

Offered by Councilors Lydia Edwards and Kim Janey



CITY OF BOSTON

IN THE YEAR TWO THOUSAND NINETEEN

HOME RULE PETITION

- WHEREAS*, The City of Boston is facing a housing affordability and displacement crisis, impacting the health and quality of life of city residents, contributing to housing insecurity, rent burden, homelessness and evictions, increasing transportation emissions by displacing residents who work in the City of Boston and straining public resources; and
- WHEREAS*, Multiple factors are contributing to the housing affordability crisis, including inadequate supply of homes, the construction of housing that is unaffordable to an overwhelming majority of Boston residents, expiring use affordability restrictions, the speculative and rapid resale of property resulting in inflation of real estate prices, activities that remove supply from the housing market including short-term rentals and intentionally vacant investor properties, and a reduction in public investment in housing; and
- WHEREAS*, The federal government has, for many years, steadily decreased support for housing, necessitating municipal, state and private sector action; and
- WHEREAS*, Resources deployed by the Commonwealth of Massachusetts, including matching funds for the Community Preservation Act, the Massachusetts Rental Voucher Program, and potential loan funds authorized by state housing bonds, are important but insufficient resources to address the housing needs of Boston residents; and
- WHEREAS*, The structure of existing city revenue streams, such as development impact fees or linkage, by nature and explicitly seek to *mitigate* the impact of large-scale real estate development and do not purport to solve the housing crisis or produce sufficient resources to tackle housing affordability; and
- WHEREAS*, The current inclusionary development policy developed by the city also generates affordability as a mitigation of large-scale real estate development and primarily serves residents between 50% and 100% of the Area Median Income and those who earn between \$50,000 and \$100,000 annually; and

- WHEREAS*, Research conducted on behalf of the Boston Tenant Coalition indicates that the median incomes of Black and Latino households, as well as renters in Boston, tend towards between 30% and 40% of the Area Median Income; and
- WHEREAS*, Public housing, which serves residents below the affordability restrictions set by the current inclusionary development policy, has historically benefited from federal support, and in order to preserve public housing amidst federal disinvestment, the city is redeveloping public housing as mixed use properties; and
- WHEREAS*, New large-scale real estate construction, which is necessary to house a growing population and alleviate economic pressures on certain segments of the market, can simultaneously impact the rent burden and housing stability of lower-income residents, while substantial impacts on market pressure may take years or decades to be realized; and
- WHEREAS*, An analysis by the Department of Neighborhood Development identified hundreds of secondary sales each year for the years 2015-2017, occurring at high and low ends of the market, in new construction and in existing housing, in downtown neighborhoods; and
- WHEREAS*, Despite strong leadership on many housing issues, the city lacks the appropriate financial and regulatory tools to discourage harmful practices in the real estate market; and
- WHEREAS*, A fee on real estate transfers would target regular market activity outside of construction and development, which could be deployed to mitigate impacts of real estate speculation in high- and low-ends of the market and could also discourage speculative practices outright; and
- WHEREAS*, It is hereby determined that: (1) prior to the effective date of this act, the City of Boston has experienced a housing affordability and displacement crisis; (2) research by city departments indicates the recurring and rapid resale of properties in low-income outer neighborhoods as well as in high-end new construction in downtown neighborhoods, inducing an artificial appreciation in value; (3) current city policies mitigate the impacts of large new development, but do not mitigate the impacts of speculative market activity; (4) the city has relied upon federal resources that are no longer available to house extremely low-income residents; (5) the city is engaged in the planning of construction of thousands of new units of housing, but without intervention, the majority of new construction will be unaffordable to residents of Boston; and (6) to provide for the health and wellbeing of all Bostonians, the city must dedicate greater resources to building affordable housing and building housing at deeper levels of affordability; now
THEREFORE BE IT

ORDERED, That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause 1 of Section 8 of Article II, as amended, of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**PETITION FOR A SPECIAL LAW RE:
AN ACT AUTHORIZING THE CITY OF BOSTON TO ESTABLISH AN INVESTOR
AND COMMERCIAL PROPERTIES TRANSFER FEE**

SECTION 1. Findings and Purpose. The General Court finds and declares that a serious state of emergency exists in the City of Boston with respect to housing, whereby the inadequate supply of affordable housing and the inadequate affordability of housing deemed affordable is impacting quality of life and public health, contributing to housing insecurity, rent burden, homelessness and increasing evictions, that rising housing costs and speculative real estate practices disproportionately impact protected classes, including households of color, and further finds that imposition of a fee on certain real estate transfers shall be applied, at the discretion of the City and with exemptions as detailed in this Act, in order to mitigate the impacts of speculative market practices through the production of affordable and deeply affordable housing and by discouraging rapid repeat sales of property.

SECTION 2. Transfer Fee. Except where otherwise exempted pursuant to this act, the City of Boston may impose a fee of up to six (6) percent of the purchase price upon the 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, as follows: (A) a fee in the amount of three (3) percent of said purchase price shall be due and payable by the seller; and (B) a fee in the amount of three (3) percent of said purchase price shall be due and payable by the purchaser. In the case of a transfer of a controlling interest, the City of Boston may define by ordinance what constitutes a controlling interest and the calculation of the fee.

SECTION 3. Fee on Repeat Sales, Payable by Seller. Except where otherwise exempted pursuant to this act, the City of Boston may impose a fee of up to twenty-five (25) percent of the purchase price upon the repeat transfer within twenty-four months 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. Such a fee in the amount of up to twenty-five (25) percent of said purchase price shall be due and payable by the seller. In order to discourage the rapid and speculative resale of property, the city may establish such a fee as a graduated fee based on the brevity of duration between transfers.

SECTION 4. Payment of Fees to City. Fees established via this act shall be paid to the City of Boston. The City is authorized to adopt an ordinance to provide for the collection and lien of any outstanding transfer fee. The City shall have such remedies to collect said amount as provided by law with respect to the collection of real property taxes.

The City shall deposit all fees received pursuant to this act into the Neighborhood Housing Trust Fund established by the City pursuant to Chapter 665 of the Acts of 1965, as amended.

SECTION 5. Affidavit and Deed. A copy of the deed or other instrument evidencing such transfer shall be provided to the City and shall be accompanied by, (a) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price, (b) the applicable fee owed, and (c) the basis, if any, upon which the transfer, or one or both of the parties to the transfer, is claimed to be exempt in whole or in part from said fee or fees. Upon receipt of such payment and/or satisfactory evidence of exemption, the City or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the purchaser or seller, or the transfer, is exempt from the fee. The Suffolk County Register of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

SECTION 6. Exempt Transfers. The following transfers of real property interests shall be exempt from the fee established by this act: (i) transfers between family members as may be defined by ordinance; (ii) transfers of convenience as may be defined by ordinance; (iii) transfers to the government of the United States or any other instrumentality, agency or subdivision thereof, or the Commonwealth or any instrumentality or subdivision thereof; (iv) taxpayers approved by the City for an exemption for residential real property pursuant to section 5C of chapter 59 of the General law for the property to be transferred, and (v) transfers for which the sale price is under \$2,000,000, provided that fees on repeat sales authorized by Section 3 shall not be subject to this exemption.

SECTION 7. Clarification by Ordinance; Further Exemptions. The City may, by ordinance, adopt additional exemptions for beneficiaries of a city-approved homebuyer program or adopt other exemptions, requirements, or clarifications under what conditions exemptions are granted, and regulations to implement or enforce said fee, consistent with this act.

SECTION 8. Annual Report. The City shall prepare and issue an annual report that (i) identifies fee receipts by payer category including buyers and sellers, location and unit type; and (ii) quantifies affordable housing programs funded, including type and purpose.

SECTION 9. Severance Clause. The determination or declaration that any provision of this act is beyond authority of the general court or is preempted by law or regulation shall not affect the validity or enforceability of any other provisions.

SECTION 10. Date of Effect. This act shall take effect upon signing.

Filed in Council: January 16, 2019