



COUNCIL AGENDA: 3/26/2024

ITEM: 8.2

FILE NO: 24-74766

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** March 26, 2024

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**SUBJECT:** Anti-Displacement Tenant Preference and Neighborhood Tenant Preference for Affordable Housing Draft Programs Status Report

## Recommendation

As recommended by the Community and Economic Development Committee on February 26, 2024:

- (a) Accept the Anti-Displacement Tenant Preference and Neighborhood Tenant Preference for Affordable Housing Programs Status Report; and
- (b) Adopt a resolution establishing an Anti-Displacement Tenant Preference program in City restricted affordable housing properties for lower-income applicants of affordable housing at risk of displacement living in high-displacement census tracts and in their neighborhood City Council Districts.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing)  
[Community and Economic Development Committee referral 2/26/2024 – Item (d)2]



# Memorandum

**TO:** COMMUNITY & ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** February 20, 2024

Approved

Date

2/20/2024

**SUBJECT: ANTI-DISPLACEMENT TENANT PREFERENCE AND  
NEIGHBORHOOD TENANT PREFERENCE DRAFT PROGRAM  
STATUS REPORT**

## **REASON FOR REPLACEMENT**

The reason for replacement is to correct typographical errors and to correct Attachment D – Proposed Tenant Preferences Program Framework.

## **RECOMMENDATION**

Review the proposed tenant preferences program to help mitigate displacement for tenants at risk of displacement living in high-displacement census tracts and in neighborhoods, which prioritize vulnerable applicants for City-supported affordable housing and mitigate the likelihood of low-income renters' displacement from San José, and cross reference the report to the March 26, 2024, City Council meeting.

## **SUMMARY AND OUTCOME**

The Community and Economic Development Committee's acceptance of the status report, feedback, and cross-reference to City Council would provide the opportunity to consider the proposed Tenant Preferences Program (Program) to help mitigate displacement. If the proposed Tenant Preference Program is approved, staff will initiate implementation in deed-restricted affordable housing properties that:

- 1) Receive funding or a real property interest from the City; or
- 2) Enter into a development agreement with the City to develop affordable housing.

Tenant preferences allow a portion of apartments in affordable housing properties to be prioritized for a subset of applicants. The proposed Tenant Preferences Program would require a percentage of apartments within affordable housing properties, implementing the preferences to be set aside for applicants who meet the Program’s criteria. Preferences would only apply to apartments for the general public, not those already set aside for special populations, such as permanent supportive housing or rapid rehousing apartments for formerly homeless residents. The proposed Tenant Preferences Program would enable affordable apartment managers to prioritize applications of current San José residents who are most vulnerable to the housing market’s pressures and need stable and affordable homes.

## **BACKGROUND**

In 2017, the City Council directed staff to explore tenant preferences for affordable housing in low-income neighborhoods undergoing displacement. This direction was voted to be one of City Council’s top priorities to address the growing number of San José residents at risk of being displaced due to high rent burden costs, rent increases, and growing demand for affordable housing opportunities.<sup>1</sup> Staff began exploring multiple possible tenant preferences, including those for people who:

- 1) Live or work in San José;
- 2) Have experienced certain types of displacement in San José; and
- 3) Reside in areas of San José that are highly likely to result in tenant displacement. Staff brought five memoranda with tenant preferences research and possible program frameworks to the City’s Housing and Community Development Commission between 2017 and 2023, and in 2017 and 2018 to the City Council’s Community and Economic Committee.

On September 22, 2020, City Council approved the Citywide Residential Anti-Displacement Strategy<sup>2</sup> (Anti-Displacement Strategy). The Anti-Displacement Strategy noted that residential displacement and concerns over housing stability had long-term negative impacts on households, significantly damaging residents’ health, economic, and educational outcomes.<sup>3</sup> Residents and community organizations drove the effort to prioritize the inclusion of tenant preferences to help fight displacement in the Anti-Displacement Strategy. City Council directed staff to prioritize the top three recommendations of the Anti-Displacement Strategy. “Establishing a Neighborhood Tenant Preference” is Recommendation #2 in the Strategy. Staff subsequently clarified with City Council that it was merging the previous Council direction to develop tenant preferences to fight displacement with the Neighborhood Tenant Preference direction.

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<sup>1</sup> San José City Council Community and Economic Development Committee Memorandum, Workload Assessment on Prioritization for Tenants of Affordable Housing, October 23, 2017, [http://sanjose.granicus.com/Viewer.php?meta\\_id=673260](http://sanjose.granicus.com/Viewer.php?meta_id=673260).

<sup>2</sup> Citywide Residential Anti-Displacement Strategy, City Council Memorandum, Sep. 22, 2020, <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/citywide-anti-displacement-strategy>

<sup>3</sup> Ibid.

On June 20, 2023, City Council approved San José's *2023-2031 Housing Element*, which includes developing tenant preferences that help fight displacement in work plan item S-20.<sup>4</sup> On January 29, 2024, the state's Department of Housing and Community Development certified San José's revised *2023-2031 Housing Element*.

Staff conducted significant outreach to inform the proposed Tenant Preferences Program design. Staff held individual and public meetings with affordable housing owners, property managers, community stakeholders, and the general public. In addition, since the passage of the Anti-Displacement Strategy in 2020, staff have presented 15 updates to the Community and Economic Development Committee, Neighborhood Services and Education Committee, and full City Council. These reports have included status updates on staff's development of the proposed Tenant Preferences Program.

## **ANALYSIS**

To design proposed tenant preferences to help fight displacement, staff took the following actions:

- a) Sponsored California Senate Bill 649 (Cortese, 2021) to formally recognize populations at risk of displacement so that tenant preferences to help this population can be used on affordable housing properties financed with Low-Income Housing Tax Credits and private activity bond financing;
- b) Analyzed research conducted by the Urban Displacement Project at the University of California Berkeley to determine displacement risk in San José; and
- c) Conducted extensive disparate impact analyses to ensure the proposed Tenant Preferences Program adheres to fair housing law.

Staff also researched tenant preferences in surrounding Bay Area jurisdictions and gathered feedback from residents, affordable housing developers and managers, policy organizations, government agencies, and community organizations. More information on public outreach and community engagement can be found in **Attachments A** and **B**.

### **California Senate Bill 649**

Prior to 2022, no formal recognition of people at risk of displacement had been established by public policy or public programs. Therefore, it was not clear that tenant preferences for people at risk of displacement could be used on affordable housing financed with federal Low-Income Housing Tax Credits and/or private activity bonds. California Senate Bill 649 (Cortese, 2021), the Tenant Preferences to Prevent Displacement Act, was authored by Senator Dave Cortese and co-sponsored by the City of San José, SOMOS Mayfair, and the Housing Action Coalition. It

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<sup>4</sup> 2023-2031 Housing Element Chapter 3, Housing Goals and Strategies, <https://www.sanjoseca.gov/home/showpublisheddocument/107420/638370204948130000>

passed in 2022, was signed into law, and took effect on January 1, 2023.<sup>5</sup> This law now supports the creation and implementation of tenant preferences for residents at risk of displacement by:

- Acknowledging that lower-income individuals residing in neighborhoods and communities experiencing significant displacement need access to housing that is affordable and assists in avoiding displacement; and
- Allowing the Low-Income Housing Tax Credit program and private activity bonds to fund affordable housing that would house local residents threatened by displacement so they can remain in the community.

With the passage of Senate Bill 649, the Housing Department was able to move forward with a Program proposal for tenant preferences that fight displacement in San José.

### **Displacement Risk in San José**

According to the Urban Displacement Project, displacement is defined as the involuntary relocation of residents.<sup>6</sup> Displacement from a neighborhood or city can occur due to many direct and indirect reasons. These include foreclosure, evictions, rent increases, and construction of projects such as transit and highway systems. The effects of displacement on lower-income renters can include homelessness, loss of culture and community, and decreased access to jobs and social mobility. Staff's objective for its anti-displacement work is to help prevent the displacement of low-income residents from San José.

Displacement is an issue related to ethnicity and race, as minority populations are more likely to experience the impacts of displacement. As shown in **Table 1**, Hispanic/Latinx, Vietnamese, and Black residents are living in areas with displacement pressures at double or triple the rate as non-Hispanic white households in San José. Analysis based on the Urban Displacement Project maps indicates that nearly half (45%) of the City's Hispanic/Latino/a/x population, 34% of the City's Vietnamese population, and 30% of the City's Black population were living in neighborhoods classified by displacement risk as "definitively" or "probably" undergoing displacement in 2019, compared to 13% of non-Hispanic, white residents.

According to the Urban Displacement Project, being a renter and being housing cost-burdened are two key risk factors for higher displacement risk. As previously reported in the Housing Department's September 2020 Anti-Displacement Strategy City Council memorandum,<sup>7</sup> people of color in San José are disproportionately renters and disproportionately housing cost-burdened.

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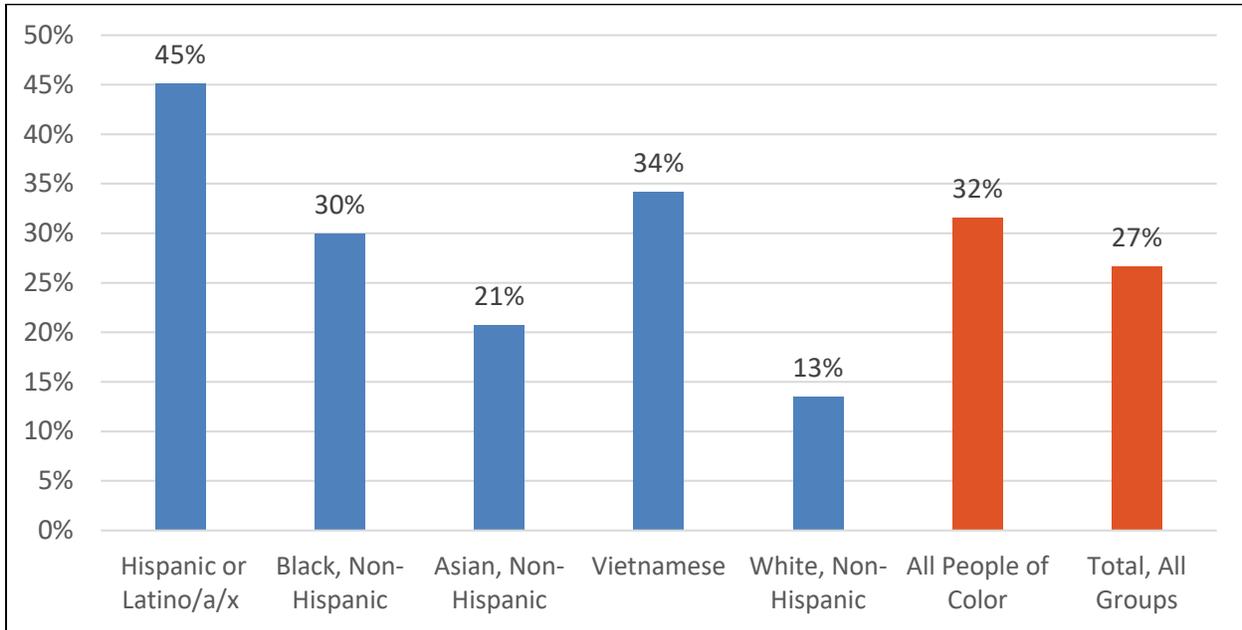
<sup>5</sup> Senate Bill 649 (Cortese, 2021), <https://legiscan.com/CA/text/SB649/id/2609435/California-2021-SB649-Chaptered.html>

<sup>6</sup> Urban Displacement Project, What Are Gentrification and Displacement?

<https://www.urbandisplacement.org/about/what-are-gentrification-and-displacement/>

<sup>7</sup> <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/citywide-anti-displacement-strategy>

**Table 1: Share of San José Residents Living in Neighborhoods Undergoing Displacement or Probable Displacement by Race/Ethnicity, 2019**



[1] “People of Color” are defined as all who self-report their ethnicity as Hispanic/Latinx and/or their race as being something other than White. Note that racial/ethnic groups in this chart are not mutually exclusive.

[2] Vietnamese are also included in the “Asian Non-Hispanic” group.

Source: Staff analysis of 2019 5-Year American Community Survey Estimates, using Urban Displacement Project California Displacement Risk Model data, 2022.

**Table 2** breaks down the number of lower-income households in each City Council District that would qualify under the neighborhood eligibility criteria and the Displacement Tract criteria. The greatest number of households qualifying under the Displacement Tract criteria reside in U.C. Berkeley-defined census tracts in City Council Districts 3, 5, 6, and 7. However, there are qualified households at risk of displacement in every City Council District that may benefit under the neighborhood eligibility criteria, shown in the second column of **Table 2**.

**Table 2: Number of Lower-Income Households by City Council District Qualified for the Program**

City Council District	# Households Qualified based on Neighborhood	# Households Qualified in Displacement Tracts <sup>8</sup>	Total # of All Households
1	16,695	3,090	43,328
2	12,739	2,284	27,801
3	20,556	17,442	35,866
4	11,627	0	34,298
5	14,851	10,969	23,532
6	20,581	8,217	47,212
7	16,319	11,555	25,196
8	8,420	920	23,561
9	13,553	0	39,256
10	10,744	780	34,431

The data from the Urban Displacement Project, Comprehensive Housing Affordability Strategy, and American Community Survey suggest that the proposed Tenant Preferences Program would greatly reduce housing instability and displacement for lower-income households of color throughout San José.

### **Fair Housing Disparate Impact Analysis**

Any potential tenant preferences must be consistent with fair housing law to ensure equitable housing access to all and not disparately impact any protected groups. Under fair housing law, disparate impact, otherwise known as adverse impact, occurs when a policy that appears neutral on the surface in practice has a disproportionately negative effect on a particular group of people based upon their protected class. Staff conducted a statistical analysis to show that the proposed tenant preferences would not result in disparate impact, contribute to additional segregation, or further diminish housing access for any protected class.

The analysis tested a variety of scenarios across the City's 10 Council districts. These scenarios included different percentages of apartments set aside for each tenant preference, alone and in combination, as well as modeling for various geographic definitions for the neighborhood eligibility criteria. Further explanation of the analysis can be found in **Attachment C**.

<sup>8</sup> UDP analysis found that no census tracts in Council Districts 4 and 9 showed net lower-income renter population losses.

Some community advocates sought a higher percentage set aside for neighborhood residents and a smaller proximity to the new affordable housing. However, staff analysis determined that, given current demographic data and new construction project pipeline data, the geographical proximity criteria must be no smaller than a City Council district boundary, and the percentage of apartments set aside for the neighborhood eligibility criteria must be no higher than 15% to adhere with fair housing requirements.

The analysis projections indicate that applying preferences to 35% or less of the restricted affordable apartments and allocating 15% of apartments to apply to neighborhood residents at risk of displacement and 20% of the apartments to residents living in displacement areas across the City would not likely cause a disparate impact on any protected class members.

### **Preferences Categories: Residents in High-Displacement Census Tracts and Residents Residing in the Same Neighborhood**

The proposed Tenant Preferences Program designed to mitigate residential displacement would assist two categories of residents:

#### *Residents in High-Displacement Census Tracts*

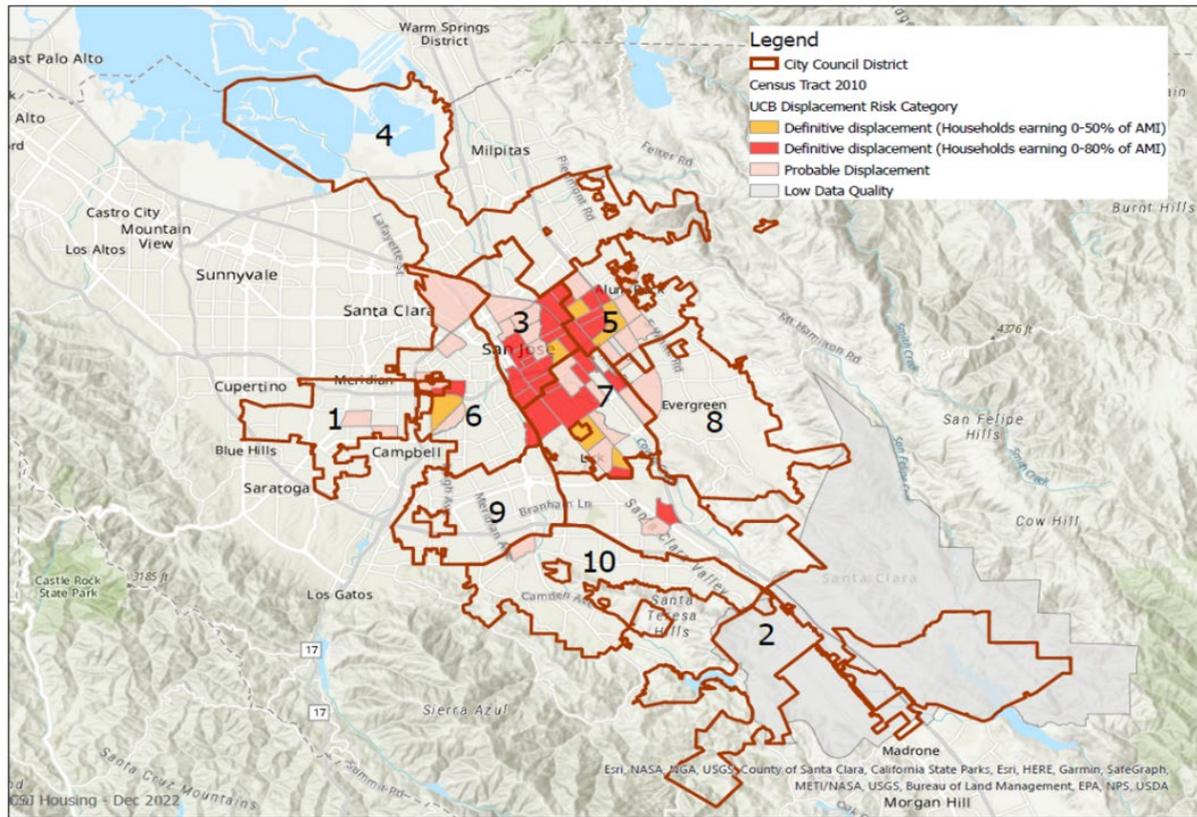
The proposed Tenant Preferences Program would set aside 20% of affordable apartments in subject properties for lower-income applicants who live in areas designated as having a high likelihood of displacement or undergoing displacement. Residents of census tracts categorized as ‘high-risk’ or ‘undergoing displacement’ by a credible, authoritative external source would be eligible. The data staff uses to determine these areas at this time is from the University of California Berkeley’s Urban Displacement Project.<sup>9</sup> The Urban Displacement Project data researches changes in the characteristics of areas’ populations over time to determine if displacement of people in certain income groups is occurring, likely to occur, or has already occurred. **Figure 1** shows the Urban Displacement Project’s analysis of San José.

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<sup>9</sup> The proposed Tenant Preferences Program is defined so that if the Urban Displacement Project data becomes unavailable in the future, other data sources or analysis can be substituted.

**Figure 1: Map of Urban Displacement Project Defined Displacement Census Tracts**

UC Berkeley CA Estimated Displacement Risk Model - June 2022 - San José Census Tracts



The map in **Figure 1** is a risk model highlighting San José census tracts where displacement is definitive (10% or more lower-income households have been displaced) or probable (displacement is likely occurring for low-income households). Displacement risk is identified by the net loss of low-income populations. In other words, the model estimates that in these areas, more low-income households left these neighborhoods than moved in over a recent period of time.

Under the proposed Tenant Preferences Program, residents who live in the colored census tracts listed in **Figure 1** (gold, orange, or pink) would receive a preference when applying to affordable apartment properties located anywhere in San José. This would increase the likelihood that lower-income renters living in high-displacement areas can access affordable housing in their current neighborhoods, or in different areas of San José with improved amenities and opportunities.

### *Residents in the Same Neighborhood*

The proposed Tenant Preferences Program would set aside 15% of apartments in a subject property for low-income applicants who already live in that neighborhood and are at risk of displacement. The “neighborhood” is defined as the same City Council District as a particular affordable housing property. The City Council District geographic boundary was selected as the

proposed Tenant Preferences Program's neighborhood eligibility criteria because it passed all of staff's fair housing quantitative tests. The preference for applicants who live local to a given affordable housing property would increase the likelihood that lower-income renters have:

- The choice to remain in their neighborhoods;
- Obtain deed-restricted affordable housing; and
- Improve their housing stability.

The resulting improved housing choice can help individual households who already live in areas of higher opportunity as well as those living in areas with fewer investments but who do not wish to leave their neighborhoods.

There are many benefits of improving the likelihood for residents to remain local. For example, households qualifying for the Tenant Preferences Program would have a greater ability to keep their children in the same schools and retain childcare providers, doctors, cultural connections, houses of worship, and their existing social networks. Supportive social networks can be very important for lower-income families to keep in place as they struggle to afford expensive markets like San José, as nearby friends and neighbors can help reduce the cost of childcare and reduce families' stress. This neighborhood eligibility criteria reaffirms the City's duty to affirmatively further fair housing by fostering housing choices for residents, addressing disparities in housing needs, and accessing opportunity.

### **Proposed Program Framework**

The Tenant Preferences Program framework is summarized below in **Table 3 – Tenant Preferences Program Framework Summary**. A full description of the program framework is available in **Attachment D**.

**Table 3 – Tenant Preferences Program Framework Summary**

Program Element	Proposal
<b>Applicability: Set-Aside</b>	35% of all restricted affordable apartments otherwise available to the general public in a subject property: <ul style="list-style-type: none"> <li>• No more than 15% of apartments set aside for applicants living in the same neighborhood as the property, and</li> <li>• 20% of apartments set aside for applicants living in displacement tracts.</li> </ul> Set-aside of apartments would be a commensurate mix of all apartments for the general public (number of bedrooms and affordability levels).
<b>Eligibility for the Tenant Preferences Program</b>	Lower-income San José residents ( $\leq 80\%$ AMI) are eligible for the proposed Tenant Preferences Program if they: <ul style="list-style-type: none"> <li>• Live in definitive and probable displacement tracts, as defined by the U.C. Berkeley Urban Displacement Project, and/or</li> <li>• Are at-risk of displacement as they currently rent a home in the same City Council District as a subject development.</li> </ul>
<b>Applicability: Which Properties</b>	<ul style="list-style-type: none"> <li>• City-funded affordable developments, including those for seniors,</li> <li>• Developments negotiated through Development Agreements,</li> <li>• Existing affordable housing properties when documents are modified (on a deal-by-deal basis),</li> <li>• Any affordable housing in San José on which public agencies want to apply preference, even if no City funding, and</li> <li>• State-funded developments that meet the above criteria (pending approval by the state’s Department of Housing and Community Development).</li> </ul>
<b>Applicability: Phase-In</b>	All new and renegotiated City-funded affordable housing developments in the pipeline and early in construction at the designated effective date of the San José resolution.

*Applicability of Proposed Tenant Preferences Program*

The City would implement the proposed Tenant Preferences Program under its powers as a lender. Therefore, it would apply to affordable housing properties with City loans. It may also apply to San José transactions in which the City may not have made a financial or real property contribution but if another public agency, such as the County of Santa Clara or the Valley Transportation Authority, wishes to implement it. Similarly, the City would implement tenant preferences in transactions involving Development Agreements.

The proposed Tenant Preferences Program would not apply to non-City funded restricted affordable properties, including those with:

- Certain funding from the U.S. Department of Housing and Urban Development;
- Inclusionary Housing, affordable rental apartments;
- City bonds-only transactions;
- Affordable apartments with attached project-based federal vouchers, or

- Any affordable apartment identified for a special population or filled through a managed queue (such as permanent supportive housing for formerly homeless, rapid rehousing for formerly homeless, foster youth, veterans, etc.)

The proposed Tenant Preferences Program would require that properties set aside a portion of apartments based on the number, size, and depth of affordability of apartments for the general public (as opposed to designated special populations)

### *Education and Engagement*

If the City Council approves the proposed Tenant Preferences Program, Housing Department staff will create and disseminate informational materials on the Tenant Preferences Program in partnership with community organizations, other City departments, and affordable property managers. Staff would conduct presentations at or near affordable properties with available apartments to educate potential applicants about applicable tenant preferences. Staff also would hold informational sessions with property management staff and discuss implementation through each funding transaction to ensure understanding. It is anticipated that this work can be executed with existing staff. However, staff would utilize the community-based *Promotores* program to ensure meaningful engagement between the City and residents who would benefit the most from tenant preferences that help fight displacement.

### *Implementation and Compliance*

The proposed Tenant Preferences Program would be applied to each eligible household's application via geo-coded maps integrated into the City of San José's Doorway Affordable Housing online tenant application portal (Doorway).<sup>10</sup> Each property subject to the proposed Tenant Preferences Program would be required to list application vacancy announcements and utilize the online digital applications on Doorway. Doorway would determine which applicants are eligible for preferences based on their residence's location and inform property managers of eligibility. The geo-coded maps would be updated periodically to reflect the most accurate census tract data and City Council district boundaries to qualify applicants.

To maximize other funders' comfort with implementing tenant preferences to help mitigate displacement, staff would integrate the requirement and process to implement in subject properties' loan term sheets and a standalone agreement that identifies specifics. For existing developments, the proposed Tenant Preferences Program would be added to properties' loan documents when their owners seek approval from the City for any action that necessitates amendments to the City's loan documents.

If approved, staff would develop administrative guidelines and an implementation manual outlining program operations and procedures for property management staff. The administrative guidelines would be subject to approval by the City Manager's Office, and a public hearing

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<sup>10</sup> Doorway access is at <https://www.sanjoseca.gov/your-government/departments-offices/housing/tenants/apply-for-affordable-housing>

would be held prior to approval. The Housing Department’s webpage for this work<sup>11</sup> would also include the disparate impact analysis, City Council memorandum and resolution, a record of City Council approval, and educational materials, as required by Senate Bill 649.

Property managers would be required to demonstrate compliance with the proposed Tenant Preferences Program annually. This would allow staff to monitor developments, implement tenant preferences, and assess properties’ performance to ensure ongoing compliance. The City reserves the right to pursue any of its remedies under loan documents in the event of non-compliance. For an example of a list of property managers’ requirements, please see **Attachment D**.

**Policy Alternative**

The following alternative was considered when finalizing the staff recommendation:

<i>Alternative #1: Lower the set-aside percentage to 25% of total affordable apartments.</i>	
<b>Description</b>	The set-aside for residents living in displacement tracts can be lowered from 20% to 15% of affordable apartments within an applicable affordable property that otherwise would be available to the general public, and the Anti-Displacement Neighborhood Tenant Preference set-aside can be lowered from 15% to 10% of apartments.
<b>Pros</b>	The Urban Displacement Project and Comprehensive Housing Affordability Strategy data indicate that 156,343 lower-income households live in San José – 58,012 lower-income households in census tracts with displacement risk and another 98,331 lower-income households in other areas. Lowering the set-aside percentage for tenants from the target displacement census tracts would allow the 98,331 citywide households a slightly greater opportunity to access 10% of affordable apartments that otherwise would have been reserved for target tenant preference populations.

<sup>11</sup> Proposed tenant preferences Program webpage: <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/tenant-preferences>

<p><b>Cons</b></p>	<p>The purpose of a tenant preference program is to improve the likelihood of affordable housing for more vulnerable populations. Lowering the chances of the target populations to access affordable housing so that others get a slightly better chance of approval does not make the highest and best use of the limited stock of affordable homes in San José. Lowering the set-aside would increase the chances of households at the highest risk of displacement being forced to leave San José, removing them from their personal networks and diminishing cultural and community cohesion. Further, the general lower-income population has access to 65%, approximately two-thirds, of affordable apartments, which is the vast majority. Finally, many community members asked for the set-aside to be raised to 40% or 50% of apartments, so lowering the set-aside would be specifically contrary to community feedback.</p>
<p><b>Reason for not recommending</b></p>	<p>One of the Program’s goals is to protect current residents from displacement where neighborhoods are changing rapidly. Alternative #1 would limit the number of apartments that would benefit lower-income residents living in high displacement risk census tracts for minimal benefit to the general lower-income population. It would limit the impact of the Program and is not recommended.</p>

***Racial Equity Impact Analysis***

The racial equity impact analysis of this proposed Tenant Preference Program can be found in the “Displacement Risk in San José” section of this memorandum. Additionally, the extensive fair housing disparate impact analysis conducted by staff safeguards the City’s adherence to fair housing requirements. The analysis enables the City to create a lawful tenant preference program that contributes to the goal of affirmatively furthering fair housing and combatting racial bias by undoing patterns of segregation and lifting barriers to accessing affordable housing. Responding to concerns from members of San José’s communities experiencing displacement and/or at risk of being displaced, the proposed Tenant Preferences Program is designed to help foster inclusive communities and reduce racial inequity. Staff’s analysis indicated that no population would be burdened or adversely impacted as a result of the program proposal.

***Climate Smart San José***

The recommendation in this memorandum aligns with the following key strategies in the Climate Smart San José plan:

- Make homes efficient and affordable for our families, and
- An economically inclusive City of opportunity

Additionally, this proposed Tenant Preferences Program can help reduce vehicle miles traveled by reducing the number of displaced renters who would commute back to San José from their new residences to go to their job location, attend church, and visit family and friends.

### **EVALUATION AND FOLLOW-UP**

The status report, including the Community and Economic Development Committee feedback, will be cross-referenced to the March 26, 2024, City Council meeting.

If City Council approves the staff recommendation, Housing Department staff would submit this Program for approval to the California Housing and Community Development Department for its review as a lender. Staff would also consider submitting the program for approval to the U.S. Department of Housing and Urban Development. The agencies' approvals would enable the City to include tenant preferences in affordable properties funded by those agencies.

### **COST SUMMARY/IMPLICATIONS**

There are no immediate cost implications from this program. Existing staff from the Housing Department's Residential Development Division and Policy Team would implement this Program.

### **COORDINATION**

This memorandum and the proposed Tenant Preferences Program were developed in coordination with the City Attorney's Office, and the memorandum was coordinated with the City Manager's Budget Office.

### **PUBLIC OUTREACH**

This memorandum will be posted on the Community and Economic Development Committee's website for the February 26, 2024, meeting. Between the summer and winter of 2023, staff sought input on the proposed Tenant Preferences Program design at three community meetings with a total of 105 participants (some may have attended more than one meeting) and seven individual meetings with property managers and tenant advocates. In addition, staff sought input from affordable housing developers/owners and property managers at two roundtable meetings hosted by Silicon Valley at Home.

Staff also met with four attorneys specializing in fair housing law to obtain their feedback. Additional outreach to attorneys representing lenders and investors on affordable housing transactions is also planned as of the time this memorandum was submitted. A summary of outreach and feedback conducted by staff is available in **Attachment B**.

**COMMISSION RECOMMENDATION AND INPUT**

On September 14, 2023, the Housing and Community Development Commission heard the draft framework for the proposed Tenant Preferences Program to help fight displacement. At the Housing and Community Development meeting, the Commission passed the following motion:

Commissioner Moore made a motion, seconded by Commissioner Cardoza, that “staff investigates demonstration of community ties (as demonstrated by other sample cities – e.g., residence, family, connection to organizations) as a requirement for accessing these preferences. Community ties should be three or more years.” The motion passed 8-0, as follows:

Yes	Jasinsky, Dawson, Del Buono, Beehler, Partida, Tran, Moore, Cardoza (8)
No	None (0)
Abstaining	None (0)
Absent	Finn, Vong, Navarro, Jackson, Oppie (5)

However, staff recommends not pursuing the Commission’s recommendation as the City Attorney’s Office expressed significant legal concerns with implementing a length-of-time requirement.

In addition to the above motion, the following input was provided at the meeting.

***Commissioner Comments***

<b>Commissioner</b>	<b>Comments</b>
Commissioner Cardoza	Expressed the importance of allowing long-time residents to remain in San José and recommended considering a length-of-time requirement.
Commissioner Dawson	Expressed support for the program and would like to see a higher percentage of apartments reserved. Supported Commissioner Cardoza’s comments regarding the length-of-time requirement. Concerned about apartment vacancy with this additional requirement. Shared interest in Doorway, the affordable housing online portal, and streamlining applications.
Commissioner Navarro	Expressed that displaced households should be provided the opportunity to relocate to high-opportunity areas.
Vice Chair Partida	Shared that many households in District 7 experience overcrowding and recommended that multiple applicants from one address should not be disqualified.
Commissioner Tran	Concerned that the Neighborhood Preference’s scope is too broad and does not preserve the local community, and requested clarification on the Urban Displacement Map.

<b>Commissioner</b>	<b>Comments</b>
Commissioner Moore	Asked for further clarification of the disparate impact analysis, and expressed support for the proposals and agreed with Commissioner Cardoza’s recommendation to require documentation of the length of time lived in San José.

***Public Comments***

<b>Individual</b>	<b>Comments</b>
Paul Soto	Commented that market-rate housing production should be capped until 70% of extremely low-income and low-income apartments [under Regional Housing Needs Allocation goals] are built.
Emily Ann Ramos, SV@Home	Expressed support for the program and recommended staff consider increasing the percentage of apartments reserved, allowing alternative documents to be accepted, and pursuing a displaced person preference.

**CEQA**

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

**PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City’s Open Government Resolution.

/s/  
ROSALYNN HUGHEY  
Deputy City Manager and  
Acting Housing Director

The principal author of this memorandum is Mindy Nguyen, Development Officer. For questions, please contact Kristen Clements, Division Manager, at [kristen.clements@sanjoseca.gov](mailto:kristen.clements@sanjoseca.gov) or (408) 535-8236.

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

February 20, 2024

**Subject: Anti-Displacement Tenant Preference and Neighborhood Tenant Preference Draft Program Status Report**

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**ATTACHMENTS:**

Attachment A: Tenant Preferences in Other Cities

Attachment B: Summary of Public Outreach and Community Engagement

Attachment C: Disparate Impact Analysis Summary

Attachment D: Proposed Tenant Preferences Program Framework