

LOS ANGELES' "MANSION TAX" AND FORECLOSURES: WHAT YOU NEED TO KNOW

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It has been less than a year since the City of Los Angeles based the groundbreaking "Mansion Tax" (formally known as Measure ULA, and everyone is still trying to understand its legal effects and implications. For instance, does the Mansion Tax apply to foreclosure sales? Short answer—no, but as is usually the case with the law, it is a little more complex than that. Therefore, we need to understand the Measure and the Tax themselves.

Effective April 1, 2023, Los Angeles began instituting a "Mansion Tax" on homes sold within its city boundaries. For homes sold with a value of \$5 million or more, but less than \$10 million, a 4% tax will be collected. For homes sold with a value of \$10 million or more, a 5.5% tax will be collected. This Measure's intended purpose is to establish and authorize programs to increase affordable housing efforts and provide resources to tenants at risk of homelessness.

There are exemptions from this tax, however, as listed in the Measure. For example, sales and transfers of real property will not be subject to the tax if the buyer/transferee is: (1) a non-profit entity, as defined in Internal Revenue Code Section 501(c)(3); (2) a Community Land Trust, as defined in Section 22.618.2 of the Los Angeles Administrative Code; (3) a Limited-Equity Housing Cooperative, as defined by California Civil Code Section 817; or (4) a limited partnership or limited liability company in which only bona fide non-profit corporations, Community Land Trusts, and/or Limited-Equity Housing Cooperatives are the general partners or managing members.

Absent from these listed exemptions is an exemption for sales and transfers conducted as a result of foreclosure. This presents a problem for the mortgage industry, as it is unclear whether the Mansion Tax applies to properties that sell at foreclosure sales for more than \$5M and, if so, who must pay the tax? If the foreclosing trustee, i.e., the one who sells the property must pay the tax, then no one will want to foreclose on properties over the threshold. Fortunately, the Office of Finance of Los Angeles provided some guidance where Measure ULA fell short.

The Office of Finance will periodically issue answers to frequently asked questions (FAQs), in which they will provide updates and clarification on imposed ordinances. Recently, the Office of Finance clarified that "all other transactions which are exempt from the Base Real Property Transfer Tax, per local, state, or federal law and regulations" are also exempt from the tax imposed by Measure ULA. Therefore, all exemptions that apply to the Base Transfer Tax should also apply to the "Mansion Tax," which includes transfers by foreclosures or deed in lieu of foreclosure. In sum, transfers of deeds to real property conducted through the foreclosure process appear to be exempt from the Mansion Tax. However, an exception to the exemption is that, if the property reverts back to the lender AND the lender then sells the property, the lender must then pay the Mansion Tax.

If you have questions about whether a particular sale or transfer of real property In Los Angeles would be subject to the new "Mansion Tax" under Measure ULA, please feel free to contact Robert Finlay at rfinlay@wrightlegal.net or Darius Ghomashchi at sghomashchi@wrightlegal.net.



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