

CITY OF OAKLAND MEASURE X

<b style="font-size: 2em; float: left; margin-right: 5px;">X Shall the Measure graduating the real estate transfer tax as follows: 1% up to \$300,000; 1.5% over \$300,000 - 2,000,000; 1.75% over \$2,000,000 - 5,000,000; and 2.5% over \$5,000,000; a lower rate for low-moderate income first-time homebuyers; and reducing the tax up to 1/3 for seismic retrofit or solar energy work costs incurred by low-moderate income homebuyers; raising approximately \$9,000,000 annually until repealed, be adopted?	YES
	NO

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE X

TITLE: A Proposed Ordinance Graduating the City's 1.5% Real Estate Transfer Tax Rate Based on Amount Paid, Setting the Tax Rate for Low and Moderate Income First-Time Homebuyers at .5% Below the Applicable Rate, and Reducing the Tax by up to One-Third for Seismic Retrofit and Solar Energy Work Costs Incurred by Low and Moderate Income Homebuyers

CITY ATTORNEY'S SUMMARY OF MEASURE X:

The City currently imposes a tax on the transfer of real property in Oakland at a flat rate of 1.5% of the amount paid for the property. This measure would establish four rates ranging from 1% to 2.5%; the higher rates would apply to transfers at higher amounts. The rates would be as follows:

- 1% up to \$300,000;
- 1.5% over \$300,000 to \$2 million;
- 1.75% over \$2 million to \$5 million; and
- 2.5% over \$5 million.

The City currently reduces the rate of the real estate transfer tax for low and moderate income first-time homebuyers from 1.5% to 1.25%. This measure would reduce the applicable tax rate for low and moderate income first-time homebuyers by one-half of a percentage point (.5%). The measure also would reduce the tax rate for low and moderate income first-time homebuyers for property transfers of \$2 million or less. And this measure would refund up to one-third (1/3) of the tax to low and moderate income homebuyers based on the actual cost the homebuyer incurred to complete specified seismic retrofit work or install a solar energy system within one year of the transfer.

The City would be permitted to use the tax revenue for any governmental purpose.

s/BARBARA J. PARKER
City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE X

The Oakland Municipal Code currently imposes a tax on the transfer of real property in Oakland. Currently, the tax rate is a flat 1.5% of the value of the amount of consideration (generally the sales price) paid for the property. This rate is the same regardless of the amount of the consideration.

This measure would establish four tax rates ranging from 1% to 2.5%. For transfers with consideration of \$300,000 or less, the tax rate would be 1%; for transfers with consideration above \$300,000 and up to \$2 million, the tax rate would be 1.5%; for transfers with consideration above \$2 million and up to \$5 million, the tax rate would be 1.75%; and for transfers with consideration more than \$5 million, the tax rate would be 2.5%.

The City currently reduces the 1.5% real estate transfer tax to 1.25% for qualified low and moderate income first-time homebuyers. As part of the new graduated rate system, this measure would reduce the tax rate for low and moderate income first-time homebuyers by one-half of a percentage point below the applicable rate. For example, a sale of a home to a low and moderate income first-time homebuyer for \$500,000 would generate a transfer tax of \$5,000, at a tax rate of 1.0% (.5% below the 1.5% rate for a transfer at this price.) The tax rate reduction for low and moderate income first-time homebuyers would apply only to property transfers for \$2 million or less.

The City currently imposes the real estate transfer tax on the full value of the amount paid for the property without any reduction for seismic retrofit or solar energy work. This measure would reduce the tax by up to one-third (1/3) for seismic retrofit work or the installation of a solar energy system costs if the work is completed within one year of the transfer. Only transfers for \$2 million or less to low and moderate income homebuyers would be eligible for the reduction. The tax reduction would be refunded to homebuyers for the costs they incur for qualified seismic retrofit or solar energy installation work. The measure defines the type of work that qualifies as "seismic retrofit" and work to "install a solar energy system." The measure would allow the City Council to adopt rules to implement the seismic retrofit and solar energy refund.

The Oakland City Council placed this measure on the ballot. A "yes" vote supports the passage of the amendment to the Oakland Municipal Code; and a "no" vote opposes passage of the amendment. A majority vote (i.e., more than 50% of the votes cast) is required to pass the measure.

s/BARBARA J. PARKER
City Attorney

CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE X

Summary

This Measure, if adopted by majority vote (more than 50%), authorizes the City of Oakland to create a tiered Real Estate Transfer Tax rate by decreasing the tax rate for lower priced real estate transfers and increasing the rate for higher priced ones. The tax would continue to be collected annually to raise unrestricted general purpose fund revenue. It would become effective on January 1, 2019.

The City of Oakland assesses a Real Estate Transfer Tax on all Oakland real estate sold or transferred.

Oakland's current Real Estate Transfer Tax is 1.5%, regardless of the value of the property being sold or transferred. The proposed graduated tax rates, presented in real estate transfer tiers, are compared to the current rate below.

Real Estate Transfer Tiers	Current Tax Rate	Proposed Measure Tax Rate
\$300,000 or less	1.5%	1%
More than \$300,000 up to \$2,000,000	1.5%	1.5%
More than \$2,000,000 up to \$5,000,000	1.5%	1.75%
More than \$5,000,000	1.5%	2.5%

Exemptions / Exceptions

- Low and moderate income first-time homebuyers would receive a tax rate reduction of 0.5% for real estate transfers valued at \$2 million or less.
- No tax rate increase for non-profit, affordable-housing providers. The maximum rate would be 1.5%, regardless of the value of the property at the time of sale or transfer.
- Seismic and solar upgrades by low and moderate income homebuyers may be eligible for reimbursements up to one third of the transfer tax paid.

It is unlikely these exemptions would have a significant impact on future tax revenue.

Financial Impact

Real estate taxes are a volatile revenue source and estimates based on prior years' activity may not be predictive of future revenues.

When applying the proposed transfer tax rates to the past six years' real estate transactions, the City estimates revenue potentially increasing between \$1.7 million and \$17 million per year.

The City anticipates approximately \$181,000 in annual staffing costs for tax administration and collection.

Beginning in January 2024, and no more than once every five years thereafter, City Council may increase the \$300,000 threshold between the first and second tax rate tiers, and the \$2,000,000 threshold between the second

and third tax rate tiers by an amount equal to or less than the increase to the Consumer Price Index, with thresholds capped at \$500,000 and \$3,500,000.

Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Finance Department's financial and statistical analysis that supports this measure. References to this data in our independent analysis represent the best data available at this time.

ARGUMENT IN FAVOR OF MEASURE X

Progressive taxation, a hallmark of a just and fair society, addresses wealth disparity by more equitably funding government services. Measure X will make Oakland's tax on real estate sales more progressive!

Oakland's current Real Estate Transfer Tax (RETT) rate is a flat 1.5% of the value of the transferred property, whether it is worth \$200,000 or \$20,000,000. Cities in California have lower RETTs than many cities nationally. Currently, San Francisco is the only city in California with a progressive, tiered RETT. It's time for Oakland to have one as well.

Measure X replaces Oakland's flat RETT with rates varying based on the value of the sale. It also doubles (.5%) the existing rate *reduction* for first-time low & moderate income homebuyers. It lowers taxes (down to 1%) on sales of \$300,000 or less, makes no change to the 1.5% rate for most sales, and raises taxes on expensive property sales (1.75% for over \$2 million and 2.5% for over \$5 million). And low and moderate income buyers also would be eligible for a partial refund for seismic retrofit and/or solar energy installation expenses.

Had this progressive tax structure been in effect since 2012, Oakland would have brought in an additional \$9,000,000 per year on average for vital City services. The new revenue generated by this measure would come from people buying and selling the most expensive properties – people in the upper income levels, larger businesses, and big time investors, who can afford to share more of the weight of funding our city services.

This is a great opportunity to better fund the important city services we all want and need. **Please join us in voting YES on Measure X.**

s/ED GERBER

Oakland Budget Advisory Commissioner

s/DAN KALB

Oakland City Councilmember

s/ZAC UNGER

Oakland Firefighter/Paramedic, IAFF Local 55

s/GEORGE CUMMINGS

Senior Minister, Imani Community Church

s/LIBBY SCHAAF

Mayor of Oakland

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE X

The advocates make this tax SOUND GOOD. Some taxes are necessary, but this tax will make Oakland WORSE.

This tax is a General Tax that will be placed in the General Purpose Fund to be spent on ANYTHING. Oakland's ongoing scheme is to raise taxes for an admirable purpose and spend most of the funds on bureaucracy expansion.

- In 2016 Oakland voters approved Measure KK principally to repave streets. Instead, the City delivered a 'pothole blitz', promises of a modest repaving program next year and pretty website pictures of a resurfaced street.
- For years the City has diverted Measure KK funds & Measure DD funds to a Public Arts projects. However, most of the Arts funds are spent on bureaucracy and only a pittance on artists.
- The voters have approved Alameda County sales taxes to repave streets. Oakland spends most of its share of this sales tax on bureaucracy and street maintenance, not repaving.
- In recent years Oakland has received more tax income than ever. Meanwhile, the unfunded pension liabilities for City staff has continued to soar from \$1.6 billion 4 years ago to over \$1.9 billion now.

The more discretionary taxes the voters approve for Oakland, the more the City bureaucracy grows and the larger the City debt grows. Already every Oakland's citizen's share is over \$4,000 and Oakland's street condition index is tied for the worst in the Bay Area.

This tax is good for the bureaucrats and bad for the rest of us. Vote NO!

s/MARCUS CRAWLEY

ARGUMENT AGAINST MEASURE X

NO! NO! NO! We don't want a new tax every election. We don't want to make Oakland's cost of housing and rents EVEN MORE UNAFFORDABLE. We don't want the City to pit one set of taxpayers against another. We DO want austerity for our government bureaucracy.

Council members will have you believe that the austerity mandated by voter-approved Proposition 13 has 'starved' our City government. And that this tax increase is necessary to offset what Prop 13 robs us in city services. But this is NOT TRUE. Oakland's bureaucrats have been diverting our taxes into bureaucratic expansion resulting in soaring unfunded pension liabilities. The previous City Auditor admonished Oakland to reduce the City Employees' unfunded pension liabilities. Instead, unfunded pension liabilities ballooned to \$1.9 billion and growing. And the City continues to expand its bureaucracy -- The new OakDOT bureaucracy nightmare diverts taxes from Capital Improvement Projects to staff with breathtakingly generous compensation. This is why we get 'pothole blitzes' rather than well-paved streets that the City Charter requires.

Some voters may be tempted to support this as A TAX ON SOMEONE ELSE. But MAKE NO MISTAKE, this tax increases the cost of buildings, which will be passed along to residents and small businesses through HIGHER RENTAL RATES.

City Council members will make you believe we do not pay our fair share compared to other states or Bay Area cities. Oakland's transfer fee is already ONE OF THE MOST expensive fees compared to other cities in the Bay Area. A city with serious affordability issue SHOULD NOT BE ADDING TO THE COST OF HOUSING AND BUSINESS.

No amount of new taxes will solve the City bureaucracy's lust to reward itself. Don't allow the City to continue increasing the cost of housing and doing business. Demand austerity and Vote NO!

s/MARCUS CRAWLEY
Concerned Taxpayer

s/SUZANNE CARO
Concerned Taxpayer

s/TOM RUBIN
Concerned Taxpayer

s/RANDALL C. WHITNEY
Concerned Taxpayer

REBUTTAL TO ARGUMENT AGAINST MEASURE X

FACT: Measure X is sensible, progressive tax policy that helps our community!

FACT: Voting YES on Measure X means you support *lower* taxes for first-time low / moderate income homebuyers, and any low / moderate income homebuyer who pays for seismic retrofit or solar installation on their new home.

FACT: Measure X raises taxes *only* on the most expensive property sales, starting at *over* \$2 million, to help pay for vital government services for our city.

FACT: Measure X does *NOT* raise the tax on homes sold for less than \$2 million. Average homebuyers will not see any change in their transfer tax, and some will see a reduction.

FACT: Measure X does *NOT* raise taxes on property sales for nonprofit affordable housing.

FACT: This measure increases the one-time tax on fewer than 5% of property buyers while bringing in much-needed revenue to help address our city's many needs.

FACT: Opponents of this progressive tax measure would like to see City services slashed in furtherance of their conservative, anti-tax, government-austerity ideology. They consistently oppose any new taxes, regardless of need and despite the crippling impact of flawed policies like Prop. 13 on the ability of cities to deliver services such as libraries, parks, public safety and more.

We ask that you reject rhetoric that suggests that Oakland cannot afford to tax property sales on those who can afford it most in one of the hottest real estate markets in the country. **Please join with us in voting YES on X.**

s/JOSHUA SIMON
Oakland Homeowner; Nonprofit Affordable Housing Professional

s/KATHRYN STERBENC
Past Chair, Oakland Library Commission

s/JESSAMYN SABBAG
Executive Director, Oakland Rising Past Budget Advisory Commissioner

s/JACQUELINE DUHART
Oakland-Based Unitarian Universalist Ordained Clergy

s/LANIECE JONES
MGO Democratic Club Past President

FULL TEXT OF MEASURE X

Section 1. The Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 2. Code Amendments.

That Chapter 4.20, Sections 4.20.020 and 4.20.080 of the Oakland Municipal Code are amended and Section 4.20.220 is added to read as follows:

4.20.020 - Imposition of tax.

A. There is imposed 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 as a percentage of the value of consideration at the rates set forth below: ~~of one and one-half percent of the value of consideration:~~

<u>Amount of transfer</u>	<u>Tax</u>
<u>\$300,000 or less</u>	<u>1%</u>
<u>More than \$300,000 up to \$2,000,000</u>	<u>1.5%</u>
<u>More than \$2,000,000 up to \$5,000,000</u>	<u>1.75%</u>
<u>More than \$5,000,000</u>	<u>2.5%</u>

B. The People of Oakland authorize that the City Council may increase the \$300,000 threshold between the first and second tax rate tiers and the \$2,000,000 threshold between the second and third tax rate tiers by an amount no more than the increase to the Consumer Price Index as published by the U.S. Department of Labor, provided that such a threshold increase may not be done more than once per five years since the effective date of this Ordinance and that the thresholds may not be increased beyond \$500,000 for the threshold between the first and second tiers and \$3,500,000 for the threshold between the second and third tiers.

C. Notwithstanding subsection A., a transfer to a nonprofit corporation, or a limited partnership or limited liability company in which a nonprofit corporation is the managing general partner or managing member, accompanied by a binding agreement or covenant recorded on the property and enforceable by the city to provide all residential units on the property (other than units reserved for on-site property managers) at an affordable rent or affordable housing cost to lower income households as defined in California Health and Safety Code Section 50079.5, shall be taxed at a maximum rate of 1.5% regardless of the value of consideration.

4.20.080 - Exemption for low and moderate income first-time homebuyers.

~~Section 4.20.020 notwithstanding,~~ †The tax on all transfers of real property located in the city made on or after ~~August 10, 1993~~ January 1, 2019 in which the buyers are low and moderate income first-time homebuyers shall be levied at the rates of one and one-quarter (1.25) percent of the value of consideration set forth in Section 4.20.020 reduced by one-half percentage point (.5%). For the purpose of this section, “low and moderate income first-time homebuyers” are defined as buyers who:

A. Earn a maximum of one hundred (100) percent of the median family income for the Oakland Primary Metropolitan Statistical Area, as defined by the U.S. Department of Housing and Urban Development; and

B. Will occupy the property as their principal residence; and

C. Are not purchasing the property to be held as tenants in common; and

D. The value of consideration for the transferred property is \$2 million or less; and

E. 1. ~~D.~~ Have not owned a home in three years prior to the date of purchasing the property; or

2. ~~E.~~ Are displaced homemakers. “Displaced homemaker” is defined as an adult individual who has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without pay to care for the home and family, is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

4.20.220 - Exemption for low and moderate income homebuyers incurring seismic retrofit or solar energy system expenses.

Up to one-third of the tax imposed by this chapter shall be reduced, on a dollar for dollar basis, for all expenses incurred by low and moderate income homebuyers on or after July 1, 2018 to “seismically retrofit” or “install a solar energy system,” or any combination of the two, for any structure which is used exclusively for residential purposes and the transfer of which is triggering the tax, subject to the following:

A. For purposes of this section, “low and moderate income homebuyers” are defined as buyers who meet the requirements of Section 4.20.080.A., B., and D.

B. The term “seismically retrofit” in this chapter means any of the following:

1. Strengthening in compliance with Appendix Chapter A3 of the latest edition of the California Existing Building Code;

2. Bracing, anchoring, and/or strapping of water heater tanks in compliance with the California Plumbing Code or with standards adopted or approved by the building official;

3. Removal and/or replacement of masonry chimneys in accordance with FEMA P-1024-RA1 or substantially similar standards adopted or approved

by the building official;

4. Strengthening or risk reduction in unreinforced masonry bearing wall buildings in substantial compliance with Oakland Municipal Code Chapter 15.28, for buildings not already required to comply with that chapter;

5. Strengthening, stiffening, or other damage reduction measures deemed by the building official to comply with the intent of reduced seismic forces as defined by the California Existing Building Code.

C. The term “install a solar energy system” in this chapter means the installation of an “active solar energy system,” as defined by California Revenue & Taxation Code Section 73(b).

D. From the date of the recordation of the transfer document, the applicant shall have one year to complete all seismic retrofit and solar energy system work, if not already completed prior to the transfer of the property, and submit a seismic retrofit verification application, solar energy system verification application, or both to the Building Inspections Division of the City of Oakland. Upon completion of such work and certification by the Building Bureau as to the amount of the expenses of such work, the City Administrator or his/her designee shall refund such expenses not to exceed one-third of the tax imposed on and paid by the buyer.

E. The People of Oakland authorize that the City Council may establish rules that are necessary and desirable for implementation of Section 4.20.220 and may amend any aspect of this section as long as such amendment does not result in an increase in the authorized tax rate.

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. General Tax; Majority Approval; Effective Date. This Ordinance enacts a general tax for unrestricted general revenue purposes. Tax revenue collected pursuant to the Ordinance may be used by the City for any municipal governmental purpose. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect on January 1, 2019.