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## SUMMARY

# Community Opportunity to Purchase Advisory Committees Meetings

1/25/2022

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### 1) Executive Summary

In 2020, San José’s City Council charged the Housing Department with developing a Community Opportunity to Purchase proposal that would give qualified nonprofit organizations the right to make an initial offer and the right of final offer to purchase certain residential properties that come up for sale in the city. The goal of the proposal is to prevent tenant displacement and promote the creation and preservation of affordable rental housing.

In response, city staff applied to the Partnership for the Bay’s Future to have a fellow, Mr. Aboubacar “Asn” Ndiaye, help develop the program. The city also released a Request for Proposals and hired Baird + Driskell Community Planning to facilitate the community engagement process.

The city formed an Anti-Displacement Working Group to gather feedback from stakeholders and residents. The Anti-Displacement Working Group consisted of two subgroups, both of which met monthly via Zoom. The groups were:

- (1) Stakeholder Advisory Committee (SAC) – 7 meetings. The SAC is a broad and diverse group, open to all, that includes stakeholders from the public as well as those with expertise in housing policy and real estate. Most SAC invitees had expressed interest in the city’s Anti-Displacement work or had attended previous outreach events. All SAC meetings offered interpretation in Spanish and Vietnamese.
- (2) Technical Advisory Committee (TAC) – 9 meetings. The TAC is a smaller group of subject matter experts representing relevant stakeholders, and dove more deeply into the details necessary for designing the program. Group members were invited based on the depth and diversity of their experiences and the constituencies they represented.

At each meeting, staff presented components or parts of the policy, provided examples of sample practices from other cities, and offered San José-specific data to ground it in the local context. After the presentation, participants offered input.

Almost 170 people participated in the meetings and attendance was diverse. The Working Group included community members and leaders from all council districts across the city and included voices of those who will be directly impacted by the policy: apartment owners, tenants, housing providers, developers, realtors, and housing advocates. Attendees were approximately evenly split between



owners and renters and evenly distributed in age ranges. City staff tracked who attended the meetings and also who commented, ensuring participation by all interest groups.

Originally, the TAC was intended to develop policy recommendations to then present to the SAC for additional feedback. It became clear early on that the group was unlikely to reach consensus, so the facilitators sought to gather the range of opinions and understand the interests of all parties.

### Key Takeaways

Generally, building owners or their representatives wanted to make sure that the program did not adversely affect the private housing market and caused as little burden as possible. Landlords helped city staff understand the complexity of the market, including its fast pace. One of their biggest concerns was that a slow timeline would prevent owners from selling quickly, while the market is hot. They also wanted as much certainty in the process as possible, articulating a concern about nonprofits expressing interest but not being able to complete the purchase and the potential for tenants disrupting the transaction process. Real estate industry representatives were apprehensive about including small properties in the program (e.g., 1-4 units). They pointed out small buildings sell quickly and are more likely to be owned by landlords with fewer properties. Small-time landlords often do not know the rules in as much detail as larger landlords and there are fewer avenues to educate them. Overall, while many real estate representatives may still have opposed the program, they also voiced support for home ownership opportunities through the program and some saw the Community Opportunity to Purchase Act (COPA) as a way for interested owners to sell their properties and work with their tenants to protect affordability in the long run.

Representatives of low-income renters were generally positive about the program and excited about its potential impact. They felt it gave their communities hope for stability and possible homeownership. They have suffered from housing insecurity and displacement and want the program to apply to as many homes as possible. They prefer to include investor-owned single-family homes as well as duplexes, in addition to larger buildings. Tenants and their advocates felt it was important that income targets are set low enough to better reflect the varying incomes in the city, which would benefit as many at-risk residents as possible. Tenant advocates wanted to ensure that nonprofits were responsive to the community and that the program supported tenant organizing and empowerment. They also advocated for appropriate organizational and capacity-building support for community partners to eventually become qualified nonprofits.

Nonprofit developers talked about the need for funding to make the program a possibility. They also asked for clear policies and procedures to align the program with their missions and business models. Generally, developers discussed the need for a timeline that allowed them to do their due diligence and present to their Boards of Directors before making an offer. Nonprofit developers wanted as much clarity as possible between different roles (Qualified Nonprofits who act as the developers, Community Partners who do the outreach, and the City). Additionally, they sought a clear pathway for new



developers to participate in COPA and smaller nonprofits wanted technical assistance so they could build capacity to participate.

Links to meeting summaries are provided in the appendix.

## 2) Process

### 1. Background—Anti Displacement Working Group

Displacement has been a growing concern in San José for a number of years. The San José City Council approved a Citywide Anti-Displacement Strategy in September 2020 and directed the Housing Department to undertake its implementation. One of the first tasks was creating a Community Opportunity to Purchase Act (COPA). The city used a newly formed Anti-Displacement Working Group to provide input on the implementation of the strategy. The working group consisted of two parts – the Technical Advisory Committee (TAC) and the Stakeholder Advisory Committee (SAC).

#### A. TAC Overview

The TAC included roughly 25 regular members who typically met twice each month from April to October 2021. Members were encouraged to attend every meeting but were not required to. TAC members were invited and encouraged to attend SAC meetings and a dedicated group did so.

City of San José staff invited stakeholders to join based on their subject matter expertise in an effort to convene a group with well-balanced interests. Staff decided the TAC would be by invitation only in order to develop trust among members and encourage collaboration and honest feedback. In order to build and maintain institutional understanding of the topic, new members were not accepted once the process started.

The TAC had members representing private industry interests who regularly voiced concerns about the policy itself. Staff attempted to address the apprehension by continuing conversations in outside meetings and seeking legal opinions to share with the group. Many policy decisions attempted to address these concerns, but some members of the TAC nonetheless remained doubtful of the utility of the program and advised against its adoption. On the other hand, some members of the TAC committee representing policy, tenant, and community organizations supported the overall goals of the program. Many of those members continued to offer feedback and concerns about whether the program would be inclusive to lowest-income residents and whether the program would be adequately funded. Overall, TAC discussions were polite and productive.

A full list of TAC meetings and topics can be found in the appendix.

#### B. SAC Overview

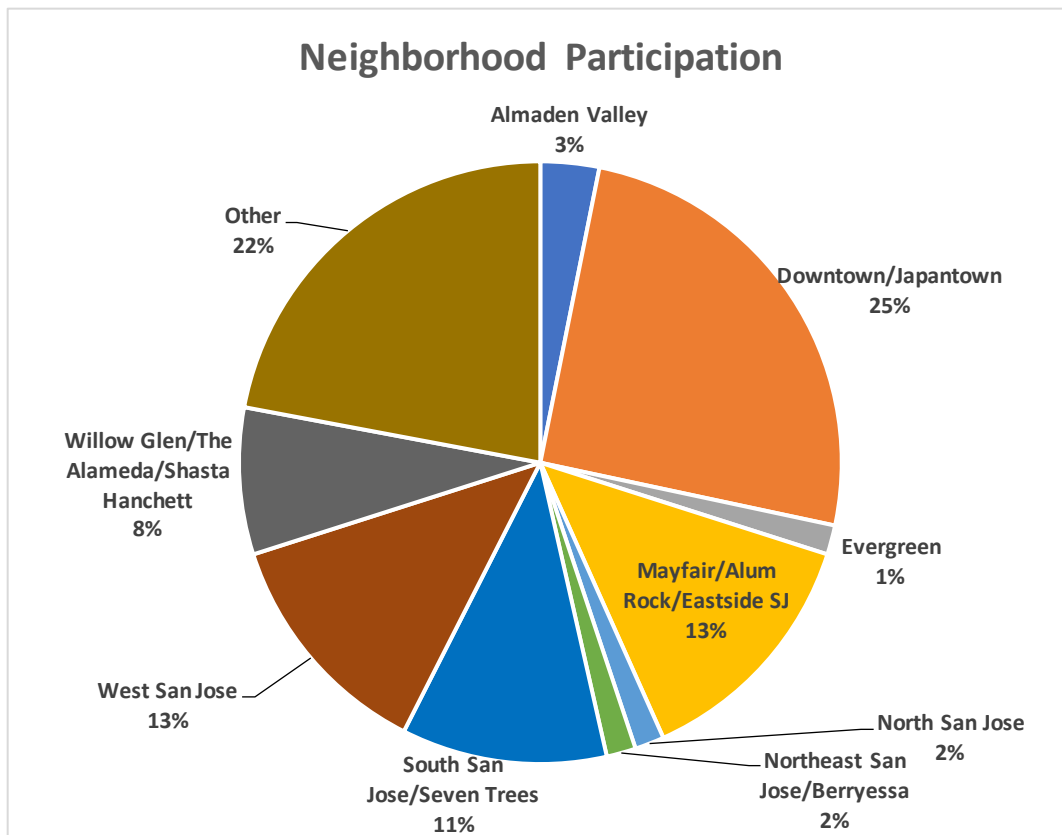
SAC meetings were held monthly in the evenings between April and October 2021 and attendance ranged between 20-70 people per meeting. City staff wanted to engage community members who had



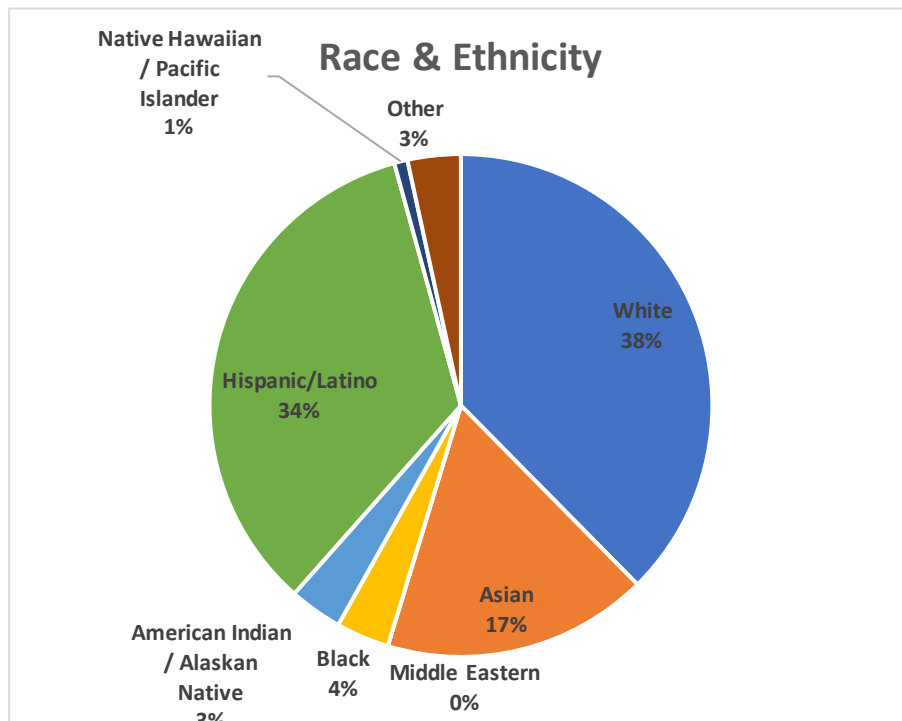
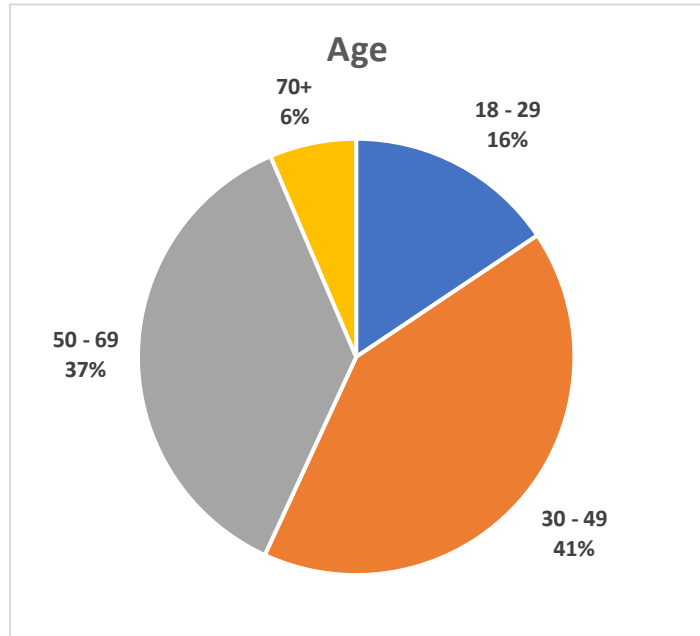
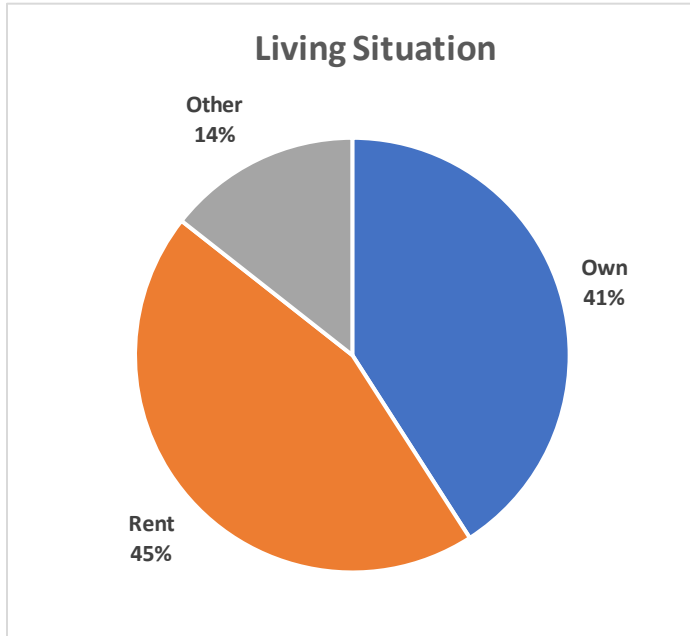
### 3) Participation & Demographics

Outreach for participation cast a wide net—over 500 community members were invited to join this process by both the facilitator and City staff. Participants represented all council districts across the city. Altogether, 167 community members engaged and offered input on COPA.

All SAC meetings included demographic polls to better understand who the process was engaging successfully and who needed more intentional and targeted outreach.<sup>1</sup> Overall, the SAC had broad and diverse participation. A majority of participants (66%) indicated having been connected to San José for 21 years or more. A slight majority of participants (45%) were renters, while 41 percent of them were property owners. Only 16 percent of participants were very low-income, earning \$50,000 a year or less; however, lower-income people were well represented by advocacy groups. Staff collected demographic data via anonymous Zoom polls. Below are charts representing key demographic takeaways.



<sup>1</sup> Demographic data was only collected from SAC meetings #1, #2, #3, #4, #6, and SAC Spanish-language meeting.





## 4) Meeting Topics and Key Insights

Below is a list of meeting topics and their accompanying presentations by City staff, followed by a summary of key insights.

### 1. Landscape Analysis and Best Practices—TAC #1 and SAC #2

#### Staff presentation:

- a. Background on San José's anti-displacement efforts;
- b. An overview of COPA; and
- c. Potential program elements and examples of similar policies in other cities.

**Meeting insights:** After the presentation, participants broke into facilitated small-group discussions where they shared what they felt would make the program successful and fair to tenants and property owners. Suggestions included: adequate funding, ownership opportunities for tenants, and technical assistance and support for owners and buyers in the transaction process.

### 2. Process/Timeline and Applicability—TAC #2 and SAC #2

#### Staff presentation:

- a. COPA purchase processes and timelines in other cities.

**Meeting insights:** Participant feedback on timelines and process generally favored faster timelines for letters of interest and offers and more time to secure financing. Overall, comments and feedback were strongly correlated with stakeholder affiliation (e.g., private industry representatives indicated they could not accept any of the proposed timelines). Industry representatives were also concerned with the potential impact COPA could have on the 1031 exchanges and the clear cooperation clause for realtors. Other issues raised by industry representatives included a concern that delaying the listing of property and offering nonprofits the right of first offer was a potential violation of the First Amendment. (Staff subsequently investigated these concerns *thoroughly* and are confident that the current proposal will not be a problem.) See below for participant comments on applicability.

### 3. Applicability—TAC #3 and SAC #3

#### Staff presentation:

- a. Data on the San José rental market, including property type stock; and
- b. What properties could be eligible under COPA.

**Meeting insights:** There was a passionate group of stakeholders who felt it was important to include smaller properties, such as single-family homes and duplexes/triplexes. They understood that, from a

cost perspective, these units were significantly higher price, but they believed it was still worthwhile to include them. They highlighted that a substantial number of households are living doubled or tripled up in single-family homes across the city. As detailed above, industry representatives believed these units should not be part of the COPA system because of the fast timeframes and large number of sellers/agents. Most participants agreed large properties (50 units or more) should be included in the program, as they are an efficient use of public dollars, they make up the majority of the city’s rental housing stock, and the timelines to close on these properties are slower. Lastly, a majority of participants indicated they thought public dollars would be better spent on mid- and large-sized properties.



Figure 2) Voting activity on applicability from TAC Meeting #3

#### 4. Financing—TAC #4 and SAC #4

##### Staff presentation:

- a. Qualified purchaser criteria;
- b. The process for nonprofits to become QNPs; and
- c. The role of the community partner and criteria to become one.

**Meeting insights:** Participants had clarifying questions about the availability of local financing sources and about the financing for San

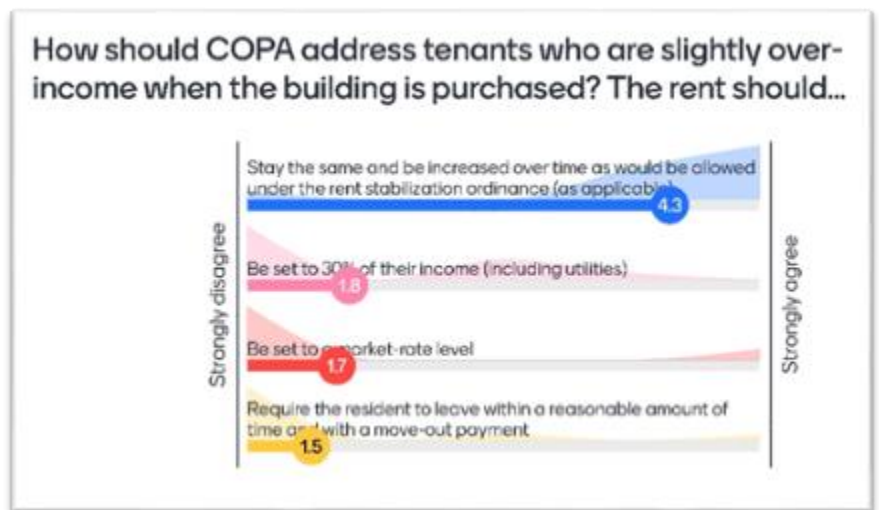


Figure 3) Voting activity from SAC Meeting #4





Francisco's COPA program. City staff noted that the City will likely offer preservation funds that can be used for COPA. Financing questions emerged throughout the process and some Working Group members were interested in exploring opportunities for a fund such as San Francisco's Accelerator Fund to quickly put financing together so QNPs can have greater opportunities to successfully purchase properties.

## 5. Affordability—TAC #5 and SAC #4

### Staff presentation:

- a. Affordability baselines in other cities;
- b. Local median incomes and wages; and
- c. The proposed affordability baseline for San José COPA.

### Meeting insights:

**SAC #4**—Key takeaways from the discussion were that maximizing affordability and the number of units in the program should be the top affordability priorities. These concerns were more important than any of the other issues polled.

**TAC #5**—TAC participants had similar feedback to the SAC in that the lowest-income residents should be eligible for housing in COPA units and that keeping affordability flexible is key in preventing any unintended displacement. The TAC and SAC came to a consensus regarding how the program should deal with tenants who earn more than the proposed affordability baseline, agreeing that no resident should be displaced if their housing is acquired by a QNP under a COPA program, even if they are a high-income earner.

## 6. Qualified Nonprofits and Community Partners—TAC #4 and SAC #6s

### Staff presentation:

- a. Qualified purchaser criteria;
- b. The process for nonprofits to become QNPs; and
- c. The role of community partner and criteria to become one.

**Meeting insights:** Staff presented potential criteria for qualified nonprofits and proposed a joint partnership model that would include a community partner. (Qualified nonprofits would be the developer but community partners would be in charge of engaging with tenants.) Participants felt it would be important for the City to not be overly prescriptive with the criteria in order to provide flexibility or creativity in the relationship between Community Partners and QNPs. They also wanted to ensure that QNPs are responsive to the community and that larger nonprofits help smaller ones grow.



## 7. Question and Answer Session—TAC

No staff presentation.

**Meeting insights:** The City held an open question-and-answer (Q&A) session for TAC members to address any questions or concerns about the potential program. Almost all regular TAC participants attended and a majority of questions pertained to QNPs, the purchase process, and future opportunities for community members to give feedback.

## 8. Tenant Engagement and Ownership—TAC #6 and SAC #5

### Engagement staff presentation:

- a. Goals of tenant engagement, its purpose and importance; and
- b. Examples of tenant engagement in other cities.

**Engagement meeting insights:** Participants felt that community partners are an important component to tenant engagement and can support appropriate outreach, and that it was critical to find a way to allow for communication between a potential buyer and tenants while being sensitive to their privacy. Questions emerged as to when would be the appropriate time for a potential buyer to outreach to tenants—whether it should be after a QNP submits a letter of interest or after an offer has been accepted. There were concerns around tenant privacy during the first offer period, when a QNP may need to contact tenants to verify they meet affordable housing income requirements.

### Ownership staff presentation:

- a. Potential ownership avenues or alternatives for COPA in San José.

**Ownership meeting insights:** Overall, participants had differing opinions about how much the program should emphasize ownership. Some participants felt strongly that there are unique benefits that only homeownership can provide, including control, wealth building, stability, and respect. Others felt that safe, affordable homes were the most important feature and that a QNP could deliver on the promise of long-term affordability.

## 9. Enforcement and Education/Outreach—TAC #7 and SAC #6

### Enforcement staff presentation:

- a. Proposed enforcement framework.

**Enforcement meeting insights:** Private industry representatives voiced concerns about any kind of enforcement around the potential program and cautioned staff that a punitive approach may cause property owners and realtors to be wary of doing business in San José. Some tenants and tenant



advocates expressed concern that a complaint-based model is not equitable and puts the onus on tenants to investigate and report offenses. TAC members agreed that extensive outreach is imperative to both tenants and property owners if this policy were to be adopted.

**Education/outreach staff presentation:**

- a. Education and outreach purpose and objectives.

**Education/outreach meeting insights:** Feedback from the education and outreach brainstorm included: tailor outreach to make it relevant to the communities the City/nonprofits are trying to reach and conduct it in multiple languages; prioritize partnerships with other community groups or leaders; and that property owners and private industry stakeholders are best reached through physical mailers, phone calls, and information sessions.

## **10. Draft Framework and Implementation—TAC #8 and SAC #6**

**Staff presentation:**

- a. Review of the draft framework and potential implementation plan.

**Meeting insights:** At the meeting, the conversation was cordial and many people asked insightful questions or offered small comments. In post-meeting feedback, opinions on the overall framework and implementation plan diverged and were closely aligned with industry affiliation. Some private industry representatives expressed disagreement with the program as a whole and seemingly opposed the framework. Tenants and tenant advocates expressed general agreement with the framework and saw the value it brings to both tenants and property owners. Some SAC participants expressed that they would like to see more homeownership opportunities in the program, especially for the lowest-income residents in the community, who are unlikely to build significant assets otherwise. Tenant and housing advocates on the TAC expressed concern that the draft framework did not include enough mechanisms for tenant empowerment, avenues for tenant ownership, or capacity-building opportunities for community partners to eventually become QNPs.

## **11. SAC en Español (Spanish-Language SAC Meeting)**

**Staff presentation:**

- a. Education and enforcement; and
- b. Review of the draft framework and potential implementation plan.

**Meeting insights:** Due to a last-minute issue, Spanish interpretation was not available at the SAC #6 meeting. The City held a make-up session to present SAC #6 topics (education/outreach and enforcement) and the draft framework in Spanish. English interpretation was available for staff and non-Spanish speaking community members. Participant feedback on the overall framework was that it felt fair and balanced, though slightly skewed in favor of property owners.



## 5) Appendix

### 1. Meeting Summaries

#### TAC

Meeting	Date	Topic
TAC #1	4/22/2021	COPA Landscape Analysis and Best Practices
TAC #2	5/12/2021	Process and Timeline
TAC #3	5/27/2021	Applicability
TAC #4	6/25/2021	Qualified Nonprofits
TAC #5	7/22/2021	Affordability and Financing
TAC #6	9/10/2021	Tenant Engagement and Ownership
TAC #7	9/30/2021	Education/Outreach and Enforcement
TAC #8	10/8/2021	Draft Framework, Implementation

#### SAC

Meeting	Date	Topic
SAC #1	4/29/2021	COPA Landscape Analysis and Best Practices
SAC #2	5/20/2021	Process and Timeline
SAC #3	6/17/2021	Qualified Nonprofits
SAC #4	8/19/2021	Affordability and Financing
SAC #5	9/23/2021	Tenant Engagement, Ownership and Enforcement
SAC #6	10/14/2021	Draft Framework, Implementation – Education/Outreach, Enforcement
SAC en Español (Spanish language meeting)	10/28/2021	Tenant Engagement, Ownership and Enforcement, Draft framework



## 2. Member Groups

Below is a list of stakeholders and community groups represented in each of the Working Group committees.

TAC Member Groups	
AACSA	Schoennauer Co. LLC
BAHN	SOMOS Mayfair
CAA	South Bay Community Land Trust
Enterprise Communities	Silicon Valley Community Foundation
Friends of Hwei	Silicon Valley Law Foundation
First Community Housing	Strategic Economics
Housing Trust Silicon Valley	SVO
Marcus & Millichap	SV@Home
MidPen Housing	Santa Clara County Association of Realtors
Republic Urban	Working Partnerships USA
San Francisco Foundation	

SAC Member Groups	
TAC members, public	Matt Huerta Consulting
ARUVA	NAACP
Affordable Housing Network	PACT
CA Reinvestment Coalition	Property managers & owners
Catholic Charities	Santa Clara County
Charities Housing	Si Se Puede Collective
Destination: Home	SV@Home
Guadalupe River Park Conservancy	Silicon Valley DeBug
GSMOL	Veggielution
Health Trust	VTA
League of Women Voters	Zell Associates
LUNA	



### 3. Stakeholder meetings

Below is a list of meetings with stakeholders outside of the TAC and SAC meetings series. All working group participants were welcome to request meetings with City staff to discuss proposals or concerns.

Meeting Date	Group	Topic
4/5/2021	Realtors	Potential Community Opportunity to Purchase Program
4/13/2021	CAA/Brokers	Potential Community Opportunity to Purchase Program
4/20/2021	Realtors	Follow up from (4/5) Realtor Meeting
5/4/2021	Vietnamese American Roundtable	Outreach AAPI Community
5/10/2021	Realtors - Small Residential	Potential Community Opportunity to Purchase Program
6/7/2021	Consultant	Ownership models, lender questions
6/18/2021	Lenders	Nonprofit Lenders
6/23/2021	City of San Francisco COPA Staff	SF COPA Program
6/24/2021	Small Property Owners	COPA Impacts to Small Property Owners
7/1/2021	Small Property Managers	Tenant Ownership Brainstorm
7/8/2021	Realtors	Follow up from (4/20) Realtor Meeting
7/14/2021	Small Property Owners	Concerns re: COPA
7/14/2021	Policy Organizations	Feedback on COPA
7/14/2021	Small Property Owners	Follow up from (6/24) Small Property Owner Meeting
8/4/2021	Policy Organizations	COPA Discussion
8/10/2021	Neighborhood Leader	Tenant Experience and COPA
8/16/2021	Small Property Developer	Onboarding new small developer representative to TAC
8/24/2021	Tenant Advocate	COPA Discussion
9/20/2021	Consultant	Homeownership Options & COPA
9/29/2021	Affordable Housing Developer Roundtable	COPA Discussion
10/8/2021	Lenders	Acquisition financing for preservation
10/13/2021	Small Property Managers	Property Management and COPA
10/13/2021	African-American Community Services	COPA Discussion
12/16/2021	CAA/SCCAOR	Draft Framework
1/05/2022	CAA	Draft Framework



#### **4. Engagement Tools**

The facilitator employed a variety of engagement tools to facilitate input gathering and to track participant demographics. Below is a summary of the tools used.

##### **1. Zoom polls**

Zoom has polls that are integrated into the platform and were used extensively for quick feedback.

##### **2. Mentimeter**

Mentimeter is a platform that allows for interactive presentations and has a variety of tools to gather real-time feedback. At meeting SAC #4, participants gave feedback on questions regarding affordability via scale voting on Mentimeter. Scale voting required participants to prioritize affordability components of the program.

##### **3. Mural**

Mural is an online collaborative whiteboard that allows users to enter comments on virtual sticky notes and freely move them around the board. The facilitator used Mural in meetings including TAC #3 and SAC #3 to gather participant feedback on what type of properties should be included in the program.