



DEAN PRESTON

July 21, 2020

By Email

Peter Stevens and Members of the Ballot Simplification Committee
1 Dr. Carlton B. Goodlett Place
City Hall, Room 48
San Francisco, CA 94102
Via email to: publications@sfgov.org

Re: Ordinance: Real Estate Transfer Tax

Dear Chair Carr and Members of the Ballot Simplification Committee:

Thank you for your hard work on the digest for this and all other ballot measures. I write to request some minor changes to the proposed ballot question and digest for the Real Estate Transfer Tax Ordinance.

The Draft Digest Needs Correction With Regard to the Word “Permanent” in the Proposal

We want to bring a misrepresentation to the attention of the Committee. Specifically, under the Proposal section the digest states that “The Proposal: Proposition ___ would permanently increase the transfer tax rate for the sale of most real estate with a price of at least \$10 million, including leases of 35 years or more. For property with a sale price of less than \$10 million, the current tax rate would not change.”

We have not found any instance in the ballot digest where any recent transfer tax increase has been deemed “permanent.” This includes Prop N in 2008, Prop N in 2010, Prop G in 2014, and Prop W in 2016 -- none of those digests included the word “permanent” or “permanently”

Indeed the transfer tax in particular has been amended and increased four times in the past 12 years. In light of ballot digest precedent and factual accuracy, we respectfully request that the word “permanently” be removed.

Include All Tiers of Transfer Tax, Not Only Those Being Increased, For Greater Clarity

In reviewing past iterations of transfer tax ballot measures, it was noted that the most recent measure, Prop W in 2016, included all of the transfer tax tiers, noting explicitly where there was not change. We think this provides the greatest possible clarity to voters, and request that you model the digest for the proposed measure in a similar manner.

This is significant in particular because of the policy decision to target only those highest tiers of the transfer tax, for properties valued at \$10,000,000 or more. It is therefore imperative to make this as clear as possible for voters. We respectfully request to include the following chart, or something similar thereto, in the section describing the proposal, as follows:

The Way It Is Now:

Sale Price of Real Estate	Proposed Tax Rate
More than \$250,000 and less than \$1,000,000	0.68%
At least \$1,000,000 and less than \$5,000,000	0.75%
At least \$5,000,000 and less than \$10,000,000	2.25%
At least \$10,000,000 and less than \$25,000,000	2.75%
At least \$25,000,000	3.00%

The Proposal:

Sale Price of Real Estate	Proposed Tax Rate
More than \$250,000 and less than \$1,000,000	0.68% (no change)
At least \$1,000,000 and less than \$5,000,000	0.75% (no change)
At least \$5,000,000 and less than \$10,000,000	2.25% (no change)
At least \$10,000,000 and less than \$25,000,000	5.50%
At least \$25,000,000	6.00%

Include Provisions that Waive or Decrease Increased Transfer When Property is Sold to City or Qualified Affordable Housing Non-profit

There is a critical omission with regard to the waiving of the increased transfer tax amount in the event a property is sold to either the City and County of San Francisco, or a Qualified Affordable Housing Non-profit, as defined in the Community Opportunity to Purchase Act.

One of the most important aspects of this ballot measure is its anti-speculative components, and we believe voters will be misinformed if these aspects are left out of the digest.

As defined in the Business and Tax Code (Section 1102), “The People of the City and County of San Francisco authorize the Board of Supervisors to enact ordinances, without further voter approval, that will exempt rent-restricted affordable housing, as the Board may define that term, from the increased tax rate in subsections (d), (e), and (f).”

Pursuant to that provision, the Board has provided a 100% exemption to private properties sold to the City and County of San Francisco. Further, sales to non-profits that qualify under COPA are exempt from the higher tiers, subsections (e) and (f) of the transfer tax.

Under current law, this amounts to the following:

TRANSFER TAX TIER	EFFECTIVE TRANSFER TAX RATE		
	PRIVATE OWNER	QUALIFIED NONPROFIT	CITY AND COUNTY OF SF
\$10,000,000 - \$25,000,000	2.75%	0.75%	0%
\$25,000,000 or greater	3.00%	0.75%	0%

Under the proposed transfer tax increase, the rates would change as follows:

TRANSFER TAX TIER	EFFECTIVE TRANSFER TAX RATE		
	PRIVATE OWNER	QUALIFIED NONPROFIT	CITY AND COUNTY OF SF
\$10,000,000 - \$25,000,000	5.50%	0.75%	0%
\$25,000,000 or greater	6.00%	0.75%	0%

As one can see from the above charts, this amounts to a significant relief in the tax burden, were a property owner to sell to the City or a Qualified Non-profit, under the proposal. We believe this will greatly incentivize private owners to choose this route, and as such, is an integral part of the legal changes contemplated by the proposed ballot measure. We respectfully request that it be included, and described in a manner similar to the above charts, so as to provide the greatest possible clarity.

Amend Section Describing “What Yes Vote Means” To Conform to Prior Transfer Tax Ballot Measure Digest For Clarity

The draft section for “A ‘YES’ Vote Means” states that

“If you vote “yes,” you want to permanently increase the transfer tax rate for most sales of residential and commercial properties, including leases with terms of 35 years or more, with a minimum sales or lease price of \$10 million.”

By using the word “most” at the beginning of the sentence, without clarifying the measure’s application to properties valued at \$10 million or more, the phrasing is likely to cause confusion. It may mislead the voter to believing that the proposed transfer tax applies to “most” sales, when in point of fact, the transactions at the highest tiers, valued at \$10 million or more, make up a small portion of all transactions.

We respectfully request that the description used in Prop W in 2016 be employed for present purposes. In that instance, the description was as follows:

If you vote “yes,” you want to increase the transfer tax rate for sales of residential

and commercial properties:

- to 2.25% for sales from \$5 million up to \$10 million;
- to 2.75% for sales from \$10 million up to \$25 million; and
- to 3.00% for sales of \$25 million or more.

To conform with the clearer description as provided in Prop W in 2016, we submit the following:

If you vote “yes,” you want to increase the transfer tax rate for sales of residential

and commercial properties:

- to 5.50% for sales from \$10 million up to \$25 million; and
- to 6.00% for sales of \$25 million or more.

In both formatting in phrasing, this provides greater clarity and is less likely to cause confusion.

In conclusion, I thank you for your time and attention to this matter.

Sincerely,



District 5 Supervisor Dean Preston