

File No. 091137

Committee Item No. 5

Board Item No. 27

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Rules Date November 19, 2009

Board of Supervisors Meeting Date 12-8-09

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                               |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget Analyst Report                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                          |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)                 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                               |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                               |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form SFEC-126: Notification of Contract Approval |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                            |

#### OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Alisa Somera Date November 16, 2009

Completed by: L.W. Date 11/25/09

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file and the online version.

79

1 [Administrative Code—Historical Property (Mills Act) Contract Procedures.]

2  
3 Ordinance amending Chapter 71 of the San Francisco Administrative Code regarding  
4 historical property (Mills Act) contract procedures to reflect amendments made to the  
5 San Francisco Charter to create the Historic Preservation Commission, expand the  
6 definition of "qualified historical property" to include properties listed on the California  
7 Register of Historical Resources, establish certain time lines for review of applications  
8 for historical property contracts, require Budget Analyst review of applications for  
9 historical property contracts, and making other clarifying amendments; and making  
10 findings, including environmental findings.

11 NOTE: Additions are single-underline italics Times New Roman;  
12 deletions are ~~strike-through italics Times New Roman~~.  
13 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Findings. The Board of Supervisors of the City and County of San  
16 Francisco hereby finds and determines that:

17 (A) Environmental Findings. The Planning Department has determined that the  
18 actions contemplated in this Ordinance are in compliance with the California Environmental  
19 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is  
20 on file with the Clerk of the Board of Supervisors in File No. 091137 and is  
21 incorporated herein by reference.

22 (B) Historic Preservation Commission Review. On November 4, 2009, at a duly  
23 noticed public hearing, the Historic Preservation Commission reviewed the proposed  
24 amendments and recommended approval, with modifications, of these amendments by  
25

1 Resolution No. 639 . This Resolution is on file with the Clerk of the Board of  
2 Supervisors in File No. 091137 and is incorporated herein by reference.

3 Section 2. The San Francisco Administrative Code is hereby amended by amending  
4 Chapter 71, to read as follows:

5 **CHAPTER 71: MILLS ACT CONTRACT PROCEDURES**

6 Sec. 71.1. Purpose.

7 Sec. 71.2. Qualified Historic Property.

8 Sec. 71.3. Application for Historical Property Contract.

9 Sec. 71.4. Approval Process.

10 Sec. 71.5. Terms of the Historical Property Contract.

11 Sec. 71.6. Fees.

12 **SEC. 71.1. PURPOSE.**

13 (a) ~~The purpose of this~~ This Chapter 71 ~~is to~~ implements the California Mills Act,  
14 California Government Code Sections 50280 et seq. The Mills Act authorizes local  
15 governments to enter into contracts with owners of private historical property who will  
16 rehabilitate, restore, preserve, and maintain qualified historical property. As consideration for  
17 the rehabilitation, restoration, preservation and maintenance of the qualified historical  
18 property, the City and County of San Francisco may provide certain property tax reductions in  
19 accordance with Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division  
20 1 of the California Revenue and Taxation Code.

21 (b) San Francisco contains many historic buildings ~~which~~ that add to its character  
22 and international reputation. Many of these buildings have not been adequately maintained,  
23 may be structurally deficient, or may need rehabilitation. The costs of properly rehabilitating,  
24 restoring and preserving historic buildings may be prohibitive for property owners.

1 Implementation of the Mills Act in San Francisco will make the benefits of the Mills Act  
2 available to many property owners.

3 (c) The benefits of the Mills Act to the individual property owners must be balanced  
4 with the cost to the City and County of San Francisco of providing the property tax reductions  
5 set forth in the Mills Act as well as the historical value of individual buildings proposed for  
6 historical property contracts, and the resultant property tax reductions, under the Mills Act.

7 **SEC. 71.2. QUALIFIED HISTORICAL PROPERTY.**

8 An owner, or an authorized agent of the owner, of a qualified historical property may  
9 apply for a historical property contract. For purposes of this Chapter 71, "qualified historical  
10 property" shall mean privately owned property that is not exempt from property taxation and  
11 that is one of the following:

12 (a) Individually listed in the National Register of Historic Places or the California  
13 Register of Historical Resources;

14 (b) Listed as a contributor to an historic district included on the National Register of  
15 Historic Places or the California Register of Historical Resources;

16 (c) Designated as a City landmark pursuant to San Francisco Planning Code Article  
17 10;

18 (d) Designated as contributory to an historic district designated pursuant to San  
19 Francisco Planning Code Article 10; or

20 (e) Designated as sSignificant (Categories I or II) or eContributory (Categories III or  
21 IV) ~~to a conservation district designated~~ pursuant to San Francisco Planning Code Article 11.

22 *Subsections 71.2 (b), (d), and (e) above shall not become effective until six (6) months after the*  
23 *effective date of this Ordinance.*

24 **SEC. 71.3. APPLICATION FOR HISTORICAL PROPERTY CONTRACT.**

1 An owner, or an authorized agent of an owner, of a qualified historical property may  
2 submit an application for a historical property contract to the Planning Department on forms  
3 provided by the Planning Department. The property owner shall provide, at a minimum, the  
4 address and location of the qualified historical property, evidence that the property is a  
5 qualified historical property, the nature and cost of the rehabilitation, restoration or  
6 preservation work to be conducted on the property, financial information necessary for the  
7 Assessor-Recorder to conduct the valuation assessment under the Mills Act, including any  
8 information regarding income generated by the qualified historical property, and a plan for  
9 continued maintenance of the property. The Planning Department or the Assessor-Recorder  
10 may require any further information it determines necessary to make a recommendation on or  
11 conduct the valuation of the historical property contract.

#### 12 SEC. 71.4. APPROVAL PROCESS.

13 (a) ~~Review by the Assessor's Office~~ Assessor-Recorder Review. The Planning Department  
14 shall refer the application for historical property contract to the ~~San Francisco~~ Assessor-  
15 Recorder for its his or her review and recommendation. Within 60 days of the receipt of a complete  
16 application, the The Assessor-Recorder shall provide to the Board of Supervisors and Historic  
17 Preservation Commission a report an estimateing of the yearly property tax calculations revenue to  
18 the City under the proposed Mills Act contract valuation method and under the standard method  
19 without the proposed Mills Act contract and showing the difference in property tax assessments  
20 under the ~~different two~~ valuation methods permitted by the California Mills Act so that the City can  
21 evaluate the difference between property tax which would normally be collected by the City and the  
22 property tax which would be collected pursuant to the historical property contract. If the Assessor-  
23 Recorder determines that the proposed rehabilitation includes substantial new construction or  
24 a change of use, or the valuation is otherwise complex, he or she may extend this period for  
25

1 up to an additional 60 days by providing written notice of the extension to the applicant. Such  
2 notice shall state the basis for the extension.

3 ~~(b) Landmarks Board Review. The Landmarks Preservation Advisory Board shall hold a~~  
4 ~~public hearing to review the application for the historical property contract and shall make its~~  
5 ~~recommendation to the Planning Commission on the proposed rehabilitation, restoration or~~  
6 ~~preservation work, the historical value of the qualified historical property and any proposed~~  
7 ~~preservation restrictions and maintenance requirements.~~

8 ~~(c) Planning Commission Review. Upon receipt of the Landmarks Board's recommendation,~~  
9 ~~the Planning Commission shall hold a public hearing to review the application for the historical~~  
10 ~~property contract. Upon approval by the Planning Commission, the application shall be referred to the~~  
11 ~~Board of Supervisors for its review and approval or disapproval. In the event the Planning Commission~~  
12 ~~disapproves the historical property contract, such decision shall be final unless the property owner~~  
13 ~~appeals such disapproval by filing an appeal with the Board of Supervisors within 10 days of final~~  
14 ~~action by the Planning Commission.~~

15 (b) Historic Preservation Commission Review. The Historic Preservation Commission shall  
16 hold a public hearing to review the application for the historical property contract and make a  
17 recommendation regarding whether the Board of Supervisors should approve, disapprove, or modify  
18 the historical property contract within 60 90 days of receipt of the Assessor-Recorder's report. The  
19 recommendation of the Historic Preservation Commission may include recommendations regarding the  
20 proposed rehabilitation, restoration, and preservation work, the historical value of the qualified  
21 historical property, and any proposed preservation restrictions or maintenance requirements. The  
22 Planning Department shall forward a recommendation of the Historic Preservation Commission to  
23 approve or modify an historical property contract, with its application, to the Board of Supervisors. If  
24 the Historic Preservation Commission recommends disapproval of the historical property contract,  
25 such decision shall be final unless the property owner files an appeal with the Clerk of the Board of

1 Supervisors within 10 days of the final action of the Historic Preservation Commission. Failure of the  
2 Historic Preservation Commission to act within the 60-day time limit shall constitute a  
3 recommendation of approval for the purposes of this subsection, and the Planning Department shall  
4 forward the application for the historical property contract to the Board of Supervisors for its action;  
5 provided, however, that the Board of Supervisors by resolution may grant an extension of time to the  
6 Historic Preservation Commission for its review.

7 (c) Budget Analyst Review. Upon receipt of the recommendation of the Historic  
8 Preservation Commission or upon receipt of a timely appeal, the Clerk of the Board of Supervisors  
9 shall forward the application and Assessor-Recorder's report to the Budget Analyst, who,  
10 notwithstanding any other provision of this Code, shall prepare a report to the Board of Supervisors on  
11 the fiscal impact of the proposed historical property contract.

12 (d) Board of Supervisors Decision. The Board of Supervisors shall conduct a public  
13 hearing to review the Planning Historic Preservation Commission's recommendation, the  
14 ~~information~~ Assessor-Recorder's report provided by the Assessor's Office, the Budget Analyst's report,  
15 and any other information the Board requires in order to determine whether the City should  
16 execute a historical property contract for a particular property. The Board of Supervisors shall  
17 have full discretion to determine whether it is in the public interest to enter a Mills Act historical  
18 property contract ~~with~~ regarding a particular qualified historical property. The Board of  
19 Supervisors may approve, disapprove, or modify and approve the terms of the historical  
20 property contract. Upon approval, the Board of Supervisors shall authorize the Director of  
21 Planning and the Assessor-Recorder to execute the historical property contract.

## 22 **SEC. 71.5. TERMS OF THE HISTORICAL PROPERTY CONTRACT.**

23 (a) The historical property contract shall set forth the agreement between the City  
24 and the property owner that as long as the property owner properly rehabilitates, restores,  
25 preserves and maintains the qualified historical property as set forth in the contract, the City



1 shall comply with California Revenue and Taxation Code Article 1.9 (commencing with  
2 Section 439) of Chapter 3 of Part 2 of Division 1, provided that the Assessor determines that  
3 the specific provisions of the Revenue and Taxation Code are applicable to the property in  
4 question. A historical property contract shall contain, at a minimum, the following provisions:

5 (1) The *initial* term of the contract, which shall be for a minimum *period* of 10 years;

6 (2) The owner's commitment and obligation to preserve, rehabilitate, restore and  
7 maintain the property in accordance with the rules and regulations of the Office of Historic  
8 Preservation of the California Department of Parks and Recreation and the United States  
9 Secretary of the Interior's ~~s~~Standards for the Treatment of Historic Properties;

10 (3) Permission to conduct periodic examinations of the interior and exterior of the  
11 qualified historical property by ~~the Landmarks Board~~, the Assessor-Recorder, the Department of  
12 Building Inspection, ~~the Planning Department~~, the Office of Historic Preservation of the  
13 California Department of Parks and Recreation and the State Board of Equalization as may be  
14 necessary to determine the owner's compliance with the historical property contract;

15 (4) That the historical property contract is binding upon, and shall inure to the  
16 benefit of, all successors in interest of the owner;

17 (5) An extension to the term of the contract so that one year is added automatically  
18 to the initial term of the contract on the anniversary date of the contract or such other annual  
19 date as specified in the contract unless notice of nonrenewal is given as provided in the Mills  
20 Act and in the historical property contract;

21 (6) Agreement that the Board of Supervisors may cancel the contract, or seek  
22 enforcement of the contract, when the Board determines, based upon the recommendation of  
23 any one of the entities listed in Subsection (3) above, that the owner has breached the terms  
24 of the contract. The City shall comply with the requirements of the Mills Act for enforcement  
25 or cancellation of the historical property contract. Upon cancellation of the contract, the

1 property owner shall pay a cancellation fee of 12.5 percent of the full value of the property at  
2 the time of cancellation (or such other amount authorized by the Mills Act), as determined by  
3 the Assessor-Recorder without regard to any restriction on such property imposed by the  
4 historical property contract; and

5 (7) The property owner's indemnification of the City for, and agreement to hold the  
6 City harmless from, any claims arising from any use of the property.

7 (b) The City and the qualified historical property owner shall comply with all  
8 provisions of the *California* Mills Act, including amendments thereto. The Mills Act, as  
9 amended from time to time, shall apply to the historical property contract process and shall be  
10 deemed incorporated into each historical property contract entered into by the City.

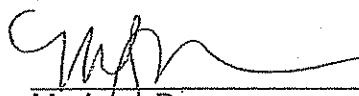
#### 11 **SEC. 71.6. FEES.**

12 The Planning Department shall determine the amount of a fee necessary to  
13 compensate the City for processing and administering an application for a historical property  
14 contract. The fee shall pay for the time and materials required to process the application,  
15 based upon the estimated actual costs to perform the work, including the costs of the  
16 Planning Department, the City Attorney, and the Assessor-Recorder, and the Board of  
17 Supervisors. The City may also impose a separate fee, following approval of the historical  
18 property contract, to pay for the actual costs of inspecting the qualified historical property and  
19 enforcing the historical property contract. ~~Each department shall provide a written estimate of its~~  
20 ~~costs to process the application. Such estimates shall be provided to the applicant, who shall pay the~~  
21 ~~fee when submitting the application.~~ In the event that the costs of processing the application are  
22 lower than the estimates, such differences shall be refunded to the applicant. In the event the  
23 costs exceed the estimate, the Planning Department shall provide the applicant with a written  
24 analysis of the additional fee necessary to complete the review of the application, and  
25 applicant shall pay the additional amount prior to any action approving execution of the historical

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

property contract. Failure to pay any fees shall be grounds for cancelling the historical property contract.

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By:   
Marlena Byrne  
Deputy City Attorney

**LEGISLATIVE DIGEST**

[Administrative Code—Historical Property (Mills Act) Contract Procedures.]

**Ordinance amending Chapter 71 of the San Francisco Administrative Code regarding historical property (Mills Act) contract procedures to reflect amendments made to the San Francisco Charter to create the Historic Preservation Commission, expand the definition of "qualified historical property" to include properties listed on the California Register of Historical Resources, establish certain time lines for review of applications for historical property contracts, require Budget Analyst review of applications for historical property contracts, and making other clarifying amendments; and making findings, including environmental findings.**

Existing Law

The current version of Chapter 71 of the Administrative Code, regarding historical property (Mills Act) contracts, was written before the creation, by passage of Proposition J in the November 2008 General Election, of the Historic Preservation Commission (HPC), a new City Charter body. Because of this, the current version of Chapter 71 refers to the former Landmarks Preservation Advisory Board, and not the HPC, and contains other inconsistencies with new Charter section 4.135.

Amendments to Current Law

The proposed amendments to Chapter 71 of the Administrative Code update Chapter 71 to reflect the creation of the HPC and other provision of Charter section 4.135. Specifically, the proposed legislation: deletes references to the Landmarks Preservation Advisory Board; removes the Planning Commission as a reviewing body for Mills Act contracts (as set forth in Charter section 4.135); establishes a 90-day time period for the HPC's review of proposed Mills Act contracts, although the Board of Supervisors may extend this time period; establishes an appeal provision if the HPC recommends disapproval of a Mills Act contract; and requires Budget Analyst review of any proposed Mills Act contract.

The proposed legislation also expands the definition of "qualified historical property" (i.e. those properties that are eligible to apply for Mills Act contracts) to include properties listed on the California Register of Historical Resources either individually or as contributors to a historic district. The proposed legislation establishes a time limit, with an extension period, for the Assessor-Recorder to provide his or her valuation of the property to the Board of Supervisors and the HPC. The proposed legislation makes additional technical and clarifying amendments.

Background Information

Chapter 71 of the Administrative Code implements the state Mills Act, California Government Code sections 50280 *et seq.*, which authorizes local governments, such as the City, to enter into contracts with owners of qualified historic property. Mills Act contracts require the property owner to rehabilitate, restore, preserve and maintain their historic property in exchange for property tax incentives. The amount of the property tax reduction is based on a formula found in state law. The Board of Supervisors has discretion regarding whether to approve, disapprove, or modify any proposed Mills Act contract.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

October 14, 2009

File No. 091137

Bill Wycko  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Wycko:

On October 6, 2009, Supervisor Michela Alioto-Pier introduced the following proposed legislation:

**File No. 091137** Ordinance amending Chapter 71 of the San Francisco Administrative Code regarding historical property (Mills Act) contract procedures to reflect amendments made to the San Francisco Charter to create the Historic Preservation Commission, establish certain time lines for review of applications for historical property contracts, require Budget Analyst review of applications for historical property contracts, and making other clarifying amendments; and making findings, including environmental findings.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

  
By: Linda Wong, Committee Clerk  
Rules Committee

Attachment

cc: Nannie Turrell, Major Environmental Analysis  
Brett Bollinger, Major Environmental Analysis

Environmental Review Referral

*Non physical exemption -  
Not a project per CEQA  
Guide lines Sections  
15060 (c) (3) and  
15378.*

*Nannie Turrell  
10/23/09  
October 16, 2009*



# SAN FRANCISCO PLANNING DEPARTMENT

---

November 5, 2009

Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2009.0982U:  
Amendments to Administrative Code Chapter 71: Mills Act  
Board File Number 09-1137  
Historic Preservation Commission Recommendation:  
Approval with Modifications

Dear Ms. Calvillo,

On November 4, 2009, the San Francisco Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;

The proposed Ordinance introduced by Supervisor Alioto-Pier would amend Chapter 71 of the Administrative Code to update the Mills Act contract provisions to formally incorporate the Historic Preservation Commission ("HPC") and to establish regular timelines and review procedures.

The proposed changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the November 4<sup>th</sup> hearing, the Commission voted to recommend approval with modifications of the proposed Ordinance. Specifically, the Commission recommends the following modifications:

1. Broaden the types of properties that are a "Qualified Historic Property" to include both individual and contributory buildings on the California Register of Historical Resources;
2. Allow the Assessor's Office to extend by 60 additional days the period of review if the application is found to be complex;
3. Change the time frame that the HPC must hold a hearing on Mills Act applications from 60 days to 90 days;

[www.sfplanning.org](http://www.sfplanning.org)

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

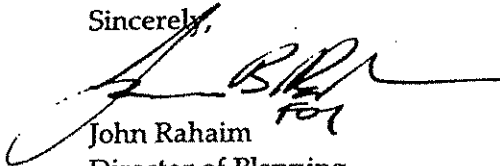
Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

4. Amend Section 71.3 (Application for Historical Property Contract) to include the Assessor's Office and needed financial information so that they can provide the necessary information to the HPC and Board of Supervisors.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



John Rahaim  
Director of Planning

cc: Supervisor Alioto-Pier

Attachments (one copy of the following):

Historic Preservation Commission Resolution No. 639

Historic Preservation Commission Executive Summary for Case No. 2009.0982U





# SAN FRANCISCO PLANNING DEPARTMENT

## Historic Preservation Commission Executive Summary Administrative Code Text Change HEARING DATE: NOVEMBER 4, 2009

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Project Name:* Amendments to the Administrative Code:  
Chapter 71: Mills Act Contract Procedures

*Case Number:* 2009.0982U [Board File No. 09-1137]  
*Initiated by:* Supervisor Alioto-Pier / Introduced September 22, 2009  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257

*30-day Deadline:* November 22, 2009

*Recommendation:* Approval with Modifications

### ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Alioto-Pier would amend Chapter 71 of the Administrative Code to update the Mills Act contract provisions to formally incorporate the Historic Preservation Commission ("HPC") and to establish regular timelines and review procedures.

#### The Way It Is Now:

The Mills Act is a program enacted by the State of California in 1976 which grants local governments the ability to directly participate in an historic preservation and economic incentive program. It was incorporated into the San Francisco Administrative Code in 1996.

The Board of Supervisors passed Ordinance No. 67-06 on April 20, 2006, which expanded the definition of "qualified historical properties" eligible to apply for a Mills Act contract.

The Administrative Code stated that the [former] Landmarks Preservation Advisory Board must review and comment on all Mills Act applications and refer them to the Planning Commission, who in turn made a formal recommendation to the Board of Supervisors on whether to approve or disapprove a proposed contract application.

In November 2008, Section 4.135 was added into the San Francisco Charter by the voters. This Section created a Historic Preservation Commission and mandates that the HPC make a formal recommendation to the Board of Supervisors on all Mills Act contracts. The Planning Commission was removed from the process.

In addition to the reviewing body changes, there are currently no formal procedures or timelines in the Administrative Code that outlines how the Planning Department, HPC, and the Assessor's Office is to

work together when reviewing proposed contracts. Currently the Planning Department works with the Assessor's Office to obtain the necessary information but not always in time of the HPC hearing.

#### The Way It Would Be:

The proposed Ordinance introduced by Supervisor Alioto-Pier would amend Chapter 71 of the Administrative Code doing the following:

1. Update the language to reflect Charter Section 4.135 which mandates that the HPC make a recommendation on all proposed Mills Act contracts directly to the Board of Supervisors; and
2. Establish the following reviewing procedures:
  - a. The Assessor-Recorder's office must provide the HPC and Board of Supervisors a report of the estimated yearly property tax savings within 60 days of receiving the completed application;
  - b. The HPC must hold a hearing on the contract application within 60 days of receipt of a of the Assessor's report;
  - c. The Budget Analyst must submit a report to the Board of Supervisors on the fiscal impact of the proposed property contract; and
3. Correct an error regarding eligible properties under Article 11 to allow Category III properties to be eligible for Mills Act contracts.

#### REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

#### RECOMMENDATION

The Department recommends that the HPC recommend *approval with modifications* of the proposed Ordinance to the Board of Supervisors. The Department suggests the following modifications:

1. Broaden the types of properties that are a "Qualified Historic Property" to include both individual and contributory buildings on the California Register of Historical Resources;
2. Allow the Assessor's Office to extend by 60 additional days the period of review if the application is found to be complex;
3. Change the time frame that the HPC must hold a hearing on Mills Act applications from 60 days to 90 days;
4. Amend Section 71.3 (Application for Historical Property Contract) to include the Assessor's Office and needed financial information so that they can provide the necessary information to the HPC and Board of Supervisors.

## BASIS FOR RECOMMENDATION

The Mills Act program is designed to provide owners of both owner-occupied and income-producing property the opportunity to actively participate in the rehabilitation, restoration, preservation, and maintenance of "qualified historical properties" while receiving property tax relief.

Since it was incepted in San Francisco in 1996, there have been four contracts entered into with owners, and two pending before the Board of Supervisors. (See Attachment C)

The Mills Act program has not flourished in San Francisco as it has in other cities in California. There can be several reasons attributed to the low number of contracts – application costs, uncertainty in final approval from the Board of Supervisors; confusing and timely process, and the narrow categories of eligible properties.

This legislation seeks to open up and streamline the process of Mills Act applications. By requiring the Assessor's Office to provide the financial valuation information within 60 days will streamline the review process because it will place the necessary financial information in the hands of the decision-makers in a timely manner. Further, by establishing clear timelines for HPC hearing, a property owner knows that there will be a recommendation on their application within 60/90 days.

The Department, working with the Assessor's Office and Supervisor Alioto-Pier, has several modifications to the proposed Ordinance. They are as follows:

1. Broaden those properties that are "Qualified Historic Properties" under Section 71.2. Currently it is limited to Article 10 and 11 properties (with some limitations) and to properties on the National Register of Historic Places. Properties that are listed on the California Register of Historical Resources, both individually and as a contributor to a historic district could be included and would broaden the pool of available properties considerably.
2. Allow the Assessor's office, in narrow cases, an additional 60 days to generate the financial valuation assessment if the application is a complex case. There are few cases, such as multiple-property owners of commercial condo projects that require additional data and analysis. The Department is comfortable with allowing the Assessor's office additional time to review these applications, as they will not be a common application type.
3. Give an additional 30 days for the Department to schedule a hearing at the HPC – for a total of 90 days. This will take into account the realities of noticing (which is anticipated to begin under the Department's Universal Notification Program in 2010) and that the HPC only meets twice a month.
4. Amend Section 71.3 to include the Assessor's office as a Department that will require application and financial data.

The Department is currently working on updating the Mills Act program and application materials. As a part of this process, internal procedures will be put in place for annual inspections, upkeep of files, outreach, and inter-Department processes.

In sum, the Planning Department supports the proposed Ordinance with the proposed modifications and believes that in addition to the necessary updates to include the HPC, the proposed timelines and reporting requirements will create certainty in timing and information.

## ENVIRONMENTAL REVIEW

The proposal to amend Administrative Code would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

## PUBLIC COMMENT

As of the date of this report, the Planning Department has received no letters in support or opposition to the proposal from the public.

<b>RECOMMENDATION:</b> <b>Approval with Modifications</b>
---

### Attachments:

- Exhibit A:      Draft Historic Preservation Commission Resolution
- Exhibit B:      Draft Board of Supervisors Ordinance (BOS File No. 091137)
- Exhibit C:      Current and Pending Mills Act contracts in San Francisco



# SAN FRANCISCO PLANNING DEPARTMENT

## Historic Preservation Commission Resolution No. 639 HEARING DATE: NOVEMBER 4, 2009

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Project Name:* Amendments to the Administrative Code:  
Chapter 71: Mills Act Contract Procedures

*Case Number:* 2009.0982U [Board File No. 09-1137]  
*Initiated by:* Supervisor Alioto-Pier / Introduced September 22, 2009  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257

*30-day Deadline:* November 22, 2009

*Recommendation:* Approval with Modifications

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND CHAPTER 71 OF THE ADMINISTRATIVE CODE REGARDING HISTORICAL PROPERTY CONTRACT PROCEDURES (MILLS ACT) TO REFLECT AMENDMENTS MADE TO THE SAN FRANCISCO CHARTER TO CREATE THE HISTORIC PRESERVATION COMMISSION, ESTABLISH CERTAIN TIME LINES FOR REVIEW OF APPLICATIONS FOR HISTORICAL PROPERTY CONTRACTS, REQUIRE BUDGET ANALYST REVIEW OF APPLICATIONS FOR HISTORICAL PROPERTY CONTRACTS, AND MAKING OTHER CLARIFYING AMENDMENTS; AND MAKING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS.

### PREAMBLE

Whereas, on September 22, 2009, Supervisor Alioto-Pier introduced a proposed Ordinance under Board File Number 09-1137 that would amend Chapter 71 of the Administrative Code regarding historical property contract procedures (Mills Act) to reflect amendments made to the San Francisco Charter to create the Historic Preservation Commission ("HPC"), establish certain time lines for review of applications for historical property contracts, require Budget Analyst review of applications for historical property contracts, and making other clarifying amendments; and making findings, including environmental findings; and

Whereas, the Mills Act is a program enacted by the State of California in 1976 which grants local governments the ability to directly participate in an historic preservation and economic incentive program; and

Whereas, this program was incorporated into the San Francisco Administrative Code (Chapter 71) in 1996; and

Whereas, the Board of Supervisors passed Ordinance No. 67-06 on April 20, 2006, which expanded the definition of "qualified historical properties" eligible to apply for a Mills Act contract; and

Whereas, the Administrative Code states that the [former] Landmarks Preservation Advisory Board must review and comment on all Mills Act applications and refer them to the Planning Commission, who in turn made a formal recommendation to the Board of Supervisors on whether to approve or disapprove a proposed contract application; and

Whereas, in November 2008, Section 4.135 was added into the San Francisco Charter by the voters. This Section created a Historic Preservation Commission and mandates that the HPC make a formal recommendation to the Board of Supervisors on all Mills Act contracts. The Planning Commission was removed from the process; and

Whereas, on November 4, 2008, the San Francisco Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed ordinance with modifications* and adopts the attached Draft Resolution to that effect.

## FINDINGS

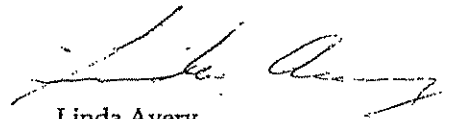
Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Mills Act program is designed to provide owners of both owner-occupied and income-producing properties the opportunity to actively participate in the rehabilitation, restoration, preservation, and maintenance of "qualified historical properties" while receiving property tax relief.
2. Since it was incepted in San Francisco in 1996, there have been four contracts entered into with owners, and two pending before the Board of Supervisors.

3. The Mills Act program has not flourished in San Francisco as it has in other cities in California. There can be several reasons attributed to the low number of contracts – application costs, uncertainty in final approval from the Board of Supervisors, confusing and timely process, and the narrow categories of eligible properties.
4. The proposed legislation seeks to open up and streamline the process of Mills Act applications. By establishing clear timelines for HPC hearing, a property owner knows that there will be a preliminary determination on their application within 60 days. By requiring the Assessor's Office to provide the financial information within 60 days will also streamline the review process because it will place the necessary financial information in the hands of the decision-makers in a timely manner.
5. However, the Commission proposes the following modification to the proposed Ordinance:
  - a. Broaden the types of properties that are a "Qualified Historic Property" to include both individual and contributory buildings on the California Register of Historical Resources;
  - b. Allow the Assessor's Office to extend by 60 additional days the period of review if the application is found to be complex;
  - c. Change the time frame that the HPC must hold a hearing on Mills Act applications from 60 days to 90 days;
  - d. Amend Section 71.3 (Application for Historical Property Contract) to include the Assessor's Office and needed financial information so that they can provide the necessary information to the HPC and Board of Supervisors.

Therefore, the Commission recommends *approval of the proposed Ordinance with modifications* and that the Board of Supervisors adopt the proposed Ordinance.

I hereby certify that the Historic Preservation Commission ADOPTED the foregoing Resolution on November 4, 2009.



Linda Avery  
Commission Secretary

AYES: Damkroger, Martinez, Hasz, Wolfram, Buckley

NAYS:

ABSENT: Chase, Matsuda

ADOPTED: November 4, 2009

