

San José Anti-Displacement Policy Network Team

ENDING DISPLACEMENT IN SAN JOSE

Community Strategy Report

January
2020



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This is a San José Anti-Displacement Policy Network Team report, not a City of San José staff report.

EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

San José has changed dramatically over the last 60 years, growing from its agricultural roots into a diverse and bustling City. Throughout its history, San José has been and continues to be a place of great opportunity, but it has also been shaped by a legacy of regional racial segregation, housing discrimination, and uneven investment in neighborhoods. This legacy combined with a long-term regional housing shortage and a booming economy has resulted in gentrification and harm for many low-income residents, many of whom are people of color, particularly black, latinx, and Vietnamese residents. Examples of this harm include out-of-reach home prices, evictions because rents far outpace incomes, severe overcrowding, displacement, and homelessness.

This report was written by a local team of government and nonprofit staff who participated in the PolicyLink Anti-Displacement Network (ADPN), a 14-month learning cohort of 10 U.S. cities working to address urban displacement. Our ADPN team co-wrote this report with the intention of centering the values, lived experiences, and solutions requested by the residents most impacted by displacement in San José. The ADPN team assessed the gaps in San José's current housing policies, studied new anti-displacement tools, and worked hard to facilitate meaningful listening sessions in the community with impacted households and in neighborhoods most impacted.

Low-income households displaced from their homes are shown to have significantly worse outcomes than households with higher incomes. Therefore, the report focuses on households earning from \$0 to \$103,900 per year for a family of four in 2019 (80% of Area Median Income, or AMI). The ADPN team recommends that strategies for households above 80% AMI be considered as part of the San José Housing Department's work on moderate-income housing strategies, expected to be completed in spring 2020. In San José, households earning lower than 80% AMI represents 41% of the total households. We also will highlight the following groups who may face greater housing insecurity:

- Residents at risk of homelessness due to eviction
- Severely housing cost burdened residents
- Households on a fixed income
- Single women with children and large families
- Households with disabled residents
- Mixed-status and undocumented households
- Residents with criminal records
- Latinx residents, black residents, and Vietnamese residents are more likely to be housing cost burdened than the general population.

What is the Problem?

In our research, we learned that San José has been shaped in part by racially restrictive policies such as redlining and restrictive housing covenants preventing people of color from buying homes or living in certain neighborhoods. We also learned that many of the neighborhoods that have suffered from disinvestment are now experiencing gentrification/displacement according to research by the UC Berkeley Urban Displacement Project.

The ADPN team also shared concerns that civic engagement processes in the City often prescribe solutions before truly listening to the community and often leave out the perspectives of low-income residents and residents of color. The ADPN team consciously

decided to center the voice and experiences of low-income residents and residents of color as the basis of this report based on the belief that those most impacted by displacement are closest to the solutions.

This report brings together a range of viewpoints and suggestions to curb displacement in San José. ADPN team members did not agree on every aspect of this report, but they did agree on the overall approach and the need for all sectors to take meaningful actions.

We connected with several hundred residents in person and used an online survey. We learned displacement is usually caused by unaffordability, but it is also caused by flooding, fires, unsafe housing conditions, domestic violence, and more. The team heard stories about people relocating, declining enrollment at schools and places of worship, overcrowding, landlord harassment, and anxiety about being able to stay in San José.

We reviewed data and academic research on displacement and learned that most low-income people who are leaving the Bay Area are black and latinx residents. We learned from the Urban Displacement Project that displacement is concentrated in certain neighborhoods in Downtown and East and West of Downtown in City Council Districts 3, 5, 6. We learned from a literature review that residential displacement impacts education, job and commute patterns, mental health, and can lead to living in areas with higher poverty and crime.

Solutions for Displacement

In thinking about solutions, the team looked to decrease housing cost burden for low-income residents, decrease displacement from San José, decrease evictions, and increase new affordable housing opportunities. With that, we organized solutions into three categories:

1. Protect tenants
2. Preserve income restricted, rent stabilized and naturally occurring affordable housing, and
3. Produce new affordable housing to meet the high demand for affordable housing.

This report proposes short- and long-term actions that the City of San José and other community members can take. Solutions were proposed based on the team's learning from the ADPN network, the importance stressed in community meetings, the urgency expressed by residents, the estimated impact, and the availability of current resources to carry out the action. This report is intended to guide the City as it conducts additional outreach and prepares its own anti-displacement recommendations.

What Will it Take to Implement Bold Solutions?

To achieve bold solutions, we will need leadership from elected officials to call for and to implement policy changes. We will also need funding for community leadership development, organizational capacity building, on-going community engagement, housing services, and capital projects. Finally, we will need to set achievable goals and use metrics to track our progress in slowing the outward flow of low-income residents in San José.

INTRODUCTION



INTRODUCTION

In 2016, a headline characterized San José as “The Place Where the Poor Once Thrived.” The author shares San José historically had been a place of upward mobility for those with the least resources due in part to low-cost housing, proximity and access to the technology industry, philanthropic support of institutions, and tight-knit communities. San José was where “kids could experience a Horatio Alger, rags-to-riches life.” According to economist Raj Chetty’s 2014 landmark study, “Where is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States,”¹ a child born in the early 1980s from a low-income family in the greater San José area had over a 1 in 5 chance of becoming a high earner as an adult, the best chance of anywhere in the nation.

San José has changed from a primarily agricultural community to an urban and suburban big city anchoring Silicon Valley. During this time San José sprawled rapidly with low-density development when land was cheap and plentiful. For a time, housing was somewhat affordable. In recent years, single family development slowed and gave way to denser multifamily infill development, which is costlier and more challenging to approve politically. State housing policies such as Proposition 13 in 1978 coupled with local slow growth sentiments around the Bay Area welcomed employers while limiting housing construction. This decades long mismatch has led to a dramatic Statewide housing shortage. Research by the UC Berkeley Urban Displacement Project and community input tell us that this situation, layered with perpetual segregation and racial inequities, means low-income communities of color are experiencing the brunt of the negative impacts associated with gentrification and displacement.

The San José metro area housing market is considered to be one of the most expensive in the world. Renters must earn \$52/hour (\$108,920/year) to afford the monthly rent for a two-bedroom apartment and buyers must earn \$108/hour (\$224,395/year) to afford a median-priced single-family home.² Minimum wage in San José is \$15 per hour. Regional housing production lags job growth in the region, resulting in skyrocketing housing prices and rents, high levels of housing cost burden, overcrowding, long commutes, and homelessness. In fact, the homelessness population in San José grew from 4,350 in 2017 to 6,172 in 2019, an increase of forty-two percent in two years.³

San José’s housing crisis is the result of many factors and public, private, philanthropic, and nonprofit sectors all have a role to play. However, this report will focus primarily on moves the City of San José can make to protect more residents who rent, to preserve more existing housing, and to produce more affordable housing. The Envision San José 2040 General Plan is a policy document and blueprint for growth and development over the long-term. The General Plan plans for substantial growth of both jobs and housing with projected growth for 120,000 new homes and the aspiration to add 382,000 new jobs by 2040. The General Plan specifies growth areas where new development should be targeted, such as employment areas and urban villages. While San José continues to plan for growth, San José must evolve into an increasing urban form and leverage new transit investments where housing, jobs, services and amenities can be built together. This would accomplish key City goals—such as creating vibrant walkable neighborhoods and fighting climate change by meeting greenhouse gas emission reduction targets set forth in Climate Smart San José.

The General Plan plans states that, “growth has social, environmental, economic, and fiscal dimensions. There are costs associated with growth, as well as with the absence of growth.”⁴ San José will need to find more ways to achieve this balance if it is to continue to grow and achieve a legacy as a place for upward mobility and opportunity.



Eagle-eye view of downtown San José

Overview

- **Part One: “What is the problem?”** This section includes in-depth community-based research and data analysis of past, present, and future conditions influencing residential displacement in San José. This section summarizes our outreach process, what we heard from this process, where displacement is occurring or is at-risk of occurring in San José, who lives in these areas, and references to academic research on the negative impacts of displacement.
- **Part Two: “Framing Solutions for Displacement”** This section describes changes that resident stakeholders and the ADPN team would like to see to decrease and prevent displacement. It includes an analysis of the underlying factors which contribute to displacement.
- **Part Three: “What solutions do we recommend?”** This section lays out potential short-term and long-term opportunities to prevent, mitigate, and reverse residential displacement in San José.

VALUES

Over the last year, San José’s Anti-Displacement Policy Network (ADPN) team has listened to the community about the impact of displacement on residents.

The feedback we have gathered has shaped the following values:



1. We all belong in San José, and all contribute to this community.

Above all, we heard that San José is a great place to live because of its people. We often heard that residents live in San José because it’s where they work, where they were born and raised, where their friends and family live, where their kids go to school. San José is their home.

We also noticed, however, that it has gotten harder for people of color, older adults, people with disabilities, and single mothers to live in San José. Historical inequities have led to investments in more affluent and more predominately white neighborhoods. This must change – San José must act across all sectors to address historical inequities and ongoing displacement to produce housing that will make all residents feel that they truly belong here and are welcome to come back to San José if they have been displaced.

“I came because I am a worker and I believe every human being has a right to housing and as workers we have the right to let the city know what we need, want, and deserve.”

— Seven Trees Community Forum Participant, August 15, 2019

2. We need the opportunity to stay in our homes and City.

We heard repeatedly through our focus groups, community forums, and our online survey that many people in San José work hard to make ends meet. Some residents shared that they have faced or were facing displacement even the same day we spoke with them. Meanwhile, housing costs continue to skyrocket. Neighborhoods that once offered affordable, stable homes are now too costly for many San José residents. Some naturally affordable homes have been demolished and replaced with new market rate apartments that are unaffordable to many in San José. It is simply unfair to allow these dynamics to push people out of the city. San José must do a better job of urgently preserving the affordable housing, the communities, and the culture that exists today. Long-term solutions in the distant future are not enough.

3. All voices in our community should be heard and matter.

The City of San José must work to ensure that all members of our community are heard, including low-income renters. Going forward, the City must do a better job of listening to all members of our community. The community members should hold the City accountable for regularly making decisions that respond to the perspectives of marginalized communities into account.



CAMDEN

4. Nobody should have to live in fear of losing their home.

An astonishing sixty-six percent of respondents to our survey said that the worry of displacement affected their everyday life. Seventy-one percent of survey respondents, and the vast majority of community members we talked to, personally knew someone who had already been displaced from San José. This means that San José has fallen behind in protecting its people from the pressures and consequences of the Bay Area-wide housing crisis. We as a whole community must do a better job of protecting those at risk of displacement and educating everyone about their housing rights.

5. We need everyone to help stop displacement.

We all have a part to play to stop displacement in San José. When the economic opportunity comes to San José and the region through the growth of tech companies, we all must ensure that opportunity is also available to the current residents of San José. This means that as San José continues to grow and attract major investments, community members must team with companies, local nonprofits, universities, transit developers and the City to ensure that we have strong investment without displacement.



SEVEN TREES



ALMA

MAP OF

SAN JOSE

SANTA CLARA & VICINITY

SCALE IN FEET

PART 1:

WHAT IS THE PROBLEM?



PART ONE: WHAT IS THE PROBLEM?

Displacement

Displacement is when a household must move out of their home for reasons outside of their control.

For example, displacement can be physical (as building conditions deteriorate) or economic (as costs, including housing costs, rise). Residents may be legally expelled or excluded from housing, such as through formal evictions or landlord discrimination. Residents may also become displaced because of natural disasters, domestic violence, or other reasons.

In San José, multiple types of displacement and exclusion can also overlap. For example, a household may be displaced due to an eviction. The high cost of housing may exclude them from staying in their current neighborhood.

“Pretty much everyone I talked to said they have to move. They are actively looking in Hollister, Los Banos. One neighbor moved to Arizona. I noticed lots of houses had been sold and now are rented.”

— President of TOCKNA, a 31-year resident of Welch Park

Gentrification

Gentrification, the process through which low-income populations are replaced by higher-income populations in a historically disinvested neighborhood, has been a contentious topic among researchers, policy makers, and impacted communities nationally and globally.⁵ As the physical and demographic make-up of neighborhoods change, the causes and impacts of this change are often contested as are the overall benefits of this process. Moreover, the relationship between gentrification and displacement is often blurred.⁶ While intimately related, gentrification on its own does not necessarily result in displacement. But, as has been seen in many cities in the United States and worldwide, increased investment and the influx of high-income residents has often meant the loss of community institutions, changing neighborhood characteristics, and large demographic shifts due to displacement pressures.

“Flowers are growing in the ‘hood as soon as people are leaving.”

— Teen girl at Cafecito in Mayfair Neighborhood

For many people, the immediate results of the gentrification can appear to be mostly positive. The evidence shows that increased investment of public resources, private capital, and the increasing purchasing power of new residents leads to positive economic and social outcomes: improved school performance, lower rates of crime, increased employment rates, reduced vacancy rates.⁷ Some researchers have even found that long-term residents, primarily homeowners, benefit from increased home values and safer neighborhoods.⁸ However, for lower-income residents, especially tenants or people with high barriers to employment and services, gentrification can mean being forced to move to even lower-income areas and locations with fewer opportunities for economic mobility.

It is also clear from the research that actions by the public sector, private investors, and large employers can help speed up a neighborhood’s economic and demographic transformation. For the public sector, this has been in the form of “urban renewal” projects like slum clearance and highway construction, as well as such benign actions such as increased public amenities, improved transit services, or changes to the local zoning code. For private investors, the process of gentrification often comes naturally as they build new offices, retail, and residential developments that must earn higher leases to be feasible. For employers, the dynamic may be fraught as housing development may not be within their core competencies, but the induced housing demand created by their workforce needs can create dramatic changes in the composition of neighborhoods near their developments.

A Legacy of Segregation and Displacement Continues Today

Policies and practices in San José, like other cities in the United States, historically segregated residents based on race. Initiated in the 1930s and continuing until 1976 due to lack of fair housing law enforcement, the housing industry maintained a practice known as “redlining.” The Home Owners’ Loan Corporation, a federal agency, assigned ratings to neighborhoods to inform loan officers, appraisers, and real estate professionals on lending risk. Neighborhoods where people of color lived were “redlined” and given the lowest investment grade of “hazardous.” This discriminatory practice advised against private and public investment in these areas and prevented residents of color from accessing federal loan programs to buy homes. Redlining, a practice based on racial discrimination, contributed to the blight, disinvestment, and lack of economic opportunity in these neighborhoods.

Racially restrictive covenants were also a common practice. Racially restrictive covenants were contractual agreements that prohibited the purchase, lease, or occupation of a piece of property by non-white individuals. Examples of San José neighborhoods that employed these covenants in the past include Willow Glen, Rose Garden, and Naglee Park.

Homeowners refused to sell to black people due to prejudice, fear of interracial relationships that would impact the purity of the white race, declining property values, and fear of crime. Black residents were confined to live in the Northside neighborhood of San José. Hispanic, asian, portuguese, and italian residents were also segregated to redlined areas.⁹ There was an unspoken rule that the south western parts of San José were off-limits to blacks.

Integration was resisted in San José. In the 1950s and 1960s San José State had few black students. Many of them struggled to find housing while they attended school as white landlords often refused to rent off-campus apartments to black students. Some of the students lived in equipment sheds until they could find housing.¹⁰



San José State Spartan article about United Black Students for Action protesting discrimination against black students including housing.

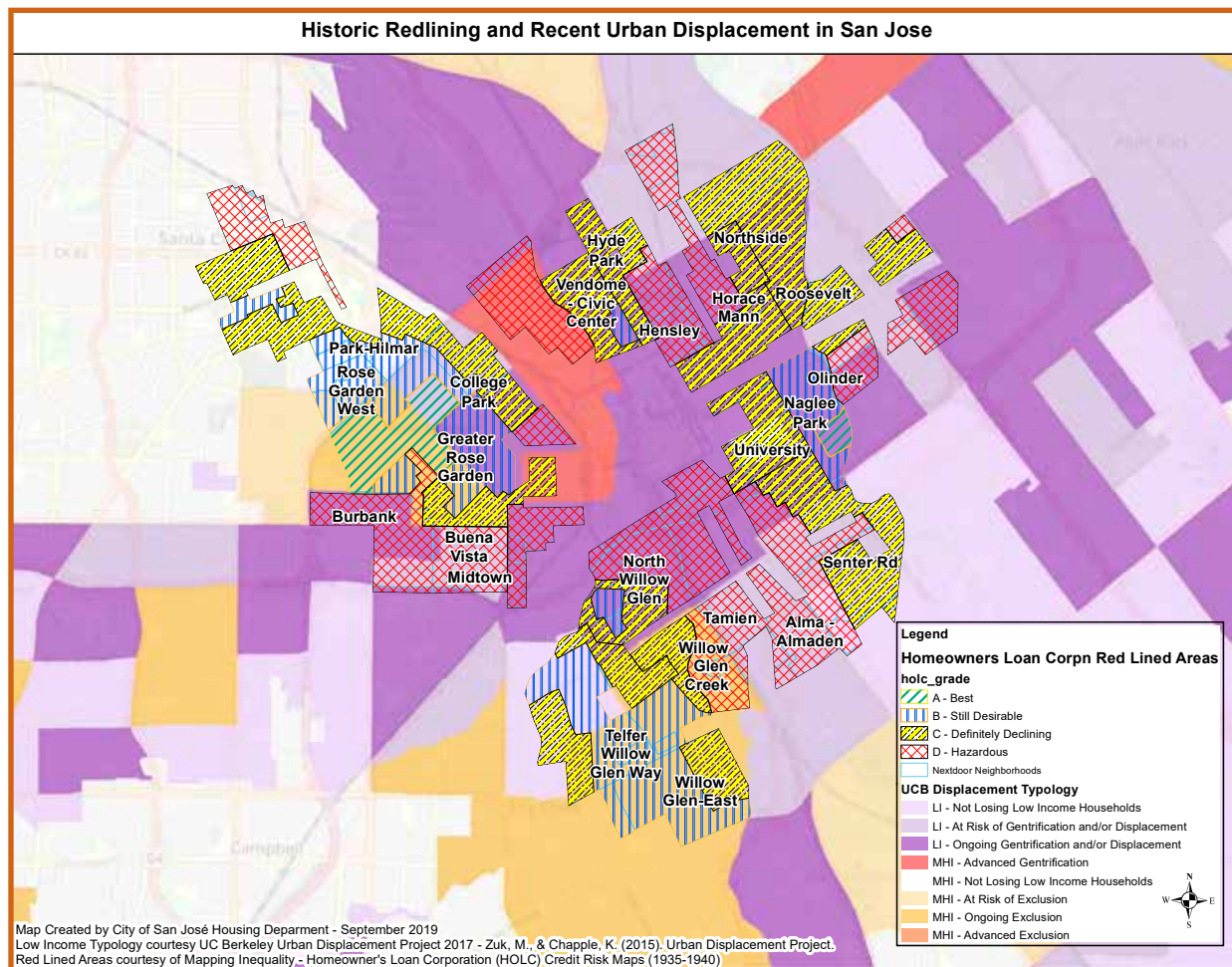
At the time, the school was nicknamed “Speed City” for consistently producing excellent runners - record breakers, Olympians, and eventually Hall of Famers. Tommie Smith and John Carlos are two Speed City alumni and are San José icons well known for taking the black power salute at the 1968 Olympic games in Mexico City, drawing attention to the conditions of racism in the United States. Among their causes was access to good housing.¹²

This history of segregation and uneven investment made some formerly redlined neighborhoods attractive for redevelopment by the San José Redevelopment Authority

(SJRA) in the 1980s and '90s. Unfortunately, some redevelopment projects displaced many of the people of color that had been forced to settle in these redlined areas. At the same time, the SJRA also created the Strong Neighborhoods Initiative intended to help improve conditions in these neighborhoods. This included the Guadalupe-Auzerais neighborhood, which was displaced to create the Children's Discovery Museum. In 1986, Gen Fujioka who served as legal aide to the Guadalupe-Auzerais residents, highlighted the same concerns of displacement we hear about today.

"This process of "gentrification" will, in turn, force out many existing residents and businesses. A retired cannery worker on a fixed income cannot compete on the rental market with an unmarried accounts manager with money to spare. Similarly, many neighborhood businesses will not be able to compete for commercial rentals with boutiques, espresso and fashion shops, and expensive restaurants. The irony here is that communities that have maintained the vitality of the downtown area through many lean years of marginal public and private services will now be pushed out of their historic neighborhoods exactly at a time when the area becomes, because of massive public investment, a "desirable" place in which to live and do business" (Fujioka, 1986).¹³

Today, neighborhoods that were formerly redlined are becoming prime locations for speculative investment due to their relative affordability compared to the rest of San José and the region. These neighborhoods have seen both a large increase in public and private investment in recent years. The following map that shows which low-income neighborhoods are experiencing some level of displacement (purple) or high-income more exclusive neighborhoods (orange). The textured overlay shows the redlined areas from the Home Owners' Loan Corporation 1936 redlining map.



As seen in the Historic redlining map, the teal striped areas were designated or tend to overlap with high-income exclusive neighborhoods of today. Markedly, 87% of today's displacement areas in San José align with historically redlined neighborhoods that were rated as "hazardous" (red) or "definitely declining" (yellow). Many of today's housing problems, including displacement, primarily impact people of color.

It is important to recognize these policy decisions and the tradition of racial exclusion as root causes of San José's current displacement issues

87% of today's displacement areas in San José align with historically redlined neighborhoods that were rated as "hazardous" or "definitely declining"

What did Residents Say?

From November 2018 to November 2019, the ADPN team took a unique approach to community engagement, which focused on groups most impacted by displacement. This included one-on-one interviews, educational events, focus groups, community forums, and a survey. The City's Housing Department also hired a community-based nonprofit, SOMOS Mayfair, and A V Consulting as trusted community engagement consultants and facilitators to lead the series of community forums. These consultants provided deep experience in community organizing and in facilitating courageous conversations. They introduced a more inclusive approach and reached hard to reach resident populations. A more detailed summary of the community engagement process, themes from each conversation, and how the community informed the ADPN team's recommendations is included in the Appendix of this report.

Throughout all of our engagement, we heard directly how residents are pressured to move further away from their communities, schools, and families. San José residents are concerned about displacement from their current neighborhoods and displacement from San José. Responses to the team's survey revealed that fifty-four percent of respondents stated they fear they will be displaced in the future. Cities that were commonly mentioned as places to which people relocated included Modesto, Madera, Los Banos, Gilroy, and Sacramento.

The team heard countless stories of how hard it is for low-income families to afford to live in San José. The team heard concerns about displacement spanning multiple generations of families, with some families having been displaced again and again. For example, some community members shared that their families or businesses were displaced from downtown redevelopment projects in the 1980s and face displacement again. Some community members shared that they were displaced from their home countries when they moved to San José. Multiple community members shared that immigrant and particularly mixed-status and undocumented families are disproportionately impacted by these housing problems. Community members also emphasized that the issue of residential displacement is related to other challenges such as overcrowding, homelessness, and long commutes.

Community members shared both their personal experiences and their ideas for solutions throughout the process. This collaboration helped form the list of recommendations in Part 3 of this report. **A full list of ideas can be found at www.sanjoseca.gov/displacement.**

Impact of Displacement on Homeowners

While other ADPN cities are working to prevent the displacement of homeowners, our team found that in San José, homeowner displacement is uncommon at this time. Foreclosure activity in San José has hovered around 2% for the last 5 years in San José,¹⁴ which is relatively low compared to the height of the foreclosure crisis in 2009 when the foreclosure rate was 9%.¹⁵ Some homeowners were concerned about the impact of displacement of people they know personally, or were concerned that their adult children could not afford to live on their

own in San José. However, the homeowners with whom the team spoke did not believe that they were impacted by the issue of residential displacement. Some homeowners said that they could financially benefit from the City's changes because of the significant demand for housing increases the value of their properties.

What Have We Learned from Academic Research?

Although data does not exist to calculate the exact number of San José residents displaced in recent years, research from the Turner Center indicates from 2010-2016, 1.5 million residents moved out of the Bay Area.¹⁶ To put this number into context, this is roughly equal to one in five residents based on the current population in the Bay Area. This net domestic out-migration outpaced by foreign in-migration has been Silicon Valley's pattern of population growth for decades. The study also found that for every one high-income resident that moved out of the Bay Area, six low-income residents moved out. The Turner Center report also highlights that asian and white residents represent a larger share of the region's higher-income out-movers, whereas latinx and black residents make up a disproportionately large share of low-income out-movers.

There were also differences between high-income out-movers and low-income out-movers. The study found high-income out-movers tended to have access to a wide range of large cities. Low-income out-movers, however, tended to move to other areas of California such as the Central Valley, that had fewer options for employment, education, and access to health care as where they had previously lived.

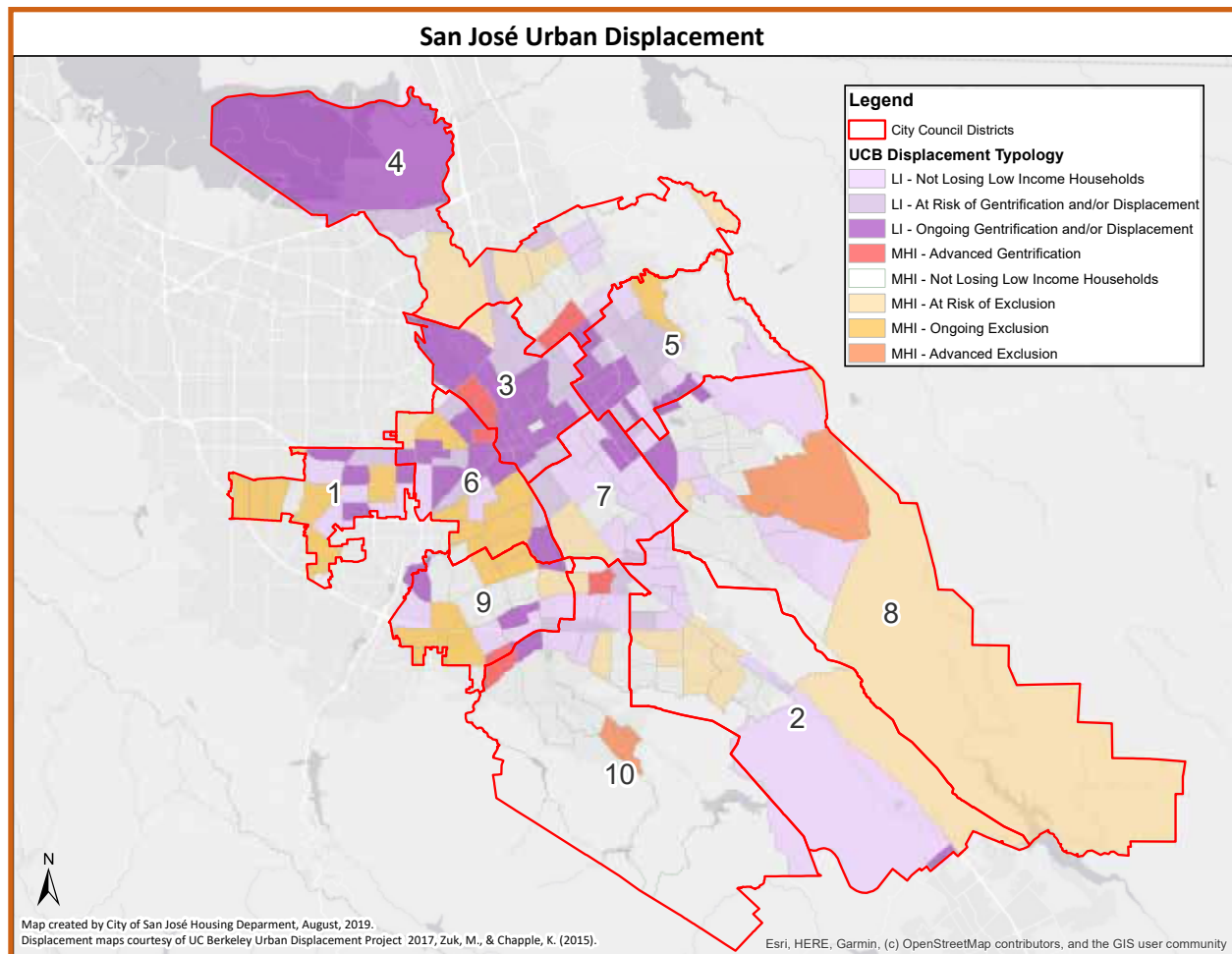
Where is displacement occurring in San José?

A core component of the team's analysis of displacement in San José was based on the research by the Urban Displacement Project (UDP).¹⁷ UDP is a research and action initiative of UC Berkeley and other universities which has been conducting research and producing reports on displacement in the Bay Area since 2009. In 2015, the Urban Displacement Project developed a regional displacement warning system in collaboration with the Metropolitan Transportation Commission.

Forty-three percent of census tracts in San José are experiencing or are at-risk of displacement.

The UC Berkeley Urban Displacement Project map below shows the extent of gentrification and displacement across the Bay Area as of 2015. UDP created a webmap showing displacement risk by census tract for the entire Bay Area. The map shows the UDP map with San José Council Districts superimposed. The map shows, at the census tract level, areas in San José at different stages of gentrification, displacement, and exclusion. The dark and light purple areas are low-income areas that are undergoing gentrification/displacement or are at risk of gentrification/displacement. The light orange areas are moderate- and high-income areas that are at risk of exclusion or have ongoing exclusion. The dark orange areas represent advanced exclusion. Exclusion means rents and home prices are so high, it is very difficult for low-income residents to afford to live there. Forty-three percent of all census tracts in San José are low-income census tracts at-risk of or undergoing displacement.

A list of the San José neighborhoods the team believes are experiencing displacement or are at-risk of displacement can be found in the following tables. While all City Council districts are experiencing some level of displacement, Council Districts 3 and 5 have the highest number of neighborhoods undergoing or at-risk of displacement.



Neighborhoods with Ongoing Displacement	
D1	Stevens Creek, Oakwood, Primrose, Blackford, Hamman park, Payne
D2	South Coyote Valley
D3	Newhall, Gateway Place, Sonora, Rosemary Gardens, Vendome, St. James Park, Downtown, Delmas Park, Washington, Market-Almaden, Spartan Keys, Paseo Plaza, Horace Mann, Hensley, Japantown, Hyde Park, Archer/North 4th, Northside, Julian/St. James, University, Naglee Park, Olinder, Mckinley-Bonita
D4	Los Esteros, Alviso, Nortech, Oakcrest Estates, Villas of Maybury, Pacheco
D5	Gateway East, Mayfair, Plata Arroyo, Silcreek, McKee/Jackson, Arbuckle, Dorsa, Capitol Goss/Dobern, Sierra, Mt. Pleasant
D6	Greater Rose Garden, Burbank, Sherman Oaks, Rose Glen, Midtown, Palm Haven, North Willow Glen, Willow Glen, Canoas Gardens, Willows in SJ, Willow Ridge, Summercreek, Santana Row
D7	Meadows, Santee
D8	Eastridge, Ocala, Meadowfair, Leyva, Moss Hollow, Edge
D9	Cambrian Community, Hammer, Vizcaya, Bascom Arms, Bonnet, Parkside Glen
D10	Hoffman Via Monte, Croydon, Guadalupe, Holland

Neighborhoods At-Risk of Displacement	
D1	Winchester/Orchard, Northlake
D2	Oakgrove
D3	Oakland Rd, Orchard Park, Luna Park, Modern Ice, Wooster/Tripp, East Ct West Ct, Locharidge/ Independence, Anne Darling—Little Portugal North, Roosevelt, Tamien
D4	Hermitage, Zanker, West Tamien, East Tamien, Lamplighter, Renaissance, Northwood, Capewood
D5	Baton/Rouge, N. White Rd, James Lick, Lyndale, Ryan, Markingdon, St. John Vianny, Joséph George, Kamal Spice
D6	College Park, Buena Vista, Wilshire Park, Evans
D7	Alma - Almaden, Oak Hill, Goodyear/Alma, Seven Trees, Monticello
D8	None
D9	Blossom River, Almaden-Blossom Hill
D10	Playa del Rey, Berry Park, Parkview, The Woods, Avana Skyway

Race, Gender, and Displacement

Based on historic inequities described earlier in this report, it is not a surprise that displacement is occurring at a higher level in historically segregated non-white communities where opportunities to grow wealth are limited. Income and wealth are key factors in a household’s financial resiliency and ability to recover from financial emergencies such as a rent increase or eviction. Due to the racial wealth gap in San José, sixty-four percent of all latinx and black households are considered low-income, as compared to forty-one percent of white non-hispanic households and forty percent of asian households.¹⁸ The difference for women-headed households is even more pronounced, with seventy percent of women-headed households earning incomes below 80% AMI.¹⁹

Percentage of Households Below 80% Area Median Income by Race						
	All Households	Asian Households	White Non-Hispanic Households	Black/African American Households	Hispanic/Latinx Households	Women Head of Household
Total Households	317,317	103,345	116,516	11,086	78,352	38,600
Number of Households below 80% AMI	150,159	41,726	47,716	7,101	50,141	27,043
Percentage of Households below 80% AMI	47%	40%	41%	64%	64%	70%

Notably, Council Districts 3 and 5 are the two Council districts with the highest number of latinx residents in the City and have a higher percentage of black residents as compared to the Citywide average. Council District 3 also has the highest percentage of renters in the City (67%) and the highest number of severely cost-burdened renters.

Negative Impacts of Displacement

“I used to be a case manager. I remember knocking on doors and seeing a good amount of students who would lay in their beds, depressed, not wanting to go to school. Because for a lot of them, they were living in garages, they were living in one bedrooms with three or four family members. They started to internalize and blame themselves for that. It isn’t their responsibility. The reality is that for young people, these were decisions that were made through economics and politics.”

— Victor Vasquez, Community Organizing Program Manager, SOMOS Mayfair

Research from the Urban Displacement Project states that displacement can contribute to increased housing burden and homelessness. The report “Disruption in Silicon Valley – The Impacts of Displacement on Residents’ Lives” surveyed 124 renters in Santa Clara County, including 80 renter households who had *not* been displaced and 44 renter households who *had* been displaced in the last two years. Displaced renter households were more likely to end up in precarious housing situations, such as living in a hotel, “doubling up,” or couch surfing with friends or family. Five percent of the displaced households experienced homelessness.

The researcher’s findings were consistent with the larger body of displacement research and the responses we heard from the community: households who have been displaced were more likely to be severely rent-burdened after they moved, meaning they were spending 50 percent or more of their income on rent each month.

The Urban Displacement Project’s presentation at the October 1, 2019, San José City Council Study Session on Displacement emphasized some additional impacts of residential displacement such as:

- **Education:** Children in displaced households have more absences, a lower likelihood of finishing school, and a greater risk of educational delays or behavior problems;²⁰
- **Job & Commute:** People who have been evicted are more likely to experience job loss. Moving further away can also impact commute time and cost;²¹
- **Mental Health:** Mothers who experienced an eviction were more likely to report depression, even two years after the eviction; and²²
- **Neighborhoods with Fewer Opportunities:** Following an eviction, people are more likely to move into communities with higher rates of poverty and crime.²³

Research indicates that gentrification can improve a neighborhood through increased neighborhood amenities such as retail and schools, access to parks and transit, and increased property values. However, low- and moderate-income renters are often unable to stay and benefit from these improvements. In response, research has indicated that displacement has contributed to the increased share of low-income households of color living in segregated areas experiencing high poverty.²⁴ Regionally, this pattern of migration is being called a re-segregation of the Bay Area.²⁵

Segregation is not good for the economy. A study for the Metropolitan Planning Council in Chicago estimates there would be significant benefits if Chicago decreased its current level of segregation. If Chicago had no segregation, the Council estimates that residents would have \$4.4B more income, a 30% lower homicide rate, and 83,000 more residents with Bachelor’s degrees.²⁶ Housing is the single largest expense for households. According to a report by Working Partnerships USA, “When Renters Rise, Our City Thrives,” if all San José renters paid

only what they could afford on housing, they would have an extra \$599 million to spend in the community each year. Everyone would be better off, and racial inequities by disposable income would shrink.

Where is Displacement Leading us?

San Francisco started its most recent gentrification journey in the 1990s with the coming of the dot-com boom. The City saw an influx of investment and higher-income earners, specifically from the technology sector, moving into housing in the most relatively affordable parts of the City. San Francisco is now one of the most expensive places to live in the world. There has been a consistent struggle to build affordable housing at the rate necessary to preserve and protect communities from displacement. Regardless, investments in market-rate apartments and homes, public spaces, and business districts grow. More people have continued to move to San Francisco, attracted by the new amenities. There are less and less long-time community members to protect and defend themselves from displacement against the growing demand to live in urban, but often low-income working class neighborhoods such as the Mission District. Displacement has had great impact on communities of color. For example, from 1970 to 2010, San Francisco lost 50% of its black population and is continuing to lose many of the very communities that made San Francisco the desirable and economically thriving city that it is today.

In San José, we have said goodbye to neighbors as they have moved away; we have seen the destabilization of our neighborhoods and heritage erased from spaces that were ours to gather; and we have seen our local, family-owned businesses close for good. San José has a chance to stop displacement before it reaches the extreme levels of San Francisco. From financial emergencies due to unexpected evictions to employers struggling with employee retention, to multiple elementary school closures, the team heard that displacement is occurring at a level that impacts all of us. Without additional intervention, San José is on the path to exacerbating displacement and all the negative impacts that come with it.

Community members have said San José needs housing, shelter, and economic security. They've shared that San José needs policies to protect people from evictions and displacement, and accessible services. The need is especially acute for extremely low-income residents and immigrants (both documented and undocumented) living in San José. Throughout this process, the ADPN team has learned from many people who are deeply embedded in the San José community that they don't have the necessary resources and services to have all their basic needs met, let alone to thrive.

For some, this growth will mean increased economic opportunity and wealth generation. However, for many, this transformation brings about fear and anxiety, knowing that it will exacerbate their already tenuous living and working conditions here in San José. We all must act urgently to protect residents currently living here from being pushed out of the City they call home and allow them to reap the benefits of Envision San José 2040.

In response, those most impacted by displacement in San José are active in driving forward solutions. Over the last several years, homeless and under-housed community members, renters, low-wage workers, youth, community groups, and activists have organized, convened

“Our church membership has declined. Seventy families have left in the last three years. I know of a family that left for Lathrop. They moved to Lathrop but still come to church and work at the Hilton in downtown San José.”

— Deacon at Iglesia Ni Cristo on Story Road

“Many counties, including Monterey County, San Benito County, are becoming bedroom communities for San José. Because we are not providing housing for our construction workers, not just our teachers, and firefighters. I know many policemen that commute from Gilroy. I know a lot of construction workers who commute everyday to Hollister. It’s not good for our transportation networks, it’s not good for our environment, and it’s not good for our people.”

— Housing Developer

community dialogues and meetings, developed policy platforms, and advocated for a variety of solutions. These realities and organizing efforts have supported significant local movements forward in both production and protection efforts in the past several years.

Voters approved Santa Clara County Measure A, a \$950 million bond for affordable housing, in 2016. In 2016-20, in response to significant community demand, the City passed a suite of tenant protections. The rent stabilization program decreased allowable rent increases, tightened the definition of ‘rent,’ and required greater transparency through the creation of a rent registry. The City also passed a “Just Cause” ordinance which requires landlords to provide one of a defined set of of justified reasons before displacing a tenant.

Almost 39,000 homes are now covered by the City’s more protective rent stabilization program. In addition, the City adopted a local Ellis Act Ordinance that builds on State law provisions. And, in mid-2019, the City approved a new ordinance outlawing discrimination against housing voucher-holders. While San José continues to advance this work, we all know that we must do more.

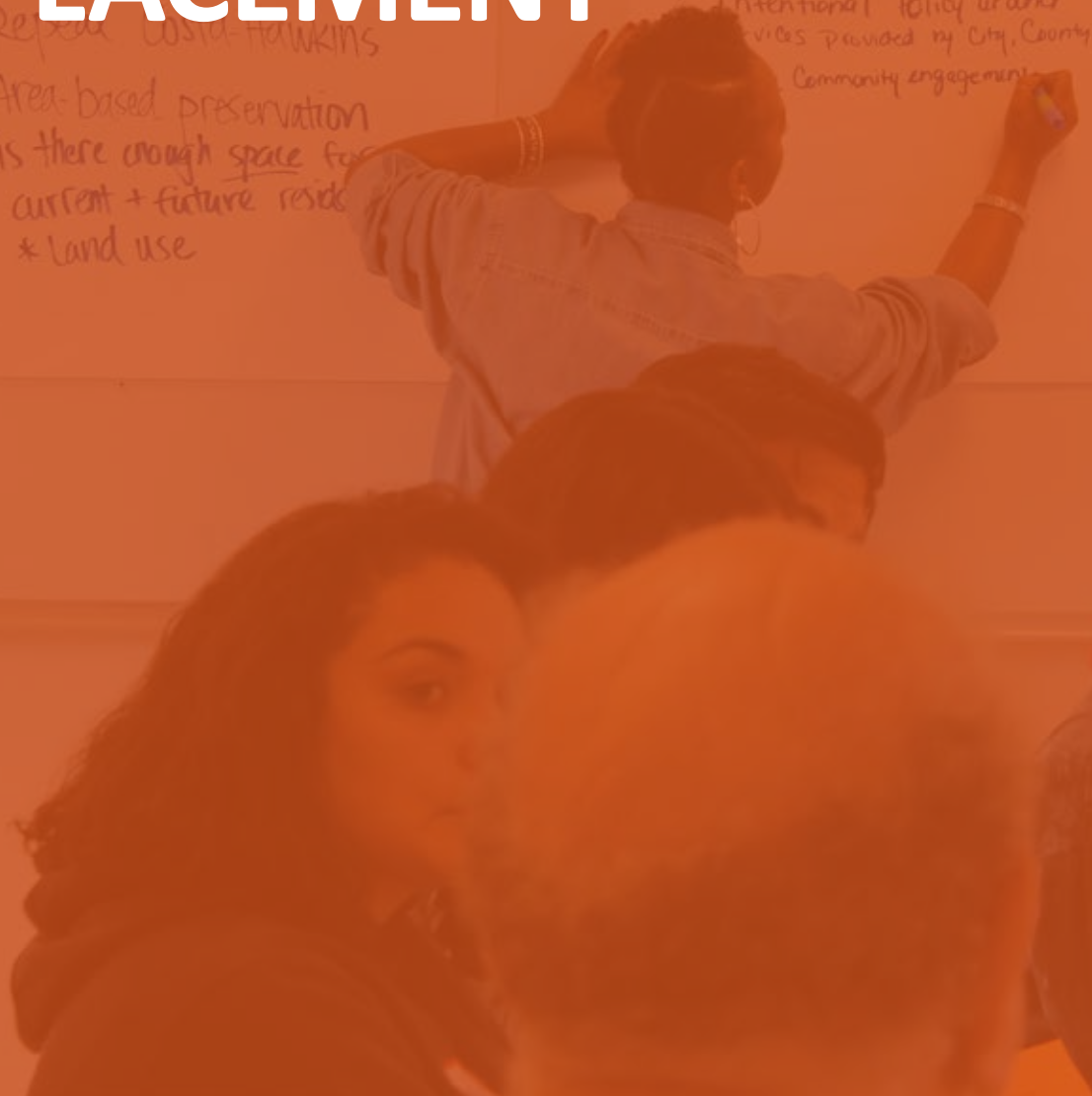
PART 2:

FRAMING SOLUTIONS FOR DISPLACEMENT

G LOT
Park Land
(public amenities on-site
rather than fees)

PRESERVATION 1
• Preserve/extend affordability
• Repeat Costa-Hawkins
• Area-based preservation
(is there enough space for
current + future residents
* Land use)

PROTECTION 2
• Legal protections
• Police Involvement w/ Community
& Security
• Intentional Policy and
Services provided by City, County, State
Community engagement



PART TWO: FRAMING SOLUTIONS FOR DISPLACEMENT

The Change San José Would Like to See

The team hopes to effect change through policies to decrease the housing cost burden for low-income San José residents, decrease the number residents displaced from San José, decrease the number of evictions in San José, and increase the number of low-income, long-time San José residents in affordable homes.



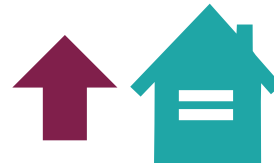
Decrease the housing cost burden for low-income San José residents



Decrease the number residents displaced from San José



Decrease the number of evictions in San José



Increase the number of low-income, long-time San José residents in affordable homes

How Should San José do this?

“San José is our city—I went to public schools here, work here, and want my daughters to grow up and live here too, even though Los Banos might be more affordable.”

— Seven Trees Community Forum Participant, August 15, 2019

According to the Preamble of the CASA Compact, the report produced by the blue ribbon task force of elected and civic leaders convened by the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC), the Bay Area faces a housing crisis because the Bay Area has failed at the following three tasks:

- (1) **Produce** enough housing for residents at all income levels
- (2) **Preserve** the affordable housing that already exists, and
- (3) **Protect** current residents from displacement where neighborhoods are changing rapidly.

These failures contribute to the issue of displacement and other intertwined housing problems the community is facing, such as overpaying for housing, overcrowding, super commuting, and homelessness. If San José is to prevent and minimize displacement, these three key areas must be addressed.



FAILURE TO PRODUCE HOUSING FOR RESIDENTS AT ALL INCOME LEVELS

- Not enough financial resources available to meet City’s affordable housing and anti-displacement goals
- Low-income residents are unable to afford new market-rate housing

According to the Silicon Valley Competitiveness and Innovation Report, employment in Silicon Valley grew by twenty-nine percent, population grew by eight percent, and yet housing units increased by only four percent between 2010 and 2016. Regionwide, housing production has not kept pace with growth. In San José, demand for lower-cost housing far exceeds the current supply. San José is exceeding its market-rate production goals, but it is far behind in producing housing affordable to low-income households.

Forty-one percent of San José households are considered extremely-low, very-low, or low-income, yet less than six percent of the housing stock is deed-restricted affordable.

In the last twenty-five years, the gap between Silicon Valley’s low-income jobs and high-income jobs has greatly increased, resulting in an “hourglass economy.”²⁷ Forty-one percent of San José households are considered extremely-low, very-low, or low-income, yet less than six percent of the housing stock is deed-restricted affordable.²⁸ Vacancy rates for older affordable apartments hover at or below four percent²⁹ and waitlists for housing vouchers and deed-restricted housing are either closed and/or very long. Some lower-income residents live in rent-stabilized apartments and mobilehomes, while others are highly cost-burdened in market-rate housing or are living in substandard or overcrowded conditions.

According to the UC Berkeley study “Housing Production, Filtering and Displacement: Untangling the Relationships,”³⁰ it’s important to acknowledge that new market-rate homes currently being built in the Bay Area and in San José are typically affordable to households earning 110% of area median income, approximately \$144,540 a year for a household of four, and will likely never become deeply affordable. It states, “The filtering process can take generations, meaning that units may not filter at a rate that meets needs at the market’s peak, and the property may deteriorate too much to be habitable.”

In 2018, the Mayor and City Council adopted an ambitious 25,000-unit housing goal, of which 10,000 homes should be affordable. As of September 2019, the City has met over twenty-five percent of the City’s 25,000-unit goal. Over a quarter of the affordable housing the goal has been entitled, under construction, or completed.

However, using all its current funding sources, the City estimates it can subsidize only 5,615 new affordable homes in the next five years. Additional resources and incentives are needed to meet the City’s 10,000 affordable homes goal. At \$125,000 per unit, the City would need an additional \$548.1 million to subsidize construction of an additional 4,385 affordable homes,³¹ thereby reaching the City Council’s goal of building 10,000 affordable homes by 2023. We must encourage the production of new affordable housing as a way to combat displacement.



FAILURE TO PRESERVE AFFORDABLE HOUSING THAT ALREADY EXISTS

- Deed restricted housing is only affordable for a limited amount of time
- The City is losing existing deed-restricted and naturally affordable housing stock

While the City works hard to incentivize and to increase the supply of affordable homes, it is also vitally important to preserve the hard-fought existing restricted affordable homes that the City has helped to create over the past three decades. Existing affordable, rent stabilized,

and naturally affordable housing may be lost due to demolition, expired deed restrictions, ban payoffs, vacancy decontrol, redevelopment, withdrawals from the rental market, and/or condo conversion.

San José's General Plan preserves single family neighborhoods and directs growth into Urban Village areas near transit. The Southwest Expressway Urban Village is planned where low-density rent stabilized apartment buildings already exist. New private investment and development in Urban Villages could also contribute to gentrification and rising rents in the surrounding neighborhoods, which may lead to displacement. In addition, BART and High Speed rail projects are underway that will connect San José to the East Bay and to California's Central Valley, respectively. Development and speculation has already begun near planned BART station areas. If nothing is done, San José may see much of its older naturally affordable or rent-stabilized housing demolished and replaced mostly with market-rate housing, which will mostly serve high-income households.



Villa Torino has 85 units with affordability restrictions which may expire in the next five years.

Between 1997 and 2018, California lost 15,044 deed-restricted affordable homes with HUD project-based rental assistance contracts and/or loans or Low-Income Housing Tax Credits (LIHTC) due to owner decisions to opt out, sell, or allow their properties to convert to market rate.³² In the last five years in San José, the affordability restrictions expired on at least 90 deed-restricted affordable units and 227 rent stabilized and naturally affordable multifamily units were demolished.³³

Without further action to preserve existing affordable housing, this could be the tip of an iceberg. According to a recent California Housing Partnership report, Santa Clara County has the largest preservation problem of the nine Bay Area Counties, being at risk of losing an additional 2,059 restricted affordable units in the next ten years. CHPC estimates of those units, over 1,000 restricted homes are in San José.

There are a couple of rent strategies in place to limit the loss of deed-restricted affordable housing. The City's ground lease policy, put in place in 2010, requires that a developer sell the land under an affordable housing development to the City in exchange for a loan to the development. The City then leases the ground for \$1 per year to the affordable property, requiring ongoing affordability. Additionally, Santa Clara County has extended this policy to require ground leases held by the City or County for all affordable housing funded by Measure A funds. These policies ensure long-term affordability for new development in the City but, not permanent deep affordability. Additionally, the nature of the tax credit program incentivizes developers to often refinance or resyndicate affordable developments fifteen to twenty years into the development's lifespan. At this time, the City requires the

affordability restrictions to be extended by an additional 55 years. This structure extends the term of affordability for most tax credit developments. In addition, in return for other actions on existing City-funded projects, the City negotiates extensions of existing affordability restrictions. The highest risk deed-restricted affordable housing are those developments funded with only with federal funds, bond issuances, and those created under the City’s inclusionary policies. The chart below shows the number of deed restricted units funded by each program:

Restricted Affordable Housing in San José						
Housing	HUD Funded	Bond Only	Inclusionary	Tax Credit	City-Funded	Total
# of Units	3,965	1,518	1,379	23	14,253	20,714

Another cohort of existing affordable housing the City should focus on is Naturally Occurring Affordable Housing (NOAH). Typically, these are units that are relatively affordable as compared to new market-rate housing, because of the older age or condition of the housing and accordingly lower rents that may be affordable to low-income families.

Losing rent-stabilized apartments is comparable to losing 60% AMI deed-restricted affordable apartments.

The Ellis Act memo discussed at the November 5, 2019, San José City Council meeting, Housing Department staff analyzed the average rents of Class A, B, and C market-rate apartment rents, as well as rent stabilized and restricted affordable apartment rents to compare the potential income levels of tenants in each apartment type. Assumed income levels were calculated for each market-rate example by applying minimum income standards that market-rate property managers use to qualify households to rent their apartments. The following table on page 28 demonstrates that rent-stabilized apartments on average are affordable for some low-income families. Losing rent-stabilized apartments is comparable to losing 60% AMI deed-restricted affordable apartments.



Bestor Art Park in the Spartan Keys neighborhood, a neighborhood which is at-risk of displacement.

In San José, there are also 38,867 units of rent-stabilized housing and 9,966 total units³⁴ of NOAH housing without rent stabilization that may be repositioned to market rate with limited protections. All these situations combined may lead to San José losing more affordable housing at rate faster than new affordable housing can be built. Pursuing preservation

solutions can ensure the City makes net progress toward building the available affordable housing stock. Because of the limited number of units that can accommodate larger families, the City should also consider focusing attention on single family homes and duplexes.

Average Effective Rents in San José and Projected Incomes				
	1-Bedroom Rent	1-Bedroom income at 2.5 Factor	2-Bedroom Rent	2-Bedroom Income at 3.0 Factor
Market Rent Apartments				
Class A	\$2,678	\$80,340	\$3,365	\$121,140
Class B	\$2,440	\$73,200	\$2,864	\$103,104
Class C	\$1,803	\$54,090	\$2,263	\$81,468
Rent Stabilized Apartments				
Average Across Tiers	\$1,634	\$49,020	\$1,967	\$70,812
Affordable Apartments				
100% of the AMI	\$2,628	\$78,840	\$2,956	\$106,416
80% of the AMI	\$2,079	\$62,370	\$2,339	\$84,204
60% of the AMI	\$1,757	\$52,710	\$1,976	\$71,136
50% of the AMI	\$1,464	\$43,920	\$1,646	\$59,256

Sources: CoStar, September 30, 2019; City of San José Housing Department Rent Registry dated September 12, 2019

Preservation at Work

San José has the most mobilehome parks in the State of California with 59 parks and 10,850 homes. The hot housing market in San José has increased displacement pressure on some mobilehome parks, especially parks that currently have a General Plan designation for high-density residential development. The City of San José has taken action in recent years to preserve mobilehome parks as naturally occurring affordable housing and to prevent displacement, such as placing a temporary moratorium on mobilehome conversions in 2016 and strengthening the mobilehome conversion ordinance. The City is working and continuing to build on the Winchester Ranch Model when mobilehomes sites are seeking to redevelop. This Winchester model allows existing residents an opportunity to remain in their neighborhood and builds more housing including affordable, while allowing for better utilization of land.

The conversion of Winchester Ranch Mobilehome Park reached a landmark agreement between Winchester Mobilehome residents (represented by the Law Foundation of Silicon Valley) and Pulte homes that prevented the displacement of over 100 seniors. After several years of negotiation and a legal battle, current

Park residents now have the option to move into new on-site condominiums at the same rental rate as they had been paying, and to retain protections upheld by Mobilehome Residency Law, such as the rent increase limit of three percent a year. This model could potentially be replicated at other mobilehome parks or in Urban Village areas with large numbers of rent stabilized apartments.



Law Foundation of Silicon Valley Housing Program Directing Attorney Nadia Aziz presenting to Winchester Ranch residents.



FAILURE TO PROTECT CURRENT RESIDENTS FROM DISPLACEMENT WHERE NEIGHBORHOODS ARE CHANGING RAPIDLY

- Existing anti-displacement policies and programs do not apply to residents equally
- Some residents face higher barriers than others to access and stay in housing
- Enforcement of existing tenant protections is constrained by limited resources and lack of knowledge of rental rights

One of the outcomes of increased demand for housing in San José is the incentive for rental property owners, including both multifamily and single family, to rapidly capture returns on their investment. This can result in large rent increases, and even harassment and eviction of long-time residents to accommodate higher-paying tenants.

Although some policies or programs already exist to prevent displacement and protect residents, residents are often placed under different sets of rules or laws. Many of the City's existing anti-displacement policies and programs are often targeted and not universal, meaning in order for a resident to benefit from the policy or program, certain conditions must be met. Certain programs can only serve a limited number of clients due to underfunding and program managers must turn away residents in need. The City has the opportunity to protect more residents by adjusting existing programs and policies to apply to residents more broadly.

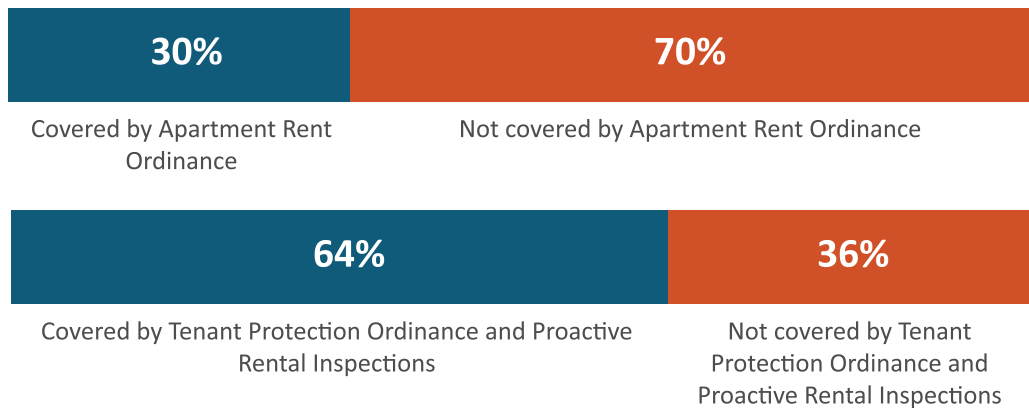
The team analyzed existing anti-displacement-related housing programs and policies to

identify gaps in service. This analysis revealed renters in single family homes, duplexes, recently-constructed apartments, and subleasees qualify for fewer anti-displacement protections such as rent stabilization, just cause eviction, proactive rental inspections, and others.

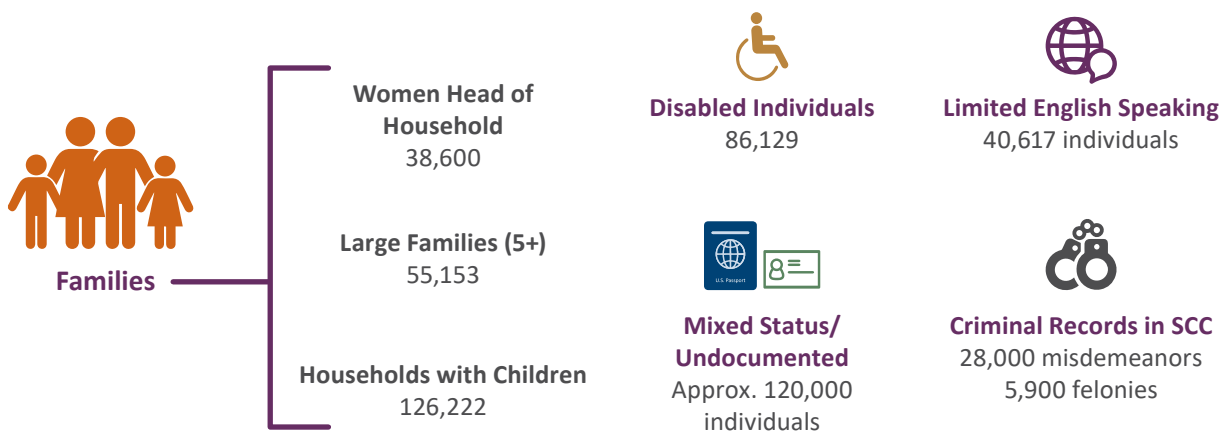
The team also heard some renters face additional barriers to housing, aside from affordability. These barriers can include scarcity of appropriate housing types and difficulty in the housing application process. Groups that often face challenges overcoming these barriers include women-headed households, households with children, large families, disabled residents, mixed-status and undocumented residents, residents with criminal records, and limited English speaking households.

The following are estimates of the number of housing units or residents that may qualify for fewer renter protections or face higher barriers to accessing and maintaining housing. It should be noted only multifamily buildings with three or more units are covered by the Apartment Rent Ordinance, Tenant Protection Ordinance, and proactive rental inspections. Single family homes and duplex rentals are not covered by the Apartment Rent Ordinance, Tenant Protection Ordinance, or proactive rental inspections. Multifamily buildings built after 1979 are covered by the Tenant Protection Ordinance and proactive rental inspections, but not the Apartment Rent Ordinance.³⁵

How many renter households fall into the gap?



Residents with High Barriers to Accessing or Maintaining Housing:



Another gap observed was the lack of knowledge of and constrained enforcement of existing laws. Some of the barriers related to enforcement the ADPN team heard were that both renters and landlords may not know laws governing housing in San José, where to learn their rights, how to enforce those rights, and if it's even worth trying.

An example of this was heard during one of the team's focus groups in spring 2019. A group of three tenants from the same building attended the focus group. The tenants were all long-time tenants of the building and were monolingual in Spanish. Their building was sold to a new owner within the last two years. The tenants were served a new lease in English and were told to respond in three days. They shared that they were experiencing harassment from their landlord, who would enter their apartments unannounced and demand that they leave. This harassment had already caused one of their neighbors to move out rather than stay and enforce their rights.

One neighbor reached out to a personal friend to interpret the new lease for them, who then referred them to attend the ADPN anti-displacement focus group to seek help and learn what rights they may have in this situation.

This story demonstrates how renters can face high barriers to enforce their legal rights, including short timeframes to respond, lack of knowledge of their legal rights, limited English proficiency, and the lack of time to access resources while managing everyday responsibilities. This can also be seen through the number of unlawful detainer (eviction) cases in Santa Clara County decided by default judgments. These are cases when the tenant did not respond to the complaint and/or did not show up to trial. In these cases, the landlord automatically wins. This may not be a matter of choice - tenants often have difficulty attending court due to work or family obligations, or may not understand the legal process.

As of September 11, 2019, about 1 in 4 unlawful detainer cases from 2017 to August 2019 were decided by default judgment.

Unlawful Detainer Filings and Default Judgements 2017 – August 2019			
	2017	2018	Jan 1 – Aug 31, 2019
Unlawful Detainer Filings	2,605	2,673	1,811
Unlawful Detainer Default Judgments	665	745	274

In total, thousands of residents can avoid displacement if the City of San José and community partners act to enhance the City's existing tools and expand resources for enforcement of its existing laws.

A workshop room with a wall covered in sticky notes and people looking at them. The room is decorated with colorful paper lanterns hanging from the ceiling. The text is overlaid on the image in a large, white, sans-serif font.

PART 3:

**WHAT SOLUTIONS
DO WE
RECOMMEND?**

PART 3: WHAT SOLUTIONS DO WE RECOMMEND?

The ADPN team recommends that the City and local organizations explore the following new initiatives as ways to address San José's displacement challenges.

The team considered which solutions should be highlighted in this report based on several factors. These included the team's learning through the Anti-Displacement Policy Network, the importance stressed during community engagement, the estimated number of residents the solution would benefit, and the availability of current resources to implement the solution including workload on City and lead organizations' staff. These factors were reconciled through verbal discussion and decided through consensus.

The team felt strongly that all ideas be recorded and shared with the public. The complete list of ideas researched or mentioned can be found at www.sanjoseca.gov/displacement.

The short- and long-term solutions recommended to help the displacement problem are a combination of long-term and high-resource major projects with less complex actions that can be accomplished more quickly. Some of these solutions could be implemented with existing staff and funding, while others may require increases to new staff, involvement of other government agencies and philanthropies, and additional funding.

The team has categorized the list of potential solutions based in part on the urgency expressed by residents to find solutions sooner than later. Therefore they are divided into solutions with near-term positive impact felt by residents (within one to two years), and those with longer-term impact (more than two years).

"We have to start with the value that everyone deserves to stay in San José and we are best if everyone gets to stay. That means whatever policies that we come up with, have to be community centered and have to focus the voices and values of the community at it's center. The second thing is that we have to move beyond just thinking about this from the lens of production. Yes, we need to produce more affordable housing, but we also need to preserve what we already have. And protect the people that already live here."

*– Nadia Aziz, Housing Program
Directing Attorney, Law
Foundation of Silicon Valley*

ADPN TEAM SOLUTIONS LIST

NEAR-TERM IMPACT (1-2 YEARS)

Protection




Action	Lead	Short description
1. Strengthen, maintain, and expand existing tenant protections	<ul style="list-style-type: none"> Working Partnerships Other tenant organizations 	Limit rent increases to CPI a year and require a cause for eviction for a single family home, duplex, and deed restricted affordable housing renters. Maintain protections in Ellis Act. Provide enforcement for expanded protections.
2. Right to legal counsel for tenants facing evictions	<ul style="list-style-type: none"> City of San José Legal services & providers Philanthropy 	Commission a study of the costs and benefits of implementing a tenant right to legal counsel; Expand existing funding for legal representation of tenants; Establish a tenant right to legal counsel in all eviction cases; Target new State homeless prevention funds (SB 18) toward tenant legal protection and programs.
3. Expand tenant education and neighborhood development programs	<ul style="list-style-type: none"> City of San José Housing Department Neighborhood-based organizations 	Provide capacity-building support for tenant organizations; Invest in neighborhood development; Host more “Know Your Rights” trainings throughout the City
4. Establish a housing resource center	<ul style="list-style-type: none"> City of San José Housing Department 	Provide a central location and hotline for residents to turn for timely assistance when they are facing a housing emergency, when they have questions about their housing rights, or receive referrals to services to help stabilize their housing.
5. Develop targeted strategies for large families, disabled residents, mixed-status and undocumented families, residents with criminal records, and limited English speaking households.	<ul style="list-style-type: none"> City of San José Housing Department Affordable housing developers and managers Service providers Philanthropy 	Reduce and remove unnecessary barriers for specific populations who have difficulty accessing housing because of the housing application process or availability of housing types.
6. Establish tenant preferences for affordable housing	<ul style="list-style-type: none"> City of San José Housing Department 	Work with California HCD to develop a neighborhood-based tenant preference that is broadly applicable to City-funded affordable housing developments and that does not conflict with federal Fair Housing laws.

Preservation

Action	Lead	Short Description
7. Adopt a preservation ordinance	<ul style="list-style-type: none"> City of San José Housing Department 	Require advance notice of affordable property sales to tenants and provide tenants the first right to purchase the property.

ADPN TEAM SOLUTIONS LIST

LONG-TERM IMPACT (2 YEARS +)

 Production		
Idea	Lead	Short Description
8. Establish a new source of funding for affordable housing and anti-displacement	<ul style="list-style-type: none"> City of San José Santa Clara County Housing advocates 	Pursue ways to collect more funding for affordable housing, such as through a revenue measure, commercial linkage fee, or other means.
9. Conduct a public land survey and partner with the State to leverage public land for affordable housing and community preservation	<ul style="list-style-type: none"> City of San José Housing Department State of California & County of Santa Clara School districts VTA BART CalTrans 	Work with the State of California, the County of Santa Clara, VTA, BART, and local school boards to site and prioritize affordable housing on publicly owned land consistent with the City's General Plan.
 Preservation		
Idea	Lead	Short Description
10. Preservation strategy	<ul style="list-style-type: none"> City of San José Housing Department 	Develop a strategy to monitor net gain or loss, assess organizational capacity, and find funding to create a building acquisition program.
11. Establish a preservation investment fund	<ul style="list-style-type: none"> City of San José Housing Department Philanthropy 	Create a fund that can be used to acquire and rehabilitate deed-restricted or naturally affordable housing to keep as affordable housing in the long-term.
12. Support development and capacity-building for innovative housing solutions including co-ops and community land trusts	<ul style="list-style-type: none"> City of San José Housing Department Santa Clara County Community-based organizations Philanthropy 	Fund a study to assess the feasibility of different strategies such as Community Land Trusts and tenant co-ops in San José.
 Protection		
Idea	Lead	Short Description
13. Develop landlord incentives and practice equitable code enforcement	<ul style="list-style-type: none"> City Housing Department Planning, Building, and Code Enforcement Department 	Assist landlords with low-cost loans and grants for property improvements to address blight or health and safety issues. Explore receivership of properties that have become health and safety dangers to residents and assist community or non-profit partners to acquire and maintain at-risk properties.

LONGER DESCRIPTIONS OF SOLUTIONS

The following pages go into detail on these recommendations. Each solution includes a description, references to where these solutions are currently being implemented, the estimated impact, and the approximate cost to implement the solution.



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

Existing anti-displacement policies and programs do not apply to residents equally

1. Strengthen, maintain, and expand existing tenant protections

While San José does have tenant protections, these protections should be expanded to protect more tenants and build on new statewide tenant protections. The Apartment Rent Ordinance should be expanded to include duplexes and affordable housing units, and its limit on annual general increases should be lowered to the cost of living so that tenants are protected from displacement by rent hikes. The Tenant Protection Ordinance should be expanded to include duplexes and other housing. The provisions of the Ellis Act Ordinance providing tenants displaced from rent-stabilized apartments with relocation assistance and a right to return under certain circumstances should be maintained to mitigate the impact of redevelopment on displacement. Finally, the City should take a proactive role in enforcing these tenant protections so that they are effective.

Reference: Policylink “Our Homes, Our Future: How Rent Control Can Build Stable, Healthy Communities,” available at <https://www.policylink.org/resources-tools/our-homes-our-future>

Potential Impact: High.

Help increase the number of tenants in San José who are protected from high rent increases and arbitrary evictions by expanding the Apartment Rent Ordinance (ARO) to apply to duplexes and affordable housing, lowering the ARO’s limit on rent increases from 5% to CPI, expanding the Tenant Protection Ordinance (TPO) to all rental units and effectively enforcing these protections. Mitigate the impact of redevelopment of ARO-covered units on displacement by maintaining the Ellis Act Ordinance’s provisions on relocation assistance and displaced tenants’ right to return to recently constructed units. This has the potential to apply new protections to as many as 106,753 rental units in San José.

Cost: Low.

The City’s current Rent Stabilization Program is funded through an annual fee charged to landlords covered by the Apartment Rent Ordinance and Tenant Protection Ordinance. Potential funding sources to expand these programs must be explored. The annual fee in 2019-2020 is \$8.76 per unit for the Tenant Protection Ordinance and \$85.04 per unit for the Apartment Rent Ordinance.³⁶

Description

Adding Duplexes and Affordable Housing to the Apartment Rent Ordinance: Costa-Hawkins is a state law that would prohibit expanding San José’s Apartment Rent Ordinance to multi-family buildings built after 1979. However, Costa-Hawkins would not prevent adding duplexes and affordable housing units built before 1979 to the Apartment Rent Ordinance. Adding duplexes would mean an additional 11,000 units, about 35,000 tenants, could be protected from displacement because their rent increases would be limited to 5% annually.

Recently approved State-level protections in the Tenant Protection Act of 2019, AB 1482. The City should act swiftly to support local enforcement of the new protections while

acknowledging some of the bills shortcomings. AB 1482 will cover some duplexes in San José, but this protection will not cover duplexes where the owner lives in one of the two units. Additionally, the Statewide protections of AB 1482 permit rent increases of 5% plus the percent increase in the cost of living (CPI-U), which together frequently top 8%. The State protections also sunset in 2030, and thus will not be a long-term solution. Therefore, extending San José's Apartment Rent Ordinance to all duplexes will provide tenants in these units greater protection from extreme rent increases and displacement even once AB 1482 takes effect on January 1, 2020. The enforcement of this law is limited.

Additionally, adding restricted affordable housing units to the Apartment Rent Ordinance would prohibit excessive rent increases for tenants with vouchers or tenants in tax credit properties.

Lowering Apartment Rent Ordinance's limit on rent increases from 5% to CPI: The annual allowable rent increase currently is at 5%, which is higher than inflation. In recent years, rents have risen dramatically, while median wages for renters have failed to even keep up, falling 2.8% between 2009 and 2015 when adjusted for inflation.³⁷ Therefore, a limit that is tied to the annual increase in the Consumer Price Index would better protect tenants by addressing the growing gap between wages and rent affordability.

Expanding the Tenant Protection Ordinance to apply to all rental units: Currently, the TPO only applies to certain units and does not apply to duplexes or non-traditional housing situations such as when someone rents a room. The City could expand the TPO to all rental units, which would require the landlord to evict a tenant only for a good reason. This would prevent all tenants from evictions without a clear reason, including those who live in single family homes, duplexes, or non-traditional housing such as those tenants renting out rooms.

Maintain protections in the Ellis Act Ordinance: The Ellis Act is a State law that provides building owners a right to withdraw the building from the rental market. San José has adopted an Ellis Act Ordinance that provides tenants in ARO-covered, rent-stabilized units with certain rights to mitigate the impact of these Ellis Act conversions on displacement. The Ellis Act Ordinance provides displaced tenants with relocation assistance in an amount that roughly reflects the cost of moving based on the size of the tenant's unit. The Ordinance also provides a right for displaced tenants to return to any new rental units constructed on the site of their former building within 10 years. Tenants have a right to return to such new units at a rent-stabilized rate reset to market-rate if the new units are rented within 5 years.

Even with these protections, over 70% of tenants displaced from ARO-covered apartments due to an Ellis Act conversion were not able to remain in San José due to a lack of affordable units. Therefore, these protections should be maintained to prevent even greater displacement as ARO-covered buildings age and Ellis Act conversions become more frequent. Additionally, maintaining these protections will help tenants displaced from ARO-covered units due to Ellis Act conversions access affordable units within San José as the City implements other measures to increase the supply of affordable housing over the coming years.

Enforce Existing Tenant Protections: The City of San José currently provides support for tenants seeking to enforce their rights under the Apartment Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance through its Rent Stabilization Program (RSP). Tenants who believe their rights under the ARO have been violated can submit a petition to the RSP for an administrative hearing. However, the City does not currently enforce decisions made through the administrative hearing process, and it is up to the tenant to seek enforcement of the decision in court if the landlord does not comply. Similarly, the RSP tracks all notices issued on TPO-covered properties as well as notices of Ellis Act conversions, but does not take action on behalf of tenants who are entitled to relocation benefits or rescindment of an improper notice. The City should instead, through its City Attorney or

Housing Department, proactively enforce the ARO, TPO, and Ellis Act Ordinance by levying administrative penalties for noncompliance or taking legal action against landlords who fail to comply with these ordinances. The City should also enforce the requirements of the California Tenant Protection Act of 2019 (AB 1482) through these measures, and seek State law changes to allow local enforcement.



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

Enforcement of existing tenant protections is constrained by limited resources and lack of knowledge of rental rights

2. Right to legal counsel for tenants facing evictions

Currently, tenants facing eviction in San José must either pay for private legal assistance, hope to receive help from a legal assistance organization, or represent themselves in court. Studies have shown that having tenant representation increases the likelihood of a tenant being able to remain in their homes by 80%. The outcomes in court speak to how legal assistance can make the difference between a family being evicted and staying in their home.

References:

Cities of San Francisco, New York, and Philadelphia, “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants”³⁸

“The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A”³⁹

Potential Impact: High.

Help reduce the number of households who are evicted by giving tenants an opportunity to have representation in legal proceedings. Over 7,000 households face eviction every year in San José.

Cost:

- **Low.** Study of costs and benefits of a tenant right to legal counsel in San José: \$10,000–\$15,000.
- **Medium.** Implementation of tenant right to legal counsel: \$7-9 million per year.

Description

According to the City’s annual report on the Apartment Rent Ordinance, over 7,000 tenants faced eviction in the past year. While the City allocates some federal funding it receives through the Department of Housing and Urban Development’s Community Development Block Grant program to local legal services agencies for legal representation, the amount allocated is only enough to serve 52 tenant households a year.

Studies in cities like Philadelphia and New York have shown net-positive impact (nearly \$12 for every \$1 invested) that tenant right to legal counsel can have on stemming evictions and homelessness—even in cases based on nonpayment of rent. This return is achieved because tenants are able to avoid disruptive displacement in 95 percent of cases when they are represented. Unrepresented tenants are disruptively displaced nearly 80 percent of the time, experiencing job loss, interruptions in their children’s education, damaged credit scores that may prevent them from re-renting, physical and mental health complications, and/or a loss of their community support networks. As a result, providing representation to tenants in eviction cases saves the city money by preventing the need for these tenants to utilize other health and social services.

Additionally, due to California’s Costa Hawkins Rental Housing Act—which gives landlords the right to reset rents at market rate whenever a unit is vacated—preserving tenancies in rent-

controlled units by providing legal representation preserves the affordability of these units.

We recommend the City:

- Commission a study of the costs and benefits of implementing a tenant right to legal counsel in San José.
- Establish and fund a tenant right to legal counsel in all eviction cases.
- Target new State homeless prevention funds (SB 18) toward tenant legal protection and programs.



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

Enforcement of existing tenant protections is constrained by limited resources and lack of knowledge of rental rights

3. Expand tenant education and neighborhood development programs

Individual tenants have less bargaining power than their landlords, who generally have more resources, better access to legal counsel, and are less at risk if problems arise. With housing costs soaring and vacancy rates exceptionally low, landlords have little incentive to negotiate, and tenants may be forced to tolerate unaffordable rates, deplorable conditions, or discriminatory behavior to remain housed. Research has shown that the primary reason landlords threaten eviction is not to remove tenants, but to gain more power within the landlord-tenant relationship and to stymie tenants' efforts to assert their rights.

When tenants organize, however, they can leverage their collective bargaining power to assert their rights to safe and healthy living conditions, prevent rent gouging, and resist displacement. For many tenants, learning that they have legal rights at all is the first step in activating them to organize and assert these rights.

Reference:

Philip Garboden and Eva Rosen, Serial Filing: How Landlords Use the Threat of Eviction, 18 City & Comm. 427, 638 (2019), available at <https://doi.org/10.1111/cico.12387>.

Matthew Desmond and Nathan Willmers, Do the Poor Pay More for Housing? Exploitation, Profit, and Risk in Rental Markets Am. J. Soc. 124, no. 4, at 1090 (January 2019), available at <https://doi.org/10.1086/701697>.

Potential Impact: Medium.

- Help reduce the number of households who are evicted by giving tenants an opportunity to have representation in legal proceedings. Over 7,000 households face eviction every year in San José.
- Empower tenants to enforce their rights regarding code enforcement and habitability issues. There are 146,705 renter households in San José.
- Prevent displacement due to illegal, improper, and wrongful evictions.

Cost: Low.

A similar type of program in Austin called BASTA was started with \$350,000 from the City's Code Enforcement public relations budget.⁴⁰

Description

Currently, the City allocates federal funding it receives through the Department of Housing and Urban Development's Community Development Block Grant program to local legal services agencies for tenant education and outreach. This funding provides for about 34 presentations each year. Additionally, the City's Rent Stabilization Program maintains informational resources on tenants' rights under San José's Tenant Protection Ordinance, Apartment Rent Ordinance, and Ellis Act Ordinance.

The City should increase its support for know-your-rights trainings and resources, with a focus on supporting tenant organizations and tenant organizing. We recommend that the City offer, or partner with local community-based organizations to offer, technical support for tenant organizations including know-your-rights training, assistance with incorporating as a nonprofit entity, and representation of tenants who face retaliatory evictions due to their organizing activity.

During the Anti-Displacement Policy Network, the ADPN team learned about Building and Strengthening Tenant Action (BASTA), which is a program of Texas Rio Grande Legal Aid dedicated to helping renters work with their neighbors to improve housing conditions in their homes and communities. BASTA provides services such as:

- Tenant outreach
- Forming & developing tenants associations
- Strategies to improve housing conditions
- Education on tenant rights
- Training for tenant leaders.

BASTA is recognized in Austin as an effective program for improving housing quality and keeping residents in their homes, which led to the City increasing its investment into the program to nearly \$500,000 in 2019.



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

Enforcement of existing tenant protections is constrained by limited resources and lack of knowledge of rental rights

4. Establish a Housing Resource Center

We heard several times from residents that they did not know where to turn for help when they received a new lease, an eviction notice, or where they can learn their legal rights. During the Alma Community Forum, community members strongly recommended that the City create a centralized location and hotline to quickly assist residents with information when they need it.

Reference: Save Your Home Philly Hotline⁴¹, Rapid Response Network⁴², City of San José ForeclosureHELP Assistance Center

Potential Impact: Low.

- Increase the number of residents with access to timely housing information. The ForeclosureHELP center assisted over 1000 residents during the height of the foreclosure crisis.
- Assist over 7,000 tenant households that face eviction every year in San José.

Cost: Low.

Based on the ForeclosureHELP staffing model, approximately \$200,000 over two years for a central coordinator, marketing, and office space.⁴³

Description

The City of Philadelphia has operated the Save Your Home Philly! Hotline since 2008. Although the program was started for foreclosure prevention, the hotline is planned to expand to serve renters as well. The Program includes outreach through neighborhood advisory committees, access to 20 housing counselors, pro bono legal advice and representation, and financial support training. The program has assisted 12,000 households since 2008.

The City of San José once operated a ForeclosureHELP center, which included providing a first point of entry into the foreclosure process to assist homeowners that found themselves underwater with their mortgages due to abusive lending practices from the mortgage industry. This project assisted homeowners with loan modification applications and if they have been victims of fraud form and referred to the proper authorities. This program was primarily staffed by volunteers who were professionals in the area of real estate and mortgages. Volunteers assessed homeowners’ current situation and ensured that the necessary documents are properly assembled before their meeting with a foreclosure counselor. Service was also available in English, Spanish, and Vietnamese. The Center assisted over 1,000 families over one year at the height of the foreclosure crisis.⁴⁴

At the beginning of the foreclosure crisis in 2007, San José experienced 5,800 foreclosures in one year. In recent years there are fewer foreclosures in San José, with less than 500 homes experiencing foreclosure activity in July 2018.⁴⁵

In comparison, the City Housing Department received 9,716 notices to vacate for units covered by the Tenant Protection Ordinance over the past year.⁴⁶ When the number of households affected by these issues are compared, today’s eviction situation is nearing the

level of the previous foreclosure crisis. The City should consider opening a center similar to the ForeclosureHELP center to assist residents at risk of displacement through eviction. The City should also assess what services would be beneficial to co-locate at the center for residents. Some examples of ideas brought up by residents during the community engagement process include counselors to provide reliable and timely information regarding housing rights, interpretation of leases in languages other than English, financial planning services, homelessness prevention, and other social safety net services..



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

Some residents face higher barriers than others to access and stay in housing

5. Develop targeted strategies for large families, disabled residents, mixed-status and undocumented families, residents with criminal records, and limited English speaking households

The housing application process or availability of suitable housing types make it more difficult for certain populations to find safe and healthy housing. These groups may be particularly vulnerable to displacement and precarious housing situations such as unsafe housing, overcrowding, subleasing, or unfair business deals. The City should research ways to reduce barriers to housing for these groups.

Reference: Cook County Just Housing Amendment of Human Rights Ordinance, City of San José Minor or Limited Housing Repair Program for low-income homeowners, San Francisco Citywide Policy Planning Report “Housing for Families with Children,” National Immigration Law Center “Rental Housing Programs: Public housing, Section 8, rural housing, and low-income tax credit housing”⁴⁷

“The Evergreen School District, along with other school districts in Santa Clara County, continue to see a significant decline in student enrollment, and much of this enrollment decline can be attributed to escalating home prices and rents... Over the past three years, the Evergreen School District has lost thousands of students. Many families are leaving the school district report that they could no longer afford the housing costs in San José.”

— Emy Flores, Ed.D.
Superintendent,
Evergreen School
District

Potential Impact: High.

Increase access to housing and housing options for the following populations⁴⁸:

- Women-headed households: 38,600 households
- Households with Children: 26,657 households
- Large Families (5 or more persons): 55,153 households
- Disabled: 86,129 individuals
- Mixed-status and undocumented households: 120,000 individuals
- Limited English Speaking: 40,617 Households
- Criminal record: 28,000 misdemeanors and 5,900 felonies in Santa Clara County in 2017 alone⁴⁹

Cost: \$150,000.

Analysis and research on potential strategies can be done with a consultant that may cost up to \$150,000.

Description

The City should analyze and act to remove barriers to housing for specific populations of residents that may have additional difficulty find housing than the general population, including:

Women-headed households and households with children: San José has experienced a dramatic loss of women-headed households and school-aged children in the city.⁵⁰ Affordable housing income limits and rents based on household size suggests multiple income earners. Based on the housing capacity (number of bedrooms) and the demographics (family size) of naturally occurring affordable housing compared to new market-rate housing, San José is experiencing a net addition of households while losing children and pupils to outlying areas. The City should begin to measure the impact of this specific type of displacement.

We recommend the City:

- Study an impact assessment tool for planning applications requiring demolition of housing primarily occupied by women-headed households and homes with young children.
- Convene representatives of school districts, the County and philanthropic partners to:
 - o Identify ways to monitor young families facing displacement and homelessness.
 - o Promote the production of affordable housing for families (ie more 2-4 bedroom units) and prioritize housing families as affordable housing becomes available.
 - o Identify partnerships to leverage public lands and public and private resources to create more affordable housing for families with children.

Large Families: San José has 55,153 large households, which are households with five or more family members. This represents 17% of all households in the City. In San José, there are 5,971 3-bedrooms units and 444 4+ bedroom units. Larger units have lower vacancies than other unit sizes, showing that there is a great demand for larger units: 3-bedrooms (3.4%) 4-bedroom + (1.4%).⁵¹

The team also heard there are not many rental properties that fit large families. Anecdotally, latinx households and asian households are more likely to be larger and multi-generational than the general population, which may indicate this issue may disproportionately impact these populations. In one case, a latinx family who Housing staff spoke with was paying much higher than market-rate rent for their single family rental home because the house was large enough for their nine member family. The home was also close to their mother's work and their children's schools. The family was given a very large increase for the second time that year and was going to be evicted in a few days. They did not believe they would find replacement housing in their current neighborhood and had not yet found replacement housing with just a few days left.

The City should consider preserving the existing larger rental unit stock and encouraging the development of affordable and spacious 2-bedrooms, or units of 3-bedrooms or more to better fit the needs of large families. The City may consider requiring a minimum size for 2-bedroom units to fit the needs of larger families or incentivize and plan for family friendly housing types.

Disabled: Case managers have shared that they have trouble finding affordable and accessible housing for their physically handicapped clients. The City has funded accessibility improvements in the past for its minor repair program for low-income homeowners. The City and County should consider creating incentives programs for ADA improvements in affordable rental housing and explore ways to prioritize accessible units for handicapped clients and work with developers to prioritize ADA units for disabled tenants.

Mixed-status and Undocumented: The community shared that many housing issues, including displacement, greatly impact mixed-status and undocumented households. Due to federal restrictions, mixed-status and undocumented families face a harder path to finding and qualifying for affordable housing programs. Affordable housing projects that are fully state-funded can accommodate undocumented households but the application process and outreach can be daunting for these families. Basic application requirements like income certifications and social security numbers to perform background checks can create risks or fear for mixed-status and undocumented families. The City should partner with advocacy organizations and affordable housing organizations to create inclusive education and outreach to address this issue.

"I can't go. I already changed my country when I was young. I can't leave here. [If my apartment opts out of Section 8] I will live in my car."

— Participant at 3/27 Renters Focus group at Biblioteca Americana

The City should also survey existing programs to identify and remove unnecessary barriers to housing services for mixed-status and undocumented residents. The City could also explore partnerships with philanthropy to create new housing resources for this population as the City has done for education and financial resources for undocumented families and women-headed households and homes with Pre-K-12 children. One possible project is to target assistance for Santa Clara County households that could be evicted if a proposed HUD rule to ban mixed-status families in federally funded affordable housing moves forward.

Criminal record: A report from the Ella Baker Center for Human Rights⁵² found in a survey of formerly incarcerated individuals 79% were denied or did not qualify for housing because of their own or their loved one's conviction history. When they return to live with their family, they also sometimes put their families at risk of losing their housing. The type of conviction, the length of time that had passed since the conviction are rarely taken into consideration. What has been called a "blanket ban" is common practice in private and public housing. The City and County should explore creating new programs to assist with sustaining housing upon reentry, such as living stipends for families or excluding the question of criminal history in affordable housing applications.

Limited English speaking: Leases and other housing documents are not required to be translated into a resident's primary language. This leads many limited English speaking families to rely on their interpreter, which often ends up being children. This situation leaves these residents, especially vulnerable to fraud or other predatory business practices. Government and community organizations should support language accessibility in their own work, and support efforts require translation of important housing documents in resident's primary language as an anti-displacement tool.



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

Some residents face higher barriers than others to access and stay in housing

6. Establish tenant preferences for affordable housing

Work with California HCD to develop a neighborhood-based tenant preference that is broadly applicable to San José affordable housing developments and that does not conflict with Fair Housing laws.

Reference: City of San Francisco Neighborhood Resident Housing Preference, <https://sfmohcd.org/lottery-preference-programs>

Potential Impact: Medium.

When administered well, tenant preferences can help existing income-qualified residents to stay in the City or in their neighborhood by moving them to the front of the line for a restricted affordable apartment. When administered poorly, preferences can conflict with federal Fair Housing laws, create legal issues, and could make projects ineligible for government housing subsidies. 16,168 low-income households could be eligible for a neighborhood tenant preference. Tenant preferences could potentially apply to as many as 1,923 new restricted affordable units that could be produced by 2023.

Cost: Low.

Housing Department staff is already working on a displacement prevention tenant preference and could pursue a neighborhood preference with existing staffing if directed to do so. The Housing Department is also developing an online housing application portal which will help with implementation of preferences.

Description

In San José, most affordable housing developments have long waitlists and it is hard to quickly find replacement housing when displacement occurs.

Tenant preferences generally set aside a percentage of apartments in new developments for people who meet certain criteria and who are income eligible. Preferences can be geographic, meaning they can apply to neighborhoods where gentrification is occurring, or they can apply to groups of people such as residents who live or work in a city. A “neighborhood” preference sets aside new apartments for residents who already live in that neighborhood in which a new affordable development is being built. Cities must carefully study demographic data to make sure preference ordinances don’t favor people of certain racial or ethnic groups or people in protected classes under federal and state laws.

The Silicon Valley Community Foundation formed a housing preservation working group for advocates, housing staff, and service providers in San Mateo and Santa Clara Counties. This group will continue to meet over the next year to learn from peers and to potentially work on collaborative place-based preservation projects.



PROBLEM THIS SEEKS TO ADDRESS: PRESERVATION

Some residents face higher barriers than others to access and stay in housing

7. Adopt a preservation ordinance

When affordable housing properties deed-restrictions expire, the property converts to market rate, and the current residents may face sharp rent increases and displacement. Naturally, affordable properties also may get sold, flipped to market rate and displace current tenants. One of the most direct forms of displacement occurs when a property is purchased and “revalued” by the new owner through redevelopment, increased rents, or renovations. Often, the properties are sold based not on current rents but on prospective “market rents” that can only be achieved through mass evictions. These purchases generally give tenants no recourse apart from relocation assistance under the Ellis Act, which only applies to some tenants of older buildings.

Reference: City of Chicago: Affordable Housing Preservation Ordinance, City of Washington DC: Tenant Opportunity to Purchase Act⁵³, City of San Francisco: Community Opportunity to Purchase Act⁵⁴

Potential Impact: High.

- 19,000 restricted affordable units in the City’s portfolio that could be covered by the Preservation Ordinance
- More than 6,000 low-income households living in restricted affordable housing owned by for-profit sponsors that may be more willing to sell within the in next ten years
- A new pathway for renters to purchase the homes where they currently live if the property owner is planning to sell the property

Cost: Medium.

Administrative costs to implement the program. Based on the Washington DC staffing model, San José, the staffing may cost approximately \$1,028,000 a year.

Description

The City should explore a local Preservation Ordinance (similar to San Francisco, Chicago) that requires advance notice for all affordable housing owners intending to sell their properties. This would build on a new State law that requires owners of affordable housing to give advance notice and first right of purchase near the end of affordability periods, allowing the community to intervene earlier in the process to increase the likelihood that properties are sold to organizations with the mission of perpetual affordability. Owners would have to give advance notice of 12-18 months, depending on the action, to the City, local nonprofits, and tenants’ groups. They would have to pay relocation assistance for residents displaced due to the sale, to subsequent financial restructuring, or the cessation of project-based subsidies. Rent stabilization will apply if a property converts to market-rate with a certain period of time if it was built during the time period covered by the City’s rent stabilization ordinance.

Under current San José regulations, if a property owner decides to demolish their rent-controlled property, they have to inform the City of their intention to do so and abide by the Ellis Act provisions of the City’s Apartment Rent Ordinance. If the property owner provides

the required notice and relocation benefits, tenants have no means to attempt to remain in their homes unless they are able to negotiate with the new property owner. The Ellis Act Ordinance was expanded to cover all multifamily developments across the City, requiring notification of tenants prior to demolition.

Cities around the Country, facing the pressure of growing populations and increased property values, have responded by passing policies that allow tenants to come together and form a cooperative to purchase their properties themselves or to transfer this opportunity to another buyer. Tenants could have the right of first refusal to purchase properties. Generally, if tenants are unable to cover the cost of the property purchase, they partner with an affordable housing developer, a philanthropic institution, or an investor who will lower return requirements to purchase the property at market price. This would allow the tenants to stay in the places they already call home and also provide a new pathway to homeownership in neighborhoods with few homeownership opportunities.



PROBLEM THIS SEEKS TO ADDRESS: PRODUCTION

Not enough financial resources available to meet City’s affordable housing and anti-displacement goals

8. Establish a new sources of funding for affordable housing and anti-displacement

Following the dissolution of California’s redevelopment agencies in 2011, San José lost its largest and most stable source of affordable housing funding. Since then, the city’s affordable housing production dropped sharply at the same time as rents increased dramatically.

While some policies (Affordable Housing Impact Fee, Inclusionary Housing Ordinance, Santa Clara County’s 2016 Measure A) have helped make up some of the funding in recent years, San José still has an affordable housing gap of approximately \$520 million in meeting its goals of building 10,000 affordable units by 2022. The City remains even further behind in meeting its affordable housing goals under the State’s Regional Housing Needs Allocation, building only 23% of its goal to-date, a deficit of roughly 9,000 units at the time, according to the 2018 Housing Element Progress Report.

Reference: City of San José “2019 Affordable Housing Investment Plan,” “2018 Housing Crisis Workplan,” “2018 Annual Progress Report on General Plan Housing Element”, Quarterly Production and Preservation Reports

Potential Impact: High.

Increase the available resources to fund the affordable housing gap and address preservation and protection needs.

Cost: Low.

These solutions could produce as much as \$100-120 million of new funding for affordable housing and anti-displacement per year.

Description

It has been clear to policymakers and the community in San José for many years that the creation of permanently affordable housing is a necessary and needed response to the increasing cost of housing in San José. Efforts to preserve affordable housing and protect tenants, as spelled out in this report, will require additional revenue. To raise these resources, the City should move forward with the following approaches:

- **Placing a revenue measure on the 2020 ballot:** On December 3, 2019, the San José City Council voted eight to three to place a property transfer tax on the March 2020 ballot to provide affordable housing.^A The City and voters could support a revenue measure to provide on-going revenue to fund the production and preservation of affordable housing and provide resources for tenant protection measures spelled out in this report. **A progressively structured real estate transfer tax aiming to raise \$50-100 million a year, which exempts most residential purchases, could produce additional annual revenue while not adding to the cost of most home purchases.** The City should continue to consider other types of revenue measures for affordable housing, including supporting potential regional fundraising efforts as a part of

implementing AB 1467.

- **Passing and quickly implementing a commercial linkage fee that includes a higher tier for a high-tech office.** The City is currently conducting a nexus and feasibility study as a step towards developing a citywide commercial linkage fee. The commercial linkage fee comes amid a boom in commercial development activity in San José not seen since before the Great Recession. Large developers like Urban Catalyst, Boston Properties, Urban Community, and Jay Paul Co. and large employers like Adobe and Google are investing billions of dollars on developments in downtown San José. These developments will contribute to rising rents in San José and should pay their fair share to help produce affordable housing. These tech developments often include a higher level of amenities and higher potential for revenue than traditional commercial development, making a higher level of fees possible, as other nearby communities like Mountain View have seen firsthand. The ADPN team proposes including a high-tech tier to the commercial linkage fee, acknowledging the greater impact such projects have on rising rents (and the greater feasibility such developments have to pay impact fees) to better mitigate the impact of tech development on the city.
- **Utilizing new revenue from eBay revenue capture agreement:** On September 24th, 2019, the San José City Council voted to approve a new agreement with online marketplace eBay to better capture sales tax revenue from online sales. This could raise nearly \$30 million a year in new revenue to the City of San José. The Council voted to approve the agreement and to recommend that these new resources be used to address affordable housing, homelessness prevention, and neighborhood services. In future budgets, the City should utilize this revenue to implement strategies highlighted in this report and to amplify the City's existing efforts.
- **Creating an Enhanced Infrastructure Finance District (EIFD) in Downtown and Diridon:** Transit investments and large-scale development planned at Diridon Station, East Santa Clara, Little Portugal, and North San José BART Station are likely to bring both substantial increases in property tax revenue in the City, and significant new displacement and housing cost pressures. The City should consider utilizing tax increment financing to capture some of the value generated near the stations to address housing affordability and displacement. VTA and the City are already considering Enhanced Infrastructure Financing Districts as an option for generating funds for infrastructure. The City should set bold goals for revenue dedication from such funds for preserving and producing affordable housing. The County of Santa Clara should support the effort to create an EIFD for affordable housing and displacement by contributing its share of tax increment in the identified areas. With the City's plus the County's increment, the EIFD could be feasible and could leverage additional State funds, such as in Senator Beall's proposed SB 5 legislation. With respect to EIFDs, the City should study how future planned development surrounding the BART extension, including around Diridon Station, overlaps with existing redevelopment areas, since those areas, until 2035, will still be collecting the City's share of tax increment financing to pay off the former Redevelopment Agency debt. Former redevelopment areas therefore would have limited ability to collect tax increment.

“One the biggest issues that the City is facing and the State has faced is the loss of the redevelopment agencies... We need to find a permanent broad based solution to backfill the loss of RDA dollars. We can't do it alone with the Inclusionary Housing Ordinance (IHO) on the back of new housing. We need to look at other funding sources, such as a commercial linkage fee. It's very important to keep that commercial linkage fee at a level that maintains our regions economic competitiveness. I think San Francisco recently doubled their fee.”

— Housing Developer

- **Revising the Construction and Conveyance Tax to address displacement:** For large-scale developments being planned in areas facing on-going displacement or risks of displacement, the City lacks sufficient policies to mitigate further displacement. The City should consider dedicating a portion of revenue from its Construction and Conveyance taxes for large-scale commercial and mixed-use projects (over 100,000 square feet of floor area) in areas experiencing or at risk of displacement, surrounding new BART stations, or within the newly created Opportunity Zones to address affordable housing production and preservation needs generated by the projects.
- **Incentive Zoning Policy that prioritizes affordable housing and anti-displacement:** The tech industry's growing footprint, especially in the South Bay, has been a primary driver of demand for housing as its growth has dramatically outpaced housing production. The purchasing power of tech's directly employed workers has bid up the rent of new and existing housing. Recently, Google, Apple and Cisco have begun to make investments in housing. However, not all the industry members have invested in a way to help address the crisis they created at a time when the industry is experiencing record revenue and profit growth. As tech companies and other developments in San José move forward, the City should ensure if it is selling public land, granting zoning or planning changes, or otherwise assisting such projects that the City negotiate resources to assist our low-income families. Such policies should include the development of an Incentive Zoning policy at Diridon Station and in the vicinity of BART Stations and transit investments, to create avenues for the City to better capture the value of land-use changes (such as recent height increases or reductions in parking requirements) and infrastructure investment benefiting development in these areas. It would also be important to analyze how recent State law changes may impact the City's ability to utilize this tool.

^A November 21, 2019, Potential Real Property Transfer Tax Measure Memo, <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4246507&GUID=F31798DE-8447-4E0A-8B4A-D0CCE1061971>



PROBLEM THIS SEEKS TO ADDRESS: PRODUCTION

Not enough financial resources available to meet City’s affordable housing and anti-displacement goals

9. Conduct a public land survey and partner with the State to leverage public land for affordable housing and community preservation

The City’s current housing development process treats private development on private land the same as affordable housing projects that leverage public land. This increases the development cost for affordable housing and creates possible delays and discretionary decision points that can jeopardize the housing project.

The City’s current land use priorities reduce the number and size of potential affordable housing developments as public properties must rely on uncertain zoning changes or competing for economic development priorities. This increases the pressure on affordable housing developers to compete for private land development opportunities that increase acquisition and development costs.

Lastly, the City’s current interpretation of the Surplus Lands Act continues to reduce the amount of suitable land that can be designated “surplus” and appropriate for affordable housing development.

Reference: Metropolitan Transportation Commission “2018 Public Lands Affordable Housing Action Plan,”⁵⁵ “Public Benefit from Publicly Owned Parcels: Effective Practices in Affordable Housing Development”⁵⁶

Potential Impact: High.

San José has public land owned by various public agencies that the Metropolitan Transportation Commission considers suitable for housing development.

Cost: N/A.

Description

In September 2018, the Metropolitan Transportation Commission published a study in partnership with Economic & Planning Systems, Inc. to provide a region-wide analysis of public land suitable for housing development. The study found that San José contained 43 parcels (198.3 acres) of suitable land owned by a variety of public entities, including the Valley Transportation Authority and BART.⁵ It is important to acknowledge that parcels in MTC’s list may not be designated or zoned for residential development and may not be suitable sites for residential development. This would impact the viability of residential development on these sites.

The City of San José has maintained in the past that its status as a charter city exempts it from the State’s Surplus Lands Act’s precise requirements to prioritize public land for affordable housing, although the City has its own surplus land ordinance. However, in November 2019 ruling in the case of *Anderson v. City of San José*, California’s Sixth Appellate District Court found that the City is “not exempt from complying with the Surplus Land Act.”⁶ The full

implications of the ruling are still to be seen, but it could create more opportunities for affordable housing development on public land.

In its 2017 report, Enterprise Community Partners, a nationally-recognized affordable housing organization, found that “In strong markets, creative use of public sites can expand opportunities for affordability in an environment in which mission-driven developers struggle to compete for sites against better-funded market-rate developers.”^d Affordable housing development on public land also increases the ability of developers to improve job quality, reduce financing-driven parking requirements, and increase project density. Perhaps the greatest benefit of affordable housing development on public land is speed and certainty. Unlike private land parcels, cities that partner with affordable housing developers can reduce bureaucratic hurdles, speed up zoning and permitting, and assist with financing. To leverage these benefits, the ADPN team recommends the City and other government entities move forward with the following:

- **Partner with State to increase affordable housing development on public land:** Following statewide efforts such as AB 1486, which reemphasizes the prioritization of affordable housing in the Surplus Lands Act, the City of San José should bring its local public land disposition process in line with State standards. The City should also consider ways to leverage new State resources and tools like SB 5 and SB 6 to move more projects forward.
- **Survey public land and identify opportunities for development:** The City should incentivize public land housing production by identifying sites owned by public entities that are suitable for housing uses. The City should also consider moving toward cross-sector partnerships to help develop sites owned by other public agencies.
- **Examine opportunities on County sites:** With efforts at the County of Santa Clara to examine affordable housing at sites including land adjacent to VHC Downtown Clinic, the Hub, O’Connor Hospital, and the redevelopment of the Reid Hillview Airport, the City should partner with the County to consider necessary planning changes to add affordable housing to existing potential land uses.
- **Integrate housing uses in underutilized public land sites:** Many public facilities and sites (storage, warehouses, small buildings with large parking lots) are either underutilized or near the end of their use-cycle. These sites should be included in a survey of properties that could be redeveloped either as housing or as mixed-use opportunities.

^b Figures are estimated from report commissioned by MTC and conducted by EPS. The report’s authors performed a survey of sites suitable for development. These sites were defined as within a ½ mile of major transit facilities, not used as parks or right of way, no smaller than 0.5 acres with standard site shapes, not a designated toxic site. The entire list of identified properties is available at this link: <https://www.arcgis.com/apps/webappviewer/index.html?id=2c67d8f071c0471dacf704b782bafb8d&extent=-13761622.6241%2C4473149.9829%2C-13468104.4355%2C4632139.0018%2C102100>. The parcels have a diffuse ownership including BART, VTA, Santa Clara Valley Water District, CalTrans, and the City of San José.

<https://mtc.ca.gov/sites/default/files/Public%20Lands%20Affordable%20Housing%20ActionPlan%20Sept%202018.pdf>

^c <http://www.pilpca.org/2019/11/27/court-rules-that-california-charter-cities-must-prioritize-surplus-public-land-for-affordable-housing-development/>

^d <https://www.enterprisecommunity.org/resources/public-benefit-publicly-owned-parcels-19782>



PROBLEM THIS SEEKS TO ADDRESS: PRESERVATION

The City is losing existing deed-restricted and naturally affordable housing stock

10. Preservation strategy

Develop an integrated strategy to regularly monitor the City’s net gain or loss of deed-restricted, rent-stabilized, and naturally affordable multifamily housing, to assess the health and safety of this housing stock, to assess the capacity and interest of local agencies to organize tenants and convert market-rate buildings into affordable, and to identify flexible funding for program design and capital projects.

Reference: City and County of San Francisco Housing Balance Report

Potential Impact: Low.

The solution could help secure new funding for preservation programs. It could also identify the organizational capacities and gaps that exist in our area. San José has 92 income-restricted apartments that are at-risk of expiring affordability restrictions in the next five years, and 16 rent-stabilized apartments that may be at risk of Ellis Act demolition. The strategy could lead to the preservation of a few apartment buildings and could help some residents avoid permanent displacement from San José. With time and resources, more scalable preservation programs could be developed.

Cost: \$0.

This work can be integrated into existing Housing staff workplans.

Description

This addresses the problem of losing income-restricted, rent-stabilized, and naturally affordable market-rate housing to redevelopment. It is slow and very costly to replace apartments at these rent levels, and without a preservation strategy, displacement is likely to accelerate. Concern for the preservation of affordable housing, particularly rent-stabilized buildings that may be demolished under the Ellis Act, was one of the most commonly cited concerns from community members at the community forums held in preparation of this report.

The San Francisco Board of Supervisors adopted an ordinance on April 25, 2015, requiring its Planning Department to prepare a Housing Balance Report twice per year. The report documents how much affordable, naturally affordable, and rent-stabilized housing has been gained and lost. This information provides objective data that has been used to justify funding allocations for preservation programs. San Francisco, Oakland, and San Mateo County are currently operating small site acquisition and rehabilitation programs. In October 2019, the Silicon Valley Community Foundation formed a housing preservation working group for advocates, agency staff, and service providers in San Mateo and Santa Clara Counties. This group will meet over the next year to learn from peers and to potentially work on collaborative place-based preservation projects.



PROBLEM THIS SEEKS TO ADDRESS: PRESERVATION

The City is losing existing deed-restricted and naturally affordable housing stock

11. Establish a preservation investment fund

Existing affordable housing may become unaffordable to low-income residents because of expiring affordability restrictions or because the property is converted to more expensive housing. This can cause the displacement of existing tenants.

Most funding sources for affordable housing are aimed at new affordable housing production. A preservation investment fund would enable preservation deals without diverting funding from new affordable housing construction.

Reference: Denver Regional Transit-Oriented Development (TOD) Fund, City of Minneapolis NOAH Preservation Fund Program, City of Minneapolis Small and Medium Multifamily Loan Program Guidelines

Potential Impact: Medium.

- Preservation of 1,039 deed-restricted affordable housing units located in San José that may expire in the next 10 years.
- Preservation of NOAH units. There are 9,966 units of unsubsidized NOAH housing that may be repositioned to market rate.

Cost: Medium.

The Denver TOD fund was started with \$15 million. Total investments have grown to \$32,880,000.

Description

A Preservation Investment Fund would be flexible and patient capital for acquisition and rehabilitation, rent reorganization, and transitioning a property into long-term regulatory agreements. For example, a Preservation Investment Fund may be used by a nonprofit developer to acquire deed-restricted affordable housing properties in San José with the intent to extend affordability using Low Income Housing Tax Credits. Another use could be to acquire and rehabilitate naturally occurring affordable housing and deed-restrict the housing as affordable.

Preserving existing affordable housing is a way to ensure that existing units stay affordable and to prevent the displacement of current tenants. Preservation is also generally cheaper than building new housing and conforms to existing land-use patterns.⁵⁷ Investments in preservation can also be used as a land banking strategy for future affordable housing development.

For example, the Denver region is undertaking one of the largest public transit expansions in the county. The Denver Regional TOD Fund was designed to allow affordable housing and community developers to acquire and hold strategic transit-accessible properties for preservation or future development purposes. The fund is structured as a unique blend of risk and return requirements, and the Fund is capitalized with \$24 million of acquisition loan capital available to qualified borrowers with a plan to preserve and/or create affordable housing in proximity to public transit throughout the seven-county metro Denver region.

The Fund’s goal is to support the creation and preservation of 2,000 affordable housing units by 2024 through strategic property acquisition in both current and future transit corridors. Since the Fund was started in 2014, the Denver TOD Fund has created or preserved 1,354 affordable rental units near transit at the cost of \$24,283 per unit.⁵⁸



Deed restricted housing is affordable for a limited amount of time

12. Support development and capacity-building for innovative housing solutions including co-ops and community land trusts

Due to the structure of affordable housing funding and the cyclical nature of housing markets, preserving or maintaining affordability in housing remains an ongoing challenge. Whether it is the expiration of affordability restrictions or the sale of naturally occurring affordable housing, affordable housing remains in a precarious state of uncertainty. Advocates and policymakers have begun to explore innovative models like community land trusts and cooperatives as a way to create more stability and ensure affordability over the long-term for affordable housing.

Reference: Mercury News “A home you can afford: How land trusts are changing Bay Area homeownership”⁵⁹; Grounded Solutions “Community Land Trusts.”⁶⁰

Potential Impact: Medium.

- Create affordable rental and low-income ownership options for San José’s 400K renters.
- Conserve land for affordable housing in perpetuity.

Cost: Low.

The cost to fund an initial study and provide technical assistance on community ownership models may cost \$30,000 – \$100,000.

Description

As part of the 2018 Housing Crisis Workplan, the City Council approved the staff’s suggestion to explore community land trusts (CLTs) and cooperatives as options to address the need for affordable housing. A community land trust is a nonprofit organization formed to hold title to land to preserve its long-term availability for affordable housing and other community uses. A land trust typically receives public or private donations of land or uses government subsidies to purchase land on which housing can be built. The homes are sold to lower-income families, but the CLT retains ownership of the land and provides long-term ground leases to the residences on the land, thereby keeping the homes or apartments affordable in perpetuity.

Limited equity cooperatives, which are sometimes combined with CLTs, allow for group or community ownership of housing developments. Popular in New York City and San Francisco, these cooperatives can provide low-cost, stable housing options that can help residents with asset building and wealth generation. Similar to homeownership, limited-equity co-ops (LECOOPs) allow for some value creation while making sure homes can remain affordable in the long-term.

For so many San José families, the dream of homeownership and asset building is out of reach. With CLT and LECOOPs, low-income working families in San José and young people can get a toehold in permanent ownership models and start building wealth for future generations. It also allows for the neighborhoods where these LECOOPs and CLTs are located to stay affordable overall.

Due to the high cost of single family homes, developable land already zoned for housing uses, and the lack of existing cooperative housing, San José presents unique challenges to these types of models. However, a community land trust that can leverage public land or support innovative ownership models (co-ops, co-living) could lead to a flourishing of affordable housing options.

San José has an opportunity to build on the models being created in San Francisco and Oakland of successful community land trusts and limited equity co-ops that are helping tenants come together to acquire a property. These exciting models could also be an attractive way for the City of San José to partners with other local government agencies with access to surplus lands for housing production like the County of Santa Clara, VTA, or local school boards. The ADPN team recommends the City:

- Seek or provide technical assistance funds to a third-party contractor to support the development of community land trust(s) and/or limited-equity co-ops to preserve long-term availability for affordable housing and other community uses
- Identify potential partnerships with other government agencies for utilizing public lands
- Consider policy changes to affordable housing programs and development fees and taxes to support these alternative affordable housing models.



PROBLEM THIS SEEKS TO ADDRESS: PROTECTION

The City is losing existing deed-restricted and naturally affordable housing stock

13. Creating incentives and financing options for landlords to maintain long-term affordability and improve the quality of housing stock

Successful programs in San Francisco and Salinas have demonstrated small incentives and investments can lead to outsized impacts in housing stability. By reducing property ownership costs, proactively enforcing code violations, and providing opportunity for nonprofit partners to acquire substandard housing to preserve as affordable housing, San José can help protect some households from displacement.

Reference: San Francisco Small Site Program⁶¹, Salinas Receivership Program⁶²

Potential Impact: Medium.

Since the San Francisco Small Sites Program was created in 2014, the program has acquired 25 buildings and 160 units and served 327 people with an average AMI of 65%.

Cost: Medium

More research would be needed to estimate the cost for this type of program.

Description

For long-term tenants of naturally occurring affordable housing, the prospect of a dramatic rent increase or the instability of housing can create incentives to leave the city or region. At the same time, for some landlords, the need to raise funds to improve their properties or the incentive of market prices can run counter to their desire to keep their long-term tenants in place or to stay in the rental business altogether.

Unlike most cities, the City of San José has a proactive rental inspection program with a three-tier service delivery model which requires more frequent inspections and higher fees for properties with more health, safety, or other code violations. This program provides incentive for property owners to make efforts to move to a less expensive tier through responsible property management as demonstrated by no violations or few minor violations promptly corrected. Code Enforcement has recently reassessed enrolled rental properties to move tiers as appropriate. Despite this innovative model, there are still many rental properties that carry chronic health and safety issues year after year.

Many property owners do not want to evict long-term tenants or to sell their properties to owners who will demolish or “revalue” their property. It is possible to create fee waivers or utilize existing sources of funding to help create incentives for small property owners of older buildings that have demonstrated good faith efforts to improve their properties to continue to invest in increasing the quality of the housing without displacement. This could include providing additional technical assistance with understanding City compliance issues, or providing low-cost loans or grants for rehab projects that address blight or health and safety issues. These improvements could also increase the useful life of existing naturally affordable housing in San José.

The City currently receives revenues through a real property conveyance tax, a construction tax, and fees from building permits, and has recently decided to place a real estate transfer tax on the ballot in spring 2020. Much of that revenue goes to the general fund or is used

as cost-recovery for City departments. The City Council could choose to prioritize funding for nonprofits to purchase apartments to increase the number of affordability restricted buildings. This could be proposed as part of the annual budgetary process.

Finally, the City should consider strengthening the process for receivership of properties that are health and safety dangers and owned by chronic repeat code violators. The City has yet to utilize this process, although there may be properties in the City with many code violations and/or tenant harassment where this action could be considered appropriate.

APPENDIX

APPENDIX

- Community Engagement Summary and Process
 - Citywide and Council District Maps: Current Conditions, Development Forecast
 - End notes
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COMMUNITY ENGAGEMENT SUMMARY

“I had a long time renting under a previous landlord for 11 years. The new landlord just enters the apartment, even without knocking. We have 2 kids, and she said that you can’t live here because you can only have 3 people in this apartment. I asked what do I do if I have 2 kids? She told me to get rid of one of the kids.”

“I was wrongfully evicted from my home in January [2019]. I lived there 14 years. I live with a friend or my son sometimes. I work in Safeway – good thing is that I was able to keep my job, but my son is always telling me to leave. It’s not a healthy situation. It’s affected me, moving back and forth. I’m fortunate to have a storage for things, but rent on storage is going up. I’m living out of a suitcase, sort of living out of my car. All the important things, documents, and stuff are in the car. I have to travel extra because my PO box, work, and staying at my sons or friend are in different parts of town. Takes longer because I don’t drive the freeway, because of my poor vision.”

— Participants at 3/13 Focus group with Law Foundation of Silicon Valley

Process

Experiences involving evictions and forced displacement are delicate and personal. SOMOS and AV Consulting accounted for heightened sensitivity among marginalized communities of color who are already distrustful of government institutions by employing popular education methods. They allowed for deep and authentic conversations about families and residents’ experiences about trying to find and maintain housing. Collectively, the team committed to actively engaging 200 residents from across the City through the community forums. Interpretation and translation in Spanish and Vietnamese was provided without request, children’s activities were available, and refreshments. The team committed to intentional follow up via email to make sure everyone who got involved could stay engaged beyond the forums. All notes were shared with event organizers and those who attended.

To initiate the community forums, SOMOS and SV Consulting engaged community partners to collaborate with on hosting community forums. The partners identified venues in the City where community members feel comfortable and familiar. Four community centers were selected to host the conversations to ensure maximum participation from the surrounding community. No forums were held at City Hall.

- **August 15, 2019** Seven Trees Community Center
- **August 24, 2019** Alma Senior Center
- **September 7, 2019** School of Arts and Culture
- **September 19, 2019** Camden Community Center

SOMOS and AV Consulting with the community partners outreached to the community to invite them to the forums and engaged community members in Spanish and Vietnamese. SOMOS staff and community partners mobilized with flyers and door knocking, announcements at local churches and organizations, radio appearances, and a survey booth at the Berryessa Flea Market.

The ADPN team and the consultants worked closely together to design a meeting agenda that allowed participants to share their stories safely and unobtrusively. After the first community forum, it was evident that residents were forthcoming of their stories, but had little interest in answering some of the prescriptive questions prepared to gather data and information. However, much of the information staff was seeking was addressed during fluid conversation. An early lesson for staff was to ensure the right balance of gathering technical information and keeping the meeting welcoming and engaging.

The community forum process included space for City staff to present the current situation of displacement in San José. The majority of the time during the two-hour community forum was allotted for small group conversations. All participants also had the opportunity to ask questions directly to City staff in attendance.

Below is a brief summary of the community engagement activities completed to form this report:

- **Nearly 800 community members actively engaged through all outreach activities.**
- **Approximately 650 community members informed of community forums through door knocking, announcements at local organizations, and a survey booth.**

“Even my son tells me, mom, why don’t you sell the house and move somewhere else? You don’t need to stay here anymore. I tell him, it’s my choice why I stay here, sometimes I feel committed to my area, and people tell me, are you an activist? I say no I’m not an activist, I just care about this community. I think that we could make this a better community if you just really try.”

— Laura Arechiga, President of TOCKNA, 31-year resident of Welch Park

Community Leader Interviews from neighborhoods in Council Districts 1, 3, 6, 7, and 8.

These interviews of neighborhood association leaders in displacement hotspot areas in Council Districts 1, 3, 6, 7, and 8. All 8 interviews were conducted by City Housing staff from November 2018 – December 2018. These interviews greatly informed the ADPN team’s perspective on the impact of displacement on homeowners.

Focus Groups

11/16/18 – Anti-Displacement Policy Lunch with local non-profit leaders

“I think about 10% of my clients with vouchers move out of the City or region before they can use their voucher.”

— Case manager from Catholic Charities

The Anti-Displacement Policy Lunch was the first event hosted by the ADPN team and was held at the Martin Luther King Library in November 2018. Most attendees were nonprofit leaders and housing advocates. The event was to help primarily raise awareness of the issue of displacement and learn from the audience how displacement has impacted their work. A concern from attendees was the ADPN team seemed to initiate this discussion of displacement out of context. The team was advised to consider the Google and Diridon process, the General Plan and Urban Villages, and the recent impact of BRT in the Eastside. Some of the key observations and suggestions from the group that are integrated into this report as recommendations include:

- The desire for tech companies to fund housing and anti-displacement;
- Decreasing or simplifying documentation to increase access to affordable housing;
- Strategies to preserve naturally affordable housing ;
- Structured education campaign for renters and property owners of their legal obligations and rights;
- Exploring community land trusts;
- Acknowledging redlining policies and ensuring this legacy should not be repeated;
- Increase capacity of legal organizations to represent renters; and
- Surfacing community leaders to balance out voices beyond housing advocates in the process of developing recommendations.

One of the recommendations from this group the City and the ADPN team can continue to work toward is convening and working across sectors to address displacement.

11/29/18 – Cafecito in collaboration with SOMOS Mayfair

This Cafecito built upon a three part series called Nuestra Vision “Our Vision” where Mayfair community members worked on envisioning how they would like the neighborhood to develop in the future. The attendees were primarily Spanish speaking.

Two of the key themes from this discussion were concern for overcrowded families renting single-family homes and the vulnerability of undocumented families in housing. Multiple community members were also concerned about unannounced remodeling and construction as a form of tenant harassment. Many were interested in homeownership, but most residents rent in their neighborhood and shared many undocumented residents in the neighborhood wouldn’t be eligible to purchase a home. They shared that they are losing their long time relationships with their neighbors who have moved to places like Los Banos, Sacramento, Madera, Stockton, Washington, Tracy, and Newman. Their concerns about the lack of tenant protections for single family home renters and enforcement against tenant harassment are included in the team’s recommendations to Expand Tenant Protections and Right to Legal Counsel against evictions.

3/13/18 – Renters focus group in collaboration with Law Foundation Silicon Valley

A number of residents that attended this focus group came from the same apartment building and were currently facing harassment from their landlord, urging them to move. One of the main displacement issues discussed included the lack of accountability from some landlords to comply with the Apartment Rent Ordinance (ARO). The tenants who attended were provided inaccurate information about the ARO, and were asked to pay for maintenance costs at their building, which led to an illegal rent increase. The large takeaway from this group was the need to increase education for property owners and tenants on their legal obligations and rights and enforcement of the Apartment Rent Ordinance.

3/27/18 – Renters focus group in collaboration with Affordable Housing Network

This focus group had a mix of renters mostly from the Westside of San José. The attendees shared multiple personal stories, but also had a wealth of recommendations for solutions. The most popular ideas were to encourage more low-income family units, streamline and remove barriers from the housing application process & fees, repeal Costa-Hawkins, stronger rent control, and strengthen the Ellis Act. These ideas informed the ADPN teams

recommendations to maintain and expand tenant protections and target strategies for large families, disabled residents, mixed-status and undocumented families, residents with criminal records, and limited English speaking households.

4/12/18 – Renters focus group in collaboration with Eastside PEACE

This focus group was primarily a group of Spanish speaking mothers. The discussion helped illustrate some of the displacement issues they and people they know personally are going through. Overall, the attendees felt strongly that something must be done to lower rents to decrease displacement and that the City must be accountable to the community for their recommendations to address displacement.

San José Resident Survey

“I have had to move many times during the last 5 years, and had I not married into homeownership I most likely would have faced many years of continuous housing instability. I have held three jobs and worked more than 60 hours per week for last 5 years. Since marrying into homeownership I have finally been able to go back to school and work towards my long-term goals, but without the financial stability of my partner and the financial stability of her family, we would have most definitely been displaced by now. We love our family and community in San José and it is very important to both of us to stay here, as we would like to raise our children close to family, and my small business has been building clientele locally for the last 13 years. We are very involved in many community organizations and that means a lot to us. We work very hard to stay. Even as homeowners we require roommates to make ends meet and still work overtime/multiple jobs.” — Survey respondent

From July – October 2019 the ADPN team collected 328 surveys of San José residents. 40% of the respondents shared they were displaced in the past. Of those respondents, 60% no longer live in San José and 50% cited the reason they were displaced was because they could no longer afford the rent. Despite having moved due to rising housing costs, 60% of respondents revealed that they pay more for housing now than they did before they were displaced. 71% still work in San José and most would like to move back to their previous neighborhood in San José in the future. Many residents also shared their personal stories about housing. Many shared they consider San José their home, but anticipate that they will have to leave. The survey helped summarize the strong sense of community and belonging for many residents who have already left San José or may be displaced in the future. It also corroborated some of the trends in the anti-displacement literature regarding outcomes for displaced residents.

Community Forums

August 15, 2019, Seven Trees Community Center



SEVEN TREES

The Seven Trees Community Forum was conducted in 3 languages, English, Spanish, and Vietnamese. Some of common concerns across groups was that new housing currently being built is not affordable to them. Some of the more specific recommendations from participants included:

- Expand existing rent control
- Local preference for affordable housing
- Eliminate Costa Hawkins
- Protect Ellis Act Ordinance
- Build on-site for Inclusionary Housing Ordinance
- Build Bridge Housing
- Expand Rapid Re- Housing Program

These recommendations are included in the ADPN team's recommendations Maintain and Expand Tenant Protections, and Local Preferences for Affordable Housing recommendations. The ADPN team did not include recommendations in this report that focused on the homelessness response system to focus on solutions that may prevent homelessness. The recommendation regarding Inclusionary Housing was not included in the report due to the following: 1) The legal standing of the Inclusionary Housing Ordinance was based on the ordinance providing options for compliance; 2) the City Council was already set to discuss the topic of Inclusionary Housing in fall 2019.

August 24, 2019, Alma Senior Center

ALMA



Displacement was an urgent issue for several attendees at this forum. Some of the participants we heard from have recently lost their housing, were about to lose their housing in a few days, or are working 3 jobs to maintain their housing. One of the topics the group was particularly interested in was Inclusionary Housing. They felt strongly that there should be affordable units included in new construction and there should not be an option to fee out. Another interesting idea from the group was creating new housing resource centers across the city so that residents could get help right away if they are having a housing emergency.

The Housing Resource Center is included as a recommendation in this report. The recommendation regarding Inclusionary Housing was not included in the report due to the following: 1) The legal standing of the Inclusionary Housing Ordinance was based on the ordinance providing options for compliance; 2) the City Council was already set discuss the topic of Inclusionary Housing in fall 2019.



This forum had a larger turn out than the others. Many were concerned about the Alum Rock Urban Village and the ability for the community to guide development in a way that fits the needs of the community. A couple of examples were local residents concerned they would not be able to access the new affordable housing being built without a tenant preference for affordable housing. They questioned why it seemed there was more new development occurring in the Eastside, but not in neighborhoods like Willow Glen or Rose Garden. There was a large concern that all Planning Commissioners at the time were from D6 and there was no Eastside representation.

Some of the ideas suggested by attendees are integrated in the ADPN team's list of recommendations of Maintain and Expand Tenant Protections, Right to Legal Counsel, Expand Tenant Education and Neighborhood Development Programs, Tenant Preferences for Affordable Housing, Targeted strategies for large families, disabled residents, mixed-status and undocumented families, residents with criminal records, and limited English speaking households, and Landlord incentives and Equitable Code Enforcement.

Additional anti-displacement recommendations from attendees of the Eastside Forum that are not listed in the ADPN team's recommendations include:

- Increase the in-lieu fee for projects subject to the Inclusionary Housing Ordinance
- Tie affordable housing rents to actual incomes and consumer price index, not Area Median Income (AMI)
- Broader more timely notification of new projects
- Diverse representation on planning commission
- Anti-displacement protections to retain service workers (Non-profits, teachers, nurses) providers to tenants/low -income communities
- Elimination of Single Family Home Zoning



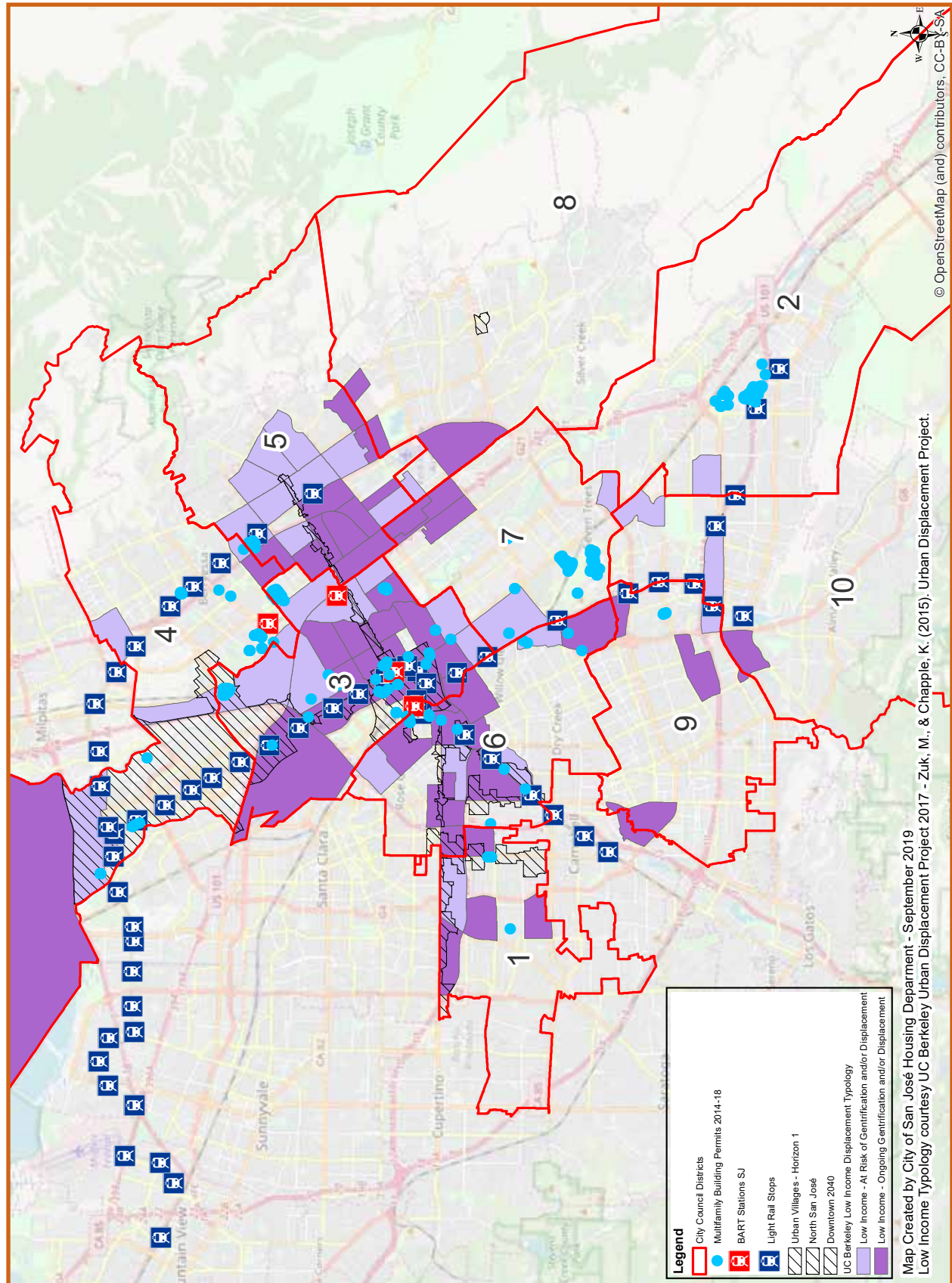
September 19, 2019, Camden Community Center

The forum at the Camden Community center was a smaller group, but had rich discussion. Again, some participants had immediate needs. One of our participants was currently homeless for several years and lived in his car in the Camden Community Center parking lot.

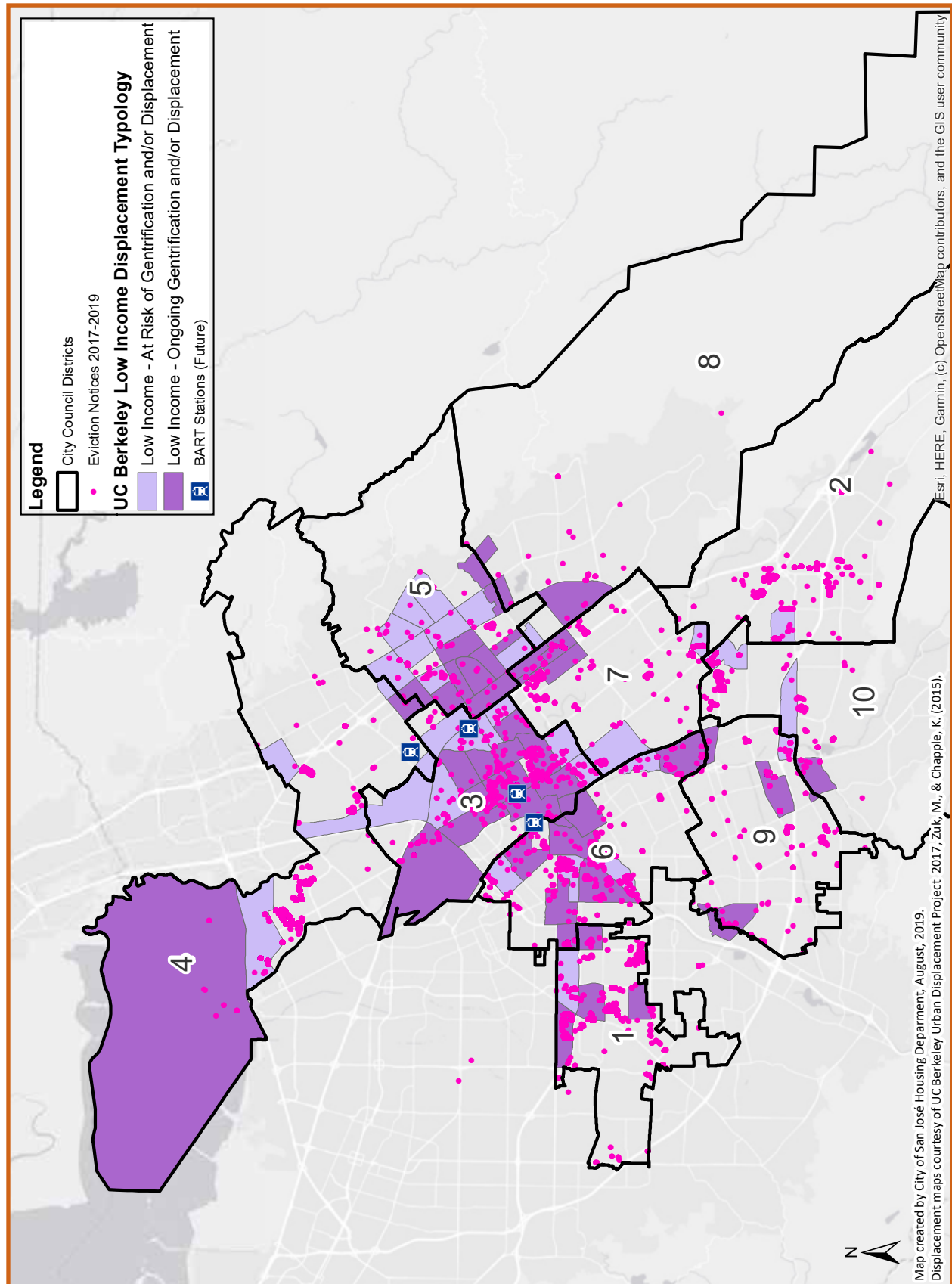
One of the families that attended and lived off Union Ave was recently harassed by their landlord and moved out of their apartment. Their landlord told them they were over occupancy because the mother was pregnant. The family was unsure where they could reach help at the time. They decided to move to avoid a formal eviction and were currently looking for a new place to live.

This group was particularly interested in preservation. Some of the suggestions from participants included: if residents must relocate due to redevelopment, the residents should receive a right to return and live in the new apartment. A participant believed that the displaced resident should receive financial support for the expenses of deposit, cost of moving out of the apartment and to move back, the difference of rent at new apartment until they can move to back to their previous apartment, and assistance so they can choose to relocate within a ½ mile from their previous residence and in the same school district. The conversation at this forum influenced the ADPN solutions Right to Legal Counsel, and Preservation Strategy.

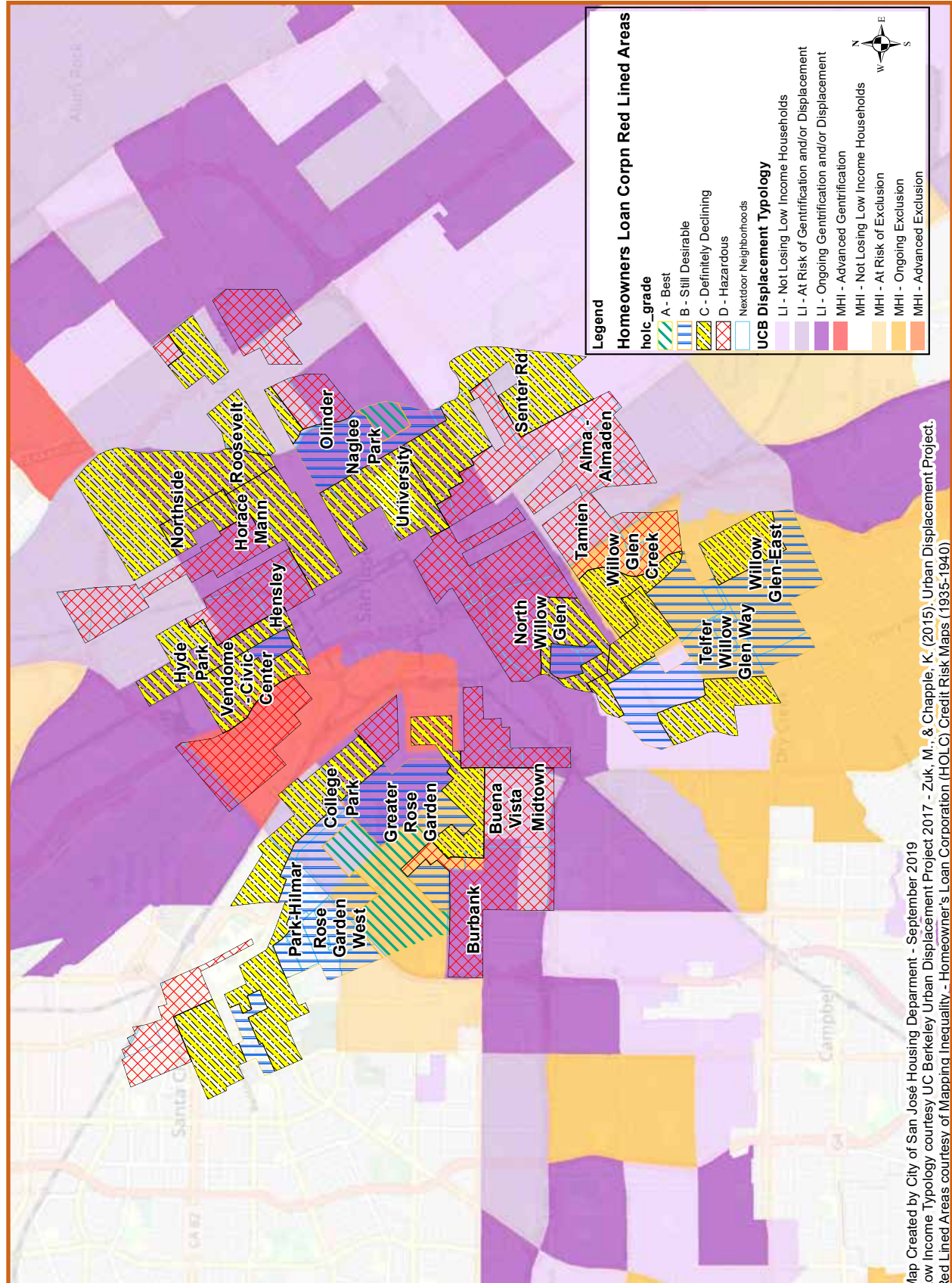
San José Urban Displacement, Growth Areas, Building Permits, and Rail Transit



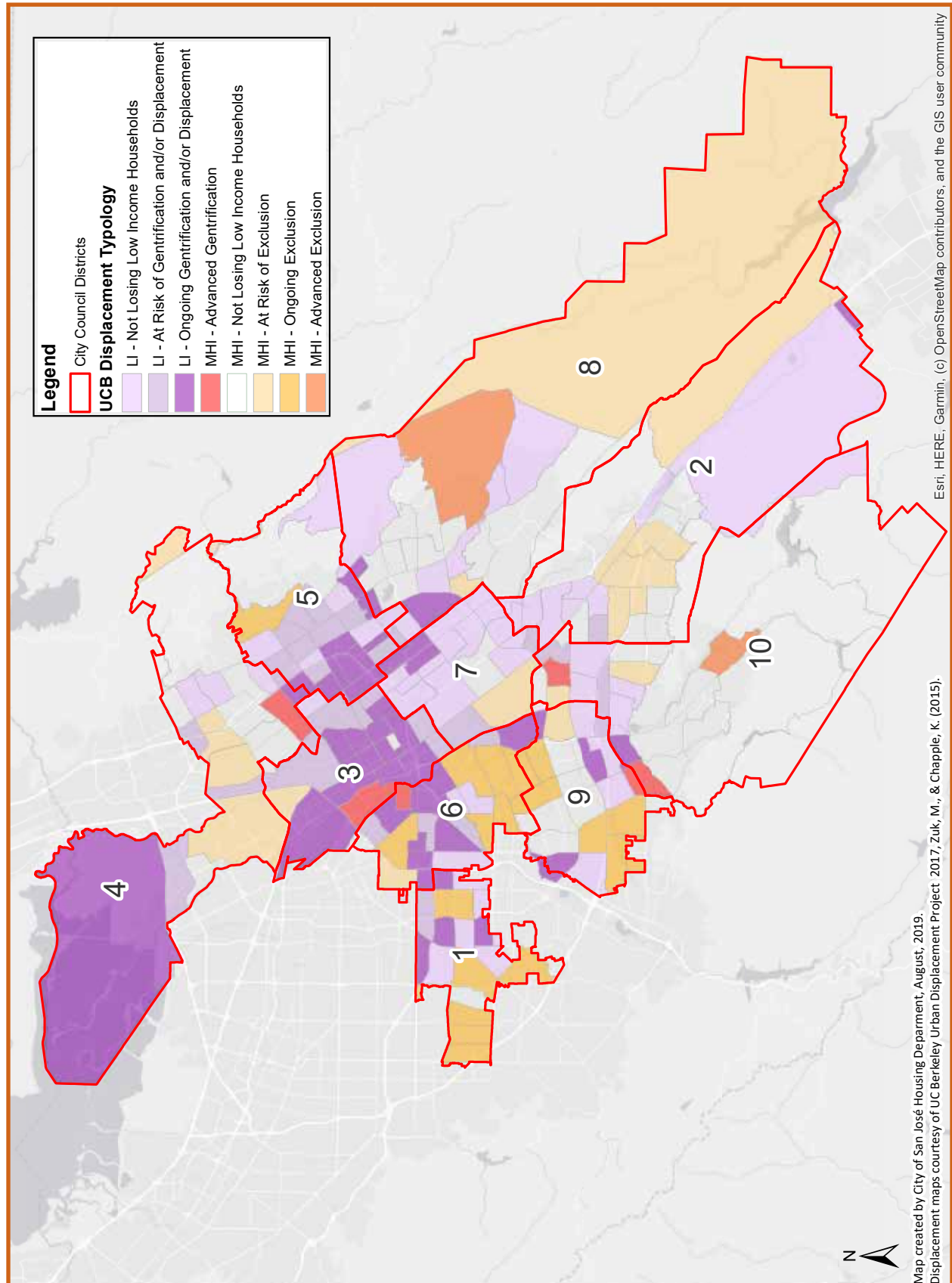
Residential Displacement and Eviction Notices in San José



San José Redlined Areas and Displacement Typologies



San José City Council Districts and Displacement Typologies



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This is a San José Anti-Displacement Policy Network Team report, not a City of San José staff report.