

Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. R26-0042
JAN 16 2026

REPORT RE:

**UNITED TO HOUSE LOS ANGELES (MEASURE ULA) TAX EXEMPTIONS
RELATING TO RESIDENTIAL PROPERTY TRANSFERS AFTER THE PALISADES
FIRE AND THE SALE OF PROPERTY OWNED BY NON-PROFIT ORGANIZATIONS
WHERE THE PROCEEDS WOULD BE USED FOR THE PURPOSE OF BUILDING
AFFORDABLE HOUSING**

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

Council File No. 25-0006-S86

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration this report on the feasibility of adopting or initiating certain Measure ULA tax exemptions. Specifically, this report addresses the following questions:

- Whether Pacific Palisades residents who owned and occupied residential real property that was affected by the Palisades Fire can be granted a one-time exemption from the ULA tax should they choose to transfer their property within three years from the date of the fire; and
- Whether an affordable housing organization's sale of real property to a for-profit entity can be exempted from the ULA tax if a portion of the sales proceeds, in excess of the ULA tax "saved," are used to build affordable housing elsewhere in the City.

The general law of initiatives includes a prohibition against amending an initiative ordinance except (1) by a vote of the electors, or (2) by operation of a provision in the initiative itself that allows for amending its language without voter approval. This rule is set forth in the City Charter as well as the State Constitution. See Charter Section 464(a) (providing that an ordinance adopted by the vote of the electors of the City pursuant to an initiative petition cannot be amended or repealed except by a subsequent ordinance or Charter amendment approved by the voters); and Cal. Const., Art. II, Section 10(c) (“The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without voter approval.”). These provisions and principles suggest that City Council has limited authority to amend an initiative unless as directly provided by the initiative. See *Amwest Surety Ins. v. Wilson* (1995) 11 Cal. 4th 1243, 1251. That is, City Council can amend the initiative under the strictures provided in the initiative, but otherwise must obtain voter approval for amendments.

As explained herein, both exemptions, as proposed, are unlikely to be permitted by a court for failing to meet the threshold requirements of the City Council’s Amendment Authority under Measure ULA.¹ Therefore, the most direct means of incorporating either of these exemptions into Measure ULA would be for the City Council to submit them to the voters for consideration.

I. Measure ULA

On November 8, 2022, the voters of this City approved “Measure ULA—Funding for Affordable Housing and Tenant Assistance Programs Through a Special Tax on Real Property Transfers Over \$5 Million,” a voter initiative to raise funds for homelessness, eviction defense, and affordable housing projects and programs. Measure ULA amended the City’s existing Real Property Transfer Tax by adding the ULA Tax, a tiered transfer tax on properties sold for more than \$5 million, subject to exemptions for transfers to certain qualified affordable housing nonprofit organizations and government entities.² The ULA Tax is assessed on top of the City’s existing Real

¹ Nothing in the federal, state, or local disaster declarations related to the Palisades Fire gives the City the emergency power to waive the ULA tax requirements, which are imposed only when an owner chooses to transfer title to their property. While the Mayor has the power to suspend ordinances and to create new legal obligations using the Mayor’s Charter-given emergency powers, such actions may be exercised if they are necessary for the protection of life and property. See Charter Section 231(i) and Los Angeles Administrative Code (LAAC) Section 8.29. This Office could not find any instance where any California governor or Los Angeles mayor has waived a tax law requirement during a state of emergency. There are numerous examples, including in the aftermath of the Palisades Fire, where tax payment deadlines have been extended and where taxpayers were relieved of penalties and interest, but not a blanket suspension of a tax.

² ULA amends Article 1.9 of Chapter 2 of the Los Angeles Municipal Code (LAMC). Specifically, Measure ULA adds an additional tax of, (a) 4.0 percent on the sale or transfer of real property exceeding \$5 million

Property Transfer Tax (Base Tax). Proceeds of the base tax are deposited into the City's general fund. Proceeds from the ULA Tax are deposited into a special Measure ULA fund – the House LA Fund.³

A. Existing Exemptions to the ULA Tax

Presently, the Measure exempts from the ULA Tax only those conveyances of real property where the purchaser or transferee: (i) engages in affordable housing development or management; (ii) is considered a modest sized nonprofit entity; or (iii) is a governmental entity. Included in romanette (i) above are transfers to affordable housing developers that are 501(c)(3) nonprofits, community land trusts, or limited partnerships and limited liability companies that have nonprofits or community land trusts as the general partners or managing members⁴ and that have a history of affordable housing development or management. Included in romanette (ii) above are transfers to 501(c)(3) nonprofit organizations that have been in existence for at least ten years prior to the transaction, regardless of affordable housing development or management history, and possess assets of less than \$1 billion.⁵

B. Amendments to the Measure and the ULA Tax

The authority to amend Measure ULA without voter approval is set forth in two separate provisions in the LAMC (Amendment Provisions). The first is found within the provisions of the ULA Tax. Under this authority, the City Council can enact an ordinance to exempt transactions from the ULA Tax when the property in question is *acquired* by a nonprofit organization for the purpose of producing income-restricted affordable housing.⁶

The second Amendment Provision is found within the program and implementation portion of the Measure. Under this authority, the City Council may amend any section in the Measure, provided that the amendment satisfies a four-part test (Amendment Authority). Specifically, the amendment must:

- facilitate the purposes described under LAAC Section 22.618.1;
- require funds to be spent in a manner that is consistent with LAAC Section 22.618.3 (i.e., Measure ULA Program);
- not increase the ULA Tax rate; and

but less than \$10 million, and (b) 5.5 percent on the sale or transfer of real property of \$10 million or more.

³ “There is hereby created and established in the Treasury of the City of Los Angeles a special trust fund...for the deposit and use of all taxes collected...” LAAC § 5.598.1(a).

⁴ LAMC § 21.9.14.

⁵ LAMC § 21.9.15.

⁶ LAMC § 21.9.16.

- not diminish the Measure's prevailing wage requirements.⁷

As set forth in the Measure, before the adoption of any amendment, the proposed amendment is subject to the review of the Citizens Oversight Committee (COC). The COC, in turn, may express an opinion as to whether the proposed amendment: (1) facilitates the purpose of Measure ULA; and (2) is consistent with the expenditure categories of the Measure ULA Program (e.g., affordable housing and anti-homeless programs for low-income individuals and families). Should the COC express an opinion that the proposed amendment is at odds with Measure ULA, the City Council may still adopt the proposed amendment notwithstanding the COC's opposing opinion, provided the City Council makes written findings articulating why the amendment facilitates Measure ULA and is consistent with its spending categories.⁸

II. Analysis of Proposed Exemptions

The City Council requests this Office's analysis of the feasibility of adopting or initiating exemptions to the ULA Tax on the transfer of property by 1) owner-occupants of residential property affected by the Palisades Fire (Palisades Fire Amendment); and 2) qualified affordable housing organizations, provided that the proceeds from the sale, in excess of the potentially taxed amount, are used to construct affordable housing (Nonprofit Amendment). The following sections of this report analyze each of these amendments as proposed.

A. Exemption for Owner-Occupants of Residential Property Affected by the Palisades Fire

As stated above, Measure ULA contains two Amendment Provisions that authorize the City Council to enact amendments to the tax program. The Palisades Fire Amendment does not qualify for consideration under the first of the Amendment Provisions because the amendment is not limited to transfers to nonprofit entities that "produce income-restricted affordable housing" as required by LAMC Section 21.9.16. In order to qualify under the second of the Amendment Provisions of ULA, the proposed exemption must meet all four factors enumerated in LAAC Section 22.618.8. For purposes of brevity, only the first factor is discussed below.

i. Facilitation of the Purposes of Measure ULA

The purposes of Measure ULA are enumerated under LAAC Section 22.618.1. Specifically, they are:

⁷ LAAC § 22.618.8(a)(1) – (3).

⁸ LAAC § 22.618.8(b).

- Improving access to permanently affordable housing for vulnerable populations;
- Addressing the City’s residents’ need for affordable housing and tenant protections in each of the Council Districts and affirmatively furthering fair housing goals;
- Prioritizing expenditure of housing production funding and rental subsidies for acutely low-income households and extremely low-income households, among others;
- Building the capacity of organizations that serve constituents in disadvantaged communities;
- Increasing the supply of affordable housing served by transit, and providing housing stability and tenant protections in communities served by transit.
- Deploying programs and policies funded through this initiative in such a way as to address racial segregation;
- Utilizing public land for affordable housing produced through this program, including but not limited to underutilized land owned by the City of Los Angeles;
- Establishing and resourcing a Citizens Oversight Committee;
- Establishing new funding and programs for the creation, preservation and acquisition of affordable housing and homelessness prevention that supplement existing City funding and programs; and
- Ensuring that construction and rehabilitation work is performed under the specified labor standards.

Of the ten enumerated purposes, six concern the need for and promotion of affordable housing construction and/or tenant protection.⁹ The four other purposes are generally immaterial to this specific proposal as they relate to the COC, construction labor standards, and fund expenditures. The six material purposes underscore the Measure’s prioritization of the creation of, and subsidies for, affordable housing, which is to be financed with ULA Tax proceeds.¹⁰

Almost all of the vacant properties in the Palisades (i.e. those parcels that no longer have homes because they were destroyed in the fire) have listed or were sold for less than \$5 million, and therefore already are exempt from Measure ULA. Therefore, this proposed exemption would apply primarily to listings or sales of properties with existing houses.

Exempting the transfer of those qualifying properties from the ULA Tax could accelerate the sales of those listed properties and increase the total number of

⁹ LAAC § 22.618.1 (a) – (c), (e), (g), and (i).

¹⁰ This prioritization is echoed in the voter pamphlet’s impartial summary, which describes the Measure’s goals of “increasing the supply of affordable housing” and “addressing the need for tenant protections and assistance programs.”

residential properties placed on the market for sale, thereby increasing the number of available market-rate housing options. These sales in turn could generate additional Measure ULA tax revenue when rebuilt or renovated properties are subsequently sold to new homeowners because those second and any subsequent sales will remain subject to Measure ULA. This additional revenue could be used to create affordable housing or fund tenant protections, consistent with Measure ULA's purposes. But so too would exempting any residential property transaction anywhere in the City, as it could also increase the available market-rate housing supply, sales volume, and future tax collection through subsequent sales.

Measure ULA is structured to generate tax revenue from the sale of higher value real estate and to invest that revenue into the creation of deed-restricted affordable housing. As significant as the proposed exemption could be for qualifying residents whose lives were forever changed by the Palisades Fire, a court is not likely to find that a one-time exemption for the transfer of residential property facilitates or furthers the Measure's purposes in any manner other than the attenuated possible revenue gains from future sales that would be applicable to properties across the City as a whole.

Therefore, we advise that a court is likely to conclude that the Palisades Fire Amendment, as proposed, would not meet the first condition for the City Council to exercise its Amendment Authority under the Measure. Accordingly, for the City Council to incorporate such a transferor exception effectively into Measure ULA, the City Council should adopt a ballot measure and put the decision to the voters.¹¹

B. Exemption for Nonprofit Entities That Use the Proceeds of the Unremitted ULA Tax to Construct Affordable Housing Elsewhere in the City

As noted above, Measure ULA contains two Amendment Provisions that authorize the City Council to enact amendments to the tax program. Because the Nonprofit Amendment concerns the *sale* of property by a qualified affordable housing organization to a non-exempt ULA Tax entity (i.e., for-profit entity), the first of the Amendment Provisions could not be applied to this scenario. Under the text of that provision, any ULA Tax exemption amendment would need to be limited to nonprofit entities that *acquires* property to "produce income-restricted affordable housing." (LAMC § 21.9.16.)

¹¹ The original proposal that prompted the City Council's action also sought input on whether the City Council could delegate its power to amend the ordinance to the Office of Finance. City Council's delegation of authority to another official to "amend" an initiative ordinance by regulation falls outside the scope of the general laws discussed in the introduction of this Report. Even if such delegation were permissible under the Charter and State Constitution, the conditions for amending the initiative that are expressly stated in Measure ULA, and analyzed above, would apply to the official or department to which the City Council delegates the authority as the City Council cannot confer, by delegation, authority that the City Council itself does not have.

As explained above, in order to qualify under the second of the Amendment Provisions in ULA, the proposed exemption must meet all four factors enumerated in LAAC Section 22.618.8. For purposes of brevity, only the first factor is discussed below.

i. Facilitation of the Purposes of Measure ULA

The Nonprofit Amendment, as proposed, takes the present ULA exemption and inverts the position of the nonprofit from the buyer to the seller of the subject property. The existing exemption in LAAC Section 21.9.14 is designed to allow the acquiring nonprofit to use the acquired property and the exempted savings from the ULA Tax to produce affordable housing at that physical location. Given the nature of affordable housing financing, the locality of the purchase serves as a key value-added component of a project and furthers the likelihood that an affordable housing project will reach completion.

Contrast that with the situation where the affordable housing nonprofit sells a piece of property only to then search for locations elsewhere in the City to construct an affordable housing project – an indeterminable prospect with a potential time period that can be years in the making. Although the Nonprofit Amendment seeks to facilitate the construction of affordable housing using the sale proceeds in excess of the tax savings from the ULA Tax, there is no direct nexus between the real property transfer and the construction of affordable housing at that location. Given Measure ULA's goal of promoting and increasing the immediate construction of affordable housing, a court is likely to find that the speculative time period is not aligned with the Measure's goal of timely project completion. Therefore, we advise that a court is likely to conclude that the Nonprofit Amendment, as proposed, is unlikely to further the purposes of Measure ULA.

While not immune to objection or challenge, this Office advises that a court would likely approve an exemption for a nonprofit seller if the exemption is structured as a refund of the ULA Tax, accessible upon the completion of an affordable housing project by the nonprofit seller to the satisfaction of the City, pursuant to guidelines the City promulgates, within a defined period of time. Such a structure would mitigate the indefinite uncertainty of construction development present under proposed the Nonprofit Amendment. Other guidelines can include, but not be limited to, the sort issued by the Housing Department to developers when tracking the progress of affordable housing projects financed by the City under Measure ULA and those applied to Proposition HHH bond funded projects.

To secure a claim of such a refund, the ULA tax would be paid at the time of the transaction and the nonprofit seller would file a protective refund claim with the Office of Finance. In conjunction with the protective refund claim, the nonprofit would then enter

a tolling agreement with the Office of Finance to toll the statute of limitations for making a refund claim. During this period, the ULA Tax would be paid and deposited into the House LA Fund to be used towards Measure ULA projects and programs.¹²

In sum, we advise that a court is likely to conclude that the Nonprofit Amendment, as proposed, would not meet the first condition for the City Council to exercise its Amendment Authority under the Measure. Accordingly, for the City Council to incorporate such a transferor exception effectively into Measure ULA, the City Council should adopt a ballot measure and put the decision to the voters. As noted, however, this Office advises that a court is likely to approve a City Council-adopted exemption for a nonprofit transferor if drafted as a refund of ULA Tax, which could be claimed by the nonprofit upon the completion of an offsite affordable housing project.

III. Alternative Option for Consideration

While the most direct and defensible means of incorporating either of the proposed exemptions would be for the City Council to submit Measure ULA amendments to the voters for consideration, the City Council could explore a Charter amendment authorizing the City (*i.e.* the City Council by ordinance subject to the veto of the Mayor) to make reductions or add exemptions to any City tax measure, whether the tax measure was adopted by City Council ordinance or by voter-approved ballot initiative. If such a Charter amendment is placed on the ballot, the ballot materials must inform the voters that the Charter change would authorize the City Council to enact reductions and exemptions to existing City taxes, including Measure ULA. We can provide further advice and analysis of this option if requested by the City Council.

IV. Conclusion

We advise that the Palisades Fire Amendment and the Nonprofit Amendment, as proposed, are unlikely to be approved by a court for failing to meet the threshold requirements of the City Council's Amendment Authority under Measure ULA. Accordingly, the City Council should adopt a ballot measure to put these exemptions to the voters if so desired. With respect to the Nonprofit Amendment, it may be possible to structure a City Council-approved exemption for a nonprofit transferor if drafted as a refund of ULA Tax, which could be claimed by the nonprofit transferor upon the completion of another offsite affordable housing project within a specific time period, and other defined guidelines.

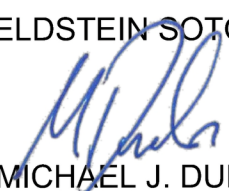
¹² In this scenario, any refund of ULA Tax would be paid from the House LA Fund and would accrue interest against the fund from the date the refund claim is filed under Section 21.07 of LAMC. The interest to be paid could be significant depending on the size of the refund principal and duration to perfect the refund claim.

If you have any questions regarding this matter, please contact the undersigned at (213) 978-8100. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By


MICHAEL J. DUNDAS
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