



# BOSTON CITY COUNCIL

Committee on Government Operations  
Ricardo Arroyo, Chair

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## REPORT OF COMMITTEE CHAIR

February 28, 2022

Dear Councilors:

*Docket #0222, message and order for your approval a home rule petition to the General Court entitled “Petition for a Special Law re: An Act Relative to Real Estate Transfer Fees and Senior Property Tax Relief”,* was sponsored by the Administration and referred to the Committee on Government Operations on February 2, 2022. The Committee on Government Operations held a hearing on February 10, 2022 where public comment was taken. The Committee also held a working session on February 25, 2022.

### **Summary of Legislation**

Docket #0222 is a home rule petition that would authorize the City of Boston to (1) impose a transfer fee to be paid on certain real estate transactions; and (2) expand the current senior property tax relief program. The transfer fee provisions would allow the City to impose a transfer fee of up to 2% on real estate sales over \$2 Million dollars, exempting the value of \$2 Million of the sale. The fee would be paid by the seller, and proof of fee payment and/or exemption, through receipt of a City certificate would be required to register the deed, for each transfer subject to the fee. The City would be allowed to reevaluate the \$2M exemption every 5 years, and increase it if necessary. The revenue from the fee would be deposited in the Neighborhood Housing Trust (NHT). Transfers between family members, transfers of convenience, and transfers to the government would be exempt. The City would outline specifics of the program through an ordinance, which could include: the exact fee, from 0-2%; additional allocations for fees beyond the NHT default; exemptions, including transfers to family members and transfers of convenience; and details of implementation, regulation or enforcement. The City would be required to generate an annual report related to fees collected and funds allocated.

The senior property tax relief provisions would adjust the income and asset limits for senior property tax relief eligibility under Mass General Laws 41C, which is the current authority for the City’s senior property tax relief program. Docket #0222 would increase the exemption amount from a base of \$1,000 to a base of \$1,500 (and increase the total potential exemption from \$2,000 to \$3,000); adjust income eligibility criteria from a fixed dollar amount just under \$25,000 to 50% AMI (currently \$47,000) for a single, and just under \$38,000 to 50% AMI (currently \$53,700) for a married couple; and adjust asset limits from \$40,000 to \$80,000 for a single, and \$55,000 to \$110,000 for a married couple.

### **Information Gathered at the Hearing and Working Session**

At the February 10 hearing, Chief of Housing Sheila Dillon, Mayor's Office of Housing Deputy Director of Policy Tim Davis, Commissioner of Assessing Nick Ariniello, and Age Strong Commissioner Emily Shea testified on behalf of the Administration. Chief Dillon began by providing a general overview of the proposed home rule petition, stressing that this home rule addresses a fact that all councilors are aware of, which is that too many Boston residents are struggling with housing. She stated that 15,000 seniors in the

City are paying more than 30% of their income (often fixed) for rent, 60,000 non-senior households are also rent-burdened, over 40,000 people are on the waitlist for Boston Housing Authority (BHA) housing, on any given night in the City, there are 900 individuals who are homeless, and as of the last census, there were 900 families living in Boston family shelters. We know for families to build wealth and stay in the City, they need to have access to affordable housing. In order to expand affordable housing, we need increased revenue streams to do so. Chief Dillon explained that over the past few years, the City has made great strides in this work, including increasing the annual budgeted amount for housing development and housing programs, the passage of the Community Preservation Act (CPA), aggressive pursuits of state and federal grant opportunities, and the increase of linkage payments, but the transfer fee proposed in the home rule could provide so much more in resources. She reviewed current City spending on the creation and preservation of affordable housing, excluding BHA, which last year totaled \$71 Million.

Mr. Davis explained that the proposed transfer fee on real estate transactions will provide much needed revenue for affordable housing and housing stability programs. As written, the home rule would exempt the first \$2 Million of any real estate transaction (one difference from the 2019 version passed by the Council which did not exempt any portion of the value of an eligible transaction); allows for a fee of up to two percent (exact fee to be determined by ordinance); and enables the City to make additional exemptions by ordinance. He stated that, based on 2021 sales, a one percent transfer fee would have raised a one-year total of almost \$45 Million, and a two percent fee would have raised \$99.7 Million. Based on 2021 sales, the fee would have affected 704 transactions across the City, the majority of which would have been in downtown neighborhoods and on high-priced condominiums, as well as larger commercial transactions.

Commissioner Ariniello explained that another difference between the current proposal and the 2019 version, is the addition of provisions that expand the City's senior property tax exemption under Chapter 41C. He explained that currently, seniors can get up to \$2,000 off their property taxes, and the program is targeted towards very low income seniors with very few assets. The proposal in the home rule would update the program to increase the exemption amount from a base of \$1,000 to a base of \$1,500 (and increase the total potential exemption from \$2,000 to \$3,000). It would also revise the income limits to take into account both an increase and added flexibility, moving from a fixed dollar amount just under \$25,000 to 50% AMI (currently \$47,000) for a single, and just under \$38,000 to 50% AMI (currently \$53,700) for a married couple; and increase the asset limits from \$40,000 to \$80,000 for a single, and \$55,000 to \$110,000 for a married couple. He noted that asset limits do not include the value of the property in which the homeowner lives.

Commissioner Shea concluded by highlighting how both components of the home rule proposal would help seniors in need of affordable housing or having trouble meeting their expenses, noting that 74% of individuals and 44% of elder couples living independently in Boston have incomes below the elder index, meaning they have less income than it costs them to live in the City.

The Committee discussed in further detail the changes between the 2019 legislation as passed by the Council and the current proposal. Mr. Davis stated that the main difference is that instead of \$2M being a trigger for a fee on the entire purchase price, the first \$2M of any purchase is now exempt from the fee. The other main change is pairing it with the senior tax exemption expansion. Mr. Davis explained that based on 2021 sales, with a 1% fee, the City would have gotten just under \$64M based on the 2019 proposal, and would get just under \$50M based on the current proposal. He noted that property values have increased 7.5% since 2019. It was noted that a similar proposal was also filed by Acting Mayor Janey last year, in which the exemption was \$3M. The Chair noted that an additional change made in the current proposal is that it allows the legislature to make changes to the form and substance of the law so long as it's in line with the general objectives, even if those changes are major. Chief Dillon explained that the Administration's thinking in allowing the legislature the flexibility to make changes is that it will

make it more likely that the legislation will pass. The Chair also asked for clarification on what would happen if the current proposal is passed, given that the 2019 version is currently in committee at the State House. Mr. Davis stated that they assume the State would shift focus to the new version if it receives support from the Council and Mayor.

The Committee heard public testimony in favor of the proposal and also testimony advising caution. Points included that much of the property that would be subject to the transfer fee is owned by absentee owners, speculators and flippers; that the fee could be a gamechanger given that the market cannot build the kind of housing that Boston needs; that the 2019 version recently received a favorable report in committee, so the City would need to move on this new proposal quickly; that the fee is insignificant to an individual given what a purchaser would pay even for a real estate agent, but that the resulting funds would be significant for supporting affordable housing efforts; and caveats about not impacting those homeowners not gaming to profit from their sale.

At the February 25 working session, Chief of Housing Sheila Dillon, Mayor's Office of Housing Deputy Director of Policy Tim Davis, Commissioner of Assessing Nick Ariniello, and Intergovernmental Relations Chief of Staff Neil Doherty testified on behalf of the Administration. The Committee discussed various concerns, including overlap with other pending state legislation, requiring reevaluations of the exempted value amount that account for inflation, and the extent of the amendability provision. The Administration explained that, regarding similar pending state legislation, there are several tax breaks that will impact residents included in the Governor's budget, but they would not be in conflict with the senior property tax relief expansion proposed in the home rule. Additionally, it was explained that despite potential overlap, the current proposal would provide Boston with the best remedies for its residents. Regarding the exempted value amount, councilors suggested the addition of language for a sliding scale for the exempted value, as well the flexibility to increase the exempted value with inflation and market values. The Administration explained that the intent was for the exemption value to be a baseline, and that the ordinance could specify actual exemption amounts, as well as adjust the amount up to account for inflation. Suggestions were made to edit the language to reevaluate the exemption every three years (rather than five) and call specifically for reevaluations at these intervals. Regarding the amendability provision, the Administration stated that given interest from multiple municipalities and the multi-year conversations on the topic of the transfer fee, giving the State maximum flexibility would increase the bill's chance of passage. The Council expressed concerns about the broadness of the current language, which allows the Legislature to "reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition." The Chair suggested limiting this language slightly, even just to specify the objectives laid out in the bill itself; Mr. Doherty responded that he would have to check with the Law Department.

At the hearing and at the working session, the Administration stressed that the actual fee structure and other details relating to the transfer fee would not be set by the passage of Docket #0222; passage of Docket #0222 would merely provide the City with the authority to take action should it choose, the details of which would be determined by ordinance. Docket #0222 allows the City access to another tool in its toolbox to address the affordable housing crisis.

### **Recommended Changes and Action**

Based upon information gathered at the hearing and working session and follow-up with the Administration, the following change has been made:

Section 3, Exempted Value is amended to change the evaluation period from five years to three years, and also direct the evaluations to happen. The provision now reads:

**SECTION 3. Exempted Value.** The first \$2,000,000 of the purchase price of any transfer of any real property interest, or the transfer of a controlling interest in a trust, limited liability company, or other entity that directly or indirectly holds an interest in any real property situated in the city of Boston shall be exempted from the transfer fee. The amount of the purchase price exempted from the transfer fee shall be evaluated every three (3) years, and may be adjusted by the City Council with the approval of the Mayor every three (3) years based on the percentage increase in the median citywide sales price for all properties, but shall not be reduced.

The Chair suggested an additional edit to limit the breadth of the current amendability provision from general public objectives to the home rule's listed purposes, however the Administration was not amenable to this change.

Passage of **Docket #0222** in its amended version will provide property tax relief to vulnerable senior residents, and provide the City with the authority and maximum flexibility to impose a transfer fee on certain real estate, the revenue from which will contribute to much needed resources for affordable housing in the City of Boston.

The Committee on Government Operations, to which the following was referred:

***Docket #0222, message and order for your approval a home rule petition to the General Court entitled "Petition for a Special Law re: An Act Relative to Real Estate Transfer Fees and Senior Property Tax Relief."***

submits a report recommending that this docket **ought to pass in a new draft.**



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