



Civic Arts Commission

INFORMATION CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Civic Arts Commission

Submitted by: Lisa Bullwinkel, Chairperson, Civic Arts Commission

Subject: Short Term Rental Revenue Allocations for Civic Arts and the Affordable Housing Trust Fund

INTRODUCTION

Resolution No. 68 278-N.S. established the City of Berkeley's priority to distribute Short Term Rental (STR) revenues collected in the following manner:

1. Two thirds (66.7%) to the Affordable Housing Trust Fund
2. One third (33.3%) to the Civic Arts Grant Fund.

The Resolution also designated 2% of monthly enforcement fees and penalties to administrative costs of the STR program with any administrative costs above that amount to come out of the STR taxes as approved by Council.

At the regular meeting on September 22, 2019, the Civic Arts Commission unanimously approved a recommendation to send an Information Report to Council:

M/S/C: (Anno/Slattery) to send an Information Report to Council requesting that the original intention of Resolution No. 68 278-N.S. be honored by allocating the STR Revenues in the General Fund budget as indicated in that resolution: Two thirds to the Affordable Housing Trust Fund and one third to the Civic Arts Grants Fund. Ayes—Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Slattery, Tamano; Noes—none; Abstain—none; Absent—none.

CURRENT SITUATION AND ITS EFFECTS

During the first year of collection of the STR Taxes, \$800,000 was spent on inaugurating the program, an amount well above the 2% allotment.

Also, there is language in Resolution No. 68 278-N S that is inappropriate to the topic of said Resolution. It needs to be deleted as it does not concern this topic at all, but has to do with the Private Developers Percent for Art Program. It was probably a clerical error. That language to be removed is as follows:

“WHEREAS in accordance with BMC Section 23C 23 050 developers must either include On Site Publicly Accessible Art valued at 1.75% of the Construction Cost or Pay an in lieu fee of 0.80% of the Construction Cost to the City and”

BACKGROUND

Since one of the main the economic drivers for STR taxes is the arts, which are bringing people into Berkeley for events, it was felt by the Council, that a portion of the STR should go directly to the arts. In addition, since STRs take some affordable housing units off the market, it was deemed that the rest of the funding should go to the Affordable Housing Fund as an offset.

Taking more fees for administration than are necessary, over and above the 2%, was not the intent of Council's distribution of the taxes.

As you've heard from our report on the Cultural Plan, the Art Commission has a huge vision for what can be done to create an even more amazing City. In order to accomplish all of these wonderful goals, we need the funding from the STR taxes, to create more wonder.

ENVIRONMENTAL SUSTAINABILITY

There are no known environmental impacts associated with this item.

POSSIBLE FUTURE ACTION

The Civic Arts Commission thinks that \$800,000 is an unreasonable amount for administering an on-going program. We think 2% plus fines collected is adequate to maintain this program.

We would also like to see the Resolution re-written into an Ordinance so that there is transparency for the public in this matter.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The \$800,000 funding should be distributed as noted above to the Affordable Housing Trust Fund and the Civic Arts Grant Fund for any years past year one of the initial program administration costs.

CONTACT PERSON

Jennifer Lovvorn, Secretary to the Civic Arts Commission, 981-7533

Attachments:

1: Resolution No. 68 278-N.S.

RESOLUTION NO 68 278–N S

ESTABLISHING BUDGET PRIORITIES FOR EXPENDITURE OF SHORT TERM RENTAL TAXES COLLECTED BY THE CITY PURSUANT TO BERKELEY MUNICIPAL CODE SECTIONS 7 36 AND 23C 22

WHEREAS through the adoption of Ordinance No 7 521 N S on February 28 2017 the City Council clarified that short term rentals are subject to the Transient Occupancy Tax and

WHEREAS the purpose of the Ordinance was to allow hosts to benefit from available space in their homes while among other things preventing long term rental units from being replaced with short term rentals protect affordable housing units from conversion and generate City revenue to share City infrastructure cost and other public expenditures and

WHEREAS the proliferation of short term rentals reduces the supply of housing in the City and

WHEREAS fees charged by short term rental units can easily eclipse the rate charged by a standard rental unit incentivizing the owners of short term rental units to theoretically keep units empty and

WHEREAS Ordinance No 7 521 N S does not specify the programs to which the revenue generated from the Transient Occupancy Tax ought to be allocated and

WHEREAS the City's Housing Trust Fund helps to develop and preserve long term below market rate housing for low very low and extremely low income households and receives funding from development fees and various other sources and

WHEREAS in accordance with BMC Section 23C 23 050 developers must either Include On Site Publicly Accessible Art valued at 1 75% of the Construction Cost or Pay an in lieu fee of 0 80% of the Construction Cost to the City and

WHEREAS the city will generate revenue to support administrative costs through the 2% monthly enforcement fee and from penalties imposed on violators of the provisions set forth in BMC 23C 22

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager shall allocate the 2% monthly enforcement fee and revenue generated from any associated penalties to staff costs

BE IT FURTHER RESOLVED that starting in FY 2019 staff costs as approved by the City Council that exceed the above enforcement fees and penalties shall be appropriated from the short term rental taxes collected pursuant to BMC Section 23C 22 050 Section H with primary allocation of the rental tax to the purposes listed below

- 1 Two thirds (66 7%) allocated to the Affordable Housing TrustFund
- 2 One third (33 3%) allocated to the Civic Arts GrantFund

The foregoing Resolution was adopted by the Berkeley City Council on December 19 2017 by the following vote

Ayes Bartlett Davila Droste Harrison Maio Wengraf Worthington and Arreguin

Noes None

Absent Hahn


Jesse Arreguin Mayor

Attest 
Mark Numainville City Clerk