

JUL 28 2016

MARK CHURCH (Chief Elections Officer)
[REDACTED]
DEPUTY CLERK

RESOLUTION NO. 4760

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
CALLING AND ORDERING THE SUBMISSION TO THE QUALIFIED
ELECTORS OF THE CITY OF EAST PALO ALTO A MEASURE RELATING TO
A PROPOSED ORDINANCE IMPOSING A BUSINESS LICENSE TAX EQUAL TO
ONE AND A HALF PERCENT (1.5 %) OF GROSS RECEIPTS ON OWNERS OF
FIVE OR MORE RESIDENTIAL RENTAL UNITS AND PROHIBITING THE
PASS-THROUGH OF THE TAX TO TENANTS**

WHEREAS, business license taxes for the rental of residential property may be increased by a majority vote of the people; and

WHEREAS, residential rents in East Palo Alto have increased dramatically primarily due to high demand due to East Palo Alto's location in the center of Silicon Valley, and large number of jobs created nearby; and

WHEREAS, in 1984 the citizens of East Palo Alto passed a strong rent control system which allowed a fair return to owner investment while not permitting large increases to the residents but changes in state law in 1999 weakened East Palo Alto's system by imposing "vacancy decontrol" on rent stabilized apartments, allowing landlords to raise rents without limitation whenever a new renter moves in; and

WHEREAS, as a result of "vacancy decontrol" and unprecedented market forces, real (inflation-adjusted) rents in East Palo Alto have increased and renters are paying more in rent, over and above the inflation adjustment for what is necessary for a fair return; and

WHEREAS, dramatically increased rents transfer income from East Palo Alto residents to landlords of large rental properties, the majority of whom live outside of East Palo Alto, creating hardships for low and moderate-income tenants, draining the economic health of the community and increasing the need for public services of all kinds, including affordable housing and homelessness prevention; and

WHEREAS, by increasing the business license tax on high residential rents, and applying the increase only to investors who own five or more residential rental units, this measure will recapture a small part of the rental income stream for the benefit of the entire community, and

WHEREAS, a Consolidated General Municipal Election on Tuesday, November 8, 2016 has been called by Resolution Nos. 4750 and 4751, adopted on July 5, 2016; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO THAT:

SECTION 1. The City Council pursuant to its right and authority, does order to be submitted to the voters at a General Municipal election the following question:

Shall the business license tax a landlord with five or more residential rental units pays the City of East Palo Alto, which shall not be passed on to tenants, be set at 1.5% of gross receipts, until terminated by the voters or reduced by Council, and the approximately \$600,000 raised annually used as directed by the City Council for general fund purposes, such as funding programs to increase affordable housing, and protect local residents from displacement and from homelessness?	YES
	NO

75 words

SECTION 2. The full text of the proposed measure submitted to the voters is attached as Exhibit A to this Resolution, which is incorporated herein by this reference. To become effective, two-thirds of the City Council must vote to place the measure on the ballot and a majority of the voters voting on the measure must vote in the affirmative. The method of collection of the tax would be a specified in relevant sections of Chapter 5.04 of the Municipal Code governing the collection of business license taxes.

SECTION 3. The City Council hereby requests the San Mateo County Registrar of Voters to provide all services necessary to conduct the Election and to conduct and canvass the results of the Election. The City will reimburse San Mateo County for the actual cost incurred in conducting the election when the work is completed and upon receipt of a bill stating the amount due as determined by the elections official.

SECTION 4. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, for and a manner as required by law. The hours during which the polling places for the Election shall be open shall be the hours established for the Consolidated Municipal Election.

SECTION 6. The City Clerk is hereby directed to do all things required by law to effectuate the Consolidated General Municipal Election, and to present the measure submitted herein to the electorate, including, but not limited to, required publications, postings, noticing and filings.

SECTION 7. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of this resolution to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within fifteen (15) days of the adoption of this Resolution.

SECTION 8. Arguments for and against, not to exceed 300 words in length may be filed consistent with Elections Code Section 9282 requirements. The City Council declines, pursuant to the provisions of Section 9285 of the Elections Code to permit rebuttal arguments.

SECTION 9. The City Clerk is hereby directed to file a certified copy of this Resolution with the San Mateo County Board of Supervisors and the San Mateo County Registrar of Voters.

ADOPTED this 19th day of July 2016, by the following vote:

AYES: ROMERO, ABRICA, RUTHERFORD, GAUTHIER
NOES: MOODY
ABSENT:
ABSTAIN:

SIGNED:


Donna Rutherford, Mayor

ATTEST:


Terrie Gillen, Deputy City Clerk

APPROVED AS TO FORM:


Marc G. Hynes, Interim City Attorney

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
IMPOSING A BUSINESS LICENSE TAX EQUAL TO ONE AND A HALF
PERCENT (1.5 %) OF GROSS RECEIPTS ON OWNERS OF FIVE OR MORE
RESIDENTIAL RENTAL UNITS AND PROHIBITING THE PASS-THROUGH OF
THE TAX TO TENANTS**

THE PEOPLE OF THE CITY OF EAST PALO ALTO ORDAIN AS FOLLOWS:

Section 1. Findings and declarations.

The People of East Palo Alto find and declare as follows:

- a. Business license taxes for the rental of residential property may be increased by a vote of the people.
- b. Any increase in this tax cannot be passed on to tenants protected by the City's rent ordinances and regulations and likely will not be passed on to other renters since landlords already typically charge rents to the maximum the market will bear.
- c. Residential rents in East Palo Alto have increased *dramatically* primarily due to high demand due to East Palo Alto's location in the center of Silicon Valley, and large number of jobs created nearby.
- d. In 1984 the citizens of East Palo Alto passed a strong rent control system that allowed a fair return to landlord investment while not permitting large increases to the residents. In 1999 the State legislature weakened East Palo Alto's system by imposing "vacancy decontrol" on rent stabilized apartments, which allows landlords to raise rents without limitation whenever a new renter moves in. Over 85% of East Palo Alto's older rental apartments have now had vacancy increases. Newer buildings are entirely exempt from rent stabilization.
- e. As a result of "vacancy decontrol" and unprecedented market forces, real (inflation-adjusted) rents in East Palo Alto have increased and renters are paying more in rent, over and above the inflation adjustment for what is necessary for a fair return.
- f. Dramatically increased rents transfer income from East Palo Alto residents to landlords of large rental properties, the majority of whom live outside of East Palo Alto. This transfer creates hardships for low and moderate-income tenants, drains the economic health of the community (less money for families to spend on local shopping and services) and increases the need for public services of all kinds, including affordable housing and homelessness prevention.

- g. By increasing the business license tax on high residential rents, this measure will recapture a small part of the rental income stream for the benefit of the entire community.
- h. The increase will only apply to investors who own five or more residential rental units. In addition, those units with historically low rents will be exempt from the increased business license tax.

Section 2. Section 5.08.120 of the East Palo Alto Municipal Code is amended to read as follows:

5.08.120 — Rental of real property

Every person or entity engaged in the business of renting or letting a building, structure or other property, or a portion of such building, structure or property, within the city for any purpose, except for those engaged in the business of renting or letting five or more residential units within the city, shall pay an annual license fee as provided in the fee schedule established by the city.

Section 3. A new Section 5.08.125 is added to the East Palo Alto Municipal Code to read as follows:

5.08.125 Rental of five or more units of residential real property.

- 1) Notwithstanding Section 5.08.120, this Section shall govern the taxation of gross receipts from the rental of five or more residential rental units in the city of East Palo Alto.
- 2) Every person or entity engaged, including through an interest in another entity, in the business of renting or leasing five or more dwelling units in the City of East Palo Alto shall pay an annual tax of 1.5% of gross receipts.
- 3) Gross receipts from the following categories of dwelling units shall not be subject to this Section, but shall be subject to section 5.08.120:
 - a) Dwelling units owned by a nonprofit corporation whose primary purpose is the provision of affordable housing;
 - b) Dwelling units whose rents are controlled under state or federal law, deed restrictions, or agreements with public agencies, at rental rates that are affordable to households earning no more than 80% of AMI and whose tenants must be income-qualified;

- c) Units occupied by tenants receiving monthly rental assistance (such as Section 8 vouchers or Shelter + Care) from the County of San Mateo Department of Housing; and
 - d) Any dwelling unit during the first 10 years after the issuance of a certificate of occupancy.
- 4) Any person or entity otherwise subject to the tax imposed under this Section may seek a one year hardship exemption due to exceptional circumstances. The Rent Stabilization Administrator may approve such applications for good cause, such good cause being determined in accordance with standards set out in the City Rent Stabilization and Just Cause for Eviction Ordinance, Chapter 14.04 of the East Palo Alto Municipal Code. Such approvals shall be in writing and specifically state the factors that constitute good cause. Any hardship exemption shall be effective for one tax year only, after which it will expire. Taxpayers who seek hardship exemptions must reapply every year.
- 5) The City Council may reduce the tax rate set forth in this Section for rental of five or more dwelling units, and may terminate any such reductions, without further voter approval.
- 6) The tax imposed by this chapter shall not be passed on to existing tenants in the form of rent increases or in any manner, including reduction in services or added charges for services, unless such pass through is constitutionally required.
- 7) The City Council may use the funds generated for any purposes deemed necessary and appropriate for the benefit of the citizens of East Palo Alto. Periodically, Council shall review housing policy, housing programs, and related issues to determine how and to what extent the City should establish and fund such programs, if any, to increase the supply of affordable housing and protect residents from displacement and homelessness, in light of the City's budget cycle and other relevant funding cycles.

Section 5. Conflicting Measures.

This measure is intended to be comprehensive and fully address and occupy the field of taxation of receipts from the rental of dwelling units, and real property and buildings in general. It is the intent of the people of the City of East Palo Alto that in the event this measure and any other measure relating to taxation of receipts from the rental of dwelling units, or real property and buildings in general, appear on the same ballot, the provisions of the other measure shall be deemed in their entirety to be in conflict with this measure. If this measure receives a greater number of affirmative votes than any conflicting measure or measures, this measure shall prevail in its entirety, and all provisions of such other measure or measures shall be null and void in their entirety. If this measure is approved by the voters but does not receive a greater number of affirmative votes than any other measure(s) appearing on the same ballot relating to taxation of receipts from the rental of dwelling

units, or real property and buildings in general, then this measure shall take effect to the extent not in conflict with said other measure(s).

Section 6. 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 East Palo Alto 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.