



# Memorandum

**TO:** COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** March 17, 2022

Approved

Date

3/17/22

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

## **RECOMMENDATION**

Accept staff's quarterly status report on the Citywide Residential Anti-Displacement Strategy.

## **OUTCOME**

The Community and Economic Development (CED) Committee members will receive an update on the status of staff's work on the top four priority recommendations in the Citywide Residential Anti-Displacement Strategy, and priorities for the next quarter.

## **BACKGROUND**

On September 22, 2020, the City Council approved<sup>1</sup> 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:

- Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners
- Create a Neighborhood-based Tenant Preference
- 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 both the

<sup>1</sup> File no. 20-1094, item 8.1, <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=>

CED Committee and the Neighborhood Services and Education Committee. Accordingly, Housing Department staff have provided several updates, as follows:

- Neighborhood Services and Education Committee on March 11, 2021
- Community and Economic Development Committee on March 22, 2021
- City Council on March 30, 2021
- Neighborhood Services and Education Committee on August 12, 2021
- Community and Economic Development Committee on August 23, 2021
- Neighborhood Services and Education Committee on November 4, 2021
- Community and Economic Development Committee on November 22, 2021
- Neighborhood Services and Education Committee on March 10, 2022

In addition, staff gave an update on its work to develop a Community Opportunity to Purchase Program to the Community and Economic Development Committee on October 25, 2021.<sup>2</sup> As part of the City Council's March 30, 2021, approval of staff's update report, it also supported staff's recommendation to amend the top three Anti-Displacement Strategy recommendations by:

- Incorporating existing City Council Policy Priority #11, the Anti-Displacement Tenant Preference Ordinance, into the Citywide Residential Anti-Displacement Strategy Recommendation #2, Create a Neighborhood-based Tenant Preference; and
- Incorporating City Council's direction from January 12, 2021, to add a seat to the Housing and Community Development Commission for a commissioner with lived experience in homelessness into the Citywide Residential Anti-Displacement Strategy's Recommendation #4, Increase Equitable Representation of Historically Underrepresented Communities on City Commissions, and add it to staff's top priorities.

Accordingly, this report updates recent work on the top four priorities of the Anti-Displacement Strategy and looks forward to next quarter's anticipated work.

## **ANALYSIS**

The following information provides updates on work being done to advance the top priority work efforts under the top four strategies of the Anti-Displacement Strategy.

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

Over the past quarter, Housing Department staff have continued to work hard to keep vulnerable San José residents housed despite COVID-related challenges. Strategies have focused on the provision of emergency rental assistance, staffing the Court during unlawful detainer hearings, and outreach to households that received three-day notices and unlawful detainers.

---

<sup>22</sup> File No. CC 21-279, <https://sanjose.legistar.com/LegislationDetail.aspx?ID=5152386&GUID=B751E6D2-EA01-4AF6-B442-752CDC3FB8FD&Options=&Search=>.

## Emergency Rental Assistance

On February 9, 2021, the City Council approved the Administration’s proposed hybrid strategy for deploying \$30.38 million in federal Emergency Rental Assistance round 1 (ERA1) funds that the City of San José received directly from the U.S. Department of Treasury through the Consolidated Appropriations Act of 2021. In the second phase of rental assistance, the City received \$66.34 million in Emergency Rental Assistance round 2 (ERA2) funding and on October 5, 2021, the City Council approved participating in the State rental assistance program.<sup>3</sup> Funds allocated to the County of Santa Clara are also available to assist City residents. Tables 1 to 3 below summarizes the full allocations for the State, City, and County for ERA1 and ERA2.

**Table 1: Direct ERA1 Allocations**

Allocated to:	ERA1 Direct
City of San José	\$30,380,000
County of Santa Clara	\$27,100,000
<b>Total:</b>	<b>\$57,480,000</b>

**Table 2: Allocations Administered through State COVID-19 ERAP**

Allocated to:	ERA1 State Reservation	ERA2 State Reservation	ERA2 Direct and High-Needs	Total
City of San José	\$33,100,000	\$24,590,000	\$36,277,888	\$93,967,888
County of Santa Clara	\$29,360,000	\$21,810,000	\$30,062,002	\$81,232,002
<b>Total*</b>	<b>\$62,460,000</b>	<b>\$46,400,000</b>	<b>\$66,339,890</b>	<b>\$175,199,890</b>

**Table 3: Total ERA1 and ERA2 Funds Allocated to City and County**

Allocated to:	Total ERA1 + ERA2 Funds
City of San José	\$124,347,888
County of Santa Clara	\$108,332,002
<b>Total:</b>	<b>\$232,679,890</b>

### *Local Program*

To administer ERA1 direct allocation funds, City staff actively partnered with the City, County of Santa Clara, and the Homelessness Prevention System co-led by Sacred Heart Community Service and Destination:Home. This local program, known as the Santa Clara County Homelessness Prevention System COVID-19 Response, is comprised of a network of 46 trusted community and grassroots partners to provide homelessness prevention services including rental assistance, utility assistance, outreach, and case management. The local program soft-launched on May 1, 2021, publicly launched on May 19, and closed for new applications on September 7. The program is in the process of winding down and closing. As of March 15, the local program had paid 2,769 San José households a total of \$29.5 million. A handful of application payments remain in process before the program using ERA1 funds can officially close.

<sup>3</sup> Staff report October 5, 2021:

<https://www.sanjoseca.gov/home/showpublisheddocument/77821/637689311589630000>

## **State Program**

For the State program, as of March 13, 2022, 15,405 San José households had completed applications requesting approximately \$234 million in rental assistance.<sup>4</sup> The State has paid 5,308 San José households a total of \$69 million in assistance. Countywide including San José, 23,532 households had completed applications, with \$104 million paid to 8,448 households.<sup>5,6</sup> Though the State has improved its application processing time in the last few months, currently about 200-250 applications from City residents are approved each week, with approximately \$2 to \$2.5 million being paid to landlords weekly. On October 5, 2021, the City Council supported staff's recommendation to have the State administer all the City's ERA2 funds for the benefit of San José's residents.

## **U.S. Treasury Allocations & SB 115**

In November 2021, the U.S. Department of Treasury began the process of reallocating unused ERA1 funds. These unused federal funds are being recaptured and reallocated about every two months to grantees like California that have a continued demand for resources. As part of this reallocation process, California requested \$1.9 billion in additional funding. In early January, California received \$62 million in additional funding<sup>7</sup> from Round 1 of the ERA1 reallocation, with Round 2 expected in the coming weeks. The reallocation process for unused ERA2 funds will not begin until April 2022. Legislative members are urging the Treasury to expedite the ERA2 reallocation process and prioritize reallocating towards communities with the highest needs.<sup>8</sup>

On February 10, 2022, Governor Newsom signed into law SB 115, the Budget Act of 2021.<sup>9</sup> This bill authorizes the allocation of funds from the State's General Fund to provide a temporary cashflow loan to the State Emergency Rental Assistance Program (ERAP) to provide immediate cash to the program to maximize rental relief. This would allow the State ERAP to continue funding approved applications while the State is awaiting further reallocated ERA1 and ERA2 monies from the Treasury Department and could cover any deficit resulting from oversubscription

---

<sup>4</sup> Conversations with the State indicate that the actual total amount requested is likely about 40% lower due to duplicate applications and matching up of Landlord-initiated and Tenant-initiated applications. This suggests an actual amount closer to \$140.5 million.

<sup>5</sup> CA COVID-19 Rent Relief Program dashboard: [https://housing.ca.gov/covid\\_rr/dashboard.html](https://housing.ca.gov/covid_rr/dashboard.html).

<sup>6</sup> The State is in the process reallocating ERA funds to direct unused funding to California cities with the highest need, like San José. The first round of ERA funds was allocated based on a population formula rather than according to geographic areas with the highest need. The data collected since the pandemic has helped to identify areas in high need of rental support. As the identified need from some California metro areas is exceeding the funds allocated to California, the State is working with the Department of the Treasury to access more funding so as to not leave some of the nation's highest need and most vulnerable renters without support.

<sup>7</sup> <https://www.hcd.ca.gov/about/newsroom/docs/treasuryallocationrelease.pdf>

<sup>8</sup> <https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=1AD5F92B-58B0-4AEA-A769-846EDAABF6E1>

<sup>9</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB115](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB115)

of federal ERA funds. This State funding will only be available to fund ERAP rental assistance applications received on and before March 31, 2022.

### **Eviction Protections Ending March 31**

Though the statewide Eviction Moratorium ended on September 30, 2021, Assembly Bill 832 (AB 832) added additional protections through March 31, 2022, for tenants still experiencing COVID-19 related financial impacts. These protections created procedural conditions on landlords prior to a Court issuing summons in unlawful detainer actions. Under AB 832, until March 31, 2022, Courts could not issue a summons unless the landlord declared under penalty of perjury that they applied for rental assistance and were denied or had received no response from the rental assistance program or tenant within 20 days after the notice expired. Additionally, AB 832 gave Courts the ability, upon a tenant's application, to delay sheriff's lockouts and reinstate tenancies if rental assistance payments were approved and simply awaiting disbursement to the landlord. These procedural conditions for an unlawful detainer summons will end on March 31, 2022. On and after April 1, 2022, a tenant with a pending rent relief application for rent due between October 1, 2021, and March 31, 2022, could be subject to an unlawful detainer action based on nonpayment of rent that accrued between October 1, 2021, and March 31, 2022. Tenants, upon successful application to the Court, would still have the recourse of delayed sheriff's lockouts and having their tenancy reinstated if the rental assistance payments were approved and simply awaiting disbursement to the landlord. The protections for tenants with unpaid rent between March 2020 and September 2021 due to COVID-19 related financial impacts<sup>10</sup> will remain in place.

The Housing Department will provide an update to City Council on March 22, 2022, on the status of tenant protections and the administration's efforts to prevent evictions through initiating the Eviction Diversion and Settlement Program.

The Eviction Diversion and Settlement program, in coordination with the County, Superior Court, Sacred Heart, and Destination Home, intends to utilize ERA 1 funds to stop an eviction for nonpayment of rent by quickly paying back owed rent. The program would work as follows:

- To be eligible, a tenant must (a) have an unlawful detainer action filed against them for nonpayment for rent due between October 1, 2021, and March 31, 2022, (b) have a completed pending rent assistance application that includes rent between October 2021 and March 2022, and (c) be able to pay April 2022 rent OR who cannot pay April 2022 rent but need additional time to find another home.
- Landlords would have to agree to dismiss the unlawful detainer action in exchange for receiving payment of the application amount within two weeks.
- Both landlord and tenant would take steps to withdraw the pending application with the State, to avoid any duplication of federal funds.

---

<sup>10</sup> Tenants must have signed and submitted a Declaration of COVID-19 Related Financial Distress to their landlord and also had the additional requirement of paying at least 25% of the total rent due between September 2020 and September 30, 2021 to ensure protection.

- Tenants and landlords would work with the day of court mediators and/or landlord and tenant attorneys to enter a stipulated settlement agreement that would be presented and approved by the judge assigned to the unlawful detainer calendar.

This intervention would be approached three ways:

1. During the unlawful detainer Court calendar when cases are heard,
2. Through a potential weekly workshop held at the Court for unlawful detainer litigants (described under Strategy Three below), and
3. Through coordination with landlord attorneys who have filed or plan to file nonpayment actions on behalf of their clients.

The Court typically has eight to 15 residential unlawful detainer actions a week on its docket Wednesday and Thursday mornings, and not all of the matters on the calendar are based on nonpayment of rent. The City's rental assistance navigator would work with court mediators, attorneys, and parties to assess eligibility for this program and the funding of the pending rent application would be incorporated into the mediated settlement agreement. Staff would build on its presence in Court and work with Court bench officers and staff, court mediators, and tenant and landlord attorneys, to ensure effectiveness program.

### **Eviction Prevention Help Centers**

In August 2021, the City launched two permanent locations for tenants to get help with rental applications: the 12<sup>th</sup> Floor of City Hall and the Franklin McKinley School District facilities. These sites are referred to as Eviction Prevention Help Center locations. At these sites, Rental Assistance Navigators help tenants submit rental assistance applications, with assistance provided in various languages including Spanish, Vietnamese, Mandarin, and English. Additional language assistance is also available. The Centers also offer access to legal services, with staff present on-site from the Law Foundation of Silicon Valley and Bay Area Legal Aid Silicon Valley.

In addition to these two permanent locations, City staff have coordinated with organizations across the City to host pop-up events offering information regarding the Eviction Moratorium and rental assistance application help. In the last six months, Housing Department staff participated in more than 300 pop-up and outreach events.

Since the launch of the Eviction Help Center, through pop-up events and at the two permanent locations, staff has assisted over 1,000 families in applying for rental assistance. Over 64% of households were assisted in Spanish and over 5% in Vietnamese. At least 70% of the households were extremely low-income.

City staff has also coordinated with Santa Clara Superior Court in efforts to connect eligible tenants and landlords to rental assistance. These efforts include having Rental Assistance Navigators on-site at the downtown Superior Courthouse during the unlawful detainer calendars on Wednesday and Thursday mornings.

## **Active Outreach to Tenants and Property Owners**

Last quarter, Housing staff continued to actively communicate with the public regarding tenant protections and available programs to help them keep their housing. With the end of the stronger tenant protections on September 30, 2022, staff stepped up efforts to reach tenants that may continue to struggle and would benefit from further rental assistance. During this time, staff partnered with vaccine clinics, community partners, schools, and other groups to participate in 34 pop-up clinics, presentations, and flyering efforts at resources fairs and holiday events. In addition to these outreach efforts, staff fielded over 3,500 inquiries about COVID-19 rent relief applications and tenant protection from residents in person and by phone, and regularly directed residents to available resources. Housing staff also continued to provide these services by phone.

Housing Department staff continues to coordinate its housing-related outreach and education campaigns with the County of Santa Clara and other community partners. Topics include the State's eviction protections during the COVID-19 Recovery Period, the Tenant Protection Ordinance, and available State rent and landlord assistance programs. Media used include social media, webinars, and mailers in multiple languages.

Additional outreach campaigns in the past quarter include the following areas of focus:

- ***Tenants of rent-stabilized apartments who have received a Notice of Termination for nonpayment of rent submitted to the Rent Stabilization Program*** – On a weekly basis, Housing staff sent mailed informational flyers in English, Spanish, and Vietnamese to tenants of landlords that filed three-day Notices to Pay with the City as required by the Tenant Protection Ordinance. Over the past two quarters, staff sent 6,425 mailers to vulnerable tenants.
- ***Owners and property managers of restricted affordable developments*** – Housing staff reached out to owners and property managers of restricted affordable housing through an e-blast, requesting information about outstanding rental assistance applications and rental arrearages. Staff offered to assist in contacting tenants who had not submitted their portion of the rental assistance application. As a result of this effort, staff was able to connect with several tenants identified by a housing provider at two properties and assist them with submitting their applications.

## **Legal Assistance**

The Housing Department oversees the City's current contract with Law Foundation of Silicon Valley and Bay Area Legal Aid Silicon Valley to provide services at the Eviction Prevention Help Centers and remotely. The Law Foundation provides legal consultations for walk-in tenants at the City's Eviction Help Center. This includes assistance in drafting responses to unlawful detainer complaints, advocacy and counseling related to completing or responding to a Notice of Termination of Tenancy, legal referrals to Fair Housing Agencies, client advice/education regarding City ordinances and rent moratoriums enacted because of COVID-19, and assistance developing a legal defense for small claims court.

In addition to providing legal assistance through funded City contracts, the following is an update on the progress of other work on legal systems to help reduce evictions:

**Right to Counsel:** In addition, pursuant to City Council’s direction, staff is developing a Request for Proposal (RFP) to engage a consultant to create a cost estimate for a potential Right to Counsel program in San José. Having legal counsel to represent low-income tenants going through the evictions court process is just one way to help lower-income people stay housed and healthy. However, it is a strategy that several other communities have employed and studied. Early indications are that Right to Counsel programs can be both cost-effective and effective at reducing evictions.<sup>11</sup>

**Eviction Diversion Program:** In addition, the Housing Department partnered with Santa Clara County Superior Court and other unlawful detainer court stakeholders on a grant application to the National Center for State Courts (NCSC) for an eviction diversion program.<sup>12</sup> The program would fund a full-time position at the Court to manage a collaborative Eviction Diversion program. Building on the existing collaborative efforts, this Court position would create and coordinate a holistic weekly workshop designed to offer a spectrum of resources to all parties. Workshops would include help with ERAP and other rental assistance, social services assistance, mediation, and legal assistance. Open to all parties, workshops would be designed to offer help to each litigant and to provide as many opportunities as possible to help parties resolve their disputes and, ideally, avoid evictions. If the workshop does not reach enough litigants, it will be transformed into a Collaborative Court model held one week before a scheduled unlawful detainer trial. Collaborative Courts typically require mandatory pre-trial conferences and on-site connections to tenant services. The goal of both the proposed Eviction Diversion Program and Housing Collaborative Courts is to maximize the likelihood that tenants facing evictions and landlords reach a settlement before trial.<sup>13</sup>

The Court’s proposal has entered the next level of the NCSC review. In mid-March, Housing Department staff participated in a virtual “on-site” interview the NCSC held with the Court and its grant proposal partners. The Court is one of 22 jurisdictions vying for 12 grant awards, which the NCSC is expected to announce in early April. Partners involved in this local grant application include the County, Sacred Heart Community Services, Destination: Home, Court administration, and Self-Help staff at the Court. Partners meet weekly to discuss Collaborative Court options that could be implemented even in the event the Court is not awarded the grant proposal.

**Legal Clinic:** Finally, the Housing Department is working with Santa Clara University on a legal clinic model that would support tenants’ legal service needs. In light of the new opportunities

---

<sup>11</sup> Ingrid Gould Ellen et al., “Do Lawyers Matter? Early Evidence on Eviction Patterns After the Rollout of Universal Access to Counsel in New York City,” *Housing Policy Debate*, vol. 31, pp. 540-561, Nov. 25, 2020, <https://www.tandfonline.com/doi/full/10.1080/10511482.2020.1825009>.

<sup>12</sup> <https://www.ncsc.org/information-and-resources/improving-access-to-justice/eviction-resources/eviction-diversion-initiative-grant-program>

<sup>13</sup> Note that a Housing Collaborative Court was included in Recommendation 1 of the Citywide Residential Anti-Displacement Strategy.



with the Court, the legal clinic model could serve a crucial role in staffing a weekly workshop for unlawful detainer litigants. The Housing Department is revising the initial outline of services to reflect and integrate the collaborative efforts with the Court and community partners.

### **Recommendation 2. Create Tenant Preferences to Prevent Displacement**

In the past quarter, staff has focused its limited capacity on advancing tenant preferences by maintaining momentum behind co-sponsored legislation to support the use of tenant preferences. As a reminder, 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 because of the preference, would have a better chance at being accepted in a set-aside of apartments. The two preferences being designed are:

- **Anti-Displacement Tenant Preference:** Sets aside a portion of affordable apartments for low-income applicants who live in certain identified areas that have a high likelihood of displacement. The advantage to an 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. 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 people with similar protected class characteristics in a neighborhood, which can create issues under fair housing law. Careful analysis is required.

In the past quarter, staff's tenant preference work mainly has focused on continuing efforts to advance co-sponsored State legislation that supports the use of local tenant preferences. The State Department of Housing and Community Development (HCD) has not yet released guidance for lawful preferences analysis, and staff capacity in the past quarter was consumed by advancing the Community Opportunity to Purchase program proposal and work for the Assessment of Fair Housing for the next cycle Housing Element. Updates on the main areas of the current tenant preferences work are as follows.

**Legislation:** SB 649, co-sponsored by the City and authored by Senator Dave Cortese, would ensure that affordable housing developments using State and federal tax credits and federal tax-exempt private activity bonds are able to reliably administer tenant preferences that help prevent displacement. In mid-June 2021, SB 649 became a two-year bill due to rules limiting the number of bills allowed out of each chamber of the State Legislature. Prior to its deferral, the bill was approved unanimously in two Senate policy committees and was approved 37-0 on the floor of the floor of the State Senate, garnering no official opposition.

**Legislation Update:** In summer 2021, HCD staff expressed their desire that the bill follows HCD's forthcoming tenant preferences guidance, rather than precede it so that the bill acknowledged HCD's guidance and was consistent with State fair housing law. However, HCD has not yet issued its guidance, nor has staff responded to requests for meetings. Housing Department, the City Attorney's Office, the City Manager's Office of Intergovernmental Relations, the City's external lobbyists (Cruz Strategies, LLC), and the bill's co-sponsors (SOMOS Mayfair and the Housing Action Coalition). Attendees discussed the next steps on advancing the bill ahead of the Assembly's policy committee hearings this June. HCD expressed willingness to work with the bill's sponsors and author on language edits later in spring 2023 and clarified that HCD's approval was not technically required for the bill to advance.

**HCD Approval:** HCD's approval of the City's proposed tenant preferences is vitally important to obtain for three reasons. First, HCD must approve the use of preferences on affordable apartments using HCD funding. Second, HCD is the State's fair housing oversight agency and will be actively analyzing the adequacy of jurisdictions' fair housing strategies in their forthcoming Housing Elements. Third, HCD is the Governor's primary advisor on legislation regarding housing, including the City's co-sponsored bill, SB 649. In approving tenant preferences, HCD carefully reviews the data and findings that are specific for each jurisdiction to see if it is adequate to permit the preference to be administered. The reason for HCD's intense scrutiny is that tenant preferences can easily cause greater segregation and can be used to illegally discriminate against people in protected classes (whether intentional or unintentional).

In August 2020, HCD staff indicated that the agency was going to issue formal guidance to jurisdictions before the end of 2020 on analysis it would require to ensure that tenant preferences were lawful. HCD key staff reported in mid-October 2021 that its guidance memo was in its final stages of review and was expected to be released by the end of 2021. While waiting for guidance, staff made the determination that HCD's release of official guidance was necessary to obtain before doing preliminary analysis, in order to prevent later rework.

As was noted in staff's last update, after HCD issues guidance on the analysis required for tenant preferences, staff will first prioritize approval of the Anti-Displacement Tenant Preference with the State, as HCD is more likely to easily accept the specific data and findings for this preference.

**HCD Update:** HCD has not yet released its guidance memorandum, nor was the City's lobbyist successful in arranging a meeting with key HCD staff in late 2021 to check on the status. At the meeting with HCD on March 9, 2022, HCD staff clarified that its review of the City's tenant preferences will focus on its role as a lender rather than under broader powers to review policies under fair housing law. HCD declined to give an estimate on the timing for the release of its guidance. Staff's analysis and design of both preferences remain on hold until the State's release of the guidance, both to avoid rework but also due to staff's intense work on the sixth cycle Housing Element.

**Demographic Information:** Staff last reported on success in amending its reporting systems and gathering demographic information from tenants in the City's portfolio of restricted affordable

apartments. The demographic information is necessary for staff to do required quantitative disparate impact analysis on protected classes of existing residents in the City's affordable housing portfolio. This analysis is required by HCD for approval of tenant preferences. The improvements made to the City's annual reporting system also better prepare the City for its implementation of the Doorway affordable housing portal. Further, the improvements enable future fair housing analysis of the City's affordable housing portfolio to proactively identify outlier properties to target for technical assistance to achieve more equitable fair housing outcomes. This initiative would require adequate staffing.

Demographics Update: Accessing additional demographic information needed for HCD analysis was completed in late 2021. Further refinements to the City's reports to capture more specific household data is possible, if required by HCD or deemed useful for fair housing strategies. This work would require additional consulting assistance and expenditures. In the meantime, the data is available for analysis for tenant preferences and other purposes.

See **Attachment A** for an overview of the steps involved in creating the draft program and educating the community about it.

### **Recommendation 3. Explore a Community Opportunity to Purchase Program**

A Community Opportunity to Purchase (COPA) program would give a qualified nonprofit buyer the right to make the first offer on a residential property covered by the program that the owner chooses to put up for sale. The purpose of COPA is to enable more properties to become restricted affordable, to the extent that City subsidies were available, and be owned by mission-oriented nonprofit organizations that would cooperate with the City to keep them affordable in perpetuity. Staff reported last quarter that it had mostly concluded the following work:

- Research on comparable existing and proposed programs in other jurisdictions
- A seven-month, two-tier stakeholder meetings process co-facilitated by community engagement consultants to help design a proposed COPA program, involving over 50 organizations, 167 different attendees, and more than 200 people on the regular invitation lists. From April to October 2021, staff held 16 formal large stakeholder meetings with translation services regularly available.
- 25 small stakeholder meetings to discuss program design issues in greater depth.

Staff continued to work intensively on COPA in the past quarter. Focus areas were broad public outreach on the draft program proposal, analysis and writing, and advancing work on acquisition financing for preservation.

**Outreach:** In the past quarter, staff focused on conducting the second phase of broader public outreach on the COPA program proposal. Staff finalized a draft program proposal for a public

review period that ran from the end of November 2021 until February 1, 2022.<sup>14</sup> Staff then conducted seven broad community meetings on the proposed framework, including one conducted in Vietnamese with Viet Unity and SOMOS Mayfair as partners. Unfortunately, given the resurgence of COVID, all meetings had to be held remotely on Zoom. Overall, 191 different people attended these meetings (over 300 attendees in total), and staff received 228 questions/comments during the meetings. Staff received approximately 40 emails containing questions or comments and six letters of support or opposition via email during the two-month public review period.

To advertise outreach events and the public notice period, staff regularly used blast emails, social media, and the distribution of meeting notices through community partners. The City sent update eblasts to a (duplicated) total of 9,154 email addresses of members of the public interested in COPA and anti-displacement strategies. During this time, staff also kept its informative COPA webpage<sup>15</sup> frequently updated with public meeting dates and recordings of meetings.

**Program Analysis:** Staff's work also focused on synthesizing research and analysis with the feedback received from stakeholder outreach to inform a final program proposal. Staff began writing the long COPA decision memo for the Housing and Community Development Commission and the Community and Economic Development Committee.

**Financing:** Acquisition financing for preservation properties is also part of the COPA recommendation in the Citywide Residential Anti-Displacement Strategy. Last quarter, staff held a series of meetings with the Housing Trust of Silicon Valley to discuss preservation financing, and the need for acquisition funds to enable nonprofit developers to quickly acquire buildings listed for sale to turn them into restricted affordable housing. Finally, staff's proposed changes to the Measure E Allocation plan approved by the City Council in February 2022 clarified that preservation is an eligible use of those funds.

Note that over the next quarter, the Housing Department's small Policy Team staff will not have the capacity to advance the COPA proposal further, given the need to devote itself full-time to the extraordinary amount of work needed to create a draft Assessment of Fair Housing and new Housing Element. Intense focus on producing a draft Housing Element, which is far more complicated than the current cycle's requirements, unfortunately, will need to take precedence over advancing COPA to its final approvals stage in the next few months. After the first Housing Element draft is submitted to the State for review, currently anticipated by July 2022, staff will plan to resume its COPA work in tandem with its ongoing Assessment of Fair Housing and Housing Element work.

---

<sup>14</sup> Per feedback at the Community and Economic Development October 2021 meeting, staff extended the COPA public review period to accommodate participants who could not or chose not to participate during the November/December timeframe.

<sup>15</sup> <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/copa>

Given this necessary shift in staff's priorities, the following are revised milestones for the COPA program development:

**Table 2: COPA Revised Milestones**

<b>Actions</b>	<b>Timing</b>
Prepared draft program description for public review	Nov. 2021
Held public review period of the draft program description	End Nov. 2021 to Feb. 1, 2022
Held 7 broad community meetings, took comments on the draft proposal	Dec. 2021 to Jan. 2022
Draft program to Housing & Community Development Commission	fall 2022 (est.)
Draft program to Community & Economic Development Committee	fall 2022 (est.)
Draft program to City Council	late 2022 (est.)

Also, see **Attachment A** for an overview of the steps involved in creating the draft program and educating the community about it.

**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 (Commission) 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. At the City Council meeting on January 12, 2021, the City Council directed staff to create a designated Lived Experience with Homelessness (Lived Experience) member seat on the Commission for a Commissioner who is currently experiencing or previously experienced homelessness. Pursuant to City Council's direction, the work plan is focused on: 1) researching and developing new guidelines and resources for onboarding Lived Experience Commissioners and 2) establishing a recommended stipend model for the Lived Experience seat Commissioner.

During the past quarter, staff sought input from various community stakeholders on this work. Stakeholders included homeless services and advocacy organizations with a focus on groups comprised of individuals who are or have been unhoused, as well as tenants and staff of permanent supportive housing developments. Current commissioners were also engaged via surveys and interviews to gain a better understanding of support and other needs for commissioners. This item was heard by the Commission at its monthly meeting held virtually on February 10, 2022. However, staff will take the item back to the Commission at its April 14 meeting to clarify Council direction on a stipend for the Lived Experience Commissioner seat only, i.e., not stipends for the entire Commission.

## **CONCLUSION**

Staff continues to make progress on the top four anti-displacement priorities directed by the City Council. In the last quarter, staff focused heavily on assisting households to apply for emergency rental assistance, providing access to legal services at the City's Eviction Help Centers, and public outreach on the proposed design for a COPA program. Work on equitable Commission composition progressed to its final stages, and work to support the City's State tenant preferences legislation continued.

Continued focus on emergency assistance to lower-income renters displacement remains the Housing Department's top priority for the near future. However, Housing staff's work on COPA will need to pause so staff can focus completely on creating a draft Housing Element together with the Department of Planning, Building, and Code Enforcement. After the first draft Housing Element is submitted to the State this summer, Housing staff will resume work on COPA.

## **EVALUATION AND FOLLOW-UP**

Per the City Council's direction, staff will continue to 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.

## **CLIMATE SMART SAN JOSÉ**

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

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the March 28, 2022, Community and Economic Development Committee.

## **COORDINATION**

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

## **COMMISSION RECOMMENDATION/INPUT**

Staff will clarify City Council direction on the stipend for Lived Experience seat at the April 14, 2022, Housing and Community Development Commission meeting; staff will include the

Commission's recommendation(s) when the item goes to City Council for consideration. Staff will also 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

The primary author of this memorandum is Kristen Clements, Division Manager. Additional authors are Emily Hislop and Jin Kim. For questions, please contact Kristen Clements at [Kristen.clements@sanjoseca.gov](mailto:Kristen.clements@sanjoseca.gov).

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

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

<b>1. Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners Workplan</b>		
<b>Task</b>	<b>Description</b>	<b>Timeline</b>
<b>Advocacy</b>	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	
<b>Program Development and Research</b>	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
	Assist Bloomberg/Harvard to survey San José small property owners	Completed
	Research COVID-19 housing recovery strategies of other large cities and recovery metrics they are tracking	
	Work with Urban Institute and the City of LA on COVID response study	
	Pinpoint possible administrative program changes to remove barriers for immigrant households	Completed
	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	Ongoing
	<i>Release Request for Proposals to study estimated cost of Right to Counsel for Santa Clara County per City Council direction</i>	2022
<b>Community Outreach</b>	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	Completed



<b>Community Outreach</b>	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 CBOs to: <ul style="list-style-type: none"> <li>1. Hear experiences of stakeholders re. housing needs and COVID-19 and identify urgent housing problems that must be addressed</li> <li>2. Develop equitable short-term and long-term housing recovery strategies</li> </ul>	Deleted
	Analyze feedback and community-led recommendations to inform future Housing funding priorities and develop recommendations on policy changes for City Council consideration	Ongoing
<b>Funding</b>	Design system and administer emergency rent assistance for extremely low-income and undocumented local residents & coordinate CBOs together with County	Q1 2020 to current
	Identify available and possible new sources of ongoing funding for legal services to prevent eviction, Housing Collaborative Court positions, and housing mediation services if County resources are insufficient	Completed / Ongoing
	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	2022

*\*Note: Italicized items indicate additions to the Workplan.*

<b>2. Tenant Preferences to Prevent Displacement Workplan</b>		
<b>Phase</b>	<b>Description</b>	<b>Timeline</b>
<b>Program Development &amp; Research</b>	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	
	Work with HCD to identify a timeline for its issuance of final guidance on tenant preferences	TBD
	Perform disparate impact analysis & do other HCD-required analysis	
	Determine how to prioritize and administer different preferences & finalize determination on which production programs will incorporate preferences	
	Update rent roll online systems programming to incorporate demographic data for existing affordable housing residents	Completed
<b>Legislation</b>	Work with City Attorney's Office to create draft legislation	Completed
	Support the bill through meetings with potential authors, stakeholders, HCD, Assembly and Senate policy committee staffs	Ongoing
	<i>Apply for FUSE Fellow to support advocacy, analysis, and outreach</i>	<i>Q1 2022</i>
	Work with City Attorney's Office to create legal findings in support of legislation and Ordinance and approve proposed parameters	Q2 2022

<b>Community Outreach &amp; Feedback</b>	Provide revised information, legal analysis, and disparate impact analysis to HCD for both proposed preferences	On hold pending HCD guidance
	Update draft Ordinance; create program descriptions	
	Issue survey to owners of properties with affordable apartments that would be subject to the program	
	Seek & incorporate HCD feedback on City's analysis & submissions	
	Obtain HCD approval of the City's methodology & analysis	TBD
	Decide timing to seek HCD approval for second preference	TBD
	Stakeholder meetings on the draft program (community and neighborhood, property owners & managers, residents/advocates)	TBD
	Hold public meetings on the draft program to get input	
<b>Program Finalization &amp; Approvals</b>	Hold next round of meetings with key stakeholders on drafts	TBD
	Make final program revisions based on feedback	
	Post final draft program for public review	
	Present draft program to Housing & Community Development Commission	
	Present draft program to Community & Economic Development Committee	
	City Council approves program and Ordinance	
<b>Program Implementation</b>	Issue guidance for property owners & the public	TBD
	Hold educational meetings for property owners/managers	
	Host public meetings to inform about new preferences	
	Conduct webinars for the public (multiple languages)	
	Conduct community outreach (neighborhood meetings, tabling, associations)	
	Fully implement renter online portal (to get applicant protected class data, screen applicants for preference eligibility)	TBD
	Do analysis annually and submit for HCD reviews	Ongoing

**\*Note:** *Italicized items indicate additions to the Workplan.*

<b>3. Community Opportunity to Purchase Workplan</b>		
<b>Phase</b>	<b>Description</b>	<b>Timeline</b>
<b>Program Development</b>	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	Completed
	Hold RFP and hire community engagement consultant for Anti-Displacement Working Group; focus Technical Team on COPA	
<b>Community Outreach &amp; Policy Feedback</b>	Meet with specialized stakeholders (property owners, realtors, brokers, lenders, other experts)	Completed
	Meet with potential qualified nonprofit developers	
	Prepare analysis of long-term funding needs and possible sources for financing acquisition & rehabilitation/permanent	
	Hold Working Group meetings – Technical Advisory Committee and broader Stakeholder Advisory Committee (ongoing)	
	Create the first draft of program and supporting materials incorporating community feedback and study findings	
	Hold stakeholder public review period and feedback	
<b>Program Finalization &amp; Approvals</b>	Make refinements based on first public review feedback	Q3-Q4 2022
	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 Council memo with draft program parameters for public review	
	City Council approves program & directs staff to return with Ordinance	Q4 2022
	City Council approves Ordinance	Q4 2022

<b>Program Implementation</b>	Begin 12-month period before implementation	Q1 2023 to Q1 2024
	<i>Create draft regulations and guidance – get public feedback</i>	
	Conduct webinars for the public (multiple languages)	
	Hold co-hosted educational meetings for property owners	
	<i>Issue call for qualifications and approve Qualified Nonprofit developers to participate in the program</i>	
	Begin program implementation ( <i>later than 12 months after approval or QNP approvals</i> )	Q1 2024
	Info memo on progress to the City Council 6 months after the start	Q3 2024
	Continue outreach and education to the community	2023-24
	Assess Program performance in a report to City Council after 1 year	Q2 2025

**\*Note:** *Italicized items indicate additions to the Workplan.*