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CITY ATTORNEY

REPORT NO. R 17 - 0 4 3 0
DEC 12 2017

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 19.00 THROUGH 19.10 OF THE
LOS ANGELES MUNICIPAL CODE TO UPDATE FEES FOR APPLICATIONS AND
APPEALS FOR PLANNING APPROVALS**

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. 09-0969

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The ordinance would amend Sections 19.00 through 19.10 of the Los Angeles Municipal Code (LAMC) to update the application and appeal fees to decrease the Department of City Planning's (DCP) reliance on the City's General Fund.

Background and Summary of Ordinance Provisions

On December 29, 2016, the DCP transmitted its recommendations for fee adjustments, along with its 2016 Comprehensive Fee Study (Fee Study), to the Planning and Land Use Management Committee (PLUM Committee) for consideration. Although the Fee Study identified costs commensurate with the full recovery by the DCP in providing project planning services, the DCP recommended proceeding with a subsidized fee structure similar to that adopted by the City Council in 2009.

On July 26, 2017, the Office of the City Administrative Officer (CAO) analyzed the DCP's proposed recommendations and Fee Study and submitted a report (CAO File No. 0220-04851-0014) that corroborates the methodology used to assess the cost analysis that was performed as part of the Fee Study. The CAO recommended

updating fees to allow for full cost recovery consistent with the revenue and expenditure assumptions contained in the Fiscal Year 2017-18 Adopted Budget.

On August 14, 2017, the DCP and CAO submitted a joint report (CAO File No. 0220-04851-0018) that focused on the appeal fees and fee updates assessed in the Fee Study, including an in-depth discussion of the five appeal fee options under LAMC Section 19.01-B. The joint report also provides an explanation of why certain fee increases are greater than 50 percent.

On August 15, 2017, the PLUM Committee requested that the City Attorney prepare and present a draft ordinance to amend LAMC Sections 19.01 through 19.10. The PLUM Committee, however, requested a report back from DCP to allow for further review and consideration regarding Appeal Fee No. 19.01-B.3¹, which relates to non-applicant initiated appeal fees. Therefore, Appeal Fee No. 19.01-B.3 has not been amended in this draft ordinance.

Based on the PLUM Committee's recommendation, this draft ordinance seeks to amend LAMC Sections 19.01 through 19.10, subject to the above exclusion, to allow for an increase in application and appeal fees to more accurately represent the cost of providing planning and land use services.

Charter Findings Not Required

The enclosed draft ordinance strictly relates to an increase in an existing fee in the fee schedule and is not a land use ordinance under City Charter Section 558. For this reason, this draft ordinance is not subject to approval by the City Planning Commission.

Fee Notice Requirements

Prior to adopting a new fee or increasing an existing fee, the City Council must conduct a public hearing concerning the matter, as required by Government Code Section 66016. Notice of the time and place of the meeting at which the hearing will be held, including a general description of the matter to be considered, must be published in accordance with Government Code Section 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and

¹ We note that due to either the deletion or reorganization of certain sections of the ordinance, the numbering of several provisions, including Appeal Fee Nos. 19.01-J.8 (Project Permit Compliance with DRB – Standard (SF)), 19.01-J.12 (DRB – Preliminary for SF Residential Dwelling), and 19.01-B.3 (Appeal Fees – Person Other Than Applicant) has changed. The PLUM Committee's requested amendments, however, have been made and are included in full in the enclosed draft ordinance.

notice of that hearing be published in a newspapers with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

CEQA Determination

The DCP recommends that the City Council determine that the adoption of this ordinance does not constitute a "project," as defined by CEQA pursuant to CEQA Guidelines Section 15378(b)(4), which states that a "project" does not include "[t]he creation of government funding mechanisms or other government fiscal activities which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment."

Furthermore, even if it were found to be a "project" under CEQA, the DCP recommends that the adoption of this ordinance is exempt from CEQA based upon CEQA Guidelines Section 15061(b)(3), which states that a project is exempt from CEQA if "[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." If you concur, you must comply with CEQA by making this determination prior to or concurrent with your action on the ordinance.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety with a request that all comments be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Kimberly Huangfu at (213) 978-8257. She or another member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

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