

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: April 21, 2022

TO: Honorable Members of the City Council

FROM: Sharon M. Tso   
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Council File No. 19-0623

Assignment No. 22-03-0112

## Los Angeles Vacant Property Tax Follow-up – 3<sup>rd</sup> Update

### SUMMARY

On June 24, 2020, Council considered the Chief Legislative Analyst (CLA) and City Attorney reports, and draft Ordinance on a proposed vacancy tax, known as the Los Angeles Vacant Property Tax (also known as the Empty Homes Tax), for consideration by the voters on a future ballot. Following discussion, Council instructed the CLA, the Los Angeles Housing Department (LAHD), City Administrative Officer (CAO), and City Attorney to report with further research and information (Attachment A). Council also requested an update on the number and type of vacant units in Los Angeles, which LAHD will provide under separate cover.

This report provides information to: (1) help finalize a framework for a vacancy tax; (2) update Council on vacancy tax proposals in other jurisdictions; and (3) assess the feasibility of other taxes that could produce revenue for affordable housing. As requested, this report describes the feasibility of applying a vacancy tax to commercial and residential properties, and criteria for potential exemptions, including open space and hardship. It further makes recommendations for eligible expenditure of funds and an oversight structure.

The draft Ordinance prepared by the City Attorney in 2020 serves as the baseline framework to implement a vacancy tax program. A proposed structure for a flat tax on vacant residential (single family homes owned by a corporate entity and multifamily buildings regardless of ownership type) and mixed use (with both residential and commercial) parcels is included as part of the draft Ordinance. However, a number of policy decisions are outstanding and necessary to finalize the structure of a tax, which could require amendments to the draft Ordinance.

This report recommends that Council consider outstanding policy points to shape a final program. Several iterations of the proposed tax framework have resulted in a sizeable range in revenue generation from as much as \$128 million to a low of \$4 million. Resolution of certain policy points will determine the final revenue estimates. Initial policy decisions by Council around exemptions for single-family homes not owned by a corporate entity, a flat per parcel tax versus a per unit application of the tax, and the definition of “vacancy” led to a significant decrease in revenue, resulting in the current estimate of \$4 million annually. Council may wish to reevaluate these

exemptions as a result of their impact. Once a list of exemptions is determined, it is recommended that other decision points around the definition of “vacancy” be made. Upon the finalization of a comprehensive tax structure and program, City staff should be directed to prepare revenue projections for Council to assess whether and how they wish to proceed with a vacancy tax program.

This report also provides an update to vacancy tax proposals in other jurisdictions. The cities of Oakland and San Francisco have been of particular interest to the City as these are subject to the same State regulations that would apply to the City of Los Angeles. An update to Senate Bill 1079, which could also bring vacant units back to productive use, is also included. Council may wish to consider imposing new fees consistent with this legislation.

Finally, a review of other proposals to combat speculative housing is also provided, including: A Land Value Uplift Tax, a Flipping Tax, an Out-of State Transaction Tax, and penalties for illegal demolition of residential buildings. This report concludes that none of these proposed taxes would be feasible due to a variety of legal limitations, as described in this report. A proposal to increase the gross receipts tax has been recommended by the Commission on Revenue Generation and can be further explored, if Council wishes to pursue this proposal.

It is feasible to update the Vacancy Tax structure, based primarily on the draft Ordinance, in time for the November 2022 ballot. However, any other tax structure would require additional time and consideration for a future ballot. To meet the November 2022 deadline, Council must request the City Attorney to prepare updated Resolutions no later than June 21, 2022 and adopt the Resolutions by June 29, 2022.

### **RECOMMENDATIONS**

If the Council wishes to place a vacancy tax measure on the November 2022 ballot, the Council should adopt the following instructions:

1. Approve the framework for a Vacant Property Tax based on the attached Ordinance and Resolutions, and any additional policy points stipulated by the Council;
2. Request the City Attorney, no later than June 21, 2022, to prepare and present a revised Ordinance, including an annual financial reporting requirement, and other documents necessary to place on the November 8, 2022 ballot the Vacant Property Tax as a parcel tax to generate new revenue to fund specific services and affordable housing that addresses the homelessness crisis and housing needs in the City utilizing the Council-approved framework, and adopt said election documents by June 29, 2022;
3. Instruct the City Administrative Officer (CAO) to identify funding for a vacant tax revenue study, and in consultation with the Office of Finance, report with projected revenue, administrative costs, and resources needed to implement a vacancy tax, including any COVID-19 impacts, to be considered concurrently with the draft Ordinance; and
4. Instruct the Department of Building and Safety and the CAO to report with recommendations and the impacts of imposing fees authorized by Senate Bill 1079.

## **BACKGROUND**

On June 8, 2020, the CLA released a report concerning Motion (Bonin, Harris-Dawson, Ryu, Koretz – O’Farrell, C.F. 19-0623) relative to the feasibility of imposing a tax on vacant residential and commercial parcels. That report provides a framework for a vacancy tax program that is similar to the City of Oakland’s model and adapted for the City of Los Angeles. Revenues from the tax would be used to support the development of affordable housing. The report relied on a feasibility study for a City vacancy tax prepared for the City Administrative Officer (CAO) by Blue Sky Consulting that projected annual revenue of \$128 million.

The June 8<sup>th</sup> CLA report also includes a chart that compares taxes in Vancouver, British Columbia; Washington, D.C.; and Oakland, California. The comparison includes the framework and assumptions for each program, the policy outcomes achieved to date, challenges in implementing the tax, and the legal consequences resulting from the tax’s implementation.

On June 16, 2020, Council approved the framework proposed in the June 8<sup>th</sup> CLA report, as amended to exclude vacant commercial parcels, mixed-use parcels under two acres, and non-corporate owned single family properties, and used the rates recommended by Blue Sky. Council instructed the City Attorney to prepare and present the necessary documents to place a vacancy tax measure before the voters on November 3, 2020.

On June 22, 2020, the City Attorney released a report with a draft Ordinance consistent with the Council’s action (Attachment B). The CLA also released a report to address matters that require additional review and modifications to the original proposal to conform to City of Los Angeles law. That report identified the need for additional Council guidance and clarification of certain policy points. A chart with policy options for the Council to consider and a list of exemptions described by Blue Sky were also included.

On June 24, 2020 Council considered the CLA and City Attorney reports and raised concerns around the significant decrease in revenue, from \$128 million to \$4 million that resulted from the exemptions approved by Council on June 16, 2020. Council instructed the CLA, the Los Angeles Housing Department (LAHD), CAO, and City Attorney to report with further research and information on a proposed vacancy tax for consideration as a 2022 ballot measure. A number of policy points and clarifications outlined in the June 22<sup>nd</sup> CLA report remain pending. This Office recommends that Council decide on outstanding policy points in order to finalize the framework on which new revenue projections will be based.

## I. FRAMEWORK

For a potential November, 2022 ballot measure, Council action is required to approve the framework in the draft Ordinance and any policy adjustments to meet Council's intended goals. As noted, the draft Ordinance would result in an estimated annual revenue generation of \$4 million. To increase the amount of revenue that could be collected by this tax, the number of exemptions would need to be revised, the definition of "vacant" would need to be amended, or the rates would need to be raised. It should be noted that while an increase in rates may generate more revenue in the near term, the rate may reach a point that could result in a change in behavior or different outcomes. Decisions on the policy points described in Section A below are required.

It is also necessary for Council to provide confirmation on other matters identified in the June 22<sup>nd</sup> CLA report and the draft Ordinance transmitted by the City Attorney. This report reiterates those matters. In the process of drafting the Ordinance, the City Attorney, CAO, CLA, LAHD, the Planning Department, and the Office of Finance, identified several issues that required clarification language, which staff incorporated into the draft Ordinance. Confirmation is needed to capture the Council's intention for the tax structure on these matters, as described in Section B below.

### **A. Framework and Policy Issues for Council Consideration**

In order for Council to finalize the Vacant Property Tax framework, Council should resolve the policy issues presented below. Because certain policy decisions, such as exemptions, affect the rate and amount of tax collected, they must be included in the text of the measure presented to voters. It would not be possible to postpone development of any of these details to a later date as voters require an understanding of such details in making their decision concerning the measure. It is also important to note that revisions at a future date that increase tax rates may also require voter approval.

#### **1. Definition of Vacant Multifamily Unit and Building**

The definition of a "vacant" multifamily unit significantly impacts the potential tax amount for a multifamily building. The example definitions provided below show a corresponding tax amount that would apply to the parcel's property owner. The draft Ordinance currently includes a definition that would generate the lowest amount of revenue.

**a. Oakland and Draft City of LA Ordinance** -The Oakland Vacant Property Tax defines vacancy on multi-family parcels in the following manner: If any unit in a multi-family building is occupied, the entire building is considered occupied. All units must be vacant for the parcel tax to apply. The draft Ordinance uses this definition, as instructed by Council.

The following provides an illustration of the revenue impact of this policy:

*For example, in a 10 unit building:*

*(a) If one unit is occupied and nine are vacant, the building is "occupied" and therefore exempt from the vacancy tax. In this case, at a per parcel tax of \$6,000, the tax on this parcel would be \$0; and*

*(b) However, if all 10 units are vacant, the parcel tax would be \$6,000.*

**b. Blue Sky** - One alternative would be to tax any vacant unit in a building, as in the Blue Sky model. This would generate more revenue, but could create hardship for property owners.

*For example, in a 10 unit building, if one unit is occupied and nine are vacant, at a per unit tax of \$6,000, the tax would be \$54,000.*

**c. Hybrid** - Council could also consider a per unit tax with a not-to-exceed amount per parcel.

*For example, on a 10 unit building, if one unit is occupied and nine are vacant, at a per unit tax rate of \$6,000, the first two units are taxed at \$6,000 each, and the maximum could be fixed at \$12,000 for the entire parcel. The Ordinance would establish the not-to-exceed value.*

As these examples demonstrate, tax revenues vary significantly as a result of this definition. The Blue Sky study estimated revenues based on a tax on each individual designated vacant unit, with anticipated revenues ranging from \$120 million to \$150 million. If the Vacant Property Tax is applied in a manner similar to the Oakland Vacant Parcel Tax, as the Ordinance is currently drafted, revenues will be substantially lower because there are relatively few completely vacant multifamily developments in the City.

(#1) Action required: 

- If Council agrees with the draft City Ordinance to consider a multifamily building with one unit occupied as the entire building occupied and not subject to the tax (option a above) - None.
- If Council wishes to change the structure - Choose an option below:
  - (a) Blue Sky model; or
  - (b) Hybrid model; or
  - (c) Other.

## 2. Vacant Single Family Properties

Council instructed that vacant single family “properties” would be exempt, except those owned by a corporation. Under this instruction, vacant single family properties shall not be taxed unless owned by a corporation. This provision does not distinguish between parcels that are undeveloped and developed owned by a corporation. The draft Ordinance would authorize the tax on both undeveloped and developed properties owned by a corporation. Staff seeks clarification that this is the Council’s intent.

**Table 1. Single Family Tax under Draft Ordinance**

Type	Non-corporate owned	Corporate owned
Undeveloped Parcel	Not taxed	Taxed
Developed Parcel (unit)	Not taxed	Taxed

(#2a) Action required: ←

- If Council agrees with the draft City Ordinance (tax all corporate owned single family properties, including vacant undeveloped parcels and developed parcels (units); and exclude all other single family properties, including parcels and units)  
- None.
- If Council wishes to change the properties subject to the tax, choose whether the corporate ownership provision applies to:
  - (a) only single family undeveloped parcels; or
  - (b) only single family developed parcels (units).

Further, should Council seek to extend the Vacant Property Tax to all vacant single family properties and/or vacant parcels zoned for single family homes, including those not owned by a corporation, an amendment to the Ordinance would be required.

(#2b) Action required: ←

- If Council agrees with the draft City Ordinance (tax only corporate owned single family properties, including vacant undeveloped parcels and developed parcels (units); and exclude all other single family properties, including parcels and units)  
- None.
- If Council wishes to expand the owner entities of single family undeveloped parcels and/or units subject to the tax beyond corporate-owned, choose whether the tax applies to:
  - (a) Any entity, other than those exempted in Table 2; or
  - (b) Another universe of owner entities, as defined by Council.

### 3. Exemptions and Criteria

The number of exemptions and criteria considered in determining the parcels and units that would be subject to the vacancy tax varied between the Oakland model and Blue Sky's proposal. Below are issues identified with each. For reference, Table 2 lists the exemptions included in the draft Ordinance, the Oakland program, and the Blue Sky model.

#### **Oakland and City of LA Draft Ordinance**

The Oakland Vacancy Tax identifies specific conditions that qualify a property to be exempt from the tax. The draft Ordinance provided to the City Council contains those same exemptions. It should be noted, however, that several of these exemptions, including those relative to "hardship" and "exceptional specific circumstances," require a subjective determination that the property would qualify for relief from the tax.

City staff are concerned that subjective exemptions could create an administrative burden, as well as a burden on property owners who would be required to document their qualifications for the exemption. For example, the Oakland Vacancy Tax includes a general hardship exemption. This exemption is vague and unbounded, requiring additional criteria than were adopted by Ordinance, administrative findings to guide review of application for the exemption, and review and determination by staff. Other subjective exemptions could result in property owners finding ways to avoid paying the tax through the manipulation of permit applications, for example. Finally, subjective exemptions would require an appeals process and could generate other complicated procedural issues, as well as increased staffing to administer. As noted, these exemptions are already included in the draft Ordinance.

#### **Blue Sky**

Upon review of the draft Ordinance, Blue Sky raised an issue of concern relative to criteria for exemptions. Blue Sky specifically recommends the following basis for exemptions, stating that it:

"must be feasible for the City to implement, contain clear and readily understandable eligibility criteria, and minimize the amount of staff time required to verify eligibility."

Blue Sky identified the following less subjective exemptions for consideration (a more detailed description of each is provided in Attachment C):

1. Low income owners.
2. Adjacent parcels.
3. Parcels used for ingress or egress.
4. Active development or construction.
5. Owner is unable to occupy or use property.
6. Transfer of ownership or legal restrictions on sale, lease or development.
7. Undevelopable parcels.
8. Parcels owned by a governmental entity.

9. Parcels zoned for agricultural, open space, or recreational uses.

Prior to factoring in exemptions, Blue Sky filtered the universe of properties that would be subject to a tax. Blue Sky considered additional criteria in determining the base number of “vacant” parcels that would be subject to the tax (prior to exemptions) by removing from the Assessor’s database any parcels zoned for agricultural use or open space, any owned by a governmental entity, and any parcels less than 5,000 sq. ft. (minimum lot size for a residential structure).

Blue Sky also removed the units that were reported to be for sale or for rent in the universe of housing units to be considered for a tax (before exemptions). These were considered “occupied” residential structures.

(#3) Action required: 

- If Council agrees with the draft City Ordinance (using the Oakland exemptions) - None.
- If Council wishes to modify the exemptions, direction is required with regard to the exemptions that should be removed from the draft Ordinance, or any new exemptions that should be added.

**Table 2. Comparison of Exemptions (Residential and Mixed Use)**

#	Draft Ordinance	Oakland	Blue Sky
1	Owner “very low income” (HUD).	Owner “very low income” (HUD).	“Low income” owner (HUD).
2	Owner can demonstrate exceptional circumstances that prevent use of the site.	Owner can prove “exceptional specific circumstances prevent the use or development of the property.”	Undevelopable parcel. Parcel used for ingress or egress.
3	Parcel is under active construction.	Property under active construction.	Active development or construction.
4	Property is vacant as a result of demonstrable hardship unrelated to Owner’s personal finances.	Property vacant due to “demonstrable hardship that is unrelated to the owner’s personal finances.”	Owner is unable to occupy or use property.
5	Owner is 65 years of age and “low income” (HUD).	Owner 65 yrs. or older and “low income” (HUD).	
6	Owner receives Supplemental Security Income for a disability or Social Security Disability Insurance benefits regardless of age and whose income does not exceed 250 percent of federal poverty guidelines.	Owner receives disability SSI or Social Security Disability Insurance benefits and income below 250 percent of federal poverty guidelines.	
7	Owner for whom the tax would be a financial hardship due to specific factual circumstances.	The tax would create a “financial hardship due to specific factual circumstances.”	
8	Owner is a non-profit entity.	Nonprofit owner.	
9	An active building application is being processed by the City.	Owner has active building permit application in process.	
10	Owner submitted a substantially complete application for planning approval and has not yet received approval.	Owner has a “substantially complete application for planning approval” under review.	
11	Owner is a government entity.		
12	Owner for which the tax would be a violation of the federal or State Constitution.		
			Parcel zoned for agricultural, open space, or recreational uses.
			Vacant parcel adjacent to an occupied site owned by the same owner.
			Transferred ownership or legal restrictions on sale, lease or development.
			Note: Parcels under 5,000 sq.ft. or actively for rent or sale are not taxed.

#### 4. Commercial and Mixed Use Parcel Exemption

The framework in the June 8<sup>th</sup> CLA report included a tax on vacant commercial properties, consistent with Oakland's model. Subsequent to Council's review, staff was asked to exclude commercial properties, with the exception of mixed-use properties over a certain size. These adjustments were made to the framework in the June 22<sup>nd</sup> CLA report and are in the draft Ordinance. The draft Ordinance defines "vacant mixed-use parcel" as a vacant parcel that is zoned for both: (i) at least one allowable residential unit and (ii) commercial use. Council then identified as a concern that certain mixed use contiguous parcels held by the same owner could potentially circumvent the tax if there was a minimum parcel size applied to taxable properties.

For example, if only mixed use parcels over two acres are subject to the tax and an owner holds three separate .75 acre contiguous parcels, the lots would not be subject to the tax. Council expressed that the intent should be to tax properties that are contiguous and collectively pass the two acre threshold. Council would need to set criteria for this definition if a change to the draft Ordinance is desired.

Should Council wish to reconsider a tax on commercial property, two options it can consider are the current structure based on a flat tax or one based on linear feet of store frontage, as approved in San Francisco.

##### (#4a) Action required: ←

- If Council agrees with the draft City Ordinance (Only mixed use parcels over 2 acres will be taxed) - None.
- If Council wishes to modify the exemption to consider parcel contiguity for mixed use parcels, Council would need to provide direction as to whether adjacent parcels should be considered to collectively determine the size threshold.

##### (#4b) Action required: ←

- If Council agrees with the draft City Ordinance and does not wish to tax commercial property – None.
- If Council wishes to impose a flat tax on commercial property, the Ordinance can be revised with assumptions in the June 8<sup>th</sup> CLA report and/or other assumptions;  
or
- If Council wishes to impose a tax on commercial property based on ground floor linear feet of store frontage, the Ordinance would need to be revised with this and/or other criteria.

## 5. Open Space Exemption

If Council determines that exemptions are appropriate for the Vacant Property Tax, consideration should be given to whether exemptions would be provided to protect open space. The Oakland Vacant Property Tax does not explicitly exempt open space parcels, but provides a process that would allow property owners to seek an exemption from the tax if “the owner can demonstrate that an ‘exceptional special circumstance’ affecting their property prevents the use or development of the property.” The City Council may prefer to clearly establish in the Ordinance an exemption for open space.

The Department of City Planning has identified several criteria for an open space exemption; the draft Ordinance could be revised as follows:

1. Exempt an owner of a parcel that meets one of the following definitions of open space:
  - i. Parcels with a zoning classification of Open Space (OS) or with a General Plan Land Use designation as Open Space
  - ii. Parcels with open space covenants/easements or otherwise legally accessible to the public
  - iii. Parcels designated open space lands as defined in Article 10.5 of the California Government Code
  - iv. Parcels that have been vacant for the prior 25 years and abut a parcel meeting one of the classifications listed in i-iii above
  - v. Vacant parcels located within the Rim of the Valley Corridor
  - vi. Any other open space designation in any zoning ordinance, plan, policy or program
  - vii. Lands designated as Very High Fire Severity Zones located within Hillside Areas designated by the Department of City Planning Hillside Area Map
  - viii. Parcels subject to an Urban Agriculture Incentive Zone (UAIZ) contract with the City of Los Angeles
  - ix. Parcels designated PF (Public Facilities)
  - x. Properties operating as public gardens, community gardens, or agricultural purposes.

(#5) Action required: 

- If Council agrees with the draft City Ordinance (no exemptions for Open Space) - None.
- If Council wishes to establish Open Space exemptions, adopt exemptions such as above.

## **B. Draft Ordinance Revisions**

When preparing the draft Ordinance in 2020, the City Attorney, in consultation with City staff, identified concepts that do not translate directly from the Oakland Vacant Parcel Tax to the Los Angeles Vacant Property Tax. The June 22<sup>nd</sup> CLA report identified these changes, which are reiterated here for reference. In preparation of this report, the City Attorney also identified the need to amend the draft Ordinance to include a financial reporting requirement, as described below.

### **1. Definition of Corporation**

The Council instruction provided that single family properties be exempt from the tax, except for properties owned by a corporation. Staff drew upon AB 1482, the Tenant Protection Act of 2019, signed by the Governor in October 2019, and the federal tax code to provide the meaning of a corporation. For the proposed tax, the term “corporation” shall mean an entity described under 24 CFR 301.7701-2(b) and California Civil Code Section 1946.2(e)(8)(A)(i)-(iii).

### **2. Purpose and Oversight**

The Oakland Vacant Property Tax is assessed for the purpose of addressing homelessness and funds are administered by a Commission on Homelessness. The Motion approved by City Council indicates that the purpose of the proposed Los Angeles Vacant Property Tax is to fund homeless services and programs, affordable housing, and other specified purposes. At this time, the language in the draft Ordinance provides sufficient direction to ensure that funds are directed to this purpose.

The draft Vacant Property Tax Ordinance includes oversight of any vacancy tax revenue by the Linkage Fee Oversight Committee. The five-member committee, comprised of one representative from Mayor’s Office, the CLA, CAO, LAHD, and Planning would be responsible for reviewing and recommending an allocation plan for revenues generated by the proposed vacancy tax. In 2019, the City of Los Angeles implemented a Linkage Fee which includes a Linkage Fee Oversight Committee responsible for evaluating fee revenues and recommending revenue allocations consistent with the intent of the Linkage Fee Ordinance. The Linkage Fee Oversight Committee conducts public meetings to consider and recommend to the Council and Mayor revenue allocation plans on an annual basis. Sharing the same oversight entity would ensure that decisions for the allocation of all funds designated for affordable housing purposes, such as the Linkage Fee and the proposed Vacant Property Tax, are aligned to maximize the use of those funds, and that those decisions be made in a public forum prior to consideration by Council.

Alternatively, the draft Ordinance can be revised to allow for the creation of an oversight entity by an implementing Ordinance at a later date.

Another option for Council to consider is to revise the draft Ordinance to allow Council to substitute the oversight entity at a later date.

### **3. References Conforming to City of Los Angeles Terminology**

The City Attorney has identified definitions and concepts in the Oakland Vacant Parcel Tax that are relevant to the City of Oakland. Such definitions and concepts have been revised to be relevant to the City of Los Angeles.

### **4. Appeals**

The Oakland Vacant Parcel Tax does not include a provision for appeals. The City of Los Angeles typically includes such a provision in its tax measures. Such language has been added to this ordinance.

### **5. Name of the Tax**

Motion referred to this as the Empty Homes Tax. The draft Ordinance refers to this now as the Los Angeles Vacant Property Tax.

### **6. Financial Reporting Requirement**

Should Council proceed with a Vacant Property Tax proposal, the City Attorney should be requested to amend the draft Ordinance with an annual financial reporting requirement.

## II. UPDATES ON RELATED MATTERS

In the June 8, 2020 CLA report, a summary of current and proposed vacancy taxes in other cities was provided. A summary of proposed legislation that could bring vacant units back to productive use was also included. Below is an update on how Oakland is implementing their vacancy tax. We also provide an update on Senate Bill 1079, a bill that favors non-corporate buyers when foreclosed homes are sold at auction, which has now become law. Information is also provided on the progress other jurisdictions have made in implementing such a tax.

### Oakland – Update

Oakland's Vacancy Tax was of interest to the City in 2020 as it was the only vacancy tax that had been implemented in California. The City's preliminary framework and draft Ordinance are based on the Oakland model. At the time our last report was released, Oakland had not yet collected any revenue. Below is a recap of the tax and an update on its revenue collection.

Oakland's Vacant Property Tax Act applies to any privately owned commercial or residential property in the city that is not "in use" for more than 50 days in a calendar year. The annual tax is \$6,000 per parcel for residential and non-residential properties, regardless of size or value. The tax for condos, duplex units, or ground-floor commercial space is \$3,000 per year. The tax was first levied in the FY 2020-21 property tax roll (applicable to properties deemed vacant in calendar year 2019).

#### *Financial Analysis*

Costs to administer the tax include a one-time cost of \$298,000 and annual implementation costs of \$184,000. Oakland negotiated an agreement with SCI Consulting Group to implement, administer, and manage the Vacant Property Tax for three years, with optional one-year extensions until 2024.

#### Compensation to SCI Consulting Group:

- Initial 3-Year Term (2020-2022 Calendar Years): \$850,000 (\$482,000 + \$184,000 + \$184,000)
  - 2020: \$482,000 (\$298,000 + \$184,000)
  - 2021: \$184,000
  - 2022: \$184,000
- Two Optional 1-year Term Extensions (2023-2024 Calendar Years): \$368,000
  - 2023: \$184,000
  - 2024: \$184,000
- Contingency: \$52,000

Total 5-Year Not-to-Exceed Amount: \$1,270,000 (\$850,000 + \$368,000 + \$52,000)

While SCI Consulting Group implements, administers, and manages the Vacant Property Tax, Oakland staff coordinates SCI's work and attend tax hearings on cases that have been appealed to an independent hearing officer. The cost for a hearing officer is approximately \$250 per case, which includes attending the hearing, conducting research, and rendering a written decision for the case. Oakland informs that it has received approximately 85 tax appeals per year since 2019.

A 2019 report by the Oakland Department of Finance anticipated \$7 million in annual revenue from the Vacant Property Tax. The City of Oakland informs that it received \$4.7 million out of the \$6.4 million in special taxes levied on 1,702 properties for 2019. It received \$4.3 million after levying the special tax on 1,647 parcels for 2020. This amount accounts for payments received through March 2022 as the current property tax installment is not due until April 10, 2022. The City reports that the number of specially taxed parcels is now trending downward because land owners are either renting to tenants, acquiring building permits, selling their lots, or even donating their properties to the City.

### **Challenges and Considerations - Update**

In the June 8<sup>th</sup> CLA report, a number of challenges that have arisen in areas where a vacant property tax exists were described. Below are updates on these matters.

#### *Program Outcomes and Legal Challenges*

**San Francisco** – In March 2020, San Francisco voters passed Proposition D, a commercial vacancy tax measure, with 69.8 percent of the vote. The ordinance applies to ground floor retail or other commercial properties that have been vacant for more than 182 days in a calendar year. The tax is assessed starting at \$250 per linear foot of store frontage in the first year, then doubles to \$500 if the property remains vacant the following year, and increases to \$1,000 for each year thereafter. The tax was estimated to generate up to \$5 million per year for a new Small Business Assistance Fund.

The tax was slated to go into effect on January 1, 2021, but on June 9, 2020, the San Francisco Board of Supervisors voted unanimously to postpone implementation of the tax until January 1, 2022, due to the business closures brought on by the COVID-19 pandemic. For most entities, filing and payment of the Commercial Vacancy Tax will begin in 2023.

On February 8, 2022, San Francisco Supervisor Dean Preston announced a ballot initiative to tax owners of vacant housing units in multi-unit buildings in the city and county. The tax rate would be based on property size and vacancy duration. Preston estimates that the tax could raise \$38 million a year and proposes that the revenue be used to develop affordable housing and provide rental subsidies to low-income and elderly residents. It would need 9,000 valid signatures to qualify for the November 2022 ballot.

**Vancouver** – This city has both an Empty Homes Tax (EHT), enacted in 2017, as well as a Speculation and Vacancy Tax (SVT) that was enacted in 2018. In 2019, a class action petition was filed by nine homeowners alleging that the SVT was unconstitutional and infringed on sections of the Canadian Charter Rights and Freedoms. In April 2020, a British Columbia Supreme Court judge dismissed the homeowners' request for an injunction to halt collection of the province's speculation tax while the class action lawsuit is pending, stating that the homeowners did not establish that injunctive relief was appropriate. The final decision of the case has still not been made.

In November 2021, the British Columbia Ministry of Finance released a technical briefing<sup>1</sup> to mayors reporting that the SVT helped add 18,000 units to the long-term rental market in Greater Vancouver in 2019 and 2020, as investors repurposed their properties toward long-term rental and added newly completed units to the market. Critics of the report argue that it is difficult to isolate the effect of the SVT, since Vancouver's EHT and a foreign-buyer's tax were introduced around the same time as the SVT and could have also contributed to the increase of units in the rental market.

### **Pending Proposals in other Jurisdictions**

Many cities across the U.S. and overseas have been considering levying vacant property taxes to address housing shortage and housing affordability issues, including Simi Valley, San Diego, Honolulu, and New York.

**Simi Valley** – In 2020, the Simi Valley City Council requested that staff agendaize the discussion of a vacant parcel tax as a tool to create additional housing inventory and prevent blight. On April 19, 2021, the Office of the City Manager issued a Memorandum, "Discussion of Vacant Parcel Tax." The Council voted to receive and file the report, choosing not to take further action.

**San Diego** – City officials have listed the city's affordable housing crisis as a top priority and are proposing ideas such as the creation of community land trusts, a rent registry, and a vacancy tax to tackle the problem.

In February 2021, the San Diego City Council said they wanted the city to study a possible vacancy tax that would be levied on owners of undeveloped lots and landlords who have empty units. Revenue from the vacancy tax would go toward rental assistance, legal services for tenants, and tenant outreach.

In September 2021, the San Diego Housing Commission released a report on residential vacancies in the city and found that less than 1 percent of residential housing in the city was vacant for six consecutive months from 2015-2019. The San Diego City Council has not taken any further action.

**Honolulu and the State of Hawaii** – In October 2020, Bill 76 (2020) was introduced in the Honolulu City Council for a vacant residential property tax. According to a report commissioned by the city in 2020, 40,000 residential units are vacant in the city at any given time, amid rising housing costs and an increasing homeless population. The proposed tax would be three percent of the property's assessed value and would apply to residential properties that have been unoccupied for more than 180 consecutive days within a tax year. In February 2022, the empty homes tax ordinance was drafted and is currently awaiting approval. If approved, the tax would go into effect on July 1, 2024.

There are also efforts at the state level to implement a vacant property tax in Hawaii. In January 2021, HB 440 was introduced in the Hawaii State Senate. The bill seeks to implement a surcharge on the conveyance tax, or a tax imposed on the transfer of ownership

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<sup>1</sup> [https://news.gov.bc.ca/files/SVT\\_Annual\\_Mayors\\_Consultation\\_Technical\\_Briefing\\_2020.pdf](https://news.gov.bc.ca/files/SVT_Annual_Mayors_Consultation_Technical_Briefing_2020.pdf)

of real estate properties, for vacant properties at the rate of one percent of the assessed value at the time of sale, transfer, lease, or sublease. The bill was referred to the Water and Land, Housing, Consumer Protection and Commerce, and Finance Committees on February 3, 2021, but no further action has been taken since then.

**New York** – On January 16, 2021, Senate Bill (SB) S2005 was introduced in the New York State Senate to impose a vacancy tax on vacant and abandoned commercial storefronts in cities with a population of 1 million or more. The tax rate would be one percent of the assessed value of a property. The bill is currently being considered by the Senate Investigations and Government Operations Committee.

### **California State Legislation**

Since 2020, the CLA has continued to monitor legislation that could facilitate bringing vacant units in the City back to a productive use. In the June 22<sup>nd</sup> CLA report, a description of SB 1079, which has become law, was included. This law aims to mitigate the negative impacts from a potential upsurge in foreclosures as a result of COVID-19, which would also lead to increased vacancies and unmaintained residential stock throughout the State. SB 1079 seeks to limit the accumulation of foreclosed properties by large investors and increase penalties for foreclosed properties that remain vacant and unmaintained.

#### **SB 1079 (Residential Property Warehousing)**

SB 1079, “Homes for Homeowners, Not Corporations” was introduced by Senator Skinner on February 18, 2020 and approved by the Governor on September 28, 2020. This bill applies to all residential properties with one to four housing units and went into effect on January 1, 2021 with a five-year sunset (January 1, 2026). This law:

- Prohibits trustees from bundling foreclosed properties for sale, instead requiring each property to be bid on separately.
- Increases the existing fine for not maintaining a vacant residential property purchased at a foreclosure sale from the current \$1,000 per day to \$2,000 per day for the first 30 days, and up to a maximum of \$5,000 per day thereafter, subject to the discretion of the governmental entity levying the fine.
- Mandates compliance with recently enacted laws regarding the eviction of tenants, including relocation assistance and just cause eviction in the case of a post-foreclosure eviction.
- Extends the nonjudicial foreclosure process to allow “Eligible Tenant Buyers” and “Eligible Bidders” (prospective owner-occupants, nonprofit associations, or cooperative organizations engaged in the development and preservation of affordable housing) the opportunity to purchase a foreclosed property within 15 days after the foreclosure sale, if they match or exceed the last and highest bid price at auction.

This law seeks to limit the accumulation of foreclosed residential properties by investors and instead seeks to ensure that owner-occupied purchasers, public entities, and community housing organizations have the ability to purchase properties before investor entities. It also seeks to facilitate the upkeep and quick rental of foreclosed properties that investors may otherwise keep vacant by increasing the penalty to \$5,000 per day of violation.

This report recommends that Council instruct the Los Angeles Department of Building and Safety (LADBS) and the CAO to report with the impacts of imposing fees authorized by Senate Bill 1079 and related recommendations.

### III. ADDITIONAL TAX AND PENALTY MEASURES

As requested by Council, a number of other tax and penalty measures were reviewed as additional means to generate revenue to fund affordable housing. These included a Land Value Uplift Tax, a Flipping Tax, and an out-of-State Transaction Tax. Upon consultation with the CAO and Office of the City Attorney, it was determined that these measures are not feasible. The Department of Building and Safety was consulted on penalties for illegal demolition of residential buildings. A proposal to increase gross receipts tax has been recommended by the Commission on Revenue Generation and can be further explored, if Council wishes to pursue this proposal. A summary and the challenges associated with each proposal are included below.

#### 1. Land Value Uplift Tax

A land value uplift or “property uplift value-capture” is the levying, by a government body, of a tax that is based upon the proportional increase in the unimproved capital value of private land due to public sector transport infrastructure investments. There are more than a hundred studies on value uplift around mass transit nodes, but no current examples of implementation.

##### **Australia**

There are efforts in New South Wales, the Australian state that is home to the capital Sydney, to capture land-value increases when developers submit rezoning requests to convert farmland into housing. A land value uplift law was introduced to the New South Wales government in June 2021, but has not yet been implemented. The law seeks to “raise money for the government from increases in property values caused by state spending on infrastructure, and rezoning of land uses by councils.”<sup>2</sup> Think tanks who recommended the law estimate an extra \$250 million (AUD) per year in revenue, but have not determined how much the new system will cost to implement.

Implementing a land value uplift tax in Los Angeles faces multiple challenges including cost, authority, and Proposition 218. While it is characterized as a “tax,” a land value uplift could be classified as a property-related assessment. An assessment is a charge imposed on particular real property for a local public improvement of direct benefit to that property. To levy an assessment in California, there must be legislative authority to assess and the levying agency must comply with Article XIID of the California Constitution (Proposition 218). Currently, there is no statute or City Ordinance that authorizes assessments for housing related improvements or services, so the City would not be able to levy such an assessment.

If there was an existing levying authority, Proposition 218 would require a state-certified engineer to analyze and determine the proportional special benefit to each assessed parcel derived from the improvements. For example, in the case of public sector transportation infrastructure improvements, proximity to the improved site could be a special benefit to nearby parcels. But parcels located further away would likely receive minimal, if any, special benefit.

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<sup>2</sup> <https://www.afr.com/property/residential/nsw-property-developers-face-extra-taxes-20210622-p5832b>

Proposition 218 further requires the engineer to quantify the general benefits to the public at large. Here, the public at large consists of all persons who utilize the improved transportation sites for any purpose and for any amount of time, and who did not pay for the cost of improvements. Based on this definition, it is reasonable to conclude that the general benefit amount will be significant compared to any special benefit received by properties. Under Proposition 218, assessed parcels may not be made to subsidize the benefits received by the general public and other non-assessment funds must be used to pay for the general benefit amount. If other funding sources are unavailable, the City as the levying agency, would be responsible for paying the general benefit amount. Currently, the City pays the general benefit portion of all existing property-related business improvement assessment districts.

If the City wants to look into creating a land value uplift ordinance, the City should first have an engineer analyze the special and general benefits to assist in determining if such a levy would even be an economically feasible option for the City. It is also important to note that literature on property uplift value-capture explains the benefit to parcels as an enhancement of property value. Proposition 218 specifically provides that general enhancement of property value is not a special benefit.

## **2. Flipping Tax**

Generally, a flipping tax seeks to tax the gain on the sale of residential property. The proposed flipping tax, or a tax on the gain from the sale of property, would be a tax on “income.” Under California Revenue and Taxation Code Sec. 17041.5, the City is prohibited from levying or imposing an income tax on any person.

On February 2, 2022, California Assemblymember Chris Ward introduced Assembly Bill (AB) 1771, also known as the California Housing Speculation Act. AB 1771 notes that the Personal Income Tax Law and Corporation Tax Law impose taxes upon income, including income generated from any gain from the sale or exchange of a capital asset. AB 1771 proposes an additional 25 percent tax on the portion of capital gain from the sale or exchange of residential properties within three years of the purchase of the property. The additional tax rate would be reduced depending on the number of years passed since the initial purchase. Assemblymember Ward asserts that “most California homeowners keep their property for 10 to 16 years, so it would not affect most people buying a home for personal use.” Tax revenue would be allocated to affordable housing development and infrastructure projects. The bill seeks to discourage real estate speculation, the buying and quick selling of homes for a profit, and the driving up of home prices across the state. The bill requires a two-thirds majority vote in the California Assembly and Senate and the Governor’s approval to become law.

### *Documentary Transfer Tax*

It should be noted that the City collects a Documentary Transfer Tax, which is assessed on the seller on all property sales and that the proposed HOUSE LA proposition would increase that tax rate on certain properties. A Documentary Transfer Tax is assessed during the sale or transfer of real property. The City’s current rate on a documentary transfer tax is \$2.25 per \$500 of sale value (0.45%). The County collects an additional \$0.55 per \$500 sales value (0.11%).

The proposed HOUSE LA proposition, if eligible for the November 2022 ballot and approved by the voters, would increase that tax rate on the sale or transfer of a specified properties. The measure would impose a new two tier fee on the sale of high value property, as follows:

- (1) \$5,000,000 but is less than \$10,000,000, a tax at the rate of 4% of the consideration or value; or
- (2) \$10,000,000 or greater, a tax at the rate of 5.5% of the consideration or value.

Proponents report that HOUSE LA may generate almost \$900 million annually to protect existing affordable housing, create new affordable housing, and fund supportive services for low income renters. Program revenue would be allocated primarily for supportive and affordable housing, including acquisition, construction, and operations; and financial, educational, and other resources to low-income and other tenants at risk of homelessness, displacement, or eviction.

### **3. Out-of-State Transaction Tax**

An Out-of-State Transaction tax or a non-U.S. owner Documentary Transfer Tax (DTT) seeks to impose a new or additional charge on non-residents of California who transfer property in the City.

A new DTT that exclusively targets Out-of-State or non-U.S. owners who transfer property within the City would implicate the Commerce Clause of the U.S. Constitution. The Commerce clause prohibits states and localities from imposing a discriminatory tax on interstate/foreign/interjurisdictional commerce or a tax that has a disparate impact on interstate/foreign/interjurisdictional commerce that was motivated by a protectionist purpose. A new DTT imposed on Out-of-State or non-U.S. owners of property discriminates against interstate and foreign commerce and would be a violation of the Commerce Clause. In addition, a proposal that subjects non-U.S. residents to pay a higher DTT, due to nationality, than In-State owners from the transfer of property would be discriminatory and potentially violates the Equal Protection Clause of the U.S. Constitution.

### **4. Penalty for Unpermitted Demolitions**

Demolitions are performed on an entire, vacant building. Unpermitted demolitions occur when construction work is performed without a building permit and especially becomes a problem when the demolished structure or elements have historic significance that cannot be replaced, or the demolition results in an undesirable loss of dwelling units that the owner will not replace and tenants are affected.

LADBS reports high profile unpermitted demolition cases with loss of historical elements occurring three to five times each year. Demolitions are reported through the LADBS complaint portal, or 311.

LADBS assesses unpermitted demolition fees sequentially starting with the Code Violation Fee (\$356.16) at the issuance of an Order to Comply (OTC). If the violator does not comply (i.e. obtain a permit) by the compliance date on the OTC, then a Non-Compliance Fee

(\$660.00) is also assessed. A misdemeanor fine may be assessed by the court at the determination of a judge if a criminal prosecution takes place. An additional Investigation Fee is incorporated in the permit for demolition, adding \$400 or doubling the permit cost, whichever is greater. LADBS unpermitted demolition collections are considered “fees” to achieve cost recovery for enforcement, and are not fines/penalties. Fines and penalties for unpermitted demolitions are assessed by courts as part of a criminal prosecution sentencing.

## **5. Business Tax**

As mentioned in the June 8<sup>th</sup> CLA report, an across the board increase in the gross receipts tax was recommended by the City’s Commission on Revenue Generation. In May 2020, the commission released a report with its recommendations for revenue-generating measures that would bring new monies to the City’s General Fund. The Commission’s report includes a list of “Recommendations” and “Considerations.”

Recommendations are defined as “specific policies with the greatest potential for maximizing revenue and can be implemented within a reasonable timeframe.” Considerations are “policies that have definite potential for increasing revenue, but require additional research and entail extensive effort for implementation.” In the Commission’s report, the increased gross receipt tax is identified as a “Recommendation” while a vacancy tax is identified as a “Consideration.”

In 2004, the City Council implemented business tax reform measures with the result of reducing tax rates to assist local businesses. Subsequent reforms have further reduced tax rates. Council policy has been to reduce tax liability and this reform would increase tax rates.

Should Council wish to pursue this proposal, it should instruct the CAO to report with a process for implementing an increase to the gross receipts tax and related financial impacts. Such an action would require voter approval.

#### IV. NEXT STEPS

Following Council’s final determination of exemptions and clarification of policy points, the City Attorney should be instructed to revise the draft Ordinance accordingly for Council’s consideration. The outstanding policy points described previously in the report are listed below.

**Table 3: Pending Policy Points**

Issue	Current	Keep as is.	If NO, change to:
Definition of “Vacant Multifamily Unit and Building”	One unit occupied makes the building occupied	Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax per vacant unit <input type="checkbox"/>  Tax per vacant unit with a not-to-exceed amount <input type="checkbox"/>  Other <input type="checkbox"/>
Corporate Owned Vacant Single Family Properties (SF)	Tax corporate owned SF vacant undeveloped and developed parcels	Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax corporate owned undeveloped only <input type="checkbox"/>  Tax corporate owned developed only <input type="checkbox"/>
	Tax only corporate owned SF parcels	Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax all SF vacant undeveloped and developed parcels <input type="checkbox"/> (corporate and non-corporate owned)  Other <input type="checkbox"/>
Exemptions and Criteria	None	Yes <input type="checkbox"/> No <input type="checkbox"/>	Remove exemption(s) (See Table 2. #1 -12) <input type="checkbox"/>  Add exemption(s) Council to identify <input type="checkbox"/>
Mixed Use Parcel Exemption	Only mixed use parcels that measure two acres or more are taxed	Yes <input type="checkbox"/> No <input type="checkbox"/>	Impose on sites that are contiguous and collectively ____+acres (owned by same owner) <input type="checkbox"/>  Other <input type="checkbox"/>
Commercial Tax	None	Yes <input type="checkbox"/> No <input type="checkbox"/>	Impose a flat tax <input type="checkbox"/>  Impose a tax based on ground floor linear feet of store frontage <input type="checkbox"/>  Other <input type="checkbox"/>
Open Space Exemptions	None	Yes <input type="checkbox"/> No <input type="checkbox"/>	Include exemption(s) i. – x. (on page 11) <input type="checkbox"/>  Other <input type="checkbox"/>

**Table 3: Pending Policy Points (continued)**

Issue	Current	Keep as is.	If NO, change to:
Oversight Entity	Linkage Fee Oversight Committee established as oversight entity	Yes <input type="checkbox"/> No <input type="checkbox"/>	Establish a different oversight entity in the tax measure, as follows: <input type="checkbox"/>  Add a provision that would permit substitution of the entity at a future date <input type="checkbox"/>  Do not establish an oversight entity in the tax measure; and establish an entity by Ordinance at a future date. <input type="checkbox"/>

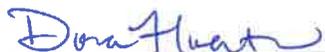
Once Council approves provisions for the final Ordinance, the CAO should be directed to update revenue projections. This should include the estimated administrative costs and the resources needed to implement a vacancy tax program. Upon consideration of a final Ordinance and related tax program revenue impacts, Council may decide to proceed with a ballot measure in accordance with the following schedule.

**Ballot requirements**

Pursuant to Proposition 218, any new tax assessment must be submitted to the electorate for approval. A general tax requires majority approval at a regularly scheduled municipal election. A special tax must be earmarked for a specified purpose approved by the voters. A special tax requires a two-thirds vote and can be placed on any ballot. Since the proposed Vacant Property Tax would be a parcel tax with proceeds dedicated for a specific purpose, the measure will require a two-thirds vote.

In order to place a measure on the November 8, 2022, City General Municipal election ballot, Council must request that the City Attorney prepare the necessary election documents to meet specified deadlines. In consideration of the last Council meeting on Friday, July 1, 2022, before adjourning for Summer recess, the deadlines below must be met.

- Last date for Council to request that the City Attorney prepare Resolutions June 21, 2022
- Last date to adopt election Resolutions June 29, 2022
- Date of election November 8, 2022

  
 \_\_\_\_\_  
 Dora Huerta  
 Analyst

Attachment A: Council Instruction, June 24, 2020  
 Attachment B: City Attorney Report, Resolution 1 (Draft Ordinance), Resolution 2, Resolution 3, and Election Ordinance  
 Attachment C: Exemptions Described by Blue Sky Consulting

# ATTACHMENT A

## COUNCIL INSTRUCTION OF 6/24/2020

### MOTION

I HEREBY MOVE that the COMMUNICATIONS FROM THE CITY ATTORNEY AND CHIEF LEGISLATIVE ANALYST (CLA), BALLOT RESOLUTIONS and ORDINANCE FIRST CONSIDERATION calling for a potential ballot measure, to be submitted to the voters of the City of Los Angeles at a special election consolidated with the November 3, 2020, state general election ballot, to fund homeless services and programs, affordable housing, and other specific purposes through a parcel tax on certain vacant and/or unoccupied properties be AMENDED to:

1. INSTRUCT the CLA, Los Angeles Housing and Community Investment Department (HCIDLA), City Administrative Officer (CAO), and City Attorney to report back with further research and information on a proposed vacancy tax, for consideration for a 2022 ballot measure.

The report should include information on the number of and type of vacant units in Los Angeles, broken down by type (commercial, single family home residential, apartment units, and condominium units). The report should consider applicability to commercial as well as residential properties, consider criteria for potential exemptions, including for open space or hardship, and should make recommendations for eligible expenditures of funds and an oversight structure.

2. INSTRUCT the CLA, HCIDLA, and CAO to report with recommendations on the feasibility of enacting additional tax measures to combat speculative housing, including:
  - a. A Land Value Uplift Tax
  - b. A Flipping Tax
  - c. An Out-of-State Transaction Tax
  - d. Penalties for illegal demolition of residential buildings

PRESENTED BY: \_\_\_\_\_  
MIKE BONIN  
Councilmember, 15th District

SECONDED BY: \_\_\_\_\_  
PAUL KREKORIAN  
Councilmember, 2nd District

6/24/20  
19-0623

# ATTACHMENT B



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 20 - 0 2 0 2  
JUN 2 2 2020

**REPORT RE:**

**BALLOT RESOLUTIONS REGARDING  
PROPOSED SPECIAL PARCEL TAX PROPOSITION, AND  
ORDINANCE CALLING A SPECIAL ELECTION,  
FOR THE PROPOSITION ON  
NOVEMBER 3, 2020**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

On June 16, 2020, your Honorable Body requested that this Office prepare the documents necessary to place a Los Angeles vacant property tax proposition on the November 3, 2020 ballot. The proposition, in accordance with Council instructions and together with discussions with the Office of the Chief Legislative Analyst (CLA) and the Office of the City Administrative Officer (CAO), is modeled after Oakland's Ordinance, with vacant parcel tax rates from the Blue Sky report. The proposition would impose an annual special parcel tax on certain vacant and unoccupied properties within the City of Los Angeles. The amount of tax revenue anticipated to be collected, per fiscal year, for 20 years from this proposition will be provided by the CAO. This revenue amount will need to be included in the statement of the measure on the ballot pursuant to State law. The revenue from the special parcel tax will fund affordable housing, homeless resources, and other blight mitigation programs. This Office now transmits, approved as to form and legality, the ballot resolutions and election ordinance necessary to place the proposition on the ballot.

Summary of Proposition Provisions

The ballot proposition would provide funding for affordable housing, homeless programs and resources, and other blight mitigation programs through the imposition of a special parcel tax on certain City of Los Angeles properties and parcels that are unoccupied and vacant, respectively for 315 days or more per year. A different rate of tax will apply based on the type of properties or parcels that are unoccupied or vacant, respectively. The rates are as follows:

1. Unoccupied multi-family properties and unoccupied corporate single-family properties will be taxed at an annual rate of \$6,000 per parcel.
2. Corporate owned vacant parcels zoned for single families that measure 20,000 square feet or less will be taxed at an annual rate \$5,000. If larger than 20,000 square feet, an additional tax of \$1,000 is imposed for every 2,000 square feet or fractional part thereof in excess of 20,000 square feet.
3. Vacant parcels zoned for multi-families that measure 20,000 square feet or less will be taxed at an annual rate of \$10,000. If larger than 20,000 square feet, an additional tax of \$2,000 is imposed for every 20,000 feet or fractional part thereof in excess of 20,001 square feet.
4. Vacant parcels zoned for mixed-use that measure 87,120 square feet or more will be taxed at an annual rate of \$5,000, plus an additional \$1,000 for every 20,000 square feet or fractional part thereof in excess of 187,120 square feet.

The proposition would also provide exemptions for properties and parcels owned by low income seniors, very low income individuals, non-profits, properties and parcels undergoing or about to undergo construction or development, and others.

The proposition specifies and lists the purposes for which the special parcel tax proceeds would be used. The purposes include, but are not limited to, job training for homeless individuals, housing assistance, affordable housing incentives, relocation assistance, accessibility support, blight mitigation, and sanitation mitigation of homeless encampments. The proposition would create a special fund into which the special parcel tax proceeds would be deposited in order to be used exclusively for the purposes specified in the proposition. Proceeds deposited into this fund would not be subject to reversion to the City's reserve fund.

Proceeds will also be subject to oversight through the General Manager of the Los Angeles Housing and Community Investment Department (HCID) and the Linkage

Fee Oversight Committee (Committee). The Committee will be comprised of a designees from HCID, CLA, CAO, the Department of City Planning, and the Mayor's Office. The General Manager will prepare and present an annual report related to the expenditures of the special fund together with input from the public and Committee. The General Manager will also prepare recommendations on how proceeds of the special parcel tax should be expended.

#### Voter Approval and Election Requirements

The ballot proposition proposes a special tax and therefore must be approved by two-thirds of the voters of the City at the November 3, 2020 election. Cal. Cons. Article XIII C, § 2(d). City Election Code Section 601 requires that a final resolution and ordinance to place a measure on the ballot be adopted not less than 110 days before the election. With regard to the November 3, 2020, State General Election, and in light of Council's upcoming recess, the last date for Council to take action to place a measure on the ballot is July 1, 2020.

The State General Election is conducted locally by the County Registrar-Recorder. In order to place a City measure on the State General Election ballot, the City must request the County Board of Supervisors to approve consolidation of the City's ballot measure election with the State General Election. The Board of Supervisors has the limited discretion to deny the City's consolidation request if the County's voting equipment or other election capacities are such that the County cannot handle the City's election.

#### CEQA

It is the opinion of this office that the adoption of the measure calling the Special Election does not constitute approval of a project for purposes of complying with the California Environmental Quality Act (CEQA), and therefore, the adoption does not require compliance with CEQA prior to your action to adopt the ordinance. If the ballot proposition is approved by the voters, then the City must complete its compliance with CEQA before it commits itself to approve a project using proceeds from the special parcel tax. If you adopt the ordinance, you should direct staff to file a notice of exemption with the County Clerk pursuant to Public Resources Code Section 21152(b).

#### Rule 38 Referral

A copy of the draft ordinance has been presented to the Office of the City Administrative Officer, the Chief Legislative Assistant, and other relevant departments pursuant to Council Rule 38, and their comments have been incorporated.

The Honorable City Council  
of the City of Los Angeles  
Page 4

If you have any questions regarding this matter, please contact Deputy City Attorney Charles Hong at (213) 978-7782 or Senior Assistant City Attorney Noreen Vincent at (213) 978-7730. They or another member of this Office will be available when you consider this matter and answer questions you may have.

Sincerely yours,

MICHAEL N. FEUER, City Attorney

A handwritten signature in black ink, appearing to read "D. Michaelson", written over a horizontal line.

By DAVID MICHAELSON  
Chief Assistant City Attorney

DM:CSH:pj  
Transmittal

# Resolution 1 (11 pages)

## RESOLUTION

Resolution providing the text of a ballot measure to be submitted to the qualified voters of the City of Los Angeles.

### BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:

Section A. The following ordinance of the City of Los Angeles is hereby proposed to be submitted for approval by a two-thirds vote of qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the State's General Election held on November 3, 2020:

### ORDINANCE NO. \_\_\_\_\_

An ordinance amending Chapter II of the Los Angeles Municipal Code by adding new Article 1.18 to provide funding for affordable housing and rental programs and homeless services and facilities within the City of Los Angeles through the imposition of a special parcel tax on vacant parcels and unoccupied units within the City of Los Angeles.

**WHEREAS**, on June 16, 2020, the Chief Legislative Analyst issued a report on the present state of enacted vacancy property taxes in California, Washington D.C., Vancouver, British Columbia and elsewhere ("Vacancy Tax Report") in reference to the Blue Sky Consulting Group report entitled "Feasibility of a Vacant and Unoccupied Parcel Tax for the City of Los Angeles" dated December 19, 2019;

**WHEREAS**, together with the Vacancy Tax Report, the Los Angeles Housing and Community Investment Department issued a separate report analyzing the number of vacant residential units within the City of Los Angeles ("Vacancy Report");

**WHEREAS**, the Vacancy Report noted that an estimated 85,000 to 100,000 unoccupied residential units existed within the City of Los Angeles based on two separate methodologically reasonable vacancy rate studies;

**WHEREAS**, the Vacancy Report further notes that the City is presently facing an affordability housing shortage and expected to continue to do so in the future, and the Southern California Association of Governments has preliminarily determined that the City of Los Angeles requires over 260,000 affordable housing units to serve its population;

**WHEREAS**, to increase the funding needs for affordable housing and rental program and homeless, resources, services, and facilities, the City Council of Los Angeles proposes the placement of a special tax entitled the "Los Angeles Vacant Property Tax Act" before the voters;

**WHEREAS**, the revenue generated from the proposed special tax would fund affordable housing and rental programs and homeless services and facilities, in addition to incentivizing the development and the return of underdeveloped or unoccupied properties to the open market; and

**WHEREAS**, to ensure that the revenue from the special parcel tax are used exclusively for purposes provided herein, said revenue shall be subject to the oversight of the Linkage Fee Oversight Committee, Los Angeles City Council, and Mayor.

**NOW, THEREFORE,**

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article 1.18 is added to Chapter II of the Los Angeles Municipal Code to read:

**ARTICLE 1.18**

**LOS ANGELES VACANT PROPERTY TAX ACT**

**SEC. 21.18.1. TITLE.**

This article may be referred to as the Los Angeles Vacant Property Tax Act.

**SEC. 21.18.2. DEFINITIONS.**

The following words and phrases whenever used in this article shall be construed as defined in this section:

- (a) **"building"** shall have the same meaning found under Section 12.03 of Article 2 of Chapter 1 of the Los Angeles Municipal Code.
- (b) **"City"** shall mean the City of Los Angeles, a municipal corporation.
- (c) **"corporation"** shall mean an entity described under 26 CFR 301.7701-2(b) and California Civil Code Section 1946.2(e)(8)(i)-(iii).
- (d) **"County"** shall mean the County of Los Angeles.
- (e) **"Owner"** shall mean the person owning, claiming, possessing, or controlling the parcel as of the lien date.
- (f) **"parcel"** shall mean a unit of real property as shown on the last equalized assessment roll of the County of Los Angeles.

- (g) **“person”** shall mean an individual, corporation, partnership, trust or estate, joint-stock company, association, limited liability company, syndicate, group, pool, joint venture or other unincorporated organization or group.
- (h) **“residential unit”** shall mean a building, or portion thereof, designed for or occupied exclusively by one household, including unrelated individuals who live together and maintain a common household.
- (i) **“multifamily residential property”** shall mean a parcel that is improved with more than one legally permitted residential unit.
- (j) **“single-family residential property”** shall mean a parcel that is improved with only one residential unit.
- (k) **“Special Tax”** shall mean the Los Angeles Vacancy Property Tax Act authorized by this article.
- (l) **“Use”** shall mean the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
- (m) **“unoccupied”** shall mean the lack of a habitual physical presence by the owner, an individual, or individuals on a day-to-day basis.
- (n) **“vacant mixed-use parcel”** shall mean a vacant parcel that is zoned for both: (i) at least one allowable residential unit, and (ii) commercial Use.
- (o) **“vacant multifamily residential parcel”** shall mean a vacant parcel situated in an area zoned for more than one legally permitted residential unit.
- (p) **“vacant single-family residential parcel”** shall mean a vacant parcel situated in an area zoned for one residential unit.
- (q) **“vacant”** shall mean the absence of a permanent legal building.

### **SEC. 21.18.3. SPECIAL PARCEL TAX.**

(a) As provided under this article, there is hereby imposed a Special Tax on the following properties or parcels situated in the City:

- (1) an unoccupied single-family residential property, having an Owner that is a corporation;

- (2) a multifamily residential property with all its residential units unoccupied;
- (3) a vacant single-family residential parcel measuring 20,000 square feet or less, having an Owner that is a corporation;
- (4) a vacant single-family residential parcel measuring 20,001 square feet or more, having an Owner that is a corporation;
- (5) a vacant multi-family residential parcel measuring 20,000 square feet or less;
- (6) a vacant multi-family residential parcel measuring 20,001 square feet or more; and
- (7) a vacant mixed-use parcel measuring 87,120 square feet (2 acres) or more.

(b) The Special Tax under this article constitutes a debt owed by the Owner to the City.

**SEC. 21.18.4. SPECIAL TAX RATE.**

- (a) The Special Tax to be imposed shall be as follows:
  - (1) \$6,000 for properties described under paragraph 21.18.3(a)(1) and (2).
  - (2) \$5,000 for parcels described under paragraph 21.18.3(a)(3).
  - (3) \$5,000, plus an additional \$1,000 for every 20,000 square feet or fractional part thereof in excess of 20,001 square feet for parcels described under paragraph 21.18.3(a)(4).
  - (4) \$10,000 for parcels described under paragraph 21.18.3(a)(5).
  - (5) \$10,000 plus an additional \$2,000 for every 20,000 square feet or fractional part thereof in excess of 20,001 square feet for parcels described under paragraph 21.18.3(a)(6).
  - (6) \$5,000, plus an additional \$1,000 for every 20,000 square feet or fractional part thereof in excess of 87,120 square feet for parcels described under 21.83.3(a)(7).

(b) City Council may, by ordinance, establish a Special Tax rate less than the rate provided in Subsection (a). Following any such decrease in the Special Tax rate,

the City Council may, by ordinance, increase the Special Tax rate to an amount not to exceed the rate provided in Subsection (a).

**SEC. 21.18.5 EXPIRATION OF THE SPECIAL TAX.**

The Special Tax shall expire 20 years after it is first levied. By way of example only and without limiting the generality of the foregoing, if the tax was first levied in the 2021-22 tax year, the 2040-41 tax year would be the last year in which it may be levied. The voters of the City may amend the term of the tax at any time prior to its expiration.

**SEC. 21.18.6 COLLECTION OF THE SPECIAL TAX.**

(a) City Council may provide for the imposition of the Special Tax in the same manner and subject to the same penalties as, or with, other charges and taxes fixed and collected by the City, or by the County on behalf of the City.

(b) Unless the City Council seeks another method for collection of the Special Tax, such tax shall be levied and collected by the County in the same manner as the ad valorem property tax bill, at the same time and manner, and subject to the same penalties and procedures as ad valorem property taxes collected by the County, except as otherwise set forth in this article.

(c) If the City Council selects collection by the County, the Special Tax shall be imposed on the ad valorem property tax bill for the fiscal year beginning July 1 following the end of the calendar year. The Special Tax shall be first imposed no sooner than the ad valorem property tax bill for the fiscal year beginning July 1, 2022 with respect to parcels described in Section 21.18.3 during the previous calendar year.

**SEC. 21.18.7. DETERMINATION OF VACANCY AND UNOCCUPIED**

(a) Parcels described in paragraph 21.18.3(a)(1) shall be deemed unoccupied if unoccupied for three hundred fifteen (315) days or more in a calendar year.

(b) Parcels described in paragraph 21.18.3(a)(2) shall be deemed unoccupied if all the residential units within the parcel are unoccupied for three hundred fifteen (315) days or more in a calendar year.

(d) Parcel described in paragraphs 21.18.3(a)(3) through (7) shall be deemed vacant if not in Use for three hundred fifteen (315) days or more in a calendar year.

(f) The City Council shall establish, by ordinance, a method for determining and identifying the vacant and unoccupied parcels subject to the Special Tax under this article.

## **SEC. 21.18.8. EXEMPTIONS.**

(a) The following Owners of parcels described in Section 21.18.3 shall be exempt from the Special Tax imposed under this article:

(1) an Owner upon which the imposition of this Special Tax would be in violation of either the Constitutions of the United States or the State of California;

(2) an Owner that is the federal government, the state government, local government, or any federal, state, or local government agency or district;

(3) an Owner that is a non-profit organization or entity owned or controlled by a non-profit organization;

(4) an Owner who qualifies as very low-income, as the term "very low income" is applicably defined for the City by the U.S. Department of Housing and Urban Development or its successor department or agency;

(5) an Owner for whom the payment of the tax imposed by this article would be financial hardship due to specific factual circumstances;

(6) an Owner whose property is vacant as a result of demonstrable hardship that is unrelated to the Owner's personal finances;

(7) an Owner who can demonstrate that exceptional specific circumstances prevent the Use or development of the parcel. By way of example only and without limiting the generality of the foregoing, exceptional specific circumstances that prevent the Use or development of the parcel include damage by a recent natural disaster, a vacant parcel adjoining a residential parcel with residential units and used by the occupants as part of the yard, and parcels with physical conditions that prevent development. The details of this exemption shall be further defined by a separate ordinance of City Council;

(7) an Owner of a parcel that is under active construction. To qualify for this exemption, an Owner must call for inspections of the construction with sufficient frequency to keep the building permit or permits active;

(8) an Owner of property for which an active building permit application is being processed by the City;

(9) an Owner, regardless of age, who receives (i) Supplemental Security Income for a disability, or (ii) Social Security Disability Insurance benefits regardless of age and whose yearly income does not exceed 250 percent of the most recent federal poverty guidelines applicable for the City that are issued by the United States Department of Health and Human Services;

(10) an Owner (1) who is 65 years of age or older and (2) who qualifies as "low income" as the term "low income" is applicably defined for the City by the United States Department of Housing and Urban Development; and

(11) an Owner of a parcel included in a substantially complete application for planning approvals that has not yet received approval. An Owner of a parcel for which a project with development entitlements have been approved but needing time for completion may apply for and receive an administrative two-year exemption.

(b) The City, in a separate ordinance, shall establish the procedures and guidelines for owners to apply for, and grant, the exemptions identified in this section. Owners who claim an exemption may be required to submit information annually to substantiate their continuing qualification for the exemption.

(c) City Council may, by ordinance, establish such other exemptions to the tax imposed by this article and the authorized methods of collection of the Special Tax, as it determines to be appropriate.

(d) City Council may, by ordinance, provide supplemental definitions for the exemptions in this section and for the administration of the exemptions as part of the collection of the Special Tax.

(e) City Council may, by ordinance, provide supplemental definitions for exemptions in this section and for the administration of the exemptions as part of the collection of the Special Tax.

#### **SEC. 21.18.9. LOS ANGELES VACANT PROPERTY TAX FUND.**

There is hereby established a special fund in the City Treasury entitled "Los Angeles Vacant Property Tax Fund" ("Fund"). Monies from the Special Tax, including penalties, shall be deposited into the Fund. Monies deposited in this special tax fund shall not be subject to reversion to the Reserve Fund, established under Charter Section 302. Monies of the Fund may be deposited in an interest bearing account. Nothing in this section shall prevent the use of these monies to reimburse the General Fund when money is advanced from the General Fund to pay for the purposes provided for in this article. All interest earnings generated by monies on deposit in the Fund shall remain in it to be used only for the purpose for which the Special Tax in this article is imposed.

#### **SEC. 21.18.10. PURPOSE OF THE SPECIAL TAX**

(a) Monies associated with the Special Tax shall be used for the purposes identified in this section.

(b) Tax proceeds may be used to provide services, resources, and programs to homeless people, to reduce homelessness, and to support the protection of existing and production of new housing affordable to lower income households as defined in California Health and Safety Code Section 50079.5 at an affordable housing cost or affordable rent as defined in Health and Safety Code Section 50053. Examples of such uses include, but are not limited to:

(1) job training, apprenticeship, pre-apprenticeship, drug treatment, and job readiness assistance programs for homeless people or those at risk of becoming homeless;

(2) assistance connecting homeless people or those at risk of becoming homeless with available services and resources, including assistance applying for housing or public benefit programs;

(3) housing assistance, including the provision of temporary housing or move-in expenses, such as first-month's rent and a security deposit, and rental assistance;

(4) sanitation, bathroom, and cleaning services related to homeless encampments, and programs to supplement remedying and deterring blight and illegal dumping throughout the City;

(5) incentive programs to encourage property owners to make space available for low-income housing, including making funds available for physical improvements to enable a unit to be used for a voucher-based housing program;

(6) relocation assistance funding for low-income households facing displacement;

(7) financial assistance for the design, development, construction or operation of affordable housing units, including housing alternatives such as, without limitation, shipping container homes, accessory dwelling units and small homes;

(8) accessibility support to provide or maintain housing, and make needed improvements for accessibility, for seniors and persons with disabilities;

(9) displacement prevention, tenant education and assistance, emergency rent assistance;

(10) navigation centers to provide space for people to stay, along with on-site support services for the homeless. Funding may be used for both capital and operating costs related to navigation centers;

(11) code enforcement and cleanup of blighted vacant parcels, other blight elimination, and remedying illegal dumping, including legal action to address any of the foregoing as necessary, no less than twenty-five percent (25%) of the revenue deposited into the Fund in any single year shall be used to pay for the uses listed in this paragraph; and

(12) the preparation of studies in association with this article.

(c) Monies in the Fund may be used to pay the costs of audits with respect to the uses of the monies in the Fund.

(d) Monies in the Fund may be used to pay for the City's costs of the election required to obtain voter approval of the tax authorized by this article, including City Attorney costs to prepare this article and related documents.

(e) Monies in the Fund may be used to pay for the costs of administering the Special Tax, regardless of how or by what entity those administrative services are provided. No more than fifteen percent (15%) of the revenue deposited into the Fund in any single year may be used to pay for such administrative costs. Notwithstanding the foregoing, the City shall be reimbursed for its actual costs of establishing the program for collecting the Special Tax, such costs to be confirmed by the Controller. Administrative costs include, but are not limited to:

(1) the costs to the City of determining and identifying the occupancy and vacancy status of every parcel in the City;

(2) the costs to the City associated with administering, monitoring, and enforcing compliance with this article. Such costs include, but are not limited to, refunds, audits, adjustments, any expenses, including attorneys' fees, associated with any proceedings needed to enforce the requirements of this article;

(3) the costs to the City associated with developing ordinances and regulations to implement this article;

(4) the costs to the City associated with the operations of the oversight committee described in Subsection 21.18.11(b); and

(5) reimbursement to the County for the costs it incurs in collecting the tax.

(e) If this article or the use of the Special Tax is legally challenged, monies from the Fund may be used to reimburse the City for its costs of legal defense, including attorneys' fees and other expenses.

**SEC. 21.18.11. ADMINISTRATIVE OVERSIGHT.**

(a) The General Manager of the Los Angeles Housing and Community Investment Department ("General Manager") shall prepare and present to the City Council an annual report identifying all receipts into and all expenditures out of the Fund, as well as the purpose for which each expenditure was made in accordance with Section 21.18.10. Each report shall cover a fiscal year and shall be submitted within 90 days after the close of that fiscal year.

(b) Oversight of the Fund shall be exercised by the Linkage Fee Oversight Committee established under subsection (f) of Section 5.5852 of Chapter 176 of the Los Angeles Administrative Code. The Linkage Fee Oversight Committee shall provide opportunity for public input in the development of the General Manager's annual report to City Council.

(c) The General Manager or his or her designee shall make recommendations to City Council for expenditures from the Fund.

**SEC. 21.18.12. REFUNDS, ADJUSTMENTS, AND PAYMENTS.**

The City shall establish the procedures and guidelines for Owners to requests for refunds, adjustments, payments, and appeals.

**SEC. 21.18.13. AMENDMENTS.**

This article may only be amended by a vote of the people if the amendment would result in the Special Tax being imposed, extended, or increased in a manner not authorized by this article as originally approved by the voters. City Council is hereby authorized to amend this article provided such amendment does not require voter approval.

**SEC. 21.18.14. SUBMISSION TO VOTERS.**

The ordinance enacting this article shall be submitted to the voters of the City. The taxes determined and proposed by this article shall be levied only if the ordinance is approved by a vote of not less than two-thirds of the voters voting. If the ordinance is approved by the requisite number of voters, the article shall thereafter be considered a part of the Los Angeles Municipal Code.

**SEC. 21.18.15. SEVERABILITY CLAUSE.**

If any section, clause, sentence, phrase, or portion of this proposition is held unconstitutional or invalid by any court or tribunal of competent jurisdiction, the remaining sections, clauses, sentences, phrases, or portions of this proposition shall remain in full force and effect, and to this end the provisions of this proposition are severable. In addition, the voters declare that they would have passed all sections,

clauses, sentences, phrases, or portions of this proposition without the section, clause, sentence, phrase or portion held unconstitutional or invalid.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot proposition, specifying the date of November 3, 2020, as the date the proposition is to be voted upon by the qualified voters of the City of Los Angeles. The notice shall be published once in a newspaper of general circulation in the City of Los Angeles, and in each edition thereof during that day of publication. The City Clerk is authorized and directed to prepare and keep in the City Clerk's office a sufficient supply of copies of the proposed ballot proposition and to distribute the proposed ballot proposition to any and all persons requesting a copy. Further, the City Clerk is authorized and directed to mail copies of the proposed ballot proposition to each of the qualified voters of the City of Los Angeles.

Sec. C. The City Clerk is hereby authorized and directed to cause a notice to be published once in a newspaper of general circulation that copies of voter information pamphlets containing the proposed ballot proposition may be obtained upon request in the City Clerk's office.

Sec. D. The City Clerk shall file a duly certified copy of this Resolution forthwith with the Board of Supervisors and with the Registrar-Recorder of the County of Los Angeles.

I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Los Angeles at its meeting held on \_\_\_\_\_.

HOLLY L. WOLCOTT, City Clerk

By \_\_\_\_\_ Deputy

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By   
CHARLES S. HONG  
Deputy City Attorney

Date 6/21/20

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## Resolution 2 (2 pages)

### RESOLUTION

Resolution requesting consolidation of the Special Election for a City of Los Angeles ballot measure to be held on November 3, 2020, with the State General Election to be held in the County of Los Angeles on the same day.

**WHEREAS**, the Council of the City of Los Angeles has taken action pursuant to the City Charter and City Election Code to call a Special Election to be held on November 3, 2020, to place before the qualified voters of the City of Los Angeles a ballot measure establishing a parcel tax on certain vacant properties to provide funding for homelessness services, affordable housing, and other specific purposes; and

**WHEREAS**, a Statewide General Election to be held in the County of Los Angeles has been called to be held on the same date of November 3, 2020; and

**WHEREAS**, the Council wishes to request the Board of Supervisors of the County of Los Angeles to consolidate the City's Special Election with the State General Election to be held in the County of Los Angeles on November 3, 2020;

#### **NOW, THEREFORE, BE IT RESOLVED:**

Section 1. The Council of the City of Los Angeles respectfully requests the Board of Supervisors of the County of Los Angeles to order the consolidation of the City of Los Angeles Special Election with the State General Election to be held on November 3, 2020, for the purpose of submitting to the qualified voters of the City of Los Angeles a proposed ballot measure with the following ballot title:

#### **VACANT PROPERTY TAX TO FUND AFFORDABLE HOUSING AND HOMELESS RESOURCES. PROPOSITION \_\_\_\_.**

Shall a measure funding affordable housing and homeless resources by taxing certain properties vacant 315 days or more per year, at annual rates of \$6,000 for multi-family properties and corporate owned single-family properties and \$5,000-\$10,000 or more for vacant residential and mixed-use parcels, increasing with size; exemptions for hardship, low-income seniors and others; raising approximately \$\_\_ million annually for 20 years, be adopted?

Sec. 2. The complete text of the City's proposed ballot measure is contained in the accompanying Resolution of the City Council of the City of Los Angeles. The vote requirement for the measure to pass is two-thirds of the votes cast.

Sec. 3. The City Clerk shall administer the filing, printing, and distribution of all items contained in the City's Voter Information Pamphlet as provided in the City Election Code, including impartial summaries, ballot arguments, and rebuttal arguments regarding the measure. In other particulars, the Special Election shall be held and

Sec. 6. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the State General Election to be held in the City of Los Angeles on Tuesday, November 3, 2020.

Sec. 7. The vote centers for the Special Election shall be open as required and during the identified voting period established in the California Elections Code and as administered by the County Registrar-Recorder/County Clerk for the State General Election.

Sec. 8. The election precincts, vote centers, and officers of election for the Special Election shall be the same as those provided in the City of Los Angeles for the State General Election, and the elections shall be held in all respects as if there were only one election. The list or order prepared by the Registrar-Recorder/County Clerk designating election precincts, vote centers, and election officers for the State General Election is hereby approved, incorporated into, and made part of this ordinance.

Sec. 9. The City Clerk shall administer the filing, printing, and distribution of all items contained in the City's Voter Information Pamphlet as provided in the City Election Code, including impartial summaries, ballot arguments, and rebuttal arguments regarding the measure. In other particulars, the Special Election shall be held and conducted pursuant to the laws applicable to elections consolidated with the State General Election. The Board of Supervisors of the County of Los Angeles shall have authority to canvass the returns of the Special Election and transmit the certified election results to the City Council.

# Resolution 3 (1 page)

## RESOLUTION

Resolution providing the ballot title for a ballot measure to be submitted to the qualified voters of the City of Los Angeles.

**WHEREAS**, the Council of the City of Los Angeles has adopted a resolution to place a ballot measure establishing a parcel tax on certain vacant properties to provide funding for homelessness services, affordable housing, and other specific purposes, before the qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the State General Election held on November 3, 2020; and

**WHEREAS**, the City Election Code requires the City Attorney to prepare and present a ballot title and question consisting of an impartial statement of the measure; and

**WHEREAS**, the City Attorney has presented the following ballot title and question for the proposed measure:

### **VACANT PROPERTY TAX TO FUND AFFORDABLE HOUSING AND HOMELESS RESOURCES. PROPOSITION \_\_\_\_.**

Shall a measure funding affordable housing and homeless resources by taxing certain properties vacant 315 days or more per year, at annual rates of \$6,000 for multi-family properties and corporate owned single-family properties and \$5,000-\$10,000 or more for vacant residential and mixed-use parcels, increasing with size; exemptions for hardship, low-income seniors and others; raising approximately \$\_\_ million annually for 20 years, be adopted?

**NOW, THEREFORE, BE IT RESOLVED** that the ballot title and question presented by the City Attorney be adopted by the City Council.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on \_\_\_\_\_.

HOLLY L. WOLCOTT, City Clerk

By \_\_\_\_\_ Deputy

**Draft Election Ordinance** (3 pages)

**ORDINANCE NO.** \_\_\_\_\_

An ordinance calling a Special Election to be held on Tuesday, November 3, 2020, for the purpose of submitting to the qualified voters of the City of Los Angeles a ballot measure establishing a parcel tax on certain vacant properties to provide funding for homelessness services, affordable housing, and other specific purposes, and consolidating this Special Election with the State General Election to be held on the same date.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. A Special Election is hereby called to be held in the City of Los Angeles on November 3, 2020, for the purpose of submitting to the qualified voters of the City of Los Angeles, for approval by a two-thirds vote, a ballot measure establishing a parcel tax on certain vacant properties to provide funding for homelessness services, affordable housing, and other specific purposes.

Sec. 2. The complete text of the ballot measure is contained in the accompanying Resolution of the City Council of the City of Los Angeles. The vote requirement for the measure to pass is two-thirds of the votes cast.

Sec. 3. The ballot title and question to be used at the Special Election for the measure to be submitted to the qualified voters of the City of Los Angeles shall be:

**VACANT PROPERTY TAX TO FUND AFFORDABLE HOUSING AND HOMELESS RESOURCES. PROPOSITION \_\_\_\_.**

Shall a measure funding affordable housing and homeless resources by taxing certain properties vacant 315 days or more per year, at annual rates of \$6,000 for multi-family properties and corporate owned single-family properties and \$5,000-\$10,000 or more for vacant residential and mixed-use parcels, increasing with size; exemptions for hardship, low-income seniors and others; raising approximately \$\_\_ million annually for 20 years, be adopted?

Sec. 4. The measure shall be designated on the ballot or ballot pages by a letter or number determined by the City Council in accordance with applicable City and state laws. Upon the designation by the proper officials of the letter or number to be assigned to the measure, that letter or number is hereby adopted and shall be the designation for the ballot title.

Sec. 5. To vote on the measure, the voter shall mark the ballot next to the word "Yes" or the word "No." A "Yes" vote shall be counted in favor of adoption of the measure and a "No" vote shall be counted against adoption of the measure.

Sec. 6. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the State General Election to be held in the City of Los Angeles on Tuesday, November 3, 2020.

Sec. 7. The vote centers for the Special Election shall be open as required and during the identified voting period established in the California Elections Code and as administered by the County Registrar-Recorder/County Clerk for the State General Election.

Sec. 8. The election precincts, vote centers, and officers of election for the Special Election shall be the same as those provided in the City of Los Angeles for the State General Election, and the elections shall be held in all respects as if there were only one election. The list or order prepared by the Registrar-Recorder/County Clerk designating election precincts, vote centers, and election officers for the State General Election is hereby approved, incorporated into, and made part of this ordinance.

Sec. 9. The City Clerk shall administer the filing, printing, and distribution of all items contained in the City's Voter Information Pamphlet as provided in the City Election Code, including impartial summaries, ballot arguments, and rebuttal arguments regarding the measure. In other particulars, the Special Election shall be held and conducted pursuant to the laws applicable to elections consolidated with the State General Election. The Board of Supervisors of the County of Los Angeles shall have authority to canvass the returns of the Special Election and transmit the certified election results to the City Council.

Sec. 10. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By   
CHARLES S. HONG  
Deputy City Attorney

Date 6/21/20

File No. \_\_\_\_\_

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

\_\_\_\_\_

\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Approved \_\_\_\_\_

## **ATTACHMENT C**

### **EXEMPTIONS DESCRIBED BY BLUE SKY CONSULTING**

1. Low income owners. Parcels owned by low income individuals (e.g., United States Department of Housing and Urban Development very low income limit for the Los Angeles-Long Beach-Glendale Metro Area was \$52,200 for a family of 4 in 2019).
2. Adjacent parcels. Vacant parcels adjacent to an occupied residential or commercial structure where both parcels are owned by the same owner.
3. Parcels used for ingress or egress. Parcels that are needed for persons or vehicles to access properties where the ingress or egress area makes up at least 50 percent of the parcel area (e.g., driveway, alley, or path).
4. Active development or construction. Parcels actively being developed or under construction, or that recently completed development or construction (e.g., the owner has a “substantially complete application for planning approval” under review by the City, an active building permit where the building improvement value exceeds a minimum threshold such as \$20,000, or where the building was recently constructed but not yet fully occupied).
5. Owner is unable to occupy or use property (e.g., the property was unoccupied or not in use due to extended military service or deployment overseas, extended hospitalization or residence in a long-term care facility prohibiting occupation or use of the property, etc.)
6. Transfer of ownership or legal restrictions on sale, lease or development. Parcels that transferred or sold within the prior year or where the sale, lease, use, or development of the parcel cannot proceed due to probate, foreclosure, bankruptcy proceedings, divorce, pending lawsuits, court order, or other documentable circumstances that prevent the owner from developing, occupying, using, leasing or selling the property.
7. Undevelopable parcels. Vacant parcels where the owner can demonstrate that the parcel cannot be developed because a building permit cannot be issued due to zoning or other government-imposed restrictions. Restrictions that may prohibit development may include earthquake zones, sensitive habitat areas or areas subject to environmental protection, or inaccessible property such as those with no legal or physical access.
8. Parcels owned by a governmental entity.
9. Parcels zoned for agricultural, open space, or recreational uses.