



Measure V: Establishing a Charter City and Real Property Transfer Tax

Measure V will appear on the November 6, 2018 ballot in El Cerrito.

Measure V has two components:

- 1) Establishing El Cerrito as a Charter City
- 2) Enacting a real estate property transfer tax of \$12 per \$1000 on a home's sale price, which is typically split between the buyer and seller (negotiable as part of sale).

If you vote yes on Measure V you are voting yes on both parts of Measure V. You are voting for El Cerrito to establish a Charter City and also for El Cerrito to establish a real estate property transfer tax of \$12 per \$1,000 on a home's sale price.

Why make El Cerrito a Charter City?

El Cerrito would like to raise more revenue and sees the real estate transfer tax as a potential revenue source. The City Council can only put the tax to a vote if the city moves from a General Law to a Charter City. There are other powers available to Charter Cities, but the El Cerrito charter is explicitly not exercising these powers and any future changes to broaden the scope of the charter would require a vote of the people to make a charter amendment.

Some differences between a general law city and a charter city:

- Charter cities can provide for any form of government including the "strong mayor" and city manager forms. El Cerrito currently uses the city manager form of government and this would continue under the charter city.
- Charter cities are not bound by state election code and can establish their own election dates, rules and procedures. They can also establish their own criteria for city officers (provided they do not violate the U.S. Constitution), set term limits, and set council member salaries.
- Charter cities permit public financing of election campaign while general law cities do not allow for this.
- Charter cities can establish their own procedures for enacting local ordinances.
- The Initiative, Referendum, and Recall are three separate remedies that can be utilized by voters of a Charter City and are not available to General Law Cities.

- Charter cities may choose to exempt themselves from complying with municipal bidding statutes. In July 2012 the California Supreme Court ruled that the state’s charter cities are not required to pay prevailing wages under state law for local public works projects funded by local funds. However, El Cerrito officials are stating that they want to ensure the city complies with the statewide prevailing wage ordinance for public works projects. The draft of the Charter includes such language.

Conclusion

Overall, a charter city has more autonomy in the areas of taxation, elections, governmental structure, and zoning. Theoretically, the City has more control over “municipal affairs.” However, what constitutes a municipal affair may be subject to court considerations. It is for this reason that some believe a General Law city has an advantage. General state laws have been subjected to judicial scrutiny and tested over the years, so there is relatively little confusion about their application. City charters, by contrast, can be much more complicated and can raise many more questions about what can and cannot be done under State law.

In the case of El Cerrito’s Measure V, the proposed charter purposefully maintains all municipal code as is (consistent with state law for General Law cities). The sole significant change is the addition of the revenue mechanism of a real estate transfer tax. Form of government, elections, ordinance procedures, contracting and prevailing wage policies are all unchanged. The electorate would have to vote to amend the City charter in the future, so anything that is set in the charter can not be changed by City Council without a vote of the people.

The real estate transfer tax

El Cerrito had a Real Property Transfer tax until 2003 when it was repealed due to changes in state law. At that time it was \$7 per \$1,000 of the purchase price. Currently, El Cerrito is proposing a transfer tax of \$12 per \$1,000 of sales price. Alameda, Richmond, Oakland, Emeryville, Berkeley, Albany and Piedmont are charter cities with real estate transfer taxes ranging from \$7 per \$1,000 to \$15 per \$1,000 of sales price.

For El Cerrito, a rebate of up to $\frac{1}{3}$ the transfer tax will be available for work pursued on the home within a year provided the owner obtains a city permit, including: seismic upgrades, solar panel installation, energy efficiency improvements, and EV charging station installation.

There has been no indication that there has been any impact on home sales in cities that have a real estate transfer tax. Traditionally this tax is split between the buyer and seller, but is negotiable as part of the terms of the sale.

If this tax passes it is estimated to raise between \$2-3 million a year. This tax is only paid when a house is sold. It is *not* like a property tax which is paid annually.

Because the real estate market volume and sales prices can be volatile over time, the revenue from the transfer tax may be subject to change significantly from year to year. Allocating a portion of this revenue to reserve funds during high revenue periods will help avoid budget shortfalls during lower revenue periods.

Any money from this tax is required to go into the general fund and cannot be restricted in any way. Officials are saying the money might be used for police and fire departments, city parks, paths, playfields, and open space; programs for children, adults, and families; library programs; earthquake and disaster preparedness programs, and reserves. However, since the money is unrestricted, it could theoretically be used for other purposes.

For more information see the following City Council Agenda packet. It includes a lot of background information followed by a slideshow presentation.

<http://el-cerrito.org/DocumentCenter/View/10233/07172018-7>

Reference: *Watchdog: General Law Cities vs. Charter Cities* By Barbara Zivica