

July 21, 2022

CITY OF LOS ANGELES IMPOSES SIGNIFICANT NEW REQUIREMENTS ON PROJECT DEVELOPERS AND THEIR PRINCIPALS

To Our Clients and Friends:

On June 8, 2022, the City of Los Angeles implemented new local political contribution restrictions and reporting requirements for property owners, developers, and their respective principals while entitlement applications are in process, and for twelve (12) months thereafter.[1] Under newly adopted Section 49.7.37 (Developer Contribution Restrictions) to the Los Angeles Municipal Code, contributions from project developers (even if they are not a lobbyist) to the Mayor, the City Attorney, a City Council member, a candidate for any of those offices, or a City committee controlled by any of those individuals are prohibited.[2] Individuals applying for significant planning entitlements are required to electronically file Form 65 (Restricted Developer Registration) with the Los Angeles City Ethics Commission.[3] These new laws come in response to several high-profile investigations of alleged corruption, including allegations that developers have provided monetary and non-monetary bribes to City officials in exchange for securing discretionary development approvals.

How do I know if I have to register?

An individual qualifies – and must register with the Los Angeles City Ethics Commission – as a “restricted developer” when they apply for any of the 17 types of significant planning entitlements listed in Los Angeles Municipal Code Section 49.7.37(A)(5).[4] A “significant planning entitlement” means any of the following planning approvals submitted to the Los Angeles Department of City Planning that are not solely ministerial:[5]

	Significant Planning Entitlement	Case Prefix, Suffix, or Reviewing Division
1.	Density Bonus, On Menu	DB
2.	Density Bonus, Off Menu	DB
3.	Development Agreement	DA
4.	General Plan Amendment	GPA

	Significant Planning Entitlement	Case Prefix, Suffix, or Reviewing Division
5.	Height District Change	HD
6.	Major Development Project	Review by Major Projects Division
7.	Oil Drilling District Establishment	O
8.	Sign District Establishment	SN
9.	Site Plan Review	SPR
10.	Specific Plan Establishment	SP
11.	Tentative Tract Map	TT
12.	Transfer of Floor Area Rights	TDR
13.	Transit Oriented Communities Affordable Housing Incentive	TOC
14.	Vesting Tentative Tract	VTT
15.	Vesting Zone Change	VZC
16.	Zone Change	ZC
17.	Zone Variance where Area or Citywide Planning Commission is the initial decision maker	(APC and ZV) or (CPC and ZV)

Who do the restrictions apply to?

Any applicant, property owner, or principal associated with a significant planning entitlement filing in the City of Los Angeles qualifies as a “restricted developer” and is subject to the new restriction.^[6] Principals include all of the following for both the applicant and the property owner(s):

GIBSON DUNN

- board chair;
- president;
- chief executive officer (CEO);
- chief financial officer (CFO);
- chief operating officer (COO);
- individual who serves in the functional equivalent of one of those positions;
- person who owns 20% or more of the entity and/or property; and
- individual authorized to represent the applicant or property owner before the City Planning Department (ex: in house employee, outside consultant, attorney, lobbyist, permit expediter, or similar consultant).[7]

The contribution ban does not extend to an external board member of a developer or property owner who does not serve in a role that is functionally equivalent to one of the above positions. If your project is not required to be registered with the Los Angeles City Ethics Commission or if you are not required to be listed on a Form 65 (Restricted Developer Registration) (even if you are involved with a project that is required to be registered with the Los Angeles City Ethics Commission), you may make contributions subject to the applicable contribution limits.[8]

How do I comply with this requirement?

1. **Reporting Requirements** - Applicants are required to register significant planning entitlements with the Los Angeles City Ethics Commission by filing Form 65 (Restricted Developer Registration)[9] online through the Restricted Developer Filing System (RDFS).[10] Form 65 is due at the time a significant planning entitlement is submitted to the Los Angeles Department of City Planning.[11] Applicants are required to disclose information about the project, themselves, the property owners, and the principals associated with the significant planning entitlement.[12] If any information in Form 65 changes, an amended registration must be filed within ten (10) business days after the change occurs.[13]

Required information for filing Form 65 through RDFS can be found at <https://ethics.lacity.org/wp-content/uploads/RDFS-Registration-Required-Info.pdf>.

General data from each application will be displayed on the Restricted Developer Master Portal on the Los Angeles City Ethics Commission website.[14] See <https://ethics.lacity.org/restricted-developers/>. Registrations, applicants, owners, and principals can be viewed and searched through the Public Data Portal.[15] See <https://ethics.lacity.org/data/>.

2. **Political Contribution Restrictions** - Once an application is filed, the applicant, the property owner, and their principals (the restricted developers) are prohibited from making political contributions to the Mayor, the City Attorney, a City Council member, a candidate for any of those offices, or a City committee controlled by any of those individuals.[16] The prohibition does not apply to contributions made to LAUSD candidates or committees.[17] Applicants must notify owners and principals that they are subject to this ban.[18]

What are the penalties for non-compliance?

A planning application is not complete until the applicant has filed the information required with the Los Angeles City Ethics Commission.[19] A planning application will be on hold until registration is complete and the applicant has received a confirmation receipt from the Los Angeles City Ethics Commission.[20]

In addition to any other penalties or remedies that may apply under the Los Angeles Municipal Code (potentially monetary fines or misdemeanor charges), a restricted developer who violates or aids or abets a violation of the disclosure requirement or contribution ban may not be an applicant, property owner, or principal on a new planning application for twelve (12) months after the determination of violation by the Los Angeles City Ethics Commission.[21] If the commission, as a body, determines that mitigating circumstances exist concerning the violation, this debarment may not apply.[22]

Is this law retroactive?

Registration is required for any pending project that meets the requirements and that has not yet been approved, conditionally approved, or denied, even if the application was submitted before June 8, 2022.[23] Contributions made prior to June 8, 2022, are not subject to the requirement.[24]

When does this restriction begin and end?

The restriction begins the day the application is submitted to the Los Angeles Department of City Planning.[25] The restriction ends twelve (12) months after the date a letter of determination is issued by the Los Angeles City Ethics Commission or, if no letter is issued, the date the decision on the application is final.[26]

If an application is withdrawn or terminated pursuant to the Zoning Code, the restriction applies until the day after the termination or the filing of the withdrawal.[27]

[1] <https://ethics.lacity.org/news/developer-contribution-ban-goes-into-effect/>

[2] *Id.*

[3] *Id.*

GIBSON DUNN

[4] <https://ethics.lacity.org/developers/#requirements>

[5] *Id.*

[6] <https://ethics.lacity.org/wp-content/uploads/RDFS-Flyer.pdf>

[7] *Id.*

[8] *Id.*

[9] https://ethics.lacity.org/how-do-i-file/?document_source_number=CEC65

[10] <https://ethics.rdfs.lacity.org/>

[11] <https://ethics.lacity.org/developers/#requirements>

[12] *Id.*

[13] <https://ethics.lacity.org/developers/#whatdoifile>

[14] <https://ethics.lacity.org/developers/#requirements>

[15] <https://ethics.lacity.org/developers/#faq>

[16] <https://ethics.lacity.org/wp-content/uploads/RDFS-Flyer.pdf>

[17] <https://ethics.lacity.org/developers/#faq>

[18] L.A., CAL., MUNICIPAL CODE § 49.7.37 (2020) (effective June 7, 2022).

<https://ethics.lacity.org/wp-content/uploads/Laws-Campaigns-City-CFO.pdf#page=45>

[19] <https://ethics.lacity.org/developers/#requirements>

[20] *Id.*

[21] <https://ethics.lacity.org/developers/#debarment>

[22] *Id.*

[23] <https://ethics.lacity.org/developers/#faq>

[24] *Id.*

[25] <https://ethics.lacity.org/developers/#limitations>

[26] *Id.*

GIBSON DUNN

[27] L.A., CAL., MUNICIPAL CODE § 49.7.37 (2020) (effective June 7, 2022).

<https://ethics.lacity.org/wp-content/uploads/Laws-Campaigns-City-CFO.pdf#page=45>



Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this update. For further information, please feel free to contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's Land Use and Development or Real Estate teams in California, or the following authors:

*Mary G. Murphy – San Francisco (+1 415-393-8257, mgmurphy@gibsondunn.com)
Douglas M. Champion – Los Angeles (+1 213-229-7128, dchampion@gibsondunn.com)
Benjamin Saltsman – Los Angeles (+1 213-229-7480, bsaltsman@gibsondunn.com)*

© 2022 Gibson, Dunn & Crutcher LLP

Attorney Advertising: The enclosed materials have been prepared for general informational purposes only and are not intended as legal advice.