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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Katano Kasaine
Director of Finance

SUBJECT: Establishing tiered rates for the
Assessment of Real Estate Transfer
Taxes

DATE: June 16, 2018

City Administrator Approval

Date:

7/3/18

RECOMMENDATIONS

Staff Recommends That The City Council Adopt A Resolution On The City Council's Own Motion Submitting To The Voters At The Statewide General Election On November 6, 2018, A Proposed Ordinance (1) Amending Oakland Municipal Code Section 4.20.020 Of The Real Property Transfer Tax To Establish Tiered Rates Based On Value Of Consideration; (2) Amending Section 4.20.080 To Reduce The Real Property Transfer Tax By 0.5% For "Low And Moderate Income First-Time Homebuyers"; (3) Adding Section 4.20.220 To Reduce The Real Property Transfer Tax By Up To One Third For Seismic Retrofit Expenses Incurred by "Low And Moderate Income Homebuyers"; And Directing The City Clerk To Take Any And All Actions Necessary Under Law To Prepare For And Conduct The November 6, 2018 Statewide General Election.

EXECUTIVE SUMMARY

Council approval of the resolution places a measure on the November 6, 2018 ballot that would ask voters, by simple majority vote, to change the current real property tax structure from 1.5 percent of the sale price to a graduated rate ranging from 1 to 2.5 percent of the sale price. If the voters were to approve the measure in November, the majority of buyers of real property in Oakland will not be impacted.

BACKGROUND / LEGISLATIVE HISTORY

Authorized under section 4.20 of the Municipal Code, the City of Oakland imposes a tax on all transfers by deeds, instruments, writings, or any other document, or changes in control and ownership of legal entities, by which any lands, tenements or other interests in real property located in the City, are or is granted, assigned, transferred, or otherwise conveyed to or invested in a transferee, or transferees thereof, which shall be levied at the rate of 1.5 percent of the value of consideration; and allow for a reduction up to 30 percent for seismic retrofit expenses incurred by low and moderate income homebuyers. The last time changes to the real property transfer tax were adopted was August 1993, when the tax was increased from 1.25 percent to 1.5 percent.

The proposed ballot measure was first agendized to the June 26, 2018, concurrent meeting of the Redevelopment Successor Agency and the Finance and Management Committee by Councilmember Kalb. The measure proposes creation of a graduated real property transfer tax based upon the value of consideration; and the reduction of the assessment of the real property transfer tax by up to one-third for seismic retrofit expenses incurred by low and moderate income homebuyers.

ANALYSIS AND POLICY ALTERNATIVES

Tax Rates

The proposed ballot measure, if approved by a simple majority vote at the November 6, 2018 General Election, would change the current real property tax structure from 1.5 percent of the value of consideration regardless of the value to a graduated rate ranging from one to 2.5 percent of the value of consideration. **Table 1** reflects the existing and proposed rates.

Table 1: Real Property Transfer Tax Rates

Amount of transfer	Existing Tax Rate	Proposed Tax Rate
\$300,000 or less	1.50%	1.00%
More than \$300,000 up to \$2 million	1.50%	1.50%
More than \$2 million up to \$5 million	1.50%	1.75%
More than \$5 million	1.50%	2.50%

Since FY 2011-12, 37,753 properties paid the real property transfer tax due to a change in ownership event (**Table 2**). Of those properties, approximately 33.5 percent would have paid less transfer tax, 63.88 percent would have paid the same transfer tax, and 2.61 percent would have paid more transfer tax if the proposed tiered tax rate has been in effect. It is anticipated that any loss transfer due to the creation of a lower tier for properties of \$300,000 or less, would be offset by transfer tax revenue received from properties in \$2 million and \$5 million tiers.

Table 2: Historical Breakdown of Properties

Fiscal Year	Number of Properties Sold			
	\$300,000 or less	More than \$300,000 up to \$2 million	More than \$2 million up to \$5 million	More than \$5 million
FY 2011-12	3,672	1,974	42	11
FY 2012-13	3,187	3,001	57	26
FY 2013-14	2,025	3,508	90	29
FY 2014-15	1,446	3,884	96	45
FY 2015-16	1,060	4,307	122	78
FY 2016-17	791	4,311	139	75
FY 2017-18 (to April)	467	3,133	132	45
Total	12,648	24,118	678	309

A total of 97 percent of all real property sales in Oakland from Fiscal Year 2011-12 through April 2018 sold for \$2 million or less. Furthermore, based upon residential transaction information through April 2018, the median sale value of residential property sits well below \$2 million. A review of both the Movoto and Zillow websites shows approximately six developed residential properties for sale and approximately 35 vacant residential lots with a list price of less than \$300,000. **Thus, if the voters were to approve the measure in November, the majority of buyers of real property in Oakland will not be impacted.**

If the voters approve the proposed measure in November, the impact would be felt by buyers of properties that exceed \$2 million and \$5 million. A review of both the Movoto and Zillow websites shows approximately 15 single family residential units listed, as of June 25, 2018, for over \$2 million and none listed for over \$5 million. Accordingly, the majority of properties selling over \$2 and \$5 million are likely commercial/industrial or multi-family residential investment properties.

First Time Low & Moderate Income Homebuyers

The proposed measure would limit the 0.5 percent reduction of the real property transfer tax to first time homebuyers who purchase a home for less than \$2 million. As reflected in **Table 3**, the median purchase price of homes that qualified for the current exemption was \$403,000 in the current fiscal year, well below the proposed \$2 million threshold.

Table 3: Historical First Time Low & Moderate Home Purchase Price

Fiscal Year	Total No. of Low & Moderate Income 1st Time Homebuyers	Median Purchase Price
FY 2011-12	33	\$ 250,000
FY 2012-13	22	\$ 190,000
FY 2013-14	47	\$ 210,000
FY 2014-15	57	\$ 275,000
FY 2015-16	61	\$ 310,000
FY 2016-17	11	\$ 362,000
FY 2017-18 (to April)	16	\$ 403,000

The proposed measure also recommends reducing the tax paid by low and moderate income homebuyers by 30 percent for all expenses incurred on or after July 1, 2018 to seismically retrofit any structure which is used exclusively for residential purposes up to one year from the date of the recordation of the transfer document.

At the June 28, 2018 meeting of the Rules and Legislation, Councilmember Gibson McElhaney presented a comprehensive list of questions regarding the thought process and considerations behind the proposed ballot measure, as well as questions to be considered before the measure moves forward. Many of the questions are directed at the author of the ballot measure.

However, the Finance Department staff can provide answers to the following questions in part:

- Scope of Reduced Tax Rate
 4. Use of Existing Exemption: What proportion of eligible homeowners successfully applied for and received the exemption? The County collects the transfer tax as noted on the recording documents. All eligible homeowners who noted the exemption on the recording documents were granted the exemption.
 6. Seismic Retrofitting Exemption: How much will the administration and enforcement of this exemption cost compared to its limited scope? The Finance Department believes that the cost to administer a refund of excess taxes paid after proof of completion of seismic improvements could be handled by existing staff.

FISCAL IMPACT

Estimated Revenue

If the progressive rate had been in effect during Fiscal Year 2011-12 through April 2018, and holding all other variables constant, the City would have received an additional \$54.71 million (*Table 4*).

Table 4: Estimated Transfer Tax Revenue

Fiscal Year	Actual Transfer Tax Received	Transfer Tax, Same Period with Proposed Tiers	Gain/ (Loss)
FY 2011-12	\$30,014,454	\$29,016,889	(\$997,565)
FY 2012-13	\$44,468,522	\$46,168,564	\$1,700,042
FY 2013-14	\$57,471,274	\$65,841,684	\$8,370,410
FY 2014-15	\$59,765,970	\$67,472,001	\$7,706,031
FY 2015-16	\$80,193,381	\$97,170,394	\$16,977,013
FY 2016-17	\$78,453,556	\$93,607,796	\$15,154,240
FY 2017-18 (to April)	\$54,085,204	\$59,889,035	\$5,803,831
Total additional revenue			\$54,714,001

A total of 97 percent of all real property sales in Oakland from Fiscal Year 2011-12 through April 2018 sold for \$2 million or less. Furthermore, the median residential property value is approximately \$630,000, well below the \$2 million threshold for the higher tax rates. A review of the Movoto and Zillow websites reveals that there are approximately three properties currently for sale in Oakland priced at or under \$300,000. Thus, the City's existing revenue source will be largely unchanged by this measure.

The proposed measure also recommends reducing the tax paid by low and moderate income homebuyers by 30 percent for all expenses incurred on or after July 1, 2018 to seismically retrofit any structure which is used exclusively for residential purposes up to one year from the date of the recordation of the transfer document. Data is not available to analyze the fiscal impact of this portion of the proposed ballot measure.

PUBLIC OUTREACH / INTEREST

Public outreach for this report was not deemed necessary beyond the standard posting of the Council Agenda.

COORDINATION

Preparation of this report is informational only and did not require coordination with other departments.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed measure provides an equitable means to fund government services.

Environmental: There is no environmental opportunity.

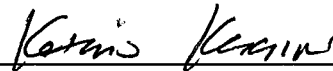
Social Equity: The proposed measure creates a progressive tax on the transfers of real properties within Oakland, directly addressing wealth disparity and income inequality. The measure provides a mechanism that encourages low and moderate income homebuyers to improve the safety of the residence by seismically retrofitting their homes.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution on the City Council's own motion submitting to the voters at the Statewide General Election on November 6, 2018, a Proposed Ordinance (1) Amending Oakland Municipal Code Section 4.20.020 of the Real Property Transfer Tax to Establish Tiered Rates Based on Value of Consideration; (2) Amending Section 4.20.080 to Reduce the Real Property Transfer Tax by 0.5% for "Low and Moderate Income First-Time Homebuyers"; (3) adding Section 4.20.220 to Reduce the Real Property Transfer Tax by up to one third for seismic retrofit expenses incurred by "Low And Moderate Income Homebuyers"; and directing the City Clerk to take any and all actions necessary under law to prepare for and conduct the November 6, 2018 Statewide General Election.

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

Respectfully submitted,



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Finance Department

Prepared by:
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