

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR THE COUNTY OF MULTNOMAH

ORDINANCE No. 605

An Ordinance referring, to the voters of Multnomah County, legislation creating a Homeless Housing Fund and imposing a fee on the recording of certain documents transferring real property in Multnomah County.

Multnomah County ordains as follows:

SECTION 1. REFERRAL

Sections 2 through 15 of this ordinance shall be submitted to the voters of Multnomah County at the election of March 28, 1989.

SECTION 2. DEFINITIONS

Definitions: As used in this ordinance, unless the context requires otherwise:

- (A) "Buyer or Purchaser" means any person who is the recipient of a transfer of real property.
- (B) "Date of Tender" means the date of delivering to the Multnomah County Recorder's Office for recording the document transferring, or contracting to transfer, real property.
- (C) "Documents of Transfer" means all deeds, instruments or writings whereby any ownership or title to real property is transferred to or vested in a purchaser or other person at the direction of the purchaser, or contracts to transfer or vest such ownership and/or title in real property.
- (D) "Homeless Housing Fund" means an account to be specially dedicated for specific purposes limited by the conditions of this ordinance.
- (E) "Housing Authority of Portland" means the agency charged with administering programs for very low and low-income persons in the City of Portland and Multnomah County under cooperation agreements and designated as the agency to administer the Homeless Housing Program.
- (F) "Director" means the Director of the Department of General Services or a person designated by the Director to perform functions required by this ordinance.

- (G) "Net Proceeds" means the revenue derived from payment of the fees required under this ordinance, minus the costs of administering and enforcing the ordinance.
- (H) "Person" means individuals, domestic or foreign corporations, societies, joint ventures, associations, firms, partnerships, joint stock companies, clubs or any other legal entity.
- (I) "Real Property" means any estate or interest in real property or contract right thereto, including standing timber (as opposed to contracts for the severance of such timber) and any mobile home affixed to land by permanent plumbing and electrical connections when sold in conjunction with the land upon which it is situated, but excluding leases.
- (J) "Recorder's Office" means the division of Multnomah County government currently known by that name, or any successor to said division.
- (K) "Seller" means any person who is the transferor of an interest in real property.
- (L) "Selling Price" means the consideration, in money or any other thing of value which is paid, delivered or contracted to be paid or delivered in return for the transfer of real property. "Selling price" shall include the amount of cash and the amount of any lien (including tax liens), mortgage, contract, indebtedness or any encumbrance existing against the property, to which the property remains subject and which the purchaser agrees to pay or assume, as stated pursuant to ORS 93.030 [1987 Ed.] on the face of any instrument conveying or contracting to convey fee title to real property. "Selling price" also includes other property or value given or promised for the transfer of real property if such other property or value were either part or whole of the consideration.
- (M) "Transfer of Real Property" means every grant, sale, exchange, assignment, quitclaim, or other conveyance of ownership in or title to real property, including any contract for such sale, exchange, grant, assignment, quitclaim or other conveyance of ownership in or title to real property, excluding leases.

"Transfer of real property" does not include any instrument clearly shown on its face to be any of the following:

- (1) Estoppel deeds;

- (2) deeds in lieu of foreclosure and all transfers of real property effected by order of any court of competent jurisdiction in a mortgage or lien foreclosure proceeding, proceeding for execution of a judgment, proceeding for forfeiture of an interest in real property, bankruptcy proceeding or receivership proceeding;
- (3) vendor's assignments and all transfers or assignments of a seller's interest in a contract for the sale of real property, even though accompanied by a conveyance of the seller's interest in the real property;
- (4) earnest money agreements;
- (5) sheriff's deeds;
- (6) options;
- (7) trustee's deed as a result of foreclosure;
- (8) re-recording of documents;
- (9) fulfillment deeds;
- (10) documents recorded solely for security purposes;
- (11) transfers of real property to effectuate the dissolution of corporation, partnership, or joint venture;
- (12) transfers of real property effected by a deed in lieu of foreclosure to satisfy a mortgage or conveyance to the Federal Housing Administration or Veterans Administration, or their successor agencies;
- (13) a mortgage, trust deed or other transfer of real property merely to secure a debt or an assignment thereof, or in fulfillment of a previously recorded contract for purchase (upon which the transfer fee has already been paid);
- (14) transfers of real property from one spouse to the other in accordance with the terms of a decree of dissolution of marriage or in fulfillment of a property settlement agreement incident thereto;
- (15) transfers of property merely to effectuate a change in identity, form or place of organization where no consideration is contemplated or received from the transfer.

(N) "Very Low Income" means income at or below 25% of area median income.

(O) "County Hearings Official" means a person designated by the County to hear appeals as defined in this ordinance.

### SECTION 3. FEE IMPOSED

(A) A fee is hereby imposed on each transfer of real property located within Multnomah County unless such transfer is specifically exempted by Section 4 below. The fee shall be

at the rate of .15 of one percent (fifteen one-hundredth) of the selling price and shall become due and payable upon the date of tender.

- (B) It shall be unlawful for any person to fail to pay all or any portion of the fee imposed by this ordinance.
- (C) It shall be unlawful for any person to fail to state or to misstate the full selling price for any transfer of real property or to make a materially false statement concerning any matter required by this ordinance.

#### SECTION 4. EXEMPTIONS

The following transactions shall be exempted from the provisions of this ordinance upon satisfactory proof of their applicability :

- (A) Transfers of property made by or to the United States or the State of Oregon, or any other public body, or arising from the foreclosure of real property by any public body.
- (B) Transfers of real property effected by condemnation proceeding. For purposes of this ordinance, a copy of the resolution declaring the necessity for acquiring the property shall be presented to the Director at the time of tender before the exemption may be granted.
- (C) Transfers of real property by gift, devise or inheritance.
- (D) Transfers of a grave or cemetery plot.
- (E) Transfers dated prior to the effective date of this ordinance, or deed given in fulfillment of contracts made prior to the effective of this ordinance.
- (F) Transfers of real property lying partly within and partly without the jurisdictional boundaries of Multnomah County shall be partially exempt as to the selling price attributable to that portion of real property lying outside the jurisdictional boundaries of Multnomah County. The purchaser and seller shall be responsible for calculating the portion of the real property subject to fee on forms provided by the Recorder's Office.
- (G) Transfer of real property for which the selling price is \$40,000 or less.

#### SECTION 5. EXEMPTION PROCEDURE

- (A) A document that does not clearly show on its face that it is exempt under Section 4 may be deemed to be exempt if an affidavit is filed demonstrating that the document qualifies for exemption under Section 4.
- (B) The Director shall have authority to grant or deny, or grant in part, any exemption allowed by this ordinance, and may require proof of the applicability of any exemption.
- (C) A decision on an exemption shall be in writing and shall be mailed to the applicant. A denial or partial denial of any

exemption shall state the reason(s) therefore and shall advise the applicant of the right to appeal.

- (D) In the event an exemption is denied, the applicant may appeal to the County Hearings Official designated to hear such appeals by filing a written notice of appeal with the Director not later than 10 days following the date the exemption is denied. The Director shall promptly submit to the County Hearings Official an appeal that has been timely filed. The County Hearings Official shall, within 20 days of receipt of an appeal, set a date for hearing the same.
- (E) At the conclusion of the appeal hearing, the County Hearings Official shall issue a written decision, which shall be mailed to the applicant. The decision shall include findings of fact and the reason(s) for the decision.
- (F) Further review shall be to the Circuit Court upon Writ of Review.

#### SECTION 6. RESPONSIBILITY FOR FEE

- (A) The fee shall be the responsibility of every purchaser and seller of real property located within Multnomah County which is transferred, and any person who, as a party to the transaction, makes, signs or issues any document transferring real property or for whose benefit or use such document is made, issued or transferred; provided however that only one fee shall be imposed upon each transfer of real property.
- (B) Upon presenting for recording any document of transfer, the person presenting the same shall state in the selling price, as defined herein, in terms of a dollar value (including the dollar value of "other valuable consideration," "property of equal value" and similar general statement) in order that the fee due may be computed. Failure to state the complete consideration in terms of a dollar value or to tender complete payment of the same, shall be deemed a violation of this ordinance and shall cause the Recorder's Office to stamp a notation of tax lien upon the document offered for recordation.
- (C) Failure, willful or otherwise, to pay the fee within 10 days of the date of tender, or in the case of an exemption application, within 10 days after the County Hearings Official denies the exemption, shall result in an automatic fee increase in the amount of 50-percent of the assessed fee. Subsequent failure to pay the fee and increase within 60 days of such date of tender or date of exemption denial shall thereafter also result in legal interest accruing on both the fee and increase, all of which shall constitute an immediate additional lien. The interest rate shall accrue

at the rate of one and one-half (1-1/2) percent per month. In no event shall the interest charged be less than \$25.

- (D) The fee shall be a specific lien upon each piece of real property transferred from the date of tender until the fee has been paid. If mistake, error or fraud is discovered subsequent to the payment of or exemption from any fee due under this ordinance, the Director shall be empowered to determine the amount of deficiency in fee payment, and to file a Notice of Lien which shall constitute a lien upon the property from the date of its recordation in the proper County records. Such deficiency shall also constitute a personal debt of the purchaser and seller of the real property transaction giving rise to the transfer fee. Such liens may be foreclosed in the manner prescribed by ORS Chapter 88, ORS Chapter 312 or in any other manner prescribed by law. The County Counsel shall take such action as is appropriate to collect the fee and penalties.

#### SECTION 7. SATISFACTION OF LIEN

Upon payment of any delinquent fee under this subsection and any automatic increase thereof, the Recorder's Office shall prepare, file and record a Satisfaction of Lien form in the proper County records, which Satisfaction shall serve to remove any lien established by stamped Notice of Lien or subsequent Notice of Lien filed for deficient fee payment under this subsection.

#### SECTION 8. PAYMENT OF FEE

- (A) The fee shall be paid to the Recorder's Office, or any successor division of County government, prior to recordation of the documents of transfer. The Recorder shall stamp evidence of payment of the fee and any automatic increase thereof, on the documents of transfer and a receipt evidencing payment of the fee shall be issued to the person paying the fee. Refusal to pay the fee shall not result in non-recordation, but a notation of the lien created by the unpaid fee shall be stamped on the documents of transfer and shall remain valid until a satisfaction of lien form is filed.
- (B) When any person fails to pay the fee within the time provided for payment, there shall be a conclusive presumption, for purposes of computation of the fee, that the selling price is not less than the true cash value as defined by ORS 308.205, as determined by the Multnomah County Division of Assessment and Taxation.

#### SECTION 9. SEVERABILITY

If any portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such

portion shall be deemed severable and shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. RULES AND REGULATIONS

The Director may promulgate rules and regulations necessary for the administration and enforcement of this ordinance, including provision for refund of any fee erroneously paid.

SECTION 11. ADMINISTRATION AND ENFORCEMENT

- (A) The Director shall be responsible for the administration and enforcement of this ordinance.
- (B) In order to carry out the duties imposed by this ordinance, the Director shall have the authority to do the following acts, which enumeration shall not be deemed to be exhaustive, namely: administer oaths;; certify to all official acts; to subpoena and require attendance of witnesses to determine compliance with the ordinance, rules and regulations; to require production of relevant documents; to swear witnesses; take testimony of any person by deposition; to impose fines as provided in Section 12; and to maintain a civil action in the name of the county to recover such fines and obtain any orders necessary to enforce this ordinance.
- (C) A party may collect attorney fees if it prevails in a civil action for collection of delinquent fees.

SECTION 12. PENALTIES

In addition to any civil enforcement provided herein, there may be imposed a fine of not more than \$500 for intentional violation of this ordinance. Violation of this ordinance by any officer, director, partner or other natural person having direction or control over any business entity violating this ordinance shall subject each such natural person to such fine.

SECTION 13. USE OF FEE PROCEEDS

- (A) The net proceeds from payment of fees hereunder shall be used exclusively for the purposes established by Section 14 (Homeless Housing Fund) and the plan developed by the Housing Authority of Portland. The Housing Authority of Portland is the only agency authorized to draw from and spend funds collected from this fund, except that the County may use fund proceeds to pay only those legal and administrative expenses incurred as a result of administering and enforcing this ordinance. It shall be

lawful to carry forward from year-to-year any unexpended revenues, so long as their ultimate use is for the purposes specified herein.

- (B) An intergovernmental agreement between Multnomah County and the Housing Authority of Portland shall set forth the procedure by which funds are disbursed to and accounted for by the Housing Authority of Portland.

#### SECTION 14. ESTABLISHMENT OF HOMELESS HOUSING FUND

- (A) The funds collected from the real estate title transfer fee shall be deposited in a special fund for the sole purpose of funding the unmet housing needs of homeless persons and persons with special housing needs, who have no or very low income, in order to pay maintenance and operating expenses, including rent, and expenses for intensive property management typically associated with buildings housing persons with special needs or particular disabilities. A portion of the funds may be used for housing rehabilitation outside an urban renewal area.
- (B) This fund shall not fund social service program activities or individual client case management. The funds shall not be used to fund existing federally-subsidized public housing or other activities already funded by governmental general fund support. No funds may be expended for housing acquisition.
- (C) The Homeless Housing Program shall give first priority to funding projects to pay rent and other operating expenses and intensive property management which maximize economic feasibility for those new or rehabilitated capital projects which add to the supply of housing for persons of no and very low income. The program shall give second priority to provide gap-financing to those existing projects where funding will prevent tenant displacement or other emergency situations, limited to a one-year contract commitment.

Funds may be used for capital assistance rehabilitation needs up to a maximum of 30% of the total funds.

#### SECTION 15. ANNUAL HOMELESS HOUSING PLAN

The Housing Authority of Portland shall be required to prepare and submit for County Board approval, in cooperation with housing and social service providers, an annual plan specifying administrative rules, procedures, and criteria to be used to award funding and solicit project applications consistent with this ordinance.

#### SECTION 16. CERTIFICATION OF BALLOT TITLE

The ballot title for the measure in Sections 2 through 15 shall read:

CAPTION

Real Estate Transfer Fee with Revenues Dedicated to Homeless Housing.

QUESTION

Shall transfer documents in sale of real property be subject to a fee with revenues dedicated to homeless housing programs?

STATEMENT OF PURPOSE

Imposes fee on transfer of ownership of real property in Multnomah County. Fee is .15% of selling price of property paid when transfer is recorded. Revenue is dedicated to housing needs of homeless and other low income special needs persons. Exempts certain real property transfers, including those where sale price is under \$40,000. Provides for appeal if exemption is denied. Funds are administered by Housing Authority of Portland, under a County approved annual plan.

SECTION 17. ELECTION

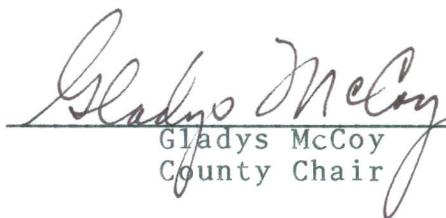
The Director of Elections shall cause the election on the above measure to be held on March 28, 1989 in accordance with law.

ADOPTED the 27th day of December, 1988, being  
the date of its second reading before the Board of County  
Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

(SEAL)

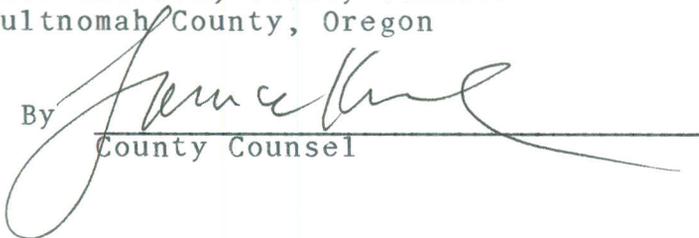
By

  
Gladys McCoy  
County Chair

APPROVED AS TO FORM:

Laurence Kressel, County Counsel  
For Multnomah County, Oregon

By

  
County Counsel

12/20/88: 1