



# **HISTORIC PRESERVATION COMMISSION STAFF REPORT**

**APPLICATION:** Mills Act Contract Update      **AGENDA ITEM:** AR-1  
**PREPARED BY:** Sheri Bermejo      **MEETING DATE:** March 23, 2016  
Planning Division Manager

---

**SUBJECT:** Review of Noncompliant Mills Act Contract

**REQUEST:** Review of Mills Act Contract that has been out of compliance with the Standards and Conditions for more than one year.

**ENVIRONMENTAL DETERMINATION:** Ministerial Action PRC §21080(b)(1)

**BACKGROUND:** One of the benefits afforded to property owners of locally designated historic landmarks is the Mills Act Contract. The Mills Act Contract is an agreement between the owner of a historic landmark and the City that allows the Tax Assessor to use the assessment formula established in the Mills Act for the determination of the owner's property taxes. This usually results in a substantial reduction in property taxes owed.

The idea behind the Mills Act is to encourage owners of historically significant properties to restore and maintain their properties through a reduction in their property tax bill. An important part of the contract is the Standards and Conditions which specify certain restoration tasks to be completed within the term of the contract. The Standards and Conditions also require certain reporting and maintenance requirements.

One of the set conditions is to require an update or progress report every two years for the first ten years and every five years, thereafter. As per previous direction from the Historic Preservation Commission, property owners who do not provide their required update report(s) will be placed on the agenda for review of noncompliance and possible recommendation of revocation of the contract. There is currently one contract that is more than one year delinquent in fulfilling this condition of their contract.

**DISCUSSION:** To provide a greater level of customer service, Staff sends courtesy reminders to all Mills Act Contract property owners. Some updates come with pictures and full descriptions of all the work they have done over the reporting period. However, there is no specified format and the update can be as simple as a letter or email addressing progress made on the conditions of approval.

As of Monday, March 14, 2016, Mills Act Contract MA-77 (263 North Encinitas Avenue) has been noncompliant for over one year. MA-77 was approved by the City Council on November 2, 2004. The ten-year update and seismic retrofit were due November 2014. The compliance issue is non-responsiveness to the requests for the contractually required update. City notifications to property owner were sent on November 6, 2014, February 22, 2016, and March 7, 2016.

As specified in the terms of the Mills Act Contract, the contract may be cancelled by the City if the owner has breached any of the conditions or covenants 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.

Not only will cancellation cease any further tax benefit, there is a hefty penalty. As specified in the contract, the fee is equal to twelve and one-half percent (12½%) of the current fair market value of the property as determined by the County Assessor as though the Historic Property were free of the contractual restriction pursuant to this Agreement.

Staff is looking for direction on the appropriate action to take at this point. Staff has identified two options for the Commission's consideration:

1. Begin the cancellation process. If the Historic Preservation Commission determines that this is the appropriate direction, Staff recommends that a public hearing be set and noticed for the next regular meeting on May 25, 2016. After the hearing, the Commission will be asked to make a determination on the future status of the Mills Act Contract. This could be either to take no action on the noncompliance or to forward a recommendation that contract should be cancelled to the City Council.
2. Provide additional outreach to the property owner to attempt to achieve compliance on this issue. If this is the direction that the Commission wishes to pursue, Staff recommends that a commissioner volunteer to directly contact and work with the property owners to gain compliance.

**RECOMMENDATION:** Based on the consensus of the Historic Preservation Commission, Staff recommends a motion based on one of the two options provided.