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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Adam Benson
Director of Finance

SUBJECT: Owner-Occupied Exemption
Residential Landlord Business Tax

DATE: October 14, 2019

City Administrator Approval

Date:

10/17/19

RECOMMENDATIONS

Staff Recommends That The City Council Receive An Informational Report Regarding The Proposed Ordinance Amending The Oakland Municipal Code, Chapter 5.04, Section 5.04.420, To Fully or Partially Exempt From The Business Tax On Residential Property Rentals Those Landlords With Personal Income Of 120% Of Area Median Income Or Less Who Rent Out (1) Three Or Fewer Rooms From Their Single Family Home Of Personal Residence Or (2) A Unit From Their Owner-Occupied Two-Unit Parcel.

REASON FOR SUPPLEMENTAL

The reason for this supplemental report is to provide updated analysis and financial impact related to the proposed Ordinance to fully or partially exempt the payment of the required Business Tax pursuant to Oakland Municipal Code ("OMC") Chapter 5.04, Section 5.04.420. The full or partial exemption would apply to eligible property owners who engage in the business of rental of up to three rooms in an owner-occupied residential single family residence, townhouse or condominium or the rental of an accessory dwelling unit in an owner-occupied single family residence (SFR) or a duplex where the property owner occupies one of the units.

ANALYSIS AND POLICY ALTERNATIVES

The proposed Ordinance is summarized as follow:

| Number of Rooms Rented ("ADU" means Accessory Dwelling Unit) | Property Type | Occupant ("IFM" means Immediate Family Member) | Fully Exempt | Partially Exempt | % of Exemption |
|--|-----------------------|--|--------------|------------------|----------------|
| 1 | SFR, Townhouse, Condo | Non-IFM | Yes | | 100% |
| 2 | SFR, Townhouse, Condo | Non-IFM | Yes | | 100% |
| 3 | SFR, Townhouse, Condo | Non-IFM | | Yes | 67% |
| ADU | SFR & Duplex | Non-IFM | | Yes | 50% |
| ADU | SFR & Duplex | IFM | Yes | | 100% |

To be eligible for the full or partial exemption of the required Business Tax, the property owner must meet all of the following four criteria:

1. Lives in the house, townhouse or condominium as his or her principal place of residence;
2. Has owned and lived in the house, townhouse or condominium as his or her principal place of residence for at least four (4) consecutive years immediately preceding application of this exemption;
3. Has total household income from all sources of less than or equal to 120 percent of the Area Median Income; and
4. Has no ownership interest in any other residential rental property in the City of Oakland.

The City does not have nor maintain personal or household income information to determine eligibility. Thus, it is not possible to conduct an analysis of the number of property owners who may occupy their own dwellings and would be eligible to receive a full or partial exemption. In addition, the City does not have nor maintain records of properties with accessory dwelling units or the number of rooms rented out by the owner. However, staff was able to identify approximately **1,852** properties whose owners paid a total of \$614,243 required Business Tax in Fiscal Year (FY) 2018-19 for engaging in rental of residential property but might have also resided at the same rental property and therefore could be eligible to receive the full or partial exemption of the Business Tax.

| Property Type | Number of Properties | Business Tax Payment (FY 2018-19) |
|-----------------------------|----------------------|-----------------------------------|
| SFR, Townhouse, Condominium | 997 | \$326,243 |
| Duplex | 855 | \$288,000 |
| Total | 1,852 | \$614,243 |

For FY 2019-20, the financial impact to the General-Purpose Fund (GPF) would be as high as \$470,243 (\$326,243 + \$144,000 (50percent of \$288,000)) if all 1,852 eligible owners applied and received the applicable exemption. If only 50 percent of the eligible owners applied and received the exemption, the financial impact would be approximately \$235,000. If 25 percent of the eligible owners applied and received the exemption, the financial impact would be approximately \$117,560.

For FY 2020-21, the financial impact to the General-Purpose Fund would be as high as \$493,755 if all eligible owners applied and received either full or partial exemption from the payment of Business Tax.

The estimated financial impact is based on three factors: 1) the number of properties registered as rental residential properties; 2) the mailing address for the owner is the same as the property itself, meaning the owner could occupy the property and rent out the rooms or an accessory dwelling unit located at the same property; and 3) the FY 2018-19's revenues derived from those properties registered as rental residential properties with owner's mailing address was of the same as the property.

Below is the table summarizing the estimated financial impact to the FY 2019-21 Adopted Budget:

| | FY 2019-20 | FY 2020-21 |
|---|-------------------|-------------------|
| FY 2019-21 Adopted Budget | \$820,786 | \$861,825 |
| Councilmember Kalb's Proposal | \$350,543 | \$368,070 |
| Surplus / (Deficit) | (\$470,243) | (\$493,755) |
| Equivalent No. of Budgeted Full Time Equivalent (FTE) | -3.13 FTEs | -3.30 FTEs |

Recommended Changes to the Proposed Ordinance

Remove Requirement of Publicizing & Holding Public Meeting Under Section 5.04.420.D.9

Section 5.04.420.D.9 of the proposed Ordinance authorizes the City Administrator or designee to create regulations to implement the provisions of the proposed Ordinance, including prescribing methods for the verification of owner occupancy. The proposed Ordinance further calls for any proposed regulations are to be publicized and that at least one community meeting must be held to engage stakeholders and the public.

The requirement to hold at least one community meeting is inconsistent with the City's existing administrative process and procedures relating to the administration and enforcement of existing tax programs, including that of Business Tax, as codified in OMC Chapter 5.04, which is the same chapter the proposed Ordinance is to be added if it is adopted.

Under the existing Chapter 5.04, Section 5.04.520, the Director of Finance is authorized to “prescribe, adopt and enforce those rules and regulations necessary and advisable to effectuate the purposes of this chapter. As prescribed, the existing authorization would therefore include the provisions under the proposed Ordinance.

Propose Additional Qualification

One of the criteria, as outlined in the proposed Ordinance, is the owner must either live in the rental property where the rooms are rented or in one of the units in a duplex or the primary residence where an accessory dwelling unit is rented. Staff recommends adding criterion that **the owner must also have received a homeowner exemption under the Revenue and Taxation Code Section 218, which grants an exemption of up to \$7,000¹ off the dwelling’s assessed value to owners who occupy the dwellings as principal place of residence.** The addition would enable the Administration to easily verify that property owner is also an occupant of the rental property. Without such designation by the Alameda County Assessor’s Office that processes the exemption, it is difficult to ascertain whether an owner is also an occupant of the rental property, or lives in one of the units in a duplex or in the primary residence where an accessory dwelling unit is located.

Add Time-Certain Requirement

The Ordinance as proposed would allow the owner to receive a full or partial exemption of the Business Tax. For the purpose of achieving the primary goal of the proposed Ordinance and, to maintain operational efficiency, staff proposes that the City Council adopts an ordinance requiring the eligible property owners to report, file and pay business taxes at the time the taxes are due on March 1. Eligible owners would then apply for a tax rebate by submitting an application and supporting documentation on or before May 1 of the calendar year in which the tax is due. Staff would then verify and determine whether supporting documentation is satisfactory. If documentation is satisfactory, the exemption would be granted and a refund/rebate of a full or partial tax paid would be issued within 90 days of administrative determination or a tax credit would be extended, and such amount would be applied to business taxes in a subsequent year. In the case of denial, staff would issue a notice with an option to appeal, as authorized under existing OMC Section 5.04.550(B). **It should be noted that this option requires no additional staffing or resources. Furthermore, this proposed requirement would expedite the application and approval process and that it would prevent property owners who might otherwise subject to a lengthy and perhaps costly audit process which could result in assessments of penalties and interest.**

¹ An exemption of \$7,000 of the dwelling’s assessed value typically results in a property tax savings of approximately \$70 to \$80 annually.

FISCAL IMPACT

The proposed Ordinance would create negative financial impact of from reduced revenues of up to approximately -\$470,423 in FY 2019-20 and -\$493,755 in FY 2020-21. The financial impact would equate to a reduction of approximately 3.13 FTEs in FY 2019-20 and 3.30 FTEs in FY 2020-21. Unless the proposed changes, as outlined above, are added to the proposed Ordinance to minimize the burden of verification of occupancy and other administrative tasks, the on-going staffing costs of approximately \$150,000 would create an additional negative fiscal impact for which funds would need to be identified and appropriated.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive this Informational Report regarding the proposed Ordinance amending the Oakland Municipal Code, Chapter 5.04, Section 5.04.420, to fully or partially exempt from the Business Tax on residential property rentals for those landlords with personal income of 120% of Area Median Income or less who rent out (1) three or fewer rooms from their single family home of personal residence or (2) a unit from their owner-occupied two-unit parcel.

For questions regarding this report, please contact Margaret O'Brien, Revenue & Tax Administrator, (510) 238-7480.

Respectfully submitted,



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