

WHAT IS THE MILLS ACT?

The Mills Act is a state law allowing cities to enter into contracts with the owners of historic structures. Such contracts require a reduction of property taxes in exchange for the continued preservation of the property. Property taxes are recalculated using a formula in the Mills Act and Revenue and Taxation Code.

The City Council has approved the use of Mills Act contracts with owners of designated historic properties. Based on this action, the Landmarks Preservation Commission is promoting awareness and use of the Mills Act as an incentive for the preservation of local historic buildings.

In Berkeley, the Mills Act requires that historic **property owners spend the property tax money that is saved through the Mills Act on preserving and/or restoring their property.**

WHO IS ELIGIBLE?

To qualify for the Mills Act in the City of Berkeley, a building must first be designated by the City of Berkeley as a Landmark, Structure of Merit or building in a Historic District.



Thorsen House, Piedmont Way, Berkeley

HOW IT WORKS

The Mills Act law enables the City Council to enter into 10-year contracts with owners of historic properties. Under these contracts (“Mills Act contracts”) owners agree to maintain and if necessary rehabilitate their historic structures.

Mills Act contracts have a minimum term of 10 years and are automatically renewed annually for an additional year. Thus, unless the City or the owner files a notice of non-renewal, a Mills Act contract always has a term of 10 years.

Either the property owner or the City may elect not to renew for any reason. The effect of non-renewal is to terminate the contract at the end of the current 10-year term. During the remainder of the contract term, the property taxes increase gradually to the normal level.

The owner may also petition the City to cancel the Mills Act contract. Cancellation requires assessment of a penalty of 12.5% of pre-Mills Act valuation. The City may also cancel the contract, but only in the case of breach of the contract conditions.

Once a Mills Act contract is terminated for any reason the property owner’s taxes increase to the level they would have been at but for the Mills Act contract.

Each property owner should consult with his/her own counsel concerning the advisability of entering into a Mills Act contract prior to filling out an application.

CALCULATING PROPERTY TAX

Mills Act contracts are unusual among preservation incentives in that **tax benefits are available not only for income property but also for owner-occupied property.** Property valuation is determined by the “income” method set out in Revenue and Taxation Code, Section 439.21.

Generally, the income less certain expenses is divided by a capitalization rate to determine the assessed value of the property. When a property is owner-occupied, the determination of “income” is based on what a property could reasonably be expected to yield.

The income projected for owner-occupied property is based on comparable rents for similar property in the area or, if sufficient rental information is available, the income that it could reasonably be expected to produce under prudent management.

In the case of income producing property, the income amount is based on rent actually received and on typical rents received for similar properties having similar uses.

The capitalization rate for both owner-occupied and income property is determined by adding together an interest component, a historic property risk component, and a property tax component.

HYPOTHETICAL PROPERTY TAX CALCULATION

(SINGLE-FAMILY DWELLINGS/
CONDOS)

Current assessed valuation = \$ 250,000
Current taxes = \$ 3,125
($\$ 250,000 \times 0.0125$)

Recalculation Using Mills Act Assessment Method:

Gross income = \$ 14,400
($\$ 1,200 \times 12 \text{ mo.}$)
Less expenses = \$ 2,000
(insurance, repairs, utilities)
Net income = \$ 12,400

Capitalization rate = 13.66%
Interest component at 6.75%
Historic property risk component at 4%
Amortization component at 1.67%
Property tax component at 1.24%
Total 13.66%

New valuation = \$90,776
($\$ 12,400 / 0.1366$)

New taxes = \$ 1,135
($\$ 90,776 \times 0.0125$)

**TOTAL SAVINGS OF \$ 1,990
IN ANNUAL PROPERTY TAXES**

TERMS DEFINED

- **Interest component** is determined by the State Board of Equalization by September of the year preceding the assessment year and is based on the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board.
- **Historic property risk component** is 4% in the case of owner-occupied single-family dwellings and condos. In all other cases, the historic property risk component is 2%.
- **Amortization component** is a percentage equal to the reciprocal of the remaining life of the improvements. Although this calculation varies by individual structure, as an estimate, typical remaining life of a frame building would be 20 years (or 0.05); for a masonry building, the remaining life might be up to 50 years (or 0.02). The current rate used by the County Assessor is .0167.
- **Property tax component** is defined as the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Currently, this component is 1.24%.

REQUIRED APPLICATION MATERIALS

- Mills Act Contract Application.
- Copy of legal description.
- A completed financial analysis for Mills Act contract form (see sample). The final financial analysis is prepared by the County Assessor's Office.

The following must be prepared by a specialist in historic preservation:

- An architectural report identifying the status of all character defining features of the building(s) and site (photographs required).
- A restoration/rehabilitation plan for the designated property. If the building(s) is already restored in good condition, a maintenance list must be submitted to support the need for tax relief (see sample).

The Mills Act offers owners of historical buildings in the City of Berkeley the opportunity to realize significant property tax savings in exchange for preserving buildings designated as a City of Berkeley Landmark, Structure of Merit or buildings in a Historic District.

For more information regarding designating your property and/or an application for a Mills Act contract, please contact:

**City of Berkeley Planning &
Development Department
Landmarks Preservation
Commission Secretary
(510) 981-7429
www.ci.berkeley.ca.us/planning/landuse**

City of Berkeley
Planning & Development Department – Land Use Planning Division
Landmarks Preservation Commission
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THE MILLS ACT

**A Tax Incentive For
Preserving And Restoring
Historic Properties**

INFORMATION

Prepared by:
City of Berkeley
Land Use Planning Division
Landmarks Preservation
Commission