

RESOLUTION NUMBER R-285411

ADOPTED ON FEBRUARY 27, 1995

WHEREAS, the City Council enacted a Housing Trust Fund Ordinance which is codified as Sections 98.0501 et seq. and 98.0601 et seq. in the City's Municipal Code; and

WHEREAS, a recent situation involving Pyxis has resulted in an approximately \$12,000 Housing Trust Fund fee which would result from a situation involving an expenditure for improvements of only \$30,000; and

WHEREAS, it appears that the Housing Trust Fund fee in the Pyxis fact situation is unnecessarily high and that the Pyxis situation warrants a variance pursuant to Section 98.0615 which allows for a variance where:

(a) Special circumstances, unique to that project justify the grant of the variance;

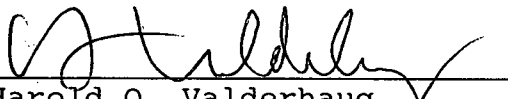
(b) The project would not be feasible without the modification;

(c) A specific and substantial financial hardship would occur if the variance were not granted; and

(d) No alternative means of compliance are available which would be more effective in attaining the purposes of this section than the relief requested; NOW, THEREFORE,


BE IT RESOLVED, that a variance is hereby granted to Pyxis,
in view of the above described facts and the information
contained in Attachment 1 hereto, and the Council's determination
that the project qualifies for a variance.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Chief Deputy City Attorney

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Or.Dept:Council-Warden
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Office of
Councilmember Barbara Warden
District 5
City of San Diego
(619) 236-6655

Date: February 23, 1995
To: Honorable Mayor and Councilmembers
From: Councilmember Barbara Warden 
Subject: Excessive Housing Trust Fund Fees

I am requesting your support for fixing what I believe is a significant problem in the way the Housing Trust Fund fees are assessed upon minor remodeling projects.

Today, I was contacted by Mike Perry of the Pyxis Corporation advising me that Pyxis would be charged \$11,700 in Housing Trust Fund fees for a simple internal reuse project costing Pyxis \$30,000 in construction costs. Pyxis is not expanding its building or creating a single new job because of this remodel, but yet is being forced to pay this excessive fee. Unless the Council takes action to solve this problem, Pyxis is prevented from obtaining its building permit.

In this case, the Housing Trust Fund fee represents an assessment of 40% of the value of Pyxis' construction. Clearly, this fee is inappropriate. The solution to Pyxis' problem and for other businesses in Pyxis' situation rests with City Council approval for an amendment to the Housing Trust Fund fee that avoids charging fees for simple remodels or tenant improvements.

City staff have tried to help Pyxis overcome this problem, but unfortunately, the Housing Trust Fund Ordinance does not allow City staff any authority to reduce or waive the fees under any circumstances. Without Council support, Pyxis and other corporations wanting to remodel space in existing their buildings will continue to be unfairly charged fees under an ordinance which needs modification. This matter requires urgent Council action to allow Pyxis to obtain its building permit this week, not two months from now.

For approximately three years, Pyxis has leased its building at 9380 Carroll Park Road. Recently, the City succeeded in convincing Pyxis to keep its operations in San Diego. As Pyxis has expanded its operations off-site (at Trade Street), Pyxis has renovated what was manufacturing space on the first floor of its Carroll Park Drive location to accommodate its office activity.

In November, Pyxis obtained its landlord's permission to make the following minor renovations to its Carroll Park Drive property:

- (1) Creating a new office, approximately 14' x14' out of the area that was once used for manufacturing.
- (2) Walling off 2 roll-up doors between its manufacturing and warehousing operations.
- (3) Erecting a well to screen power panels.
- (4) Installing carpet in the area once used as manufacturing.

Since then, Pyxis added a Conference Room to its remodeling plans, a copy of which is attached for your review, which were submitted to the City of San Diego.

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Last week, Pyxis was surprised to learn that these routine plans trigger \$11,700 in exorbitant Housing Trust Fund fees. Interestingly enough, the City of San Diego previously approved a remodeling plan by Pyxis in which a 1500 square foot manufacturing area was converted to office space for its marketing division without ANY Housing Trust Fund fees. These inconsistencies in the ordinance and its fee calculations demonstrate the unfair ways in which fees are or are not assessed for minor remodeling and reuse

To allow Pyxis to obtain its building permit and to remedy this problem, I would ask your support for the following reasonable recommendations:

- (1) To waive Pyxis' fees under the variance process contained in the ordinance.
- (2) To direct the City Manager and City Attorney to prepare an amendment to the Housing Trust Fund ordinance which would prevent similar situations from occurring in the future;
- (3) To direct the City Manager to evaluate whether or not applications for building permits submitted on or after February 28, 1995 for internal space remodeling and tenant improvements should be exempted from the Housing Trust Fund ordinance;
- (4) To direct the City Manager to evaluate whether or not Housing Trust Fund fees should be charged only on building permits which create new useable space, not changes in use or occupancy as the ordinance currently charges;
- (5) To direct the City Manager and City Attorney to return to the City Council on April 3, 1995 with proposed amendments to the Housing Trust Fund ordinance to better protect against future inequitable or inappropriate fee requirements.

I believe these recommendations would:

- Reward San Diego's businesses for following the City's permitting system when many businesses choose to ignore the permitting system for minor alternations and remodeling projects;
- Simplify the administration of the Housing Trust Fund program by the Development Services Department;
- Fix what is today an inequitable assessment of Housing Trust Fund fees; and
- Serve as an important incentive for local businesses and commercial real estate brokers to reuse vacant office space at a time when new commercial space is not being developed.
- Demonstrate the City of San Diego's continuing commitment to treat businesses fairly and our commitment as the most Business Friendly Big City in California.

Thank you for considering these recommendations and the unfair burden placed upon Pyxis Corporation and countless other San Diego companies which face this same type of situation.

R- 285411

Mike Perry

P Y X I S

November 7, 1994

Hillman Properties West, Inc.
450 Newport Center Drive
Suite 304
Newport Beach, CA 92660

Attn.: Brad Baker

Dear Brad,

In compliance with our lease at 9380 Carroll Park Drive, San Diego, CA, I would like to have your approval to make the physical changes described below and referenced on the attached sketch.

1. New office, approximately 14' x14'.
2. Wall off 2 roll-up doors between manufacturing and warehousing and one perimeter door between manufacturing and outside. Doors and door hardware to remain in place.
3. Erect wall to screen power panels.
4. Carpet area now used as manufacturing area. (Approximately 28oz. commercial grade glued to existing vct.)

Brad, as you know, our manufacturing group is relocating to another building. As soon as this space is vacated, we will refurbish it for use as an open office area for development and other personnel. We would like to begin this construction in early December.

Best Regards,

Ron Brannan
V.P., Operations

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