

Shall the ordinance raising funds for general municipal purposes such as navigation centers, mental health support, rehousing and other services for the homeless, including homeless seniors and youth; increasing the real property transfer tax for ten years from 1.5% to 2.5% for property sales and transfers over \$1,500,000, adjusted annually to capture the top approximately 33% of transfers; generating an estimated \$6,000,000 - \$8,000,000 annually; and establishing the Homeless Services Panel of Experts to recommend homeless services, be adopted?

ORDINANCE NO. #,###-N.S.

INCREASING THE REAL PROPERTY TRANSFER TAX TO FUND GENERAL  
MUNICIPAL SERVICES

BE IT ORDAINED by the people of the City of Berkeley as follows:

Section 1. Findings and declarations.

The People of the City of Berkeley find and declare as follows:

A. Berkeley is facing an emergency, with homelessness rising by almost 20% from 2015 to 2017.

B. Approximately 1000 individuals experience homelessness every day in Berkeley, including almost 700 who are without shelter.

C. The growth of homelessness in Berkeley and throughout the State of California, brought about largely due to a national, statewide and regional lack of affordable housing, healthcare, mental health and other supportive services for vulnerable individuals, has provided a new sense of urgency to address this crisis.

D. The crisis of homelessness results in large numbers of people living on Berkeley's sidewalks, in parks and in other public spaces that were not designed for human habitation, creating public health and safety impacts the City must regularly address, requiring increasing expenditures from the General Fund.

E. In 2016, Berkeley declared a Homeless Shelter Crisis (Res. No. 67,357-N.S.), recently extended to January 2020 (Res. No. 68,206-N.S.), which allows the City to explore a wide variety of responses to rising homelessness, and remove obstacles to implementation.

F. The homeless crisis has created an urgent need to pay for additional services to care for and house the homeless including, but not limited to, homeless seniors, veterans, people with disabilities, transition-age youth and the long-term homeless, and for services for homeless people such as emergency shelters, navigation centers, rehousing counseling, rental subsidies, job training, mental health support, emergency transport and crisis response.

G. In April of 2017, to respond to the homeless crisis, the Berkeley City Council unanimously passed the Pathways Project, a comprehensive plan to address homelessness, focused on preventing homelessness, increasing access to permanent and supportive housing and creating an unbroken path from homelessness to housing, and rebuilt lives.

H. Berkeley is now implementing the Pathways Project's two goals: (1) to provide homeless individuals with temporary respite and relief from living on the streets and, to the extent possible given resources, permanent housing, services and support; and (2) to relieve pressure from areas of Berkeley experiencing disproportionate impacts of concentrated homeless populations, and throughout Berkeley.

I. The Pathways Project's Navigation Center, a low-barrier 24-hour shelter with on-site case management and housing counseling, opened in June of 2018 and is already helping chronically homeless individuals to obtain permanent housing.

J. Regionally, Berkeley is working to expand shelter, services and housing resources to address homelessness and reduce displacement, and to ensure sharing of resources and costs equitably among communities.

K. Berkeley is also working to ensure all public funds available to address homelessness and affordable housing are being maximized, from the County, State and Federal governments.

L. Even with the addition of Alameda County, State, and Federal resources, Berkeley is unable to shelter all of its homeless residents, or to meet the complex challenges of providing affordable housing, health and mental health services, job training, housing counseling and other desperately needed services.

M. The increased costs of meeting the challenges of the homeless crisis have impacted Berkeley's General Fund. The City needs new funds to pay for municipal services, including homeless services, and expert advice to determine how best to use the City's limited resources to address the crisis.

Section 2. Berkeley Municipal Code Chapter 7.52 Real Property Transfer Tax, Section 7.52.040 is hereby amended to read as follows:

**7.52.040 Imposed.**

A. There is hereby imposed on all transfers of lands, tenements, or other interests in real property located in the City of Berkeley a real property transfer tax at the rate of one and one-half percent of the value of consideration, for transfers with a value at or below the threshold established in paragraph (C). Except as set forth in Section 7.52.060, this tax applies regardless of the method by which the transfer is accomplished or the relationship of the parties to the transfer.

B. There is hereby imposed on all transfers of lands, tenements, or other interests in real property located in the City of Berkeley a real property transfer tax at the rate of two-and-one-half percent of the value of consideration, for transfers with a value above the threshold established in paragraph (C). Except as set forth in Section 7.52.060, this tax applies regardless of the method by which the transfer is accomplished or the relationship of the parties to the transfer. For purposes of this paragraph, the tax

reduction available under Section 7.52.060.K shall be limited to the rebate that would be available based on the tax rate imposed pursuant to Paragraph A.

C. For purposes of the real property transfer tax imposed by this Section, the threshold is \$1,500,000, adjusted annually by the City of Berkeley on January 1 of every subsequent year to a number equal to the value of consideration for the transaction at the 67<sup>th</sup> percentile of transactions during the 12 months preceding September 1 of the preceding year, as recorded by the Alameda County Assessor, rounded to the nearest \$100,000 increment, provided that in no case shall any adjustment lower the threshold below \$1,500,000.

D. The two-and-one-half percent rate imposed in Paragraph B of this Section shall expire on January 1, 2029, unless reauthorized by the voters prior to such date.

Section 3. Section 7.52.190 of the Berkeley Municipal Code is hereby added to read as follows:

**7.52.190 Homeless Services Panel of Experts.**

- A. There shall be established the Homeless Services Panel of Experts to make recommendations on how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support.
- B. An officer or employee of the City designated by the City Manager shall serve as secretary of the Panel.
- C. In accordance with Chapter 2.04, the Panel shall be composed of nine members appointed by the City Council.
- D. Terms shall expire and vacancies shall be filled in accordance with the provisions of Section 2.04.030 through 2.04.145 of this Code.
- E. Each member of the Panel must:
  - 1. Have experience in the development, administration, provision and/or evaluation of homeless programs in a government or non-profit capacity; or
  - 2. Have current or past lived experience with homelessness; or
  - 3. Have experience in researching the causes, impacts and solutions to homelessness; or
  - 4. Have experience with state and/or local homeless policy, funding or programs; or
  - 5. Have experience with federal homeless policy and funding administration such as the Continuum of Care Program; or
  - 6. Have experience in the development and financing of affordable housing for formerly homeless persons; or

7. Have experience in the provision of mental health and/or substance use programs for homeless persons.

F. In accordance with Section 3.02.040, members of the Panel may be reappointed but shall not serve more than eight consecutive years.

G. The Panel shall, by majority vote, do each of the following:

1. Annually appoint one of its members as chair and one of its members as vice-chair;
2. Approve bylaws to facilitate the proper functioning of the Panel;
3. Establish a regular time and place of meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. Minutes for each meeting shall be recorded, kept, and maintained; and
4. Publish an annual report that includes the following:
  - a. recommendations on how to allocate the City's general funds to fund homeless services programs in Berkeley;
  - b. information, if available, concerning the impact of funded programs on the residents of the City; and
  - c. any additional information that the Panel deems appropriate.

H. Within 15 days of receipt of the publication of the Panel's annual report, the City Manager shall cause the report to be published on the City's Internet website and to be transmitted to the City Council.

I. The revenue raised by the tax imposed by Section 7.52.040 is available to pay the usual and current expenses of conducting the municipal government of the City, as determined by the City Council. The City Council shall consider, but need not follow, the Panel's recommendations on how and to what extent to use this revenue to establish and/or fund programs to pay for homeless services and shall annually inform the Panel as to the extent to which it has implemented the Panel's recommendations.

#### Section 4. Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

## CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE \_\_\_

This measure was placed on the ballot by the City Council.

The measure would increase the City's tax on the transfer of real property in the City from 1.5% to 2.5% for properties that are transferred for over \$1.5 million in consideration. The \$1.5 million threshold would be adjusted annually to capture approximately the top 33% of such transfers, based on transfers that occurred in the 12 months preceding September 1 of the preceding year. However, the threshold could not be reduced below \$1.5 million, meaning that the tax on properties transferred for \$1.5 million or less would remain at 1.5%, notwithstanding any adjustment.

The revenues from the increased tax would be used to fund general municipal services and could be used for homeless shelters, navigation centers, mental health support, rehousing, rental subsidies, and other services for people experiencing homelessness including but not limited to homeless seniors, transition-age youth, the long-term homeless, and disabled homeless; and staffing costs associated with implementing these programs.

The measure would also establish the Homeless Services Panel of Experts, which would be charged with advising the City Council regarding how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support. The Panel would consist of nine members, who must satisfy at least one the following criteria:

1. Have experience in the development, administration, provision and/or evaluation of homeless programs in a government or non-profit capacity; or
2. Have current or past lived experience with homelessness; or
3. Have experience in researching the causes, impacts, and solutions to homelessness; or
4. Have experience with state and/or local homeless policy, funding or programs; or
5. Have experience with federal homeless policy and funding administration such as the Continuum of Care Program; or
6. Have experience in the development and financing of affordable housing for formerly homeless persons; or
7. Have experience in the provision of mental health and/or substance use programs for homeless persons.

The City Council would be required to consider the Panel's recommendations and to inform the Panel about the extent to which it had implemented the Panel's recommendations, but would not be required to adopt the recommendations.

The 2.5% tax rate would expire in ten years, meaning that real property that is transferred for more than \$1.5 million, would be taxed at a rate of 1.5% beginning January 1, 2029, unless the voters reauthorize the higher tax rate.

s/FARIMAH BROWN  
Berkeley City Attorney

## ARGUMENT IN FAVOR OF MEASURE P

Vote Yes on Measure P to reduce homelessness.

Like many cities, Berkeley is facing a crisis, with homelessness rising almost 20% in just two years. As housing costs skyrocket, seniors, people with disabilities and other vulnerable residents are displaced; some end up on our streets. A humanitarian disaster for the homeless, this crisis also impacts the community's use and enjoyment of sidewalks, parks, commercial areas and neighborhoods.

Berkeley has reached a tipping point; it's time to take bold action.

**Measure P is a crucial step to generate funds to lift the homeless off our streets and into housing, with services they desperately need.**

Working with regional partners, Berkeley is launching successful programs to fight homelessness; over the past two years, over 100 homeless people have been housed. But even with County, State and Federal money, Berkeley needs local funds for health and housing, and to offset impacts to our streets, parks, and emergency responders.

Measure P will generate general funds that can be used for navigation centers, mental health and substance abuse services, housing subsidies and job training for the homeless, including seniors, veterans, people with disabilities and youth.

**A truly progressive measure, the transfer tax is paid only once, when a high-value property is purchased or transferred; it is not an ongoing or yearly cost. A temporary measure, it sunsets in ten years. The average resident or homebuyer will never pay it.**

Initially applied to transactions over \$1.5 million, Measure P is adjusted annually to ensure only the top approximately 1/3 of high-end commercial and residential transactions are ever taxed.

Measure P establishes the Homeless Services Panel of Experts to advise the City Council on expenditures to reduce homelessness.

*our current and former Mayors,*  
Join a united City Council, ~~the League of Women Voters,~~ students, and housing and homeless advocates in supporting Measure P.

[www.HelpBerkeleysHomeless.org](http://www.HelpBerkeleysHomeless.org)

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AUG 17 2018

CITY OF BERKELEY  
CITY CLERK DEPARTMENT



## Measure P Signatory List Order

1. Jesse Arreguín, Mayor of Berkeley
2. Luis Amezcua, Sierra Club Northern Alameda County Group
3. Adena Ishii, President, League of Women Voters of Berkeley,  
Albany and Emeryville
4. Patricia Wall, Executive Director, Homeless Action Center
5. Tom Bates, former Berkeley Mayor, State Assemblyman and  
Alameda County Supervisor

Jesse Arreguin, Author  


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**REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE P – TRANSFER TAX MEASURE**

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Homelessness is a very important issue for our community, but using the homelessness issue merely to pass a new tax is dishonest and unethical.

**There is no guarantee that the money from this tax will be directed to homelessness. The last time the transfer tax was increased proponents made similar promises, claiming money would be spent on affordable housing. That never happened.**

Berkeley already has California's highest transfer tax, and raising it will ensure only the rich will be able to survive in Berkeley.

Buyers and sellers used to split transfer taxes, but in tight housing markets, the tax is often paid only by the buyer, making the purchase price higher. **Raising the tax on housing means that tenants will be charged more rent to cover the cost of the building and that only the wealthy will be able to afford homes.**

The cost of living and doing business in Berkeley is already astronomical. Wealthy individuals and chain stores will become the only tenants able to stay afloat. **Passage of Measure P will mean even less socio-economic diversity in Berkeley.**

The tax funds will be placed in the General Purpose Fund where they can be spent on ANYTHING. The City Attorney's Opinion admits that the funds 'could' be for homeless solutions but 'would' be used for staff.

Since the City has no effective program to help the homeless, most of the funds will be spent on city bureaucracy with only a pittance spent on the homeless population.

Vote NO on P.

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Marcus Crawley, Concerned Taxpayer

~~Submitted by~~

#2 Dan B. Walden, Executive Director  
Alameda County Taxpayers Association

*Marcus Crawley*  
author

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CITY CLERK DEPARTMENT

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**ARGUMENT AGAINST MEASURE P – TRANSFER TAX MEASURE**

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This Tax Proposal is misleading because the tax is NOT a Special Tax that must be dedicated to ‘mental health, homeless, etc.’ The City Resolution authorizes a General Tax, ‘for general municipal purposes such as’. A General Tax is placed in the General Purpose Fund to be spent for ANYTHING. However, the wording of the measure implies that the tax is a Special Tax that requires the funds will be spent for special purposes that voters desire such as ‘navigation centers, mental health support, rehousing and other services for the homeless.’ These special purpose projects are ‘sucker’ purposes that can be completely ignored at the discretion of the City leadership. The City can use the funds to hire more bureaucrats, expand their benefits or fund their pensions.

The City must first design a program with specific purposes, and then propose a ballot **Special Tax Measure** that will guarantee the performance of that program.

Vote NO on this deceptive Tax.

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**Marcus Crawley, Concerned Taxpayer**

~~Submitted by~~

#2 **Dan B. Walden, Executive Director**  
**Alameda County Taxpayers Association**

*Marcus Crawley*  

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*author*

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**AUG 15 2018**  
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**CITY CLERK DEPARTMENT**

## Rebuttal to the Argument Against Measure P

Measure P's out-of-town opponents don't understand the severity of our homelessness crisis, and they are not telling the truth about how Measure P ensures accountability.

Four years ago, Berkeley defeated Big Soda with Measure D. Measure D was a general tax, but it created the Sugar-Sweetened Beverage Product Panel of Experts to ensure that the City Council spent the money correctly. Third-party experts have verified that Measure D funds have been spent exactly as promised. ([www.healthyberkeley.com](http://www.healthyberkeley.com))

Measure P creates the Homeless Services Panel of Experts to guide its use of funds, and voters can expect the same level of transparency and accountability to address our homelessness crisis.

**Berkeley's homelessness crisis cannot wait.** It is a humanitarian catastrophe for homeless people, and impacts our neighborhoods, downtown, parks and sidewalks.

Navigation centers, mental health and substance abuse services, housing subsidies and job training for the homeless are proven strategies to lift the homeless off the streets and into housing.

Measure P will fund these services *without* taxing the average resident or homebuyer – ever. Only the top 1/3 of property transactions will be subject to Measure P. The transfer tax is paid only once, when a high-value property is sold or transferred. Measure P expires in ten years, and is not an ongoing or yearly cost, even for the few who will pay it. All funds stay in Berkeley and can be used to help rehouse the homeless.

Join good governance groups, small businesses, environmentalists, students, and housing and homeless advocates. **VOTE YES on P.**

[www.HelpBerkeleysHomeless.org](http://www.HelpBerkeleysHomeless.org)

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AUG 24 2018

CITY OF BERKELEY  
CITY CLERK DEPARTMENT

Jesse Arreguin,  
Author



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