

Los Angeles Bans Campaign Contributions From Certain Developers

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Last month, the City of Los Angeles enacted an extension of its existing ban on campaign contributions from city lobbyists and certain city contractors to apply also to certain city developers. The new law goes into effect on January 23, 2020, and applies to any contributions that are made beginning when candidates for L.A. city office are first permitted to start raising money for the 2022 general election.

Specifically, the ban affects contributions from any applicant for what is known as a “Significant Planning Entitlement” under the city’s ordinances – basically certain land uses that require discretionary city action that “are not solely ministerial.” The ban applies not only to applicants, but also to any property owner identified on the application and any of the applicant’s “principals.” The ban applies to contributions to the mayor, city attorney, city council members, candidates for those offices, and their “controlled committees” (including campaign committees, legal defense committees, and officeholder committees).

Developers and individuals covered by the ban are prohibited from making such contributions beginning from the time an application for a “Significant Planning Entitlement” is first submitted until 12 months after the date a letter of determination is issued by the city or the date when a final decision is made on the application. Violations of the ban will result in a 12-month “time-out” during which the offender may not submit any additional application to the city.

Many have characterized the new Los Angeles ban as a “pay-to-play” law – a term which typically refers to bans on contributions from government contractors. As noted above, Los Angeles already

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had a pay-to-play ban. Technically, the new ban on contributions from city developers is akin to the ban that several other jurisdictions have on contributions from entities and individuals associated with certain regulated industries. *Election Law News* previously has reported on such regulated industry contribution bans, including some whose constitutionality has been challenged.

Staff at the Los Angeles City Ethics Commission, which supported the ban, reportedly have claimed that the city is the first jurisdiction to impose a ban on contributions from developers. A few other jurisdictions may have similar bans, however. For example, San Francisco voters enacted a new ordinance by initiative last November that prohibits political contributions by certain persons having an interest in “land use matters” requiring approval by city elected officials or discretionary determinations before city boards or commissions. Maryland state law singles out two local jurisdictions – Prince Georges and Frederick Counties – where contribution bans apply to property owners that have certain property-related applications pending before the counties’ governing bodies. Nonetheless, the novelty of such bans may increase their susceptibility to a constitutional challenge. However, Los Angeles may defend its new ban on the grounds that a city council member who chaired a council committee overseeing development decisions was the subject of an FBI raid last year, although reportedly no charges have been filed.

A *Los Angeles Times* editorial criticized the city’s new ban as not going far enough by not also banning so-called “behested payments,” which was a measure the city also had considered enacting. “Behested payments” are a term of art under California state law and also Los Angeles’ ethics ordinance that cover certain charitable donations made at the behest of a state or city official. Under existing state and city law, officials who solicit such donations are required to file a report disclosing that such donations were made at their behest.

Wiley’s Election Law & Government Ethics Practice advises clients on all pay-to-play, regulated industry, and lobbyist contribution restrictions at the federal, state, and municipal level, as well as reporting requirements related to donations made at the behest of government officials.