

## OTHER SCHEDULED ITEMS

**BELVEDERE CITY COUNCIL**  
**July 10, 2023**

**ITEM NO. 10.B.**

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To: Mayor and City Council

From: Rebecca Markwick, Director of Building and Planning

Reviewed By: Robert Zadnik, City Manager

**Subject: Review of the City of Belvedere Mills Act Program**

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### **RECOMMENDATION**

1. Review the City of Belvedere Mills Act application and monitoring process.
2. Consider providing direction to Staff on recommendations to amend the Mills Act Program.

### **BACKGROUND/DISCUSSION**

The Mills Act is a California state law enacted in 1976. It provides financial incentives for the preservation of historic properties by allowing cities and counties to enter contracts, known as Mills Act Agreements (MAAs), with private property owners. Under these agreements, property owners are granted property tax savings to help offset the costs of restoring, rehabilitating, and maintaining their historic homes.

To qualify for an MAA, a property must first be designated historically significant by a local historic preservation commission or another recognized authority. In Belvedere's case, the City's Historic Preservation Committee assesses the historical significance of an application based on set criteria, prepares a report, and recommends approval or denial of historic designation to the City's Planning Commission. The Planning Commission then forwards its recommendation to the City Council for approval or rejection. Note that historic designation does not prevent changes being made to the property that can alter its character, and an owner may request de-designation at any time.

Once a property has received historic designation, the owner can ask the City to enter an MAA on the approval of the City Council. To qualify for an MAA, the property owner must agree to preserve the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States

Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

In return for the owner's commitment to preserve and maintain the property, they are eligible for a reduction in annual property taxes, sometimes a substantial reduction. The property must be maintained in accordance with historic preservation standards for the duration of the MAA.

### **MILLS ACT TERM**

Under California law, MAAs have a minimum term of 10 years and are automatically renewed annually for an additional year. MAAs must be entered into by January 1 to become effective for the fiscal year commencing July 1. Except for a breach of the agreement (addressed below), a municipality may terminate an MMA by Notice of Non-Renewal served at least 60 days prior to the renewal date. Cal. Gov't Code sec. 50282(a). A property owner may terminate an MMA by Notice of Non-Renewal served at least 90 days prior to the renewal date. Cal. Gov't Code sec. 50282(a). If the municipality or property owner terminates the contract by Notice of Non-Renewal, the contract will continue to the conclusion of its original or extended term ("the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract") Cal. Gov. Code § 50282(c).

Under Belvedere's Code, MAAs have a maximum period of 15 years. Therefore, the City serves a Non-Renewal Notice in the fifth year. MAAs are binding on the owner and any subsequent buyer.

If a property owner breaches the conditions of their MAA, the City can immediately cancel the contract or bring an action in court to enforce the agreement. If the City cancels the MAA, the owner is assessed a penalty equal to 12.5% of the property's market value at the time of cancellation, as determined by the County Tax Assessor.

### **MILL ACT TAX SAVINGS**

Once the City has entered an MAA with a property owner, the County Tax Assessor must conduct a three-way analysis comparing the property's market value, assessed value, and Mill Act "restricted income" value. The lowest of these three values serves as the basis for determining property taxes for the duration of the MAA and is recalculated annually. The restricted income approach estimates the property's net rental income based on comparable rents in the area and capitalizes that income stream to form the tax basis. The restricted income approach nearly always delivers the lowest property valuation. Properties purchased recently, with a large gap between assessed and restricted income values, typically receive very large tax savings. Properties purchased further back, with lower assessed values, typically receive minimal tax savings.

Note that once a Notice of Non-Renewal is issued in Year 5, the County Assessor applies a capitalization rate and an escalation factor that gradually increases the Mills Act value to equal the unrestricted assessed value, reducing the tax savings to the property owner over time.

**BELVEDERE'S MILLS ACT HISTORY**

The City of Belvedere formally joined the Mills Act program in 1993 by adopting the Historic Preservation Ordinance, Title 21 of the Belvedere Municipal Code. In September 2005, the City Council adopted Resolution No. 2005-31 to increase the cap on local property tax losses associated with MAAs from \$10,000 to \$25,000 annually and to adjust the cap annually in an amount equal to the percentage change in the City's overall assessed values.

**MILLS ACT TODAY**

The City currently has 11 properties under an MAA, with one more in process and two applications pending. The current annual tax loss to the City from MAAs is \$44,045, versus a current Mills Act Program cap of \$61,239. It is important to note that the City receives only 20.7% of Belvedere's basic property tax, and the total annual tax loss from Mills Act properties is currently \$212,778. This funding loss impacts local public schools, the County, and other agencies that receive [a portion of Belvedere's basic property tax](#). Notably, four of the 11 properties in the program account for 83% of the tax loss.

**Belvedere Mills Act Properties: FY2022-23**

| <b>Address</b>         | <b>Assessed Value</b> | <b>Mills Act Value</b> | <b>Total Tax Loss</b> | <b>City Tax Loss</b> | <b>MAA Date</b> |
|------------------------|-----------------------|------------------------|-----------------------|----------------------|-----------------|
| 160 Madrona Avenue     | \$5,205,736           | \$5,145,000            | \$607                 | \$126                | Sep-08          |
| 450 Belvedere Avenue   | \$7,095,574           | \$6,630,000            | \$4,656               | \$964                | Aug-11          |
| 296 Beach Road         | \$6,494,520           | \$6,130,000            | \$3,645               | \$755                | Aug-11          |
| 276 Beach Road         | \$7,650,000           | \$2,315,000            | \$53,350              | \$11,043             | Jun-15          |
| 280 Bayview Avenue     | \$881,138             | \$785,000              | \$961                 | \$199                | Mar-19          |
| 260 Bayview Avenue     | \$5,474,460           | \$2,375,000            | \$30,995              | \$6,416              | Jun-19          |
| 172 Beach Road         | \$5,746,460           | \$1,915,000            | \$38,315              | \$7,931              | Sep-19          |
| 334 Golden Gate Avenue | \$2,039,645           | \$1,900,000            | \$1,396               | \$289                | Feb-20          |
| 350 Bella Vista        | \$3,150,000           | \$2,360,000            | \$7,900               | \$1,635              | Nov-20          |
| 370 Bella Vista        | \$3,442,296           | \$1,665,000            | \$17,773              | \$3,679              | Mar-21          |
| 308 Golden Gate Avenue | \$7,493,000           | \$2,175,000            | \$53,180              | \$11,008             | Jun-21          |
| <b>TOTAL</b>           | <b>\$54,672,829</b>   | <b>\$33,395,000</b>    | <b>\$212,778</b>      | <b>\$44,045</b>      |                 |

Total Tax Loss equals 1% of Assessed Value less 1% of Mills Act Value.

City Tax Loss equals 20.7% of Total Tax Loss.

**ISSUES WITH THE CURRENT PROGRAM**

The purpose of the Mills Act is to provide property tax relief for property owners who actively participate in restoring and maintaining their historic properties. However, under Belvedere's current standards, there is no requirement for property owners to provide active plans or proof of satisfactory rehabilitation or restoration. As a result, there is no mechanism to ensure that the money saved on property taxes goes toward a property's rehabilitation. In essence, Belvedere property owners may receive substantial tax breaks for simply owning a historically designated home.

State law also requires that the City inspects the interior and exterior of MAA properties every five years to determine the owner's continued compliance with the contract. Contrary to state law, Belvedere staff do not currently undertake these inspections, meaning owners could allow their properties to fall into disrepair or undertake non-compliant work, in breach of the MAA, without the City's knowledge.

**ALTERNATIVE MODELS**

**City of Larkspur:** Larkspur is the only other City in Marin that utilizes the Mills Act. Under its rules, applicants must submit a 10-year Maintenance, Repair, and Restoration Plan in compliance with requisite historical standards when the application is submitted and update it annually. Applicants may not include maintenance, repair, or restoration activities that were completed before implementing a Mills Act Contract. Notably, the Plan's total cost must meet or exceed the estimated tax savings. The City conducts periodic inspections during the contract's life to ensure the work is completed. The initial term of an MAA is 10 years, renewing annually in perpetuity.

**City and County of San Francisco:** To qualify for San Francisco's Mills Act Program, property owners must be actively rehabilitating their properties in compliance with requisite historical standards or have completed an approved project within the year prior to application. Applicants must submit a 10-year Maintenance, Repair, and Restoration Plan at the time of application, and the City conducts periodic inspections during the contract's life to ensure the work is completed. Eligibility is limited to a property tax assessment of \$3,000,000 for residential buildings. The initial term of an MAA is 10 years, renewing annually in perpetuity.

**RECOMMENDATION**

1. Review the City of Belvedere Mills Act application and monitoring process.
2. Consider providing direction to Staff on recommendations to amend the Mills Act Program.

**ATTACHMENTS**

1. [City of Belvedere Mills Act Application](#)
2. [City of Larkspur Mills Act Qualifications and Requirements](#)
3. [City and County of San Francisco Mills Act Historical Property Contract](#)