



**CITY OF PACIFIC GROVE**  
**300 Forest Avenue, Pacific Grove, California 93950**

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Councilmember Rudy Fischer

**MEETING DATE:** May 4, 2016

**Subject:** Proposed Mills Act pilot program of tax relief for selected historical properties.

**CEQA:** This action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

**RECOMMENDATION**

Discuss and consider establishing a proposed Mills Act historic property tax incentive pilot program for selected historical properties listed on the Historic Resources Inventory of the City of Pacific Grove (City).

**DISCUSSION**

Pacific Grove was founded in 1875 and became incorporated in July of 1889; prior to which it had gone through several phases leading up to its becoming a community. Between its incorporation and the present, the City has gone through multiple stages of development as referenced in the City’s Historic Context Statement. Each of the periods referenced there changed the City in some way and gave the community a rich history and many genuinely historic properties of various architectural styles. It is important to appropriately preserve and protect these historic properties, and this agenda item is designed to address that need.

Many owners of historic resource properties wish to maintain or renovate their properties according to historic standards. Because of the nature of those properties, however, these owners cannot easily make major changes to the property and/or may incur considerable expense in maintaining, renovating, or preserving them. This is because many of the companies that made the materials that went into our housing stock are no longer in business. Because there are fewer companies making such materials, many of those materials are now costly and difficult to obtain, which adds to the cost and difficulty of maintaining historic homes.

One way to help defray those additional expenses is to allow Mills Act designation for historic properties that are designated as worth preserving in perpetuity.

In 1972, the state of California enacted the Mills Act, an economic incentive program to encourage the preservation of historic buildings. State codes related to the Mills Act include California Government Code, Article 12, Sections 50280 – 50290 and California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4.

The Mills Act grants local governments the authority to establish, administer and implement Mills Act Historic Preservation Tax Relief Programs (Mills Act programs). Cities and counties with Mills Act programs are able to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. Each local government establishes its own criteria for evaluating applications and determines how many contracts will be allowed within its jurisdiction.

The purpose of entering into a Mills Act contract is for residential property owners to restore, rehabilitate, and preserve historic resources as a benefit to the community of Pacific Grove, while receiving property tax relief. Property owners will use their tax savings to extend the life of the structure(s), protect the historic and aesthetic value of the property, and comply with the rules and regulations of the State Office of Historic Preservation of the Department of Parks and Recreation; the United States Secretary of the Interior's Standards for Rehabilitation; the State Historic Building Code; and the City of Pacific Grove Municipal Code, Historic Preservation Ordinance and Design Guidelines when any work is to be done on the structure(s) or property.

The property owner is expected to submit an annual report of preservation and maintenance activity on the historic structure(s) and property as outlined within this application and per the contract between the property owner and the City.

### **Proposed Application Requirements**

To begin the process, it is proposed that the residential property owner(s) or an authorized representative be required to file a Mills Act Historic Property Contract Application with the City's Community and Economic Development Department (CEDD). Assistance in preparing the application may require the use of a qualified professional consultant, and an application packet can be obtained through the City.

### **Proposed Review Process:**

Once CEDD has reviewed the application and finds it is complete, it is proposed that the application will be reviewed by the Historic Resources Commission (HRC).

At a noticed public hearing, the HRC will evaluate each property's historicity and the applicant's "Schedule and Plan for Maintenance and Treatment of the Historic Property". The HRC will then forward to the City Council its recommendations of approval or disapproval on each Mills Act Contract application.

The City Council, at a public meeting, will receive the recommendations of the HRC. The Council will also receive public testimony on the proposed application(s); and will then determine whether or not the City should enter into a Mills Act Historic Property Contract with the property owner. If the Council determines that a Contract is appropriate, it will adopt a Resolution authorizing the City Manager to enter into the Contract with the property owner.

Once the Mills Act Historic Property Contract is executed by all parties, the City will record it with the Monterey County Recorder. The property owner will be responsible for payment of applicable recording fees.

After the Mills Act Historic Property Contract has been recorded, a copy of the recorded document is forwarded to the Monterey County Assessor, who will then recalculate the property taxes according to the Mills Act statutes. A copy of the recorded contract will also be forwarded to the State Office of Historic Preservation.

**Proposed Selection Criteria:**

It is proposed that the HRC will evaluate each contract application using the following criteria to rank and prioritize the applications:

- A higher ranking will be given to those applications that demonstrate that entering into a Mills Act Historic Property Contract will result in the greatest number or value of improvements to the historic property thereby resulting in the greatest benefit to the public.
- A higher ranking will be given to those applications that demonstrate that entering into a Mills Act Historic Property Contract will substantially reduce the threat to the historic property of demolition, deterioration, abandonment, and/or general neglect.
- A higher ranking will be given to those applications that demonstrate, in cases of economic hardship, that entering into a Mills Act Historic Property Contract will result in the preservation and maintenance of a historic property.
- A higher ranking will be given to those applications that demonstrate the highest percentage of the tax savings being used to finance the property maintenance and improvements.

**Proposed Application Fees:**

Proposed application fees will be as set out in the City's Master Fee Schedule.

**FISCAL IMPACT**

This is difficult to determine but, depending on how many properties qualify for Mills Act tax reduction, and the tax that those properties are paying, there will be some reduction in property taxes received by the City. This should be a minimal impact as a percentage of the total revenue received by the City, however.

According to the County Assessor's Office, the FY 2013-2014 total property assessed valuation of the 8,032 homes in Pacific Grove was \$2,634,606,993. While this sounds like a lot, it is really only an average assessed value of \$308,000 per home. As such, the average tax bill is about \$3,850; with the City getting 16% of that amount. This means that even with the maximum number of such homes covered by this action, the City will most likely sustain an average loss of less than \$10,000 per year in property taxes.

Various cities manage this in different ways. In the City of Monterey, for instance, the Finance Director prepares an estimate of how much taxes will be reduced as part of the project. City staff then uses that formula on reports and forwards the contract to the County to record. The County Assessor then takes it and prepares the alternate tax assessment.

## ATTACHMENTS

1. STATE OF CALIFORNIA MILLS ACT LEGISLATION
2. California Government Code, Article 12, Sections 50280 - 50290
3. REVENUE AND TAXATION CODE SECTION 439-439.4
4. CITY OF MONTEREY MILLS ACT APPLICATION FORM
5. MILLS ACT FLYER – CITY OF BERKELEY

Respectfully submitted,

*Rudy Fischer*

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Rudy Fischer  
Councilmember

Reviewed by,

*Ben Harvey*

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Ben Harvey  
City Manager

## **MILLS ACT LEGISLATION**

### ***California Government Code, Article 12, Sections 50280 - 50290***

#### **50280. Restriction of property use.**

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 historic property.**

"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. Required contract provision.**

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 the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary 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 provide written notice of the contract to the Office of Historic Preservation within six months of entering into the contract.

#### **50281.1. Fees.**

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 not to exceed the reasonable cost of administering this program.

**50282. Renewal.**

- (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. 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. Cancellation.**

The legislative body may cancel a contract if it 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 may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

**50285. Consultation with state commission.**

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. Cancellation.**

- (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. 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 provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

**50287. Action to enforce contract.**

As an alternative to cancellation of the contract for breach of any condition, the county, city, or any landowner 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. Eminent domain.**

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. Annexation by city.**

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. Consultation with state commission.**

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.

## **REVENUE AND TAXATION CODE**

### **SECTION 439-439.4**

439. 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. 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. 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 that 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 October 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as most recently published by the Federal Housing Finance Agency as of September 1, rounded to the nearest one-fourth of 1 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 October 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 Agency as of September 1, rounded to the nearest one-fourth of 1 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. 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. 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.

**CITY OF MONTEREY  
TAX SAVINGS PROGRAM FOR HISTORIC PROPERTIES  
(MILLS ACT)**

The City of Monterey is excited to offer this tax savings program to the citizens of Monterey! The program reduces property taxes for owners of locally designated “H” (historic) buildings. The tax savings can be substantial for property owners, particularly if the building was purchased recently. Please come talk to the City’s Planning Division staff for more information about this program and how you can participate.

**PURPOSE:** A Mills Act Contract is an agreement between the City of Monterey and property owner of a City designated historical building. The property owner benefits from a reduction in property taxes, and the City is ensured the historic building is preserved.

**TERM OF CONTRACT:** A Mills Act Contract is for a period of ten (10) years with one (1) year additional being added on the anniversary of the contract. The contract rights and obligations are binding upon all successive owners of the property during the life of the contract. This is a significant benefit because the property retains the lower Mills Act tax rate when the property is sold. This could be an attractive selling point for your property.

To end the contract, either party may submit a Notice of Non-Renewal which will terminate the contract at the end of the ten (10) year period. Cancellation of the contract by the City due to non-compliance requires a public hearing and will result in the immediate termination of the contract and a penalty equal to twelve and one-half percent (12 ½ %) of the assessed market value of the property.

**MILLS ACT CONTRACT REQUIREMENTS:**

1. The contract will require that the historic elements of the property are maintained in good condition. This will include a plan for maintenance and may also include a program to restore deteriorated elements; and
2. All recipients of Mills Act Contracts will be required to prepare a maintenance plan and submit an annual report to the Community Development Director, which will specify all work done to maintain and preserve the historic building over the year in accordance with the owners’ maintenance plan. Any maintenance work must be in accordance with the Secretary of Interior Standards for Rehabilitation.

**MILLS ACT SELECTION CRITERIA:** To grant approval of a Mills Act Contract Application, the City Council must make the following findings:

1. The structure is designated as a historic resource by the City of Monterey, such as “H” designation; and

2. The Mills Act Contract will serve to offset the costs of rehabilitating and/or maintaining the cultural resource.

**APPLICATION MATERIALS:** The following materials must be submitted to the Community Development Department, Planning Division in order to process a Mills Act Contract Application:

1. City of Monterey Planning Division Application Form;
2. Copy of the legal description attached as “Exhibit A”;
3. A maintenance plan for the historic building and a cost estimate of the work to be done attached as “Exhibit B”;
4. Photos of the exterior of the property attached as “Exhibit C”. These photos should be a minimum of 5”x7” in size and should show all elevations of the structure.

**REVIEW PROCESS:** A request for a Mills Act Contract is initiated by submittal of a complete application to the City of Monterey Community Development Department. Staff then prepares a report for consideration by the Historic Preservation Commission. The Commission reviews the application, required documentation, and the staff report and recommends approval, modification, or denial of the request to the City Council. The City Council will take final action on the request and either approve or deny it.

**SUBMITTAL OF CONTRACT TO CITY CLERK:** Once the contract has been approved by the City Council, the City will mail the contract with the appropriate recording fee to the County Recorders Office. The property owner will be responsible for paying any filing fees.

After recordation, the recorded contract must be sent to the County Assessor. The Assessor calculates the exact tax savings. The County Assessor must have the recorded contract no later than December 31<sup>st</sup> for the contract to start the following year.

Property owners are required to report to the State Office of Historic Preservation that a Mills Act contract has been concluded. A copy of your completed contract will be sent to:

State Office of Historic Preservation  
1416 Ninth Street  
Sacramento, CA 95814  
Attention: Gene Itogawa

If you need any help or have questions, please contact the Planning Division at (831) 646-3885.

**SUBMITTAL CHECKLIST**

_____	City of Monterey Planning Division Application Form
_____	Copy of the legal description attached as “Exhibit A”
_____	A maintenance plan for the historic building and a cost estimate of the work to be done attached as “Exhibit B”

WHAT IS THE MILLS ACT?

The Mills Act is a state law allowing cities to enter into contracts with the owners of historic structures. Such contracts require a reduction of property taxes in exchange for the continued preservation of the property. Property taxes are recalculated using a formula in the Mills Act and Revenue and Taxation Code.

The City Council has approved the use of Mills Act contracts with owners of designated historic properties. Based on this action, the Landmarks Preservation Commission is promoting awareness and use of the Mills Act as an incentive for the preservation of local historic buildings.

In Berkeley, the Mills Act requires that historic **property owners spend the property tax money that is saved through the Mills Act on preserving and/or restoring their property.**

WHO IS ELIGIBLE?

To qualify for the Mills Act in the City of Berkeley, a building must first be designated by the City of Berkeley as a Landmark, Structure of Merit or building in a Historic District.



Thorsen House, Piedmont Way, Berkeley

HOW IT WORKS

The Mills Act law enables the City Council to enter into 10-year contracts with owners of historic properties. Under these contracts (“Mills Act contracts”) owners agree to maintain and if necessary rehabilitate their historic structures.

Mills Act contracts have a minimum term of 10 years and are automatically renewed annually for an additional year. Thus, unless the City or the owner files a notice of non-renewal, a Mills Act contract always has a term of 10 years.

Either the property owner or the City may elect not to renew for any reason. The effect of non-renewal is to terminate the contract at the end of the current 10-year term. During the remainder of the contract term, the property taxes increase gradually to the normal level.

The owner may also petition the City to cancel the Mills Act contract. Cancellation requires assessment of a penalty of 12.5% of pre-Mills Act valuation. The City may also cancel the contract, but only in the case of breach of the contract conditions.

Once a Mills Act contract is terminated for any reason the property owner’s taxes increase to the level they would have been at but for the Mills Act contract.

Each property owner should consult with his/her own counsel concerning the advisability of entering into a Mills Act contract prior to filling out an application.

CALCULATING PROPERTY TAX

Mills Act contracts are unusual among preservation incentives in that **tax benefits are available not only for income property but also for owner-occupied property.** Property valuation is determined by the “income” method set out in Revenue and Taxation Code, Section 439.21.

Generally, the income less certain expenses is divided by a capitalization rate to determine the assessed value of the property. When a property is owner-occupied, the determination of “income” is based on what a property could reasonably be expected to yield.

The income projected for owner-occupied property is based on comparable rents for similar property in the area or, if sufficient rental information is available, the income that it could reasonably be expected to produce under prudent management.

In the case of income producing property, the income amount is based on rent actually received and on typical rents received for similar properties having similar uses.

The capitalization rate for both owner-occupied and income property is determined by adding together an interest component, a historic property risk component, and a property tax component.

HYPOTHETICAL PROPERTY TAX

**CALCULATION**  
Agenda No. 12B and Attachments  
(SINGLE-FAMILY DWELLINGS/  
Page 45 of 16  
CONDOS)

Current assessed valuation = \$ 250,000  
  
Current taxes = \$ 3,125  
( \$ 250,000 x 0.0125)

**Recalculation Using Mills Act Assessment Method:**

Gross income = \$ 14,400  
( \$ 1,200 X 12 mo.)  
  
Less expenses = \$ 2,000  
(insurance, repairs, utilities)  
  
Net income = \$ 12,400  
  
Capitalization rate = 13.66%  
Interest component at 6.75%  
Historic property risk component at 4%  
Amortization component at 1.67%  
Property tax component at 1.24%  
Total 13.66%

New valuation = \$90,776  
(\$12,400)  
(0.1366)

New taxes = \$ 1,135  
( \$ 90,776 x 0.0125)

**TOTAL SAVINGS OF \$ 1,990**  
**IN ANNUAL PROPERTY TAXES**

## TERMS DEFINED

- ❑ **Interest component** is determined by the State Board of Equalization by September of the year preceding the assessment year and is based on the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board.
- ❑ **Historic property risk component** is 4% in the case of owner-occupied single-family dwellings and condos. In all other cases, the historic property risk component is 2%.
- ❑ **Amortization component** is a percentage equal to the reciprocal of the remaining life of the improvements. Although this calculation varies by individual structure, as an estimate, typical remaining life of a frame building would be 20 years (or 0.05); for a masonry building, the remaining life might be up to 50 years (or 0.02). The current rate used by the County Assessor is .0167.
- ❑ **Property tax component** is defined as the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Currently, this component is 1.24%.

## REQUIRED APPLICATION MATERIALS

- ❑ Mills Act Contract Application.
- ❑ Copy of legal description.
- ❑ A completed financial analysis for Mills Act contract form (see sample). The final financial analysis is prepared by the County Assessor's Office.

### **The following must be prepared by a specialist in historic preservation:**

- ❑ An architectural report identifying the status of all character defining features of the building(s) and site (photographs required).
- ❑ A restoration/rehabilitation plan for the designated property. If the building(s) is already restored in good condition, a maintenance list must be submitted to support the need for tax relief (see sample).

The Mills Act offers owners of historical buildings in the City of Berkeley the opportunity to realize significant property tax savings in exchange for preserving buildings designated as a City of Berkeley Landmark, Structure of Merit or buildings in a Historic District.

For more information regarding designating your property and/or an application for a Mills Act contract, please contact:

**City of Berkeley Planning &  
Development Department  
Landmarks Preservation  
Commission Secretary  
(510) 981-7429**

[www.ci.berkeley.ca.us/planning/landuse](http://www.ci.berkeley.ca.us/planning/landuse)

City of Berkeley  
Planning & Development Department – Land Use Planning Division  
Landmarks Preservation Commission  
2120 Milvia Street  
Berkeley, CA 94704



## **THE MILLS ACT**

**A Tax Incentive For  
Preserving And Restoring  
Historic Properties**

## **INFORMATION**

**Prepared by:**  
City of Berkeley  
Land Use Planning Division  
Landmarks Preservation  
Commission