

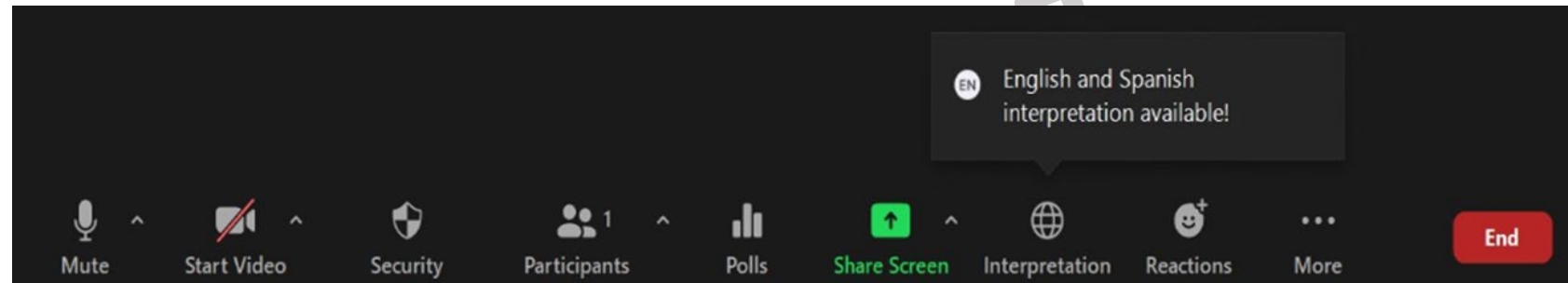


Housing

COPA DRAFT Framework

Public Meeting #1
December 8, 2021

Interpretation Available



Agenda Overview

- 🏠 Welcome
- 🏠 Introductions (in the chat)
- 🏠 Where we are in the process
- 🏠 Overview of draft Framework
- 🏠 Feedback and Q&A, element by element
- 🏠 Wrap up/next steps



Introductions and Your Connection to San José



Where we are in the process

- 🏠 9/2020: City Council approved the *Citywide Residential Anti-Displacement Strategy*, including direction to explore COPA
- 🏠 4/2021 to 10/2021: Stakeholder/community engagement process including representatives from realtors, brokers, small apartment building owners, property managers, lenders, affordable housing developers, tenant advocates, policy organizations, community leaders; Over 160 people engaged in over 50 meetings
- 🏠 **NOW: Public Review of Draft Framework**
- 🏠 Winter/spring 2022: Housing Commission and City Council Committee review (CEDC), then City Council



Overview of COPA Framework



COPA definition

The proposed Community Opportunity to Purchase Program (“COPA”) gives Qualified Nonprofit Organizations (“QNP”) an opportunity to make the first offer to buy rental residential properties before properties are put on the open market, and the right to make a final offer to match terms & conditions of a third-party bid.



Goals of COPA

- 🏠 Prevent displacement of lower-income renters
- 🏠 Preserve affordable housing & stability
- 🏠 Empower tenants to participate in process
- 🏠 Provide a tool to support homeownership opportunities and other asset building opportunities



Framework – program elements

<https://www.sanjoseca.gov/home/showpublisheddocument/80392>

- 🏠 Applicability (property size and exemptions)
- 🏠 Timeline for transactions
- 🏠 Buyers – Qualified Nonprofits (QNP) & Community Partners
- 🏠 Income eligibility & targets
- 🏠 Tenant engagement
- 🏠 Education & enforcement



Proposal: Applicability

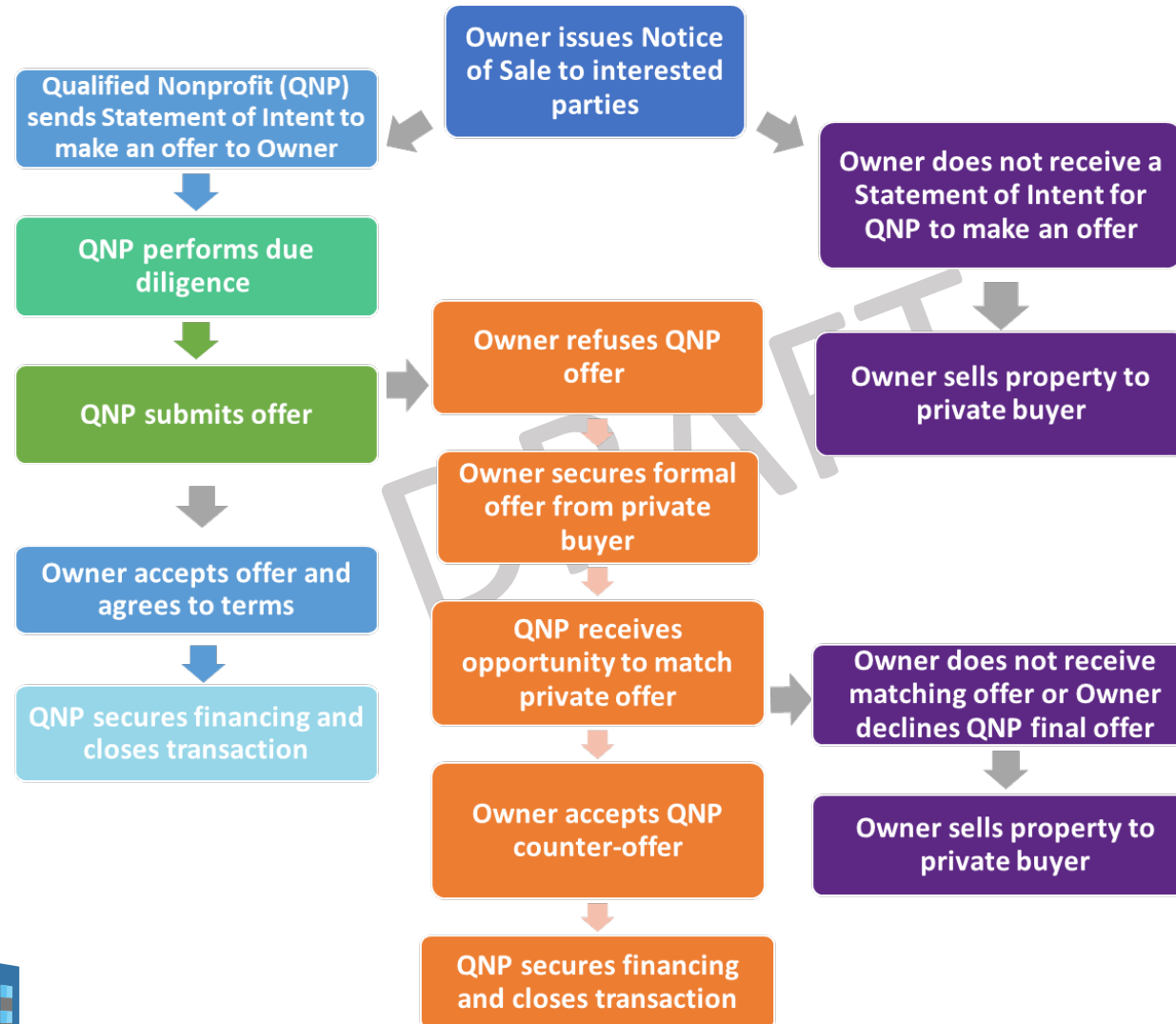
🏠 2+-unit properties

🏠 Exemptions

- Owner-occupied properties, up to 4 units
- Family transactions
- Properties subject to specified disposition processes
- Transactions where control does not change



Proposal: Timeline process overview



Proposal: Timeline for 2- to 4-unit properties

- 🏠 *Notice of Sale:* Seller issues Notice of Sale for their property
- 🏠 *Statement of Intent:* QNP has 15 calendar days from Notice of Sale to submit a Statement of Intent to submit an offer to property owner or representative
- 🏠 *Due Diligence/Offer Period:* QNP has up to 25 days to perform due diligence and submit an offer
- 🏠 *Time to Close:* QNP has up to 60 days to secure financing and close the transaction
- 🏠 *Final Offer:* QNP has up to 7 days to match a private sector offer, assuming it originally submitted an offer that was rejected



Proposal: Timeline for 5+ unit properties

- 🏠 *Notice of Sale:* Seller provides Notice of Sale for their property
- 🏠 *Statement of Intent:* QNP has 15 calendar days from Notice of Sale to submit a Statement of Intent to submit an offer to property owner or representative
- 🏠 *Due Diligence/Offer Period:* QNP has up to 25 days to perform due diligence and submit an offer
- 🏠 *Time to Close:* QNP has up to 100 days to secure financing and close the transaction
- 🏠 *Final Offer:* QNP has up to 7 days to match a private sector offer, assuming it originally submitted an offer that was rejected



Proposal: Qualified Nonprofits (QNP)

Required QNP characteristics:

- *Nonprofit organization:* 501(c)(3) certified
- *Restricted affordable housing experience:* 4 total completed projects, 2 in last 5 years, similar in scope preferred

Can be satisfied through partnership with a community-based organization:

- *Mission to serve San José communities:* As evidenced by Bylaws or Articles of Incorporation
- *Tenant engagement:* Demonstrated track record



Proposal: Affordability

🏠 *Affordability limits:*

- Rental: 30% to 80% Area Median Income (AMI)
- Conversion to ownership: 60% to 120% AMI

🏠 *Portfolio goal:* City to establish overall portfolio goal of 50% AMI for COPA projects funded by the City

🏠 *Anti-displacement:* Current residents should not be displaced to meet affordability requirements

- Existing under-income tenants pay either their current lease rents or the affordable rent based on their current income, *whichever is lower*
- Existing over-income tenants pay either their current lease rents or the affordable rent based on their current income, *whichever is higher*



Proposal: Tenant engagement

QNP/JV must demonstrate efforts to engage tenants in the property acquisition through the following:

- 🏠 *Pre-acquisition:* Reach out to tenants
- 🏠 *During transaction:* Provide evidence of communication with residents
- 🏠 *Post-acquisition:* Provide support for tenant association formation, create option for tenant purchase



Proposal: Education and enforcement

🏠 *Outreach and education*

- Collaboration with industry and community groups
- Have approx. 1-year before implementation to have time to educate stakeholders before any enforcement begins

🏠 *Enforcement with emphasis on education:* Complaint-based system with following steps:

- *First offense:* Written letter of warning to seller
- *Second offense:* Fine imposed on seller
- *Third and subsequent offenses:* Scaled increase of fine imposed on seller

🏠 *Private right of action:* Staff is also considering allowing a private right of action available to stakeholders for repeated violations (e.g., third and subsequent offenses)



Feedback and Q&A: Applicability



Applicability – What we heard

Tenant Advocates	Property Owners	Affordable Housing Developers
<ul style="list-style-type: none"> • Include single-family homes because they are significant proportion of the City’s rental housing stock (over 30%) and there is an undersupply of affordable housing with larger units • Properties with 1 to 4 units could be homeownership opportunities for tenants 	<ul style="list-style-type: none"> • Exclude SFHs and 2- to 4-unit properties because they are expensive per unit and sell quickly • Exclude buildings that 'mom and pop' owners might want to own 	<ul style="list-style-type: none"> • Properties with 50+ units are far easier to finance with Low Income Housing Tax Credits, and this is a very important option for the future • It is possible to use Tax Credits with several smaller properties bundled together, but it is not easy & is time consuming • Small properties near their existing developments can or with room to build more units may be interesting



Proposal: Applicability

🏠 2+ unit properties

🏠 Exemptions

- Owner occupied properties, up to 4 units
- Family transactions
- Properties subject to specified disposition processes
- Transactions where control does not change



Feedback and Q&A: Timeline



Timeline – What we heard

Tenant Advocates	Property Owners	Affordable Housing Developers
<ul style="list-style-type: none"> • Support for timelines that allow for tenant outreach and allow for community engagement. • Longer timelines give residents the time to organize and decide on the best path forward during COPA transactions. 	<ul style="list-style-type: none"> • Program should not cause excessive delay or process. • Preference for speed, simplicity, and efficiency in the process. • No interference with 1031 Exchanges. 	<ul style="list-style-type: none"> • An important factor in timelines for acquisition is the availability of potential long-term funding for prospective projects. • Caution against increasing engagement requirements beyond current proposal for QNPs as they would make it more difficult to keep to tight deadlines.



Proposal: Timeline for 2- to 4-unit properties

- 🏠 *Notice of Sale:* Seller issues notice of sale for their property
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- 🏠 *Due Diligence/Offer Period:* QNP has up to 25 days to perform due diligence and submit an offer
- 🏠 *Time to Close:* QNP has up to 60 days to secure financing and close the transaction
- 🏠 *Final Offer:* QNP has 7 days to make final offer



Proposal: Timeline for 5+ unit properties

- 🏠 *Notice of Sale:* Seller provides notice of sale for their property
- 🏠 *Statement of Intent:* QNP has 15 calendar days from Notice of Sale to submit a Statement of Intent to property owner or representative
- 🏠 *Due Diligence/Offer Period:* QNP has up to 25 days to perform due diligence and submit an offer
- 🏠 *Time to Close:* QNP has up to 100 days to secure financing and close the transaction
- 🏠 *Final Offer:* Original QNP bidder has 7 days to match



Feedback and Q&A: Qualified Nonprofits (QNPs)



Qualified Nonprofits (QNP) – What we heard

Tenant Advocates	Property Owners	Affordable Housing Developers
<ul style="list-style-type: none"> Criteria of a QNP and Community Partner (CP) joint venture should show commitment to democratic control and commitment to building tenant capacity towards ownership. Criteria should allow for CPs to become sole QNP with capacity building. 	<ul style="list-style-type: none"> QNP should be able to close the transaction. Don't waste owners' time. There should be penalties for non-serious offers from QNPs. 	<ul style="list-style-type: none"> Align qualifications with criteria of other nonprofit lenders (e.g., CDFIs).



Proposal: Qualified Nonprofits (QNP)

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- *Tenant engagement:* Demonstrated track record



Feedback and Q&A: Affordability



Affordability – What we heard

Tenant Advocates	Property Owners	Affordable Housing Developers
<ul style="list-style-type: none"> • Tenants living in a building when it is purchased through COPA should be given every reasonable opportunity to stay. • Do not exclude lowest income residents. • Set goals or adjust baseline by geography or neighborhood because certain neighborhoods have significantly lower AMIs than the rest of the City. 	<ul style="list-style-type: none"> • Tenants living in a building when it is purchased through COPA should be given every reasonable opportunity to stay. 	<ul style="list-style-type: none"> • There should be flexibility to allow for compliance with different funding programs and to allow for different financing options.

Proposal: Affordability

🏠 *Affordability limits:*

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Feedback and Q&A: Tenant Engagement



Tenant Engagement – What we heard

Tenant Advocates	Property Owners	Affordable Housing Developers
<ul style="list-style-type: none"> • Support tenant organizing and empower tenants to know and assert their rights. • Tenants should be empowered to participate in this process. 	<ul style="list-style-type: none"> • Respect tenant privacy. • Do not overburden owners. Primary responsibility for tenant engagement should fall to nonprofit buyer. • Do not allow tenants to disrupt a transaction or impede an owner's ability to sell their property. 	<ul style="list-style-type: none"> • Requirements for tenant engagement should be reasonable considering the timeframe to close.



Proposal: Tenant engagement

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Feedback and Q&A: Education and Enforcement



Education and Enforcement – What we heard

Tenant Advocates	Property Owners	Affordable Housing Developers
<ul style="list-style-type: none"> Repeat offenders should be subject to some penalty. 	<ul style="list-style-type: none"> An overly aggressive enforcement program could deter realtors from doing business in San José. Smaller owners don't have the resources to know everything, comply with everything. Don't overburden small owners with excessive fees or lawsuits. 	



Proposal: Education and enforcement

🏠 *Outreach and education*

- Collaboration with industry and community groups
- Have ~ 1 year before implementation to educate stakeholders before any enforcement begins

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Draft Framework Feedback: Other/overall comments



Upcoming timeline

- **Fall/winter 2021-22: Outreach and public engagement meetings**
 - 12/15/21 @ 3 pm
 - 1/11/22 @ 4 pm
 - *January & February dates – more TBD*
- Winter/spring 2022: Staff recommendations presented to Committees, Housing Commission, and then to City Council
- Spring 2022 to winter 2023: If Council approves, COPA outreach, education, and implementation period
- Spring 2023: COPA takes effect after pool of QNPs is approved



For more information or to submit further comments

Email: Joshua.Ishimatsu@sanjoseca.gov

COPA webpage:

<https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/copa>

(this link will be made available in the chat)



Thank you!

