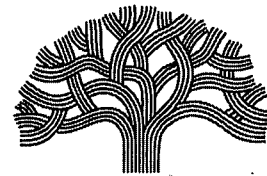


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CITY OF OAKLAND

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Office of the Honorable Lynette Gibson McElhaney
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Date: July 19, 2018

To: Members of the City Council

Cc: LaTonda Simmons, City Clerk
Barbara Parker, City Attorney

From: Councilmember Lynette Gibson McElhaney

Re: Real Estate Transfer Tax (RETT) Ballot Measure Proposal

Dear Colleagues:

I believe that reforms to the RETT have not been fully considered and should not be advanced to the ballot. We have not considered the potential economic impacts nor have we thought through exactly what should be included in the measure. Overall, my concerns are threefold:

- Process & Community Engagement
- Timing
- Economic Impact (Outcome)

This body took the better part of a year to debate and refine proposals to create impact fees on development and even longer to consider amendments to our tenant protection laws. We are asking the public to now review and amend this proposal without a serious process and this lack of real engagement is troubling. Further, there has been no polling done on whether or how this measure might impact other measures on a very crowded ballot. Finally, as mentioned previously, there has been no analysis done to determine if the measure's impact on new development will end up making the measure 'penny-wise and pound-foolish'.

If a majority of my colleagues are committed to placing a RETT proposal on the ballot despite these concerns, I recommend the following changes:

- 1. Grant the City Council the authority to create exemptions by ordinance.**
- 2. Make the tax rates more progressive and use a marginal tax bracket system instead of tiers.**

- 1. Give City Council the authority to create exemptions by ordinance.**

There are several full and partial exemptions that the City Council should consider. However, this measure was introduced so late in the legislative season that we are precluded from meaningfully



engaging interest groups and the public at large. I recommend that we include language in the ballot measure that provides the City Council authority to create exemptions by ordinance. This way the Council can fully vet Mr. Kalb's proposed exemption for seismic retrofits as well as additional exemptions for green building upgrades, development of long vacant parcels, sales from private entities to non-profit affordable housing developers, expansion of the first-time homebuyer program and creation of innovative exemptions for long-tenured or recently displaced Oaklanders.

2. Use a marginal tax bracket system instead of tiers.

Economists have studied the impact of transfer taxes and generally speaking have found that creating 'notches' or abrupt changes in the tax rates create perverse incentives. In New York¹, D.C.², the United Kingdom³, and Hong Kong⁵ economists found unnatural bunching of transactions just below a tax threshold resulting in lost revenue. However, Oakland can avoid this form of market distortions by adopting a RETT system with marginal rates similar to the federal or state income taxes and the New Jersey transfer tax system. The marginal tax structure avoids potential distortions by eliminating 'notches'.

Minimum Value	Maximum Value	Marginal Tax Rate	Percent of Properties Traded (7/1/11 – 4/1/18)
0	\$250,000	1%	26.5%
\$250,001	\$1,000,000	1.5%	61.6%
\$1,000,001	\$5,000,000	2%	11.2%
\$5,000,001		2.5%	0.8%

Signed,



Councilmember Lynette Gibson McElhaney

¹ <https://eml.berkeley.edu/~saez/course/kopczuk-munroe15.pdf>

² <https://pdfs.semanticscholar.org/5b17/e9ef19c40e204f51bb0b7cb78c7eaad7e3c9.pdf>

³ <https://academic.oup.com/restud/article/85/1/157/3887235>

⁴ https://www.henrikkleven.com/uploads/3/7/3/1/37310663/best-kleven_landnotches_may2014_slides.pdf

⁵ <http://eureka.sbs.ox.ac.uk/6813/1/WP1801.pdf>

