

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE ____

The City Council of the City of East Palo Alto is submitting to the voters the question of whether to approve an increase of the City's Transient Occupancy Tax ("TOT"). The tax is paid by a person who rents a hotel room in East Palo Alto.

If approved by the voters, Measure ____ would increase the City's existing TOT tax of twelve percent (12%) by one percent (1%) on January 1, 2022 and another one percent (1%) on January 1, 2023, for a total tax of fourteen percent (14%).

Revenue generated from this additional 2% special tax can only be used for the following purposes:

- Affordable housing development, acquisition, and/or rehabilitation, including but not limited to, acquiring at-risk or vacant properties, rehabilitating deteriorating units, preventing displacement and creating more affordable rental and homeownership opportunities.
- A maximum of 15% of the new tax revenue may be used for staff and overhead costs.

The additional 2% tax revenue cannot be used for any other purpose.

It is estimated that the additional tax will generate \$195,000 in the first year, and \$390,000 annually thereafter. If approved, the additional 2% special tax from this Measure shall be deposited into a special fund. City staff will be required to provide the City Council an annual report that states the funds collected and their expenditure.

The Measure would also make administrative changes, including but not limited to:

- Amending the definition of "hotel" to include homes, apartments, condominiums, and townhouses.
- Changing the measure of the tax from the rent charged by a hotel to the rent paid by a transient.
- Requiring a "rental agent" – defined as a person other than a hotel operator who collects rent from a transient for the transient's occupancy of a hotel – to collect, report, and remit the tax.
- Designating the City Manager to hear appeals of any decision of the tax administrator with respect to the amount of applicable tax, interest, and penalties.

- Requiring any claim for refund of a tax, interest, or penalty be submitted in writing within one year of the date of payment.

The tax imposed by this measure shall not expire unless ended by the voters of East Palo Alto. Measure ____ authorizes the City Council to amend the ordinance without voter approval, provided such amendment does not increase the amount of tax paid by any taxpayer in excess of the rate set forth in the Measure.

To be adopted, Measure ____ must be approved by a 2/3 majority of the voters voting on the measure.

A “yes” vote on the Measure will approve a 2% increase to the TOT tax.

A “no” vote on the Measure will reject a 2% increase to the TOT tax.

The above statement is an impartial analysis of Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (650) _____ and a copy will be mailed at no cost to you.

Rafael E. Alvarado Jr.,
City Attorney