

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Mills Act Contracts

DATE: October 30, 2013

City Administrator

Date

Approval



11/19/13

COUNCIL DISTRICT: City-Wide

## RECOMMENDATION

Staff recommends that the City Council adopt:

**A Resolution, As Recommended by the Landmarks Preservation Advisory Board, Approving Three (3) Mills Act Contracts Between The City Of Oakland And The Properties At 1710 Filbert Street (Estimated \$1484/Year Property Tax Reduction), 1218 East 21st Street (Estimated \$5318/Year Property Tax Reduction), And 3054 Richmond Boulevard (Estimated \$6965/Year Property Tax Reduction) Pursuant To Ordinance 12987-C.M.S., To Provide Property Tax Reductions In Exchange For Owners' Agreement To Repair And Maintain Historic Properties In Accordance With Submitted Work Programs.**

## EXECUTIVE SUMMARY

The Mills Act Program is a preservation incentive adopted by the State of California in 1976 that allows potential reductions of property tax assessments for historic properties if the owner contracts with the local government to preserve, restore, and maintain the historic characteristics of the property.

By Oakland City Council Ordinance No. 12987 C.M.S., a permanent Mills Act Property Tax Abatement Program was adopted on January 5, 2010, following a two-year Pilot Program (see **Attachment B**). The ordinance limits City tax revenue losses to \$25,000 a year except in the Central Business District where limits are higher.

The City currently has a total of 28 Mills Act contracts (2008-2012). Three new applications have been submitted this year and were recommended for approval by the Landmarks Board at its September 16, 2013, meeting. All are residential properties and have local historic

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designation. The estimated total annual loss of City tax revenue is \$3,756 (27.28% of the total estimated tax reductions for the three properties). Mills Act contracts must be recorded with the Alameda County Assessor prior to December 31, 2013, in order to be applied to the 2014-2015 property taxes.

The 2013 Mills Act applications were presented and discussed at the Landmarks Board's regular public meeting of September 16, 2013, at which time the Landmarks Board recommended that the City Council approve the Mills Act contracts (*Attachment A*).

### **OUTCOME**

Approval of this resolution will authorize agreements between the City of Oakland and three qualified historic properties. Upon receipt of an executed contract, the Alameda County Assessor is directed by State law to re-assess the value of the property according to the formula established in the Mills Act, which may result in a reduction of property tax. The entire amount of the tax reduction - \$13,767 for the three properties – is required to be reinvested in maintenance, rehabilitation, and preservation of the properties according to an approved work program. The estimated total annual loss of City tax revenue is \$3,756 (27.28% of the total estimated tax reductions for the three properties).

The recommended properties are:

- 1710 Filbert Street (Council District 3 – Gibson McElhaney)
- 1218 East 21st Street (Council District 2 – Kemighan)
- 3054 Richmond Boulevard (Council District 3- Gibson McElhaney).

### **BACKGROUND/LEGISLATIVE HISTORY**

The Mills Act Program is a preservation incentive adopted by the State of California in 1976 (Sections 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code) that allows reductions of property tax assessments for historic properties if the owner contracts with the local government to preserve the property, maintain its historic characteristics and, if necessary, restore it.

Finding that the Mills Act Program meets numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, revitalization, and image, Oakland adopted a pilot Mills Act program in 2006, and a permanent program in 2009 (Ordinance No. 12987 C.M.S.).

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Approximately 90 California cities are using the Mills Act as a catalyst for neighborhood revitalization. While there are federal tax credits and local facade grants for commercial properties, the Mills Act program is one of the few incentives that is also available to owners of historic residential properties.

Oakland's Mills Act ordinance limits City tax revenue losses to \$25,000 per year, with the exception of the Central Business District where revenue losses are limited to \$100,000 per building per year with a cumulative limit of \$250,000 per year. Limits are subject to exceptions at City Council discretion.

Important aspects of the Mills Act program, established by the State legislation, include:

- The Mills Act program is a voluntary program.
- The Mills Act contract is between the City and the owner of a designated historic structure.
- The initial contract is for 10 years. At the end of each year the term is automatically extended one year, unless the owner or the City gives notice not to renew the contract. If notice of non-renewal is given, the contract remains in effect for the balance of the current 10-year term.
- The penalty for breach of contract is 12.5% of the current property value.
- The agreement requires that the owner preserve, rehabilitate and maintain the historical and architectural character of the property. Oakland's program requires the property tax savings to be invested back into the property according to the work program that is part of the contract.
- The contract runs with the property, that is, its obligations automatically transfer to each new owner and the property is not reassessed to full market value upon sale.
- The agreement provides for periodic inspections to determine the owner's compliance with the terms of the agreement.
- The tax reduction will vary depending on a number of factors. The largest tax reductions occur for properties purchased or reassessed in recent years and at high market values.

Oakland's first seven Mills Act contracts went into effect with the 2009-2010 tax assessment billing. There are now 28 contracts in effect. The proposed three contracts will go into effect for the 2014-2015 tax assessment billing and will bring the total to 31.

The three applications proposed for approval for 2013 Mills Act contracts are all City of Oakland Designated Historic Properties. All are houses built between 1883 and 1926.

1710 Filbert Street, a Stick-Queen Anne house built in 1883-84, is a contributor to the S-20 Oak Center Neighborhood Historic District. Oak Center was designated as a historic district of 600-plus properties in 2003, at the request of the Oak Center Neighborhood Association. It is a district of predominantly large late 19th century houses well typified by 1710 Filbert. The Mills Act work program includes restoration of previously altered windows, painting, and exploration of a better design for the second entry previously added to the front porch.

1218 East 21st Street, the Ellen Kenna house, is a vast Queen Anne built with mining money in 1888, one of numerous 19th century mansions scattered on prominent hill sites around the San Antonio neighborhood. It is City Landmark #111, designated in 1992 at the request of the Center for Third World Organizing, who used it as a retreat center. The new homeowners propose seismic upgrade, window repair and restoration, and exterior painting as Mills Act work items, and have been vigorously promoting revitalization in the neighborhood.

3054 Richmond Boulevard, a 1926 Cape Cod built by prominent architect Frederick Reimers as his own home, was designated a Heritage Property on September 16, 2013, in conjunction with the Mills Act application. It is the second Mills Act participant and third Designated Historic Property in the picturesque Richmond Boulevard district. In keeping with the creekside site, the work program includes site stabilization, drainage work, and seismic upgrade.

### ANALYSIS

Participation in a Mills Act program is voluntary for both the property owners and the City. However, the contracts are recorded and not easily modified, nonrenewal requires ten years' notice, and the owner is subject to a substantial penalty if the contract is canceled for noncompliance. Staff is careful to warn applicants about these potential risks and insist on a realistic work program. So far two Oakland contracts have required some adjustment of the work program and schedule: one where a new owner's use of the building differed from that proposed by the original applicant, and one where the owner suffered a long incapacitating illness.

### PUBLIC OUTREACH/INTEREST

The 2013 Mills Act applications were presented and discussed at the Landmarks Board's regular public meeting of September 16, 2013, at which time the Landmarks Board recommended that the City Council approve the Mills Act contracts. A Director's Report was presented at the November 20, 2013, Planning Commission meeting.

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**COORDINATION**

The City Attorney's Office and Budget Office have reviewed and approved this report.

**COST SUMMARY/IMPLICATIONS**

Using the Mills Act Calculator spreadsheet on the City's website for a rough estimate, the three recommended applications result in the following estimated tax reductions to applicants and revenue losses to the City:

1 Property Address	2 Current Property Taxes (from County Records)	3 Mills Act Taxes (Estimated)	4 Change in Taxes (Estimated) – owner's saving, spent on work program	5 City Tax Revenue Loss, Year 1 (27.28% of Tax Change)
1710 Filbert Street	\$ 4,227	\$2,742	(\$1,484)	(\$ 405)
1218 East 21st Street	\$14,852	\$9,534	(\$5,318)	(\$1,451)
3054 Richmond Blvd.	\$ 9,081	\$2,116	(\$6,965)	(\$1,900)

The estimated total loss of \$3,756 is well within the City tax revenue loss limit of \$25,000/year. Past years' (2008-2012) revenue losses for new contracts have ranged from \$7,271 in 2009 to \$1,885 in 2011. Two recent (2011, 2012) Mills Act contracts for large Central Business District properties are expected to provide almost immediate revenue gains to the City.

**SUSTAINABLE OPPORTUNITIES***Economic:*

Historic preservation or rehabilitation is labor intensive and will provide opportunities for professional services and construction related jobs for the Oakland community, involving specialty trades, craftspeople, products, and suppliers. By having additional tax savings to invest in rehabilitation work, the Mills Act properties provide opportunities for this sector of the construction industry.

Historic preservation or rehabilitation will increase the property value of each Mills Act participant. While these tax revenue losses to the City are minimal, it has been shown in other California cities that Mills Act properties act as catalysts for revitalization in the larger

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surrounding neighborhood. Over time, neighborhood property values will increase and tax revenues will follow.

*Environmental:*

Historic preservation or rehabilitation conserves materials and energy embodied in existing building stock, and in a broader sense sets an example for rejecting the throw-away economy.

*Social Equity:*

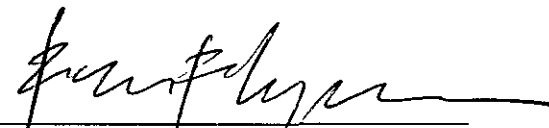
Historic preservation or rehabilitation will assist in the revitalization of Oakland's historic buildings and neighborhoods citywide. Applicants come from all areas of the City, and each single project acts as a catalyst for revitalization of its neighborhood, as Mills Act participants set an example by maintaining and restoring properties. Historic buildings reinforce a community's connection to its past and place, and revitalization of these historic properties will engender pride of neighborhood and community. The relatively small tax savings help homeowners of modest means to carry out work in ways that are historically appropriate rather than merely affordable.

CEQA

Exempt, Section 15331 of the State CEQA Guidelines, Historical Resource Restoration/ Rehabilitation; Section 15183, Projects consistent with the General Plan or Zoning.

For questions regarding this report, please contact Betty Marvin, Planner III, Historic Preservation, at (510) 238-6879.

Respectfully submitted,



RACHEL FLYNN  
Director, Department of Planning and Building

Prepared by:  
Betty Marvin, Planner III, Historic Preservation  
Planning Department

Attachments:

- A. September 16, 2013 Landmarks Preservation Advisory Board Report
- B. Enabling Ordinance establishing Mills Act Contract (Ordinance No. 12987 C.M.S.)
- C. City Council previously approved Model Mills Act Contract

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2.	Proposal:	Mills Act Contract Application Selection: Recommendations for four 2013 Mills Act Program Contracts 1) 1710 Filbert Street (APN 005-0385-014-00) City Council District 3 – Gibson McElhaney 2) 1218 E. 21 <sup>st</sup> Street (APN 021-0286-009-00) - City Council District 2 – Kemighan 3) 3054 Richmond Blvd. (APN 010-0806-023-00) City Council District 3- Gibson McElhaney
Environmental Determination:		Exempt, Section 15331 of the State CEQA Guidelines, Historical Resource Restoration/Rehabilitation; Section 15183 Projects consistent with the General Plan or Zoning
Service Delivery District:		Citywide
City Council District:		Citywide
Action to be taken:		Forward to Planning Commission as Informational Item. Forward recommendation to City Council.
For Further Information:		Contact Joann Pavlinec (510)238-6344, jpavlinec@oaklandnet.com

**BACKGROUND**

A two-year Pilot Mills Act Property Tax Abatement Program (Program) was adopted by City Council in November 2006. In 2009 the City Council expanded and made the Program permanent. Currently there are 28 Mills Act Contracts (2008 through 2012) recorded with the County of Alameda Assessor’s Office. Under the current Ordinance, the Program limits impacts on City revenue to \$25,000/year, with the exception of the Central Business District. In the Central Business District, the Program limits impacts to \$100,000/building/year with a cumulative limit of \$250,000/year. Any Mills Act Program property applicant, who’s estimated Property Tax loss exceeds the above limits, may request special consideration by the City Council. The Program also stipulates that any property entering into a Mills Act Contract with the City must be a Local Register Historic Resource<sup>1</sup>.

**INTRODUCTION**

2013 Mills Act Applications – Number and Historic Status

Mills Act applications are accepted through June of each year, to allow time for processing by December 31<sup>st</sup>. Three 2013 Mills Act applications are before the Landmarks Preservation Advisory Board (LPAB) for review. One of the three properties requires Heritage Property designation. The other two are designated properties, 1218 E. 21<sup>st</sup> Street as a City of Oakland Landmark and 1710 Filbert Street as a Contributor to the designated S-20 Oak Center Neighborhood Historic District. The individual application properties are further described below, including the following:

- o Historic Status;
- o City Council District;
- o Significance;
- o Work Program;
- o Application Strengths.

<sup>1</sup> A Local Register property is a building with an Oakland Cultural Heritage Survey rating of ‘A’ or ‘B’, a Potential Designated Historic Property (PDHP) located in an Area of Primary Importance, any Designated Historic Property (DHP), a Heritage Property, or a property listed on the Preservation Study List.

Historic Preservation Staff Review

Historic Preservation staff (Marvin, Pavlinec) have preliminarily reviewed and evaluated the applications for recommendation to the Board. They were evaluated according to Standards based on the Selection Criteria stated in the Mills Act Application, which were developed by the sub-committee during the first year of the Mills Act Pilot Program and then reviewed and approved by the full Board (Attachment A).

The review and evaluation is a multi-layered approach, including review of the application materials submitted, the Selection Criteria addressed in the application, the Standards developed by the sub-committee and approved by the Board, and site visits to each property. Evaluation focuses on:

- o the immediate necessity of the work to deter any further deterioration;
- o the scope of the work in relation to the estimated tax reduction;
- o visibility of the work being proposed to act as a catalyst for neighborhood revitalization and as a model for the Mills Act Program;
- o neighborhood diversity to spread the program to as many neighborhoods as possible;
- o building type diversity to illustrate the flexibility of the Mills Act for different types of properties; and
- o the thoroughness of the application above and beyond being 'Complete'.

The 3054 Richmond Blvd. property is pursuing Heritage Property designation concurrently with the Mills Act contract application. Staff is recommending approval of all three Mills Act applications.

**FINANCIAL IMPACTS - 2013 Mills Act Applications**

Using a Mills Act Calculator<sup>2</sup>, available on the City website, indicates the following estimated tax outcomes. Based on County records, Column two lists the current yearly property taxes on the property. Column three lists the estimated Mills Act property taxes. Column four lists the difference between the current property taxes and the estimated Mills Act calculated property taxes. The City receives approximately 27.28% of property taxes. Column five lists the loss of property taxes to the City, 27.28% of the change in property taxes due to the Mills Act calculation. A total loss of \$3,756 complies with the City tax revenue loss limit of \$25,000/year.

Table I – Residential Properties

1 Mills Act Application Number	2 Current Property Taxes	3 Mills Act Taxes Based on Mills Act Calculator (Estimated)	4 Change in Taxes (Current – Mills Act Estimated)	5 City Tax Revenue Loss (27.28% of Tax Change) – Year 1
MA13-001	\$ 4,227	\$2,742	(\$1,484)	(\$ 405)
MA13-002	\$14,852	\$9,534	(\$5,318)	(\$1,451)
MA13-004	\$ 9,081	\$2,116	(\$6,965)	(\$1,900)
<b>TOTAL City Tax Revenue Loss Year 1 - 2013</b>				<b>(\$3,756)</b>

<sup>2</sup> The City makes no warranties or representations about the accuracy or validity of the Mills Act Property Tax Calculator – it is merely an informanion tool that applicants may use (at their sole risk), which does not substitute/replace legal counsel or a financial advisor. Actual tax reductions, if any, will be calculated by the County Assessor's Office after the Assessor has received the executed Mills Act contracts.



## Next Steps

Following the LPAB's selection and recommendation to the City Council, the Mills Act applications and recommendations will be presented to the Planning Commission as an Information Item prior to City Council review for approval and Contract execution. The one application that requires Heritage Property Designation is concurrently being reviewed by the LPAB at this meeting. Historic Preservation staff have reviewed the applications and preliminarily determined that it is eligible for Heritage Property designation.

## MILLS ACT CONTRACT RECOMMENDATIONS

### 1 - MA13-001 – 1710 Filbert Street

*Historic Status:* The Oakland Cultural Heritage, Inventory Survey rates the individual property as a B (Major Importance), 1+ (Anchor and Primary Contributor to an API). It is also a Contributor to the S-20 Designated Oak Center Historic District.

*Council District:* 3 (Gibson McElhaney)

*Significance:* The Oak Center Historic District, Hughes (Robert) – Osgood (Carl H.) house is a two-story, rectangular plan, Stick, Queen Anne house located on an interior lot. This and adjacent houses are located on elevated lots, in a residential densely built up neighborhood. It has a hip and gable roof, front upper bay projecting over an angled first floor bay. Exterior materials include rustic siding and shingles, and a composition shingle roof. The style is defined by decorative detailing. The Hughes-Osgood house includes multi-textured wall surfaces, half-timbering, bargeboard trim, overhanging eaves with exposed rafters, vertical strips on corner boards, turned porch columns and extended brackets. The visual quality of this building helps establish the character of the district.

It was built in 1883-84; the architect and builder are unknown. Historically, the house reflects the 19<sup>th</sup> century development of Oakland neighborhoods. The original owner and resident, about 1884-95 was Robert Hughes, city police clerk. The property is also associated with Carl H. Osgood, carpenter, owner and resident from 1902-06, and Harvey Brown, clerk, owner and resident from 1910-12.

*Work Program (attached):*

- o Window replacement: replace all aluminum windows to appropriate compatible windows; and
- o Exterior painting.

*Application Strengths:*

- o Prominent location – visibility of work;
- o Part of a continuous streetscape that would be improved;
- o Increasing architectural integrity;
- o Catalyst for neighborhood work;
- o Reversal of inappropriate work;
- o Restoration of character defining feature; and
- o Maintenance of minor wear/tear.

*Staff Comment:* Staff suggests that the applicant investigate the main entryway, interior layout to determine if reconfiguration of the circulation can eliminate the enclosed projection on the front porch to expose the entire front porch open area.

### 2 - MA13-002 – 1218 E 21<sup>st</sup> Street

*Historic Status:* City of Oakland Landmark #91-129; Present Rating – B; Contingency Rating – A. Clinton Neighborhood, Area of Secondary Importance Anchor.

*Council District:* 2 (Kemighan)

*Significance:* The house is a large two-story Victorian house in the Queen Anne style designed by architect W. Clark. It represents the more lavish side of development in the Brooklyn neighborhood in the late 1880's. It has a hilltop setting and was oriented to 13<sup>th</sup> Avenue. The house and grounds once occupied a third of the block on East 21<sup>st</sup> Street between 12<sup>th</sup> and 13<sup>th</sup> Avenues.

It was the home of Ellen Kenna, the wealthy widow of Thomas Smith who owned silver mines in Virginia City, Nevada until his murder in 1874, and it represents the prosperity associated with gold and silver strikes in Northern California. Following Smith's death, Ellen was a rich woman when she returned to San Francisco with her young daughter, Blix. There, she met a young Irishman, Patrick Kenna, who had been born in a covered wagon on route to the California gold fields. They were married in the late 70's. They first lived on Hobart Street in Oakland in 1879 and then in Fruitvale in 1880. In 1884, Ellen purchased the lot in her own name for \$14,000 in gold coin; four years later at a cost of \$16,000 their large suburban residence was built. In 1890, a large home could be built for between \$3,000 and \$5,000.

The home was host to a grand wedding ceremony in 1903 when her daughter Isabel married Irving Burrell, with "Borax" Smith, John J. Valentine<sup>3</sup>, and Adolph Schilling attending, amongst the 150 guests.

It survives intact, despite an addition to the front of the house which replaced the original front porch and obscured the original facade. The addition was constructed by the Pacific Protective Society, an institution for the care and treatment of young girls afflicted with venereal disease, who purchased the house when Kenna died in 1925. The asylum parceled the lot and five bungalows were built on the 13<sup>th</sup> Avenue frontage. With the discovery of antibiotic treatments, the asylum became outmoded and the building was again sold to be converted into 23 small apartments.

*Work Program (attached):*

- o seismic upgrade;
- o repair/restore windows; and
- o exterior painting.

In addition to the Mills Act Work Program items, the applicants have additional plans to continue restoring the property beyond the 10 year City of Oakland required work program (*attached*).

*Application Strengths:*

- o visibility of work program/prominent location;
- o scope of work;
- o strong potential to act as a catalyst for neighborhood revitalization;
- o stabilization of structure;
- o restoration of character defining features; and
- o major repair/maintenance.

*Staff Note:* Although not a part of the Mills Act Work Program due to prioritization of major structural and maintenance concerns, the applicants plan to better incorporate the front addition into the architectural design of the original house. See additional scope of work (*attached*).

3 - MA13-004 – 3054 Richmond Blvd.

*Historic Status:* The Oakland Cultural Heritage, Inventory Survey rates the individual property as a C (Secondary Importance), 2+ (Primary Contributor to an Area of Secondary Importance, Richmond Boulevard).  
The Preliminary Evaluation for Landmark Eligibility rates the property as Present Rating – 'B', Contingency Rating – 'B'.

*Council District:* 3 (Gibson McElhaney)

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3 President of Wells Fargo, 1892 – 1901.

*Significance:* The Two-story Cape-Cod style home with attached in-law apartment is set well back from the street on a large hillside lot of native oak woodland that slopes down to Glen Echo Creek. It was built in 1926 by architect Frederick Reimers as his personal residence. Almost all of the house's original architectural details, including windows and doors, cabinets and bookshelves remain unchanged and in excellent condition. Only kitchen and bathroom cabinets and fixtures are newer. The house is the first and northernmost of three structures along the creek by Reimers during the 1920s in period revival styles. Also, a French Provincial Revival fourplex constructed by Reimers in 1926 at 3034-40 Richmond Boulevard is a designated City of Oakland Landmark. These four structures were built on land that was originally part of a five-acre estate owned by Reimer's father-in-law, a well-known businessman and business partner of Oakland Mayor Frank K. Mott, named E.A. Howard. Howard subdivided the estate to create the 3054 Richmond lot to convey the lot to his daughter, following her marriage to Reimer.

It is located in the Richmond Boulevard neighborhood, one of the few areas of Oakland below the hills that retains its original oak groves and picturesque rural quality. It was first developed by Wickham Havens as the Oak Park Tract in 1905 and touted as "better than Piedmont" by its promoters, most likely due to its stately homes and romantic naturalism that exemplifies the "build with nature" ethos of the Arts and Crafts period.

The Reimers house incorporates period revival architecture into a heavily wooded setting in a design that sustains the bucolic character of the neighborhood. The site and house appear isolated despite its close proximity to neighboring structures. Photographs of the house in the 1935 edition of *American Architect (Attached)* strongly emphasized this melding of structure and setting. The character of the house and the neighborhood provide a remarkable contrast to the intensely urban surrounding areas, with Broadway's Auto Row only two blocks away, a contrast that also existed when the Reimers house was constructed.

The original landscape design was most likely created or strongly influenced by his father, the noted landscape architect Johannes Reimers. He adopted the naturalistic landscape design style that became popular in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries – a style that is reflected in the landscaping of the house as it appeared in the 1935 *American Architect* article.

Frederick H. Reimers is one of the best known and most prolific 20<sup>th</sup> century architects to have lived and worked in Oakland. He is a University of California 1915 graduate. He worked with architect Bernard Maybeck for a short time. In 1927 Reimers' office was located in the Tribune Tower, and later he moved his office to San Francisco. His practice included residences, public housing projects, WWII-era barracks, and commercial buildings. While his major commercial buildings drew upon modern design styles, period revivals were his choice for a number of residential commissions. The Income Securities Building (1928-29, 360-64 14<sup>th</sup> Street), a masterpiece of Art Deco design, is perhaps his most prominent landmark in Oakland. The Art-Deco style Howard Automobile Building (1930) is a City of Berkeley Landmark. The Monterey 'Olvida Penas', a modern iteration of California's Mexican rural vernacular, is listed on the National Register, and the Chung Mei House for Chinese Boys in El Cerrito was just recently also listed on the National Register.

*Work Program (attached):*

- Site stabilization;
- Drainage work; and
- Seismic upgrade.

*Application Strengths:*

- Site stabilization; – erosion control and drainage work;
- Seismic upgrade; and
- Major repair of site issues.


## **GEOGRAPHIC DISTRIBUTION**

Please see Attachment C for the geographic distribution of all 31 Mills Acts properties.

## RECOMMENDATIONS

1. Receive any testimony from interested citizens;
2. Based on the above report:
  - o Select these applications for recommendation to the City Council, for the 2013 Mills Act Program;
  - o Forward the same recommendations to the Planning Commission as an Information Item.


Respectfully subminded:



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Rachel Fynn, AIA  
Director  
Department of Planning and Building

Prepared by:



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Joann Pavlinec, Historic Preservation

Attachments:

- A. Mills Act Evaluation Form
- B. Preservation Work Program and Time Line
- C. Geographic Distribution Map
- D. Additional Photos

Ref. MillsActApplications-2013MillsAct-LPAB

# MILLS ACT EVALUATION FORM

Mills Act No.:

Mills Act Address:

		POINTS	NOTES
<b>GENERAL CRITERIA</b>			
<b>1. COMPLETE APPLICATION</b>	<i>PREREQUISITE</i>		Complete Date
<b>2. HISTORIC STATUS</b>			
City of Oakland Landmark	5 points		
Potentially Designated Historic Property, with existing rating of "A" or "B"	4 points		
Contributor to a designated Historic District, a Heritage Property, a Designated Historic Property Landmark, Historic District Contributor) or on the Preservation Study List	3 points Pres Study List Requires Heritage Property Des		
Contributor to an API (Area of Primary Importance)	2 points Requires Heritage Property Des		
Potentially Designated Historic Property, with rating of "C" or a Contributor to an ASI (Area of Secondary Importance)	1 point Requires Heritage Property Des		
<b>3. TAX DED=EXT. WK.PRGRM.</b>			
i. needs exterior work ii. no interior work iii. cost of exterior work $\neq$ greater than the potential reduction of property taxes	<i>PREREQUISITE</i>		
<b>4. LOCATION, SCOPE, SCALE</b>			
i. visibility of work program prominent location secondary location ii. scope of the work in proportion to the scale of the building iii. part of a continuous group/streetscape whose continuity would be improved by work program	up to 5 points		
<b>5. NEIGHBORHOOD IMPACT</b>			
Strong potential to act as a catalyst for neighborhood revitalization i. increasing architectural integrity ii. preserving neighborhood character iii. conserving materials and energy embodied in existing building	up to 5 points		

		POINTS	NOTES
<b>6. WORK IMPACT</b>			
Potential positive impact of the work on the stabilization of the historic integrity of the property. i. stabilization/structural/seismic work ii. reversal of inappropriate work iii. restoration of character defining features iv. major repair/maintenance v. maintenance of minor wear/tear	up to 5 points		
<b>7. TIMELINE PRIORITY</b>			
Timeline prioritizes work early on in the ten year work program to i. the character of the resource ii. highly visible areas or arch integrity iii. reversal of inappropriate work iv. contributes to the neighborhood	up to 5 points		
<b>OVERLAY CRITERIA</b>			
<b>8. REDEVELOPMENT REQUIREMENT</b>			
i. West Oakland Redevelopment Area ii. Central City East Redevelopment Area	1 point		
<b>9. NEIGHBORHOOD DIVERSITY</b>			
Location contributes to the goal of Mills Act contract representation in neighborhoods throughout the City	1 point		
<b>10. BUILDING TYPE DIVERSITY</b>			
1. Property's building type contributes to goal of a variety of Mills Act contract building types (e.g., residential, commercial, industrial, etc.) ii. rarity of the historic resource with respect to age, style, quality, character and use	up to 2 points		
<b>ADDITIONAL</b>			
Thoroughness of application, above and Beyond competencies	<i>BONUS POINTS</i>		

**TOTAL**

ASSESSOR'S MAP 5

Code Area No 17-019

5

409  
Market St Tract Between 16<sup>th</sup> & 18<sup>th</sup> Sts (Bk 1 P. 22)  
Map of the Flood Tract (Bk 2 P. 41)

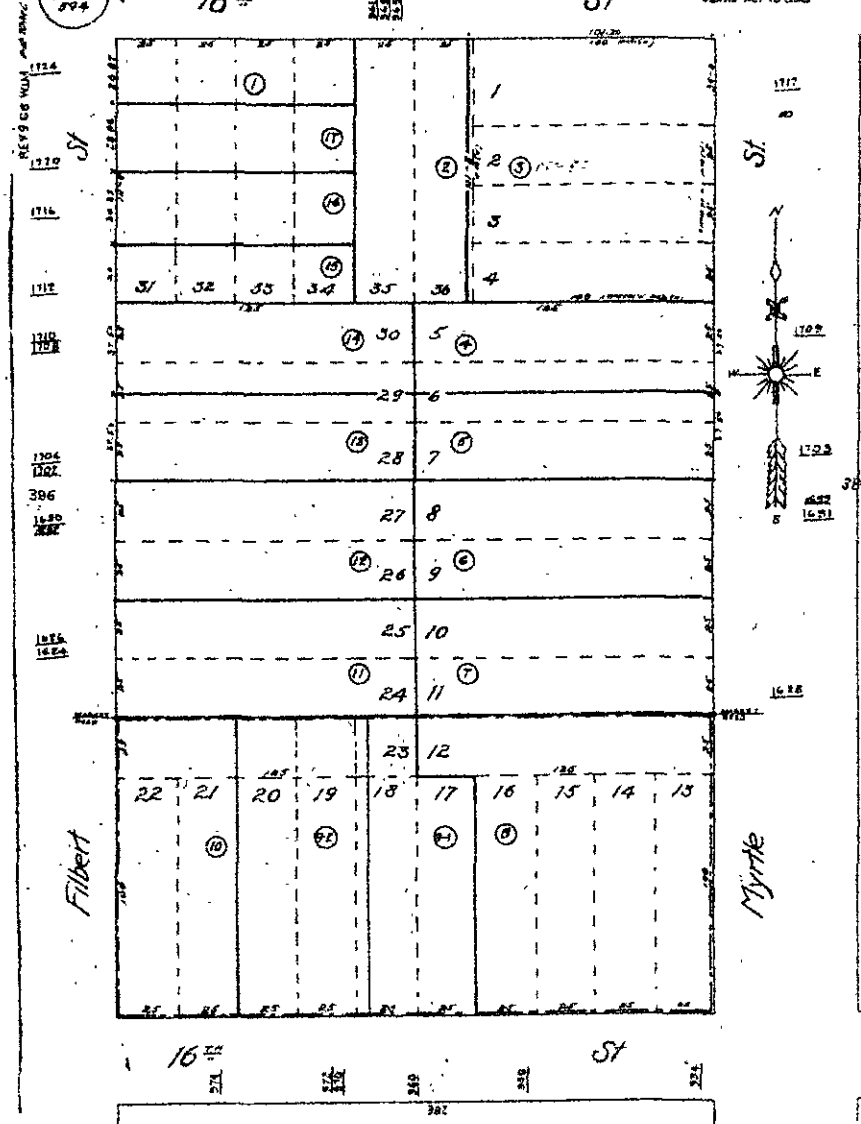
385  
394

18<sup>th</sup> St

Scale: 1" = 30'

St

NOTE: THIS MAP IS  
VERTICAL ACROSS



ATTACHMENT B-1  
1710 Filbert St.

LPAB 9/16/13

1710 Filbert St.

### 3. PRESERVATION WORK PROGRAM AND TIME LINE

Please list the improvements to take place over the next 10 years, in order of priority. Listed work should be limited to stabilization and/or maintenance of the historic structure or restoration and/or repair of exterior character defining features of the historic property. State the anticipated costs of the improvements, including but not limited to materials, labor, permits and fees. Anticipated construction must be equal to or greater than tax savings: see the Mills Act Property Tax Calculator on line at [www.oaklandnet.com/historicpreservation](http://www.oaklandnet.com/historicpreservation) for a rough estimate of potential property tax reduction (Please attach additional pages to complete the below information.)

- March-June 2014 →
1. Year: 2014 Cost: \$25,000 total Improvement: replace existing aluminum windows with appropriate compatible windows - \$13k. Exterior paint - \$12k  
\$25k total.
  2. Year: 2015 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  3. Year: 2016 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  4. Year: 2017 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  5. Year: 2018 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  6. Year: 2019 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  7. Year: 2020 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  8. Year: 2021 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  9. Year: 2022 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
  10. Year: 2023 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_

Note: Each work item will require separate building and zoning review and approval prior to undertaking the actual work. Design Review fees are waived for Mills Act properties.



1973





Front of house as seen across street  
(house faces west).

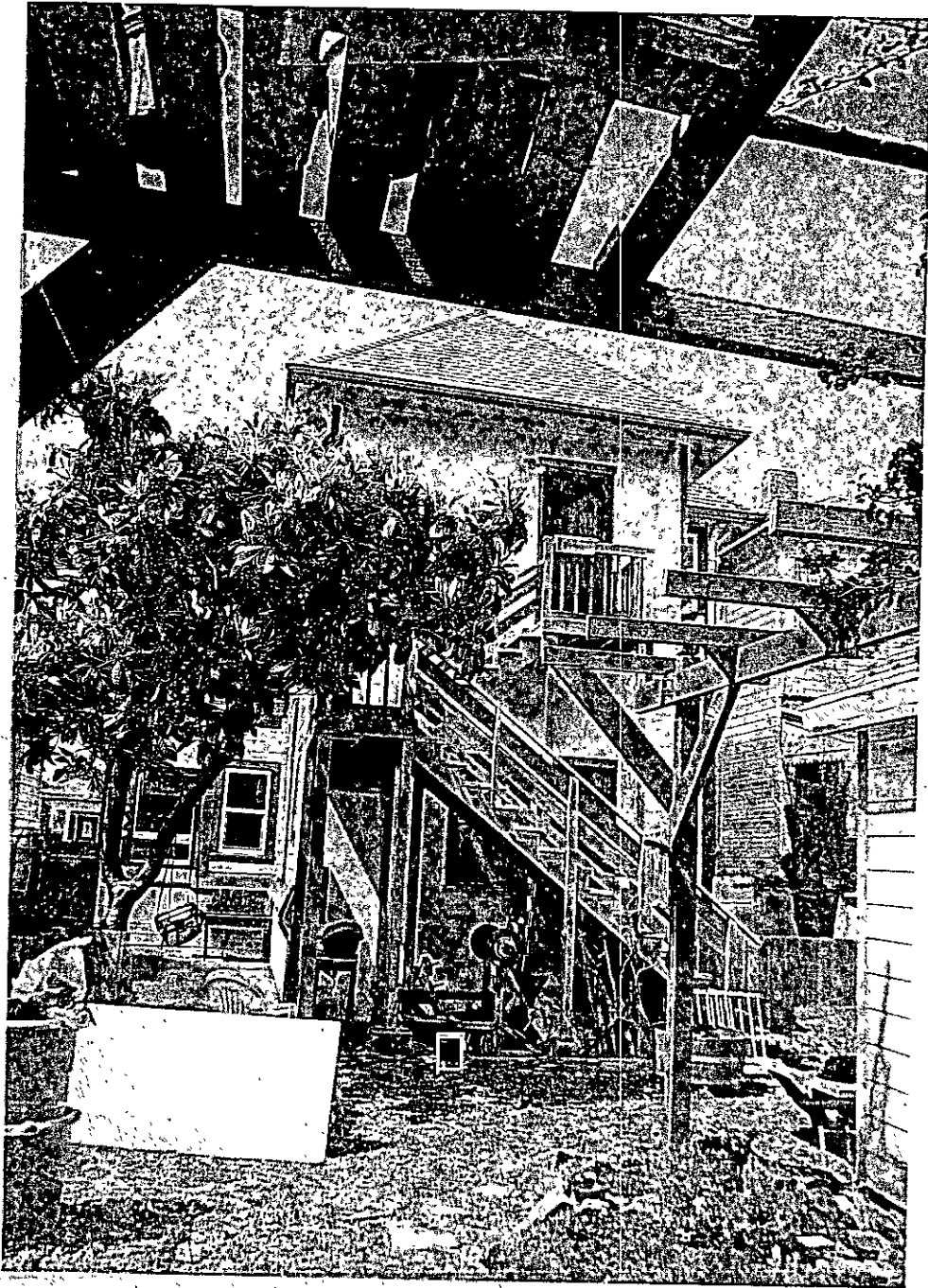


View of house from south property line.



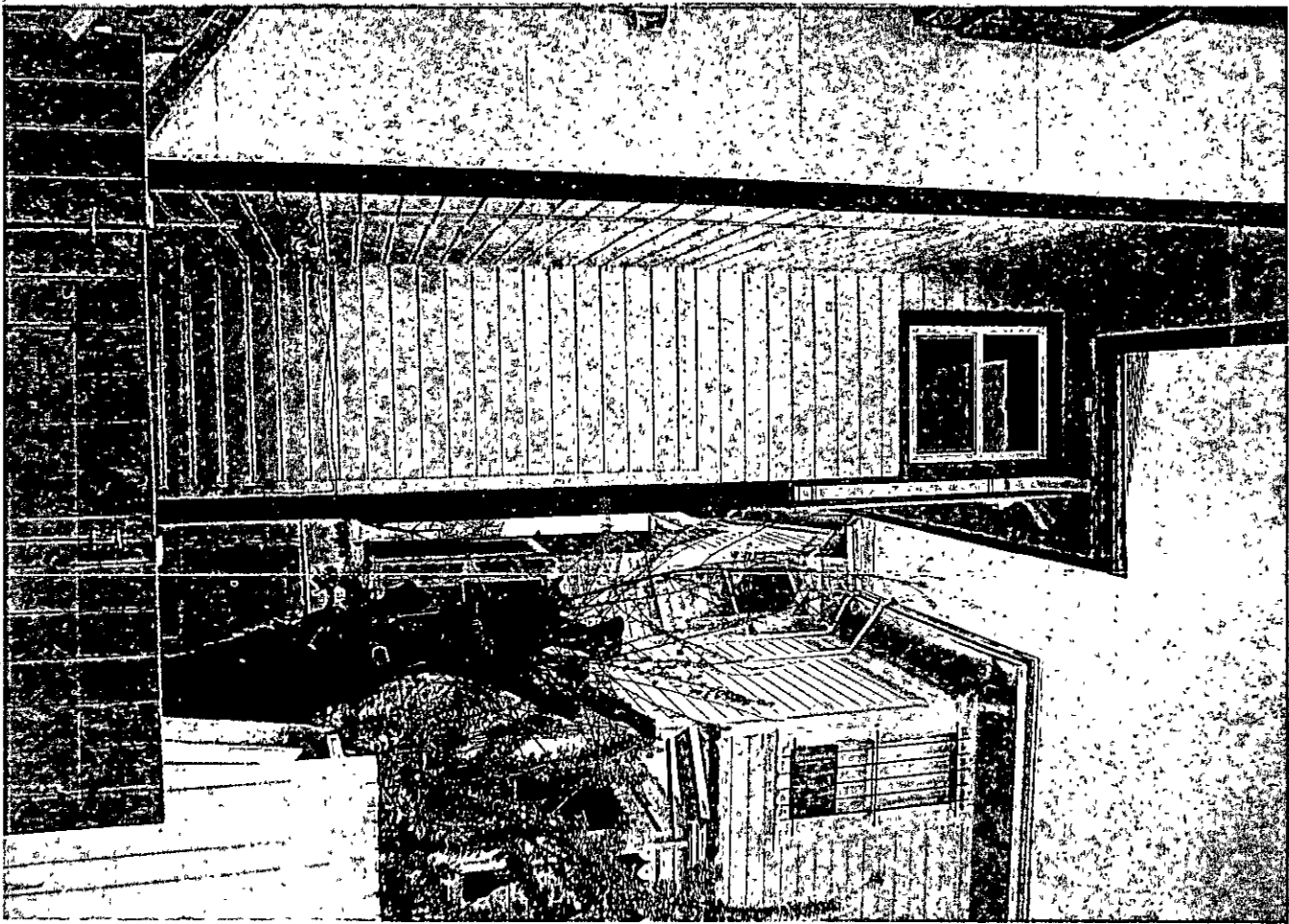
close up of front of house.

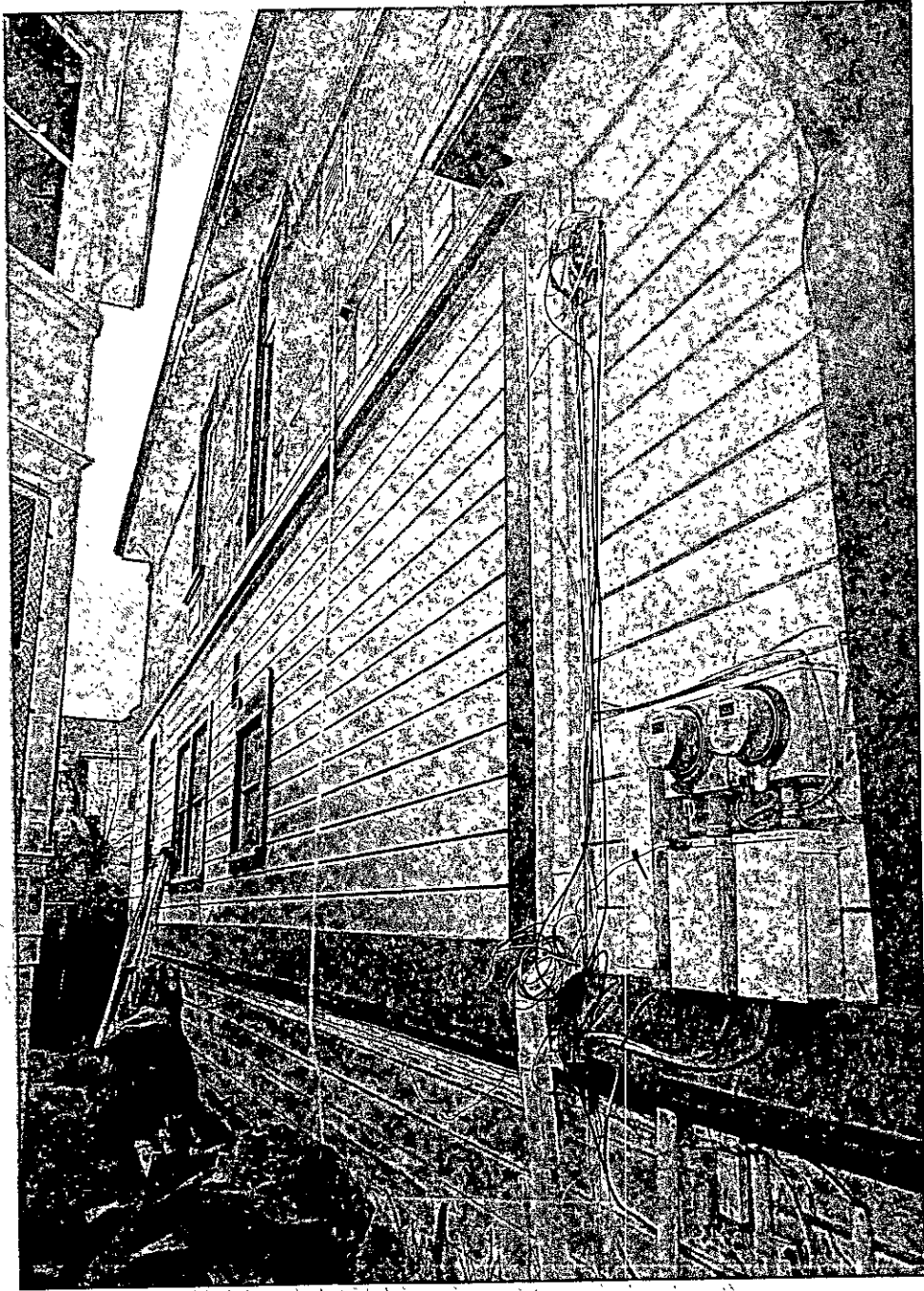
Note existing aluminum windows.



View of rear of house. from East property line.

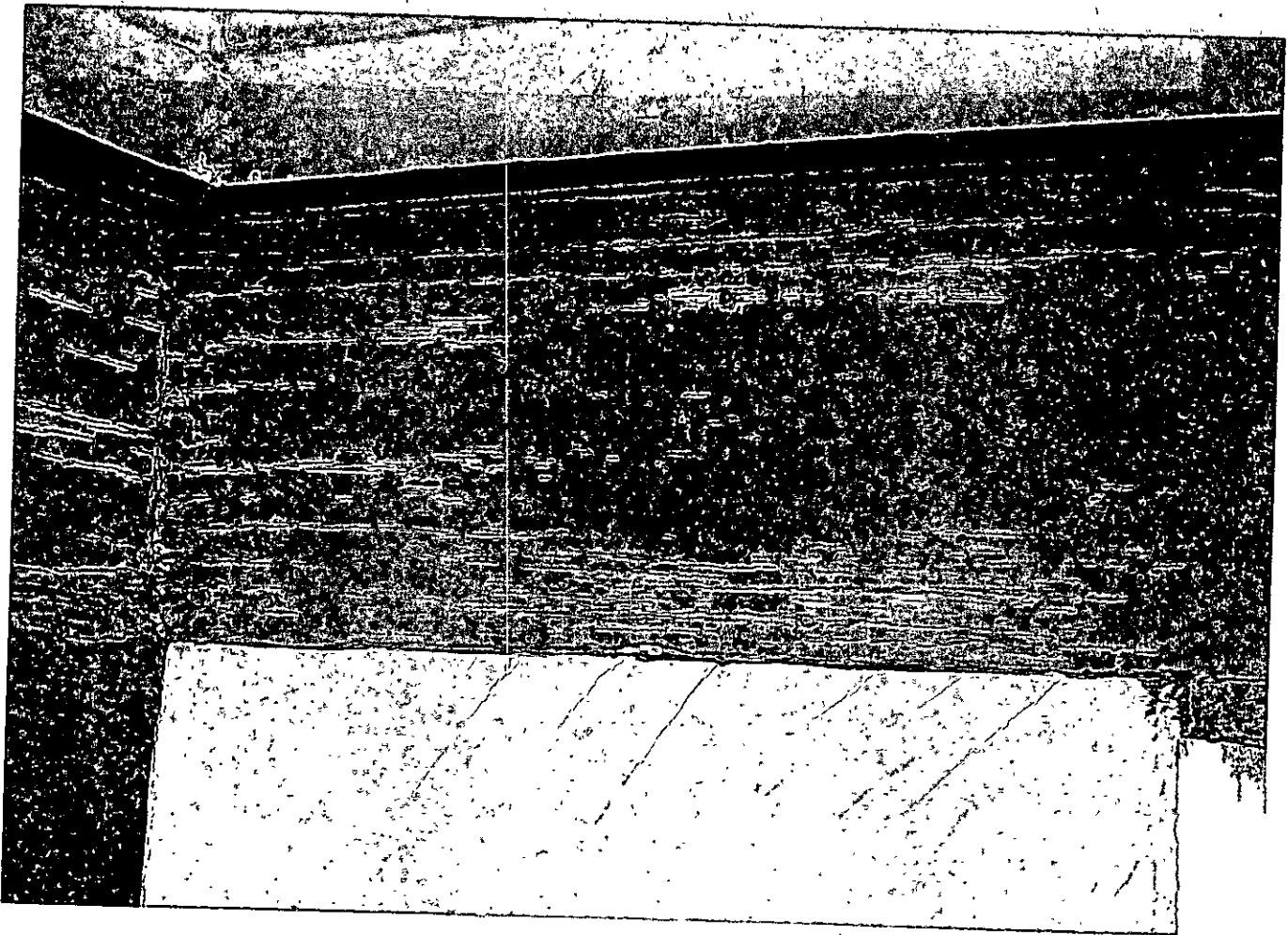
View of house from north property line





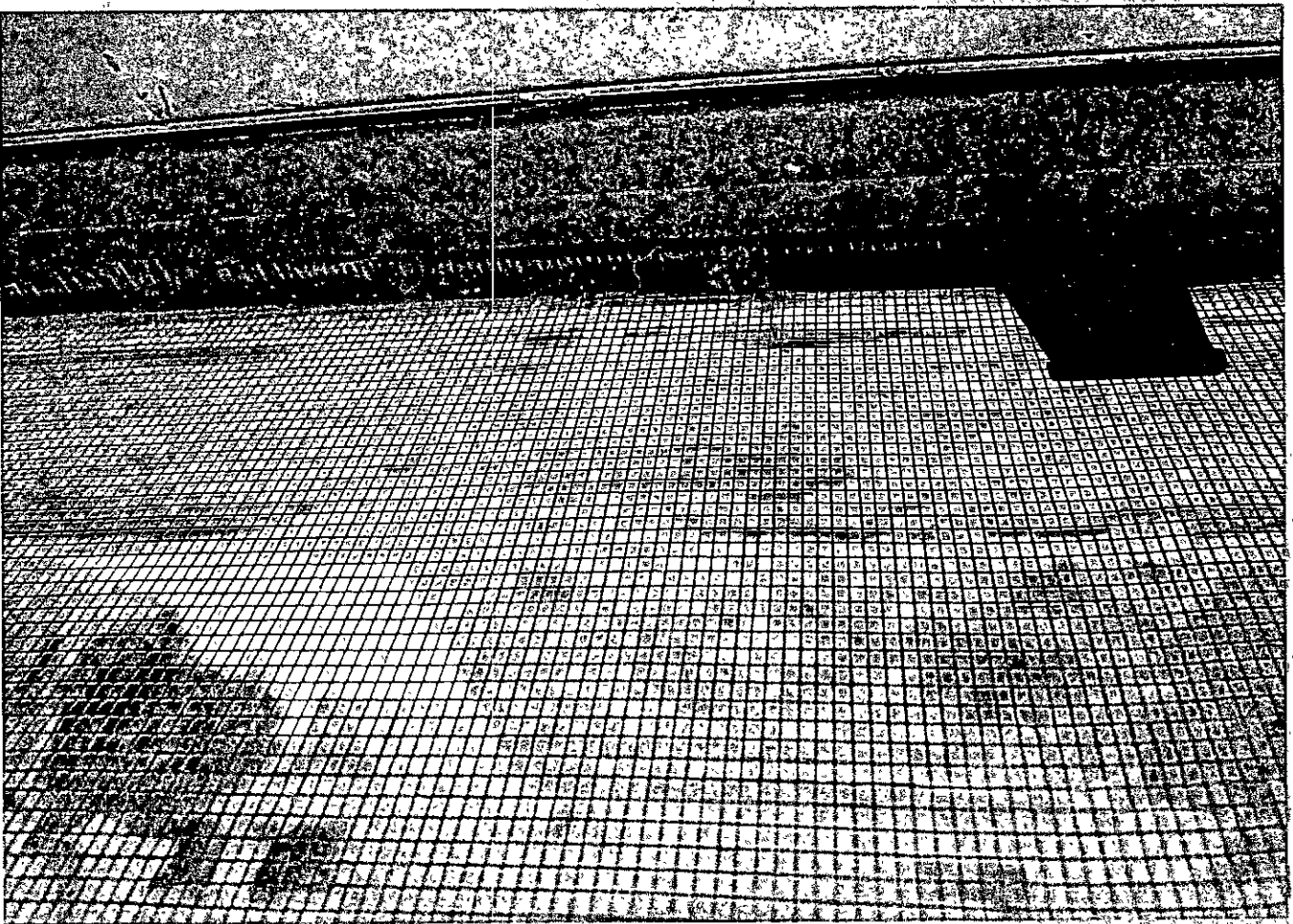
view of house from north property line

Close-up of existing peeling/chipping paint.  
(front porch area).





Close-up of chipping/peeling paint & existing aluminum window (upstairs front window)







### 3. PRESERVATION WORK PROGRAM AND TIME LINE

Please list the improvements to take place over the next 10 years, in order of priority. Listed work should be limited to stabilization and/or maintenance of the historic structure or restoration and/or repair of exterior character defining features of the historic property. State the anticipated costs of the improvements, including but not limited to materials, labor, permits and fees. Anticipated construction must be equal to or greater than tax savings: see the Mills Act Property Tax Calculator on line at [www.oaklandnet.com/historicpreservation](http://www.oaklandnet.com/historicpreservation) for a rough estimate of potential property tax reduction. (Please attach additional pages to complete the below information.)

1. Year: 2014 Cost: 7500 Improvement: Seismic upgrade

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2. Year: 2015 Cost: 7500 Improvement: Seismic upgrade

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3. Year: 2016 Cost: 7500 Improvement: Seismic upgrade

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4. Year: 2017 Cost: 7500 Improvement: Seismic upgrade

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5. Year: 2018 Cost: 7500 Improvement: Repair windows  
(repair deteriorating sash, trim, & sash cords as needed)
6. Year: 2019 Cost: 7500 Improvement: Repair windows  
(repair deteriorating sash, trim & sash cords as needed)
7. Year: 2020 Cost: 7500 Improvement: repaint house,  
filling deteriorated areas w/epoxy
8. Year: 2021 Cost: 7500 Improvement: repaint house

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9. Year: 2022 Cost: 7500 Improvement: repaint house

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10. Year: 2023 Cost: 7500 Improvement: repaint house

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Note: Each work item will require separate building and zoning review and approval prior to undertaking the actual work. Design Review fees are waived for Mills Act properties.

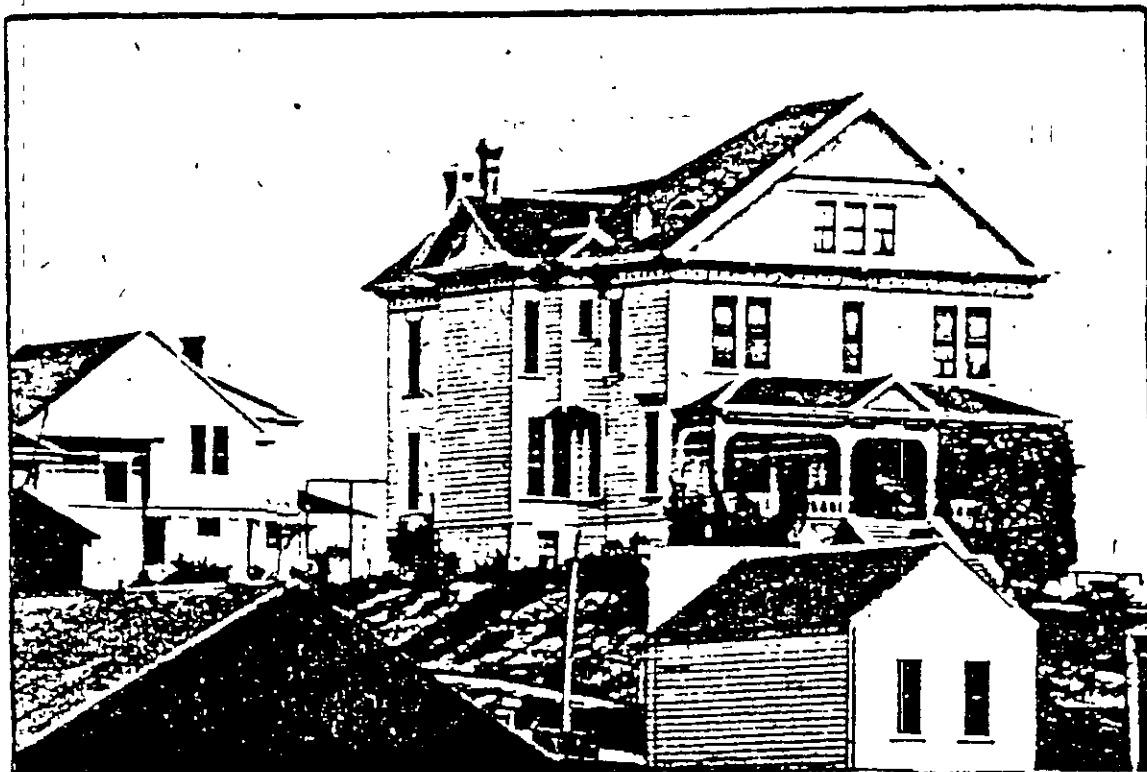
# Mills Act Application

## 1218 E. 21st Street, Oakland (Ellen Kenna House)

**Other Scope of Work-** In addition to seismic upgrading, repairing/restoring windows and giving the house a new paint job that includes restoring details deteriorating due to weather and sun damage, we also have an ambitious plan to make numerous other changes. Some are mentioned below and we understand that we need to get additional approval from the city since our property is a historic home:

- remove stucco staircases at the old front and rear of house that were added in the 1920's. Rear staircase will be replaced with a Victorian appropriate set of stairs. Replace front stairs with a new porch with a set of wooden Victorian stairs that leads in from E 21st Street.
- Currently visitors are confused where the front entrance of the house is as the old staircase used to lead down to 13th Avenue. The southern end of the property was sold off at the 13th Avenue end and three houses were built. A new set of stairs was added down to E21st Street plus another set running along the driveway, both sets are deteriorating and visitors are confused on where to enter the house. We plan to demo both sets of stairs and replace midway in the middle of the property a wider, more grand set of stairs that lead up the hill and then use landscaping to guide visitors to the front of the house (which is on the southern side of house).
- Prior owners (Center for Third World Organizing) added excessive amount of flood lights without permit. We hope to remove & replace with period lighting, including reclaimed street lights.
- Existing garage door is sheet-rocked closed on the inside as it was used for office and storage space. We plan to remove this and replace the non-functioning door with a period appropriate carriage style set of garage doors with metal work/latches.
- Original front porch on the 13th Ave side of house was enclosed in the 20's and a second story added. We'd like to better incorporate the addition into the architectural design of the original house by turning the room on the southwest corner facing the street into a sunroom by adding more windows that match the length and style of the windows in the rest of the house. The molding on the exterior at the top of the second level will also be extended in the area where none was added.
- Our plan also includes building a new permanent cement retaining wall to help with soil erosion along the sidewalks at E 21st. We might borrow a mold of the remaining cement risers from the Valentine Mansion across the street to add to making it feel more historic. Also planning to replace sidewalks and hoping to do the same with driveway except with cement that has been pressed with cobblestone molds.
- Already undergoing landscape upgrades including planting the landscape strips in our sidewalk and all the neighbors on our block willing to let us do it for them.

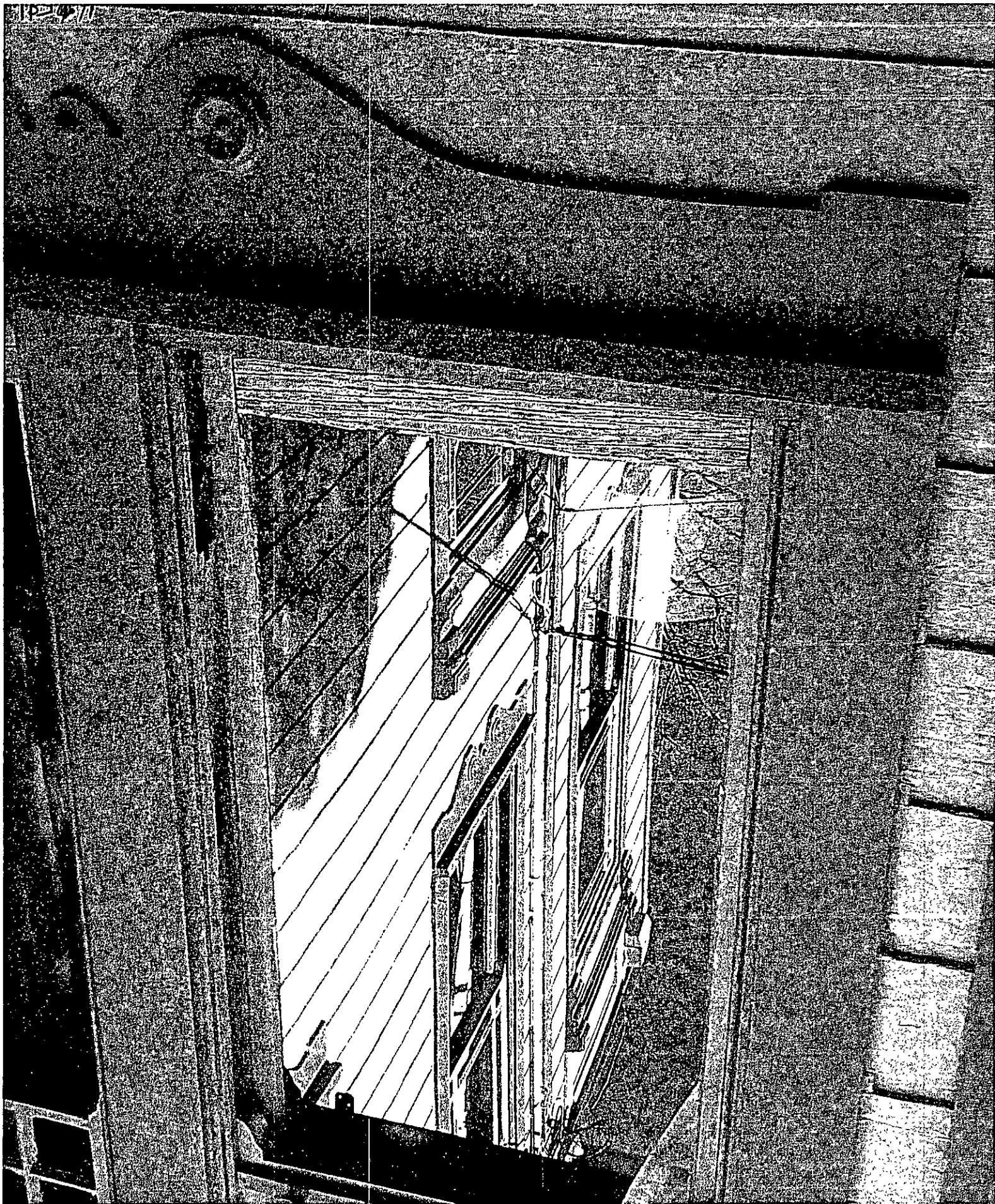
My partner and I feel that with such a sizable home that has a significant presence on our block and in the neighborhood that we have the ability and responsibility to make an impact in revitalizing this neighborhood. We set up a non-profit to beautify our sidewalk and street median landscape strips.



1218 E. 21st St. in 1895 (then 1505  
13th Ave.) Photo courtesy V. Sappers

Seismic Upgrade -  
work Program Item # 1-4









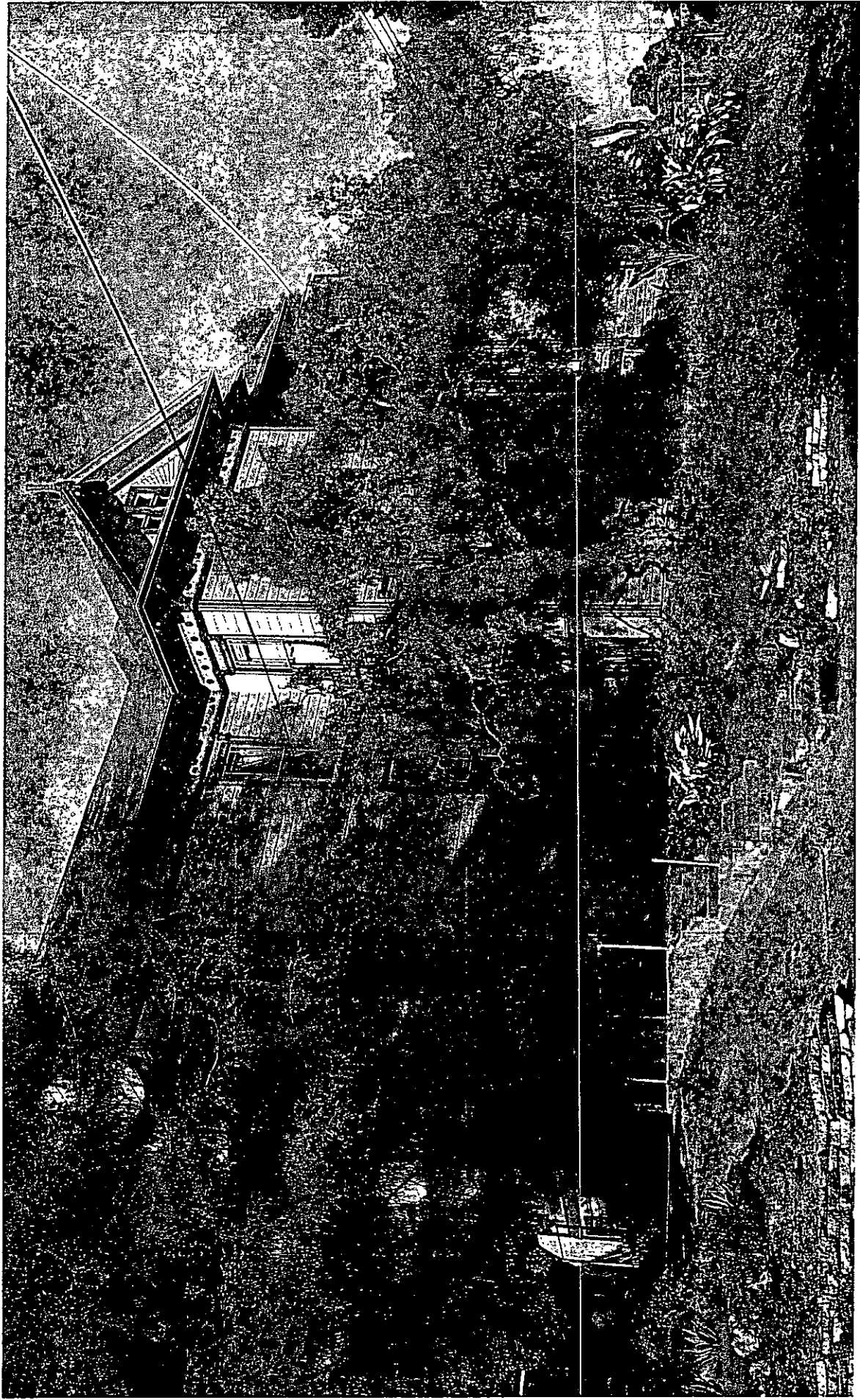
Work Progress \$5-6



(Hasn't been painted in more  
than 20 years)

WALL - VERTICAL



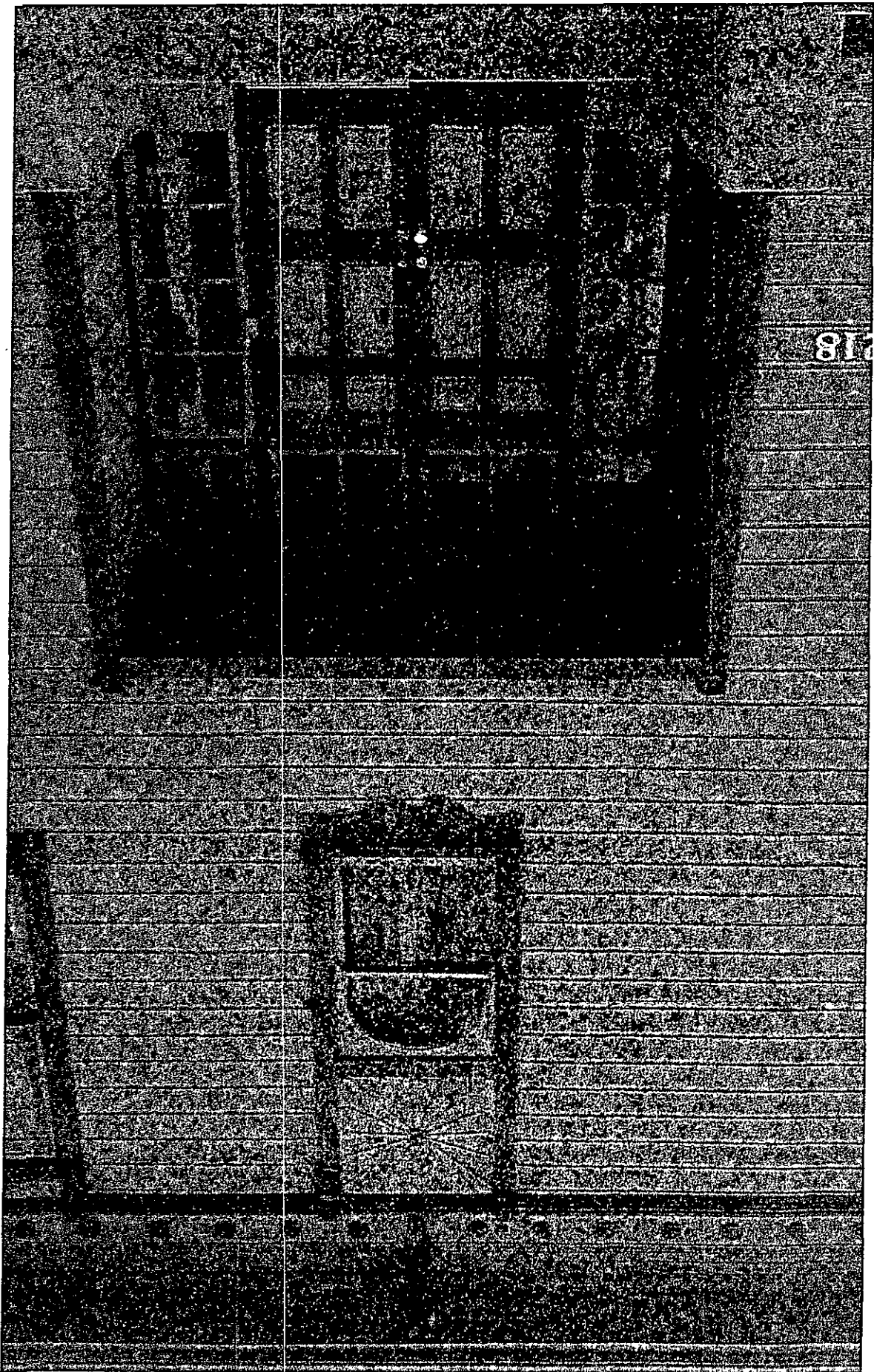


House as it overlooks E 21st Street



OLD Front of home that overlooked 13th Ave. It's now  
the side of house

Front facing 1345 Ave (now it is side of house)

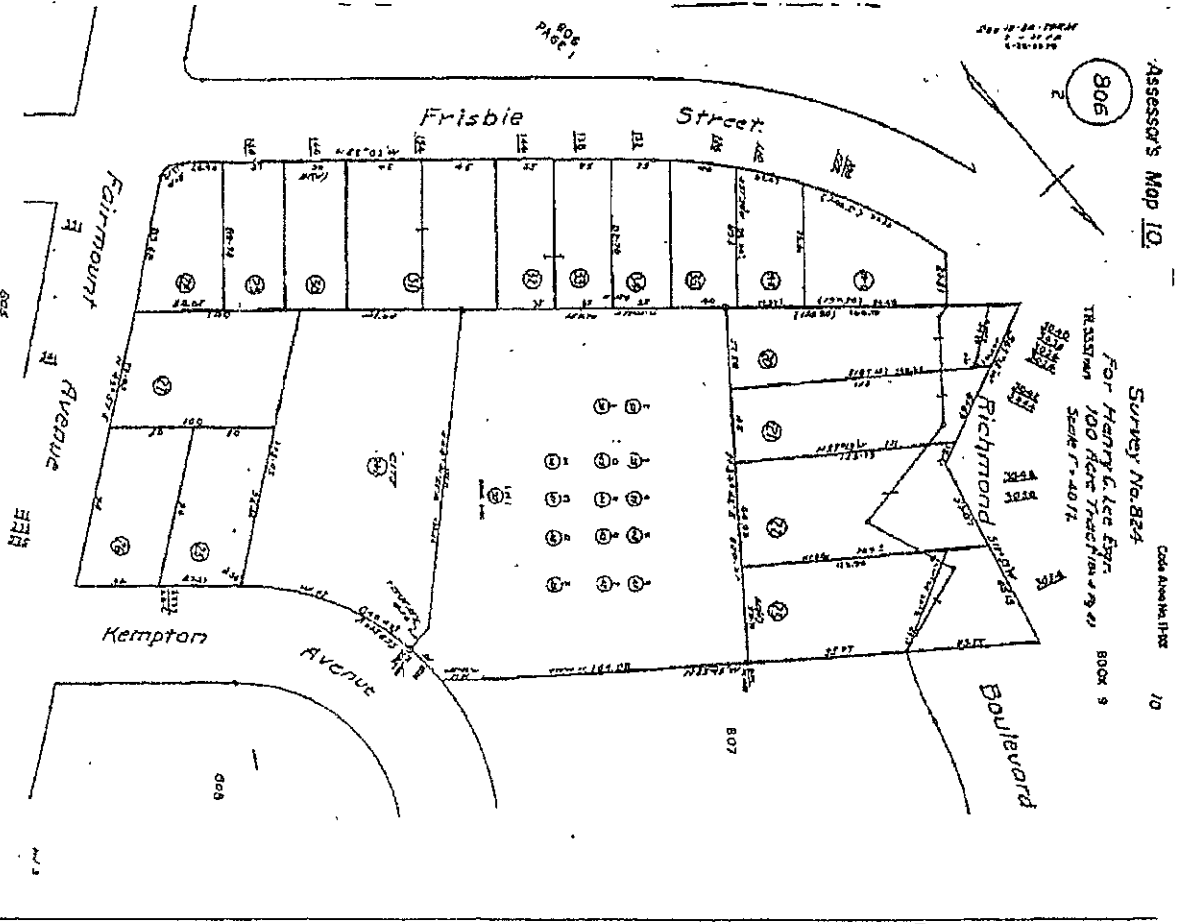




OLD BACK of house facing (now side of house)

We hereby certify that the parcel as designated on this map is in its entirety and it is the property herein to be conveyed.

*Nanda Mae Kramer*  
*Barton Norman Ouellet*



**ATTACHMENT B-3**  
3054 Richmond Blvd.  
LPAB 9/16/13

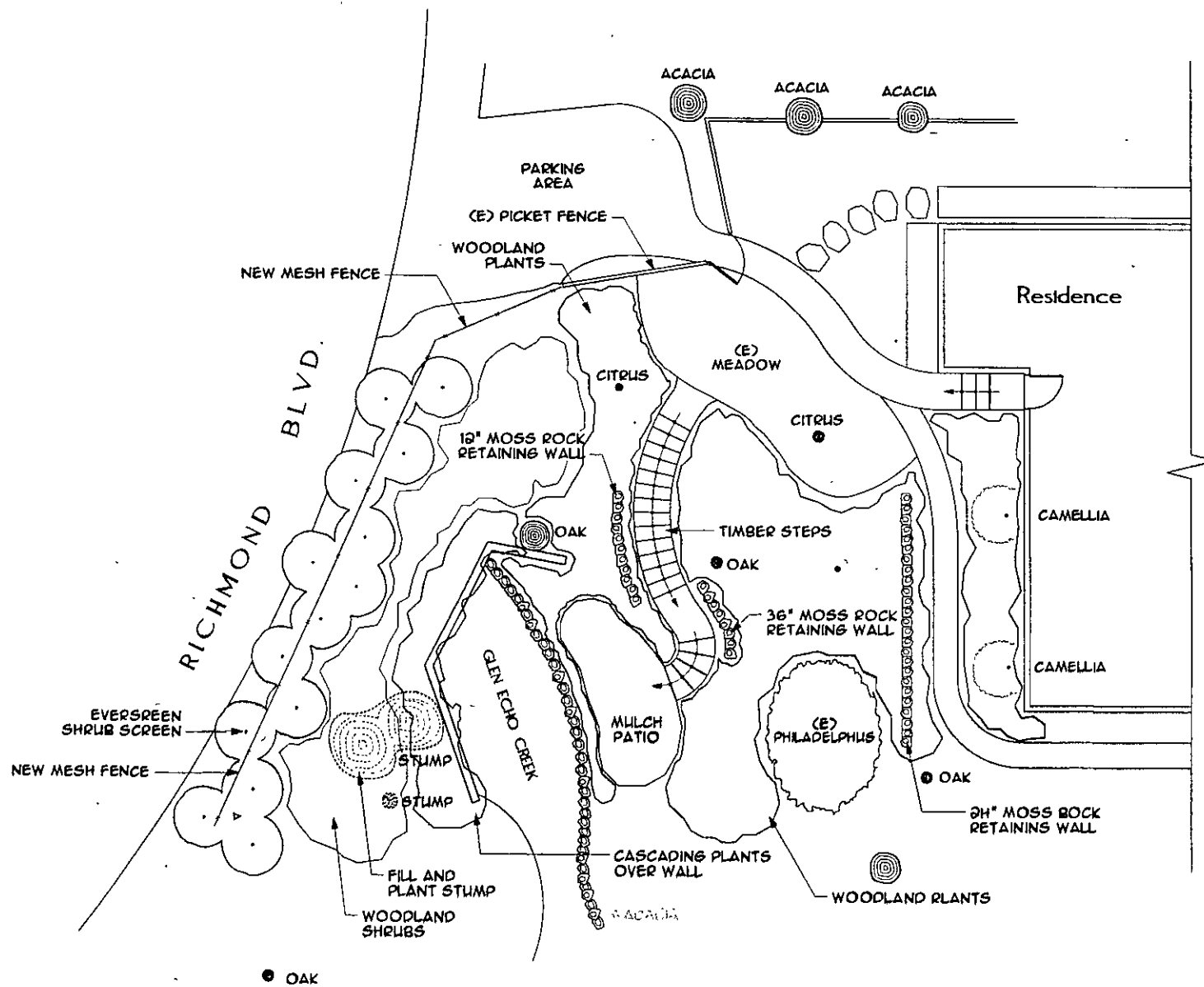
### 3. PRESERVATION WORK PROGRAM AND TIME LINE

Please list the improvements to take place over the next 10 years, in order of priority. Listed work should be limited to stabilization and/or maintenance of the historic structure or restoration and/or repair of exterior character defining features of the historic property. State the anticipated costs of the improvements, including but not limited to materials, labor, permits and fees. Anticipated construction must be equal to or greater than tax savings; see the Mills Act Property Tax Calculator on line at [www.oaklandnet.com/historicpreservation](http://www.oaklandnet.com/historicpreservation) for a rough estimate of potential property tax reduction. (Please attach additional pages to complete the below information.)

1. Year: 2014 Cost: \$16,050 Improvement: Remove blackwood Acacias trees that threaten foundation + roof
2. Year: 2015 Cost: \$28,515 Improvement: Slope stabilization and erosion control via retaining walls + garden restoration
3. Year: 2016 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
4. Year: 2017 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
5. Year: 2018 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
6. Year: 2019 Cost: \$15,356 Improvement: Drainage for patio Preventing water collection next to foundation
7. Year: 2020 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
8. Year: 2021 Cost: \_\_\_\_\_ Improvement: \_\_\_\_\_
9. Year: 2022 Cost: \$15,000 Improvement: Seismic upgrade: Crawl space shear bracing and anchor bolts
10. Year: 2023 Cost: \$5,500\* Improvement: Roof drainage improvements, especially ~~below~~ above rear of house, exterior grade improvements

**Note:** Each work item will require separate building and zoning review and approval prior to undertaking the actual work. Design Review fees are waived for Mills Act properties.

\* work not covered with remaining mills act funds will be performed during next 10-year term



FOUR DIMENSIONS LANDSCAPE CO.  
 2918 FORANE STREET  
 FRESNO, CA 93728

JOSH HARKINSON & RINKU PATIL  
 5034 RICHMOND BLVD.

LANDSCAPE CONCEPT  
 CREEK-SIDE

Date: 5/18 Scale: 1/8" Design By: Drawn By: Sheet:



## Photos of 3054 Richmond

Front of house:



Back of house:

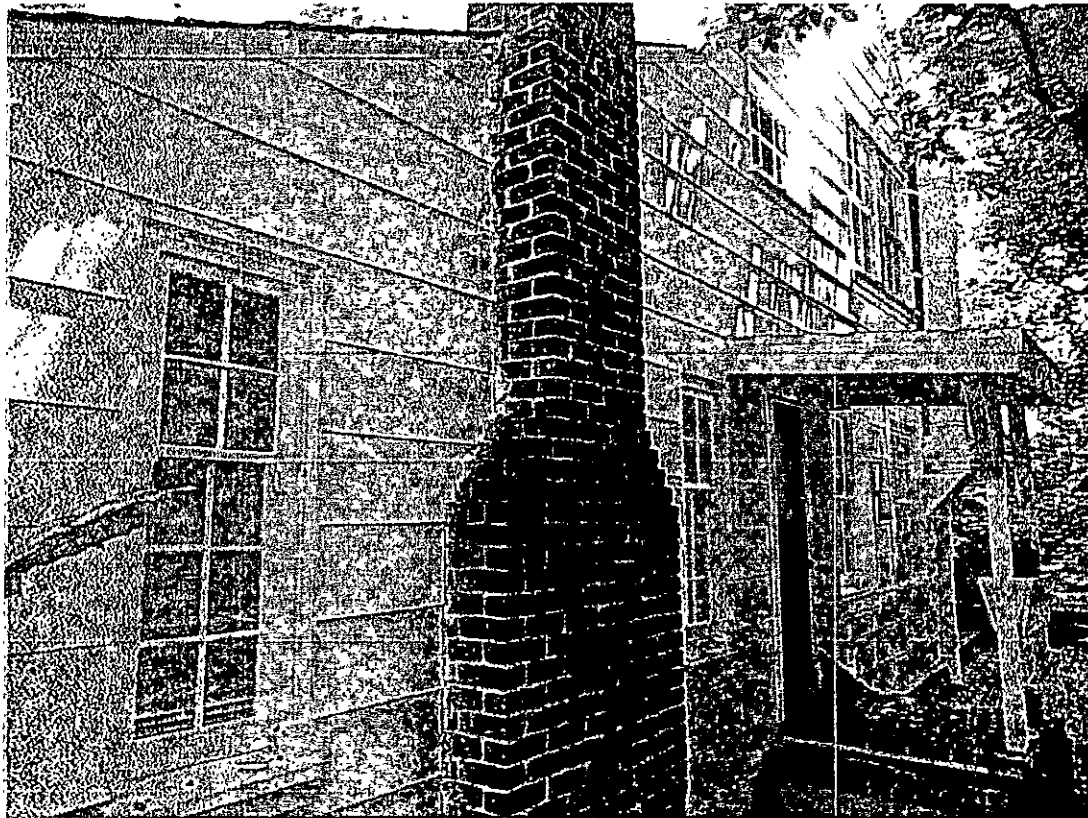




Northeast side of house, seen from rear:



Southwest side of house, showing entrance to in-law apartment:



Other views of the house:

Front, seen from southwest corner:



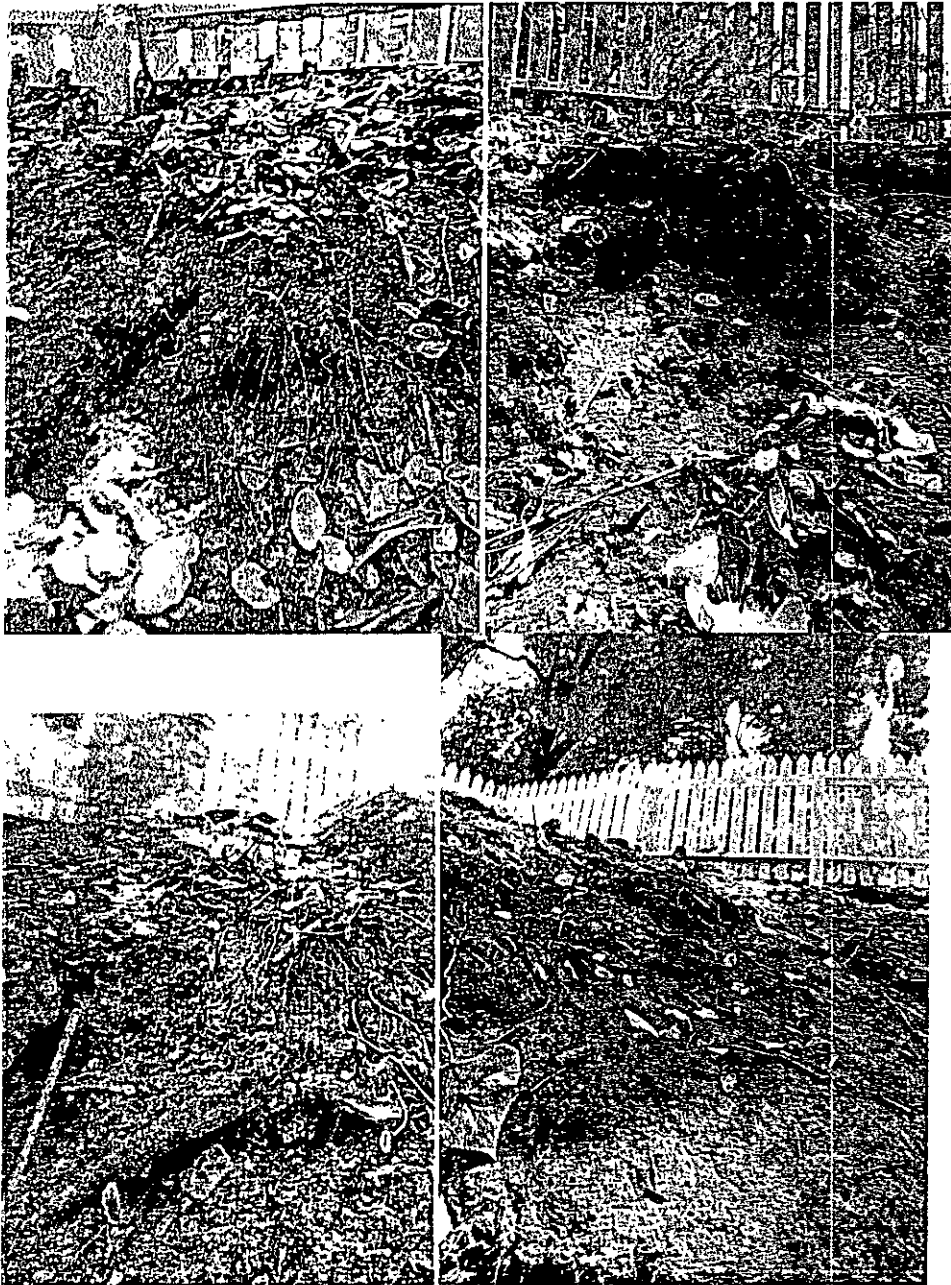
Entrance to in-law apartment:



**Photos of proposed work areas**

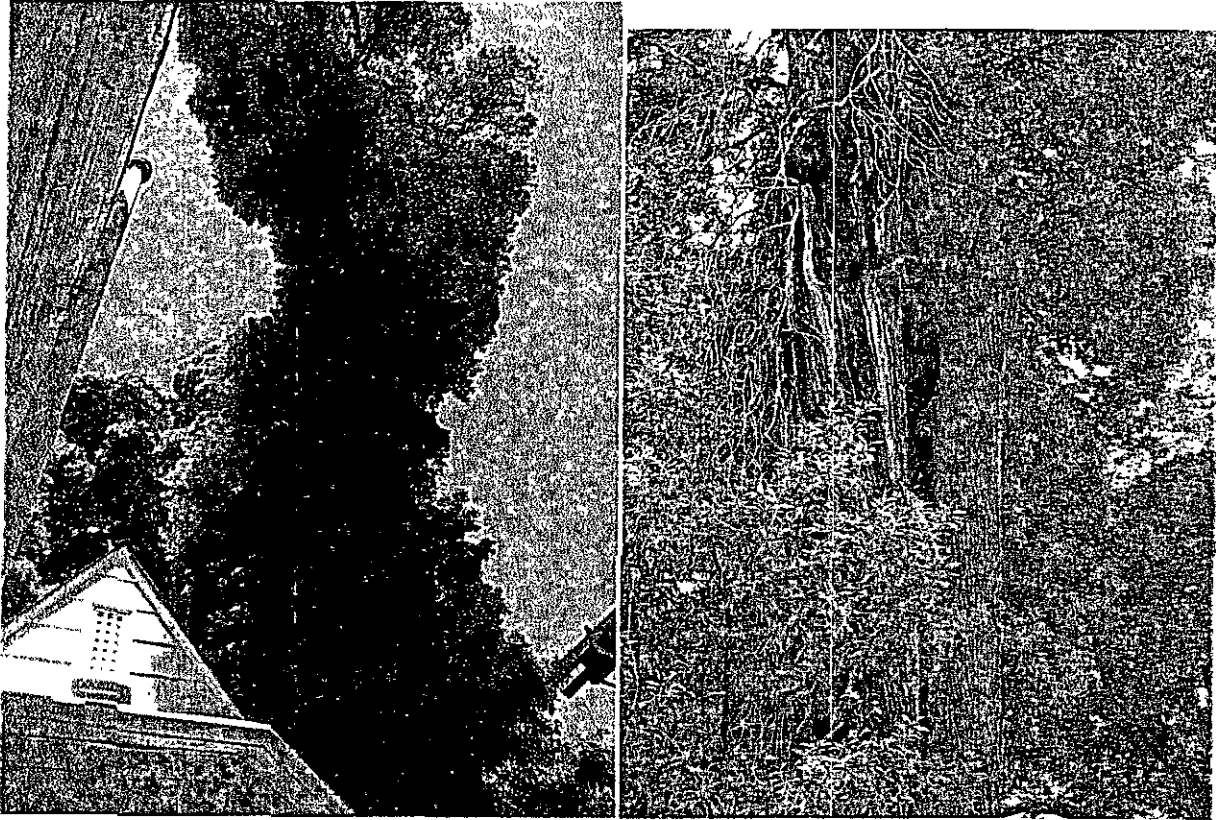
**Slope stabilization and erosion control:**

**Slope between house and creek is eroding, threatening long-term stability of the house:**



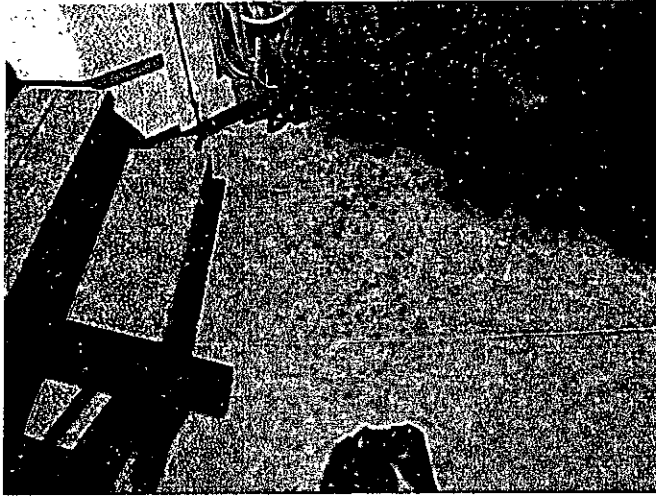
**Remove Acacia trees that threaten to fall on house and are damaging foundation:**

Photo at right is a close-up of the tree shown at left, which is splintering:



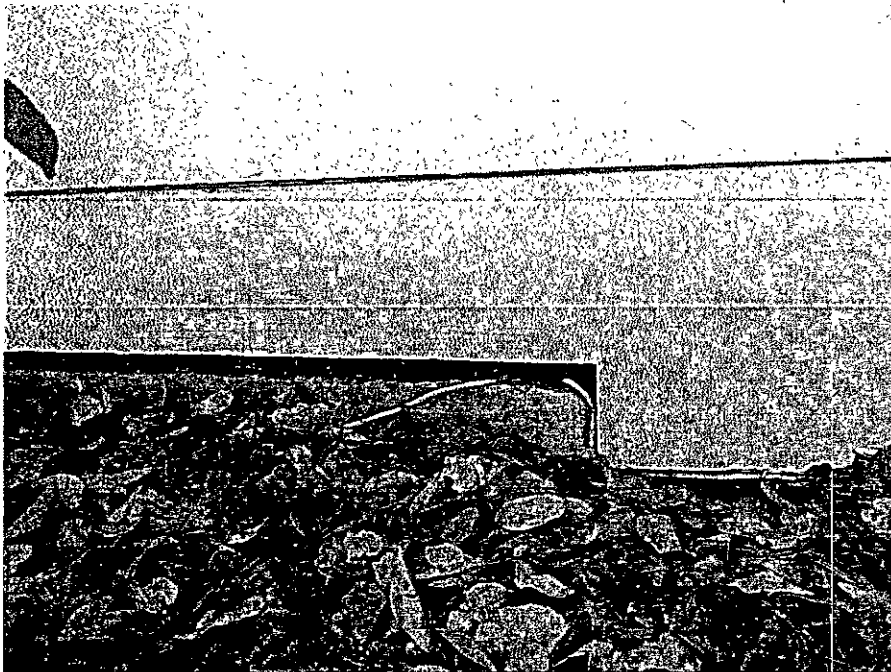
### **Fix drainage problem on rear side patio:**

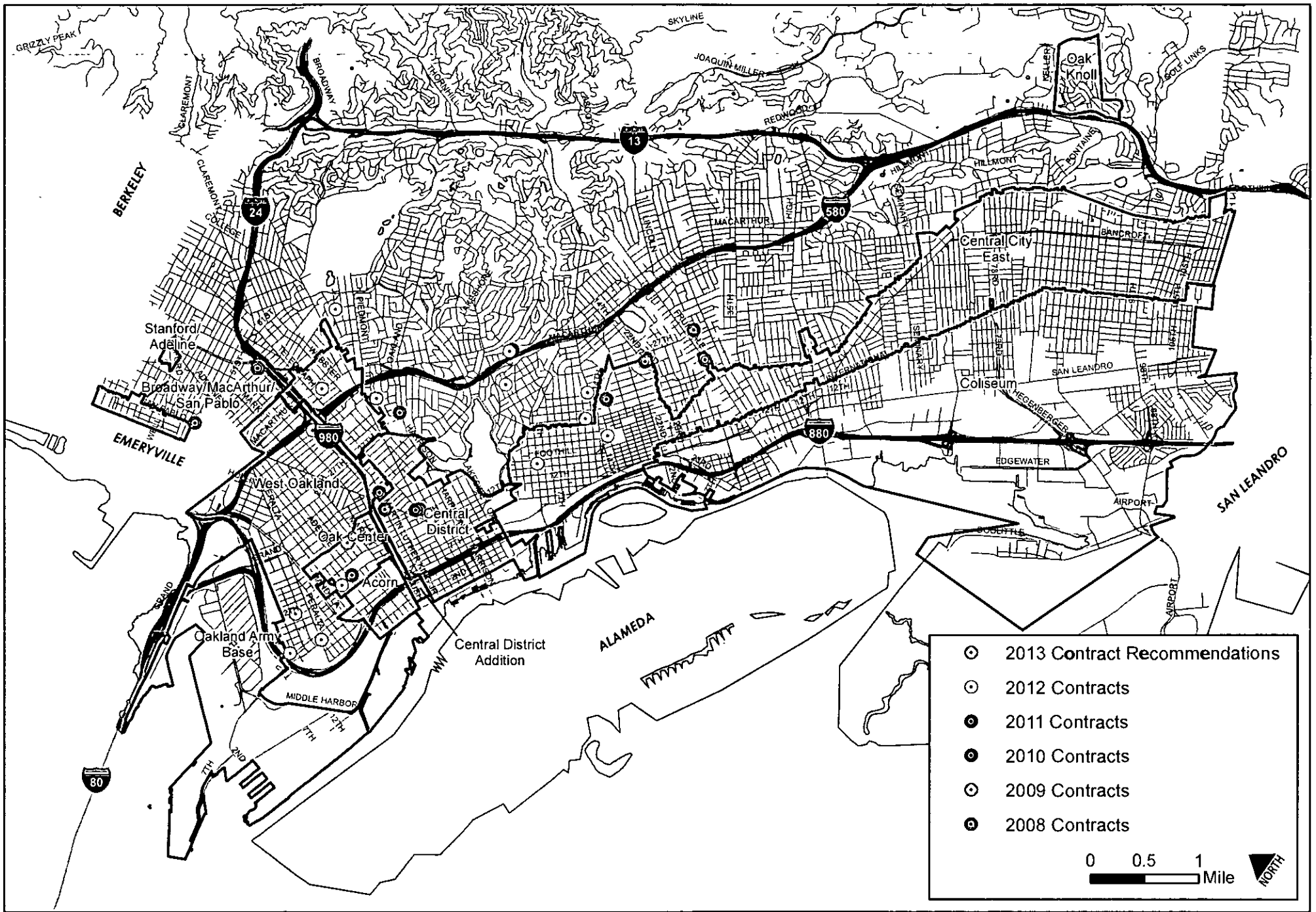
Photo shows stained area on patio where water comes down the slope and collects up against the side of the foundation. French drain and permeable patio would solve puddling problem and prevent foundation damage.



### **Seismic upgrade:**

This is hard to show in a photo since the work would take place under the house. Upgrade would install additional supports between house and foundation.





**Mills Act Contracts & Contract Recommendations**

City of Oakland, Dept. of Planning & Building  
September 10, 2013





1710 FILBERT STREET  
Attachment D, LPAB 9/16/13

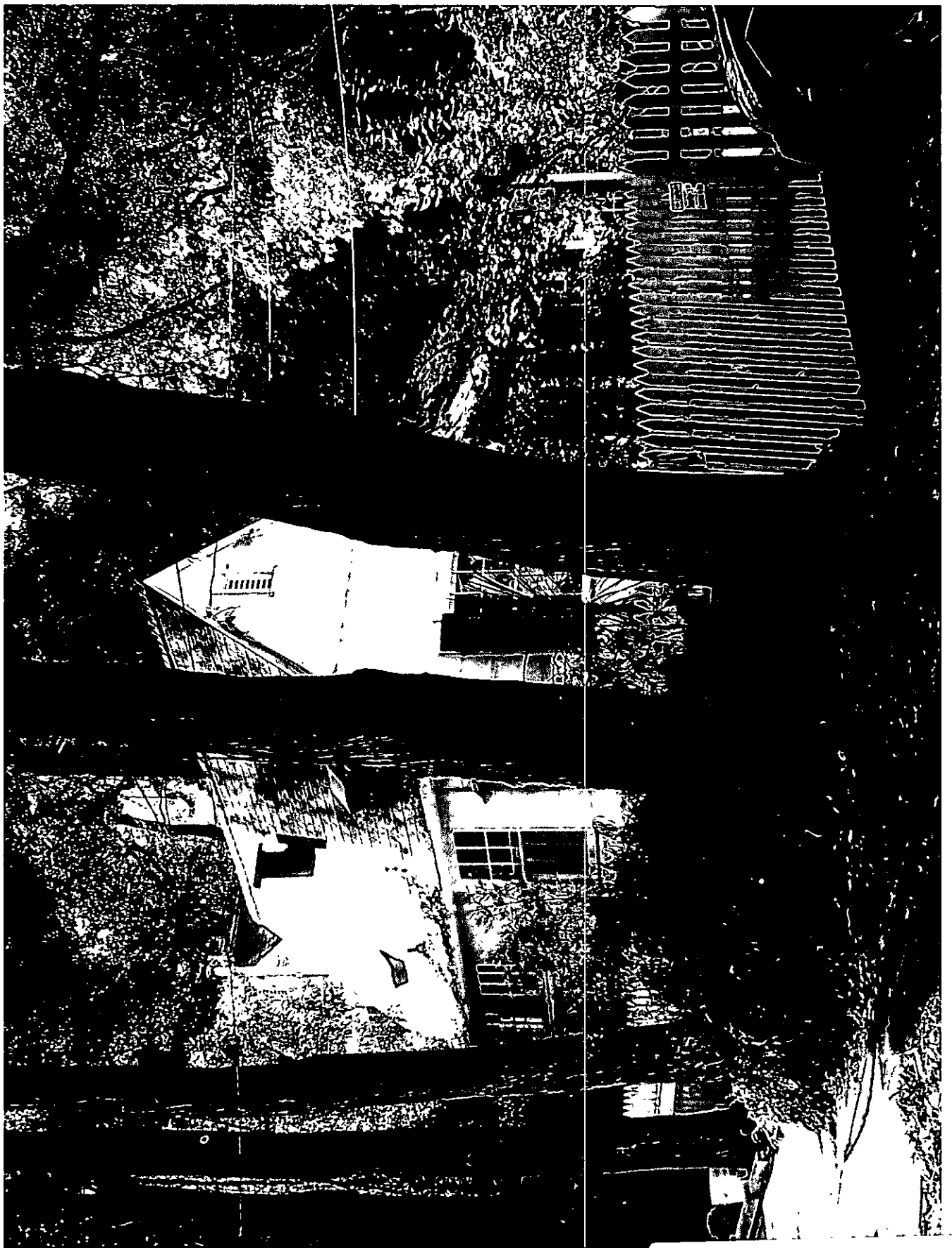


1710 FILBERT STREET

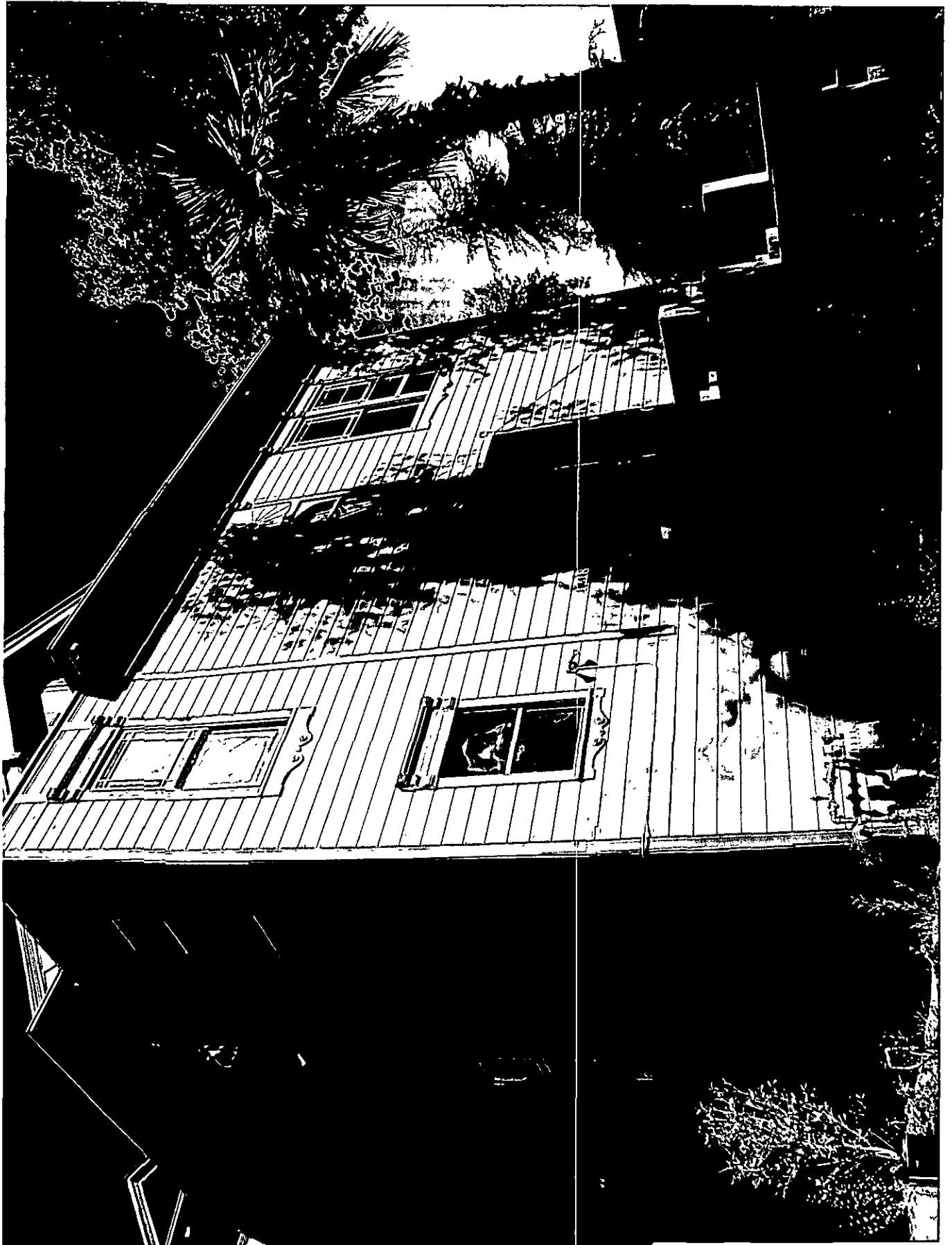




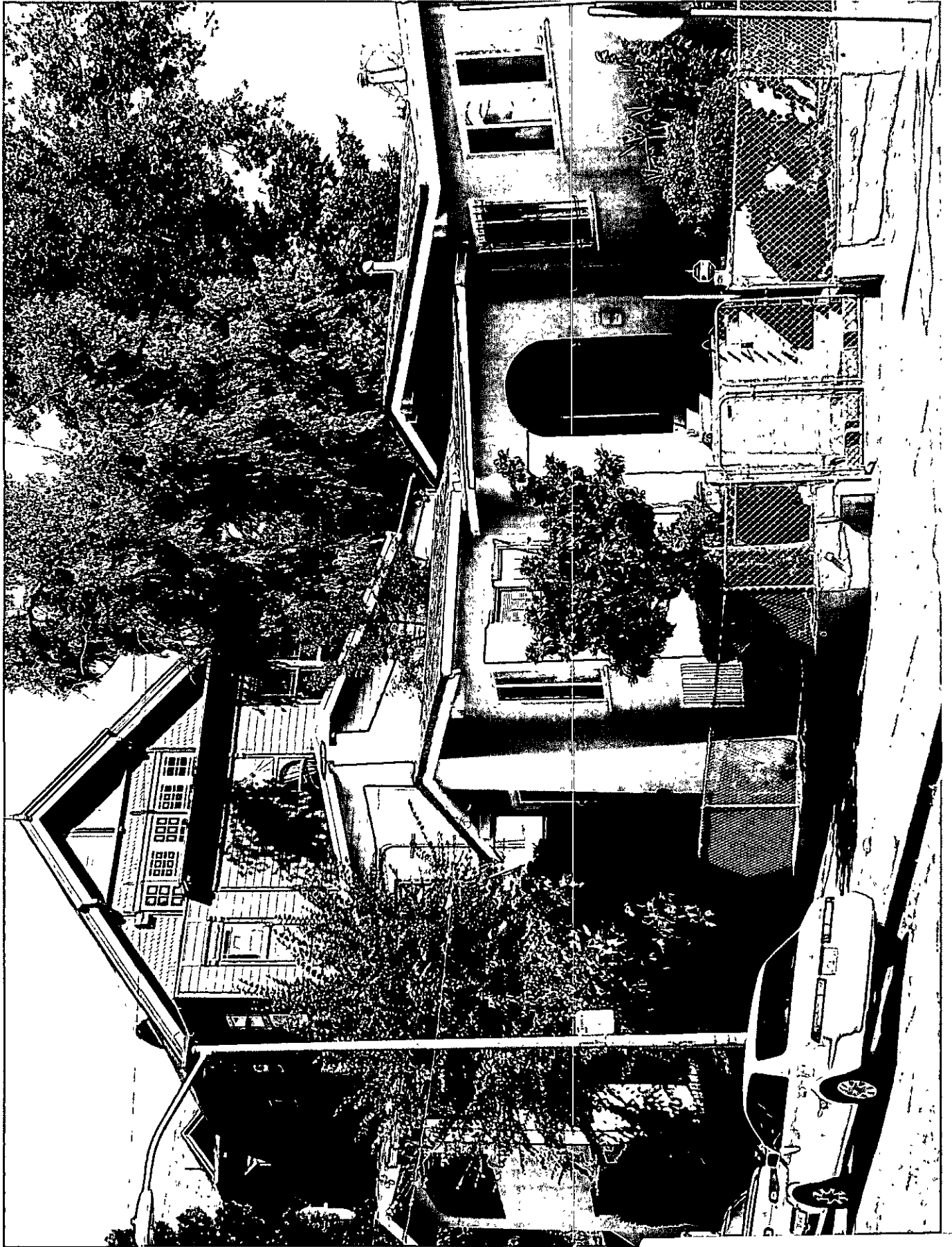
3054 RICHMOND BLVD.



3054 RICHMOND BLVD.



1218 E. 21<sup>ST</sup> STREET



1218 E. 21<sup>ST</sup> STREET



1218 E. 21<sup>ST</sup> STREET

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

10 JAN 11 AM 11:42  
INTRODUCED BY COUNCIL MEMBER DE LA FUENTE

Corrected  
APPROVED AS TO FORM AND LEGALITY

*Mark P. Walsh*  
City Attorney

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 12987 C.M.S.**

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**AN ORDINANCE EXPANDING AND MAKING PERMANENT THE MILLS ACT PROPERTY TAX ABATEMENT PROGRAM FOR QUALIFIED HISTORIC PROPERTIES WHICH WAS ESTABLISHED AS AT TWO-YEAR PILOT PROGRAM VIA ORDINANCE NO. 12784 C.M.S.**

**WHEREAS**, the General Plan Historic Preservation Element Policy 2.6.1 calls for the adoption of a Mills Act contract program, pursuant to Sections 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code, to promote historic preservation; and

**WHEREAS**, establishment of a permanent Mills Act Program would meet numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, commercial and corridor revitalization, and image; and

**WHEREAS**, the Landmarks Preservation Advisory Board adopted the establishment of a Mills Act Property Tax Abatement Program for the City of Oakland as a major goal for 2005/06; and

**WHEREAS**, the City of Oakland has a wealth of historic buildings and neighborhoods matched by few other California cities; and

**WHEREAS**, the City Council adopted a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties in 2007 via Ordinance No. 12784 C.M.S.; and

**WHEREAS**, the two-year pilot program has successfully been implemented, with applications submitted representing geographic diversity within the City, and with applications submitted that are within both the range of the limit on the number of contracts and the limit of losses on Property Tax revenues, with the exception of large commercial properties; and

**WHEREAS**, the two-year pilot program demonstrated the need to expand the limits of

of losses of Property Taxes in the Central Business District to include these large commercial properties in the Program, to provide an incentive for rehabilitation of Central Business District historic properties, which benefit both the property owner with a potential tax reduction and the City with a potential Tax Revenue increase; and

**WHEREAS**, the establishment of a permanent and expanded Mills Act Program for the City of Oakland could affect historic properties city-wide and has the potential to be a catalyst for further revitalization and reinvestment of its distinct and diverse neighborhoods, including the Central Business District, and its strong historical character; and

**WHEREAS**, staff has solicited direction from the historic community and in-house City stakeholders, including the Landmarks Preservation Advisory Board, the Oakland Heritage Alliance, interested Developers and the City Redevelopment Agency, in order to create an inclusive program that responds to a variety of Oakland concerns; and

**WHEREAS**, the Landmarks Preservation Advisory Board and the Planning Commission have strongly supported the goals to expand and make permanent the Mills Act Tax Abatement Program; **NOW, THEREFORE**,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines that an expanded and permanent Mills Act Program will implement the General Plan Historic Preservation Element, provide an incentive for historic property maintenance, preservation and/or rehabilitation and thereby act as a catalyst for revitalization citywide, thus promoting the health, safety and welfare and furthering numerous general plan policies and objectives.

**SECTION 2.** The City Council hereby adopts an expanded and permanent Mills Act Program, as detailed in the December 1, 2009 City Council Agenda Report. There shall be a limit of the program impact on City revenues limited to \$25,000/year, on Redevelopment revenues to \$25,000/year in any single redevelopment area with a cumulative limit of \$250,000/year for all redevelopment areas with the exception of the Central Business District. In the Central Business District, there shall be a limit of the program impact on Redevelopment revenues to \$100,000/building/year with a cumulative limit of \$250,000/year.

Additionally, any Mills Act Program property applicant, whose estimated Property Tax loss exceeds the above limits, may request special consideration by the City Council.

The Landmarks Preservation Advisory Board shall review and consider all Mills Act contracts, which shall be in substantial conformance to the Model Mills Act Agreement (Exhibit A), and shall forward its recommendations to the City Council. Staff shall present a report analyzing the cumulative fiscal effects of all existing Mills Act contracts

prior to Council consideration of additional Mills Act contracts. If the City Council approves any Mills Act contracts, it shall do so by resolution.

**SECTION 3.** The City Council finds and determines that the requirements of the California Environmental Quality Act of 1970 (CEQA), the CEQA Guidelines, and the provisions of the Environmental Review Regulations of the City of Oakland have been met, and the actions authorized by this Ordinance are categorically exempt from CEQA under CEQA Guidelines Section 15331: Historical Resource Restoration/Rehabilitation.

**SECTION 4.** The City Council authorizes staff to take any and all steps necessary to implement the Mills Act Pilot Program consistent with this ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN - 5 2010

PASSED BY THE FOLLOWING VOTE:

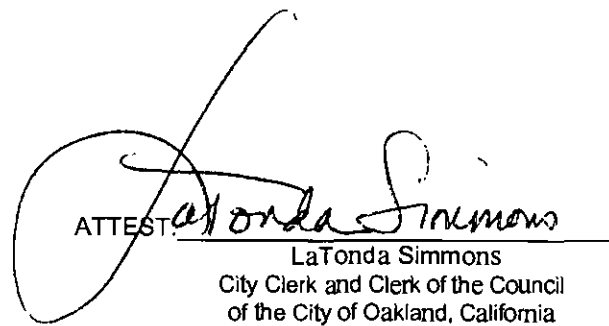
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

Introduction Date: DEC - 8 2009

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: 1 - 7 - 2010



MPW

## **NOTICE & DIGEST**

**AN ORDINANCE EXPANDING AND MAKING PERMANENT THE MILLS ACT PROPERTY TAX ABATEMENT PROGRAM FOR QUALIFIED HISTORIC PROPERTIES WHICH WAS ESTABLISHED AS AT TWO-YEAR PILOT PROGRAM VIA ORDINANCE NO. 12784 C.M.S.**

This ordinance (a) adopts a permanent Mills Act Property Tax Abatement Program which allows reductions of property tax assessments for eligible historic properties if the owner signs an agreement with the city to preserve and maintain the historic characteristics of the property, based on the two-year pilot program via Ordinance No. 12784 C.M.S.; and (b) expands the program so that large commercial properties in the Central Business District can participate in the Program.

**WHEN RECORDED, RETURN TO:**

City of Oakland  
Community & Economic Development Agency  
Attn: Planning & Zoning, Historic Preservation/Secretary of Landmarks Board  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA. 94612

**(MODEL) MILLS ACT AGREEMENT FOR  
PRESERVATION OF HISTORIC PROPERTY**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by and between the City of Oakland, a municipal corporation (hereinafter referred to as the "City"), and \_\_\_\_\_ (hereinafter referred to as the "Owner(s)"), owner(s) of the structure located at \_\_\_\_\_, in the City of Oakland (Exhibit A – Legal Description of Property).

**RECITALS**

Owner possesses and owns real property located within the City and described in Exhibit A ("Property") attached and made a part hereof

The Property is a Qualified Historic Property within the meaning of Oakland City Council Resolution No. \_\_\_\_\_ C.M.S., in that it is a privately owned property which is not exempt from property taxation and is on the City of Oakland's Local Register of Historic Resources.

Both City and Owner desire to carry out the purposes of Section 50280 of the California Government Code and Section 439 of the California Revenue and Taxation Code.

Both Owner and City desire to enter into a Agreement to preserve the Property so as to retain its characteristics of cultural, historical and architectural significance and to qualify the Property of an assessment of valuation pursuant to Section 1161 of the Revenue and Taxation code of the State of California.

**NOW, THEREFORE**, both Owner and City, in consideration of the mutual promise, covenants and conditions contained herein and the substantial public benefit to be derived therefrom, do hereby agree as follows:

1) **Effective Date and Term of Agreement (California Government Code Section 50281.a)** The term of this Agreement shall be effective commencing on \_\_\_\_\_ and shall remain in effect for a term of ten (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter “renewal date”), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owner(s) serves written notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

2) **Notice of Nonrenewal (California Government Code Section 50282, California Revenue and Taxation Code Section 439.3)** If City or Owner(s) desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the Agreement as follows:

- a. Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date; or
- b. City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner(s).
- c. If the City or Owner(s) serves notice of intent in any year to not renew the Agreement, the existing Agreement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the Agreement, as the case may be.
- d. Any notice required to be given by the terms of this Agreement shall be provided by U.S. mail or hand delivery at the address of the respective parties as specified below or at any other address as may be later specified in writing by the parties hereto.

To City: City of Oakland  
Community and Economic Development Agency  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612-2032  
ATTN: Secretary, Landmarks Preservation Advisory Board

To Owner:

3) **Valuation of Historical Property (California Revenue and Taxation Code, Section 439.2)** During the term of this Agreement, Owner(s) are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of

Section 439 et. seq. of the California Revenue and Taxation Code.

- 4) Preservation/rehabilitation and Maintenance of Property (California Government Code Section 50281(b)1) During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:
- a. Owner(s) agree to preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the Property during the term of this Agreement as set forth in the attached schedule of improvements, which has been reviewed by the Landmarks Preservation Advisory Board and approved by the City Council (Exhibit B attached and made a part hereof ). No demolition or other work may occur which would adversely impact the cultural, historical and architectural characteristics of the Property during the term of this Agreement.
  - b. All work on the Property shall meet , at a minimum, the Secretary of Interior's Standards for Rehabilitation of Historic Properties ,the Office of Historic Preservation of the Department of Parks and Recreation\_(Exhibit C attached and made a part hereof), the Minimum Property Maintenance conditions (Exhibit D attached and made a part hereof) the State Historical Building code as determined as applicable by the City of Oakland and all required review and conditions of the Landmarks Preservation Advisory Board, the Planning Commission, the City Council, and/or the Community and Economic Development Agency of the City of Oakland.
  - c. If the schedule set out in Exhibit B is not complied with, then City will use the following process to determine whether the Owner(s) are making good faith progress on the schedule of work. Upon City's request, the Owner(s) shall timely submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property within the last 24 months. The Owner(s) shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit B shall be revised to reflect the schedule change. The Community and Economic Development Agency's Director, or his/her designee, shall have the ability to administratively adjust the schedule timeline, in concurrence with the Property Owners(s), only by written recorded instrument executed by the parties hereto.
  - d. Owner(s) shall, within five (5) days notice from the City, furnish City with any information City shall require to enable City to determine (i) the Property's present state, (ii)its continuing eligibility as a Qualified Historic Property, and (iii) whether the Owner is in compliance with this Agreement.

- 5) **Destruction through ‘Acts of God’ or “Acts of Nature”.** To the extent authorized by state law, Owner(s) shall not be held responsible for replacement/repair of the Property if it is Damaged or Destroyed through “Acts of God’/Nature, such as slide, flood, tornado, lightning or earthquake. Damaged or Destroyed means that the property is no longer restorable to a condition eligible for historic designation due to substantial loss of integrity, as determined by an Historic Architect.
- 6) **Inspections (California Government Code Section 50281(b)2).** Owner(s) agrees to permit such periodic examinations/inspections, by appointment, of the interior and exterior of the Property by the City staff, Members of the Landmarks Preservation Advisory Board, representatives of the County Assessor’s Office, representatives of the State Board of Equalization and representatives of the Department of Parks and Recreation as may be necessary to determine the Owner’s compliance with this Agreement. Such examination/inspection shall be upon not less than five (5) days written or oral notice.
- 7) **Payment of Fees (California Government Code Section 50281.1)** The Owner shall pay the City a fee established pursuant to the City’s Master Fee Schedule, for costs related to the preparation and review of the Agreement and related documents at the time of application.
- 8) **Binding on Successors and Assigns (California Government Code Section 50281.b.3)** Owner agrees that this Agreement shall be binding upon and inure to the benefit of all parties herein, their heirs, successors in interest, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or otherwise, and that any such person(s) shall have the same rights and obligations under this Agreement.
- 9) **Cancellation (California Government Code Section 50284)** City, following a duly noticed public hearing before the City Council, as set forth in California Government Code Section 50285, may cancel this Agreement if it determines that Owner(s): (a) have breached any of the conditions of the Agreement; (b) have allowed the property to deteriorate to the point that it no longer meets the standards for being on the City’s Local Register of Historic Resources ; or (c) if the Owner(s) have failed to restore or rehabilitate the Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owner(s) shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owner(s) shall pay a cancellation fee of twelve and one-half percent (12 ½%) of the current fair market value of the Property at the time of cancellation, as determined by the County Assessor as though the Property were free of any restrictions pursuant to this Agreement.

- 10) **No Compensation** Owner shall not receive any payment from City in consideration of the obligations imposed under this Agreement, it being recognized and agreed that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the Property's assessed value on account of the restrictions required for the preservation of the Property.
- 11) **Enforcement of Agreement** As an alternative to cancellation of the Agreement for breach of any condition as provided in paragraph 9, City may, in its sole discretion, specifically enforce, or enjoin the breach of the terms of this Agreement. In the event of a default, under the provisions of this Agreement by the Owners, City shall give written notice to Owners by registered or certified mail. If such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.
- 12) **Indemnification** Owner shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless the City of Oakland, and all of its boards, commissions, departments, agencies, agents, officers, and employees (individually and collectively, the "City") from and against any and all actions, causes of actions, liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses (collectively called "Claims") incurred in connection with or arising in whole or in part from this Agreement, including without limitation:
- a. any accident, injury to or death of a person, loss of or damage to property occurring in or about the Property;
  - b. the use or occupancy of the Property by Owner, its Agents or Invitees;
  - c. the condition of the Property; or
  - d. any construction or other work undertaken by Owner on the Property.
- This indemnification shall include, without limitation, reasonable fees for attorneys, consultants and experts and related costs and City's cost of investigating any Claims. Owner shall defend the City from any and all Claims even if such Claim is groundless, fraudulent or false. Owner's obligations under this Paragraph shall survive termination of this Agreement.
- 13) **Governing Law** This Agreement shall be construed and enforced in accordance with the State of California.

- 14) Amendments This Agreement may be amended in whole or in part only by a written recorded instrument executed by the parties hereto in the same manner as this Agreement.
- 15) No Waiver No failure by the City to insist on the strict performance of any obligation of Owner under this Agreement or to exercise any right, power or remedy arising out of a breach hereof, shall constitute a waiver of such breach or of City's right to demand strict compliance with any terms of this Agreement. No acts or admissions by City, or any agent(s) of City, shall waive any or all of City's right under this agreement.
- 16) Severability If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 17) Recording with Alameda County (California Government Code Section 50282.e) No later than 20 days after execution of this Agreement, the Owner shall record with the county recorder a copy of the Agreement and provide proof of such to the City.
- 18) Notice to State Office of Historic Preservation The Owner shall provide written notice of the Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement, and provide City with a copy of such notice.
- 19) Eminent domain (California Government Code Section 50288) In the event that the Property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the Agreement, such Agreement shall be canceled and no fee shall be imposed under paragraph 9. This Agreement shall be deemed null and void for all purposes of determining the value of the Property so acquired.
- 20) General Provisions None of the terms provisions or conditions of this Agreement shall be deemed to create a partnership hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.
- 21) Attorney's Fees In the event legal proceedings are brought by any party or parties hereto, to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover its reasonable attorney's fees in addition to court costs and other relief ordered by the court.





On \_\_\_\_\_, before me, \_\_\_\_\_  
a Notary Public for the State of California, personally appeared \_\_\_\_\_  
\_\_\_\_\_, personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to in the within  
instrument, and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the  
day and year first written above.

## EXHIBITS

EXHIBIT A: Legal Description of Property

EXHIBIT B: Schedule of Improvements

EXHIBIT C: The Secretary of the Interior's Standards for Rehabilitation

EXHIBIT D: Minimum Property Maintenance Standards

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### MINIMUM PROPERTY MAINTENANCE STANDARDS

(Exhibit D of the Mills Act Agreement)

The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as:  
fences, roofs, doors, walls, and windows, broken windows,  
peeling exterior paint, broken structures;
2. Graffiti;
3. Incomplete exterior construction where no building inspections  
have been requested for six or more months, or for work which  
does not require a building permit, where there has been no  
significant progress for 90 days.

SECRETARY OF THE INTERIOR'S STANDARDS  
FOR THE TREATMENT OF HISTORIC PROPERTIES

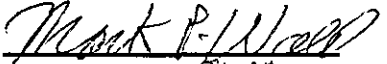
Standards for Rehabilitation

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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# OAKLAND CITY COUNCIL

Approved as to Form and Legality

  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION, AS RECOMMENDED BY THE LANDMARKS PREVERVATION ADVISORY BOARD, APPROVING THREE (3) MILLS ACT CONTRACTS BETWEEN THE CITY OF OAKLAND AND THE PROPERTIES AT 1710 FILBERT STREET (ESTIMATED \$1,484/YEAR PROPERTY TAX REDUCTION), 1218 EAST 21ST STREET (ESTIMATED \$5,318/YEAR PROPERTY TAX REDUCTION), AND 3054 RICHMOND BOULEVARD (ESTIMATED \$6,965/YEAR PROPERTY TAX REDUCTION) PURSUANT TO ORDINANCE 12987 C.M.S., TO PROVIDE PROPERTY TAX REDUCTIONS IN EXCHANGE FOR OWNERS' AGREEMENT TO REPAIR AND MAINTAIN HISTORIC PROPERTIES IN ACCORDANCE WITH SUBMITTED WORK PROGRAMS.**

**WHEREAS**, the General Plan Historic Preservation Element Policy 2.6.1 calls for the adoption of a Mills Act contract program pursuant to Sections 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code, to promote historic preservation; and

**WHEREAS**, the Oakland City Council adopted a permanent Mills Act Property Tax Abatement Program for qualified historic properties on January 5, 2010, via Ordinance No. 12987 C.M.S.; and

**WHEREAS**, the implementation of the Mills Act Program meets numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, revitalization, and image; and

**WHEREAS**, the City has received three Mills Act contract applications in 2013 from qualified historic properties, all of which are City of Oakland Designated Historic Properties. 1710 Filbert Street, a Stick-Queen Anne house built in 1883-84, is a contributor to the Oak Center Historic District S-20 zone; 1218 East 21st Street, the Ellen Kenna house, a Queen Anne built in 1888, is City Landmark #111, designated in 1992; and 3054 Richmond Boulevard, the 1926 Cape Cod style Frederick Reimers house, was designated a Heritage Property on September 16, 2013, in conjunction with the Mills Act application.

**WHEREAS**, at a duly noticed meeting, the Landmarks Preservation Advisory Board on September 16, 2013, recommended the three applications for contract approval for the

2013 Mills Act program; and

**WHEREAS**, at a duly noticed meeting, the Landmarks Preservation Advisory Board's Mills Act contract recommendations were presented to the Planning Commission as a Director's Report on November 20, 2013; and

**WHEREAS**, the City Council Community and Economic Development Committee considered the matter at its December 3, 2013, duly noticed meeting and recommended its approval to the City Council; and

**WHEREAS**, the City Council considered the matter at its December 10, 2013, duly noticed meeting; now, therefore be it

**RESOLVED**, that the City Administrator, or designee, is hereby authorized to enter into Mills Act contracts, subject to review and approval of the City Attorney, in substantial conformity with the previously approved model Mills Act contract, with the following properties and to take whatever actions are necessary to implement the previously approved Mills Act Program consistent with this resolution:

**1710 FILBERT STREET, Oakland CA**

**1218 EAST 21ST STREET, Oakland CA**

**3054 RICHMOND BOULEVARD, Oakland CA**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, SCHAAF and PRESIDENT KERNIGHAN,

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California