



COUNCIL AGENDA: 03/30/2021

ITEM: 8.3

FILE NO: 21-588

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: March 30, 2021

SUBJECT: Citywide Residential Anti-Displacement Strategy Recommendations Status Report

Recommendation

As recommended by the Neighborhood Services and Education Committee on March 11, 2021 and Community and Economic Development Committee on March 22, 2021:

(a) Accept the status report on the top three recommendations of the Citywide Residential Anti-Displacement Strategy.

(b) Accept the status report on the City Council's direction to add a seat to the Housing and Community Development Commission for a commissioner with lived experience in homelessness into Recommendation #4 of the Citywide Residential Anti-Displacement Strategy.

(c) Accept the addition of the City Council Policy Priority #10: The Anti-Displacement Tenant Preference Ordinance, into Recommendation #2 of the Citywide Residential Anti-Displacement Strategy.

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)

[Neighborhood Services and Education Committee referral 3/11/2021 - Item (d)6]

[Community and Economic Development Committee referral 3/22/2021 - Item (d)1]



Memorandum

TO: NEIGHBORHOOD SERVICES
AND EDUCATION COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: February 22, 2021

Approved

Date

03/03/21

**SUBJECT: CITYWIDE RESIDENTIAL ANTI-DISPLACEMENT STRATEGY
RECOMMENDATIONS STATUS REPORT**

RECOMMENDATION

- a) Accept the status report on the top three recommendations of the Citywide Residential Anti-Displacement Strategy.
- b) Accept the status report on the City Council's direction to add a seat to the Housing and Community Development Commission for a commissioner with lived experience in homelessness into Recommendation #4 of the Citywide Residential Anti-Displacement Strategy.
- c) Accept the addition of the City Council Policy Priority #10: the Anti-Displacement Tenant Preference Ordinance, into Recommendation #2 of the Citywide Residential Anti-Displacement Strategy.
- d) Cross-reference this item to be heard by the City Council at its meeting on March 30, 2021.

OUTCOME

Committee members will receive an update on the status of staff's work on the top three priority recommendations in the Citywide Residential Anti-Displacement Strategy approved by the City Council in September 2020. Committee members will also receive an update on City Council Policy Priority #10, the Anti-Displacement Tenant Preference Ordinance, and forthcoming work on adding a person with lived experience to the HCDC.

BACKGROUND

On September 22, 2020, [the City Council approved](#) staff's proposed Citywide Residential Anti-Displacement Strategy (Anti-Displacement Strategy). The City Council's direction included that staff should focus its work on the top three recommendations:

1. Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners;
2. Create a Neighborhood-based Tenant Preference; and
3. Explore a Community Opportunity to Purchase Program (First Right of Offer to Purchase).

The City Council also directed staff to return to the City Council with an update on progress on the first three recommendations in six months, as well as provide quarterly updates to the Community and Economic Development Committee and the Neighborhood Services and Education Committee.

At the City Council meeting on January 12, 2021, the [City Council's approval of item 8.1](#) included direction for Housing Department staff to add a seat to the Housing and Community Development Commission (HCDC) for a commissioner with lived experience in homelessness. The direction noted that this action is consistent with Citywide Residential Anti-Displacement Recommendation #4: Increase Equitable Representation of Historically Underrepresented Communities on City Commissions.

ANALYSIS

The following information provides updates on work being done to further the top three work efforts under the Anti-Displacement Strategy.

Recommendation 1: Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners

The City's response to community needs due to COVID-19 has been wide ranging, involving deployment of the Emergency Operations Center and many different departments over the past 11 months. While the Community and Economic Recovery Task Force and the City Manager's Office is leading response and recovery efforts, Housing Department staff have focused on playing the role identified in its Anti-Displacement Strategy: keeping San José residents housed during COVID, identifying barriers to staying housed for vulnerable populations, and seeking and sharing information to help the City respond to its challenges.

Housing Department staff is sharing all information on community needs during COVID with the Community and Economic Recovery Task Force members to help inform the City's COVID assistance efforts.

Following is a summary of the Housing Department's work accomplished and underway in the past six months that has supported COVID-19 response efforts:

Barriers to Housing Programs for Immigrant Families

The pandemic has revealed the significant impact of citizenship requirements disqualifying San José residents from various forms of assistance. Identifying and removing barriers to housing programs for immigrant applicants is a way to support ongoing housing stability for the City's sizable immigrant community. According to American Community Survey (2014-2018), an estimated 762,784 immigrant residents live in the San José metropolitan statistical area, which also includes Sunnyvale and Santa Clara. Immigrant residents comprise 38.5% of the total population. Of the immigrant population, approximately 157,876 residents are undocumented.

Staff surveyed the following 17 locally-available housing programs to identify potential barriers to access, particularly for mixed-status and undocumented families:

- Emergency Assistance Network
- Pro bono legal assistance
- Private mortgages
- Housing Trust's Empower Homebuyer Program (Measure A)
- Federally-funded affordable housing
- State/locally-funded affordable housing
- Housing Choice Vouchers/Section 8
- Rapid Rehousing – federal ESG funded
- Rapid Rehousing - federal HOME funded
- Emergency shelter and transitional housing
- Homelessness prevention program
- Housing for Persons with AIDS (HOPWA) housing and services
- Permanent supportive housing
- Bridge housing communities
- FEMA aid
- Domestic violence shelters and temporary housing

Through the survey, staff found that most programs did not have screening criteria that denied a client based on immigration status. However, the following programs have citizenship requirements:

1. Legal assistance by Bay Area Legal Aid
2. Housing Trust Empower Homebuyer Program (Measure A)
3. Housing Choice Vouchers/Section 8 (portable)
4. Certain affordable housing developments assisted by certain federal housing programs under authority of Section 214 (including HUD Section 235 and 236 FHA-insured mortgages, developments with project-based Section 8 assistance, and some HUD preservation loan programs).

In addition, there are de facto barriers in practice for other programs. For instance, while few San José affordable rental properties fall under Number 4 in the list above, other properties do not use available flexibility for acceptable identification and income documentation from applicants. Undocumented residents should be able to submit this evidence when applying for low-income housing tax credit-funded affordable developments, which make up the vast majority of the City's affordable rental portfolio. However, many property management companies do not actively promote use of the flexibility, and residents who need the flexibility reportedly do not know they have it.

Other barriers to housing for immigrant families reported include lack of access to reliable information, intimidation, language access, and considerations for sub-lesers. Staff is currently working with the Eastside PEACE Anti-displacement Working Group and the Santa Clara County Office of Immigrant Relations to identify additional barriers and develop recommendations to improve access to these programs for immigrant families.

It should be noted that the Federal Public Charge Rule (Rule) was [vacated by the U.S. District Court for the Northern District of Illinois](#) in early November 2020, which would have suspended implementation of the Rule. However, the U.S. Court of Appeals for the Seventh Circuit immediately issued an administrative stay of that District Court ruling, which means the Rule continues to be implemented. On February 2, 2021, President Biden signed an [Executive Order](#) requiring a 60-day review of the Rule, which expands the grounds on which an individual can be denied legal status due to their past use of public benefits. A permanent vacation of this rule would remove a major barrier for immigrant families to access housing services.

Landlord Survey

San José has been selected by the [Bloomberg Harvard City Leadership Initiative](#) to participate in a nationwide, multi-center U.S. research study examining the impact of Covid-19 on individual rental property owners. The study, led by principal investigator [Dr. Elijah de la Campa](#) in concert with Dr. Vincent Reina of the University of Pennsylvania, is expected to launch by March 2021 with the aim to measure how local landlords are adapting to the challenges presented by the pandemic, and how the City is faring during this crisis. Participating cities include Akron, Atlanta (GA), Baltimore (MD), Chattanooga (TN), Indianapolis (IN), Los Angeles (CA), Minneapolis (MN), Philadelphia (PA), Raleigh (NC), and Trenton (NJ). Findings will be examined at both city and nationwide levels in an effort to glean insights discrete to each city and to identify commonalities and points of differentiation across the country. Preliminary findings are expected by the second half of 2021. The Bloomberg Harvard City Leadership Initiative's mission is to provide mayors and city officials with leadership and management tools to lead high-performing cities.

The Housing Department is working closely with the researcher to assist with property owner communications. Staff will continue to plan how best to optimize release of San José data to let property owners know about available resources, and whether to hold a convening to release results and get additional feedback from owners.

Tenant Survey

The Housing Department's Rent Stabilization Program staff and Policy Team staff are working closely in conjunction with the Community and Economic Recovery Task Force team to conduct a tenant survey. The focus of the survey will be to gather data on vulnerable communities' housing needs within the City. The questions will address the extent of unpaid rent obligations, causes of possible displacement, whether they have received eviction notices or been evicted, and the location of tenants' new residences, if any. Initially, the survey will direct tenants to a website and offer an email response so that staff can ensure that tenants are represented in the survey results. Staff is discussing options with the City's survey consultant for doing additional outreach via phone and U.S. mail to specific zip codes, as well as making paper surveys available at food distribution sites and other community locations for those residents that prefer paper to electronic communications. The survey will be administered in multiple languages.

Research on Other Cities' COVID-19 Strategies

Housing's Rent Stabilization Program staff is compiling information about COVID-19 housing recovery strategies and metrics for Los Angeles, New Orleans, Oakland, Portland, San Francisco, and Seattle with the aim to establish a benchmark against which the City can start to identify emerging best practices. Complementing this work, the team is gathering insights from researchers and advocacy organizations and is tracking city-level efforts across the nation, such as [The Eviction Lab](#). A summary of the findings will be available in the second quarter of 2021. Further, staff is in discussions with the [Urban Institute](#), an eminent 50-year old nonpartisan nonprofit research center headquartered in Washington D.C., and the City of Los Angeles to launch a longitudinal study evaluating each city's COVID-19 recovery strategies. A concept paper is in development to secure funding for the study.

Outreach and Engagement with Community-based Organizations

Local community-based organizations (CBOs) have been critical partners to the public sector during the pandemic in distributing rental assistance, giving technical support, and fulfilling the food needs of the community. Over the past months, Housing staff engaged with CBOs that are assisting families and individuals residing in zip codes with the highest COVID-19 rates. The intent of staff's engagement efforts was to inform partners of the Housing Department's COVID-19 response and better understand partners' capacity, unmet community needs, and opportunities for improvements in communications and service between the organizations and the Department.

Several CBOs have expressed concerns over the City's undocumented community, sharing stories of difficulties that many undocumented families and individuals experience in trying to access rental assistance, eviction protection, and other assistance for fear of alerting immigration authorities. Another theme has included the delay in receiving service after applying for assistance, with many families growing disillusioned or desperate with the amount of paperwork required. Many CBOs face staffing capacity issues, and as the pandemic continues, the

increasing demand for services means that too few families and individuals have been served. CBOs also noted that the need for services far exceed the amount of assistance available.

Housing staff also meets regularly with local CBOs, the County Office of Supportive Housing, SV@Home, and Destination: Home to discuss observations and potential systems improvements. Housing staff will continue to engage with CBO partners to get feedback and communicate actively about the City's actions and resources, and will continue to share information with the Community and Economic Recovery Task Force to inform the design of the City's programs.

Eviction and Rent Increase Moratoriums and Assistance

Over the past six months, Housing staff has continued to work hard to actively communicate with the public regarding tenant protections and the City's programs. Communications have informed residents of the Statewide Eviction Moratorium for non-payment due to COVID-19 enacted on August 31, 2020 through the Tenant Relief Act of 2020 (AB 3088, Chiu) and its recent extension through June 30, 2021 (SB 91). To raise awareness of these protections, Housing staff sent out seven e-blasts related to the moratoria, conducted webinars in multiple languages with over 10,000 views of moratoria videos on social platforms, and mailed 14,666 informational postcards to renters across the City. Staff has responded to over 1,500 COVID-19 related inquiries from residents over the past several months, and regularly directs residents to available resources.

Currently, Housing staff is coordinating an outreach and education campaign with the County on SB 91 eviction protections and forthcoming rent and landlord assistance programs from the State, County, and City. Coordination includes ensuring that moratoria education and rental assistance information is available when outreach on COVID-19 is being conducted. Housing staff is also communicating information on the City's 2021 Moratorium on Rent Increases for buildings covered by the Apartment Rent Ordinance and the Mobilehome Rent Ordinance through social media, webinars, and mailers in multiple languages. Although the City's own Eviction Moratorium has been terminated by the State's, staff is using Housing's [memorandum to the City Council on the 2021 Eviction Moratorium](#) from the Council meeting on January 26, 2021, as a source of information on staff's efforts and to help clarify the maze of recent local, State, and federal eviction protection actions.

Staff generally directs the public to resources including the Department's \$25 million it made available for rental and utility assistance, additional assistance through other City funds and community partners, and available mediation services.

Ultimately, the research, survey, outreach, engagement and education, will all be used to inform the City's recovery efforts.

Recommendation 2. Create Tenant Preferences to Prevent Displacement

In September 2020, the City Council directed staff to establish a Neighborhood Tenant Preference for affordable housing as part of the Anti-Displacement Strategy. Staff also has existing direction through City Council Priority #10 to develop an Anti-Displacement Tenant Preference Ordinance and has been working since 2017 on this effort. These are both described below. There are similarities in tasks and economies of scale to work on these efforts together. Fair housing analysis is already partially done for HCD on the Anti-Displacement Tenant preference as well, and findings are likely easier to make. Therefore, staff will advance both preferences in tandem as much as possible but will prioritize approval of the Anti-Displacement Tenant Preference with the State first, given the preexisting City Council direction.

Tenant preferences set aside a percentage of restricted affordable apartments that would otherwise be available to the general public for people who meet certain criteria and are income-eligible. Those people would apply for the affordable apartments and would meet all other requirements as usual but would have a better chance at being accepted as a preferred population in the set-aside of apartments. The two tenant preferences selected for development would both have the benefit of keeping low-income renters in the City and allowing them to maintain their local support networks by staying in their communities. Below are definitions of each of the proposed tenant preferences:

- **Anti-Displacement Tenant Preference:** Sets aside a portion of affordable apartments for low-income applicants who live in certain areas that have a high likelihood of displacement. Eligible residents would live in census tracts categorized as ‘high-risk’ or ‘undergoing displacement’ by a credible, authoritative external source. Applicants with this Preference would be eligible to apply for a set-aside of affordable apartments located anywhere in San José. The advantage to Anti-Displacement Tenant Preference is that it increases the likelihood that low-income renters at highest risk of displacement can access affordable homes and stay in the City, either in their neighborhoods or wherever they choose.
- **Neighborhood Tenant Preference:** Sets aside a portion of newly-available affordable apartments for low-income applicants who already live in the vicinity of the newly-available affordable homes. The advantage to the Neighborhood Tenant Preference is that it increases the likelihood that low-income renters can remain in their neighborhoods while improving their housing stability and costs. It also makes the benefits of affordable housing development clear to neighborhood residents likely to be impacted by the development or rehabilitation process, thus reducing opposition to affordable housing development. Neighborhood Tenant Preferences can be popular with area residents and local leaders; however, because they operate at a more localized scale, they can have a higher likelihood of keeping similar types of people in a neighborhood, which can be problematic under fair housing law.

Development of these tenant preferences is a significant effort, requiring the following areas of work:

1. Sponsorship of State legislation so that the preferences can reliably be used in affordable housing developments using tax credits and tax-exempt bonds
2. Extensive legal and disparate impact analysis to obtain approval from the State of California Department of Housing and Community Development (HCD)
3. Stakeholder outreach and consultation regarding implementation
4. Integration of additional demographic information into annual reporting forms to the Housing Department for all existing affordable residents
5. Development of a web-based affordable housing portal with pre-application data collection and data aggregation functions (called Doorway)
6. Commission, committee, and City Council approvals.

In the past six months, staff has focused on State legislation, State HCD's approval, and integrating demographic information into City rent rolls. Updates are as follows.

Legislation: To ensure that developments with tenant preferences are able to receive funding from State and federal tax credits and federal tax-exempt private activity bonds, staff has been working with the City Attorney's Office, the City's Intergovernmental Relations team, the City's external lobbyists, and housing advocate partners to draft and submit State legislation. SB 649, introduced by Senator Dave Cortese (D-San José), would make specific findings to establish residents at risk of displacement as a population of State concern and to qualify them as eligible for tenant preferences. The City has have received positive initial feedback on the prospects of the bill and will report back on its progress in the legislature in staff's next quarterly update.

HCD Approval: The two tenant preferences currently under development will require approval by HCD if they are to be used on affordable housing developments using State funding. As the State has also increased staffing in its fair housing office, which is overseeing cities' implementation of State fair housing law for the next Housing Element cycle, HCD's ability to review jurisdictions' policies generally may extend past that of a lender's role. Housing staff has been in contact with HCD since March 2019 to ensure that the City's proposed tenant preferences are in keeping with the State's guidance on fair housing law. In August 2020, Housing staff met with the new HCD Director to discuss the path for approval of new tenant preferences. HCD indicated that it was going to issue guidance to jurisdictions, before the end of 2020, on tenant preferences, but the guidance has been delayed due to other pressing priorities. In mid-December 2020, staff met with HCD to discuss HCD's preliminary guidance on the new in-depth, multi-pronged approach that HCD will use to assess whether local tenant preference policies are consistent with HCD regulations and existing fair housing law. Staff is currently in the process of gathering the necessary data and documents, analyzing the data, consulting with HCD, and providing the required quantitative and legal analysis in a report by mid-2021.

Demographic information: Staff has requested the Housing Department's technical consultant to amend online 'rent roll' forms for submission of tenant information for the City's portfolio of

restricted affordable apartments to include additional demographic information. The additional information is necessary for staff to do quantitative disparate impact analysis on protected classes (such as race/ethnicity, gender, and age) for existing residents in the City's affordable housing, as required by HCD. Rent rolls are expected to be amended in spring 2021 for use in the 2021 reporting period. Future years' amendments may also be needed to get more robust data about all household members in affordable apartments.

Recommendation 3. Explore a Community Opportunity to Purchase Program

As part of the Citywide Anti-Displacement Strategy, the City Council directed staff to begin exploring a Community Opportunity to Purchase Program (COPA). COPA would provide advance notice of the sale of multifamily residential properties to nonprofit developers, tenant organizations, and public agencies to provide them the first opportunity to purchase properties. COPA would enable more properties to become restricted affordable, to the extent public subsidies were available, and owned by mission-oriented organizations that would keep them affordable in the long-term.

Per the City Council's direction on COPA, staff has researched comparable existing and proposed programs in other jurisdictions. Staff has researched the existing programs in San Francisco and Washington DC, and the proposed guidelines of programs in Berkeley, Oakland, New York State, and Minneapolis. As part of the City's participation in the Partnership for the Bay's Future, staff has collaborated with other jurisdictions to identify best practices and to learn from other cities and experts on new regional efforts to preserve existing affordable housing.

Over the next few months, staff will begin stakeholder outreach, continue to research COPA details from other jurisdictions' programs and proposals, and interview subject matter experts to ensure that COPA can support a healthy housing market. A significant amount of work related to COPA will also consist of involving community stakeholders in the COPA development process initially by using the Anti-Displacement Implementation Working Group for this purpose, as described below.

Anti-Displacement Implementation Working Group

The Anti-Displacement Implementation Working Group is an important source of input to further develop the recommendations of the Anti-Displacement Strategy and its implementation plans. Staff will use the public engagement forums as a way to solicit guidance from affected community and business members to help shape policy and program development. Initially, the Working Group will focus primarily on development of COPA.

The Working Group will be composed of two teams: a larger Advisory Group which will meet approximately monthly, and a smaller Technical Team which will meet approximately every two weeks to research and provide presentations regarding policy options to the Advisory Group.

The goal of the Working Group is to provide time to educate and dive into the policy components together to get detailed feedback, clarify the priorities and boundaries of a proposed policy, and to facilitate transparent negotiation among stakeholders to inform creation of an ordinance for the City Council's consideration.

In December 2020, staff issued a request for proposal for an external facilitator for the Working Group, to engage a diverse group of stakeholders to ensure community and expert input in the development of the City's policies. After a review of the applicant qualifications, staff selected the consultant Baird & Driskell Community Planning for the stakeholder engagement process. The selected firm will begin working with the Housing Department in late February 2021 and will assist staff with planning and facilitation of community engagement meetings over the next 12 to 18 months. Membership of the Working Group will be voluntary and diverse, and staff will ask the consultant to advise on mechanisms to ensure sustained participation from the range of members.

The first meeting for the Anti-displacement Implementation Working Group is tentatively scheduled for March 2021.

Recommendation 4: Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

Recommendation 4 of the Citywide Anti-Displacement Strategy involves an analysis of the membership composition of the Housing and Community Development Commission (HCDC) and the Neighborhoods Commission. The purpose of Recommendation 4 is to determine whether membership is representative of the full range of San José residents, and to identify any barriers to participation. Given the City Council's direction to focus first on Anti-Displacement Recommendations 1 to 3, staff has not yet started work on this Recommendation.

However, the City Council directed in its January 12, 2021, meeting that staff should create a "lived experience" member seat on HCDC for a Commissioner who is currently experiencing or previously experience homelessness. Therefore, to advance this work, staff will create a workplan which includes the following tasks:

1. Establish a compensation model for all HCDC commissioners.
2. Bring an amendment to the Municipal Code back to the City Council to add the seat
3. Incorporate new guidelines and resources for onboarding lived experience HCDC members.

This work will be assigned to a new staff member who will join the Housing Department this spring. Staff will accelerate this work with the goal of completing it by the end of 2021. An update on this work will be included in the next update to City Council committees.

CONCLUSION

Staff has made progress since the City Council's approval of the Citywide Anti-Displacement Strategy on September 22, 2020. Staff focused on the Strategy's top three priorities, with an emphasis on the top two: research and information sharing to support the City's equitable COVID-19 response; and, legislative work and policy analysis to support the creation of tenant preferences. Staff also completed background research in other jurisdictions for COPA and procured consulting support for the Anti-Displacement Working Group that staff expects to convene starting in early spring 2021.

Progress for the next period should be augmented by new staff members who will be joining the small Housing Policy Team: a new Policy Team Manager, and a time-limited Senior Development Officer. Continued work on the Anti-Displacement Strategy is the Team's top focus for the near future.

EVALUATION AND FOLLOW-UP

Per the City Council's direction, staff will provide quarterly progress updates on its work under the Citywide Anti-Displacement Strategy to both the Community and Economic Development Committee and the Neighborhood Services and Education Committee. Staff also will return to these Committees and to the City Council with an update on progress on its work under the Anti-Displacement Strategy every six months.

CLIMATE SMART SAN JOSÉ

The recommendation in this memorandum aligns with one or more of Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the March 11, 2021, Neighborhood Services and Education Committee meeting.

COORDINATION

This memo has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

The City Council's direction did not include status reports back to the Housing and Community Development Commission; therefore, this report is outside the scope of the Commission's duties. Staff will continue to engage the Commission and solicit feedback on specific recommendations of the Anti-Displacement Strategy as each one is developed further.

CEQA

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

/s/

JACKY MORALES-FERRAND
Director, Department of Housing

For questions, please contact Kristen Clements, Division Manager at (408) 535-8236.

Attachments:

Attachment A: Updated Workplans for Top Three Highest Priority Anti-Displacement Recommendations

**ATTACHMENT A:
Updated Workplans for Top Three Highest Priority
Anti-Displacement Recommendations**

1. Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners Workplan		
Task	Description	Timeline
Advocacy	Support active federal and State legislation and budget proposals to repay and subsidize back rent and mortgages, to help mitigate the economic impact of COVID-19 on housing providers and prevent displacement of residents.	Completed & ongoing
	Express City support for legislation on eviction and foreclosure prevention and housing recovery from COVID-19 on the 2021 Citywide Legislative Priorities.	
Program development and research	Plug into coordinated response across City Departments for COVID relief and recovery.	Completed & ongoing
	Seek advice & assistance from universities & thinktanks on tracking outcomes.	
	Survey existing anti-displacement housing programs to identify impediments to eligibility for immigrant households most at risk of homelessness and displacement.	Completed
	Work with Bloomberg/Harvard researcher on surveying San José landlord needs.	Q4 2020/ Q3 2021
	Research COVID-19 housing recovery strategies of other large cities and recovery metrics they are tracking.	
	Work with Urban Institute and City of LA on COVID response study.	
	Pinpoint possible administrative program changes to remove barriers for immigrant households.	Q1/Q2 2021
	Develop a plan to track data on the success of repayment plans to avoid resident displacement from their homes and from the City, and on the financial condition of small property owners.	Q2 2021
Community Outreach	Interview CBOs serving COVID-19 impacted residents to determine needs.	Q4 2020-ongoing
	Participate in existing working groups driving COVID-19 response and recovery to align efforts and eliminate duplication.	
	Interview community leaders in highly COVID-19 impacted neighborhoods with renters at risk of displacement in zip codes 95233, 95127, 95116, and 95148.	Q2/Q3 2021
	Prior to the end of the eviction moratorium, hold or attend COVID-19 housing and displacement meetings led by elected leaders convening civic and private sector leaders, residents, and community-based organizations to: <ul style="list-style-type: none"> 1. Hear the experiences of stakeholders as related to housing and COVID-19 and identify urgent housing problems that must be addressed. 	

1. Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners Workplan		
Task	Description	Timeline
	2. Develop equitable short-term and long-term housing recovery strategies.	
	Analyze feedback and community-led recommendations. Use feedback to inform future Housing funding priorities. If community feedback and research suggest new policy changes authorized by the City Council are needed, develop recommendations for City Council consideration.	Q4 2021
Funding	Identify available and possible new sources of ongoing funding that could be used for legal services to prevent eviction, Housing Collaborative Court positions, and housing mediation services if County resources are insufficient.	Q2/Q4 2021
	Identify available funding sources, including philanthropic and private grants, for emergency planning and preparedness activities for communities most vulnerable to disaster and/or highly-impacted by COVID-19.	

2. Tenant Preferences to Prevent Displacement Workplan		
Phase	Description	Timeline
Program Development & Research	Meet with State HCD to clarify policy parameters and necessary fair housing analysis	Completed
	Receive additional guidance from HCD on its revised fair housing analysis framework	
	Identify needs and data for perform disparate impact analysis per HCD feedback (definition of neighborhood, residents, set-aside, process)	
	Determine how to prioritize and administer different preferences, and whether fair housing analysis changes	
Legislation	Work with City Attorney's Office to create draft legislation & get bill sponsor to support acceptance of tenant preferences by bond and tax credit counsel	Q1 2021
	Work with City Attorney's Office to create legal findings in support of Ordinance and approve proposed parameters	Ongoing
	Continue to work with Intergovernmental Relations to achieve approval of legislation	
Community Outreach & Feedback	Provide information, legal analysis, and disparate impact analysis to HCD for both proposed preferences	Q2/Q3 2021
	Seek & incorporate HCD feedback on City's analysis & submissions	
	Update draft Ordinance; create program descriptions	
	Issue survey to property owners	
	Update rent roll systems programming to incorporate demographic data for existing affordable housing residents	

2. Tenant Preferences to Prevent Displacement Workplan		
Phase	Description	Timeline
	Finalize determination on which production programs will incorporate preferences	Q3/Q4 2021
	Obtain HCD approval of methodology	
	Stakeholder meetings (community and neighborhood, property owners & managers, residents/advocates)	Q1 2022
	Hold public meetings (3)	
Program Finalization & Approvals	Hold meetings with key stakeholders	Q1 2022
	Make final program revisions based on feedback	
	Post final draft Ordinance & materials for public review	
	Present draft program to Housing & Community Development Commission	
	Present draft program & Ordinance to Community & Economic Development Committee	
	City Council approves Ordinance & program	
Program Implementation	Issue guidance for property owners & the public	Q1/Q2 2022
	Hold educational meetings for property owners/managers	
	Host public meetings to inform about new preferences	
	Conduct webinars for the public (multiple languages)	Q2/Q4 2022
	Conduct community outreach (neighborhood meetings, tabling, associations)	
	Fully implement renter online portal (to get applicant racial data, screen applicants for preference eligibility)	2022-23 (TBD)
	Do analysis annually and submit for HCD reviews	Ongoing

3. Community Opportunity to Purchase Workplan		
Phase	Description	Timeline
Program Development	Research COPA results and management in comparable cities	Completed
	Meet with counterparts in comparable cities and assess best practices and processes	
	Work with City Attorney's Office to identify legal issues and approve proposed parameters	
	Compile data to determine program parameters (applicability, terms, process, timelines, qualification of purchasers, City staffing needs) & market research	Q4 2020/ Q1 2021
	Hold RFP and hire community engagement consultant for Anti-Displacement Working Group; focus Technical Team first on COPA	

3. Community Opportunity to Purchase Workplan		
Phase	Description	Timeline
Community Outreach & Policy Feedback	Meet with specialized stakeholders (property owners, realtors, brokers, lenders, other experts)	Q2 2021
	Meet with potential qualified nonprofit developers/community development corporations.	
	Prepare analysis of long-term funding need and possible sources for financing acquisition & rehabilitation/permanent	
	Start Working Group meetings - Advisory Group and Technical Group (ongoing)	
	Create first draft of Ordinance and supporting materials incorporating community feedback and study findings	
	Hold stakeholder public review period and feedback	
Program Finalization & Approvals	Make refinements based on first public review period	Q2/Q3 2021
	Hold meetings with key stakeholders on refinements	
	Present to Housing & Community Development Commission	
	Present to Community & Economic Development Committee	
	Program revisions based on Commission/Committee comments	
	Consult with stakeholders and community	
	Post final draft Ordinance & materials for public review	
	City Council approves ordinance & program parameters	Oct 2021
Program Implementation	Begin 6-month notice period before implementation	Q4 2021/Q1 2022
	Create guidance	
	Conduct webinars for the public (multiple languages)	
	Hold co-hosted educational meetings for property owners	
	Begin program implementation (after 6-month notice period)	Jun 2022
	Info memo on progress to the City Council after 6 months	Jan 2023
	Assess Program performance in report to City Council after 1 year	Aug 2023



Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: March 7, 2021

Approved

Date

March 12, 2021

**SUBJECT: CITYWIDE RESIDENTIAL ANTI-DISPLACEMENT STRATEGY
RECOMMENDATIONS STATUS REPORT AND CITY COUNCIL
POLICY PRIORITY #11: ANTI-DISPLACEMENT TENANT
PREFERENCE ORDINANCE STATUS REPORT**

RECOMMENDATION

It is recommended that the Committee:

- a) Accept the status report on the top three recommendations of the Citywide Residential Anti-Displacement Strategy;
- b) Accept the status report on City Council Policy Priority #11, the Anti-Displacement Tenant Preference Ordinance, including incorporation into Citywide Residential Anti-Displacement Strategy Recommendation #2;
- c) Accept the status report on the City Council's direction to add a seat to the Housing and Community Development Commission for a commissioner with lived experience in homelessness into Recommendation #4 of the Citywide Residential Anti-Displacement Strategy; and
- d) Cross-reference this report to be heard by the full City Council for approval at its meeting on March 30, 2021.

OUTCOME

Committee members will receive an update on the status of staff's work on the top three priority recommendations in the Citywide Residential Anti-Displacement Strategy approved by the City

Council in September 2020. Committee members will also receive an update on City Council Policy Priority #10, the Anti-Displacement Tenant Preference Ordinance, and forthcoming work on adding a person with lived experience to the Housing and Community Development Commission (HCDC).

BACKGROUND

On September 22, 2020, [the City Council approved¹](#) staff's proposed Citywide Residential Anti-Displacement Strategy (Anti-Displacement Strategy). The City Council's direction included that staff should focus its work on the top three recommendations:

1. Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners
2. Create a Neighborhood-based Tenant Preference
3. Explore a Community Opportunity to Purchase Program (First Right of Offer to Purchase).

The City Council also directed staff to return to the City Council with an update on progress on the first three recommendations in six months, as well as provide quarterly updates to the Community and Economic Development Committee and the Neighborhood Services and Education Committee.

At the City Council meeting on January 12, 2021, the [City Council's approval of item 8.1²](#) included direction for Housing Department staff to add a seat to the Housing and Community Development Commission (HCDC) for a commissioner with lived experience in homelessness. The direction noted that this action is consistent with Citywide Residential Anti-Displacement Recommendation #4: Increase Equitable Representation of Historically Underrepresented Communities on City Commissions.

ANALYSIS

The following information provides updates on work being done to further the top three work efforts under the Anti-Displacement Strategy.

¹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=>

² <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4745059&GUID=59D05260-B874-4FB8-B3A7-9F32C9DEE11F&Options=&Search=>

Recommendation 1: Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners

The City's response to community needs due to COVID-19 has been wide-ranging, involving deployment of the Emergency Operations Center and many different departments over the past 11 months. While the Community and Economic Recovery Task Force and the City Manager's Office is leading response and recovery efforts, Housing Department staff have focused on playing the role identified in its Anti-Displacement Strategy: keeping San José residents housed during COVID, identifying barriers to staying housed for vulnerable populations, and seeking and sharing information to help the City respond to its challenges.

Housing Department staff is sharing all information on community needs during COVID with the Community and Economic Recovery Task Force members to help inform the City's COVID assistance efforts. Following is a summary of the Housing Department's work accomplished and underway in the past six months that has supported COVID-19 response efforts:

Barriers to Housing Programs for Immigrant Families

The pandemic has revealed the significant impact of citizenship requirements disqualifying San José residents from various forms of assistance. Identifying and removing barriers to housing programs for immigrant applicants is a way to support ongoing housing stability for the City's sizable immigrant community. According to American Community Survey (2014-2018), an estimated 762,784 immigrant residents live in the San José metropolitan statistical area, which includes Santa Clara and San Benito counties. Immigrant residents comprise 38.5% of the total population. Of the immigrant population, approximately 157,876 residents are undocumented.

Staff surveyed the following 17 locally-available housing programs to identify potential barriers to access, particularly for mixed-status and undocumented families:

- Emergency Assistance Network
- Pro bono legal assistance
- Private mortgages
- Housing Trust's Empower Homebuyer Program (Measure A)
- Federally-funded affordable housing
- State/locally-funded affordable housing
- Housing Choice Vouchers/Section 8
- Rapid Rehousing – federal ESG funded
- Rapid Rehousing - federal HOME funded
- Emergency shelter and transitional housing
- Homelessness prevention program
- Housing for Persons with AIDS (HOPWA) housing and services
- Permanent supportive housing
- Bridge housing communities

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- FEMA aid
- Domestic violence shelters and temporary housing.

Through the survey, staff found that most programs did not have screening criteria that denied a client based on immigration status. However, the following programs have citizenship requirements:

1. Legal assistance by Bay Area Legal Aid
2. Housing Trust Empower Homebuyer Program (Measure A)
3. Housing Choice Vouchers/Section 8 (portable)
4. Certain affordable housing developments assisted by certain federal housing programs under authority of Section 214 (including HUD Section 235 and 236 FHA-insured mortgages, developments with project-based Section 8 assistance, and some HUD preservation loan programs).

In addition, there are de facto barriers in practice for other programs. For instance, while few San José affordable rental properties fall under Number 4 in the list above, other properties do not use available flexibility for acceptable identification and income documentation from applicants. Undocumented residents should be able to submit this evidence when applying for low-income housing tax credit-funded affordable developments, which make up the vast majority of the City's affordable rental portfolio. However, many property management companies do not actively promote use of the flexibility, and residents who need the flexibility reportedly do not know they have it.

Other barriers to housing for immigrant families reported include lack of access to reliable information, intimidation, language access, and considerations for sub-lesers. Staff is currently working with the Eastside PEACE Anti-displacement Working Group and the Santa Clara County Office of Immigrant Relations to identify additional barriers and develop recommendations to improve access to these programs for immigrant families.

It should be noted that the Federal Public Charge Rule (Rule) was [vacated by the U.S. District Court for the Northern District of Illinois³](#) in early November 2020, which would have suspended implementation of the Rule. However, the U.S. Court of Appeals for the Seventh Circuit immediately issued an administrative stay of that District Court ruling, which means the Rule continues to be implemented. On February 2, 2021, President Biden signed an [Executive Order⁴](#) requiring a 60-day review of the Rule, which expands the grounds on which an individual can be denied legal status due to their past use of public benefits. A permanent vacation of this rule would remove a major barrier for immigrant families to access housing services.

³ <https://lawprofessors.typepad.com/files/cook-county-v.-wolf-11-2-20.pdf>

⁴ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/>

Landlord Survey

San José has been selected by the [Bloomberg Harvard City Leadership Initiative](#)⁵ to participate in a nationwide, multi-center U.S. research study examining the impact of COVID-19 on individual rental property owners. The study, led by principal investigator [Dr. Elijah de la Campa](#)⁶ in concert with Dr. Vincent Reina of the University of Pennsylvania, launched on February 25, 2021. Its objective is to measure how local landlords are adapting to the challenges presented by the pandemic, and how the City is faring during this crisis. Participating cities include Akron (OH), Atlanta (GA), Baltimore (MD), Chattanooga (TN), Indianapolis (IN), Los Angeles (CA), Minneapolis (MN), Philadelphia (PA), Raleigh (NC), and Trenton (NJ). Findings will be examined at both city and nation-wide levels in an effort to glean insights discrete to each city and to identify commonalities and points of differentiation across the country. Preliminary findings are expected by the second half of 2021. The Bloomberg Harvard City Leadership Initiative's mission is to provide mayors and city officials with leadership and management tools to lead high-performing cities.

The Housing Department is working closely with the researcher to assist with property owner communications. Staff will continue to plan how best to optimize release of San José data to let property owners know about available resources, and whether to hold a convening to release results and get additional feedback from owners.

Tenant Survey

The Housing Department's Rent Stabilization Program staff and Policy Team staff are working closely in conjunction with the Community and Economic Recovery Task Force team to conduct a tenant survey. The focus of the survey will be to gather data on vulnerable communities' housing needs within the City. The questions will address the extent of unpaid rent obligations, causes of possible displacement, whether they have received eviction notices or been evicted, and the location of tenants' new residences, if any. Initially, the survey will direct tenants to a website and offer an email response so that staff can ensure that tenants are represented in the survey results. Staff is discussing options with the City's survey consultant for doing additional outreach via phone and U.S. mail to specific zip codes, as well as making paper surveys available at food distribution sites and other community locations for those residents that prefer paper to electronic communications. The survey will be administered in multiple languages.

Research on Other Cities' COVID-19 Strategies

Housing's Rent Stabilization Program staff is compiling information about COVID-19 housing recovery strategies and metrics for Los Angeles, New Orleans, Oakland, Portland, San Francisco, and Seattle with the aim to establish a benchmark against which the City can start to

⁵ <https://www.cityleadership.harvard.edu/>

⁶ <https://www.elijahdelacampa.com/>

identify emerging best practices. Complementing this work, the team is gathering insights from researchers and advocacy organizations and is tracking city-level efforts across the nation, such as [The Eviction Lab](https://evictionlab.org/).⁷ A summary of the findings will be available in the second quarter of 2021. Further, staff is in discussions with the [Urban Institute](https://www.urban.org/about-us),⁸ an eminent 50-year old nonpartisan nonprofit research center headquartered in Washington D.C., and the City of Los Angeles to launch a longitudinal study evaluating each city's COVID-19 recovery strategies. A concept paper is in development to secure funding for the study.

Outreach and Engagement with Community-based Organizations

Local community-based organizations (CBOs) have been critical partners to the public sector during the pandemic in distributing rental assistance, giving technical support, and fulfilling the food needs of the community. Over the past months, Housing staff engaged with CBOs that are assisting families and individuals residing in zip codes with the highest COVID-19 rates. The intent of staff's engagement efforts was to inform partners of the Housing Department's COVID-19 response and better understand partners' capacity, unmet community needs, and opportunities for improvements in communications and service between the organizations and the Department.

Several CBOs have expressed concerns over the City's undocumented community, sharing stories of difficulties that many undocumented families and individuals experience in trying to access rental assistance, eviction protection, and other assistance for fear of alerting immigration authorities. Another theme has included the delay in receiving service after applying for assistance, with many families growing disillusioned or desperate with the amount of paperwork required. Many CBOs face staffing capacity issues, and as the pandemic continues, the increasing demand for services means that too few families and individuals have been served. CBOs also noted that the need for services far exceed the amount of assistance available.

Housing staff also meets regularly with local CBOs, the County Office of Supportive Housing, SV@Home, and Destination: Home to discuss observations and potential systems improvements. Housing staff will continue to engage with CBO partners to get feedback and communicate actively about the City's actions and resources and will continue to share information with the Community and Economic Recovery Task Force to inform the design of the City's programs.

Eviction and Rent Increase Moratoriums and Assistance

Over the past six months, Housing staff has continued to work hard to actively communicate with the public regarding tenant protections and the City's programs. Communications have informed residents of the Statewide Eviction Moratorium for non-payment due to COVID-19 enacted on August 31, 2020 through the Tenant Relief Act of 2020 (AB 3088, Chiu) and its recent extension through June 30, 2021 (SB 91). To raise awareness of these protections, Housing staff sent out seven e-blasts related to the moratoria, conducted webinars in multiple

⁷ <https://evictionlab.org/>

⁸ <https://www.urban.org/about-us>

languages with over 10,000 views of moratoria videos on social platforms, and mailed 14,666 informational postcards to renters across the City. Staff has responded to over 1,500 COVID-19 related inquiries from residents over the past several months, and regularly directs residents to available resources.

Currently, Housing staff is coordinating an outreach and education campaign with the County of Santa Clara on SB 91 eviction protections and forthcoming rent and landlord assistance programs from the State, County, and City. Coordination includes ensuring that moratoria education and rental assistance information is available when outreach on COVID-19 is being conducted. Housing staff is also communicating information on the City's 2021 Moratorium on Rent Increases for buildings covered by the Apartment Rent Ordinance and the Mobilehome Rent Ordinance through social media, webinars, and mailers in multiple languages. Although the City's own Eviction Moratorium has been terminated by the State's, staff is using Housing's [memorandum to the City Council on the 2021 Eviction Moratorium⁹](#) from the Council meeting on January 26, 2021, as a source of information on staff's efforts and to help clarify the maze of recent local, State, and federal eviction protection actions.

Staff generally directs the public to resources including the Department's \$25 million it made available for rental and utility assistance, additional assistance through other City funds and community partners, and available mediation services.

Ultimately, the research, survey, outreach, engagement, and education, will all be used to inform the City's recovery efforts.

Recommendation 2. Create Tenant Preferences to Prevent Displacement

In September 2020, the City Council directed staff to establish a Neighborhood Tenant Preference for affordable housing as part of the Anti-Displacement Strategy. Staff also has existing direction through City Council Priority #11 to develop an Anti-Displacement Tenant Preference Ordinance and has been working since 2017 on this effort. These are both described below. There are similarities in tasks and economies of scale to work on these efforts together. Fair housing analysis is already partially done for the State of California Department of Housing and Community Development (HCD) on the Anti-Displacement Tenant preference as well, and findings are likely easier to make. Therefore, staff will advance both preferences in tandem as much as possible but will prioritize approval of the Anti-Displacement Tenant Preference with the State first, given the preexisting City Council direction.

Tenant preferences set aside a percentage of restricted affordable apartments that would otherwise be available to the general public for people who meet certain criteria and are income-

⁹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4759213&GUID=25FCF9AF-8ED6-4FE6-AE0F-A9A838DC9D1F&Options=&Search=>

eligible. Those people would apply for the affordable apartments and would meet all other requirements as usual but would have a better chance at being accepted as a preferred population in the set-aside of apartments. The two tenant preferences selected for development would both have the benefit of keeping low-income renters in the City and allowing them to maintain their local support networks by staying in their communities. Below are definitions of each of the proposed tenant preferences:

- **Anti-Displacement Tenant Preference:** Sets aside a portion of affordable apartments for low-income applicants who live in certain areas that have a high likelihood of displacement. Eligible residents would live in census tracts categorized as ‘high-risk’ or ‘undergoing displacement’ by a credible, authoritative external source. Applicants with this Preference would be eligible to apply for a set-aside of affordable apartments located anywhere in San José. The advantage to Anti-Displacement Tenant Preference is that it increases the likelihood that low-income renters at the highest risk of displacement can access affordable homes and stay in the City, either in their neighborhoods or wherever they choose.
- **Neighborhood Tenant Preference:** Sets aside a portion of newly-available affordable apartments for low-income applicants who already live in the vicinity of the newly-available affordable homes. The advantage to the Neighborhood Tenant Preference is that it increases the likelihood that low-income renters can remain in their neighborhoods while improving their housing stability and costs. It also makes the benefits of affordable housing development clear to neighborhood residents likely to be impacted by the development or rehabilitation process, thus reducing opposition to affordable housing development. Neighborhood Tenant Preferences can be popular with area residents and local leaders; however, because they operate at a more localized scale, they can have a higher likelihood of keeping similar types of people in a neighborhood, which can be problematic under fair housing law.

Development of these tenant preferences is a significant effort, requiring the following areas of work:

1. Sponsorship of State legislation so that the preferences can reliably be used in affordable housing developments using tax credits and tax-exempt bonds
2. Extensive legal and disparate impact analysis to obtain approval from the State of California Department of Housing and Community Development (HCD)
3. Stakeholder outreach and consultation regarding implementation
4. Integration of additional demographic information into annual reporting forms to the Housing Department for all existing affordable residents
5. Development of a web-based affordable housing portal with pre-application data collection and data aggregation functions (called Doorway)
6. Commission, committee, and City Council approvals.

In the past six months, staff has focused on State legislation, State HCD's approval, and integrating demographic information into City rent rolls. Updates are as follows.

Legislation: To ensure that developments with tenant preferences are able to receive funding from State and federal tax credits and federal tax-exempt private activity bonds, staff has been working with the City Attorney's Office, the City's Intergovernmental Relations team, the City's external lobbyists, and housing advocate partners to draft and submit State legislation. SB 649, introduced by Senator Dave Cortese (D-San José), would make specific findings to establish residents at risk of displacement as a population of State concern and to qualify them as eligible for tenant preferences. The City has have received positive initial feedback on the prospects of the bill and will report back on its progress in the legislature in staff's next quarterly update.

HCD Approval: The two tenant preferences currently under development will require approval by HCD if they are to be used on affordable housing developments using State funding. As the State has also increased staffing in its fair housing office, which is overseeing cities' implementation of State fair housing law for the next Housing Element cycle, HCD's ability to review jurisdictions' policies generally may extend past that of a lender's role. Housing staff has been in contact with HCD since March 2019 to ensure that the City's proposed tenant preferences are in keeping with the State's guidance on fair housing law. In August 2020, Housing staff met with the new HCD Director to discuss the path for approval of new tenant preferences. HCD indicated that it was going to issue guidance to jurisdictions, before the end of 2020, on tenant preferences, but the guidance has been delayed due to other pressing priorities. In mid-December 2020, staff met with HCD to discuss HCD's preliminary guidance on the new in-depth, multi-pronged approach that HCD will use to assess whether local tenant preference policies are consistent with HCD regulations and existing fair housing law. Staff is currently in the process of gathering the necessary data and documents, analyzing the data, consulting with HCD, and providing the required quantitative and legal analysis in a report by mid-2021.

Demographic information: Staff has requested the Housing Department's technical consultant to amend online 'rent roll' forms for submission of tenant information for the City's portfolio of restricted affordable apartments to include additional demographic information. The additional information is necessary for staff to do quantitative disparate impact analysis on protected classes (such as race/ethnicity, gender, and age) for existing residents in the City's affordable housing, as required by HCD. Rent rolls are expected to be amended in spring 2021 for use in the 2021 reporting period. Future years' amendments may also be needed to get more robust data about all household members in affordable apartments.

Recommendation 3. Explore a Community Opportunity to Purchase Program

As part of the Citywide Anti-Displacement Strategy, the City Council directed staff to begin exploring a Community Opportunity to Purchase Program (COPA). COPA would provide advance notice of the sale of multifamily residential properties to nonprofit developers, tenant

organizations, and public agencies to provide them the first opportunity to purchase properties. COPA would enable more properties to become restricted affordable, to the extent public subsidies were available and owned by mission-oriented organizations that would keep them affordable in the long-term.

Per the City Council's direction on COPA, staff has researched comparable existing and proposed programs in other jurisdictions. Staff has researched the existing programs in San Francisco and Washington DC, and the proposed guidelines of programs in Berkeley, Oakland, New York State, and Minneapolis. As part of the City's participation in the Partnership for the Bay's Future, staff has collaborated with other jurisdictions to identify best practices and to learn from other cities and experts on new regional efforts to preserve existing affordable housing.

Over the next few months, staff will begin stakeholder outreach, continue to research COPA details from other jurisdictions' programs and proposals, and interview subject matter experts to ensure that COPA can support a healthy housing market. A significant amount of work-related to COPA will also consist of involving community stakeholders in the COPA development process initially by using the Anti-Displacement Implementation Working Group for this purpose, as described below.

Anti-Displacement Implementation Working Group

The Anti-Displacement Implementation Working Group is an important source of input to further develop the recommendations of the Anti-Displacement Strategy and its implementation plans. Staff will use the public engagement forums as a way to solicit guidance from affected community and business members to help shape policy and program development. Initially, the Working Group will focus primarily on development of COPA.

The Working Group will be composed of two teams: a larger Advisory Group which will meet approximately monthly, and a smaller Technical Team which will meet approximately every two weeks to research and provide presentations regarding policy options to the Advisory Group. The goal of the Working Group is to provide time to educate and dive into the policy components together to get detailed feedback, clarify the priorities and boundaries of a proposed policy, and to facilitate transparent negotiation among stakeholders to inform creation of an ordinance for the City Council's consideration.

In December 2020, staff issued a request for proposal for an external facilitator for the Working Group, to engage a diverse group of stakeholders to ensure community and expert input in the development of the City's policies. After a review of the applicant qualifications, staff selected the consultant Baird & Driskell Community Planning for the stakeholder engagement process. The selected firm will begin working with the Housing Department in mid-March 2021 and will assist staff with planning and facilitation of community engagement meetings over the next 12 to 18 months. Membership of the Working Group will be voluntary and diverse, and staff will ask

the consultant to advise on mechanisms to ensure sustained participation from the range of members.

The first meeting for the Anti-displacement Implementation Working Group is tentatively scheduled for early April 2021.

Recommendation 4: Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

Recommendation 4 of the Citywide Anti-Displacement Strategy involves an analysis of the membership composition of the Housing and Community Development Commission (HCDC) and the Neighborhoods Commission. The purpose of Recommendation 4 is to determine whether membership is representative of the full range of San José residents and to identify any barriers to participation. Given the City Council's direction to focus first on Anti-Displacement Recommendations 1 to 3, staff has not yet started work on this Recommendation.

However, the City Council directed in its January 12, 2021, meeting that staff should create a "lived experience" member seat on HCDC for a Commissioner who is currently experiencing or previously experienced homelessness. Therefore, to advance this work, staff will create a work plan which includes the following tasks:

1. Establish a compensation model for all HCDC commissioners.
2. Bring an amendment to the Municipal Code back to the City Council to add the seat
3. Incorporate new guidelines and resources for onboarding lived experience HCDC members.

This work will be assigned to a new staff member who will join the Housing Department this spring. Staff will accelerate this work with the goal of completing it by the end of 2021. An update on this work will be included in the next update to City Council committees.

CONCLUSION

Staff has made progress since the City Council's approval of the Citywide Anti-Displacement Strategy on September 22, 2020. Staff focused on the Strategy's top three priorities, with an emphasis on the top two: research and information sharing to support the City's equitable COVID-19 response and legislative work and policy analysis to support the creation of tenant preferences. Staff also completed background research in other jurisdictions for COPA and procured consulting support for the Anti-Displacement Working Group that staff expects to convene starting in early spring 2021.

Progress for the next period should be augmented by new staff members who will be joining the small Housing Policy Team: a new Policy Team Manager, and a time-limited Senior Development Officer. Continued work on the Anti-Displacement Strategy is the Team's top focus for the near future.

EVALUATION AND FOLLOW-UP

Per the City Council's direction, staff will provide quarterly progress updates on its work under the Citywide Anti-Displacement Strategy to both the Community and Economic Development Committee and the Neighborhood Services and Education Committee. Staff also will return to these Committees and to the City Council with an update on progress on its work under the Anti-Displacement Strategy every six months.

CLIMATE SMART SAN JOSÉ

The recommendation in this memorandum aligns with one or more of Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the March 11, 2021, Neighborhood Services and Education Committee meeting.

COORDINATION

This memo has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

The City Council's direction did not include status reports back to the Housing and Community Development Commission; therefore, this report is outside the scope of the Commission's duties. Staff will continue to engage the Commission and solicit feedback on specific recommendations of the Anti-Displacement Strategy as each one is developed further.

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

March 7, 2021

Subject: Citywide Residential Anti-Displacement Strategy Recommendations and Anti-Displacement Tenant Preference Ordinance Status Reports

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CEQA

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

/s/

JACKY MORALES-FERRAND

Director, Department of Housing

For questions, please contact Kristen Clements, Division Manager, at (408) 535-8236.

Attachments:

Attachment A: Updated Workplans for Top Three Highest Priority Anti-Displacement Recommendations

**ATTACHMENT A:
Updated Workplans for Top Three Highest Priority
Anti-Displacement Recommendations**

1. Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners Workplan		
Task	Description	Timeline
Advocacy	Support active federal and State legislation and budget proposals to repay and subsidize back rent and mortgages, to help mitigate the economic impact of COVID-19 on housing providers and prevent displacement of residents.	Completed & ongoing
	Express City support for legislation on eviction and foreclosure prevention and housing recovery from COVID-19 on the 2021 Citywide Legislative Priorities.	
Program development and research	Plug into coordinated response across City Departments for COVID relief and recovery.	Completed & ongoing
	Seek advice & assistance from universities & thinktanks on tracking outcomes.	
	Survey existing anti-displacement housing programs to identify impediments to eligibility for immigrant households most at risk of homelessness and displacement.	Completed
	Work with Bloomberg/Harvard researcher on surveying San José landlord needs.	Q4 2020/ Q3 2021
	Research COVID-19 housing recovery strategies of other large cities and recovery metrics they are tracking.	
	Work with Urban Institute and City of LA on COVID response study.	
	Pinpoint possible administrative program changes to remove barriers for immigrant households.	Q1/Q2 2021
	Develop a plan to track data on the success of repayment plans to avoid resident displacement from their homes and from the City, and on the financial condition of small property owners.	Q2 2021
Community Outreach	Interview CBOs serving COVID-19 impacted residents to determine needs.	Q4 2020-ongoing
	Participate in existing working groups driving COVID-19 response and recovery to align efforts and eliminate duplication.	
	Interview community leaders in highly COVID-19 impacted neighborhoods with renters at risk of displacement in zip codes 95233, 95127, 95116, and 95148.	Q2/Q3 2021
	Prior to the end of the eviction moratorium, hold or attend COVID-19 housing and displacement meetings led by elected leaders convening	

1. Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners Workplan		
Task	Description	Timeline
	civic and private sector leaders, residents, and community-based organizations to: <ol style="list-style-type: none"> 1. Hear the experiences of stakeholders as related to housing and COVID-19 and identify urgent housing problems that must be addressed. 2. Develop equitable short-term and long-term housing recovery strategies. 	
	Analyze feedback and community-led recommendations. Use feedback to inform future Housing funding priorities. If community feedback and research suggest new policy changes authorized by the City Council are needed, develop recommendations for City Council consideration.	Q4 2021
Funding	Identify available and possible new sources of ongoing funding that could be used for legal services to prevent eviction, Housing Collaborative Court positions, and housing mediation services if County resources are insufficient.	Q2/Q4 2021
	Identify available funding sources, including philanthropic and private grants, for emergency planning and preparedness activities for communities most vulnerable to disaster and/or highly-impacted by COVID-19.	

2. Tenant Preferences to Prevent Displacement Workplan		
Phase	Description	Timeline
Program Development & Research	Meet with State HCD to clarify policy parameters and necessary fair housing analysis	Completed
	Receive additional guidance from HCD on its revised fair housing analysis framework	
	Identify needs and data for perform disparate impact analysis per HCD feedback (definition of neighborhood, residents, set-aside, process)	
	Determine how to prioritize and administer different preferences, and whether fair housing analysis changes	
Legislation	Work with City Attorney's Office to create draft legislation & get bill sponsors to support acceptance of tenant preferences by bond and tax credit counsel	Q1 2021
	Work with City Attorney's Office to create legal findings in support of Ordinance and approve proposed parameters	Ongoing

2. Tenant Preferences to Prevent Displacement Workplan		
Phase	Description	Timeline
	Continue to work with Intergovernmental Relations to achieve approval of legislation	
Community Outreach & Feedback	Provide information, legal analysis, and disparate impact analysis to HCD for both proposed preferences	Q2/Q3 2021
	Seek & incorporate HCD feedback on City's analysis & submissions	
	Update draft Ordinance; create program descriptions	
	Issue survey to property owners	
	Update rent roll systems programming to incorporate demographic data for existing affordable housing residents	Q3/Q4 2021
	Finalize determination on which production programs will incorporate preferences	
	Obtain HCD approval of methodology	
	Stakeholder meetings (community and neighborhood, property owners & managers, residents/advocates)	Q1 2022
Hold public meetings (3)		
Program Finalization & Approvals	Hold meetings with key stakeholders	Q1 2022
	Make final program revisions based on feedback	
	Post final draft Ordinance & materials for public review	
	Present draft program to Housing & Community Development Commission	
	Present draft program & Ordinance to Community & Economic Development Committee	
	City Council approves Ordinance & program	
Program Implementation	Issue guidance for property owners & the public	Q1/Q2 2022
	Hold educational meetings for property owners/managers	
	Host public meetings to inform about new preferences	Q2/Q4 2022
	Conduct webinars for the public (multiple languages)	
	Conduct community outreach (neighborhood meetings, tabling, associations)	
	Fully implement renter online portal (to get applicant racial data, screen applicants for preference eligibility)	2022-23 (TBD)
	Do analysis annually and submit for HCD reviews	Ongoing

3. Community Opportunity to Purchase Workplan		
Phase	Description	Timeline
Program Development	Research COPA results and management in comparable cities	Completed
	Meet with counterparts in comparable cities and assess best practices and processes	
	Work with City Attorney’s Office to identify legal issues and approve proposed parameters	
	Compile data to determine program parameters (applicability, terms, process, timelines, qualification of purchasers, City staffing needs) & market research	Q4 2020/ Q1 2021
	Hold RFP and hire community engagement consultant for Anti-Displacement Working Group; focus Technical Team first on COPA	
Community Outreach & Policy Feedback	Meet with specialized stakeholders (property owners, realtors, brokers, lenders, other experts)	Q2 2021
	Meet with potential qualified nonprofit developers/community development corporations.	
	Prepare analysis of long-term funding need and possible sources for financing acquisition & rehabilitation/permanent	
	Start Working Group meetings - Advisory Group and Technical Group (ongoing)	
	Create first draft of Ordinance and supporting materials incorporating community feedback and study findings	
	Hold stakeholder public review period and feedback	
Program Finalization & Approvals	Make refinements based on first public review period	Q2/Q3 2021
	Hold meetings with key stakeholders on refinements	
	Present to Housing & Community Development Commission	
	Present to Community & Economic Development Committee	
	Program revisions based on Commission/Committee comments	
	Consult with stakeholders and community	
	Post final draft Ordinance & materials for public review	
	City Council approves ordinance & program parameters	Oct 2021
Program Implementation	Begin 6-month notice period before implementation	Q4 2021/Q1 2022
	Create guidance	
	Conduct webinars for the public (multiple languages)	
	Hold co-hosted educational meetings for property owners	
	Begin program implementation (after 6-month notice period)	Jun 2022

March 7, 2021

Subject: Citywide Residential Anti-Displacement Strategy Recommendations and Anti-Displacement Tenant Preference Ordinance Status Reports

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3. Community Opportunity to Purchase Workplan		
Phase	Description	Timeline
	Info memo on progress to the City Council after 6 months	Jan 2023
	Assess Program performance in report to City Council after 1 year	Aug 2023