



# City of Culver City

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## Staff Report

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**CC - ACTION ITEM:** Discussion and Direction on Implementation of the City's Soft Story Seismic Retrofit Program, Including Financial Incentive Programs, Tenant Cost Sharing, and Staffing.

**Meeting Date:** October 24, 2022

**Contact Person/Dept.:** Tim Koutsouros / Planning and Development Services Department

**Phone Number:** (310) 253-5800

**Fiscal Impact:** Yes  No

**General Fund:** Yes  No

**Attachments:** Yes  No

**Commission Action Required:** Yes  No  **Date:**  
**Commission Name:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (10/19/2022)

**Department Approval:** Jesse Mays, Assistant City Manager (10/14/2022)

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### **RECOMMENDATION**

Staff recommends the City Council discuss and provide direction on implementation of the City's Soft Story Seismic Retrofit Program, including financial incentive programs, tenant cost sharing, and staffing.

### **BACKGROUND**

On September 27, 2021 the City Council adopted an Ordinance amending Chapter 15.02 of the Culver City Municipal Code (CCMC) by adding subchapter 15.02.500, Mandatory Seismic Strengthening Provisions for Existing Wood-Frame Buildings with Soft, Weak or Open-Front Walls. This Ordinance is the basis for the City's Soft Story Seismic Retrofit Program and requires owners of certain properties to make seismic (earthquake resistance) improvements to their buildings. During the Ordinance introduction on September 13, 2021, the City Council directed staff to further study financial incentives to reduce the fiscal burden on property owners and encourage owners to make the seismic improvements in a timely manner. City Council directed staff to return to City Council

later to present its findings.

## **DISCUSSION**

The City retained Degenkolb Engineers to assist in the implementation of the Soft Story Ordinance, including researching fee waivers and financial incentives. In July and August of 2022, Degenkolb Engineers conducted a Soft Story Retrofit Program City Incentives Study. The study included determining the jurisdictions that have mandatory/voluntarily Soft Story Retrofit Programs in place or in development, and which incentives were considered and/or implemented.

Culver City is a leader in seismic resiliency. Fewer than 20 other California jurisdictions have adopted Soft Story ordinances, so there is a limited research pool. Degenkolb received responses from 9 jurisdictions, and each response was unique. Incentives from the responsive jurisdictions included one or more of the following: zoning waivers, property tax reductions, loan programs, rent control modifications-cost sharing, grants, and permit/plan check fee refunds/waivers. Attachment 1 provides a summary table of incentive findings.

The City Council could consider whether to initiate one or more of the following programs:

### **Real Property Transfer Tax Reductions**

New owners of residential buildings in Berkeley may receive a refund up to 1/3 of real estate transfer tax where a seismic retrofit project is complete within one year after the sale of the property. Culver City collects a Real Property Transfer Tax (RPTT) and could consider providing a refund like Berkeley's as an incentive. RPTT funds are used by the City for any General Fund purpose. Any incentive refunding RPTT would result in a proportional reduction to the funding of the City's General Fund. Berkeley's RPTT ordinance includes specific reference to a seismic rebate program, while Culver City's voter-approved RPTT ordinance does not. Should the City Council wish to pursue this incentive, staff would need to do additional research into whether such a rebate program would be permissible, given our specific ordinance, and if so, how the program would work within the confines of Culver City's specific voter-approved ordinance.

### **Loan Programs**

#### *PACE*

Currently the City of San Francisco, Berkeley, City of Los Angeles, and West Hollywood have opted into Property Assessed Clean Energy (PACE) programs which provide seismic retrofit financing to property owners. PACE financing allows a participating property owner to repay the cost of retrofit improvements through an assessment levied against their properties which is payable on property tax bills. A tax lien is filed against the property as security until the assessment is repaid. The assessment remains with the property until the assessment is repaid.

For Culver City property owners to participate in the PACE program, the City would need to adopt a resolution joining a Joint Powers Authority (JPA) that oversees the PACE provider's operations, and authorizing the PACE program to take place in the City. As a participant in the JPA, the City would

not be obligated to repay the bonds issued by the Authority or collect or pay the assessments levied on the participating properties. Staff would research this option further if Council desires to move in this direction.

Some of the advantages of a PACE loan are that they may have zero-down payment, the loan is tied to the property and transferred to new owners once sold, and the loan has potential tax credits/deductions. Some of the disadvantages of the PACE loan are that it is considered a First Lien priority and there is a foreclosure risk if an owner does not make the payments. The First Lien priority also results in additional hurdles during sale in securing a mortgage by a new buyer. In addition, the PACE program utilizes private contractors that would be outside City authority.

### *CalCAP*

More recently, the California Capital Access Program (CalCAP) Seismic Safety Financing Program became available. CalCAP is administered through the State of California Pollution Control Financing Authority. The program helps California small businesses and residential building owners with financing seismic retrofits by offering loss reserve protections to lenders that underwrite the costs of property improvements. A City noticed soft story retrofit project would qualify for the CalCAP Seismic Safety Financing Program. Property owners can secure finance through this program independent of City assistance. Culver City can educate owners of the program during outreach and with information on the City website.

### **Grants**

A potential financial assistance option is federal funding for hazard mitigation through FEMA and Cal OES. FEMA periodically has grant opportunities for which cities can apply. The application process is lengthy, potentially taking one or two years to complete. Currently FEMA's priority in California is for Fire Hazards. The City is required to participate in a share of the grant's cost, typically 25%. Funds may be applied to city administration/implementation costs and/or property owners, but they do not apply retroactively. As it is a specialized undertaking, the City would need consultants to apply and administer funds, if awarded. West Hollywood, Oakland, and Berkeley have been awarded FEMA Grants while Beverly Hills and Pasadena applied but were unable to secure funding.

The City of Alameda provides a grant of up to \$5,000 to low-income rental properties to offset engineering evaluation and fees, and provides eligibility for Rental Rehabilitation Loan Program funds to assist in the cost to retrofit the structure. Through the Rental Rehabilitation Loan Program, Alameda provides a low interest loan.

### **Plan Check and Permit Fee Waivers**

Santa Monica originally implemented a fee waiver program to promote seismic retrofit compliance. However, in 2014 it eliminated the program because it had not been an effective incentive.

Pasadena, Beverly Hills, Alameda, and Fremont each have fee reductions/reimbursements to help with the costs of plan check and permitting as well serving as an incentive for timely compliance.

- Pasadena waives the construction tax portion of the permit fee. Culver City does not have an equivalent construction tax.

- Beverly Hills will refund 100% and 50% of the permit fees for those who completed their required retrofit 50% quicker than the allotted time and 33% quicker than the allotted time, respectively after receiving the Notice to Comply. In Culver City this would be equivalent to 100% and 50% refund of the permit fees for those who complete their retrofit within 2 years 6 months and 3 years 4 months, respectively.
- Alameda refunds 100% plan review and permit fees where the permit is issued 18 months PRIOR to date of service on notice.
- The City of Fremont refunds permit fees for projects completed in ordinance timeframe and plan check fees where review is limited to three cycles or less.

West Hollywood considered but did not implement plan check and permit fee waivers.

### **Zoning Waivers**

City Council had previously provided direction to staff to consider zoning waivers for parking requirements. Seismic retrofit installations can reduce the size of existing parking spaces, such that parking spaces no longer meet minimum requirements. Los Angeles and Alameda both grant zoning waivers for standard parking requirements if the seismic retrofit results in a substandard parking area. Since the City Council has recently introduced amendments to the zoning code to eliminate minimum parking requirements, staff is not recommending including this as part of any proposed incentive program as it would be moot.

### **Cost Sharing for Tenants**

Cost sharing of eligible capital improvement projects between landlords and tenants is permitted under the Culver City Rent Control Ordinance (CCMC Section 15.09.225) (RCO). The RCO allows owners to pass-through to tenants costs of up to 50% of the eligible capital improvement project, which includes “Substantial improvements to, but not the renovation or replacement of, any structural, electrical, plumbing, or mechanical system that requires a permit pursuant to State or local law, such as a required seismic retrofit” (15.09.225.A.2). City staff is required to approve any proposed pass-through costs. The pass-through cost must be amortized over the useful life of the improvement, with a cap on the pass thru costs not to exceed 3% of the tenant’s rent. A longer amortization period results in a lower tenant payment over a longer period of time. A shorter amortization period results in a higher tenant payment over a shorter period of time, capped at 3% of a tenant’s rent. Research was conducted investigating how other cities with rent stabilization ordinances approached cost sharing with regards to mandatory seismic retrofit. A summary table of Rent Control Cost Sharing findings are found in Attachment 2.

A retrofit of a 4-unit soft story structure estimated monthly unit cost sharing example is found in Attachment 3. The City’s current amortization list reflects a shear wall retrofit solution amortization period of 10 years. However, many retrofits utilize frame solutions which will not fit into this category. Other jurisdictions retrofit amortization schedules range between 10 and 20 years.

Staff seeks the City Council’s recommendation on an amortization term for soft story retrofit projects,

such as 5, 10, 15 or 20 years.

### **Staffing Considerations**

Most neighboring city retrofit programs require the payment of plan check and permit fees to recover the cost for providing timely plan reviews and inspection. Plan check fees cover the cost of staff's time plan checking the submittals to ensure they comply with minimum codes. Permit fees cover the cost of permit processing and inspection to ensure projects comply with minimum codes and approved construction plans.

The current plan check workload exceeds staff capacity. Building Safety utilizes third party outside consultants to review the overflow, which is currently approximately 40 percent of the plan review. Given the additional seismic program workload, it is anticipated that plan review, permitting, and inspection demand may further exceed staff capacity. Even with the economic uncertainty and rising interest rates, project submittals in quarter one of Fiscal Year 2022-2023 are 10 percent higher than they were the previous Fiscal Year. Therefore, it is anticipated that the additional work to plan check seismic retrofit projects will be performed by contract consultants or with the addition of in-house staff.

The City Council directed staff to study the potential for bringing on "permanent" staff for up to five years to implement the program versus using third-party consultants. The cost differences are as follows

1. Limited full-time staffing: \$259,840 annually, comprised of one (1) additional plan check engineer (\$143,340) and one (1) additional building inspector (\$116,500); or
2. In-house consulting: \$456,800 annually, comprised of one (1) additional contract plan check engineer (\$280,000 based on an hourly rate of \$135) and one (1) additional contract building inspector (\$176,800 based on an hourly rate of \$85); or
3. A combination of both limited full-time staffing and an in-house consultant.

As shown above, bringing on limited full-time staffing would be more cost effective than utilizing consultants for the plan check, inspection, and permit processing of the retrofit program.

### **FISCAL ANALYSIS**

City-provided financial incentives and the implementation of the soft story program will result in a fiscal impact that depends on the incentive programs selected. The seismic program plan check and permit fees are estimated to be \$1.5 million, averaging \$300,000 per program year. These costs are expected to be reimbursed through plan check and permitting fees. Costs consist of the following:

1. Implementation - \$75,000 - Degenkolb is under contract to assist with implementation, incentive research, technical inquiries, and limited early plan review.
2. Staff for 5 years -

- a. Full-time limited: one (1) plan check engineer (\$143,340) and one (1) building inspector (\$116,500) per year; OR
  - b. In-house consulting: one (1) additional contract plan check engineer (\$280,000 based on an hourly rate of \$135) and one (1) additional contract building inspector (\$176,800 based on an hourly rate of \$85);
3. Impact on the Housing Division - \$75,000 per year. Forms, application, review process and enforcement measures such as the Tenant Impact Mitigation Plan will need to be developed to ensure compliance with the recently adopted Tenants Protections Ordinance and the Rent Control Ordinance. This annual expense can be offset with the implementation of new fees for the review and enforcement of these Ordinances.

Should the City Council decide to reduce or waive plan review fees, permit fees, Real Property Transfer Tax, provide loans or grants, the impact to the General fund will be proportional to the percentage of the estimated fee revenue.

There is no fiscal impact related to Zoning Waivers for non-conforming parking stalls and disseminating information on CalCAP.

Upon direction from City Council, staff may return to the City Council with a budget amendment request for additional program cost and/or new positions as outlined herein, if required.

## **ATTACHMENTS**

1. Incentives Study - Summary of Findings
2. Cost Sharing - Comparison Jurisdictions
3. Cost Sharing - Amortization Example

## **RECOMMENDED MOTIONS**

That the City Council:

1. Discuss and provide direction on:
  - a. Incentive programs for the City's soft-story seismic retrofit program;
  - b. Amortization term for soft-story seismic retrofit tenant pass-throughs;
  - c. Use of limited full-time staffing versus in-house consultants to do the plan check for the soft-story seismic retrofit program; and

2. Provide direction to the City Manager as deemed appropriate.