



DATE: October 13, 2017

TO: The Hon. Alameda Mayor Trish Herrera Spencer, Vice Mayor Malia Vella and Councilmembers Marilyn Ezzy Ashcraft, Frank Matarrese and Jim Oddie

FROM: Lisa Vorderbrueggen, BIA|Bay Area East Bay Executive Director for Governmental Affairs

RE: Proposed Public Art Ordinance Updates

Dear Mayor Spencer, Vice Mayor Vella and Councilmembers:

The Building Industry Association of the Bay Area (BIA|Bay Area) is a non-profit association representing more than 400 members of the residential development industry including companies that are working or hoping to work on new housing projects in Alameda.

BIA and its members strongly urge the Alameda City Council to retain the city's current \$150,000 public art fee cap. Removing the cap will make newly constructed homes more expensive and exacerbate an already severe affordability crisis in the Bay Area. According to the National Association of Home Builders, every \$1,000 jump in the median price of a newly built home makes buying a home unaffordable for another 15,328 California households. As calculated by Zillow, the median home value in Alameda has already increased \$42,000 in the past year from \$880,000 to \$922,000 and is predicted to rise another \$18,000 by August 2018, which will further widen the affordability gap.

BIA also believes the public art fee represents an unlawful development exaction which lacks a reasonable nexus between any adverse impacts associated with development and the public art requirement that is under consideration.

In 2015, BIA filed a lawsuit in federal court challenging the City of Oakland's adoption of an ordinance requiring developers of residential and commercial projects to spend an arbitrary percentage of a project's total cost on so-called "public art" or pay an equivalent in lieu fee to the city so that it can establish a fund to support local artists. BIA's lawsuit argues that Oakland's requirement violates the Fifth Amendment's prohibition against imposing development exactions that do not have a sufficient nexus to an identifiable deleterious impact created by a project. Alameda should suspend its ordinance, or postpone making any changes to the existing regulations, pending the outcome in the Oakland case.

Thank you for your consideration. Please feel free to contact me anytime at 925-348-1956 or [lvorderbrueggen@biabayarea.org](mailto:lvorderbrueggen@biabayarea.org).

Sincerely,

A handwritten signature in cursive script that reads "Lisa Vorderbrueggen".

Lisa Vorderbrueggen  
*East Bay Governmental Affairs Executive Director*  
BIA|Bay Area

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CC:  
Alameda City Manager Jill Keimach  
Community Development Director Debbie Potter