Amendment of the Whole

FILE NO. 011163
ORDINANCE NO. 174-01

[Ordinance governing property-related subsidies to nonprofit arts organizations.]

Ordinance revising the terms and conditions for the expenditure of an earlier appropriation of 1.5 million dollars to give rent, relocation, capital improvement and real property acquisition assistance to nonprofit arts organizations that are in immediate danger of being evicted or displaced by rent increases, and otherwise amending the terms of the assistance program.

Note: Additions are single-underlined *Times New Roman*; deletions are strikethrough *Times New Roman*. Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

Be it ordained by the People of the City and County of San Francisco:

Section 1. On November 6, 2000, the Board of Supervisors passed Ordinance No. 267-00, setting forth the terms and conditions for the expenditure of a $1.5 million appropriation from the City's general fund to the Arts Commission to provide rent assistance to nonprofit arts organizations that are in immediate danger of being evicted or displaced by rent increases. As the rent assistance program has progressed, and the needs of the nonprofit arts community have increased and changed, the Board finds that it is now appropriate to amend and revise the terms and conditions of the rent assistance program.

Section 2. Ordinance No. 267-00 is hereby amended, as set forth below:

Section 1. Companion legislation to this ordinance, found in Board of Supervisors File No. 001810, would appropriate $1.5 million from the City's general fund to the Arts Commission to provide rent assistance to nonprofit arts organizations that are in immediate danger of being evicted or displaced by rent increases.

Supervisor Ammiano, Leno, Peskin, Gonzalez
BOARD OF SUPERVISORS
danger of being evicted or displaced by rent increases. The $1.5 million appropriation shall
be expended for the purposes and on the conditions set forth below.

1. Purpose. The purpose of this legislation is to provide immediate rent
assistance, relocation cost assistance, capital improvement funds, and real property acquisitions
funds to eligible nonprofit arts organizations that are in immediate danger of eviction or
displacement due to increased rents. The purpose of this legislation is to help to stabilize arts
organizations currently located in a leasehold in San Francisco while the City pursues
medium- and long-range goals of (a) maximizing, expanding and improving existing arts
spaces and (b) identifying, securing and improving new arts spaces.

2. Eligible Organizations. In order to be eligible to receive a grant for rent financial
assistance, an organization must meet all of the following criteria:

a. Must be (i) currently incorporated and in good standing as a Section 501(c)(3)
corporation pursuant to the federal tax laws or (ii) a fiscally sponsored project of a tax-exempt
corporation that is operating for purposes consistent with Section 501(c)(3) status.

b. Must exist, as its primary nonprofit purpose, to support, create or perform an
arts-related function in one or more of the following disciplines: visual arts, dance, theater,
music, literary arts, or new genre/multimedia, art school/art education, or arts/social services.

c. Must have had an annual operating budget of no more than $1.2 million for the
organization’s fiscal year ending just prior to the submission of an application for rent financial
assistance.

d. Must be able to demonstrate financial accountability by submitting the
organization’s Form 990 for the most recent tax year, a year-end financial report
corresponding to the Form 990, and an operating budget for the current fiscal year.

e. Must be able to demonstrate a recent history of financial stability as reflected by
an absence of unplanned operating deficit of significance, a positive fund balance, or a
meaningful cash reserve. The financial impact of a recent rent increase or relocation costs shall not be considered as a negative factor with respect to the organization's history of financial stability.

f. Must demonstrate substantial continuing activities in and support from the community through one or more of the following: three letters of support from the organization's constituents describing the organization's relationship with and contribution to the community, a published calendar of the organization's activities, a selection of recent published reviews of the organization's work, and/or other equivalent documentation.

g. Must have been in existence in San Francisco for at least two years prior to the filing of an application for rent financial assistance.

h. Must establish proof that the organization has at least one year remaining on a lease for space in San Francisco, as of the filing of an application for rent assistance. This may be established by the submission of a written lease agreement, a letter of commitment from a landlord, or by such other evidence as reasonably establishes the existence of a one-year leasehold.

i. Must demonstrate financial need for rent assistance as a result of a recent or upcoming significant increase in rent. An increase of in rent is considered significant if it is an increase of 25 percent or more over the previous year's rent. An increase in rent is considered recent if it occurs on or after January 1, 1999. This may be established by the submission of a written lease agreement that shows a significant increase in rent in comparison to the immediately preceding lease; a letter from a landlord indicating an increase in rent, or by such other evidence as reasonably establishes that the rent on the leasehold has increased significantly.

j. Must submit a business plan or other strategy indicating the organization's plan for future fiscal management, including supporting its space needs and sustaining itself.
economically without the use of City rent financial assistance after the period for which City rent financial assistance is sought.

3. Limits on Grant Funds.
   a. An organization may receive rent assistance funds pursuant to this legislation only for the portion of rent that represents an increase over the prior year's rent.
   b. An organization may not receive cumulative City funding for rent assistance pursuant to this legislation and any other City grant program that totals more than (i) 50 percent of the total annual rent for the leasehold for which the organization has applied or (ii) $80,000 within a 12-month period, or whatever amount is less than $80,000.
   c. An organization may receive rent assistance for a total of 12 months, beginning on the date of filing an application for funding. An organization may reapply for additional rent financial assistance for subsequent years.
   d. Only one grant may be awarded per leasehold within a 12-month period. Thus, where multiple organizations share the use of a single leasehold, only one application may be awarded for such leasehold.
   e. Grant Rent Assistance funds awarded pursuant to this legislation may be used only to pay rent, and only for the leasehold that the grant recipient identified in its application for rent assistance in the absence of a written modification of the organization's grant agreement. If a grant recipient is found to have spent such grant funds on any expenses other than rent, the City may require the applicant to refund all grant monies received under this program, plus interest and the City's costs of recouping the grant monies.

f. Relocation costs, capital improvement funds, and real property acquisitions funds awarded pursuant to this legislation may be expended only for real property within the City and County of San Francisco, and only for expenses incurred on or after January 1, 1999. In addition, City funding pursuant to this legislation must be expended on capital improvements to and/or acquisitions of...
real property directly benefiting nonprofit organizations. An organization may not receive more than
$80,000 in relocation costs, capital improvement funds and real property acquisitions funds pursuant
to this legislation.


a. The Arts Commission shall award a grant of the entire $1.5 million to the
California Lawyers for the Arts to administer the rent financial assistance and award the
funding to other eligible organizations. The Arts Commission shall disburse one half of the
appropriation upon the effective date of this legislation, and the remaining one half after the
first half has been expended. The Arts Commission or California Lawyers for the Arts may
adopt reasonable rules and procedures to implement this legislation consistent with its
purposes. California Lawyers for the Arts shall be responsible for all administrative,
organizational and record-keeping functions under this program, and such other functions as
the Arts Commission may determine.

b. An applicant may apply for rent financial assistance by submission of evidence of
all of the eligibility criteria set forth above to the California Lawyers for the Arts. Any request
must clearly specify the amount of funding the applicant is requesting.

c. The California Lawyers for the Arts shall form a selection panel, consisting of five
members, as follows: (1) a staff representative of the Arts Commission chosen by the Director
of Cultural Affairs, (2) a staff representative of Grants for the Arts chosen by the Director of
Grants for the Arts, (3) and a third member, as set forth below. The a member of one of the following
disciplines, corresponding to the applicant's discipline, who shall be mutually selected by the Director
of Cultural Affairs and Director of Grants for the Arts shall mutually select one representative for
each of the following six arts disciplines -- visual arts, dance, theater, music, literary arts, and new
genre/multimedia, art school/art education, or arts/social services. (4) the Director of California
Lawyers for the Arts or a designated staff representative, and (5) a real estate professional.
Each selection panelist representing each of the eight specified disciplines must be either an executive director or artistic director of a Section 501(c)(3) arts organization with five years of experience in the particular discipline he/she is chosen to represent, and a history of involvement in the community of that discipline in San Francisco.

Selection panelists may be reasonably compensated for their service out of the administrative fee for the program, in the discretion of the California Lawyers for the Arts.

When reviewing an application for funding, the Arts Commission representative, the California Lawyers for the Arts representative and the representative for the discipline that corresponds to the applicant organization's purpose shall serve as the selection panel. Where an organization is multidisciplinary, the Director of Cultural Affairs and Director of Grants for the Arts shall determine which discipline representatives to include on the selection panel. The selection panel must reach unanimous agreement in order to provide funding to an organization on the basis of an 80% vote. The selection panel shall report its determination to the California Lawyers for the Arts, which shall then administer the grant fund, as appropriate.

In reviewing applications and awarding grants, the selection panel shall be guided by the following considerations. Generally, grants shall be awarded on a first-come, first-served basis to eligible organizations. The purpose of this program is not to weigh the relative merits of arts organizations, but to attempt to stabilize the arts community in San Francisco that is threatened by displacement due to increased rents. Therefore, if an organization meets the eligibility criteria stated in this legislation, it should be given greatest consideration for funding in the absence of compelling reasons to deny funding. The Board of Supervisors realizes that, because of the revolving nature of this rent financial assistance program, the selection panel may not have an opportunity to review applicants in relation to one another, and that funding may run out before a worthy applicant has had an opportunity to apply for funding. To the best of its ability, when there are multiple pending applications from
a variety of disciplines, the selection panel should attempt to distribute the available funding evenly between the *six* stated disciplines and to give priority to applications for *leaseholds properties* that are used by multiple arts organizations. If there is insufficient funding available to fully fund pending applications, the selection panel may weigh the relative merits of the various organizations in terms of quality and consistency of service in determining how best to distribute the available funds, with the primary ultimate goal of promoting stability in the arts community.

h. A selection panelist may not have a financial interest in an application before that panelist for review. In the event of such financial interest, the remaining *two* panelists shall review and determine the grant application without the participation of the panelist with the financial interest.

5. Reporting Requirements.

a. Each grant recipient must submit a report to the California Lawyers for the Arts within 30 days after the completion of the period for which *rent financial assistance* was provided which contains a statement and independent verification that the grant funding was spent on *rent or other appropriate expenses* for the appropriate *leasehold property*.

b. The California Lawyers for the Arts shall report to the Arts Commission and the Board of Supervisors *monthly-quarterly* on the following: the identity of the applicants for funding within the one-month period, which organizations received funding, how much funding each organization received, a statement of the balance of the fund (including interest earned), and the amount of administrative fees allocated. Within two months after funding under this legislation is depleted, the California Lawyers for the Arts shall submit a final report to the Arts Commission and the Board of Supervisors stating the cumulative total of the information contained in the one-month reports.
6. Urgency. The Board of Supervisors intends that this rent fiscal assistance be
made available to eligible organizations as quickly as possible. Therefore, the selection panel
shall convene as soon as possible and may start awarding grants immediately on the basis of
complete application submittals, even in the absence of a formal standardized application
request form. Grant applications shall be reviewed and determined on a rolling basis, and the
selection panel shall attempt to meet frequently, as needed. If a selection panelist has not yet
been chosen for each of the six stated disciplines, the panel may review and determine
grant applications for those disciplines for which a selection panelist has been selected.

7. Administrative Fees. The California Lawyers for the Arts may recoup a
reasonable administrative fee, in the discretion of the Arts Commission, from the $1.5 million
appropriation from the general fund.

8. Interest-Bearing Account and Carry Over of Funds. The California Lawyers for
the Arts shall hold the $1.5 million appropriated to this purpose in an interest-bearing account.
Any interest earned shall be credited to and become part of the principal thereof, and shall not
be expended for any purpose other than the purposes of this legislation. Any balance
remaining in this account at the close of any fiscal year shall be deemed to have been
provided for a specific purpose within the meaning of the Charter and shall be carried forward
and accumulated in said account for the purposes recited in this legislation.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By:

MIRIAM L. STOMBLER
Deputy City Attorney
Ordinance revising the terms and conditions for the expenditure of an earlier appropriation of 1.5 million dollars to give rent, relocation, capital improvement and real property acquisition assistance to nonprofit arts organizations that are in immediate danger of being evicted or displaced by rent increases, and otherwise amending the terms of the assistance program.

July 30, 2001 Board of Supervisors — PASSED, ON FIRST READING
  Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, McGoldrick, Newsom, Peskin, Sandoval, Yee
  Absent: 1 - Maxwell

August 6, 2001 Board of Supervisors — FINALLY PASSED
  Ayes: 9 - Ammiano, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
  Absent: 2 - Daly, Gonzalez
I hereby certify that the foregoing Ordinance was FINALLY PASSED on August 6, 2001 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young  
Clerk of the Board

Mayor Willie L. Brown Jr.