



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT

JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Michael F. Glavin, OSPCD Executive Director; Mayor Joseph A. Curtatone
FROM: Mike Feloney, Director and Hannah Carrillo, Sustainable Neighborhoods Initiative Program Coordinator, OSPCD Housing Division
DATE: January 10, 2018
CC: Real Estate Transfer Charge Task Force Members
RE: Real Estate Transfer Charge Task Force - summary memorandum and next steps

This memorandum responds to Mayor Curtatone's request for an update on the work of the Mayor's Real Estate Transfer Charge Task Force convened in December, 2016 for the purpose of considering the recommendation of the Mayor's Sustainable Neighborhoods Working Group that the City pursue passage of a home rule petition to allow a transfer charge on selected real estate transactions. The memo also is meant to serve as the basis for updating the Board of Aldermen on work done this year by and with the Transfer Charge Task Force. Below you will find background on the group's formation, the scope of issues it has been considering, and the status of its deliberations at this time.

Background

The Sustainable Neighborhoods Working Group's (SNWG) recommendation to establish a transfer charge was one of eighteen included in a Recommendations Report published in January 2016. As one of the most ambitious and potentially controversial measures recommended by the Working Group, the transfer charge proposal was among three recommendations selected for further analysis by a Recommendation Review Committee (RRC). The RRC was comprised of a small group of housing academics, practitioners, and public officials whom the Mayor asked to meet during spring 2016 to assess the prominent SNWG recommendations.

The RRC strongly agreed that a real estate charge could be an important source of revenue to support policies and programs that the SNWG had recommended to support housing affordability efforts. The RRC also suggested that an impact analysis be commissioned to facilitate consideration of specific subject areas like the rate, potential exemptions, and possible uses to be supported by transfer charge revenue.

Following completion of the RRC's review work, the Mayor appointed 8 residents to serve on a task force charged with developing a transfer charge proposal. The Mayor's office also asked the Board of

Aldermen and the Somerville Chamber of Commerce to each appoint a representative to the Task Force. Those appointments brought the total number of task force members to 10. A list of participants and their community activities and affiliations is attached.

Scope of Work and Activity

The Real Estate Transfer Charge (RETC) Task Force has met 10 times since its first meeting in December 2016. An early question raised by some members was whether the City is in position to pursue such a measure at this time, when the City is implementing initiatives that involve costs to Somerville's residents like construction of a new high school building and a portion of the costs associated with the MBTA's Green Line Extension. The remainder of this memorandum summarizes consideration of this question and areas the Task Force was asked to analyze with outside assistance.¹

Discussion of the Task Force's work over the past 9 months (meetings were not held in June, July or August) can be organized into three main areas: 1) a review of comparable measures in other parts of the United States, 2) a review of RKG Associates' impact analysis, and 3) consideration of potential home rule petition language. Each of these areas is summarized below.²

Relevant Legislation

In an effort to help frame the Task Force's work, Housing Division staff prepared information on relevant ordinances and policies elsewhere in the U.S. Enacted policies can be found in many states, including Massachusetts, and municipalities such as New York City, San Francisco and Washington, DC -- all of which utilize varying rates and parameters. In Massachusetts, both Martha's Vineyard and Nantucket charge a 2% transfer fee on property transactions, with revenues going to open space conservation. Both municipalities secured approval of home rule petitions by the Massachusetts State Legislature.

Nantucket currently is seeking approval to enact an additional 0.5% transfer fee, with those revenues going towards affordable and workforce housing. (That Home Rule Petition has been released by the House committee to which it had been referred this past April.) Overall, research completed to date demonstrates a precedent for measures under which municipalities utilize transfer charges to support public purposes like open space conservation and affordable housing.

Impact Analysis

RKG Associates' impact analysis, a copy of which is included with this memo, encompasses four main areas of inquiry: interviews with real estate professionals, an analysis of sales trends and projections of future sales, initial estimates of revenues generated under the exemption scenarios explored, and a review of policy issues associated with such a proposal.

Staff provided a list of real estate professionals for RKG to contact for interview purposes, based on Task Force member suggestions. From the interviews it was able to conduct, RKG concluded that a 1% transfer fee was not likely to impact real estate sales volume in Somerville. This is not to suggest that real estate professionals generally supported the passage of such a measure. They did, however, acknowledge that affordable housing creation and preservation is a central issue in Somerville and that it would be a logical use for revenue generated by such a charge.

Some individuals interviewed expressed concern that a transfer charge ordinance could deter investment and sales in a down market, suggesting the possibility of suspending the charge in a down market.

¹ Summary notes from Task Force meetings will be posted on the City's website as consideration of a real estate charge is deliberated in coming months by Somerville's Board of Aldermen and the City's residents.

² The Task Force also has discussed continuing to meet following submission of the HRP, to consider what should be in an ordinance in the event a home rule petition is approved by the state legislature.

Interviewees also noted, however, that administrative simplicity would be important for implementation and enforcement purposes, and that administering such a suspension would complicate matters significantly. Similar sentiments were expressed in regard to exemptions; most were not viewed favorably, insofar as they too could complicate fee administration.³

RKG's analysis acknowledged the challenge of finding a balance between setting the charge at a rate sufficient to raise meaningful revenue, without being at a level that discourages real estate activity. The analysis indicated that real estate price growth in Somerville has steadily climbed over the past 7 years, suggesting that a transfer charge could be a steady source of revenue to support affordable housing initiatives. Sales have steadily increased both in terms of volume and prices.

RKG projected that a transfer charge could generate between \$6.6- and \$9.1 million in annual transfer charge revenue from residential sales, and \$500,000-\$700,000 in annual revenue from nonresidential sales, under a scenario based on a 10 year period from 2017-2026. Initial analysis was conducted on three criteria for exemptions: owners who have owned their homes for more than 10 years, those who sell their residential property at a loss, or those purchasing a home being sold at a price affordable to a household between 80%-100% Area Median Income (AMI).⁴

RKG estimated that if *all* of these exemptions were enacted, there would be a 43-50% (between \$3.3 million and \$5.2 million, annually) drop in revenue. Task Force members subsequently requested that additional analysis be done to project revenues in the event that the number of years of ownership necessary to qualify for the long-term owner exemption was increased. The additional analysis projected that 28% (\$2.6 million annually) of revenue would be foregone if the holding period for exemption is set at 10 years, 13% (\$1.2 million annually) at 15 years, and 7.4% (\$688,000 annually) at 20 years.

Draft Home Rule Petition and Ordinance

In consultation with mayoral staff and members of the Somerville state legislative delegation, Task Force members generally agreed that a HRP should focus on critical provisions, and defer less critical issues for consideration for when a local ordinance is drafted, following hoped-for HRP passage. The status of efforts to reach consensus on what to include in an HRP and what to defer is summarized below.

Consensus Building Status and Suggested Next Steps

Efforts to identify areas of agreement and differing views began early in Task Force deliberations, through the use of surveying conducted in advance of meetings⁵ Additionally, a Task Force member who had served on the SNWG noted a decision rule used in that process as being helpful in efforts to reach consensus. That rule, adapted from a document prepared by a consensus building program at MIT⁶, stated that:

Groups...should seek unanimity, but settle for overwhelming agreement that goes as far as possible toward meeting the interests of all stakeholders... Discussion and review of draft report language will be utilized in an

³ RKG noted that responses to their interview requests were limited, and therefore may not be a comprehensive representation of local professionals' views on the proposal. One Task Force member noted that responses to the survey differed from feedback s/he had heard in interactions with the community members. RKG personnel noted that responses to the consultant may be more candid than responses received by a task force member.

⁴ For a property to qualify as affordable, the resulting housing expenses, such as mortgage payments, cannot exceed 30% of the annual income based on the AMI threshold. (RKG used a family of four for modeling and projection purposes).

⁵ Housing Division staff had employed similar surveying during SNWG discussions in 2015, with positive results.

⁶ "A Short Guide on Consensus Building" was developed by the MIT-Harvard Public Disputes Program and can be found here: http://web.mit.edu/publicdisputes/practice/cbh_ch1.html.

effort to help resolve remaining areas of difference. In instances where differences cannot be resolved, differing opinions and views will be noted.

City Staff surveyed the Task Force on two separate occasions in an effort to gauge points of consensus and areas in need of further discussion, and revisited those results in recent meetings to see if opinions had shifted with ongoing discussions.

Areas of Agreement

There were areas of significant agreement regarding possible exemptions, including the practical nature of exempting intra-family, non-market transactions and that, as a general rule, consideration of possible exemptions could be referenced generally in a home rule petition, and then determined through local ordinance.

Need for charge

Survey results showed that a strong majority of Task Force members expressed support for a transfer charge proposal. At the same time, however, results also revealed differing opinions regarding several proposal areas such as the rate of the charge and whether exemptions should be included as discussed in further detail below.

Designating party responsible for payment

As noted, there is strong consensus among Task Force members that a transfer charge home rule petition is worth pursuing. There was also general agreement that, while conditions of the real estate market likely will dictate which party bears the cost of such a charge, for HRP purposes it makes sense to identify one party as being responsible for payment of the fee. Members were comfortable with draft language to this effect.

Exempting intra-family sales

A third area of agreement involved exemptions. There was general recognition that transactions involving intra-family sales that are not arm's length market transactions (and which are often structured to make a property affordable to a family member) should be exempted from a transfer charge. Areas in which a diversity of opinion among Task Force members continues to persist are noted below, with brief descriptions of the basis for diverging views.

Areas of Ongoing Discussion

At this point there appear to be three main areas on which the Task Force has not reached consensus.

Rate

SNWG's original recommendation was for a 1% transfer charge to be assessed, regardless of ownership duration or other factors. Some Task Force members were supportive of that approach, which would help make the amount of revenue raised stable and predictable (to the extent possible). Others members felt, however, that a draft HRP should include a range (from, say, 0.5%-2%), to allow for an approach that assesses a higher charge for either certain kinds of transactions (in which a property is sold to someone who does not plan to live in it) or on properties resold within a certain period of time following purchase. Still other members expressed concern that if a range was included, that the top of the range ultimately would be selected; members expressing this view preferred a set amount to avoid that possibility.

Exemptions

Several areas of substantive disagreement remain regarding exemptions, with some members feeling an exemption for long term homeowners was critical (and worth referencing ‘upfront’ in a home rule petition) and others expressing the view that such an exemption would be inherently unfair to households who have purchased homes in the City in recent years. There was a request that the city solicitor’s office opine on whether distinctions based on duration of ownership are legal.

Other possible exemptions were also discussed in the two most recent Task Force meetings, including ones referenced in enabling legislation State Representative Michael Connolly has introduced⁷. How many exemptions to include and whether to include reference to them via HRP legislation is unresolved, reflecting differing perspectives on what makes the most sense from a strategic standpoint.

Property categories and targeted uses

A last area for further consideration is whether nonresidential properties should be subject to a transfer charge. There was no particular objection noted in regard to doing so. However, there were varied viewpoints on the related issue of how and where to direct revenues raised.

While the impetus for exploring passage of a transfer charge comes out of discussion on housing, several members also noted the effect rising property values have had on small, independent businesses, some of which are increasingly unable to meet increasing commercial rents. While some members thought that helping such businesses is a natural counterpart to helping residents who can’t afford to stay in Somerville, others expressed reservations over how ‘deserving’ businesses would be identified and associated administrative complexities. Still others had basic concerns with public funds going to for-profit enterprises, regardless of size, independent status, or need.

The possibility of such assistance to local businesses also raised questions of the entity that would administer such assistance. While there is a well-established mechanism for administering affordable housing funds (the Somerville Affordable Housing Trust Funds), as of this time there is no such corresponding entity for allocating support to local businesses. A last variation on such assistance, also noted in discussions, would be to direct transfer charge revenues from residential sales to housing uses, and funds from charges assessed to commercial sales to business enterprises.

These areas for resolution notwithstanding, there has been substantial progress made through the work of Task Force members over the past year which, we hope, can serve as the basis for action. Please let us know of questions in regard to any of the preceding information. Thank you.

Attachments:

- RETC Task Force member list
- RKG Associates’ Impact Analysis

⁷ The referenced enabling legislation, ‘An Act supporting affordable housing with a local option for a fee to be applied to very large real estate transactions’, can be found here: <https://malegislature.gov/Bills/190/H3512>

REAL ESTATE TRANSFER CHARGE TASK FORCE – MEMBER LIST
 CURRENT AS OF JANUARY, 2018

Members and Selected Affiliations

	Name	Affiliation, Position
1	Joseph Beckmann	Editor, Massachusetts Political Almanac; Member Union Square Community Advisory Council
2	Thomas Bent	Somerville business owner, Somerville representative to Metropolitan Planning Organization (MPO)
3	David Gibbs	Executive Director, Community Action Agency of Somerville (CAAS)
4	Stephanie Hirsch	Former SomerStat director; Alderman at Large, Somerville Board of Aldermen
5	Danny LeBlanc	CEO, Somerville Community Corporation (SCC)
6	Stephen Mackey	President/CEO, Somerville Chamber of Commerce
7	Matthew McLaughlin	Somerville Board of Aldermen member, Ward 1 Alderman
8	Mark Niedergang	Somerville Board of Aldermen member, Ward 5 Alderman
9	Sarah Rodewald	Realtor, Gibson Sotheby's International Realty; Somerville Chamber of Commerce Board member
10	Wig Zamore	Community Researcher, Somerville Transportation Equity Partnership