



Housing

COPA DRAFT Framework

Anti-Displacement Technical Advisory Committee
(TAC) Meeting #8

October 8, 2021

COPA definition

The proposed Community Opportunity to Purchase Act (“COPA”) gives Qualified Nonprofit Organizations (“QNP”) an opportunity to make the first offer to buy rental residential properties before the 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
- 🏠 Provide a tool to support homeownership opportunities and other asset building opportunities



Framework – Program Elements

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



Applicability: Staff recommends COPA applies to 2+-unit properties

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Include Single Units	Include 2-4 Unit Properties	Include 5+ Unit Properties
<p>33% of rental housing stock \$1.4M per unit (SFH) \$825K per unit (TH/condo) Avg. 11 & 18 days to close</p>	<p>13% of rental housing stock \$498K per unit Avg. 60 days to close</p>	<p>53% of rental housing stock \$296K per unit Avg. 119 days to close</p>
<p>Pros:</p> <ul style="list-style-type: none"> • High % of renters, esp. Families, live in these units • Could add more units (ADUs) to densify 	<p>Pros:</p> <ul style="list-style-type: none"> • Good entry for small NPOs • With 5+ units, would be 2/3 of SJ rental hsg. Stock • Possible homeownership vehicle 	<p>Pros:</p> <ul style="list-style-type: none"> • Best bang for the buck • Longer times on market • Possible LIHTC options
<p>Cons:</p> <ul style="list-style-type: none"> • Lowest bang/buck • Hot market, fast sales • Monitoring difficulties 	<p>Cons:</p> <ul style="list-style-type: none"> • Property management • 1 prolonged vacancy causes financial problem • NPO acquisition financing? 	<p>Cons:</p> <ul style="list-style-type: none"> • Fewer properties available • Ownership options more complex

Applicability: Staff recommends no maximum number of units

50 units maximum	No maximum
<p>Pros:</p> <ul style="list-style-type: none"> • Consistent with Council recommended range 	<p>Pros:</p> <ul style="list-style-type: none"> • City financing/feasibility will establish a natural cap • Allows for potential LIHTC financing in future • Good bang for buck • One property will have significant impact on a neighborhood
<p>Cons:</p> <ul style="list-style-type: none"> • Lack of coverage for larger properties 	<p>Cons:</p> <ul style="list-style-type: none"> • Lower likelihood of successful offers against bigger institutional investors • Difficulty tracking off-market transactions



Applicability: Staff recommended COPA exemptions

- 🏠 Owner-occupied buildings
 - For at least 1 year
 - Maximum unit count
- 🏠 Family transactions
 - Inheritance
 - Transfers to "direct relatives"
- 🏠 Properties with different set of rules
 - Foreclosures
 - Bankruptcy
 - Government-owned properties
- 🏠 Properties where buyers would not control the property
 - Related parties transfer in which controlling interest doesn't change
 - Transfers of ownership shares within entity



Timeline: Staff recommends 2 timelines for the COPA process, based upon the # of units

Item	Small Properties (2-4 units)	Larger Properties (5+ Units)
Avg. time to complete sale (from listing to close of escrow)	60 days	119 days
Total days to closing (details in later slides)	100 days	140 days



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Timeline: 2- to 4-unit properties

Milestone	Property Timeline
Letter of Interest	15 days
Offer / Negotiations	25 days
Due Diligence / Escrow	60 days
TOTAL Days to Close	100 days



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Timeline: 5+ unit properties

Milestone	Property Timeline
Letter of Interest	15 days
Offer / Negotiations	25 days
Due Diligence / Escrow	100 days
TOTAL Days to Close	140 days



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Timeline: Staff's recommended timelines as compared to Washington DC's TOPA timeline

Item	CSJ Staff Proposal	DC Enacted
Letter of Interest	15 days	15-45 days
Offer / Negotiations	25 days	90-135 days
Due Diligence / Escrow	60-100 days	90-240 days
TOTAL Days to Close	100-140 days	195-410 days



Timeline: Staff's recommended timelines as compared to San Francisco's COPA timeline

Item	CSJ Staff Proposal	SF Enacted
Letter of Interest	15 days	5 days
Offer / Negotiation	25 days	25 days
Due Diligence / Escrow	60-100 days	60 days
TOTAL Days to Close	100-140 days	90 days



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QNP requirements

- 🏠 City preapproves eligible QNPs for participation in program
- 🏠 QNP must have:
 - 501(c)(3) status
 - Mission to provide affordable housing (as demonstrated by bylaws or articles of incorporation)
 - In good standing with City of San José
 - At least 2 publicly-funded affordable housing projects completed in the past 5 years
 - At least 4 publicly-funded affordable housing projects completed, similarly-sized acquisition/rehab preferred



Community Partners

- City preapproves eligible Community Partners for participation in program
- City gives/finds technical assistance for CPs – roles & responsibilities
- Either QNP or QNP + CP ("Joint Venture") must have:
 - Mission to serve San José area or neighborhood (as demonstrated by bylaws or articles of incorporation)
 - Mission to advance racial or economic equity (as demonstrated by bylaws or articles of incorporation)
 - Tenant outreach, engagement, organizing, or education experience
 - Agreement to serve broader community, not just one type of resident



Joint Venture requirements (if QNP is in a JV)

🏠 JV must have:

- QNP final call on all real estate development decisions, including compliance with any funder obligations tied to real estate
- QNP liable for all real estate financing commitments
- Agree that partners' exit and replacement require prior written approval from City
- Dissolution of partnership or material breach of City-approved JV agreement could trigger sale of property



Income eligibility & targets

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Apartment path	Homeownership+ path
<p>30-80% AMI Citywide portfolio goal: 50% AMI</p>	<p>60-120% AMI</p>
<ul style="list-style-type: none"> • Rents for all units escalate at ARO (currently 5%) • Eligible renters: goal is that initial rents remain same or are lower • Over-income renters: <ul style="list-style-type: none"> • Stay & pay the higher of current rents or 30% of household's income • Replace over-income household with income-compliant tenants as they voluntarily move out 	<p>Current tenants who want to continue to rent but cannot buy should not be displaced</p> <p>E.g., if condo conversion, condo the units and QNP leases back to existing tenants</p>

Tenant engagement

🏠 Pre-acquisition activities

- Required outreach to current tenants
 - Letters to all tenants
 - At least 1 public meeting
- Goal of 25% tenant approval
 - Not a requirement
 - How to evidence

🏠 Post-acquisition requirements

- Support tenant association to form
- Tenant organization would have right to purchase building at time of next sale (subordinate to senior lender requirements)



Enforcement

- 🏠 Purpose of incentive structure is to be educational, not punitive
 - First offense could start with administrative notification/education
 - Fees initially low, higher for subsequent violations
- Penalty fees defined in City's annual budget
- Remedies could include re-listing property, legal claims
- Tradeoff: more staffing/more administrative focus vs. less staffing/more focus on other remedies



Q&A
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Take Home Questions

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