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San Diego, CA 92104

September 22, 2009

Todd Gloria, Chair
Land Use & Housing Committee
City of San Diego
202 C Street
San Diego, CA 92101

Subject: Action Item #7; Mills Act Application Fee for Property Owners within the Burlingame Historic District

Dear Chairman Gloria and Members of the Committee:

As this committee undoubtedly is aware, the Burlingame Historic District was first established (as a voluntary district) in 2002.

There were a small group of residents who were adamantly opposed to any form of mandated designation. We were two of those residents, from 3134 Maple Street (APN #453-713-14)

In November, 2007, the HRB voted on a proposed amendment to the existing Voluntary District (voting to change the district type from Voluntary to Mandatory Geographical/Traditional Historic District). All remaining non-designated homes were, at that time, then time classified as contributing or non-contributing.

Thus, at that November 2007 HRB meeting, all remaining contributing homes were now part of the mandated historic district.

Due to what we view as the factual errors and the flawed process undertaken to move the Voluntary District to a Mandated District (and to name our home as a contributing property), we decided to Appeal the Designation.

On December 13, 2007, we timely appealed designation of our home at 3134 Maple.

Per Municipal Code Section 123.0203(b) "The City Clerk Shall set the matter for public hearing as soon as is practicable..."

By March 2009, we had still heard nothing as to the status of our Appeal.

In speaking with other neighbors who had also appealed the involuntary designation of their homes, we learned in March 2009 that it was *inevitable that our Appeal was going to be denied by the Council.*

We then decided to formally withdraw the Appeal on March 30, 2009, and we applied for the Mills Act. In filing the application, we were told that we must pay the new

application fee of \$590. (The Fee structure was revised in December 2008 from \$400 to \$590, **an increase of 47.5%.**) We were told by Ms. Winterrowd that her office did not have the power to reimburse us the \$190 difference between the “old fee” and the “new fee.”

Based upon the promise of Ms. Winterrowd from the City Planning Department that she would raise our concern about the lack of fairness of this fee, and we decided to move ahead with the Mills Act application process and submit our paperwork with the new, higher fee amount of \$590.00. The check for our application was finally cashed by the City on July 3, 2009.

Given that the City designated our home in November 2007, and no Appeal hearing was scheduled even as of fifteen months later (March 2009), we were highly prejudiced by the increased fee for the Mills Act Application. (Unfortunately, we are now also faced with higher monitoring fees, and other changes to the Mills Act that took effect in December 2008; changes that none of our neighbors who were designated prior to November 2007 have had to face.)

If the Appeal, *which was filed in November, 2007*, had been heard prior to December 2008, one of two things would have occurred: The Appeal would have been successful and we would not be deemed historically designated; or, the Appeal would not have been successful and we would have started the Mills Act application process well prior the December 2008 date when the fee hike occurred.

Thus, we respectfully request reimbursement of \$190.00, to reflect the application fee that was in effect in November 2007, when our home was designated (and was also in effect up to and beyond December 2008, a time period in which our Appeal had not yet even been scheduled for hearing and the Application Fee was raised 47.5%).

If this Committee is not empowered to make this decision, we formally request that the entire Council take this matter under consideration.

Please note that the economic interest to the City is minimal, since only three homes would be affected by this reimbursement decision. (Those three homes that were designated in November 2007, appealed the decision, and later withdrew the appeal and applied for the Mills Act)

Respectfully submitted

Jane M. Kelley, Attorney at Law

Linda S. Beach