



CITY OF OAKLAND

# AGENDA REPORT

**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Erin Roseman  
Director of Finance

**SUBJECT:** Vacant Property Tax Collection –  
Calendar Year 2019 Through  
FY 2022-23

**DATE:** November 9, 2023

City Administrator Approval

  
Jestin Johnson (Nov 17, 2023 21:17 PST)

Date: Nov 17, 2023

## **RECOMMENDATION**

**Staff Recommends The City Council Receive An Informational Report On The Status of Measure W, Vacant Property Tax Collections, Resolution C.M.S. 87916, For The Period Beginning Calendar Year 2019, Through FY 2022-23.**

## **EXECUTIVE SUMMARY**

In November 2018, Oakland voters approved Measure W, the Vacant Property Tax Act. The purpose of Measure W is to “raise revenue necessary to support and fund services for homeless people and affordable housing, and related programs.” This report provides information on the total revenues collected from the inception of the Measure through the end of FY2022-2023.

## **BACKGROUND / LEGISLATIVE HISTORY**

On July 24, 2018, the Oakland City Council adopted Resolution [87319 C.M.S](#) calling and giving notice, on its motion, for a voter consideration of the ballot measure to adopt a Special Parcel Tax on vacant properties to fund solutions for homelessness, illegal dumping remediation, and specified programs.

On November 6, 2018, Oakland voters approved Measure W, the Vacant Property Tax Act, by a margin of 70.04 percent, which established an annual tax on vacant property for 20 years to raise revenue necessary to support and fund homelessness programs and services, affordable housing, code enforcement, and clean-up of blighted properties and illegal dumping.

On November 5, 2019, the Oakland City Council adopted Resolution [87916 C.M.S](#) setting the tax rates for properties deemed vacant in calendar year 2019 to be levied at the maximum allowable tax rates, except for any “vacant residential land, zoned 4 units or less” under the “Alameda County Use Code 1000” to be levied at the maximum tax rate of \$3,000.00.

On November 19, 2019, the Oakland City Council adopted Ordinance [13571 C.M.S](#) amending portions of Measure W, codified under Oakland Municipal Code Chapter 4.56, to clarify and further define functions and operations of a parcel and to establish a method of identifying parcels subject to the tax.

On December 1, 2020, the Oakland City Council adopted Resolution [88422 C.M.S](#), setting the tax rates for vacant properties in calendar years 2020 and 2021 to be levied at the maximum allowable tax rates.

## **ANALYSIS AND POLICY ALTERNATIVES**

The Vacant Property tax was first budgeted in FY 2020-21, and collection commenced in January 2021 for tax years 2019 and 2020.<sup>1</sup> The first tax collection cycle began in January 2021 and required a review of parcels for tax years 2019 and 2020.

Vacant properties, either by choice of or neglected by their owners result in blight across the City. The dedicated source of revenue is available from this tax provides services and programs to homeless people, reduce homelessness, and protect and support the production of new affordable housing for lower-income households, with minimal impact on the General Purpose Fund. Citywide priorities are advanced by this recommended policy action, which includes 1) housing, economic and cultural security, 2) vibrant sustainable infrastructure and 3) responsive, trustworthy government.

The Finance Department, Revenue Bureau identifies properties subject to the Vacant Property Tax Ordinance by utilizing property vacancy identifying methods and applies the rubric of the ordinance. All potentially vacant properties are identified by property type: residential, multi family, non-residential, commercial, and undeveloped. Data used in the identification process include the City's Planning and Building department's permit records, East Bay Municipal Utility District (EBMUD) water consumption, Alameda County comparisons of mailing and site address, valid and active Business Tax accounts, and public referrals. Properties identified as "potentially vacant" are then noticed in the subsequent year of the subject calendar year for which the tax may be applicable. Failure to respond to notices, failure to qualify for an exemption, and failure to establish that a property was "in-use" for at least fifty (50) days during the subject calendar year narrow down the population of properties that are eventually assessed the tax.

Pursuant to the Oakland Municipal Code Section [4.56.020](#), a parcel of real property shall be deemed "vacant" if the parcel is any of the below, and such parcel will be subject to the tax imposed by [Section 4.56.030](#):

1. A parcel of land, whether undeveloped, residential (including multifamily residential) or non-residential, that is in use less than fifty (50) days during a calendar year.
2. A condominium, duplex, or townhouse unit under separate ownership that is in use for less than fifty (50) days during a calendar year.
3. A parcel of land where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit) or are a legal nonconforming use, and all of the ground

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<sup>1</sup> A tax year begins in January and ends in December of each calendar year.

floor space that could be lawfully occupied by commercial activities is in use less than fifty (50) days in a calendar year.

Following the identification of all vacant properties subject to the tax, an annual tax rate is applied based on each property type, as well as the analysis, which indicates the property meets the definition of vacant property. O.M.C. Chapter 4.56 - Vacant Property Tax defines property types of parcels that may be subject to the annual tax rate as displayed in **Table 1**.

**TABLE 1**

Property Type	Annual Tax Rate
Residential	\$6,000.00 per parcel
Condominium, duplex, or townhouse unit under separate ownership	\$3,000.00 per vacant residential unit
Nonresidential	\$6,000.00 per parcel
Parcel with ground floor commercial activity allowed but vacant	\$3,000.00 per parcel
Undeveloped	\$6,000.00 per parcel

Following the general timeline outlined below in **Table 2**, the identification and collection process begins in January and culminates in July of each calendar year. “Notices of Determination” are sent to the owner of record that the property was identified as vacant during the previous calendar year. Information to appeal the tax and/or apply for an exemption is also provided. At the conclusion of the appeal process, which culminates in July, identified properties will be forwarded to the Alameda County Tax Collector for inclusion of the tax on the parcel owner’s property tax bill.

**TABLE 2**

Calendar Year	Administration Review and Identification of parcels subject to VPT	Initial Determination & Noticing Process	Final Determination & Noticing Process	Appeal Process	Placement of Charges on Secured Property Tax Bill	Owner Receiving the Secured Property Tax Bill
2022	January 2023	February- April 2023	May 2023	June – July 2023	August 2023	October 2023

In a review of the historical tax assessments described in **Table 3** below, an average of 1,544 parcels were identified as vacant, amounting in average projected revenues of \$7.43m. Average projected revenues compared to the amount actually collected of \$5.38m, results in an average collection rate of 72.5% during the three calendar years of 2019, 2020 and 2021, as shown in Table 3 below.

**TABLE 3**

Vacant Property Tax (Fund 2270)							
No. of Parcels Assessed for VPT			Revenue Collected			Collection Rate	
Tax year	No. of Parcels	Amount	Tax Year	Assessment Year	Revenue	Tax Year	Rate
2019	1,702	\$6,447,000	2019	FY 2020-21	\$4,714,741	2019	73.1%
2020	1,647	\$8,028,000	2020	FY 2021-22	\$6,135,632	2020	76.4%
2021	1,284	\$7,821,000	2021	FY 2022-23	\$5,317,365	2021	68.0%
Average	1,544	\$7,432,000	Average Collection		\$5,389,246	Average	72.5%

There are a significant number of variables that impact the amount of revenue collected from the Vacant Property Tax each year. First, property owners with properties initially identified as vacant may be able to demonstrate active use for more than 49 days during a calendar year (the required threshold). Second, any number of parcels may meet one of the exemptions to taxation, described below, in a given year.

There are ten (10) allowable exemptions as defined in Subsection 4.56.030 (J) (1) of the O.M.C., which are as follows:

A. "Very Low Income"—4.56.030 J.1.a. The "very low income" exemption applies if the owner's combined family income—for the relevant calendar year is equal to or less than the United States Department of Housing and Urban Development "Very Low Income Limit" for the Oakland-Fremont, CA HUD Metro FMR Area.

B. "Financial Hardship"—4.56.030 J.1.b. The following circumstances constitute a "financial hardship due to specific factual circumstances":

1. The owner, for any period during the relevant calendar year, was a natural person and a debtor-party in an individual bankruptcy action.
2. The owner, for any period during the relevant calendar year, experienced a significant medical event that kept the owner from engaging in their normal work or business activities for at least thirty (30) days.
3. The owner, on or after December 1 of the year preceding the relevant calendar year, was involuntarily terminated from employment and was unemployed for at least sixty (60) days during the relevant calendar year.

C. "Demonstrable Hardship Unrelated to Personal Finances"—4.56.030 J.1.c. The following circumstances constitute a "demonstrable hardship":

1. The subject property was, for at least one-hundred and eighty (180) days during the relevant calendar year, subject to a lis pendens (i.e., written notice of a pending suit involving property) or similar court order, giving notice of a conflict regarding title or ownership interests, pursuant to any pending lawsuit, bankruptcy proceeding, probate action, condemnation action or other action or proceeding filed with any court.
2. For at least sixty (60) days during the relevant calendar year, the owner was serving in the military and deployed overseas.

3. The then owner died at some time during the relevant calendar year.

4. The owner inherited the subject property during the relevant calendar year or immediately preceding calendar year.

D. "Exceptional Specific Circumstances"—4.56.030 J.1.d.). An exceptional specific circumstance includes any circumstance that, in the judgment of the City Administrator, prevents any use or development of the property. The City Administrator may request and consider any relevant evidence to determine whether an exceptional specific circumstance exists. The City Administrator shall consider any evidence that the property was damaged by a recent natural disaster, that the property adjoins a residential parcel and is used as a yard, or that a licensed engineer or similar professional has endorsed a written opinion concluding that physical conditions of the property prevent any development. If the City Administrator determines that an exceptional specific circumstance exists, the City Administrator may grant an exemption for up to five (5) calendar years. But such exemption shall not be effective unless and until the owner of the subject property records a notice against the subject property, approved by the City Attorney, summarizing the basis for the exemption.

Exemptions granted pursuant to this section may be renewed by the City Administrator for up to five (5) years if the City Administrator determines that the conditions prohibiting the development of the parcel persist and that the person(s) who owned the parcel during the term of the previously granted exemption made all reasonable attempts to put the property into use.

E. "Active Construction"—4.56.030 J.1.e. The "active construction" exemption applies if the owner held, for at least fifty (50) days during the relevant calendar year, a valid and active building permit for the subject parcel.

F. "Building Permit Application"—4.56.030 J.1.f. The "building permit application" exemption applies if, during or previous to the relevant calendar year, the owner submitted a building permit application to the City and the total number of days during which the application was pending plus any number of days after the application was approved but before the end of the relevant calendar year was at least fifty (50) days.

G. "Low-Income Seniors"—4.56.030 J.1.g. The "low income seniors" exemption applies if the owner is at least sixty-five (65) years of age or older and their combined family income for the relevant calendar year is equal to or less than the United States Department of Housing and Urban Development "Low Income Limit" for the Oakland-Fremont, CA HUD Metro FMR Area.

H. "Disabled Owner"—4.56.030 J.1.h. The "disabled owner" exemption applies if the owner, for any period in the relevant calendar year, received supplemental security income for disability or social security disability insurance benefits and the owner's income for the relevant calendar year did not exceed two hundred fifty (250) percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.

I. "Non-profit organization"—4.56.030 J.1.i. The "non-profit organization" exemption applies if the Owner was, for at least one hundred and eighty (180) days during the relevant calendar year, a lawfully functioning organization pursuant to Internal Revenue Code Section 501(c)(3).

J. "Substantially Complete Application for Planning Approvals"—4.56.030 J.1.i. The "substantially complete application for planning approvals" exemption applies if the owner held a notice from the City stating that an application for planning approvals with respect to the subject

property was complete and such application remained pending for at least fifty (50) days during the relevant calendar year. After an application for planning approvals is approved for a subject parcel, the owner may apply for an administrative two-year exemption, exempting the subject property from being deemed vacant for the calendar year during which the application for planning approvals was approved and for the following calendar year.

Finally, the goal of Measure W is to encourage property owners to put their parcels in use to increase the housing supply. The success the City has in achieving this goal through enforcement of Measure W, may logically decrease the number of properties subject to the Vacant Property Tax and the resulting revenue collected each year.

Considering these facts, it is advised that the inclusion of the Vacant Property Tax assessment, along with the Secured Property Tax, administered and collected by the County of Alameda, is the most effective method of achieving the highest rate of collection of the tax.

### **FISCAL IMPACT**

During each calendar year following 2019, there was a decline in the number of parcels identified as vacant and subject to the tax each year as shown in Table 3 above. We expect this downward trend will continue; however, we are optimistic that the collectability of the vacant property tax assessments will remain high because the Vacant Property Tax assessments must be paid along with the Secured Property Tax or in most instances whenever the property is sold or transferred to another owner.

Additionally, declining revenue will result in reduced resources to support the expenditures authorized by the measure. The tax funds provided by the measure may be used to provide services and programs to homeless people, and to reduce homelessness including: job training, drug treatment, assistance applying for housing, the provision of temporary housing, sanitation services related to homeless encampments, and code enforcement and programs remedy and deter blight and illegal dumping. The City's provision of these services will need to be reduced or other funding sources identified to support their continuation at previous levels.

### **PUBLIC OUTREACH / INTEREST**

No outreach is deemed necessary for this informational report beyond the standard posting procedures.

### **COORDINATION**

This report was prepared by the Finance Department, Revenue Bureau, and Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Vacant properties, either by choice of or neglected by their owners result in the City assuming responsibility to keep them from becoming crime magnets, fire hazards or dumping grounds. The Vacant Property Tax collected each fiscal year provides a dedicated source of

revenue to provide services and programs to homeless people, reduce homelessness, and protect and support the production of new affordable housing for lower-income households, with minimal impact on the General Purpose Fund.

**Environmental:** The Vacant Property special tax will help maintain neighborhoods and aid in keeping them free from blight, fire hazards, and dumping grounds, which ultimately become a public nuisance that affects the environment.

**Race and Equity:** Vacant properties depress values across an entire neighborhood and generate minimal tax revenues if left vacant. The Vacant Property special tax offers a source of funding to help clean debris and other public health nuisances, thereby increasing the property values, while deterring neighborhoods from becoming crime magnets, fire hazards or dumping grounds.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Requests That City Council Receive An Informational Report Intended to Provide The City Council With An Update On The Status Of Measure W, Vacant Property Tax Collections, For the Period Beginning Calendar Year 2019, Through FY 2022-23.

For questions regarding this report, please contact Sherry M. Jackson, Revenue & Tax Administrator, at (510) 238-7480.

Respectfully submitted,



Erin Roseman (Nov 17, 2023 09:35 PST)

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