

CITY OF LOS ANGELES
CALIFORNIA

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CITY CLERK

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When making inquiries relative to
this matter, please refer to the
Council File No.

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October 21, 2011

To All Interested Parties:

City Attorney (w/blue sheet)

The City Council adopted the action(s), as attached, under Council File No. 08-0530-S1, at its meeting held October 19, 2011.

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File Nos. 08-0530
08-0530-S1
08-1233
08-1233-S1
08-0515
11-0923

**TO THE COUNCIL OF THE
CITY OF LOS ANGELES**

Your

**ARTS, PARKS, AND NEIGHBORHOODS
and
PLANNING AND LAND USE MANAGEMENT COMMITTEES**

report as follows:

**ARTS, PARKS, AND NEIGHBORHOODS AND PLANNING AND LAND USE MANAGEMENT
COMMITTEE REPORT** relative to murals on private property.

Recommendations for Council action:

1. RECEIVE and FILE the following:
 - a. 08-0530: Motion (Huizar - LaBonge), November 7, 2008 City Planning Department (Planning) report, and November 13, 2008, July 6, 2010, and October 7, 2011 Department of Cultural Affairs (DCA) reports relative to notifying the DCA and the appropriate Council Office when a property owner has been cited for a violation and is being requested to remove a mural from private property.
 - b. 08-0530-S1: Motion (Huizar - LaBonge), November 7, 2008 Planning report, and November 13, 2008 and July 6, 2010 DCA reports relative to directing the Department of Building and Safety and City Planning Department to cease from issuing citations or notices to comply for murals signs Ordinances until the City has established a permitting process for fine art murals on private property.
 - c. 08-1233: Motion (Huizar - LaBonge), November 7, 2008 Planning report, and November 13, 2008, July 6, 2010, and October 7, 2011 DCA reports relative to directing the City Planning Department, with the assistance of the DCA, Department of Building and Safety, City Attorney, and Chief Legislative Analyst (CLA), first define what a fine art mural is and to draft an Ordinance that addresses the City's need to facilitate new and preserve existing murals.
 - d. 08-1233-S1: Motion (Huizar - LaBonge) relative to declaring a moratorium on the issuance of notices to remove murals that property owners have evidence were completed prior to April 2002 and creating a working group to investigate how the City can restore funding for a program to convince building owners to maintain murals located on their properties for a set number of years.
 - e. 08-0515: Motion (LaBonge - Huizar), November 7, 2008 Planning report, and November 13, 2008, July 6, 2010, and October 7, 2011 DCA reports relative to directing the City Planning Department, with the assistance of the DCA, Department of Building and Safety, CLA and the City Attorney to report with

recommendations on the feasibility of establishing a process which would permit the installation of fine art murals on private property.

- f. 11-0923: Motion (Rosendahl - Reyes) relative to instructing the City Planning Department, with the assistance of the DCA and Department of Building and Safety, and in consultation with the City Attorney, to prepare and present and Ordinance to define murals as something other than signs and establish a Citywide program for permitting murals.
2. DIRECT the City Planning Department, in consultation with the City Attorney, to PREPARE and PRESENT an ORDINANCE to adopt the Vintage Mural Permit and the Time, Place, Manner Permit as detailed in the October 7, 2011 DCA report and attached to the Council file, inasmuch as these options would be cost-neutral to the City.
3. DIRECT the City Planning Department to investigate the option of establishing a Vintage Mural Permit five years prior to the date that the Ordinance, as described above in Recommendation No. 2, is adopted.
4. DIRECT that all new proposed Time/Place/Manner mural permits include the name and contact information of the party responsible for maintaining and repairing the mural.
5. DIRECT that as a condition of receiving the proposed Vintage Mural permit, the existing mural must be cleaned and or repaired and have an anti-graffiti coating applied to it, as well as submit the name and contact information of the party responsible for maintaining and repairing the mural.
6. INSTRUCT the City Administrative Officer (CAO) to work with the DCA, City Planning Department, Department of Building and Safety, Department of Public Works, and in consultation with the City Attorney, to provide a cost estimate that quantifies staff costs to issue, administer, and enforce a Public Art Easement Permit for fine art and public art murals to be located on private property, and to identify the source of funds to do so; and further INSTRUCT the CAO to report in regard to the resources available for the maintenance of existing murals and recommendations in regard to strategies/mechanisms for funding and maintenance of existing murals through a Public Art Easement approach.
7. INSTRUCT the CAO, DCA, and other City departments to identify contractual personnel, staff, and any other costs associated with implementing the City's mural permitting, enforcement, and maintenance program.

Fiscal Impact Statement: Neither the CAO or the CLA has completed a financial analysis of this report.

Community Impact Statement: Yes (Council File No. 08-0515)

General Comments: Studio City Neighborhood Council

SUMMARY

On October 12, 2011 in a joint special meeting of the Arts, Parks and Neighborhoods and Planning and Land Use Management Committees, the Joint Committee considered a November 7, 2008 Planning report, and November 13, 2008, July 6, 2010, and October 7, 2011 DCA reports in response to a number of motions listed as follows for their respective Council files:

- a. 08-0530: Motion (Huizar - LaBonge) relative to notifying the DCA and the appropriate Council Office when a property owner has been cited for a violation and is being requested to remove a mural from private property.
- b. 08-0530-S1: Motion (Huizar - LaBonge) relative to directing the Department of Building and Safety and City Planning Department to cease from issuing citations or notices to comply for murals signs Ordinances until the City has established a permitting process for fine art murals on private property.
- c. 08-1233: Motion (Huizar - LaBonge) relative to directing the City Planning Department, with the assistance of the DCA, Department of Building and Safety, City Attorney, and CLA, first define what a fine art mural is and to draft an Ordinance that addresses the City's need to facilitate new and preserve existing murals.
- d. 08-0515: Motion (LaBonge - Huizar) relative to directing the City Planning Department, with the assistance of the DCA, Department of Building and Safety, CLA and the City Attorney to report with recommendations on the feasibility of establishing a process which would permit the installation of fine art murals on private property.

Additionally, the following Motions were considered alone, without any reports in response:

- e. 11-0923: Motion (Rosendahl - Reyes) relative to instructing the City Planning Department, with the assistance of the DCA and Department of Building and Safety, and in consultation with the City Attorney, to prepare and present and Ordinance to define murals as something other than signs and establish a Citywide program for permitting murals.
- f. 08-1233-S1: Motion (Huizar - LaBonge) relative to declaring a moratorium on the issuance of notices to remove murals that property owners have evidence were completed prior to April 2002 and creating a working group to investigate how the City can restore funding for a program to convince building owners to maintain murals located on their properties for a set number of years.

According to the City Planning Department (Planning), on April 17, 2002, the City Council adopted Ordinance No. 174,517 (Council File No. 98-1474), amending the City's Sign Code to prohibit the erection of supergraphic and mural signs, except when they are specifically permitted pursuant to a legally adopted specific plan, supplemental use district or an approved development agreement. The definition of mural sign also includes Fine Art Murals. Furthermore, murals are an integral part of cultural expression in the City. Throughout the City, murals have been created by artists from diverse artistic backgrounds and traditions. Often, murals illustrate important social and cultural issues in the community in which they are created.

The creation and maintenance of murals on private property is governed by the City's sign regulations, which are a part of the City's Zoning Code. These regulations prohibit new murals, except when permitted by a specific plan, an overlay zone, or as part of a development agreement. In most cases, new murals cannot be created, and the validity of existing murals is called into question. As a result, emerging artists are denied the opportunity to create important new works of art, and the City's treasure of existing murals is slowly being lost.

Currently, the City is working to restore its murals and protect them from destruction and vandalism. The City has recently undertaken efforts to ensure that processes are in place to

protect and preserve murals. While the City is addressing protection of murals on public property, it is equally as important to extend efforts to address issues facing murals on private property, especially considering that the majority of murals in the City are painted on private property.

There has been a significant increase in the issuance of citations relative to murals that are painted on private property. The citations ultimately result in the murals being removed from private property in order to comply with the Sign Code for mural signs or advertisements. Since many of the murals are painted in response to the occurrence of graffiti on walls, their removal ultimately encourages further graffiti vandalism.

Planning then stated that in response to various requests from Council, as detailed in the motions listed above, Planning has undertaken extensive research on the practices of other jurisdictions, and on First Amendment considerations. The Department recommends that the City consider the model of Portland, Oregon, which allows Fine Art Murals on easements on private property which are donated to the City. The City, in its role as owner or patron of art, has greater leeway to distinguish based on content than when the City is acting in a regulatory capacity.

Furthermore, the City cannot regulate signage on the basis of content, due to First Amendment to the Constitution considerations. Thus, the concept of regulation of time, place and manner was explored as a basis of regulation of Fine Art Murals. It quickly became apparent, however, that such a regulation would have the effect of limiting the artistic product, and would not be acceptable to the stakeholders in the Fine Art Murals community. Further, a time, place and manner regulation, being content-neutral, would also allow such signs as supergraphics, and murals containing commercial messages, and lead to the proliferation of further advertising blight.

Next, the DCA stated that based on the experience of the City of Portland, Oregon, it is recommending three proposals to address issues surrounding murals on private property:

a. Vintage Mural Permit:

This would be a new, over-the-counter permit, issued by the Department of Building and Safety. The permit would be based on a set of defining criteria that serve as evidence that a mural was put up before a pre-established date of "five years prior to the adoption of the new Vintage Mural Permit Ordinance." When the new Vintage Mural Permit Ordinance is instituted, the DCA will be able to determine the number of murals executed prior to that date that would therefore be eligible for this designation. This permit option would enable the City to capture and permit retroactively most of the existing murals in the DCA's database and beyond. In the case of maintenance, the City would require the mural to be repaired if it is in poor condition, and have an anti-graffiti coating applied to it as a condition of receiving the permit.

b. Time/Place/Manner Permit:

An over-the-counter permit issued by the Department of Building and Safety based on the following requirements:

- i. Cannot exceed height of 35' from grade
- ii. Must remain in place without alterations for minimum of 5 years

- iii. Must have no exterior lighting
- iv. Maximum size is 1000 square feet
- v. Only one mural allowed per lot
- vi. May not cover doors or windows or other architectural elements such as cornices and pilasters
- vii. Must be placed on flat planes of walls
- viii. Property owner responsible for maintenance and must apply an anti-graffiti coating to the mural

Fine Art Murals would be exempt from the wall sign calculations for allowable signs on private property, as currently listed in the sign code.

c. Public Art Easement Permit:

A mural permit issued by the DCA for larger murals on private property based on the following possible requirements:

- i. Murals may be created with either a non-standard or new material but the media must be appropriate to ensure the murals' longevity and durability.
- ii. Must be larger than 1000 square feet
- iii. Commitment from City to apply anti-graffiti coating to the mural and to abate graffiti during life of the permit.
- iv. Signed easement form from property owner (Grantor) with a commitment to keep mural in place and unchanged for 5 year minimum
- v. Compliance with City codes for safety, accessibility and lighting; may be fully privately funded, and/or fully or partially funded by the City

The first two permit processes are cost neutral for the City. However, the Public Art Easement permit process would have to be supported by new City program funding and would require buy-in from private property owners who would have to agree to donate their property in the form of an easement to the City. Finally, the requirements and responsibility for maintaining new murals would be better defined in all three mural permit processes, something that is not the case now.

After further consideration and having provided an opportunity for public comment, the Joint Committee moved to receive and file various reports and motions as listed above in Recommendation No.1. Additionally, the Joint Committee made a number of recommendations to move forward in the eventual implementation of the mural regulation system as proposed in the DCA's October 7, 2011 report and detailed above in Recommendation Nos. 2-7.

This matter is now forwarded to Council for its consideration.

Respectfully submitted,
ARTS, PARKS, AND NEIGHBORHOODS COMMITTEE

Paul Kjekorian

<u>MEMBER</u>	<u>VOTE</u>
KREKORIAN:	YES
WESSON:	ABSENT
REYES:	YES

PLANNING AND LAND USE MANAGEMENT COMMITTEE

Paul Reyes

ADOPTED
has amended
OCT 19 2011
See attached Motion
LOS ANGELES CITY COUNCIL

<u>MEMBER</u>	<u>VOTE</u>
REYES:	YES
HUIZAR:	YES
KREKORIAN:	YES

ARL
10/12/11
08-0530_rpt_apn_10-12-11

Not Official Until Council Acts


Amending Motion
Item # 13

I THEREFORE MOVE THAT ITEM #13 ON TODAY'S AGENDA
BE AMENDED AS FOLLOWS:

1. INSTRUCT Planning Department to consider using the City Attorney's Administrative Code Enforcement (ACE) program to address murals in the new ordinance that may be non-compliant with the City's ordinance as an administrative rather than a criminal process.

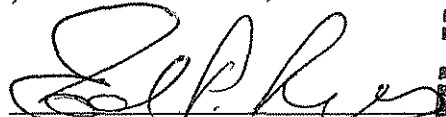
2. INSTRUCT City Attorney and Planning Department to draft the ordinance to allow for the grandfathering of murals (vintage process) as of the date of the adoption of the ordinance.

PRESENTED BY:



JOSE HUIZAR
Councilmember, 14th District

SECONDED BY:



E. G. Reyes

ORIGINAL

ADOPTED

OCT 19 2011

LOS ANGELES CITY COUNCIL

OCT 19 2011