



Taxing High-End Real Estate Transactions to Increase Housing Affordability in Santa Fe

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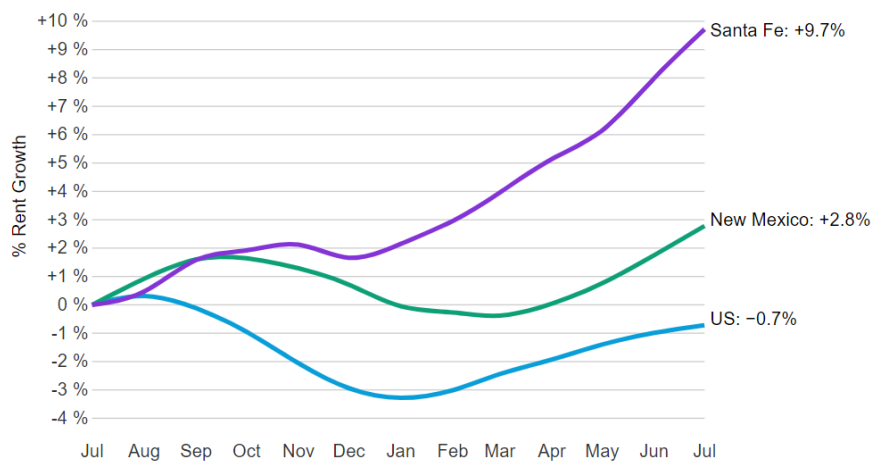
Summary

Rapidly escalating housing costs are driving an exodus of low- and moderate-income families from Santa Fe, changing the city's very nature and undermining quality of life for all residents. The City's Affordable Housing Trust Fund (AHTF), which supports the creation, preservation, and rehabilitation of affordable housing, is currently underfunded to meet the city's tremendous and growing need for affordable units. A real estate excise tax (REET) imposed on the sale of residential property valued above \$1 million and earmarked for the AHTF is an equitable way to generate the revenue needed to address Santa Fe's rapidly worsening housing crisis.

How Bad is Santa Fe's Housing Crisis?

- The price of a home in the City of Santa Fe has doubled since 2016, while wages have grown at the much more modest annual rate of 1.3 percent.
- In 2018, the number of homes sold in Santa Fe for under \$400,000 exceeded the number of homes sold for over \$1 million by more than 4-fold. By 2022, the reverse was true – the number of homes priced above \$1 million was almost double the number priced below \$400,000.
- Seven-in-ten low-income renters in Santa Fe are cost burdened and 44 percent must devote at least half of their income to housing.
- Santa Fe's 2023-28 Consolidated Housing Plan reports that between 2015 and 2021 the median income of Santa Fe homeowners increased 2 percent while the median income for the city's renters jumped 33 percent, indicating that lower-income renters are leaving Santa Fe in search of affordable housing and are being replaced by more affluent households that can afford Santa Fe's high market rents.
- The median rent for a 2-bedroom apartment has increased 43 percent since 2017 and, despite recent cooling of the housing market, rents continue to rise at an unprecedented rate.

12-Month Santa Fe Rent Growth, August 2023



Source: Apartment List. Retrieved from: <https://www.apartmentlist.com/rent-report/nm/santa-fe>

What is a Transfer Tax?

- Real estate transfer taxes are excise taxes imposed on the transfer of real property from one party to another.
- The excise tax currently under consideration in the City of Santa Fe would be levied on the purchaser at a rate of 3 percent of the amount of the sales price over \$1 million. For example, on the sale of a \$1.2 million home, only \$200,000 would be subject to the 3 percent tax, resulting in a tax of \$6,000.

Do Other Communities Tax the Sale of Real Property?

- Yes. Thirty-six states and hundreds of local governments nationwide levy real estate excise taxes (REETs). In many jurisdictions municipal REETs are layered atop state or county transfer taxes.

How Much Revenue Would a Real Estate Transfer Tax Generate and How Would it Be Spent?

- Had a real estate excise tax been in effect between 2019 and June 2023, each year it would have generated between \$3.5 million and \$9.3 million or an average of about \$6 million annually.
- Revenue from the proposed excise tax would be devoted entirely to the city's Affordable Housing Trust Fund (AHTF) which supports down payment assistance, home repair, rental assistance, and other initiatives related to the preservation, construction, or creation of affordable housing for low-and moderate-income Santa Fe residents.
- The AHTF is administered by the City's Office of Affordable Housing with oversight from the Community Development Commission (CDC) and the City Council. Allowable uses of the AHTF are established by city ordinance and all monies are allocated through a competitive procurement process subject to final approval by the CDC and the City Council.

Are Real Estate Excise Taxes Fair?

- Yes. By imposing the tax on purchasers and exempting the first million in property value, Santa Fe ensures that only households with the financial means to purchase a million dollar-plus home pay the tax.
- Increasing property taxes for all Santa Fe homeowners has been suggested as an alternative to a REET. Unlike a REET, which is paid once at closing, an increase in Santa Fe's property tax would constitute a small, but permanent, increase in housing costs that would further burden households already struggling to make ends meet.
- By taxing the transfer of wealth and devoting the revenue to affordable housing, Santa Fe is simultaneously addressing two major contributors to the wealth gap – lack of access to affordable homeownership opportunities and tax policies that disproportionately burden low-and moderate-income households.

Why Is Accessing Accurate Real Estate Transaction Data So Difficult In New Mexico?

- The primary sources of real estate data, New Mexico's multiple listing services, are proprietary and available only to licensed realtors.
- Although most residential real estate transactions must be reported to county assessors, New Mexico state law prohibits the public disclosure of these data by government officials.

- Publicly available information on real estate transactions is a form of consumer protection that enhances market transparency and enables home buyers and sellers to make informed decisions.
- ‘Non-disclosure’ laws like those of New Mexico and 11 other states make real estate transaction data available only to realtors, depriving consumers, researchers, policymakers, and the general public of ready access to critical information about New Mexico’s housing market.

Taxing High-End Real Estate Transactions to Increase Housing Affordability in Santa Fe: A Review of the Evidence

Background

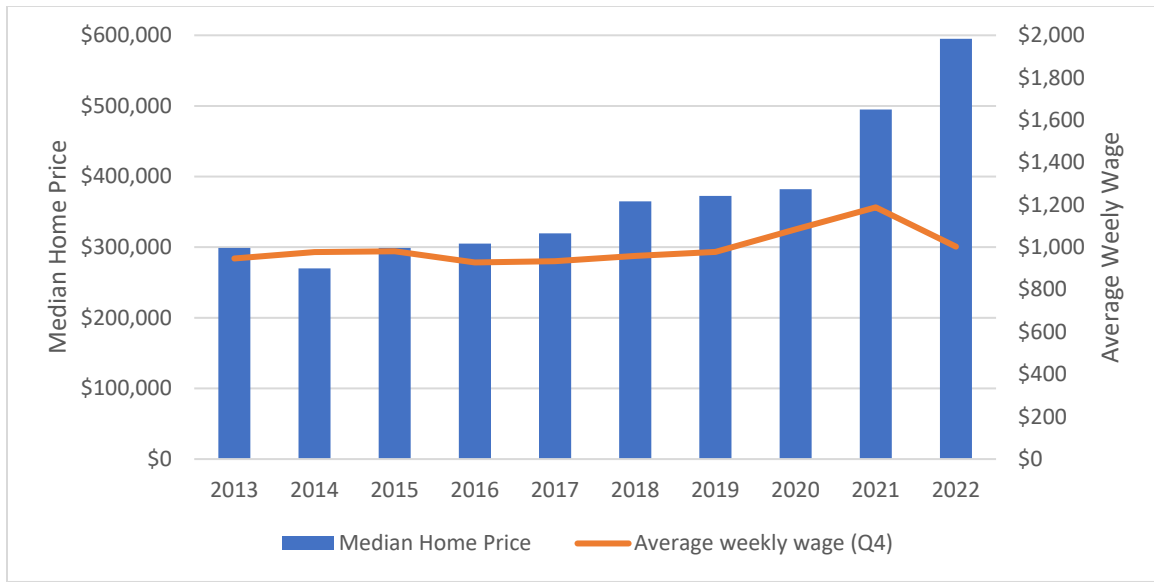
The City of Santa Fe proposes to implement a real estate excise tax on the purchase of residential real estate valued at over \$1 million and located within the city limits. Santa Fe’s Excise Tax for Affordable Housing would be levied on the purchaser at a rate of 3 percent of the amount of the sales price over \$1 million. Revenue from the tax, which is expected to generate roughly \$3.5 M to \$9.3 M each year depending on real estate market conditions. All of these funds would be earmarked for the city’s Affordable Housing Trust Fund which pays for the preservation and construction of affordable housing as well as services like rental assistance and down payment assistance, that make housing more affordable.

Does Santa Fe Need a Real Estate Excise Tax?

Santa Fe needs a large and consistent source of revenue with which to address its deepening housing crisis. Current funding for the AHTF is not adequate to meet the growing need for assistance. An excise tax can provide additional revenue to the AHTF without further burdening households that are already struggling to make ends meet.

The price of a home in the City of Santa Fe has doubled since 2016, while wages have grown at the much more modest annual rate of 1.3 percent (**Figure 1**).

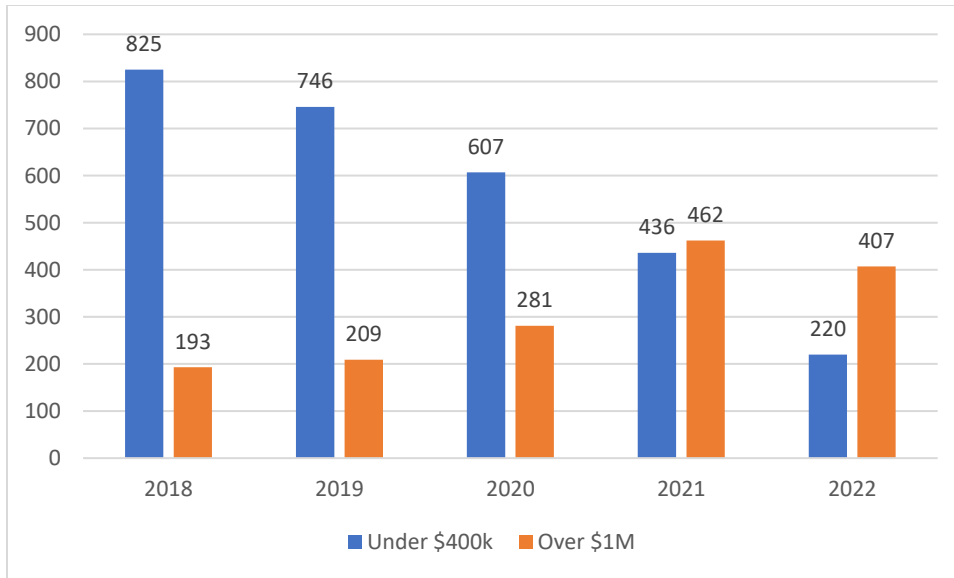
Figure 1 Median Home Prices and Average Weekly Wage, City of Santa Fe 2013-2022



Source: Santa Fe Association of Realtors and U.S. Bureau of Labor Statistics QCEW

As anyone who has recently shopped in Santa Fe for a home priced below \$400,000 is well aware, the city’s supply of affordable homes has decreased dramatically over the past several years. **Figure 2** contrasts single family homes sold for under \$400,000 to those sold for over \$1 million within the City of Santa Fe over the past 5 years. In 2018, the number of homes under \$400,000 exceeded the number of homes selling for over \$1 million by more than 4-fold. By 2022, the reverse was true – the number of homes priced at more than \$1 million was almost double the number priced below \$400,000.

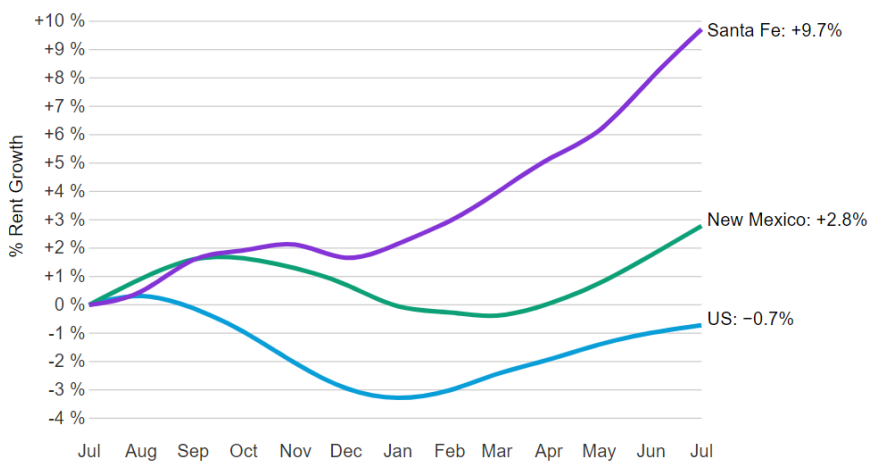
Figure 2: Santa Fe Single Family Detached Home Sales 2018-22



Source: Santa Fe Multiple Listing Service

Rents are also increasing faster than incomes. The median rent for a 2-bedroom apartment in Santa Fe has increased 43 percent since 2017,¹ and despite recent cooling of the housing market Santa Fe rents continue to climb at an unprecedented rate (**Figure 3**).

Figure 3: 12-Month Santa Fe Rent Growth, August 2023



¹ Apartment List. Santa Fe Rent Report: August 2023. Retrieved from: <https://www.apartmentlist.com/rent-report/nm/santa-fe>

Source: Source: Apartment List. Retrieved from: <https://www.apartmentlist.com/rent-report/nm/santa-fe>

Santa Fe's population is changing in response to the housing shortage. The City's 2023-28 Consolidated Housing Plan reports that between 2015 and 2021 the median income of Santa Fe homeowners increased 2 percent while the median income for the city's renters jumped 33 percent, indicating that lower-income renters are leaving Santa Fe in search of affordable housing and are being replaced by more affluent households that can afford Santa Fe's high market rents.²

Commuting patterns also reflect the impact of the housing crisis. Santa Fe is a job center and, historically, about one-third of Santa Fe's workforce has commuted from outside the county. The most recent data shows this trend accelerating, with in-commuters constituting 42 percent of the city's workforce as of 2021.³

Low- and moderate-income households that are unwilling or unable to leave Santa Fe must devote so much income to housing that there is little left for other necessities like healthcare, transportation and food. Households are considered "cost burdened" when they must devote at least 30 percent of their income to housing and "severely cost burdened" when the share of income spent on housing tops 50 percent. Seven-in-ten low-income renters in Santa Fe are cost burdened and 44 percent are severely cost burdened.

What is the Affordable Housing Trust Fund?

Revenue from the proposed Santa Fe Real estate excise tax would be devoted to the city's Affordable Housing Trust Fund (AHTF) which was established in 2007 to fund public-private partnerships for affordable housing. Santa Fe residents must have income below 120% of the area median (\$102,375 for a family of four) to be eligible for assistance through the AHTF. Trust funds are disbursed through community partners, who must match each dollar of funding from the AHTF with at least \$3 from other sources, to support initiatives related to the preservation, construction, or creation of affordable housing as well as down payment assistance, home repair, and rental assistance.

The City's consolidated plan reports the following uses of AHTF funds for the period 2018-2022:

- Affordable housing construction: \$497,000 supported the new construction of 125 affordable units.
- Rental Assistance: \$2.1 million was used to provide emergency rental assistance and motel vouchers to 1,203 households with income below 60% of the area median, many of whom were displaced as a result of the pandemic.
- Homebuyer Assistance: \$1.2 million was used to provide downpayment assistance to 46 households with income below 120% AMI.

² City of Santa Fe, Office of Affordable Housing. City of Santa Fe Consolidated Housing Plan 2023-28. P. 72. Retrieved from: https://santafenm.gov/media/files/public_works/CoSF_Con_Plan_23-28.pdf

³ US Census Bureau. 2023. Longitudinal Employer Household Dynamics (LEHD) Origin-Destination Employment Statistics (LODES). Retrieved from: <https://lehd.ces.census.gov/data/>

- Rental housing repair and rehabilitation: \$990,000 was used to rehabilitate 342 affordable rental units.

The AHTF is currently funded with fees paid by developers, the pay-off of City-held liens, land sales from Tierra Contenta, and infusions of City general revenue, but these sources are not sufficient to meet the demand for AHTF funding.

How Much Revenue Would a Real Estate Excise Tax Generate?

Based on the recent performance of the Santa Fe Real estate market, we estimate that the proposed Excise Tax for Affordable Housing would generate between \$3.5 and \$9 million each year, or an average of over \$6 million, annually. **Table 1** shows the derivation of the estimate based on the number of home sales over \$1 million in the city of Santa Fe.

Year	Sales (#)	Total Sales Over \$1M	Total Amount Over \$1M (tax base)	Revenue from 3% Tax
2020	262	\$409.99	\$147.99	\$4.44
2021	412	\$682.41	\$270.41	\$8.11
2022	414	\$715.83	\$301.83	\$9.05
2023 (annual)*	194	\$339.84	\$145.44	\$4.36
Annual Average	321	\$537.02	\$216.42	\$6.49

*Annual estimate based on data through 5.30.23
Source: Aggregated, de-identified data from the Santa Fe County Assessor

Annual transfer tax revenue will vary significantly based on real estate market conditions but is unlikely to fall outside the expected range given the speed at which property values in Santa Fe have continued to grow, even in the face of high mortgage interest rates.

Data Used in this Report

New Mexico is a ‘non-disclosure state’ meaning that real estate sales data are not public information and can only be accessed by licensed realtors. Data for this report were therefore obtained from two primary sources: the Santa Fe Multiple Listing Service (MLS) and the Santa Fe County Assessor. MLS data were accessed and compiled by a licensed realtor. The County Assessor’s Office, which is prevented by law from providing identifiable transaction-level data, provided de-identified aggregated data. Data from the two sources, although not identical, were closely aligned. Please see *Why Is Accessing Accurate Real Estate Transaction Data So Difficult In New Mexico?* at the end of this report for a discussion of how New Mexico’s non-disclosure laws impact our state’s consumers and housing markets.

How Will the Funds be Safeguarded?

The referendum put before the voters will dedicate all revenue from the new excise tax to the AHTF. Allowable uses of the AHTF are established in city ordinance as “acquisition, development, construction, renovation or conversion, financing, operation or owning affordable housing or infrastructure to support affordable housing which meets agreed upon community housing goals and objectives.”⁴ The City’s Community Development Commission (a seven-member committee of Santa Fe residents that makes recommendations to the City Council) establishes the City’s affordable housing priorities annually, helping to ensure that expenditures from the AHTF meet community housing goals. Monies from the AHTF are allocated through a competitive RFP process. All funding must be approved by the Community Development Commission and the City Council.

What is a Real Estate Excise Tax?

REETs are excise taxes imposed on the transfer of real property from one party to another. They are calculated as a percentage of the value (typically the purchase price) of the property conveyed, but they are taxes on the value of the transfer, not property taxes.

Thirty-six states and far more local jurisdictions impose real estate excise taxes, but there is considerable variability in how each tax is structured and administered. The revenue generated by a tax is a function of the tax base (what is taxed) and the rate at which the tax is imposed. In general, the broader the tax base the lower the rate of tax necessary to generate a given amount of revenue. To minimize the burden on low- and middle-income households, the base for the proposed Excise Tax for Affordable Housing is sales amounts over \$1 million, thus the proposed rate – 3 percent - is higher than the rates used by the majority of other jurisdictions that include all home sales in their tax base and thereby distribute the tax burden across all home buyers and sellers.

Key characteristics of excise taxes include:

1. Tax Base

The tax base for most real estate excise taxes is the full value, typically the purchase price, of the property being conveyed. However, jurisdictions differ in how they approach various characteristics of the tax base, including:

- a) Types of property included – taxes may be levied on the transfer of residential property, commercial property, or both.
- b) Exemptions – certain types of transactions, such as those between spouses, parents and children, or governments, may be exempted from taxation. Transactions below a certain minimum value, typically \$100 or \$1,000, are also often exempt. Some jurisdictions also exempt affordable housing from their real estate excise tax.
- c) Thresholds – Although most state-level REETs are levied at a single rate on the full value of the property being transferred, many local jurisdictions have adopted additional

⁴ https://library.municode.com/nm/santa_fe/codes/code_of_ordinances?nodeId=CHXXVIHO_26-3AFHOTRFU

transfer taxes on high value transactions that apply only to amounts above a certain threshold.

The base for the Excise Tax for Affordable Housing would be the amount by which a residential real estate sale within the Santa Fe city limits exceeds \$1 million. Excluding sale amounts below \$1 million reduces the base by narrowly targeting higher-value sales, increasing taxes on high dollar transactions while exempting the majority of home sales from tax.

2. Tax Rate

Most state real estate excise taxes are levied as a fixed percentage of the tax base. However, some states and many localities have adopted progressive rate schedules that increase with the value of the transaction such that the highest value transactions are also subject to the highest rates.

Some communities like San Francisco and Seattle, with large numbers of multi-million-dollar home sales, have adopted steeply progressive rate schedules such as San Francisco's depicted in **Table 2**.

Santa Fe has its share of million-dollar home sales – 1,643 in the last 5 years – but over 80 percent of these properties sold for less than \$2 million. The concentration of homes in this value range in conjunction with the exemption of the first million dollars in value transferred, suggest that a progressive rate schedule is unnecessary and that a single rate will suffice.

3. Liability

Legal liability for paying a real estate excise tax may fall on the buyer, seller, or both. Regardless of legal liability, responsibility for payment of a REET is often negotiated between the buyer and seller as part of the sales contract.

Santa Fe's Excise Tax for Affordable Housing would be levied on real estate purchasers. Since much of Santa Fe's high-value real estate is purchased by residents of other states, taxing the purchaser instead of the seller increases the likelihood that the tax will be exported.

4. Administration

Many counties, municipalities, and in some states, special taxing districts, impose real estate excise taxes. Local REETs are typically in addition to any REETs levied by the state. Some state transfer taxes include 'local options,' enabling local governments to 'piggyback' the state's tax by layering their own assessments on top of the state's base rate.

Because the State of New Mexico does not levy a real estate excise tax, Santa Fe's tax would be the only REET paid by purchasers of real estate in Santa Fe.

Do Other Jurisdictions Levy Real Estate Excise Taxes?

Thirty-six states and hundreds of local jurisdictions throughout the US levy real estate excise taxes. Many use the revenue for general purposes, although an increasing number of jurisdictions are dedicating their transfer tax revenue to affordable housing. A small sample of municipal transfer taxes are described below.

1. **Aspen, Colorado:** Aspen and 11 other Colorado mountain communities levy real estate transfer taxes (RETTs). Aspen’s 1.5 percent RETT, which was enacted in 1979 and increased in 1989, and applies to the full purchase price of the property. Revenue is devoted to the arts, redevelopment, and affordable housing.
2. **Seattle, Washington:** Seattle’s .5% real estate excise tax (REET) is applied to the full value of real property transferred or sold. In Washington, municipal REETS are levied in addition to the state REET. The Washington State REET is a graduated tax that starts at 1.1% of the amount paid for homes under \$525k and increases to 3% for homes sold for over \$3.025M. The sale of \$3.5 million home in Seattle would therefore be subject to a total REET of 3.5%.
3. **San Francisco, California:** San Francisco imposes a transfer tax on the full value of property sold or transferred. The tax rates are progressive and increase as the sale price or property value increases.

Value or Consideration	Tax
More than \$100 but less than or equal to \$250,000	0.50%
More than \$250,000 but less than \$1,000,000	0.68%
\$1,000,000 or more but less than \$5,000,000	0.75%
\$5,000,000 or more but less than \$10,000,000	2.25%
\$10,000,000 or more but less than \$25,000,000	5.50%
\$25,000,000 or more	6.00%
https://www.sfassessor.org/recorder-information/recording-document/transfer-tax	

4. **Oakland, California:** Oakland levies a transfer tax of 1.5% on the full value of property sold or transferred. California does not levy a state real estate transfer tax, but state law authorizes county transfer taxes, which are typically .11% of the full purchase price, although some counties charge more. City transfer taxes are in addition to those levied by counties. In Oakland, city and county transfer taxes total 1.61%.
5. **Chicago, Illinois:** Real estate sales in Illinois are subject to a .10% state real estate transfer tax. On top of that, Chicago levies the optional real estate transfer tax authorized for Illinois home rule municipalities with population above 1 million at a rate of .75% (\$3.75 per \$500) and an additional .3% (\$1.50 for each \$500) to provide funds to the Chicago Transit Authority, for a total tax of 1.15%. All 102 counties in Illinois levy real estate transfer taxes in addition to the state base rate.

How Will an Excise Tax for Affordable Housing Affect Residents of Santa Fe?

A real estate excise tax is an equitable way to generate the revenue needed to address Santa Fe’s rapidly worsening housing crisis. By imposing the tax on purchasers and exempting the first million in property value, Santa Fe ensures that only households with the financial means to purchase a million dollar home pay the tax.

According to the most recent Census data, roughly 3,000, or about 8 percent of Santa Fe households, have annual income over \$300,000, the minimum needed to afford a mortgage on a \$1 million home.⁵ Eighty-five percent of households in this income bracket already homeowners.⁶

Tax amounts will vary considerably – from a few hundred dollars to a few hundred thousand dollars - based on the value of the home. Most Santa Fe homes valued at over \$1 million cluster in the \$1 million to \$1.5 million price range. The tax on sales in this price range will average \$6,035. **Table 3** shows the number of properties currently assessed at over \$1 million and located within Santa Fe’s city limits as well as the average tax that would be paid if those houses were sold.

Home Value Range	Number of Homes	Average Tax on Sale of Homes in this Value Range
\$1M-\$1.5M	960	\$6,035
\$1.5M-\$2M	302	\$21,332
\$2M-\$5M	193	\$47,299
\$5M-\$10M	4	\$147,663
Over \$10M	3	\$377,685
Grand Total	1,462	\$15,792
Source: Santa Fe County Assessor		

Because many purchasers of high-value homes in Santa Fe live outside New Mexico, a significant portion of the tax burden will be exported to other states. Analysis of data from the Santa Fe County assessor indicates that at least one-third of Santa Fe homes valued at over \$1 million have out-of-state owners.

A real estate excise tax is a tax on the transfer of wealth. The US wealth gap has widened over the last few decades due to factors that include limited access to affordable homeownership opportunities in low wealth communities and lack of estate taxes at both the state and federal levels. Consequently, Americans who started out wealthy have become wealthier and those that started out with few assets are falling further and further behind. By taxing the transfer of wealth and devoting the revenue to affordable housing, Santa Fe will simultaneously address two major drivers of the wealth gap.

A real estate excise tax will increase the amount purchasers of high value homes pay at closing, but it will have no effect on most home sales in Santa Fe and no effect on the median home price. The implementation of transfer taxes on high value real estate in places like Los Angeles have triggered a rush to market on the eve of implementation by buyers and sellers wishing to avoid the tax. Such behavior produces a burst of real estate market activity immediately before the tax takes effect followed by a lull immediately afterwards, but such temporary distortions resolve over time and are to be expected.

⁵ US Census 2021 1-yr American Community Survey. Accessed via iPUMS. Steven Ruggles, Sarah Flood, Matthew Sobek, Danika Brockman, Grace Cooper, Stephanie Richards, and Megan Schouweiler. IPUMS USA: Version 13.0 [dataset]. Minneapolis, MN: IPUMS, 2023. <https://doi.org/10.18128/D010.V13.0>. Affordability calculation assumes 20% down payment and a 6.8% fixed rate of interest.

⁶ US Census 2021 1-yr American Community Survey. Accessed via iPUMS

Why Not Just Raise the Property Tax?

The City of Santa Fe has imposed less than half of the property tax it is authorized under state law, leading some to question why the City doesn't simply increase the property tax to fund the AHTF. While it is true that New Mexico has some of the country's lowest property taxes and Santa Fe has lower property taxes than most other cities in New Mexico, an across-the-board property tax increase would still increase housing costs across-the-board, negatively impacting the vulnerable households the AHTF seeks to assist. In contrast, an excise tax narrowly targeting high-end real estate transactions would be paid by people and organizations with far more resources than the typical Santa Fe resident.

State statute and the New Mexico constitution authorize municipalities to impose property taxes for operational purposes of up to 7.65 mils (dollars per thousand taxable value) without voter approval.⁷ Many municipalities in New Mexico, including Rio Rancho, Las Vegas, and Espanola, have already imposed the maximum and thus cannot increase property taxes without a referendum. Albuquerque has imposed 6.5 of the 7.65 mils authorized, leaving 1.1 mils in remaining authority. Las Cruces has 2.53 mils of property tax authority remaining. Santa Fe, in contrast, has well over half (4.467 mils) of property tax rate authority, representing over \$36 million in potential annual tax revenue, remaining.⁸

Although New Mexico's property tax code contains some preferences for low income, senior and veteran households, almost all New Mexico property owners pay property tax. Therefore, an increase in Santa Fe's property tax would be paid by all homeowners and many renters (whose landlords pass the tax through to them in the form of higher rents). Unlike a transfer tax, which is paid once at closing, an increase in Santa Fe's property tax would constitute a small, but permanent, increase in housing costs that would further burden already struggling households.

Why Is Accessing Accurate Real Estate Transaction Data So Difficult In New Mexico?

Good information is the foundation of good decision-making. This report seeks to inform the debate around the taxation of high-end real estate transactions in Santa Fe by analyzing the local real estate market. The analysis relies upon data from two primary sources: the Santa Fe Multiple Listing Service (MLS) and the Santa Fe County Assessor's Office. In conducting this analysis, we were fortunate to work closely with licensed realtors and a county assessor who was willing to work within strict legal constraints to provide the necessary data, albeit in de-identified, aggregate form. Without these connections it would have been far harder, if not impossible, to obtain the data necessary to understand the Santa Fe real estate market and the potential impact of a real estate excise tax.

Why, in the age of Zillow and other massive, on-line real estate data repositories, is it so difficult to access basic real estate transaction data in New Mexico? The answer resides in New Mexico state statute, which prohibits the public disclosure of real estate transaction data by government agencies.

⁷ Article 8, Section 2 of New Mexico's constitution limits property tax rate totals that have not been approved by voters to 20 mils. New Mexico statutes distribute the rate totals as follows: 11.85 mils to counties, 7.65 mils to municipalities and .5 to school districts. See: New Mexico Department of Finance and Administration, Local Government Division. Property Tax Facts, Tax Year 2021. Retrieved from: <https://www.nmdfa.state.nm.us/local-government/budget-finance-bureau/property-taxes/property-tax-facts/>

⁸ Based on 2021 net taxable value (assessed value divided by 3) of roughly \$8 billion

Equal access to information is critical to strong and functional markets and nowhere is this more true than in real estate. Numerous state and federal laws require home sellers to disclose known hazards such as lead paint and asbestos so that buyers can make informed purchase decisions. Thirty-eight states also require that real estate purchase prices be publicly disclosed. This information is critical to understanding local real estate markets and to making accurate cross-market comparisons. Purchase price information is also valuable to county assessors who must determine the current and correct value of real property in order to administer state and local property taxes in ways that are both accurate and fair.

Unfortunately, New Mexico is *not* among the majority of states that mandate public disclosure of real estate transaction data. In New Mexico and the 11 other ‘non-disclosure’ states,⁹ sale prices in real estate transactions are not disclosed or recorded as public record and can only be accessed through the proprietary Multiple Listing Service (MLS). In some non-disclosure states, brokers may even withhold sales data from state or local governments. This is not the case in New Mexico, where state law mandates that sales prices be shared with local assessors¹⁰ but prohibits assessors and employees of the state Taxation and Revenue Department from sharing transaction-level sales data publicly.¹¹

Limiting disclosure of real estate transaction data deprives the public of access to real estate information and complicates analysis of the real estate market by anyone who isn’t a realtor. Non-disclosure also limits the data available to the automated valuation models used by all the major internet real estate sites. Lack of sales price data makes it difficult for model algorithms to accurately estimate home values. Hence, property data on popular sites like Zillow is less accurate for New Mexico than it is for more transparent states and New Mexicans are forced to rely upon realtors for accurate information.

Non-disclosure also undermines efforts to research and better understand New Mexico’s housing market. Ordinary New Mexicans, cannot, for instance, query a publicly available database like those maintained by Zillow or Redfin to determine what percentage of residential properties are purchased for cash or by investors, making it difficult to ascertain the degree to which these sorts of sales are impacting our state’s housing market or contributing to the affordability crisis.

Proponents of non-disclosure maintain that it protects the “proprietary information” that the MLS collects. Preserving realtors’ informational advantage over the general public also protects the MLS and real estate professionals from competition. Further, by undermining the ability of automated valuation models to calculate home values accurately, non-disclosure limits the utility of these free and widely available tools and thus the threat they pose to the traditional real estate industry.

Conclusion

A 3 percent excise tax on the transfer of real property valued at over \$1 million will generate roughly \$6 million per year for Santa Fe’s Affordable Housing Trust Fund without further burdening the many families already struggling to make ends meet in an increasingly unaffordable city. Additional funding for

⁹ Alaska, Idaho, Kansas, Louisiana, Mississippi, Missouri (varies by county), Montana, North Dakota, Texas, Utah and Wyoming

¹⁰ 7-38-12.1 NMSA 1978

¹¹ 7-38-4 NMSA 1978

the AHTF is needed to address Santa Fe’s severe shortage of affordable housing and ensure that Santa Fe remains a diverse, livable, and welcoming community for all.

About the Author

Dr. Kelly O’Donnell is an economist with over 25 years’ experience in New Mexico public policy. Currently, she is Chief Research and Policy Officer at Homewise and CEO of O’Donnell Economics and Strategy, a consultancy specializing in economic and fiscal impact analysis for governments and non-profits in New Mexico and nationwide. Prior to Homewise, Kelly was a research professor at the University of New Mexico. Kelly has also served as a senior economist and in senior leadership roles throughout New Mexico state government, including Director of Tax Policy, Deputy Cabinet Secretary for Economic Development and Superintendent of the New Mexico Regulation and Licensing Department. She holds a PhD in economics/public finance from the University of New Mexico.