

HOUSING TAX EXEMPTIONS IN NEW ORLEANS, OCTOBER 12, 2019

IN BRIEF

What is the proposition? Constitutional Amendment No. 4, which voters will consider on October 12, would allow the City of New Orleans to exempt from taxation properties with up to 15 residential units located within Orleans Parish for the purpose of promoting and encouraging affordable housing. Any exemptions granted by the City would apply not only to the City's property tax millages, but also to those of the Orleans Parish School Board, the levee districts and other parish taxing bodies. The amendment would prohibit any taxing body from increasing property taxes for other taxpayers to offset a revenue loss caused by the amendment. Short-term rentals would not be eligible for a tax break under the amendment.

The proposed amendment further provides that the City must follow certain procedures and conditions set by the State Legislature in creating any exemption program. The Legislature has established a requirement for City Council approval of the proposed program rules after a minimum 30-day public review period, a public hearing and a review by the New Orleans City Planning Commission.

Why is it on the ballot? The City administration, with support from the City Council, sought legislative approval this spring to place the amendment on the ballot. City officials and other proponents view the grant of tax exemption authority as a step toward developing new programs to facilitate the creation or preservation of affordable rental and homeowner units in New Orleans. The new authority would require an amendment to Louisiana's constitution, which establishes all property tax exemptions.

REPORT HIGHLIGHTS

- New Orleans has a higher incidence of cost-burdened renters and homeowners than the nation as a whole. Further, the number of renters who pay more than half of their income in rent and utilities has increased from 24% in 2004 to 38% in 2017. One report attributes this to a combination of rising rents and stagnant wages. Rising property values and the impact of blight on the available housing stock have also contributed to the problem.
- There is a broad array of programs available to assist renters and homeowners in New Orleans, such as rental housing vouchers, federally-financed rental unit construction and the homestead exemption. This raises questions for any new proposed exemption about whether existing incentives could be deployed to meet existing needs, what unmet needs require new or additional remedy, and whether a property tax exemption is the sole or superior tool for addressing unmet needs.

BGR's ON THE BALLOT SERIES

This report is the latest in BGR's *On the Ballot* series, which provides voters with objective, nonpartisan analysis of significant ballot propositions in the New Orleans metropolitan area. In producing *On the Ballot* reports, BGR recommends positions consistent with its mission of promoting informed public policy and the effective use of public resources for the improvement of local government. *On the Ballot* reports bring to light the strengths and weaknesses of ballot propositions and assess the potential for government expenditures or actions to efficiently achieve beneficial outcomes for citizens.

IN BRIEF CONTINUED

- BGR analyzed the necessity of the amendment in two parts. First, it reviewed proponents' argument that the amendment offers local control of the new housing tax exemption authority. They argue that local officials are better positioned than State lawmakers to understand the local housing market and develop exemption programs to address constituent needs. BGR cautions that this local control would not extend to other property tax exemptions, but rather introduce a new exemption. While BGR has specifically recommended local control over nonprofit property tax exemptions, it has done so primarily for the purpose of recommending local authority to limit, not expand, exemptions.
- BGR then reviewed the arguments that new housing tax exemptions are needed to address significant gaps in assistance for low-income homebuyers, support of small rental properties and the maintenance of affordable units in fast-growing neighborhoods. The City has identified these gaps in its strategic housing plans, and local production of affordable units has fallen short of its goals. The amendment would give the City flexibility to tailor new assistance to address those gaps and spur production. However, the City has not proposed specific exemption programs. Nor has it defined "affordable housing" as it would be applied in the context of this amendment. Open questions about the programs' scope, eligibility requirements, compliance and accountability measures, and cost from foregone taxes make it difficult for voters to judge the necessity of the amendment. Voters also must act without an assessment of funding alternatives.
- BGR analyzed the amendment's potential impact on citizens. While the new tax exemption authority may potentially help address housing affordability, improve neighborhood quality of life and enhance economic opportunities, the absence of an exemption plan leaves citizens uncertain about how any programs would deliver on those promises.
- There is also no estimate of the potential fiscal impact of the amendment on local governments. The Legislature has not set a cap on the amount or term of any exemption, or the amount or number of exemptions granted. While there are established practices for structuring tax exemption programs for greater efficiency, effectiveness and fiscal control, it is unclear whether and to what extent those practices would be implemented in New Orleans.
- More broadly, expanding tax exemptions would present concerns for transparency and accountability for citizens and governments. Exemptions create indirect subsidies for public purposes and circumvent the annual budget planning and prioritization process. This can obscure their costs for voters who must weigh the expansion of property tax exemptions for affordable housing amid multiple competing revenue needs for public services and infrastructure.

BGR POSITION

AGAINST. BGR acknowledges that housing affordability is a genuine and significant concern in New Orleans right now. However, there is not enough detail on how the City would use the new tax exemption authority for citizens to make an informed judgment of its potential benefits and impacts. Further, BGR has broader concerns about expanding property tax exemptions in New Orleans, when they already have a major impact on the local tax base and property tax rates. Neither the amendment nor the companion law limits the possible impact of the new exemptions on future revenue capacity to meet other public service and infrastructure needs. And the exemptions present transparency and accountability concerns as these tax expenditures would occur outside of local government budgeting processes. Citizens and policymakers could find it difficult to compare those subsidies to other competing revenue demands.

INTRODUCTION

On October 12, 2019, voters statewide will decide four proposed amendments to the Louisiana Constitution.¹ Constitutional Amendment No. 4 would apply only in Orleans Parish and authorize the City of New Orleans to grant property tax exemptions to promote and encourage affordable housing. The proposal has particular relevance locally and relates to BGR's past research on municipal finance and property tax exemptions. For these reasons, BGR is reviewing the proposed amendment in this report.

The purpose of this report is to help voters make an informed decision on the constitutional amendment. The report begins with an overview of the proposed amendment and then provides background and current context. It continues with an analysis of the proposition in furtherance of BGR's mission of promoting informed public policy making for the improvement of government in the greater New Orleans metropolitan area. The report concludes with BGR's position on the amendment.

OVERVIEW OF THE PROPOSITION

The proposed amendment would allow the City of New Orleans (City) to exempt from taxation properties with up to 15 residential units located within Orleans Parish for the purpose of promoting and encouraging affordable housing.² This could take the form of a full or partial exemption of a property's assessed value. The City could also grant a taxpayer an "assessment freeze," i.e., the right to pay property taxes based upon the property's assessed valuation in the year before the exemption begins. The amendment would prohibit the City from granting an exemption for properties used as rentals for periods of less than 30 days, generally known as short-term rentals.

Any exemptions granted by the City would apply to all millages levied in Orleans Parish, according to local officials. This means the exemption would apply not only to the City's millages, but also to those of the Orleans Parish School Board, the levee districts, the

Sewerage & Water Board, Audubon Commission, the public libraries, and the Orleans Parish Sheriff's law enforcement district.³ The amendment would prohibit taxing authorities from increasing property taxes for other taxpayers to offset any revenue loss caused by the amendment.⁴ Thus, taxing authorities must absorb any decrease in their revenue that may result from the amendment.

The proposed amendment further provides that the City must follow certain procedures and conditions set by the State Legislature in creating any exemption program:⁵

- The City's Office of Community Development, or its designee, in conjunction with the New Orleans City Council shall propose "rules and regulations for determining when and what kind of ad valorem tax exemption is appropriate in different situations, including programs to complement local inclusionary zoning policies."⁶ Exemption programs "may assist with new construction or renovation of affordable units, expiring affordability of existing units, and programs to assist lower income homeowners."⁷ Neither the amendment nor the companion law defines affordable housing, leaving it to the City's discretion.
- The City Council shall approve the programs.
- Council approval may occur only after the Office of Community Development and the council publish the proposed rules in the official journal of the parish for at least 30 days before their effective date. The office and the council must hold at least one public hearing on the proposed rules during that 30-day period. Also during that time, the New Orleans City Planning Commission must review the proposed rules and make recommendations to the office and the council.
- An owner may transfer the exemption to another owner only if program rules and regulations allow it, "or if the new owner is similarly situated with regards to the rules and regulations." This would allow an exemption to stay with a property rather than follow a property owner.

Because the amendment would add a new property tax exemption to the State constitution, a majority of voters statewide must approve it. And because it is a local amendment, a majority of voters in Orleans Parish must approve it as well.⁸

BACKGROUND AND CONTEXT

This section discusses the origin of the proposed amendment. It provides an overview of housing affordability concerns and current housing programs in New Orleans. It then gives general context on property taxes and exemptions.

Origin of the Amendment

The City administration, with support from the City Council, sought legislative approval this spring to place the proposed amendment on the ballot.⁹ City officials and other proponents interviewed by BGR view the grant of tax exemption authority as a step toward developing new programs to facilitate the creation or preservation of affordable rental and homeowner units in New Orleans. The concept of expanding property tax relief for those purposes emerged in 2015 in recommendations by the Greater New Orleans Fair Housing Action Center and a citywide housing plan developed by HousingNOLA, a partnership of public, private and nonprofit organizations formed to address affordable housing in New Orleans.¹⁰ That plan has informed subsequent City housing strategy and policy.

The City originally requested broader tax exemption authority than what the Legislature ultimately approved. The authority initially requested would have applied to any property citywide, including large multifamily apartment complexes, with rules and regulations developed solely by the City's Office of Community Development. Some housing advocates expressed concern that the original legislation would have allowed large developers to seek incentives outside of the inclusionary zoning requirements adopted by the City Council shortly before the legislative session this spring (discussed below). In response, the Legislature changed the proposed amendment to restrict eligibility to properties of 15 units or fewer. It further revised the amendment

to limit the impact on other taxpayers and prohibit assistance to properties used as short-term rentals. The Legislature also explicitly authorized both homeownership and rental property exemption programs. And it established a public review process for the City administration's proposed rules and regulations, subject to City Council approval.

If voters approve the amendment, City officials say that they would prioritize in the coming year a collaborative effort with the City Council and the public for program development.

An Overview of Housing Affordability Concerns in New Orleans

As shown in Table 1, New Orleans has a higher incidence of cost-burdened renters and homeowners than the nation as a whole. As defined by the federal government, a cost burden occurs when a household's housing costs (including utilities) exceed a threshold of 30% of gross household income.

A severe cost burden is defined as housing costs consuming half or more of household income. A recent analysis of housing costs and affordability showed that the percentage of renters in Orleans Parish with severe cost burdens stood at 38% in 2017, a sizeable increase from 24% in 2004. By contrast, the U.S. average rose only slightly over that period from 24% to 25%. The percentage of homeowners in Orleans Parish with severe cost burdens remained steady at 16%, but exceeded the national average of 9%.¹¹

According to one report, the increased cost burden for New Orleans renters results largely from a combination of rising rents and stagnant wages.¹² For example, the median gross rent (including utilities) increased by 30% citywide since 2004 net of inflation.¹³ New Orleans wages have not kept up with the rent growth. The median household income for New Orleans renters has remained within the \$21,000 to \$25,000 range for several years.¹⁴

According to local officials and real estate experts, rising property values and the impact of blight on the

TABLE 1: PERCENTAGE OF COST-BURDENED HOUSEHOLDS, NEW ORLEANS AND NATIONWIDE

	Households Paying 30% or More of Income in Housing Costs		Households Paying 50% or More of Income in Housing Costs	
	Orleans Parish	U.S. Average	Orleans Parish	U.S. Average
Renters	56%	47%	38%	25%
Owners	31%	24%	16%	9%

BGR calculations based on U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, Table B25106; The Data Center, *Who Lives in New Orleans and Metro Parishes Now?*, July 16, 2019.

available housing stock have also contributed to the problem. Post-Katrina rebuilding efforts combined with increased market demand have spurred growth in property values and, in turn, assessments and property taxes for some homeowners and landlords.¹⁵ Landlords may indirectly pass along some of their tax increase to their tenants through higher rents. However, the growth in value is not consistent throughout the city. In some neighborhoods, the condition of vacant housing units, rather than rising values, limits availability.¹⁶

An Overview of Housing Programs and Policies in New Orleans

A number of federal, state and local programs currently exist to provide housing assistance to New Orleans residents. The following summarizes the significant mechanisms in place for renter and homeowner assistance, including property tax incentives. It is not an exhaustive list of public and private programs that offer assistance.

Renter Assistance. The federal government provides the vast majority of renter assistance in New Orleans. It provides funding for rental subsidies managed by the Housing Authority of New Orleans (HANO), a federally funded agency separate from City government but with a board appointed by the mayor.¹⁷ HANO provides approximately 18,000 vouchers to subsidize rent for low-income households at roughly a quarter of New Orleans’ occupied rental housing units.¹⁸ HANO

also leases most of the city’s public housing sites to private developers and passes through federal operating subsidies for income-restricted units in those developments. More than 35,000 individuals are on HANO’s waiting lists for vouchers and public housing units.¹⁹

The federal government also supports the development of income-restricted units through low income housing tax credits. Developers receive awards of these tax credits, which they can sell to investors in

exchange for equity investments.²⁰ These investments reduce the carrying costs of their developments, compensating the developers for lower rents. The Louisiana Housing Corporation, a State agency, makes the awards of Louisiana’s allocation of the credits through a state-wide plan. The State also can apply other federal funds it controls to enhance the affordability of tax credit projects. The State recently awarded \$28 million of tax credits and block grants for 642 units in New Orleans.²¹

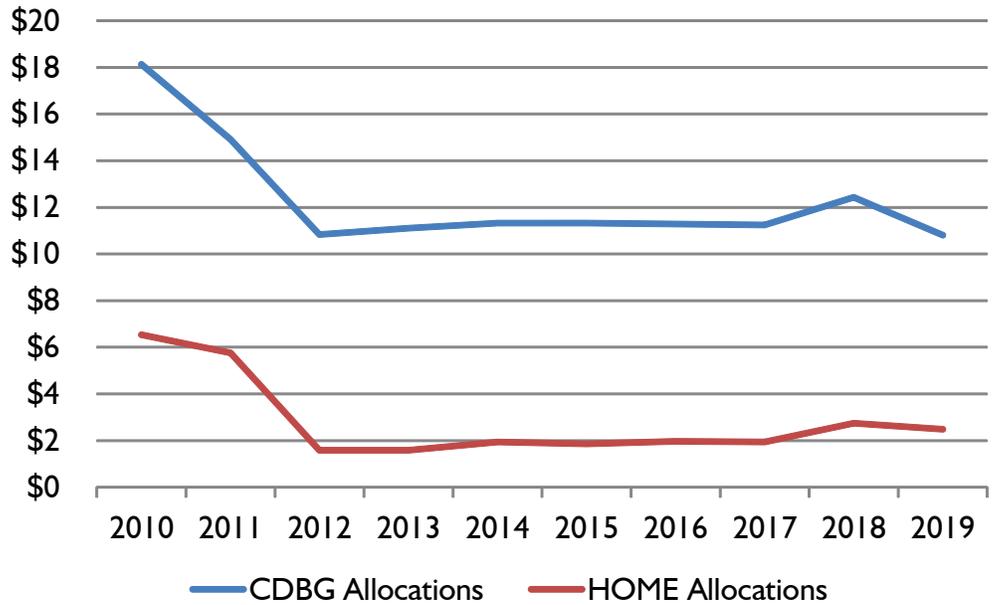
The federal government, through the U.S. Department of Housing and Urban Development (HUD), provides annual grant funding to the City, which it can direct to rental and owner-occupied housing assistance. Chart A illustrates how federal budget cuts have taken their toll on the City’s funding for the two largest programs – Community Development Block Grants and the HOME Investment Partnership Program – during the past decade.

The City has created its own initiatives to assist renters. In 2015, the City Council adopted a new comprehensive zoning ordinance, which encouraged developments to include affordable housing. The council amended the zoning ordinance to enhance development provisions and offer a density bonus, i.e., an increase in the maximum allowable units on site, in all districts zoned for multifamily development.²² In 2019, the City Council approved an ordinance adopting an inclusionary zoning policy requiring developers to include affordable units

in market-rate apartment developments in certain areas of the city.

Also in 2019, the City directed funding from its Neighborhood Housing Improvement Fund, which receives a dedicated 0.91-mill property tax and fees from short-term rentals, to fund nearly 300 units of income-restricted rental housing.²³ In previous years, the City has used the fund to support both rental housing development as well as other purposes such as owner-occupied rehabilitation, homeless assistance and code enforcement.

CHART A: CITY OF NEW ORLEANS' ALLOCATIONS OF FEDERAL CDBG AND HOME FUNDS (\$ IN MILLIONS)



Source: City of New Orleans Office of Community Development

Beyond these housing production programs, several forms of property tax relief exist for rental housing in New Orleans. They do not impose their own income or rent restrictions:

- The Louisiana Constitution exempts rental housing owned by an eligible nonprofit organization from property taxes, as well as property leased to an eligible nonprofit and used to provide housing for the homeless.²⁴
- The constitution also authorizes a Restoration Tax Abatement program, which provides property owners proposing to expand, restore, improve or develop an existing structure in an eligible geographic area with an assessment freeze. The property's assessment remains at the pre-development level for five years. The City Council and the State must both approve the freeze, and they can renew it for another five years.²⁵
- The constitution and State law allow the Industrial Development Board of New Orleans

(IDB), a public board appointed by the City Council and mayor, to abate the property taxes of new rental housing developments through a payment in lieu of taxes (PILOT).²⁶ To establish a PILOT, the IDB takes title to a property, which renders it tax-exempt, and negotiates payments with the developer to compensate tax recipient bodies for property tax losses that occur. It may set the PILOT at 100% of lost property taxes, or it may set a lower amount, providing the development with a subsidy.

The Finance Authority of New Orleans, a public trust that facilitates affordable home mortgages as well as financing for housing and economic development projects emphasizing energy efficiency and sustainability, is currently developing its own PILOT program to incentivize multifamily developments. According to the Finance Authority, the program, which is currently authorized in State law but not yet active, could support developments of 10 or more units that offer a portion of their units at affordable rates.

Homeowner Assistance. Tax incentives are the primary means of assisting homeowners. The Louisiana Constitution allows eligible homeowners to receive a homestead exemption from most New Orleans property taxes on the first \$7,500 of assessed value.²⁷ This is the most substantial form of property tax relief for homeowners, providing a tax savings of slightly more than \$1,000.²⁸ It assisted 66,250 homeowners in Orleans Parish in 2019, exempting \$476 million of assessed value.²⁹ Besides the homestead exemption, the constitution also allows income-eligible elderly or disabled homeowners to receive an assessment freeze.³⁰ More than 17,000 homeowners, mostly elderly, in Orleans Parish received a freeze in 2019.³¹ The constitution also makes the Restoration Tax Abatement's assessment freeze available for renovations of owner-occupied homes.

And in 2018, voters added a constitutional provision allowing homeowners to phase in the payment of significant property tax increases caused by a reappraisal conducted by a parish assessor.³² It gradually implements over four years the tax increase for homeowners whose properties had increased in assessed value by more than 50% through reappraisal.

Besides tax relief, some direct homeowner assistance is also available. For example, the City uses federal CDBG and HOME funds to operate a down payment assistance program, as well as an owner-occupied repair program for elderly and disabled homeowners. The City also provides forgivable, or "soft," second mortgage loans to income-eligible buyers. The Finance Authority of New Orleans also provides affordable mortgage loans to first-time homebuyers and low- and moderate-income families. In addition, it provides grants to supplement mortgage loans for lower-income borrowers, and it finances property renovations for energy efficiency, stormwater management and other sustainable features. City officials note that homeowner demand outstrips the budgets for the direct assistance programs.

Table 2 summarizes the broad range of property tax incentives and other affordable housing programs for both renters and homeowners. It raises a number of

questions, including: (1) whether existing incentives could be deployed to meet existing needs, (2) what unmet needs require a new or additional remedy, and (3) whether a property tax exemption is the sole or superior tool for addressing unmet needs.

Property Taxes and Exemptions

In general, an effective and fair tax is one that establishes a clear link between benefits received and taxes paid without ignoring a taxpayer's ability to pay. The benefits principle provides that taxpayers get what they pay for. When the benefits principle is maximized, it mimics the efficiency of a user charge. The ability-to-pay principle addresses fundamental notions of fairness. It suggests that those with the same ability to pay should contribute the same amount, and those with a greater ability to pay should pay proportionately more. The benefits and ability-to-pay principles rarely align in the real world, which means there is no such thing as a perfect tax.

To a degree, the property tax delivers on both principles. It funds local public services, such as schools, police and fire protection, and streets, that directly assist taxpayers or indirectly support their property values. However, unlike a user charge, the property tax rates do not vary based on how much each citizen or business uses the public services. Further, the property tax has elements of progressivity because property ownership tends to rise with income levels. But the calculation of the property tax does not take income into account, and times of market demand can drive up housing prices and tax bills, burdening taxpayers of limited means.

Despite its limitations, the property tax is the primary revenue source for many local governments in the U.S. It provides a highly stable source of revenue, as property values tend to be relatively insulated from short-term swings. It is also easy to collect and difficult to evade because unpaid taxes become liens on delinquent properties. And as a distinctly local tax, the property tax lets local government exercise autonomy in questions such as what level of public services citizens are willing to finance. With its broad base of payers, a property

TABLE 2: SIGNIFICANT EXISTING FORMS OF HOUSING ASSISTANCE IN NEW ORLEANS, BY FUNDING SOURCE

Funding Source	Renter Assistance	Homeowner Assistance
Federal Budget	<ul style="list-style-type: none"> • Housing Choice Vouchers (via HANO) • Public Housing Units (via HANO) • Low Income Housing Tax Credits (via Louisiana Housing Corporation) • Community Development Block Grant (via City of New Orleans and the State of Louisiana) • HOME Investment Partnership Program (via City of New Orleans) 	<ul style="list-style-type: none"> • Income tax deductions for mortgage interest and property taxes • Community Development Block Grant (via City of New Orleans) • HOME Investment Partnership Program (via City of New Orleans)
Local Government Budgets	<ul style="list-style-type: none"> • Property tax exemption on nonprofit-owned rental housing • Property tax exemption on property leased to a nonprofit organization and used to provide housing for the homeless • Restoration Tax Abatement (multifamily properties) • Payment in Lieu of Taxes subsidies • City of New Orleans Neighborhood Housing Improvement Fund 	<ul style="list-style-type: none"> • Homestead exemption • Assessment freeze for elderly and disabled homeowners • Restoration Tax Abatement (owner-occupied residences) • Property tax phase-in
Private Funding	<ul style="list-style-type: none"> • Inclusionary Zoning / Density Bonus • Mortgage revenue bonds 	<ul style="list-style-type: none"> • Mortgage assistance (via Finance Authority of New Orleans)

tax can lay the foundation for an effective and efficient local tax structure.

Property tax exemptions, like the taxes they reduce or waive, have efficiency and fairness implications for taxpayers. An exemption is a form of subsidy. A subsidy can enable individual taxpayers to afford, or a private organization to provide to others, more of an under-supplied public good or service. This can generate benefits that accrue to society as a whole.

A subsidy in the form of a tax exemption may be an effective way to lessen tax impacts for property owners with a limited ability to pay. In some instances, tax exemptions can spur the return of blighted property to commerce. However, exemptions have financial consequences. They narrow the available revenue base. This can result in reduced city services or higher tax rates to maintain a given level of service. Additionally, tax

exemptions give priority to the exempt purposes outside of a local government’s annual budget process. This creates the risk that the cost of the subsidy goes unmeasured and makes reevaluation of the subsidy’s effectiveness less likely.

In New Orleans, these concerns have existed on top of historical problems with the local fiscal structure. These have included a lack of accuracy and uniformity in property assessments, the status of which remains unknown even after the 2019 reassessment.³³ Historically, under-assessment of property has elevated property tax rates. New Orleans also foregoes taxes on a large portion of its tax base as a result of government, nonprofit, homestead and industrial tax exemptions.³⁴ Weaknesses in administration of existing homestead, nonprofit and industrial tax exemptions have also raised concern about unnecessary subsidies.

ANALYSIS

In this section, BGR analyzes the proposition, specifically focusing on the following issues:

- Is the constitutional amendment necessary?
- How will the amendment affect citizens?
- How will the amendment affect local government?
- What is the potential for effective outcomes?

Is the Constitutional Amendment Necessary?

Essentially, the proposed amendment would create new property tax exemption authority to allow the City, in conjunction with public review and City Council approval, to promote affordable housing in New Orleans. This section addresses the amendment's necessity from both technical and policy standpoints.

Technically, the Louisiana Constitution requires an amendment to introduce any new tax exemption. If a property is not eligible for one of the specific exemptions in the constitution, it remains taxable.³⁵ BGR has called for the constitution to be a broadly crafted document, uncluttered by provisions better addressed in statute.³⁶ Under this standard, the proposed amendment appropriately sets broad provisions for the exemption in the constitution, leaving the detail of program development to State and, more significantly, City lawmakers. This is a contrast to the tax phase-in law, which specified all details of the mechanism in the constitution itself, with no companion statute and little discretion for local tax collectors.

Whether the proposed tax exemption authority is necessary from a public policy perspective is a more complicated question. Here, BGR analyzes proponents' views that City officials should control the housing tax exemption authority. BGR then analyzes proponents' view that new property tax relief is needed to address gaps in current housing programs in New Orleans.

Local Control. From a policy perspective, supporters say that local governments should control the use of

local tax revenue to address local problems. Relative to housing tax relief, they say that local officials, not State legislators, are better positioned to understand the local housing market and develop programs that will address constituent needs. If defined in the constitution or State law, the programs risk a perpetual existence even if they become ineffective. With City Council control, the City can create, modify or eliminate programs as needed and manage their neighborhood and fiscal impacts. The amendment avoids the need for future involvement of the State Legislature or voters.

BGR cautions that this control would not extend to other property tax exemptions. They include Louisiana's broadly crafted homestead, nonprofit and industrial tax exemptions.³⁷ In past reports, BGR has highlighted the significant negative fiscal impacts of these exemptions in New Orleans. Rather, the amendment seeks to introduce authority for a new exemption program, one that would not otherwise exist if voters reject it. While BGR has specifically recommended local control over nonprofit property tax exemptions, it has done so primarily for the purpose of recommending local authority to limit, not expand, exemptions.³⁸

New Property Tax Relief to Address Gaps in Current Programs. City officials and other proponents observe that even the broad array of current housing production programs and property tax incentives does not reach all housing needs. Examples of unmet needs include:

- *Low-Income Homebuyers.* While multiple programs assist lower-income homebuyers, some potential buyers remain on the cusp of qualifying for the first mortgage because they cannot afford the ongoing expenses, including property taxes. They say the missed opportunities to expand homeownership affect not just those families, but also the stability of their neighborhoods. The City's housing strategy calls for expanding homeownership opportunities for low-income households.³⁹
- *Small Rental Properties.* Major programs for the development or renovation of multifamily properties are complex and tend to favor large

developments, rather than small rental properties. However, the vast majority of New Orleans renters reside in properties of 15 units or fewer.⁴⁰ In addition, funding is limited. Supporters say the City could use the amendment to expand assistance to small rental properties, consistent with the City's goals of supporting the development of workforce housing and eliminating blight.⁴¹ The property tax breaks would reduce operating expenses for the properties to offset reduced rents and meet required debt service coverage on their mortgage loans.

- *Preservation of Affordable Units.* A lack of funding makes it difficult to keep unsubsidized rental units and homes affordable to lower-income households in neighborhoods experiencing growth and development. These units do not have government-imposed income or rent restrictions.⁴² Landlords may pass on some increased taxes to their tenants, while low-income homeowners may not be able to afford a spike in their tax bills or mortgage payments. Existing tax incentives, in the view of proponents, do not go far enough to mitigate those impacts. For example, the tax phase-in law does not apply to rental units or homeowners whose assessments increased 50% or less. The City's housing plan calls for greater preservation of affordable units and extending affordability periods on subsidized units where possible.⁴³

Housing production programs have fallen short of the City's call for housing agencies operating in Orleans Parish to produce 7,500 additional affordable units from 2016 to 2021.⁴⁴ According to HousingNOLA, they have produced only slightly more than 2,200 additional units.⁴⁵ The City's goal and HousingNOLA's production figure represent the total of directly-subsidized units, tax credit units and the net change in vouchers. According to HousingNOLA, some of these units have also received property assessment and tax relief.

Proponents support the City's flexibility under the amendment to tailor new property tax exemptions to meet affordability gaps in different neighborhoods. In a neighborhood facing rising housing costs, they can pre-

serve and maintain some level of affordability for low-income renters and provide greater certainty and sustainability of monthly costs. In a weaker neighborhood with significant blight, they can stimulate property rehabilitation and development of homeownership opportunities.⁴⁶

Further, local officials say the City could combine the benefits of its program with existing federal and State programs.⁴⁷ The City, for instance, could grant an exemption to complement other federal, state, or local housing subsidies, as well as developments subject to inclusionary zoning. This, supporters say, would allow the City to strategically promote housing programs and projects by neighborhood and broaden access for lower-income residents, without having to redirect existing City revenues.

Nationally, most cities with inclusionary zoning policies do not supplement them with a tax incentive. A 2017 survey found that roughly one-quarter of the 250 cities provides no development incentive. Of the others offering at least one incentive, the most common type was a density bonus. Only 11% provide a direct subsidy or tax incentive.⁴⁸

City officials and other supporters acknowledge that the City has not proposed any specific exemption program. Nor has the City defined "affordable housing" as it would be applied in the context of this amendment. The amendment's advocates instead view obtaining voter approval for the tax exemption authority as a necessary first step in a multi-step process of program definition and development that will include input from community stakeholders and residents and culminate in City Council approval.

However, voters will not have a second chance to weigh in. They are asked to approve the amendment now despite open questions about the programs' scope, eligibility requirements, compliance and accountability measures, and cost from foregone taxes. This makes it difficult for voters to judge the necessity of the amendment. Voters also must act without an assessment of funding alternatives, including whether the City could address any of the housing affordability gaps through increased allocations from the City's General Fund.

How Will the Amendment Affect Citizens?

City officials acknowledge the potential voter concern about the lack of specificity on proposed tax exemption programs. However, they told BGR that they are considering incentives for first-time homebuyers, the preservation of affordable homeownership and rental units, and gap financing for new housing development. They have relied upon guidance from the City’s housing strategy, HousingNOLA’s plans and reports on local housing needs, reports from fair housing advocates on substandard housing conditions, and other resources. They would not apply these programs in every neighborhood, but instead target them based on neighborhood housing conditions and market demand. Further, the City would work within the parameters of the citywide master plan and the Comprehensive Zoning Ordinance to locate any new single-family or multifamily construction. Still, the amendment itself does not commit the City to this course of action and citizens must vote on an unknown outcome. In addition, the mayor recently requested that the City Planning Commission make recommendations on affordable housing strategies.⁴⁹ This too points to the current fluidity of the City’s affordable housing strategy.

City officials also note that locally-directed tax exemption authority could facilitate their coordination of housing investments with other local initiatives that benefit citizens, such as eliminating blighted housing and improving public transit routes to connect residents with employment opportunities. The City’s housing strategy highlights the reduction of 15,000 units of blighted housing from 2010 to 2016 and discusses how future blight remediation will take a block-by-block approach.⁵⁰ Connecting affordable housing to public transit is also essential.⁵¹ Ride New Orleans highlighted in its recent study of public transit how current service deficiencies create long commute times for some transit-dependent workers.

Reducing those times could allow them to access less expensive housing.

Proponents also support local control of property tax relief because it would give New Orleans residents a stronger voice in development of any exemption or abatement program. By establishing the review process, rather than attempting to approve the program itself, the Legislature opened the door for a greater degree of input from the City administration, citizens and their councilmembers.

The full extent of the public review process is undetermined, which raises concerns for some residents because the quality of that process will have a substantial effect on the outcomes. A well-executed process, driven by data and citizen input, can lead to programs that effectively target specific needs and produce broader public benefits. By contrast, a weak process could result in programs that are ineffective or inefficient and unfairly shift the burden of funding local government onto other taxpayers.

Without a proposed exemption plan, the public lacks a clear understanding of how the amendment will specifically assist property owners, tenants and developers. This raises basic questions regarding how the City will administer an exemption program that is fair to all



residents, how it will justify the incentives it chooses to provide, how it will tailor the incentives to specific neighborhoods, what criteria it will use to select the recipients and how it ensures the benefits of the tax relief reach those who need them. Another unaddressed question is how the City would cease exemptions for properties that fall out of compliance or prevent exemptions from continuing past their expiration date. A community group recently raised concerns about expired exemptions in a separate program assisting industrial properties in Orleans Parish.⁵²

There is no estimate of the potential financial impacts on property tax recipients, such as the City and the public schools.

Furthermore, the proposition will come to voters about a month before they are asked to decide a November 16 proposition to let the City issue \$500 million in general obligation bonds, which includes the creation of affordable housing as one of the permissible uses of the bond proceeds. The general obligation bonds, as currently proposed, could also be used for roads, streets, bridges, public buildings, drainage systems, public safety equipment and other purposes. The proposition does not limit the allocation of bonds to any one purpose, and, as of this report, the City has not committed to an amount for any purpose. Thus, the impact of the bonds relative to the new tax exemption authority is also unknown.

In summary, citizens will consider granting tax exemption authority that opens the door for new housing assistance potentially targeting affordability, quality of life and economic opportunity. The absence of any proposed programs, though, leaves them uncertain about how those programs might deliver on the promises.

How Will the Amendment Affect Local Government?

Voters will consider the new tax relief authority at a time when the City is seeking new taxes for services and infrastructure. In addition to the property-tax supported bond authorization, voters will decide two proposals on November 16, a 3-mill property tax for maintenance of City equipment, buildings and infrastructure, and a 6.75% sales tax on short-term rental properties. This

section takes a closer look at the amendment's potential impacts on the City and other property tax recipients, as well as considerations in program development.

Impacts on Property Tax Recipients. The amendment prohibits taxing authorities from increasing property taxes for other taxpayers because of any loss in tax revenue caused by the amendment. This introduces the possibility of a near-term reduction in revenue for services and infrastructure. However, there is no estimate of these potential financial impacts.

Neither the proposed amendment nor its companion statute caps the amount or term of any exemption, or the overall amount or number of exemptions granted. The City could, if the City Council approved, provide a 99-year, full exemption for an individual property. City officials have not proposed any caps or maximum durations for the incentives.

They told BGR that the generosity of the program must be balanced against the revenue needs of local tax recipients. In this vein, the City is considering options to control the revenue impacts, such as abating only the portion of the property's taxes attributable to new construction or renovation. This would preserve the existing tax base. However, even abating new growth needs careful consideration as taxing entities must rely on some growth in property tax revenue to keep pace with rising costs. The costs of any exemption program should also consider the future possibility of a decline in property assessments and revenue.

The City is the largest local recipient of property tax revenue, and the one with responsibility for making housing policies, so it makes sense that it would craft the housing tax relief programs envisioned by the amendment. Other tax recipients, such as the Orleans Parish School Board, the levee authorities, Sewerage & Water Board and the Orleans Parish Sheriff, have no approval authority or defined role in program development. The exemption programs will fall outside of their annual budget processes, limiting transparency and ac-

countability in those critical planning and prioritization decisions.⁵³

Considerations in Program Development. If the amendment passes, the City's approach to program development will shape the impacts of the exemptions on local government. To identify key considerations in program development, BGR reviewed the tax incentive programs for housing assistance in four major cities – New York City, Chicago, Philadelphia and Portland. BGR also reviewed its past research on best practices for tax incentives for real estate development and sought additional input through interviews for this report. Key considerations include:

- An accurate baseline understanding of the need and an evaluation of how the proposed program advances strategic planning goals and produces public benefits.
- Prioritization of alternative funding sources, including federal and State funds, to control the fiscal impacts of exemptions.
- Alignment of exemption programs with the objectives of the City's land use, economic development and public transit plans.
- A detailed application to collect the specific occupancy, financial and other information necessary to evaluate and approve projects.
- Clear, objective eligibility and award criteria to support consistency in exemption awards.
- Clear justification for the public intervention in the housing market, with a finding that the desired outcome would not have occurred but for the tax incentive.
- Appropriate alignment of the size and term of the exemption with the demonstrated need.
- Consideration of neighborhood impacts, with careful planning to avoid a disproportionate allocation of subsidies to high-poverty areas, while seeking positive, catalytic outcomes for neighborhoods.
- Post-award compliance monitoring, including

proof of tenant or homeowner income, to maintain exemption eligibility.

- Transparent public reporting on exemption awards, compliance and foregone tax revenue.
- Periodic program evaluation to assure citizens and policymakers that it is producing commensurate public benefits for the foregone taxes.
- Safeguards against significant budget impacts, with consideration of appropriate caps on the overall parishwide commitment to the exemptions, such as an annual dollar amount.⁵⁴

A new tax relief program will likely increase the City's administrative costs. The City may need additional staff and resources to, among other things, manage applications, determine eligibility and awards, and monitor compliance with program requirements. For example, if the new program were to match the federal compliance period for low-income housing tax credits, the City's Office of Community Development or another entity would have to monitor renters' income eligibility and rent payments for 30 years.

The potential impacts on local government are unclear, as they will depend on the scope, structure and administration of any proposed tax exemption program. While there are practices for structuring tax exemption programs for greater efficiency, effectiveness and fiscal control, it is unclear whether and to what extent those practices would be implemented in New Orleans.

What is the Potential for Effective Outcomes?

Constitutional Amendment No. 4 would provide the City with substantial new authority to provide property tax exemptions for citizens struggling to keep up with rising housing costs. It would allow for the tailoring of programs to meet the different needs of neighborhoods citywide. City officials assert that a locally controlled exemption program will plug gaps in the existing array of housing programs, improving their reach to low-income homeowners and renters. Further, the City has developed housing plans and strategies to provide general guidance for its future investments.

However, BGR could not gauge whether the amendment would result in effective use of public resources or improvement in government provision of services without a specific tax exemption proposal. Voters must wait for the details of any program to emerge in a future public review process.

BGR has previously expressed concern about tax propositions that lack specific spending plans. For example, BGR opposed a property tax earlier this year for elderly services because the ultimate uses of the money were undetermined and the City Council had not established clear priorities and accountability for the money. Such provisions are important because voter approval of a new tax creates an unavoidable financial obligation for taxpayers. By contrast, the proposed amendment only grants authority to create programs, and does not confer any exemptions. Still, it leaves voters with significant unanswered questions on the nature, scope and cost of those programs. This adds to the general transparency and accountability concerns of tax exemptions, which create indirect subsidies for public purposes and circumvent the annual budget planning and prioritization process. This can obscure their costs for voters who

must weigh the expansion of property tax exemptions for affordable housing amid multiple competing revenue needs for public services and infrastructure.

BGR POSITION

AGAINST. BGR acknowledges that housing affordability is a genuine and significant concern in New Orleans right now. However, there is not enough detail on how the City would use the new tax exemption authority for citizens to make an informed judgment of its potential benefits and impacts. Further, BGR has broader concerns about expanding property tax exemptions in New Orleans, when they already have a major impact on the local tax base and property tax rates. Neither the amendment nor the companion law limits the possible impact of the new exemptions on future revenue capacity to meet other public service and infrastructure needs. And the exemptions present transparency and accountability concerns as these tax expenditures would occur outside of local government budgeting processes. Citizens and policymakers could find it difficult to compare those subsidies to other competing revenue demands.

ENDNOTES

- 1 Proposed amendments other than the one discussed in this report would: (1) create a property tax exemption for materials stored in Louisiana and destined for the Outer Continental Shelf, an area of oil and gas exploration and production in the Gulf of Mexico; (2) provide for appropriations from the State’s Education Excellence Fund for the Louisiana Educational Television Authority and certain schools; and (3) expand the jurisdiction of the State’s Board of Tax Appeals.
- 2 La. 2019 Regular Session Acts, No. 448.
- 3 The exemption would also affect the fee received by the Orleans Parish Assessor, which is 2% of total property taxes billed, and the City’s collection fee, which is 2% of total property taxes collected. According to the amendment, any property receiving the exemption shall remain on the Orleans Parish assessment rolls, provided its ad valorem tax shall be reflected as the amount determined by the City.
- 4 The proposed amendment also states that implementation of an exemption “shall neither trigger nor be cause for a reappraisal of property or an adjustment of millages pursuant to the provisions of Article VII, Section 23(B) of this constitution,” a provision that allows taxing authorities to seek an increase in the millage rate to offset a post-reappraisal decline in the tax base so that it has a neutral effect on its tax revenue.
- 5 Act 448 provides that the City may exempt properties under the proposed amendment “in accordance with procedures and conditions provided by law.” For the companion legislation, which would enact La. R.S. 47:1716, see La. Acts 2019, Reg. Sess., No. 407. Act No. 407 was enacted following the 2019 regular legislative session, but becomes effective only if voters approve the constitutional amendment.
- 6 Ibid.
- 7 Ibid.
- 8 La. Const. Art. 13, Sec. 1(C) provides, in pertinent part, that “a proposed amendment directly affecting not more than five parishes or areas within not more than five parishes shall become part of this constitution only when approved by a majority of electors voting thereon in the state and also a majority of the electors voting thereon in each affected parish.”
- 9 New Orleans City Council, Resolution No. R-19-198, adopted May 9, 2019.
- 10 The plan recommended that the City explore additional property tax relief for low-income homeowners facing increases in property assessments and other tax relief measures to preserve and create affordable rental units. HousingNOLA, *10 Year Strategy and Implementation Plan for a More Equitable New Orleans*, 2015, p. 45.
- 11 The Data Center, *Who Lives in New Orleans and Metro Parishes Now?*, July 16, 2019.
- 12 Asakura Robinson Company, *New Orleans Rental Market Study*, prepared for Greater New Orleans Housing Alliance, p. 5.
- 13 After adjusting for inflation, The Data Center reports that the median gross rent increased from \$742 to \$962.
- 14 It was \$23,800 in 2017. U.S. Census Bureau, American Community Survey 1-Year Estimates, Table B25119: Median Household Income the Past 12 Months (in 2017 Inflation-Adjusted Dollars) by Tenure, Orleans Parish. Also, Asakura Robinson Company, p. 5. The Data Center’s analysis illustrates that wage stagnation is a general problem in New Orleans, not just for renters. In 1999, the city’s median household income totaled \$39,000. Nearly two decades later, the median income totaled \$37,000, a slight decrease even accounting for inflation. Compared to neighboring parishes, Orleans’ median income lags behind Jefferson (\$51,500) and St. Tammany (\$67,400).
- 15 For instance, nearly one in six residential properties is located in a neighborhood that experienced growth in average sale prices of more than 50% during the past four years. Adelson, Jeff, “Inside the cost of spiking New Orleans home values: Higher assessments, higher tax bills,” *The Times-Picayune / The New Orleans Advocate*, July 4, 2019.
- 16 In 2017, the U.S. Census Bureau estimated that 19,172 units throughout the city were vacant for reasons other than seasonal use, for rent or for sale. This amounts to about 10% of the city’s housing stock. U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, Table B25004: Vacancy Status, Orleans Parish, and Table CP04: Comparative Housing Characteristics, Orleans Parish.
- 17 La. R.S. 40:531.
- 18 Asakura Robinson Company.
- 19 Housing Authority of New Orleans, Annual PHA Plan for the Fiscal Year Beginning October 1, 2019, approved by the U.S. Department of Housing and Urban Development, June 27, 2019, pp. 7-8.
- 20 Urban Institute and Brookings Institution Tax Policy Center Briefing Book.
- 21 City of New Orleans, “City of New Orleans Partners with State of Louisiana for Affordable Housing Funding,” press release, July 24, 2019.
- 22 City Planning Commission, *Smart Housing Mix Ordinance Study*, February 22, 2017, pp. 4-5.
- 23 City of New Orleans, Chief Administrative Office, “Millages Expiring in 2021,” presentation to the New Orleans City Council’s Ad Valorem and Special Revenue Committee, August 26, 2019.

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- 24 La. Const. Art. 7, Sec. 21(B)(1)(a)(i) and La. Const. Art. 7, Sec. 21(B)(1)(b).
- 25 La. Const. Art. 7, Sec. 21(H).
- 26 La. Const. Art. 6, Sec. 21 and La. R.S. 51:1151 et seq.
- 27 Two City property taxes for police and fire are not subject to the homestead exemption in New Orleans.
- 28 BGR calculation multiplying \$7,500 assessed value by the homestead exempt millage rate of approximately 138 mills (151.08 mills minus 12.97 mills).
- 29 Louisiana Tax Commission, *Annual Report 2018*, p. 39.
- 30 La. Const. Art. 7, Sec. 18(G).
- 31 Louisiana Tax Commission, *Annual Report 2018*, p. 42.
- 32 La. Const. Art. 7, Sec. 18(F)(2).
- 33 Accuracy in an assessment system means that an assessor values property at or near its market value. Uniformity means the assessor values it consistently within a group (e.g., all residential homestead exempt properties) and between groups (e.g., residential and commercial properties), as well as among properties of varying worth (e.g., low- and high-value homes).
- 34 For BGR's research on this topic, see <https://www.bgr.org/reports/category/taxation-and-assessments/>.
- 35 La. Const. Art. 7, Sec. 21.
- 36 See, for example, discussion of Constitutional Amendment No. 2 (2007), in BGR, *Issues on the Ballot for October 20, 2007*.
- 37 See BGR, *Unfair Assessments, Excessive Exemptions: How New Orleans' Property Tax System Hurts Government and Taxpayers*, May 2005; *Who's Behind the Tree? The Homestead Exemption and Taxpayers in the New Orleans Area*, March 2009; *The Nonprofit Margin: Addressing the Costs of the Nonprofit Exemption in New Orleans*, March 2011; *On the Right Track? New Orleans Economic Development in Perspective*, November 2004, Appendix: Sources Summary, pp. 72-73.
- 38 BGR, *The Nonprofit Margin*, p. 17.
- 39 *Housing for a Resilient New Orleans*, p. 6.
- 40 U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, Table B25024: Units in Structure.
- 41 *Housing for a Resilient New Orleans*, pp. 6 and 11.
- 42 *Ibid.*, p. 8.
- 43 *Ibid.*, pp. 8-9. Increasing participation in the assessment freeze program is a goal of the City's housing strategy. *Ibid.*, p. 10.
- 44 *Ibid.*
- 45 HousingNOLA, *Semi Annual Data Report 2019*, March 2019.
- 46 Lubell, Jeffrey, "Preserving and Expanding Affordability in Neighborhoods Experiencing Rising Rents and Property Values," *Cityscape: A Journal of Policy Development and Research*, prepared for the U.S. Department of Housing and Urban Development, Vol. 18, No. 3 (2016), p. 142.
- 47 The City's housing strategy seeks to augment federal and State resources. *Ibid.*, p. 19-20.
- 48 Thaden, Emily, and Ruoniu Wang, *Inclusionary Zoning in the United States: Prevalence, Impact, and Practices*, working paper prepared for the Lincoln Institute of Land Policy, September 2017, p. 39.
- 49 City of New Orleans, "Mayor Cantrell Requests Affordable Housing Study from City Planning Commission," press release, August 21, 2019.
- 50 *Housing for a Resilient New Orleans*, p. 11.
- 51 *Ibid.*, p. 6.
- 52 Together New Orleans, presentation to the New Orleans City Council's Ad Valorem and Special Revenue Committee, August 26, 2019.
- 53 For further discussion of local government revenue constraints in Orleans Parish, see BGR, *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?* November 2015, and *The \$1 Billion Question Revisited: Updating BGR's 2015 Analysis of Orleans Parish Tax Revenues*, April 2019.
- 54 For example, the City of Philadelphia has placed a \$25 million annual cap on the tax relief provided to participants in its Longtime Owner Occupants Program. While it does not restrict enrollment in the program, it can reduce the relief on a pro-rata basis to remain within the cap.

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