



**DATE:** Jan. 23, 2017

**TO:** The Hon. Richmond Mayor Tom Butt, Vice Mayor Jovanka Beckles and Councilmembers Ben Choi, Eduardo Martinez, Gayle McLaughlin, Jael Myrick and Melvin Willis

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

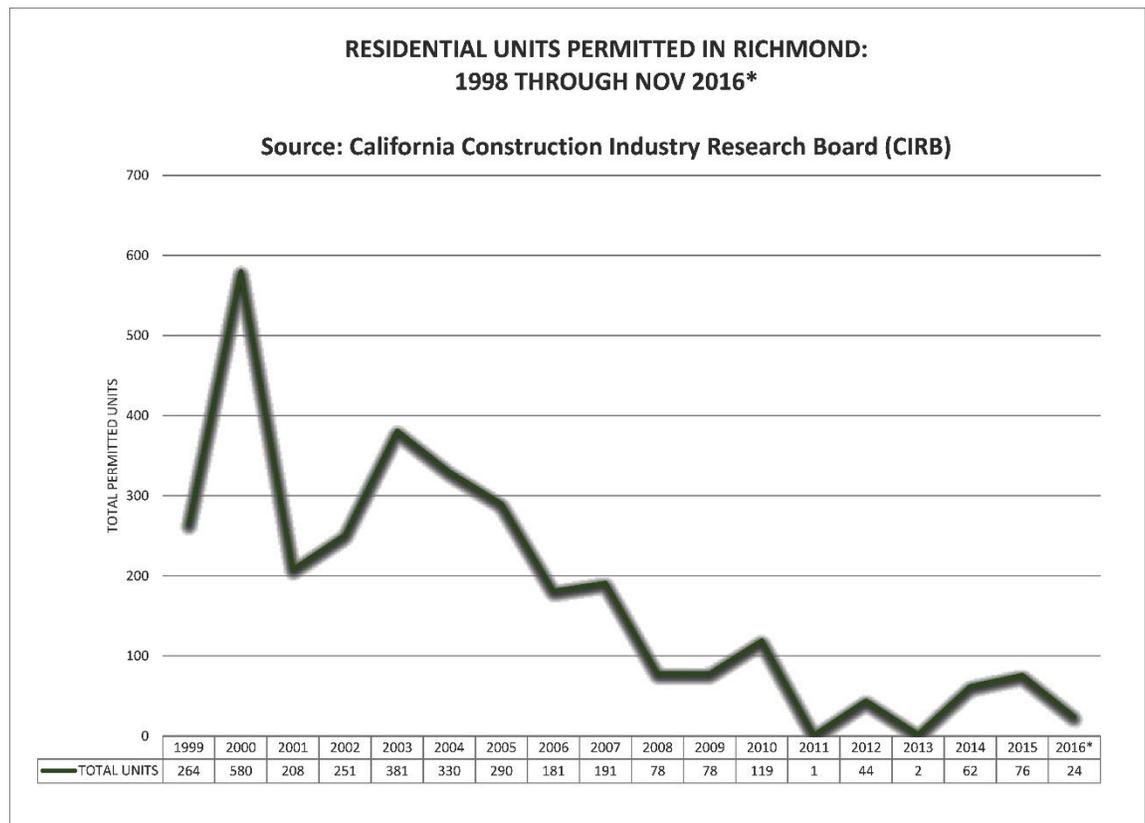
**RE:** Jan. 24, 2017, City Council Meeting, Agenda Item #J-5, Policy Review of Proposed Ordinance Establishing a Public Art Fee for Private Development

Dear Mayor and Councilmembers:

The Building Industry Association of the Bay Area (BIA|Bay Area) respectfully submits the following comments opposing the proposed ordinance establishing a new requirement on new private residential development related to public art.

BIA is a non-profit association representing more than 400 members of the residential building industry including companies that have or may have interests in Richmond. If adopted, we believe this ordinance would make newly constructed housing more expensive and exacerbate an already severe affordability crisis in the Bay Area. According to the National Association of Home Builders, a \$1,000 jump in the median price of a newly built home makes buying a home unaffordable for another 152,903 households, with California seeing the highest numbers of people priced out of the market.

Imposition of a new fee in Richmond will also result in fewer units being built. Lenders make investments based on attainment of minimum returns and if the market cannot support rents or sales prices at the levels necessary to meet those thresholds, developers cannot get financing and the housing doesn't get built. As the chart below shows, Richmond's housing production already remains well below pre-Great Recession levels. Another fee will further stall Richmond's housing market recovery.



Mailing Address:  
1350 Treat Blvd.  
Suite 140  
Walnut Creek  
California 94597

Tel (925) 951-6840  
Fax (925) 951-6847  
www.biabayarea.org



We also believe the proposed ordinance represents an unlawful development exaction that lacks a reasonable nexus between any adverse impacts associated with development and the public art requirement that is under consideration.

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

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

Sincerely,

A handwritten signature in black ink that reads "Lisa Vorderbrueggen". The signature is written in a cursive, flowing style.

Lisa Vorderbrueggen

CC:  
Richmond City Manager Bill Lindsay  
Richmond Director of Library and Cultural Services Katy Curl

Mailing Address:

1350 Treat Blvd.

Suite 140

Walnut Creek

California 94597

Tel (925) 951-6840

Fax (925) 951-6847

[www.biabayarea.org](http://www.biabayarea.org)