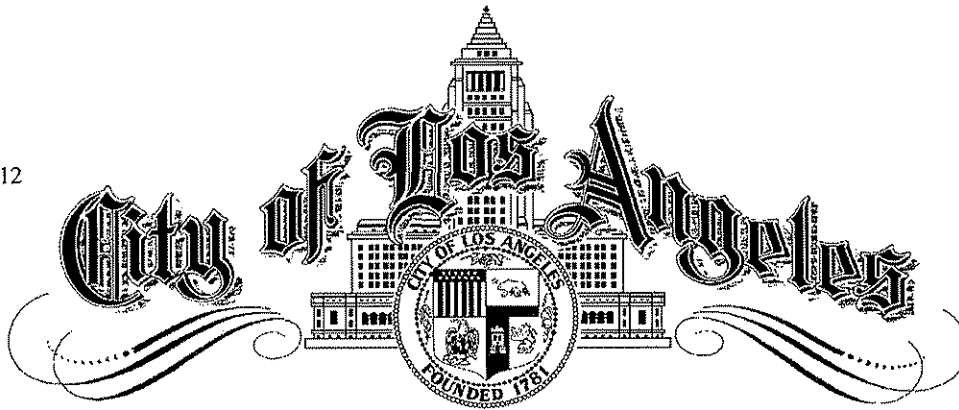


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**CARMEN A. TRUTANICH**  
City Attorney

**REPORT NO. R09-0347**

**OCT 09 2009**

**REPORT RE:**

**DRAFT ORDINANCE AMENDING SECTIONS 19.01 AND 19.02 OF THE  
LOS ANGELES MUNICIPAL CODE RELATING TO FEES FOR FILING APPEALS  
WITH THE DEPARTMENT OF CITY PLANNING AND CORRECTING  
TYPOGRAPHICAL ERRORS IN ORDINANCE NO. 180847**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 09-0600-S50

Honorable Members:

We are transmitting to you for your action, approved as to form and legality, a final draft ordinance regarding the above-described subject matter. The ordinance will amend Sections 19.01 and 19.02 of the Los Angeles Municipal Code relating to appeal fees and correcting typographical errors in Ordinance No. 180847.

CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act (CEQA), the Department of City Planning determined that the proposed ordinance is exempt from CEQA, pursuant to Article II, Section 2(m) of the City's CEQA Guidelines, because it can be seen with reasonable certainty that adoption of the ordinance will not cause a physical change that would constitute a significant effect on the environment. If you concur, you must make this finding prior to or concurrent with your action on the ordinance.

OLD CITY CLERK OFFICE  
RECEIVED

### Background and Summary of Ordinance Provisions

You adopted Ordinance No. 180847 on August 12, 2009. That ordinance amended Sections 12.26, 19.01, 19.02, 19.03, 19.05, 19.06, and 19.10 of the Los Angeles Municipal Code as they relate to the fees for filing applications and appeals under the Zoning Code. On September 2, 2009, the City received a letter from Robert Silverstein contending that the description of the planning fees ordinance in connection with the August 4, 5 and 12, 2009, City Council agendas, violates the requirements set forth in Section 54954.2 of the California Government Code, commonly referred to as the Brown Act ("Act") because "the City Council's consideration of significant increases in the fees for City Planning Department and Department of Building and Safety appeals by aggrieved parties was not lawfully noticed to the public as a result of the City's incomplete and misleading agenda descriptions." Mr. Silverstein's letter demands, pursuant to California Government Code section 54960.1(b), that the City "cure and correct" the alleged violations by rescinding its actions.

In our view, no Brown Act violation has occurred because Subdivision (a) of Section 54954.2 provides that "[a]n agenda [shall contain] a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words." Nothing more is required under the Brown Act.

The agenda description for each of the dates specified in Mr. Silverstein's letter stated "ORDINANCE FIRST CONSIDERATION amending Sections 12.26, 19.01, 19.02, 19.03, 19.05, 19.06, 19.10 and adding Sections 19.16 and 19.17 to the Los Angeles Municipal Code relating to application fees for planning approvals." This agenda description satisfies the requirement in Section 54954.2 of a brief general description. The appeal fees are contained in Section 19.01 of the Los Angeles Municipal Code. The reference to Section 19.01 was sufficient to put a member of the public on notice that the fees contained in the code sections specified were proposed to be amended.

However, in an effort to avoid unnecessary litigation, a new ordinance was prepared to just address the appeal fees. The agenda description for this draft ordinance satisfies the "cure and correct" provision under the Act.

The draft ordinance sets the fee for appeals under Section 12.26K of the Los Angeles Municipal Code lower than the amount of the fee in Ordinance No. 180847. The Department of Planning is recommending the lower fee schedule based on comments that the Department of Planning has received from the public. The lower fee is based on a substantial subsidy of the actual cost incurred to process an appeal. In addition, the draft ordinance corrects typographical errors in Ordinance No. 180847.

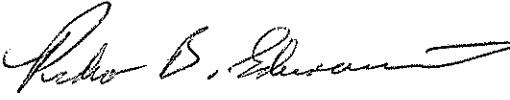
Charter Findings

Pursuant to Charter Section 559, the Director of Planning has approved this draft ordinance on behalf of the City Planning Commission and recommended that you adopt it. Should you adopt this ordinance, you may comply with the provisions of Charter Section 558 by either adopting the findings of the Director of Planning as set forth in her report dated September 24, 2009, or by making your own findings.

If you have any questions, please contact Assistant City Attorney Sharon Siedorf Cardenas at (213) 978-8235. She or another member of this staff will be available to answer any questions you may have when you consider this matter.

Sincerely,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

PE/SSC:pj  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Sections 19.01 and 19.02 of the Los Angeles Municipal Code relating to fees for filing appeals with the Department of City Planning and correcting typographical errors in Ordinance No. 180847.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection B of Section 19.01 of the Los Angeles Municipal Code is amended to read:

**B. APPEAL FEES.** The following fees shall be charged and collected with the filing of all appeals.

**[FILING FEE]**

<b>Type of Appeal</b>	<b>Fee</b>
Appeal by Applicant	A fee equal to 85 percent of the underlying application or \$13,277 for first level appeal and \$11,211 for additional level appeals, whichever is less
Appeal by a person, other than the applicant, that resides or owns property within the legal noticing area and is claimed to be aggrieved	\$150
Appeal by a person, other than the applicant, that resides outside of the legal noticing area and is claimed to be aggrieved	\$500
Appeal by applicant or aggrieved person that resides or owns property within the legal noticing area from a determination made by the Department of Building and Safety to the Director of Planning (Section 12.26 K 2)	\$1,000
Appeal by an aggrieved person, other than the applicant, that resides or owns property outside the legal noticing area from a determination made by the Department of Building and Safety to the Director of Planning (Section 12.26.K 2)	\$3,000

Appeal by applicant or aggrieved person that resides or owns property within the legal noticing area from a determination made by the Director of Planning regarding a Department of Building and Safety finding to the Area Planning Commission or City Planning Commission (Section 12.26.K 6)	\$850
Appeal by an aggrieved person, other than the applicant, that resides or owns property outside the legal noticing area from a determination made by the Director of Planning regarding a Department of Building and Safety finding to the Area Planning Commission or City Planning Commission (Section 12.26.K 6)	\$2,550

Sec. 2. Subsection Y of Section 19.01 of the Los Angeles Municipal Code is amended to read:

**Y. GREEN BUILDING PROGRAM APPLICATION FEE.  
[FILING FEE]**

Type of Application	Fee
Green Building Program Application (Section 16.10)	\$282

Sec. 3. The ninth and thirteenth entries in the table set forth in Subdivision 1 of Subsection A of Section 19.02 of the Los Angeles Municipal Code are amended to read:

Type of Application	Fee
Tentative Map for Multi-Family residential dwelling greater than 100 units (Sections 17.01 -17.13)	\$13,724
Tentative Map for Commercial/Industrial with building over 250,000 square feet floor area ratio (Section 12.95.3)	\$13,892

Sec. 4. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate preservation of the public peace, health and safety for the following reasons. The City Council adopted Ordinance No. 180847 to revise the fees for Planning Department applications and appeals. This ordinance will become effective on October 26, 2009. Ordinance No. 180847 contains some typographical errors which impacted the amount of the fee to be charged for tentative tract maps and green building program applications. This ordinance is necessary to

correct the specified typographical errors and avoid confusion by allowing an incorrect fee to be in place until this ordinance is effective. It is necessary for this ordinance to take effect immediately in order for the corrections to the fees approved in Ordinance No. 180847 to be in effect by the time that Ordinance No. 180847 becomes operative. Therefore, this ordinance shall become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

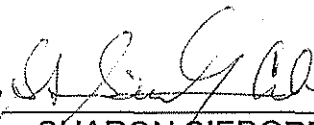
By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By  \_\_\_\_\_  
SHARON SIEDORF CARDENAS  
Assistant City Attorney


Date **SEP 24 2009** \_\_\_\_\_

File No(s). CF No. 09-0600-S50

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted . . . . .

September 24, 2009

See attached report.

  
\_\_\_\_\_  
S. Gail Goldberg  
Director of Planning

DEPARTMENT OF  
CITY PLANNING  
200 N. SPRING STREET, ROOM 525  
LOS ANGELES, CA 90012-4801  
AND  
6262 VAN NUYS BLVD., SUITE 351  
VAN NUYS, CA 91401  
CITY PLANNING COMMISSION

WILLIAM ROSCHEN  
PRESIDENT  
REGINA M. FREER  
VICE-PRESIDENT  
SEAN O. BURTON  
DIEGO CARDOSO  
ROBIN R. HUGHES  
FR. SPENCER T. KEZIOS  
CINDY MONTAÑEZ  
BARBARA ROMERO  
MICHAEL K. WOO  
JAMES WILLIAMS  
COMMISSION EXECUTIVE ASSISTANT  
(213) 978-1300

CITY OF LOS ANGELES  
CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

EXECUTIVE OFFICES

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[www.planning.lacity.org](http://www.planning.lacity.org)

September 23, 2009

Honorable Carmen A. Trutanich, City Attorney  
City of Los Angeles  
8<sup>th</sup> Floor, City Hall East

Attention: Sharon Siedorf-Cardenas  
Assistant City Attorney

Dear Mr. Trutanich:

**DRAFT OF ORDINANCE AMENDING LOS ANGELES MUNICIPAL CODE SECTIONS  
19.01 AND 19.02 OF THE LOS ANGELES MUNICIPAL CODE REGARDING FEES  
FOR FILING APPEALS AND CORRECTING TYPOGRAPHICAL ERRORS IN  
ORDINANCE NO. 180847**

Attached is a draft Ordinance which corrects certain fees for the filing of applications processed by the Department of City Planning ("Department") and fees for filing appeals with the Department that were adopted under Ordinance 180847.

The draft ordinance was initiated in response to a complaint that the appeal fees were not properly described on the City Council agenda. In reviewing the appeal fees, the Department wanted to take this opportunity to clarify the fees and the process for appeals made to the Department from a determination made by the Department of Building and Safety (Section 12.26.K). In addition, it is our belief that appeal fees should be reasonable to allow for broad community input. The fees originally adopted pursuant to Ordinance No. 180847 were based on full cost recovery as set forth in the fee study and backup data. [A copy of the study and backup data is available on the Department's website.] Therefore, the fees relating to Section 12.26.K appeals are recommended to be subsidized by over 80% for applicants and abutting property owners and by 50% for other aggrieved parties.

In addition, there are two minor errors that are being corrected. One is to correct the fee charged for the Green Building Program which was incorrectly changed. The second is to correct two typographical errors relating to tentative tract maps.



Honorable Carmen A. Trutanich  
September 23, 2009  
Page 2

This draft Ordinance strictly relates to correcting the fee schedule and is not a land use matter. For this reason, the matter is not required to be acted upon by the City Planning Commission pursuant to Charter Section 559. However, the Ordinance is consistent with previous action taken on similar ordinances, which subsequently have been enacted into law.

Additionally, this Ordinance does not affect the environment and, therefore, is exempted from the California Environmental Quality Act (CEQA) clearance process pursuant to Article II, Section 2(m) of the Los Angeles CEQA guidelines.

Please contact Ms. Jan Zatorski of my staff at 213-978-1288 for additional information or questions.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Gail Goldberg".

S. GAIL GOLDBERG, AICP  
Director of Planning

Attachments

cc: Eva Yuan-McDaniel, Deputy Director of Planning