



# Memorandum

**TO:** HONORABLE MAYOR &  
CITY COUNCIL

**FROM:** Councilmember Johnny Khamis

**SUBJECT:** SEE BELOW

**DATE:** February 11, 2020

APPROVED:

2/11/20

**SUBJECT: DRAFT FRAMEWORK RELATED TO NONPROFIT TRANSFERS AND THE PROPOSED REAL PROPERTY TRANSFER TAX**

## RECOMMENDATION

Include, as part of the framework being proposed for Measure E exemptions, if the measure is approved by voters, an exemption from the Real Property Transfer Tax for all home builders who are making significant additions to the housing stock, at all levels of affordability, from Very Low Income and Low Income to Affordable and Market Rate housing.

## BACKGROUND & ANALYSIS

Thank you to Mayor Liccardo and City Staff for providing the memo presenting a draft framework related to certain transfers of real property to nonprofits and the proposed real property transfer tax. The Administration recommends focusing the proposed program to production, preservation, and expansion of affordable housing, and I agree. To achieve this goal of affordable housing in the Bay Area, new housing supply is needed across the spectrum – from VLI and LI units and small, more naturally-affordable units to market-rate units. Each home that is built that reduces the supply deficit helps to moderate the housing costs across the market spectrum, therefore I am proposing that ALL transfers of real property, whether to non-profit or for-profit homebuilders, be exempted from Measure E, if approved by voters. We should exempt all builders who will add significantly to the housing supply, since ALL efforts to meet our housing supply are needed.

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For-profit home builders already incur many taxes and fees that non-profit homebuilders may not incur, or for which they pay a reduced rate, including:

- Development Construction Taxes

- Traffic Impact Fees

- Park In-Lieu Fee

- Inclusionary Housing In-Lieu Fee or Affordable Housing Impact Fee.

Adding another large fee – the Transfer Tax – could keep these projects on the drawing boards and away from becoming reality, because the additional costs will drive down project profitability which impairs the ability of the home builder from obtaining bank or investor financing.

For over 40 years, California has consistently fallen short of housing construction numbers. Too few homes have been constructed in the Bay Area and throughout California and the growth in housing units has fallen well-behind the growth of jobs and population. At a recent Silicon Valley Leadership Group housing symposium, several factors were identified as causes of the housing deficit, including prohibitive costs, the CEQA process, community resistance, and other local impediments to new home construction. Raising the cost of housing construction by applying a new Measure E tax to home builders will hamper our public policy goals of creating more affordable housing options within San José and building enough units so that supply isn't consistently outstripping demand.

Instead of further shackling home builders, let's free them from another unnecessary tax and make it easier for them to fulfill the housing needs in San José where market restrictions, high costs, and regulations have slowed home building and result in higher costs for all residents seeking housing that is affordable.