



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Adam Benson  
Director of Finance

**SUBJECT:** Measure Q, "Distressed Homeowners"

**DATE:** May 29, 2020

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City Administrator Approval

Date: June 10, 2020

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt An Ordinance Amending The 2020 Oakland Parks And Recreation Preservation, Litter Reduction And Homelessness Support Act To Add An Exemption From the Parcel Tax For Distressed Homeowners, As Required By Measure Q.**

## **EXECUTIVE SUMMARY**

On March 3, 2020 Oakland voters approved Measure Q, the 2020 Oakland Parks and Recreation Preservation, Litter Reduction, and Homelessness Support Act, (hereinafter referred to as "Measure Q") authorizing the City to implement a special parcel tax on all parcels for 20 years, beginning in Fiscal Year 2020-21.

Measure Q sets a fixed annual tax rate for residential parcels and multi-unit residential parcels. For non-residential parcels, the special parcel tax is calculated using both frontage and square footage measurements to determine the total single-family residential unit equivalents. The measure includes exemptions for qualifying very-low income households, senior households, certain religious organizations or schools, and 50% tax rebate to qualifying tenants in single family homes that have been foreclosed and to owners of certain affordable housing projects. Measure Q requires that the City Council adopt an additional exemption for "distressed homeowners" prior to the initial imposition of the tax beginning in Fiscal Year 2020-21.

The proposed Ordinance amends the Measure Q to establish the definition of "distressed homeowners" and the criteria from which a distressed homeowner could qualify for an exemption from the special parcel tax.

## **BACKGROUND AND LEGISLATIVE HISTORY**

On November 14, 2019, the City Council passed Resolution No. 87919 C.M.S., submitting to the voters at the March 3, 2020 Primary Election a special parcel tax known as the 2020 Oakland Parks and Recreation Preservation, Litter Reduction, and Homelessness Support Act. Measure Q sought to raise revenue to support services related to parks maintenance, homelessness, and water quality. The proposed Measure Q required two-thirds majority.

City Council  
June 16, 2020

On March 3, 2020 Oakland voters passed Measure Q by a margin of 68.08%. The approved Measure Q sets the initial tax rate at \$148 for single family parcels and \$101 per unit for multi-residential parcels. For non-residential parcels, the special parcel tax is calculated using both frontage and square footage measurements to determine the total single-family residential unit equivalents.

Measure Q provides that exemptions from the special parcel tax are available to qualifying very-low income households, senior households, and certain religious organizations and schools that are exempt from property tax. Measure Q also provides that the City would provide a rebate of 50% of the tax to qualifying tenants in single-family homes that have been foreclosed and to owners of certain affordable housing projects. Measure Q requires that prior to the initial collection of the tax, the City Council shall adopt an exemption for certain "distressed homeowners," as that term is to be defined by the City Council.

### **ANALYSIS AND POLICY ALTERNATIVES**

The proposed ordinance amends Part 2, Section 3.F of Measure Q to adopt an exemption from the parcel tax for distressed homeowners as follows:

"An Owner of a Residential Unit that is a unit (1) occupied by the Owner as his or her principal place of residence, and (2) subject to a current notice of default, current notice of trustee's sale, or a pending tax assessor's lien sale. The Director of Finance shall establish procedures for filing for this exemption, and may require supporting documentation such as a copy of a current notice of default, a current notice of trustee's sale, or documentation showing a pending tax assessor's lien sale."

The recording of the Notice of Default ("NOD") officially begins the foreclosure process. However, defaulted homeowners are afforded a minimum of three months from the date of recording of NOD to cure the default and reinstate the mortgage loan before a Notice of Sale is posted. Depending on the lenders, the eviction process could start at the end of the "Cure Period," which is at least 120 days from the time a homeowner misses a payment.

Below is a condensed summary of the five events from "A Homeowner's Guide To Foreclosure in California,"<sup>1</sup> published by the California Department of Real Estate in 2010:

- Event 1: Missing a Single Payment: The foreclosure procedure may begin when a homeowner misses a single monthly mortgage loan payment. A lender or its servicing agent is required to contact the homeowner 30 days in advance of initiating foreclosure.
- Event 2: Notice of Default: The recording of the NOD officially begins the foreclosure procedures. Once NOD is issued, the homeowner is to be given a minimum three-month period to cure the default and reinstate the mortgage loan.
- Event 3: End of Cure Period: When the cure period ends, the lender or its servicing agent can direct the trustee to schedule the foreclosure sale of the property. It is at this stage the lender could formally start the eviction process.

<sup>1</sup> [https://www.dre.ca.gov/files/pdf/foreclosure\\_guide2010\\_RE15.pdf](https://www.dre.ca.gov/files/pdf/foreclosure_guide2010_RE15.pdf)

- Event 4: Notice of Sale ("NOS"): The NOS is posted at the property and published in an authorized newspaper of generated circulation in the jurisdiction where the foreclosure sale is to occur.
- Event 5: Foreclosure Sale: The lender, through its servicing agent and trustee, sells the property.

By way of comparison, OMC Chapter 8.54 – Foreclosed and Defaulted Residential Property Registration and Abatement Program – provides a definition of "distressed" as follows:

"Distressed" means any property that is subject to a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale and/or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed via a deed in lieu of foreclosure/sale, regardless of vacancy or occupancy by a person with no legal right to occupancy."<sup>2</sup>

To qualify for the exemptions from the special parcel tax provided under Measure Q, including the proposed exemption to "distressed homeowners," the homeowners could either apply for the exemption prior to the placement of the special parcel tax to be included in the Secured Property Tax bill, or apply for the refund if the special parcel tax is paid. Similar to the other exemptions, the Director of Finance will establish procedures for filing for the exemption and may require supporting documentation such as a copy of a current notice of default, a current notice of trustee's sale, or documentation showing a pending tax assessor's lien sale. Information and forms will be available on the City's Finance Department website under Taxes<sup>3</sup> as soon as the City Council adopts the ordinance.

### **FISCAL IMPACT**

The Fiscal Year (FY) 2020-21 proposed budget assumes \$23.35 million in revenues from the parcel tax. The exemption for distressed homeowners was included as part of the revenue calculations for Measure Q, and OPW budgeted accordingly. Adoption of this ordinance will not require changes to the budget forecast at this time.

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<sup>2</sup> [https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT8HESA\\_CH8.54FODEREPPREABPR\\_ARTIIDE](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.54FODEREPPREABPR_ARTIIDE)

<sup>3</sup> <https://www.oaklandca.gov/topics/taxes>

### **PUBLIC OUTREACH / INTEREST**

The proposed ordinance was a result of voter-directed action. Therefore, no outreach was deemed necessary beyond the standard City Council agenda noticing procedures.

### **COORDINATION**

This report was prepared in coordination between the Finance Department and Public Works Department.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The exemption from the special parcel tax would ease the financial burden facing distressed homeowners.

**Environmental:** Easing the financial burden facing distressed homeowners would help keeping properties from becoming vacant or abandoned and therefore becoming a source of nuisance, which impacts comfort, health, and safety of the neighborhood.

**Race & Equity:** No race or equity opportunities have been identified.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt An Ordinance Amending The 2020 Oakland Parks And Recreation Preservation, Litter Reduction And Homelessness Support Act To Add An Exemption From the Parcel Tax For Distressed Homeowners, As Required By Measure Q.

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

Respectfully submitted,



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