



*Housing*

# Community Opportunity to Purchase (COPA) DRAFT Framework

Public Meeting  
January 12, 2022

# Spanish Interpretation Available



# Vietnamese 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

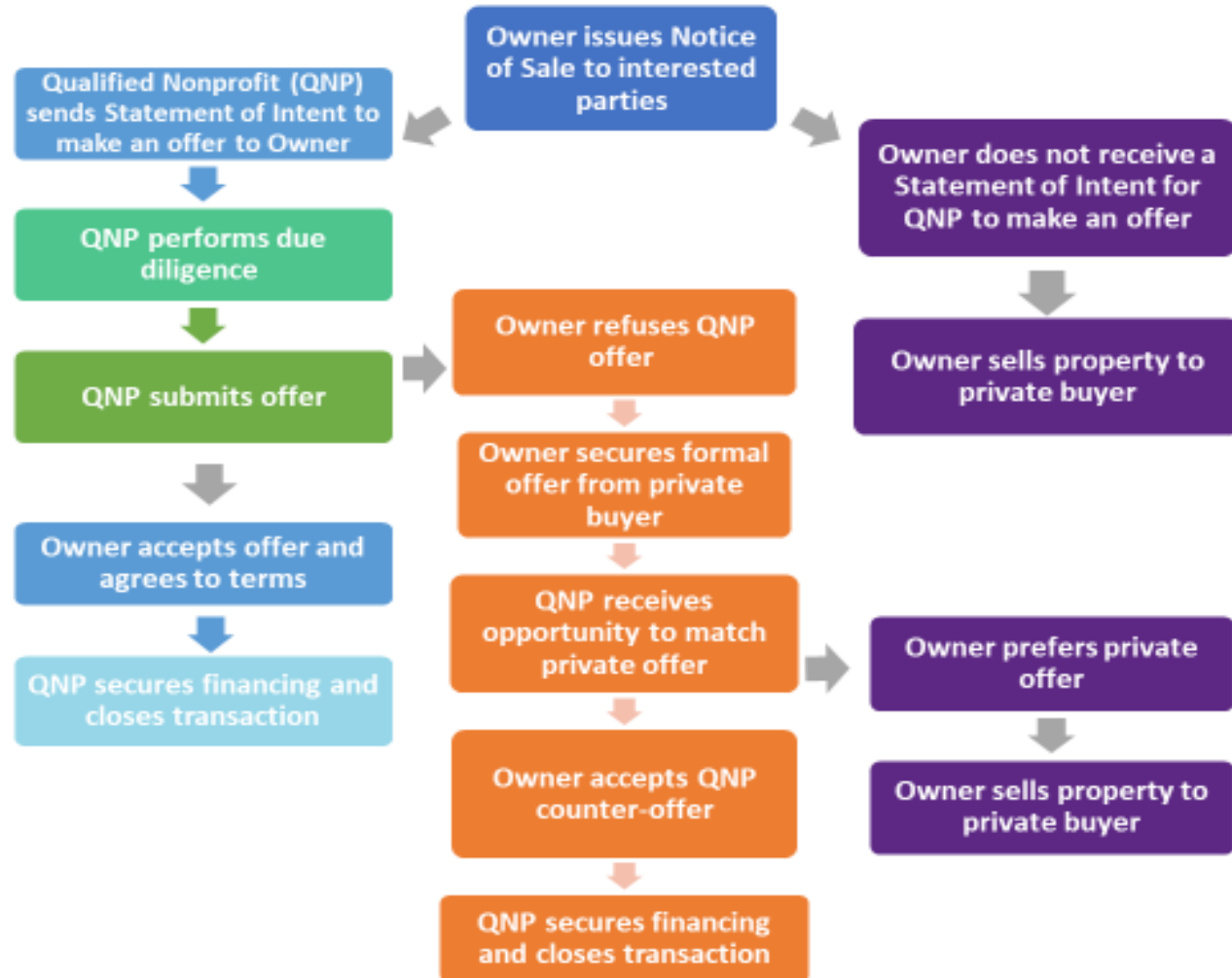
## 🏠 2+-unit properties

## 🏠 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:* Same QNP has up to 7 days to match a private sector offer, assuming its original offer 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:* Same QNP has up to 7 days to match a private sector offer, assuming its original offer 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 nonprofit community-based organization (Community Partner):

- *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/Community Partner 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)



# Draft Framework Feedback: Q&A



# Proposal: Applicability

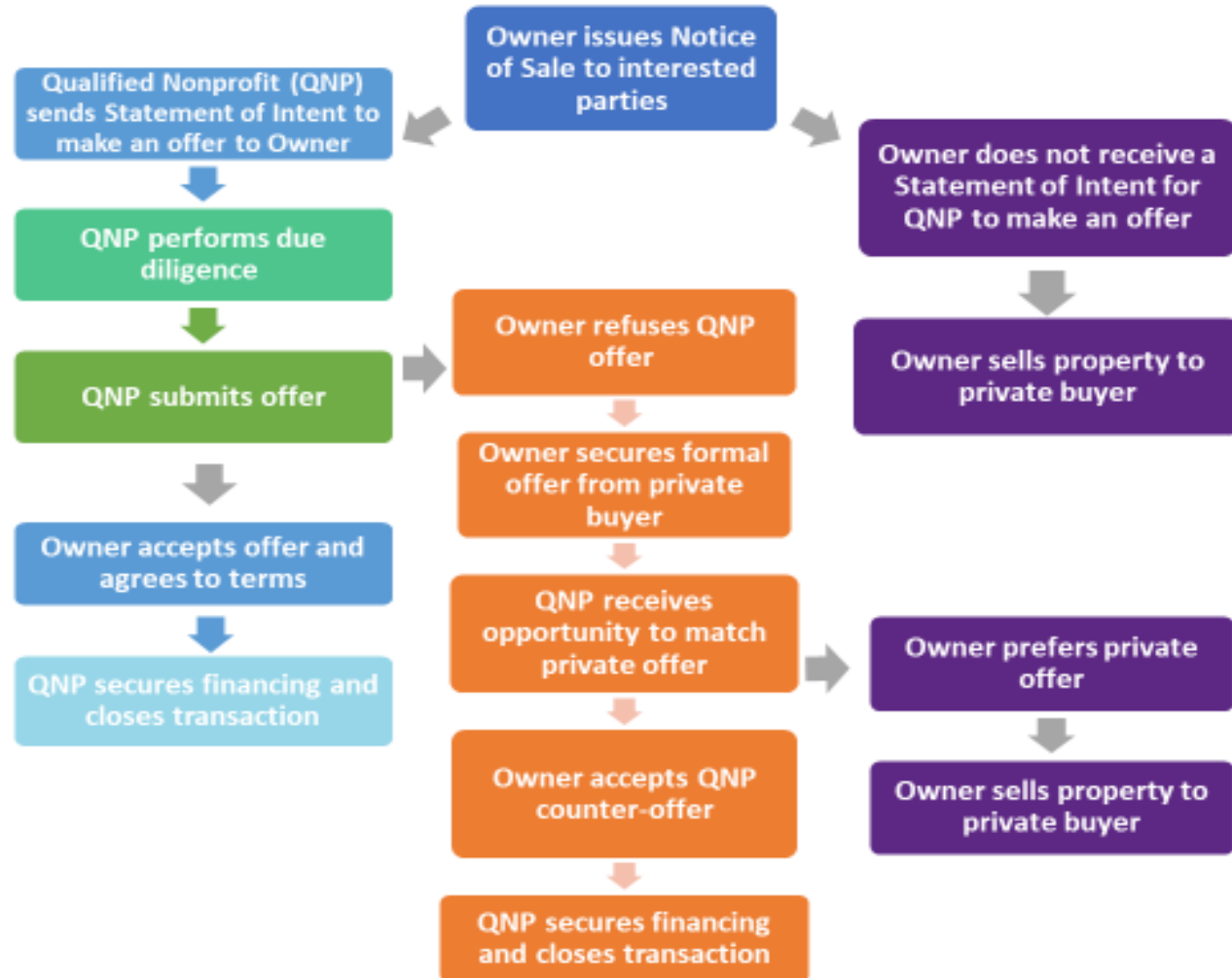
## 🏠 2+-unit properties

## 🏠 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/Community Partner must demonstrate efforts to engage tenants in the property acquisition through the following:

- 🏠 *Pre-acquisition:* Reach out to tenants after offer
- 🏠 *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)



# Upcoming timeline

- 🏠 **Fall/winter 2021-22: Outreach and public engagement meetings**
  - 2/09/22 5pm – 630pm Virtual Meeting in Vietnamese
- 🏠 **Winter/spring 2022:**
  - Housing & Community Development Commission (Feb TBD date)
  - City Council Community & Economic Development Committee (Feb 28)
  - City Council (Mar)
- 🏠 **Spring 2022 to winter 2023: If Council approves, broad COPA outreach & education campaign would start, regulations drafted**
- 🏠 **Spring 2023: COPA would take effect after pool of QNPs is approved**



# For more information or to submit comments

How was this meeting for you? Please take a survey and let us know how we can improve:

[https://docs.google.com/forms/d/e/1FAIpQLSfEg9\\_zlrOfoPqKqle\\_nlUxX9ejuLn0To7j-JSkorrfeAAkg9g/viewform](https://docs.google.com/forms/d/e/1FAIpQLSfEg9_zlrOfoPqKqle_nlUxX9ejuLn0To7j-JSkorrfeAAkg9g/viewform)

Email the Policy Team via the COPA webpage  
(link at the bottom):

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

***Thank you!***

