	95,000
Insurance	75,000
Utilities	360,000
Janitorial	+ <u>140,000</u>
	- 960,000

Net Operating Income	\$1,833,000
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Restricted Capitalization Rate**Rate Components:**

Interest component	.08
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Risk	.02
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Property tax (ad valorem)	.011
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Amortization (50-year remaining life; improvements	
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constitute 75% of total property market value	
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0.02 x 0.75 = 0.015)	+ <u>.015</u>	.126
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Restricted Value

(\$1,833,000 ÷ .126)	= \$14,547,619
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Taxable Value—Three-Way Value Comparison

Restricted value	\$14,547,619
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Factored base year value (based on prior change in ownership)	\$18,191,077
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Current market value (based on comparable sales)	\$21,000,000
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The lowest of the three possible values is the restricted value. Thus, the taxable value would be \$14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)**Subject Restricted Historical Property**

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data

\$975 per month x 12 months =	\$11,700
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Less: Anticipated vacancy and collection loss	
\$11,700 x 5%	- 585

Effective gross income	\$11,115
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Less: Anticipated operating expenses	
Grounds maintenance	\$300
Fire insurance	200
Management Fee	180
Water and garbage	120
Building maintenance	+ 250
	- 1,050

Upper-Level Net Operating Income	\$10,065
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Restricted Capitalization Rate (owner-occupied SFR)

Rate components:

Interest rate	.080
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Risk	.040
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Property tax	.010
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Amortization (50-year remaining life; improvements

constitute 70% of total property market value;

0.02 x 0.70 = 0.014)	+ .014	.144
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Upper-level Restricted Value (\$10,065 ÷ .144)	= \$69,895
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Lower-Level Offices

Gross income (Fair rent)

1000 sf @ \$1.60/sf = \$1,600 x 12 months	\$19,200
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Less: Anticipated vacancy and collection loss	
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\$19,200 x 5%	- 960
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Effective gross income	\$18,240
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Less: Anticipated operating expenses	
Grounds maintenance	\$300
Fire insurance	200
Management Fee	180
Water and garbage	120
Building maintenance	+ <u>250</u>
Lower-Level Net Operating Income	<u>- 1,050</u> \$17,190

Restricted Capitalization Rate

Rate components:	
Interest component	.080
Risk	.020
Property tax	.010
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ <u>.014</u>
Lower Level Restricted Value ($\$17,190 \div .124$)	\$138,629
Add: Upper Level Restricted Value	+ <u>\$69,895</u>
Total Restricted Value	\$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	\$208,524
Factored base year value (based upon prior change in ownership)	\$364,140
Current market value (based upon comparable sales data)	\$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$201,524 (\$208,524 less the homeowners' exemption of \$7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)**Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)**

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn	
\$2,000 per month x 12 months =	\$24,000
Less: Anticipated vacancy and collection loss	
\$24,000 x 5%	<u>- 1,200</u>
Effective gross income	\$22,800
Less: Anticipated operating expenses	
Grounds maintenance	\$600
Fire insurance	400
Management Fee	360
Water and garbage	240
Building maintenance	<u>+ 500</u>
	<u>- 2,100</u>
Net Operating Income	= \$20,700

Restricted Capitalization Rate

Rate components:	
Interest component	.080
Risk (owner-occupied)	.040
Property tax (ad valorem)	.010
Amortization (50-year remaining life; improvements constitute 70% of total property market value 0.02 x 0.70 = 0.014)	<u>+ .014</u>
Restricted Value (\$20,700 ÷ .144)	<u>.144</u> = \$143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBYV or current market value of unrestricted portion)

Restricted Value (portion under contract)	\$143,750
FBYV (unrestricted portion)	<u>+ \$102,000</u>
Restricted Value (total property)	\$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	\$204,000
8 acres (unrestricted portion)	<u>+ \$102,000</u>
Total FBYV (total property)	\$306,000

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	\$230,000
8 acres (unrestricted portion)	+ <u>\$120,000</u>
Total Current Market Value (total property)	\$350,000

The lowest of the three values is the Restricted Value (total property), \$245,750. Thus, the net taxable value would be \$238,750 (\$245,750 less \$7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)

Description of Subject Restricted Historical Property

The same property as in Example 2, except the property owner has served notice of renewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

Restricted value	\$14,547,619
Current market value	\$21,000,000
Factored base year value	\$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	\$18,191,077
Restricted value	<u>- 14,547,619</u>
Difference	\$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	<u>x .591898</u> = \$ 2,156,555
Plus restricted value	<u>+ \$14,547,619</u>
Restricted value in nonrenewal status—lien date January 1, 2005	\$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, \$16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.

California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4

439. Historical Property Restrictions; enforceably restricted property.

For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is "enforceably restricted" if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.1. Historical Property; definitions.

For purposes of this article "restricted historical property" means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, "qualified historical property" includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, "qualified historical property" includes only that area of reasonable size that is used as a site for the historical improvements.

439.2. Historical Property; valuation.

When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated. For purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to

yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted. Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

439.3. Historical Property; notice of nonrenewal.

Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

439.4. Historical Property; recordation.

No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

Appendix B

- Sample Mills Act Fees in Los Angeles and Orange Counties

SAMPLE MILLS ACT FEES IN LOS ANGELES AND ORANGE COUNTIES

<u>CITY</u>	<u>FEES TYPE</u>	<u>AMOUNT</u>	<u>COMMENTS</u>
Brea	Application Fee	\$250	
Claremont	Application Fee	\$1,000 deposit	Deposit based fee, applicant notified when costs exceed deposit
	Contract Recordation Fee	\$21 for the first page + \$3 each additional pages	Fee assessed by the County Registrar/Recorder's Office
	Annual Compliance Review Fee	\$217	2.2 hours of staff time, at the prevailing hourly rate
Dana Point	Application Fee	\$40	
Glendale	Application Fee	\$1,250	
Laguna Beach	Application Fee	\$225	
	Historic Assessment Fee, exterior only	\$2,500 deposit	Deposit for preparation of Historic Assessment Report by City's consultant, applicant notified when costs exceed deposit
	Historic Assessment Fee, interior and exterior	\$3,000 deposit	Deposit for preparation of Historic Assessment Report by City's consultant, applicant notified when costs exceed deposit
Los Angeles	Application Fee, single family residential	\$250	
	Application Fee, multi family, commercial and industrial	\$1,142	
	Valuation Exemption	\$473	Fee for exemption from maximum valuation
	Appeal Fee	\$473	Fee for appeal of staff determination of ineligibility
	Contract Execution Fee, single family residential	\$1.00 per every \$1,000 of assessed property valuation	e.g. Assessed Value equals \$750,000, Fee is \$750 Fee applies only if application is approved
	Contract Execution Fee, multi family, commercial and industrial	\$1,866	Fee applies only if application is approved
Orange	Application Fee	\$1,000	
	Annual Administrative Fee	\$30	Fee due annually on or before annual contract anniversary

SAMPLE MILLS ACT FEES IN LOS ANGELES AND ORANGE COUNTIES, continued

Pasadena	Application Fee	\$0	
	Processing Fee, single family	\$1,099.01	Fee applies only if application is approved
	Processing Fee, multi family, commercial, and industrial	\$2,198.02	Fee applies only if application is approved
Pomona	Application Fee	.1% of assessed property value, up to a maximum of \$2,467	To facilitate calculation of the fee, the application must include a copy of the most recent property tax bill
	Environmental Filing Fee	\$75	Check payable to Los Angeles County
	Recordation Fee	TBD	May be required when executed contract is recorded
San Clemente	Application Fee	\$0	
	Historic Preservation Agreement Fee	\$327	Fee applies only if application is approved Payable to the City prior to recording
San Juan Capistrano	Application Fee	\$0	
	Recorder's fees	TBD	Fee applies only if application is approved As determined by the County Recorder, payable to the City prior to recording
Santa Ana	Application Fee	\$3,832.40	
West Hollywood	Application Fee	\$776	
	Recording Fee	\$200 deposit	Deposit based fee, applicant notified when costs exceed deposit