

San José Community Opportunity to Purchase (COPA) Proposed Program Summary - January 2023 Update

Important Notes: This document outlines proposed parameters for a proposed COPA program. The program parameters would be defined in three places: 1) the COPA ordinance; 2) COPA program regulations, to be developed after the Council were to approve the program; and 3) in conditions of City preservation subsidy loans that would enable Qualified Nonprofits to acquire buildings – both in the competitive funding award priorities, and in individual loan terms and conditions.

This document is a brief summary of the proposed COPA program. This has been shortened to make it easier to read. For a more detailed COPA framework version with additional clarifications and reasoning, please see the [Housing Department’s COPA webpage](#). Sections that are in **bold and highlights** indicate material revisions since November 2022.

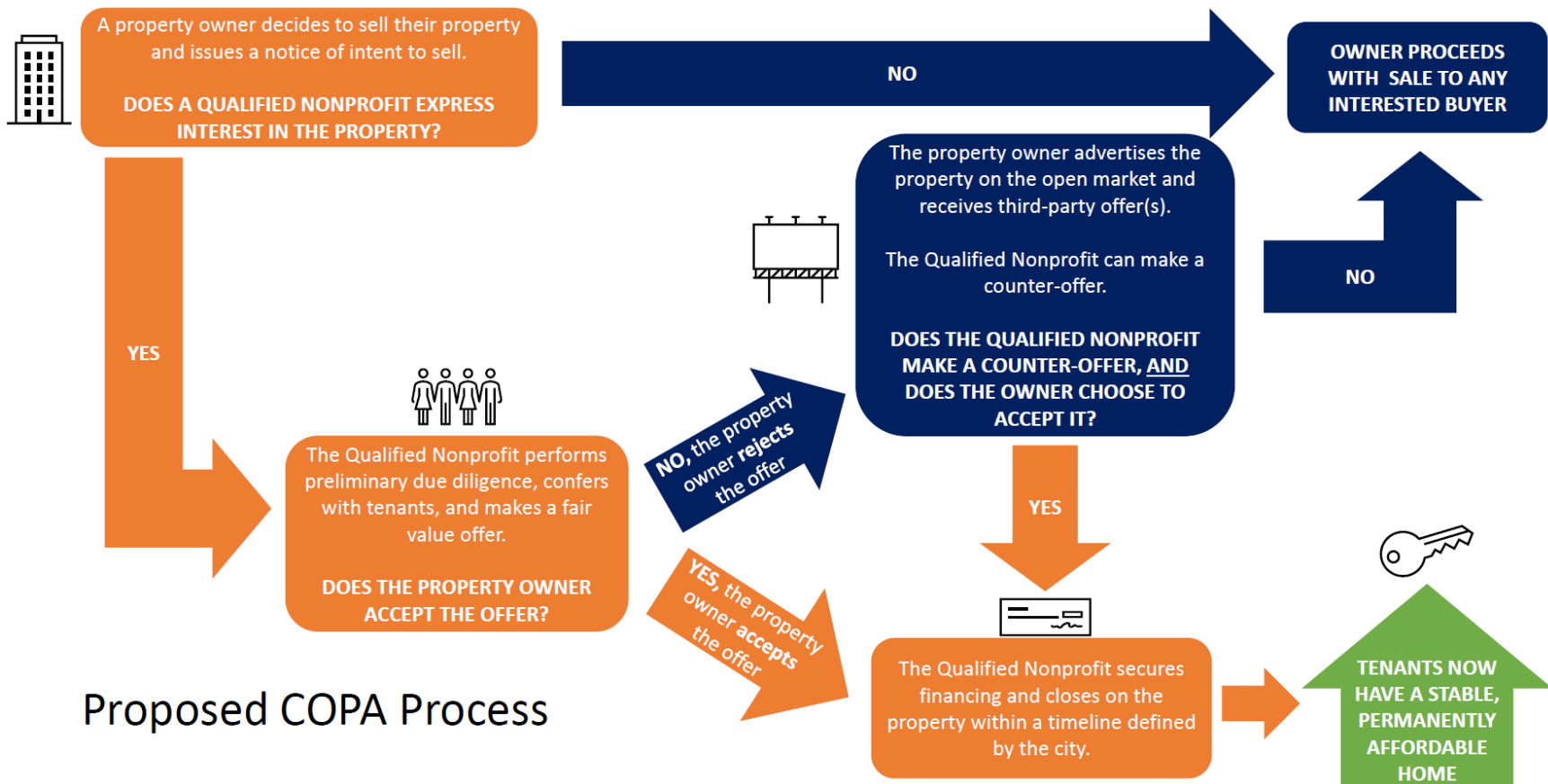
Program Element	Proposal Summary
<p>Applicability (What properties are included under this program?)</p>	<p><u>Properties that would be subject to COPA</u> Residential properties with two (2) or more units that were built 15 or more years ago (updated annually on a rolling basis).</p> <p><u>Exemptions (clarifying definitions to be provided in draft Ordinance and regulations):</u></p> <ul style="list-style-type: none"> A. Owner-occupied properties with up to four (4) units B. Close family transactions / inheritances C. Properties already subject to specified disposition processes, like bankruptcy D. Partial property transfers in which, in effect, control of the property does not change E. Single family home with one (1) Accessory Dwelling Unit on the property F. 2- to 4- unit properties if the property owner must sell due to a documented need to pay for medical treatment for self or immediate family member
<p>Timeline (What is the process for this program and how long does it take?)</p>	<p><u>The proposed timeline under COPA (most sellers would only experience step A below):</u></p> <ul style="list-style-type: none"> A. <i>Letter of Intent:</i> Gives a QNP 15 days from owner’s notice of sale to indicate they want to make an offer B. <i>Offer Period:</i> Gives that same QNP 25 days to submit an offer C. <i>Time to Close:</i> If the seller accepts that QNP’s offer, gives the QNP 120 days to secure financing and close the transaction (or longer timeline otherwise agreed to by both parties) D. <i>Time to Counter-Offer:</i> If original QNP’s offer is not accepted, owner then markets property as usual. If they get an offer, gives 7 days for the original QNP bidder to make a counter-offer before the owner sells.

Program Element	Proposal Summary
<p>Buyers/Qualified Nonprofits (QNP) (Who will be purchasing these properties and what kind of requirements should they have?)</p>	<p><u>Required characteristics for potential QNPs</u></p> <ul style="list-style-type: none"> • 501(c)(3) designation • Demonstrated track record with the successful purchase, development, and operation of restricted affordable housing with at least one (1) completed housing project of similar size and scope of work <p>Note that the City’s forthcoming Notice of Funding Availability and preservation lending guidelines may have additional experience requirements for potential buyers.</p> <p><u>Desired characteristics for potential QNPs:</u></p> <ul style="list-style-type: none"> • Based in San José with the specific mission of serving communities in San José, as documented in the organization’s bylaws or articles of incorporation • Demonstrated track record of positive tenant engagement, local community engagement, housing policy advocacy <p><u>QNP can partner to fulfill desired characteristics</u> If QNPs have the required characteristics but lack the desired characteristics, a QNP may satisfy the requirements for tenant engagement and specific commitment to San José by partnering with a local community-based organization (Community Partner).</p> <p><u>QNP recertification</u> City staff will re-certify QNPs on a regular basis to ensure that organizations only remain QNPs if they regularly close on transactions for which they submit letters of intent and if they effectively manage properties acquired through COPA.</p>

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<p>Affordability (What residents will benefit from this program?)</p>	<p><u>Rental properties – program designed to help very low- and low-income renters:</u></p> <ul style="list-style-type: none"> • <i>Target incomes for households served: 31-80% of AMI</i> <ul style="list-style-type: none"> ○ For a one-person household in 2022, this translates to an annual income of \$35,371 to \$94,320 ○ For a four-person household in 2022, this translates to annual incomes of \$50,551 to \$134,800 • <i>Portfolio goal:</i> The Housing Department would set an overall portfolio goal of an average 50% AMI income targeting across all COPA-purchased projects supported by City funding • <i>Annual Rent Increases:</i> <ul style="list-style-type: none"> ○ Rent increases for very low- and low-income renters in properties purchased via COPA would be capped at the annual percentage increase allowed under the City’s Apartment Rent Ordinance (i.e., 5% as currently implemented), or the restricted affordable rents as required by any applicable affordable housing funders, whichever is lower ○ Over-income existing households would be allowed to stay in their apartments with gradual rent increases for up to 3 years until their rents (including a reasonable utility cost) reach the target of 30% of their household income <p><u>Homeownership:</u></p> <ul style="list-style-type: none"> • Some properties may be suitable for converting from rental to homeownership, potentially under an alternative homeownership structure such as a limited equity cooperative • <i>Target incomes for households served: 60-120% of AMI</i> <ul style="list-style-type: none"> ○ For a one-person household in 2022, this translates to an annual income of \$70,741 to \$141,480 ○ For a four-person household in 2022, this translates to annual incomes of \$101,101 to \$202,200 • If a QNP acquires a property via COPA and later wants to sell the property, it would be required to first offer to sell the property to tenants prior to offering the property to third parties. • City funding and underwriting guidelines would identify details needed for QNP proposals to convert properties to homeownership structures after initial purchase via COPA <p><u>All properties:</u> COPA transactions should not result in the displacement of current tenants for reasons of income eligibility.</p>

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<p>Tenant Engagement</p> <p>(How are residents going to be engaged during the acquisition process and afterwards?)</p>	<p><u>Tenant engagement proposal</u></p> <ul style="list-style-type: none"> • <i>Pre-acquisition period:</i> <ul style="list-style-type: none"> ○ Property owners must notify tenants, in addition to notifying QNPs, that they intend to sell their property ○ QNPs and/or their Community Partners would be required to reach out to tenants to introduce the QNP, get to know the property, garner support, start renter income verification, and education renters on basic rules under affordable housing. • <i>Transaction period:</i> QNPs and/or their Community Partners would be required to have ongoing communication with residents especially about any major changes anticipated for the property or property management policies, such as significant rehabilitation plans and the need to submit income information each year. • <i>Post-acquisition:</i> QNPs and/or their Community Partners would be expected to have ongoing communication with residents about the property operations, tenant lease provisions, and any other issues on which tenants need information. Tenants would receive support and capacity building for resident organizing, the formation of tenant associations, and future conversions to homeownership if proposed and approved in advance by the City.

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<p>Education, Enforcement, and Incentives</p> <p>(How will COPA be administered and regulated? How does the City encourage participation in this program?)</p>	<p><u>Outreach and education plan</u></p> <ul style="list-style-type: none"> • COPA would go into effect one year after the ordinance passes, or when QNPs are qualified, whichever is later. • This timing would allow for extensive outreach and education prior to any potential enforcement, the completion of program regulations, and the prequalification of a pool of QNPs. <p><u>Enforcement with an emphasis on education</u></p> <ul style="list-style-type: none"> • Due to limited staff capacity, staff will focus on educating interested parties and residents to spread knowledge about how to comply with the COPA program. • Staff envisions a complaint-based process for enforcement that will proceed with the following enforcement steps: <ul style="list-style-type: none"> ○ <i>First Offense</i>: Written letter of warning to seller. ○ <i>Second Offense</i>: Fine imposed on seller. ○ <i>Third Offense and more</i>: Scaled increase of fine imposed on seller. • Private rights of action would also be possible if a property owner displayed repeated, knowing violations of the ordinance after being educated. <p><u>Incentives</u></p> <ul style="list-style-type: none"> • Properties sold to QNPs would be exempted from the Measure E Transfer Tax, which would allow sellers to keep more of their sales proceeds.
<p>Implementation</p>	<ul style="list-style-type: none"> • Property owners must notify the San José Housing Department, in addition to notifying QNPs and tenants, that they intend to sell their property. • The City’s website should be able to be programmed with an interface to help property sellers to easily notify the City and QNPs, and for program notices to be sent.



Proposed COPA Process