



# City of Palo Alto

## City Council Staff Report

(ID # 12371)

**Report Type: Action Items**

**Meeting Date: 11/8/2021**

**Summary Title: Renter Protection Policy Package Recommendations**

**Title: Review and Recommend Renter Protection Policies for Development and Implementation (9:30 -11:30 PM)**

**From: City Manager**

**Lead Department: Planning and Development Services**

### **Recommendation:**

Staff recommends that Council consider the recommendations of the Planning and Transportation Commission (PTC) and the Human Relations Commission (HRC) and identify the renter protection policies that should be prioritized and further developed for possible implementation.

### **Executive Summary:**

This report summarizes nine renter protection policies and associated recommendations from the PTC and HRC. These policies include:

- |  |   |
|--|---|
| 1. Rental Survey Program               | 6. Fair Chance Ordinance                                    |
| 2. Expand Tenant Relocation Assistance | 7. Right to Counsel   |
| 3. Eviction Reduction Program          | 8. Tenant/Community Opportunity to Purchase Act (TOPA/COPA) |
| 4. Anti Rent-Gouging Policy            | 9. Proactive Rental Inspection                              |
| 5. Security Deposit Limit              |   |

The report also provides data on the existing renter profile for the City and existing local and state renter protections (both limited term and permanent) to offer a full picture of the current renter and policy landscape.

Each policy highlighted in this report requires further research and development. Based on Council's interests to advance any of the strategies in this report, staff will provide a timeline and identify initial resource or funding needs required for policy implementation. Staff's ability

to complete any ordinance will depend on the number of strategies selected by Council with consideration to other ongoing or pending Council policy initiatives.

### **Background:**

The City Council directed staff to research and propose policies and programs to protect and stabilize Palo Alto renters. In 2017, a Colleagues' Memorandum<sup>1</sup> highlighted the importance of protecting renters and continuing to create renter protection policies that help keep renters housed. The subsequent eviction of many renters when a downtown building converted to a hotel further heightened the need for renter protections and led to Council action. Subsequent discussions and Colleagues Memorandum<sup>2</sup> followed in 2018, emphasizing City Council's desire to work on the issues of housing affordability through renter protections.

To support the pursuit of renter protection policies and respond to the memoranda, the City applied for and was awarded a "Challenge Grant" from the Partnership for the Bay's Future. Through the Challenge Grant the City has been able to create a profile of Palo Alto renters and research renter protection policies that would benefit Palo Altans.

Staff introduced some of these concepts to the PTC in September 2020 in a Study Session<sup>3</sup> and the Human Relations Commission in February 2021<sup>4</sup> to start the policy dialogue and obtain feedback. Staff returned to the PTC (April 2021<sup>5</sup>) and HRC (August and September 2021<sup>6</sup>) with the policies cited above for formal recommendation. This report reflects the recommendations of the PTC, the HRC, and staff.

### Renter Profile

This section provides an overview of the renter profile in the city. For more detail, please see the previously referenced September 2020 PTC Study Session report.

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<sup>1</sup> 2017 Colleagues Memorandum: <https://www.cityofpaloalto.org/civicax/filebank/documents/61406>

<sup>2</sup> 2018 Colleagues Memorandum: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=65189.46&BlobID=66602>

<sup>3</sup> PTC Study Session Staff Report, 09/30/2020: <https://www.cityofpaloalto.org/civicax/filebank/documents/78563>

<sup>4</sup> HRC Report, 02/11/21: <https://beta.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/human-relations-commission/2021/02-11-21-hrc-agenda-renter-protection-report-02.11.21-003.pdf>

<sup>5</sup> PTC Staff Report, 04/28/21: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2021/ptc-4.28-renter-protection.pdf>

<sup>6</sup> HRC Report, 09/23/2021: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/human-relations-commission/2021/09-23-21-agenda-item-1-hrc-renter-prioritization-continuation-09.23.21-full-report.pdf>

According to [American Community Survey data](#)<sup>7</sup> there are 11,764 rental units in Palo Alto, which comprises 46% of the existing housing stock in Palo Alto. Table 1 and Figure 1 provide graphic interpretation of the data.

**Table 1: Palo Alto Rental Housing Stock by Type**

	Single Family Detached	Single Family Attached	Duplex	Triplex and Fourplex	Small Apartment (5 to 9 units)	Medium Size Apartment (10 to 19 units)	Medium Size Apartment (20 to 49 units)	Large Apartment Complex (50+ units)	Total
<b>Number of Units</b>	3,234	489	294	1,002	1,362	1,228	1,579	2,576	11,764
<b>% of Total Units</b>	27.49%	4.16%	2.50%	8.52%	11.58%	10.44%	13.42%	21.90%	100.00%

*Source: 2018: American Community Survey 5-Year Estimate Subject Table*

Of the 11,764 rental units, approximately 1,696 are deed restricted affordable housing units. This is equivalent to 14% of the rental units, which means that 86% of the rental units are market rate units. According to [RentCafe.com as of October 5, 2021](#), the average rent across all unit types in Palo Alto went up 5% from 2020 and is currently \$3,648 when averaged across all unit types.

<sup>7</sup> ACS Data:

[https://data.census.gov/cedsci/table?q=tenure%20by%20income%20palo%20alto,%20ca&t=Income%20%28Hous%20eholds,%20Families,%20Individuals%29%3AOwner%2FRenter%20%28Tenure%29&g=0400000US06\\_1600000US0655282&tid=ACSST5Y2018.S2503](https://data.census.gov/cedsci/table?q=tenure%20by%20income%20palo%20alto,%20ca&t=Income%20%28Hous%20eholds,%20Families,%20Individuals%29%3AOwner%2FRenter%20%28Tenure%29&g=0400000US06_1600000US0655282&tid=ACSST5Y2018.S2503)

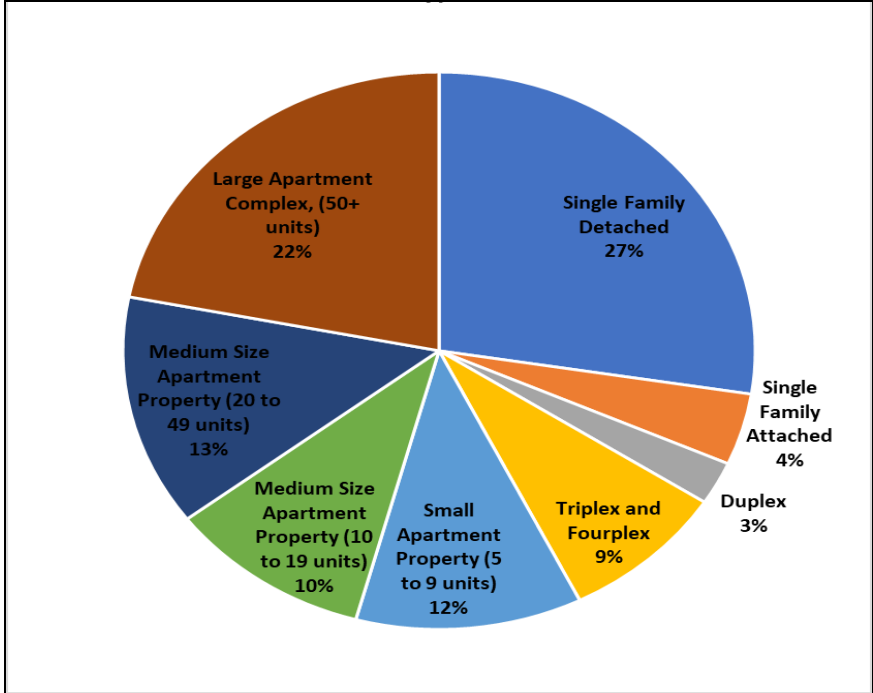


Figure 1: Rental Housing Units in Palo Alto by Building Type

Household incomes for renter households span a large range and can be seen in Figure 2. Of note, is that 27% of renter households earn less than \$50,000 a year.

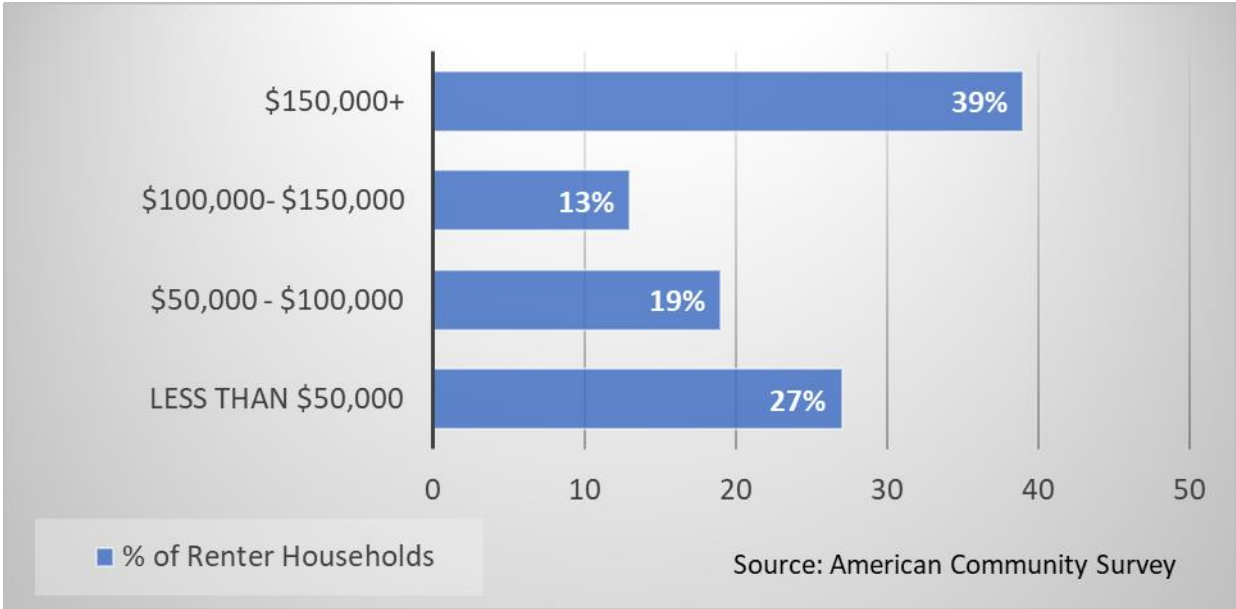


Figure 2: Renter Households by Income Tier

Households that spend a larger share of income on rent have limited resources for other needs (including saving), are more financially insecure, and therefore at greater risk for eviction if their income is disrupted. The term “cost burdened” applies when a household spends more

than 30% of its gross income on housing costs. Table 2 shows the percentage of renter households that are cost burdened in Palo Alto. As shown in Table 2, a greater proportion of low-income households are cost burdened. While overall only about 37% of renter households are cost burdened, a super majority of each income group below \$74,999 is cost burdened.

**Table 2: Renter Household Units Within Income Tiers<sup>8</sup>**

Income Level	Number of Units	Percent of Total Renter Units	Cost Burdened Units	Percent of Cost Burdened Units in Income Tier
Less than \$20,000	1,344	11.4%	1,135	84.45%
\$20,000 to \$34,999	752	6.4%	672	89.36%
\$35,000 to \$49,999	600	5.1%	449	74.83%
\$50,000 to \$74,999	1,319	11.2%	968	73.39%
\$75,000 or more	6,958	59.1%	1,185	17.03%
Zero or Negative Income	369	3.1%		
No Cash Rent	422	3.8%		
<b>TOTAL UNITS</b>	<b>11,764</b>	<b>100%</b>	<b>4,409</b>	<b>37.48%</b>



Denotes More than 50% of Units are Cost Burdened



Denotes Less than 50% of Units are Cost Burdened

## Discussion:

### Policy Context

Over the last few decades, lower-income households have been priced out of core Bay Area communities. Moving farther away, they can face long commutes (contributing to traffic congestion), are disconnected from community networks and resources. Local communities suffer as well. For example, local businesses cannot find and retain workers.

A significant percentage of Palo Alto lower-income households are rent-burdened; they are more likely to have to choose between paying rent over food or medical needs. When tenants consistently make these choices, the community suffers. In this context, cities can pursue public policies that increase renter stability. By increasing tenant protections for the most vulnerable households, the City creates greater opportunity for community stability.

The Partnership for the Bay's Future recommends a three-prong approach to reversing these trends and ensuring that all can thrive in the Bay Area. The approach recommends (1) producing more deed-restricted units that are available to lower-income families; (2) preserving

<sup>8</sup> Source: American Community Survey

existing affordable housing by ensuring covenants do not expire, keeping homes in good repair, and ensuring households have needed subsidies; and (3) providing protection for renters so that they are able to stay in their homes. This multifaceted approach is often referred to as the “3Ps”, creating a shorthand for “production, preservation, and protections.”

The policy recommendations were developed within this greater context and policy framework. By tapping into the 3P’s framework, Palo Alto joins other Bay Area jurisdictions in developing and implementing housing policies that stabilize communities and provide greater housing stability—which is essential for a healthy life.

### Existing Renter Protections

Some local and state renter protections currently exist and serve as the foundation for proposed enhancements. See Attachment A for an overview of permanent protections currently in place in Palo Alto and several applicable recent State bills.

### Potential Renter Protection Policies

While protections do exist at both the state and local level, additional protections could give the local renter community a greater sense of stability. Staff analyzed nine renter protection policies, listed and described below in Table 3.

The report aims to focus the policy discussion around the needs of lower income renters and households of color, staying mindful that both tenants and landlords will be impacted. As such, these policies have been ranked in order of feasibility and therefore priority. See Table 3 for a breakdown of the policies staff analyzed, their impacts, and potential next steps.

**Table 3: Summary of Analyzed Policies and Next Steps**

	<b>Policy</b>	<b>Brief Description</b>	<b>Impact to Tenants</b>	<b>Next Steps to Enact</b>
<b>1</b>	<b>Rental Survey Program</b>	Annual survey gathering data on all rental housing units.	Would provide data on rental units of all kinds, creating a foundation for future policy and implementing current policy.	Determine information in survey and platform for data collection and management. City could establish a fee to support the cost of administering the survey. A penalty for non-compliance could be levied.
<b>2</b>	<b>Expand Tenant Relocation Assistance</b>	Apply existing tenant relocation assistance framework to more rental units.	If the policy is expanded to more units, more tenants have assistance if they are forced to	City would establish the ordinance and notify owners and occupants. If a landlord does not comply, the tenant must

	<b>Policy</b>	<b>Brief Description</b>	<b>Impact to Tenants</b>	<b>Next Steps to Enact</b>
			leave through a no-fault eviction.	pursue the matter civilly.
<b>3</b>	<b>Eviction Reduction Program</b>	Expand existing state legislation to protect more households. Rules provide specific causes for when tenants can be evicted.	If the policy is expanded, more tenants will be covered by a framework that outlines what constitutes a fair eviction.	City would draft a local ordinance to cover the gap in state law and If a landlord does not comply, the tenant must pursue the matter civilly.
<b>4</b>	<b>Rent Stabilization</b>	Expand existing state legislation regarding a rent increase cap to include more households.	More tenants will be protected through limitations on rent increases through an expansion of eligibility.	City would draft a local ordinance to cover the gap in state law and If a landlord does not comply, the tenant must pursue the matter civilly.
<b>5</b>	<b>Security Deposit Limit</b>	Limit the amount charged for security deposits to less than two times (State limit) the monthly rent.	Helps lessen the size of obstacles to entry for low-income households.	City would establish the ordinance and notify all its existence. If a landlord does not comply, the tenant must pursue the matter civilly.
<b>6</b>	<b>Fair Chance Ordinance</b>	Limit the ability to ask applicants about criminal history.	This ordinance will create more stability for households disproportionately impacted by incarceration.	City would draft an ordinance indicating at what point in the rental application review process the landlords can ask applicants about criminal history.
<b>7</b>	<b>Right to Counsel</b>	Provides tenants with legal assistance in housing-related cases.	Tenants experiencing housing instability will feel more empowered and potentially stay housed more often.	Identify ways to support the proposed Santa Clara County Housing Court and AB1487.
<b>8</b>	<b>Tenant/Community Opportunity to Purchase Act</b>	Provides certain organizations notice of	Tenants at risk of being displaced through the sale of	None Recommended

	<b>Policy</b>	<b>Brief Description</b>	<b>Impact to Tenants</b>	<b>Next Steps to Enact</b>
	<b>(TOPA/COPA)</b>	intended sale of rented property. May provide a specific time period during which the tenants and/or organization have the opportunity to purchase the property.	a building are provided with another option to stay in their home.	
<b>9</b>	<b>Proactive Rental Inspection</b>	Commits code enforcement staff to routinely inspect rental housing inventory.	Tenants protected from living in substandard housing.	None Recommended

#### Policy Implementation & Enforcement

All of the policy proposals raise questions of implementation and enforcement. The City must decide how to implement and enforce any proposed ordinances. The options for implementation and enforcement are summarized as follows:

1. *Active Implementation and Enforcement* – The City could fund staff or consultants to proactively administer programs and ensure compliance with local ordinances; in cases of non-compliance, fines could be levied. An example of this type of implementation and enforcement would be the Rental Survey program. City staff would correspond with all landlords, requesting them to complete the annual survey, and charging the appropriate fees, and levying fines against landlords who did not comply.
2. *Active Education and Private Enforcement* - In response to other policies, the City may implement the ordinance by noticing passage of the ordinance, conducting pro-active and regular tenant and landlord education, and providing information on the City’s website. Alleged violations of the ordinance, however, would be left to private enforcement. That may include referral under the City’s mediation program or the parties may need to seek redress from the court system.

For example, if the City lowered the amount a landlord can charge for a security deposit, the City would notify all landlords and tenants of the new rule taking effect. When, however, a tenant faced a landlord willfully violating that ordinance, the matter could be addressed during mediation or as a civil matter through the court system. Ideally, through



advance education, the landlord would understand the action is unlawful and not pursue it. Of course, that will not always be the case.

3. *Build Resources to Support Active Implementation and Enforcement* - The City may want to assemble greater resources to respond to complaints of violation of local ordinances. Such resources could be financially supported by fees charged to rental property owners that cover the cost implementing and enforcing the City's tenant protection ordinances. While the City may wish to pursue this, due to the pandemic, the recession, and budgetary challenges, this enforcement program may need to be built up over time.

If the City wants to ensure compliance with laws, this type of program must be developed, funded, and appropriately staffed. For illustrative purposes, the City of Mountain View's program began with a \$115 per unit fee to fund four positions, which oversee the implementation and enforcement of the rental survey and other city-specific rental policies.

### Phasing

To the extent Council supports any of the highlighted renter policies and seeks implementation, staff recommends new programs and ordinances be phased in over time, which is another reason for the prioritization that has been outlined in Table 3. While staff recommend development of a series of ordinances, staff also recommend phasing their passage. Each policy requires additional specificity and outreach in the development of a draft ordinance.

### Policy Analysis

Staff researched renter protection policies in the Bay Area to get a sense of where jurisdictions were focusing their policy work. Based on reviewing the City's current policies, trends in other cities, and the expertise of PolicyLink, staff focused on the nine policies reflected in this report. These policies are based on existing laws at the local, county, state, and national levels. There are many other policies that the City could consider, but the identified programs begin to address some of the key renter protections and provides a starting point for developing a more robust program for the City.

For each policy discussed below, information is provided about what other jurisdictions are doing. For a full summary of all jurisdictions and policies, see Attachment B.

1. Rental Survey Program – **PTC recommends** that the Council consider the Rental Survey program the highest priority, that the Survey cost should be covered by the City and that staff should work with the PTC in development of the program. **HRC recommends** that the Council consider the rental survey program and that this the highest priority.

Palo Alto established a basic rental property registration (Rental Survey) in 2002 that is cited in PAMC Section [9.72.050](#).<sup>9</sup> As stated in the code, the registry would collect basic information about the owner and contact information. While the Office of Human Services still manages the program, they have not reached out to local landlords or verified the information collected in recent years due to workload constraints and as such has only had minimal participation by property owners. As seen in Table 4, a variety of cities throughout California have adopted rent registration programs.

Staff propose an expanded annual Rental Survey program. In addition to the information outlined in the PAMC, staff recommends the survey also collect rental rates, rent increases, evictions filed on the property, the size of the unit, and the length of the current tenancy. The survey will provide detailed local data to better understand the profile of local renters.

**Table 4: Rental Survey Cities**

City	Population	Dedicated Staff	Mandatory Participation (Yes/No)	Fee	Only Rent Controlled Units
Alameda, CA	78,522	No	No	Yes	No
Berkeley, CA	120,926	Yes	Yes	Yes	No
Concord, CA	129,183	No	No	Yes	No
East Palo Alto, CA	28,155	Yes	Yes	Yes	Yes
Los Angeles, CA	3,909,535	Yes	No	Yes	No
Mountain View, CA	82,379	Yes	Yes	Yes	Yes
Oakland, CA	433,031	Yes	Yes	Yes	No
San Francisco, CA	802,235	Yes	Yes	No	Yes
San Jose, CA	1,002,000	Yes	Yes	Yes	No
Santa Cruz, CA	64,608	No	No	Yes	Yes
Santa Monica, CA	91,577	Yes	Yes	Yes	No

Implementing a more robust Rental Survey program would provide the foundation for enacting other rental protection measures. Through the Survey, the City can also observe trends and identify areas of challenge where policy intervention may be needed. Furthermore, if the City

<sup>9</sup> 9.72.050 *Property registration.*

- (a) *The landlord of each residential rental property within the city shall register the unit or units with the city, regardless of whether the residential rental property is listed in Section 9.72.030. The registration shall include the name and mailing address of the owner or owners of the property, as well as the name, mailing address and contact telephone number of the person having the legal authority to effectively resolve disputes arising under this chapter.*
- (b) *For the sole purpose of reimbursing the city of Palo Alto for the reasonable costs of maintaining property registration records and related administrative systems, the owner or manager of each residential rental unit to which this chapter applies shall pay a fee in an amount to be set by the Palo Alto city council.*

decided to enforce local regulations more actively, the Rental Survey could provide valuable information to aid enforcement staff.

For example, state law, AB1482, establishes eviction limitations and a rent increase cap. Currently, without a survey program, the City cannot determine if landlords are in compliance with AB1482; there is no year-after-year data to reference.

Ideally, the Rental Survey would impact both landlords and tenants positively. The City can be an honest broker of data that is available to the tenants and landlords alike. Through this information, tenant and/or landlord groups can propose new policies and or improvements.

Landlords may be required to pay an annual fee, which increases their costs. Fees for these programs in most cities are minor, though could accumulate for large property owners. Some landlords and some tenants indicated that they might be concerned about disclosing certain information, as was mentioned during community outreach. The City would want to take care in collecting and distributing data, to balance the needs for gathering and providing data with privacy. Other cities have navigated this balance by randomizing some public data and not providing potentially identifying public data.

Implementation of the Rental Survey program is expected to impact all Palo Alto renters, as units of all kinds are subject to registry—from single family homes and accessory dwelling units to large apartment complexes. One way to ease the impact on property owners is to phase in adoption of the survey over time, impacting larger properties first, followed by smaller properties. When discussing implementation of this program, several other jurisdictions and property owners mentioned the difficulty for small properties to implement and extra assistance may also be necessary for those smaller properties.

***PTC Motion & Deliberation:*** *PTC recommends that the Council consider the Rental Survey program the highest priority, that the Survey cost should be covered by the City and that staff should work with the PTC in development of the program.*

The PTC voted unanimously to support staff's recommendation, noting that this was the policy that should be the highest priority. Other discussion revolved around who would pay for the implementation and enforcement of this program. Some commissioners supported the City funding this program through budget appropriations because the data gathered with this program would be essential to policy makers.

***HRC Motion & Deliberation:*** *The HRC voted unanimously to support staff's recommendation, similarly noting that this policy should be considered the highest priority. Other discussion revolved around this policy finally being able to show the community what the full extent of renters' difficulties are.*

Staff wish to note that without dedicated funding—either from fees or another source—this program cannot be implemented and it cannot be sustained.

2. Expand Tenant Relocation Assistance – **PTC recommends** that the Relocation Assistance requirement should not expand to apply based on property size but based on a non-income-based metric to serve cost-burdened households. **HRC recommends** expanding tenant relocation assistance and that pursuit of this policy should be done after or in tandem with the rental survey program.

In 2018, Palo Alto established requirements for Tenant Relocation Assistance (TRA) for no-fault evictions (PAMC Section [9.68.035](#)<sup>10</sup>). For historical information regarding the passage of the ordinance, please see the [2018 report](#)<sup>11</sup> from the City Attorney’s Office. Tenant Relocation Assistance (TRA) applies to properties that contain 50 or more rental units when those units are being demolished or significantly remodeled. The tenants, being displaced, must be provided monetary assistance from the property owner. The amount of assistance is based on unit size with additional compensation given for households with seniors/children/disabled members, as follows:

Unit Type	Assistance Amount
0 bedrooms	\$7,000
1 bedroom	\$9,000
2 bedrooms	\$13,000
3 or more bedrooms	\$17,000

As can be seen in Table 5, many cities require relocation assistance through a variety of standards and eligibility criteria. All cities below require relocation assistance for all rental units, regardless of how many units are at a property. Typically, any long-term tenants at risk of displacement from their homes due to removal from the rental market are awarded some help for being evicted through no fault of their own.

**Table 5: Cities with Tenant Relocation Assistance**

City	Population	Tenant Relocation Assistance	Payment
Berkeley, CA	120,926	x	Based on relocation duration
Concord, CA	129,183	x	2x Monthly Rent or \$5,000
Mountain View, CA	82,379	x	Based on eligibility criteria

<sup>10</sup> [https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto\\_ca/0-0-0-55262](https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-55262)

<sup>11</sup> <https://www.cityofpaloalto.org/civicax/filebank/documents/66507>

Oakland, CA	433,031	x	Based on eligibility criteria
San Francisco, CA	802,235	x	Based on eligibility criteria
San Jose, CA	1,002,000	x	Based on eligibility criteria
Santa Cruz, CA	64,608	x	2x or 3x Monthly Rent
Santa Monica, CA	91,577	x	Based on Unit Size/Eligibility

In Palo Alto, properties with 50 or more rental units equates to 22% of the rental housing units, leaving the majority of renter households ineligible for assistance. Outside of the Hotel President, the TRA has not been triggered. With the City's anticipated Regional Housing Needs Assessment (RHNA) target of over 6,000 homes, more redevelopment is likely. To the extent redevelopment occurs on occupied housing units, it could displace tenants.

To broaden relocation assistance, the City can lower the units per property threshold. The three options below can be considered for implementation, each one expands the TRA protections above what is in place today:

- a. **Three Units or More** - Lowering the number of units in a property to three means **66%** of the rental housing stock would be covered by TRA. The three-unit threshold has significance for the unit count for local planning and zoning purposes, as the City defines a multi-family property as one with three units or more. This is the threshold for when Below Market Rate housing requirements are required and does not include accessory dwelling units or junior accessory dwelling units.
- b. **Five Units or More** - Amending the number to five units per property means that **57%** of the rental housing stock is covered. This is the threshold where properties are considered "commercial" by financing institutions.
- c. **10 Units or More** - Changing the number to 10 units per property means **45%** of the rental housing stock is covered. This includes medium and large apartments.

Please note, in the 2018 Colleagues Memorandum, Council specifically identified five or more units as a potential starting place for expansion of the TRA.

A drawback to lowering the TRA threshold would be an extra cost to developers and landlords in Palo Alto. While the TRA only applies at the time of the no-fault eviction, property owners could increase monthly rental rates to provide reserves in case. The TRA provision could also deter redevelopment of occupied housing units; which has advantages and disadvantages.

The program would help any displaced tenants relocate, helping with moving expenses, security deposits, and other costs. Depending on their income, the displaced household may not be able to relocate in Palo Alto. It should be noted that, under SB 330, tenants displaced

from their housing for the construction of new housing, do have some rights to return and relocation payments. The rental rates, however, may increase if they return to the redeveloped project.

***PTC Motion & Deliberation:*** Consider expanding relocation assistance based on a metric that serves cost-burdened households and taking other measures to prevent displacement.

The PTC expressed concerns about the unintended consequences of tenant relocation assistance and whether everyone needed them. It was also mentioned that subjecting all property owners, regardless of the size of their property, to the same level of requirements may not be fair as the impact of the pandemic may be felt differently between small and large landlords.

The PTC wanted to focus relocation assistance on cost-burdened households and requested staff to identify a metric—that was not income—that could achieve this. In short, instead of focusing on the number of units, the PTC wants the policy to reach all cost-burdened households no matter the size of the rental property they live in. The PTC was concerned that an income-based metric would deter landlords from renting to lower-income and cost-burdened households. At least one commissioner suggested using rents below a certain threshold as a metric, under the theory that units with higher rents are less likely to contain cost-burdened households.

Staff and community partner, Silicon Valley at Home, researched the feasibility of establishing a metric for providing assistance to cost burdened renters that is not based on income. This is difficult because cost-burden is a function of income and rent.<sup>12</sup> Staff suggest providing tenants with some basic level of assistance across property types but allow for additional assistance to be made to those in greater levels of need. This approach is one way to provide more assistance when appropriate. For example, at the time of the eviction, a household could verify it is cost-burdened and receive additional support.

See Attachment C for potential metrics that could be considered to determine tenant relocation assistance.

***HRC Motion & Deliberation:*** The HRC voted unanimously to support expansion of tenant relocation assistance, based on the income metrics and the cost burden to the tenants, noting that this policy should be considered the second priority.

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<sup>12</sup> See Attachment C

The discussion revolved around this policy being difficult to pursue while the City is simultaneously in the Housing Element process, designed to encourage development, as the costs to the developers may have a dampening effect on their desire to develop in Palo Alto.

3. Eviction Reduction Program **PTC recommends** extending framework for fair evictions to tenants in buildings built within the last 15 years and tenants in units for less than a year who are not currently protected by the statewide renter protection law (AB1482). **The HRC recommends** extending protections to buildings built within the last 15 years, tenants who have lived in a unit for less than a year, and single-family homes not owned by corporations. The HRC also recommends considering this policy the third priority.

AB1482 outlines the lawful reasons for evictions in California. These reasons are referred to as “just cause” protections and are broken up into two groups, “at-fault” and “no-fault” evictions. The 11 “at-fault” reasons and four “no-fault” reasons can be found in Attachment D as well as in the full text of the bill [here](#).<sup>13</sup> AB1482 currently applied to Palo Alto tenants. Because the jurisdictions in Table 6 have just cause protections in place, AB1482 is less impactful and they have no reason to pursue a “patch” to AB1482. AB1482 provides some protections for tenants until 2030 when the bill sunsets. Not all tenants, however, are protected. Renters of the following units are not covered:

- a. Rental units in properties built within the last 15 years
- b. Rental units occupied by renters that moved in less than a year ago
- c. Single family homes that are not owned by a corporation
- d. Renters who live in a duplex and the other unit is owner-occupied

During the State deliberations of AB1482, the above listed exemption had different rationales provided by different stakeholders. The exemption of projects built in the last 15 years was intended to prevent dampening of housing development. Exempting owners renting a unit on their property (duplex) was intended to provide flexibility if the selected tenant was not a good match. And, the exemption for single family homes not owned by corporations was intended to provide more flexibility for small property owners. These exemptions were developed as a way of establishing a statewide minimum that communities could then build upon and customize with stronger protections that suited the needs of individual communities.

Staff recommends focusing on closing the gaps in coverage of AB1482 through a local ordinance. The Council may direct that all, some, or none of the gaps be closed. By extending coverage of AB1482 to include rental units in properties built within the last 15 years or in units less than a year, individuals in newer units or with shorter term tenancies would have the same protections that the rest of the rental market have. However, extending these protections would allow landlords to only evict individuals in certain cases. Table 6 illustrates that many Bay

<sup>13</sup> [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1482](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482)

Area jurisdictions and similar cities have local just cause and ordinances which supersede state law and may cover portions of the previously mentioned gaps.

**Table 6: Cities with Renter Protections in Excess of AB1482**

City	Population	AB1482 Patch	Just Cause
Alameda, CA	78,522		x
Berkeley, CA	120,926		x
Concord, CA	129,183	x	x
Mountain View, CA	82,379		x
Oakland, CA	433,031		x
San Francisco, CA	802,235		x
San Jose, CA	1,002,000		x
Santa Monica, CA	91,577		x

Specifically, staff suggest considering having the provisions apply to properties built in the last 15 years and to renters who have lived in a unit less than one year. The passage of either or both solutions requires drafting a new ordinance that supplements state law.

The passage of a local ordinance that covers all or some of the above-named groups could expand protections to more tenants but restricts more property owners' actions. Surveyed local property owners and managers felt that these protections could impact how much time is spent managing the day-to-day operations at a property level, costing them more money. This can include incurring further costs, which is difficult to imagine in this current economic time. However, Palo Altans have indicated their desire for greater equity in their community and this is one way in which that could be better achieved.

***PTC Motion & Deliberation:*** *PTC recommends extending framework for fair evictions to tenants in buildings built within the last 15 years and tenants in units for less than a year who are not currently protected by the statewide renter protection law (AB1482).*

The PTC unanimously agreed that creating a patch to cover all the loopholes in AB1482 was unnecessary, particularly regarding single-family homes not owned by a corporation or duplexes where the other unit was owner-occupied.

The majority felt that protecting tenants in properties built within the last 15 years and tenants in their units for less than a year should be pursued, though the commission was split on that decision. Concerns regarding the necessity of such an ordinance were voiced by those dissenting due to existing local protections and the newness of state legislation.



**HRC Motion & Deliberation:** The HRC voted unanimously to extend protections to buildings built within the last 15 years, tenants who have lived in a unit for less than a year, and single-family homes not owned by corporations. HRC supported staff’s recommendation that this be considered the third priority. Other discussion revolved around the importance of this policy and the stabilizing effects it could have on the community.

4. Anti-Price-Gouging Policy<sup>14</sup> – **PTC does not recommend extending rent increase limits to housing units not protected by the statewide anti-gouging law (AB1482). The HRC voted unanimously to extend rent increase to all of the categories not included in AB1482 and that this policy should be considered the fourth priority.**

California has a statewide cap on how much rents can increase from year to year. This cap was passed as part of AB1482. The law states that rent cannot increase more than 5% plus inflation annually, and that added together the increase cannot be more than 10% annually. For context, an allowable increase could be between \$182 and \$365 on the average rent of \$3,648. This policy stabilizes the rent for households of all incomes. Policylink’s 2019 Report entitled Our Homes, Our Future<sup>15</sup> claimed that price control “...increases the housing stability of tenants while decreasing the risk of displacement, eviction, and frequent moves.” Given the number of Palo Alto residents that are rent burdened, the risk of displacement and eviction is high.

According to the Center for Community Innovation and Urban Displacement Project’s policy brief<sup>16</sup> with ECONorthwest, AB1482’s anti-price-gouging policy allows for above market-growth, which is a much less constricted rental increase than rent control.

**Table 7: Cities with Renter Protections in Excess of AB1482**

City	Population	AB1482 Patch	Rent Control
Alameda, CA	78,522		x
Berkeley, CA	120,926		x
Concord, CA	129,183	x	x
Mountain View, CA	82,379		x
Oakland, CA	433,031		x
San Francisco, CA	802,235		x
San Jose, CA	1,002,000		x
Santa Monica, CA	91,577		x

<sup>14</sup> At the PTC discussion in April 2021, this policy recommendation was referred to as a rent stabilization mechanism, but Anti-Price-Gouging is a more accurate representation of the policy’s intent and the current name reflects that.

<sup>15</sup> [https://www.policylink.org/sites/default/files/OurHomesOurFuture\\_Web\\_08-02-19.pdf](https://www.policylink.org/sites/default/files/OurHomesOurFuture_Web_08-02-19.pdf)

<sup>16</sup> [https://www.urbandisplacement.org/sites/default/files/images/svcf\\_rentcontrol\\_policybrief\\_2021.pdf](https://www.urbandisplacement.org/sites/default/files/images/svcf_rentcontrol_policybrief_2021.pdf)

Examining similar cities and neighboring jurisdictions, staff find that many have rent control protections. Rent control (sometimes referred to as “rent stabilization”) typically has stricter rent increase limits than AB1482. Given the statewide stabilization in effect until 2030, and the considerable effort required to establish local rent stabilization policies, staff recommend not pursuing a separate Palo Alto rent stabilization policy.

The anti-gouging measures of AB1482 apply to most rental units in Palo Alto. The law, however, does not apply to:

- a. Rental units in properties built within the last 15 years
- b. Rental units occupied by renters that moved in less than a year ago
- c. Single family homes that are not owned by a corporation
- d. Renters who live in a duplex and the other unit is owner-occupied

Staff does recommend focusing on closing the gaps in coverage of AB1482 through a local ordinance. The Council may wish to recommend that all gaps be closed, or that certain gaps be closed. The following outlines the pros and cons of extending AB1482 rent increase caps to the different unit types.

- ***Rental units in properties built within the last 15 years*** – Some argue that the development pipeline of new housing units could be slowed if new housing units are subject to the rent increase cap. The cap, however, does not prevent new housing rental rates from being set at market rates and increasing each year. To the degree that a cap could harm new housing development, the City should be cautious. More research with the local development community would be conducted if the Council support expanding rent cap increases to these units.
- ***Rental units occupied by renters that moved in less than a year ago*** – Some argue that AB1482 not applying within the first year provides an opportunity for the property owner and the tenant to see if they are a good fit. Under AB1482, a tenant can still be evicted for breaching the lease; so theoretically, if the tenant is violating the terms of the lease, the landlord can pursue eviction. Likewise, the rent can be set at market rates and increase annually, with limits. It’s difficult to see a strong downside to extending rent increase protection to these tenants.
- ***Single family homes that are not owned by a corporation*** – This exception assumes that many single-family homes being rented are “mom and pop” operations; an owner who is not using real estate as their primary income. They are assumed to be small in scale (the number of units owned is small) and less sophisticated than corporations or other business enterprises. Perhaps it’s a person who owned a home, bought a new home, and decided to rent their previous home. There can be merit to not burdening these landlords with more rules and diminishing their flexibility. In Palo Alto, however, 27% of rental units are single family homes. More research would be needed to detail ownership by individuals vs. corporations. If rented single family homes are not subject

to a rent cap increase, a number of Palo Alto renters will continue to face rent increases of any amount.

- ***Renters who live in a duplex and the other unit is owner-occupied*** – Similar to the above topic, these units were carved out of AB1482 in order to provide owner occupants with more flexibility in who lives next door. The close proximity of the landlord and tenant may present a special case where such flexibility is warranted. It could be argued that this also applies to Accessory Dwelling Units (ADU), that is properties with a primary home and a detached or attached ADU.

***PTC Motion & Deliberation:*** *PTC does not recommend extending rent increase limits to housing units not protected by the statewide anti-gouging law (AB1482).*

The PTC did not support expanding the anti-rent-gouging policy to any additional households at this time. They felt that the rent caps were still too new to understand the impacts on the city. Some commissioners were willing to say that because they recommended extending the just cause protections of AB1482 to the two groups staff recommended, it should follow that they support this effort as well. The majority, however, did not support this.

***HRC Motion & Deliberation:*** *The HRC voted unanimously to support extending rent increase to all of the categories not included in AB1482.*

The HRC believed strongly in extending a rent increase cap to all of the excluded parties and properties, also noting that this policy should be considered the fourth priority. Other discussion revolved around the need to do more to protect more tenants, resulting in the addition of single-family home and owner-occupied duplexes to staff's recommendation.

5. Security Deposit Limit (3P: Protection)- ***PTC recommends limiting security deposits to 1.5x the rent. The HRC made the same recommendation as PTC, noting that this policy should be considered the fifth priority.***

Limiting the amount a landlord can charge for a security deposit is an effective way to easily lower the cost of entry for households. High security deposits can be a significant obstacle for lower-income renter households. [California Civil Code 1940.5 and 1950.5](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=5.&part=4.&chapter=2.&article=)<sup>17</sup> state that a landlord cannot charge more than two times the rent for an unfurnished unit and three times the rent for a furnished unit as a security deposit. Two times the average Palo Alto rent (\$3,648), on top of the first month's rent is \$10,944 just to be able to rent an average unit in Palo Alto. This amount is unattainable for many households.

<sup>17</sup>[https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=CIV&division=3.&title=5.&part=4.&chapter=2.&article=](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=5.&part=4.&chapter=2.&article=)

A security deposit limit would significantly impact many low-income renter households. As has been shown repeatedly, low-income renter households are disproportionately people of color and this could help provide some protection and stability for those households, as well as help the City meet its racial equity goals. When discussed with a collection of property managers and owners, it was mentioned that utilizing the security deposit as a tenant’s last month’s rent in lieu of paying rent was a fairly common practice by tenants. Decreasing the security deposit by a half month recognizes that practice, gives an owner a buffer and lessens the amount that a tenant is expected to pay to gain entry to a unit.

Returning to the example, limiting the security deposit to 1.5x the rent would reduce the required deposit \$7,296 to \$5,5472 for the average unfinished unit. While no similar legislation is being explored in other Bay Area jurisdictions that staff is aware of, many states have laws that cap security deposits at one month’s rent.

**Table 8: State Law Compared to Cities with Stricter Limits**

City	Population	Security Deposit Limit	Tiered	Returned with Interest
CALIFORNIA STATE LAW		2x	x	
Burlington, VT	42,545	1x		x
Durham, NC	269,702	1/1.5/2x	x	
Washington, DC	692,683	1x		

There are several different ways to pursue limiting a security deposit, as shown in Table 8 above. Nationally, security deposit law ranges from no limit to as low as one month’s rent. While no local jurisdictions have decided to pursue a security deposit limit, many other states and municipalities have.

**PTC Motion & Deliberation:** *PTC recommends that Council consider limiting security deposits to 1.5x the rent.*

The PTC believed that high rents meant large security deposits, which could act as a barrier for lower income households. As a way to help lower income households navigate the Palo Alto market, the PTC recommended that the Council consider limiting security deposits to 1.5x the rent, though not everyone was in agreement that this particular action would realistically help.

**HRC Motion & Deliberation:** *The HRC voted unanimously to support the PTC’s recommendation.*

The HRC noted that this policy should be considered the fifth priority. Other discussion revolved around a desire to decrease the number further but disliking the idea of leaving landlords with nothing if a tenant left early.

6. Fair Chance Ordinance - **PTC recommends** limiting landlords' ability to inquire about an applicant's criminal history and direct staff to seek Council recommendation regarding when in the lease-up process inquiries would be acceptable. **HRC recommends** supporting the PTC's recommendation, and that this be considered the sixth priority.

Fair Chance ordinances prohibit landlords from having criminal history be a part of the marketing, application, lease up, or vacating process. Fair Chance ordinances are gaining in popularity regionally, having passed in San Francisco, Oakland and Berkeley within the past few years. The [Just Cities' Policy Comparison Chart](#)<sup>18</sup> (Attachment E) shows that Oakland and Berkeley have recently passed Fair Chance Ordinances that basically do not allow a landlord to discriminate against a tenant based on their criminal history. These are considered best practice ordinances in this area. To see some of the most frequently asked questions addressed regarding Fair Chance, please see this page by the [Fair Chance Housing Coalition](#)<sup>19</sup>.

**Table 9: Cities with Fair Chance Housing Policies**

City	Population	Fair Chance Ordinance	Can Check Lifetime Sex Offender List	Fines Per Violation
Berkeley, CA	120,926	x	X	Up to \$10,000
Oakland, CA	433,031	x	X	Up to \$1,000
San Francisco, CA	802,235	x		

Palo Alto is committed to pursuing racial equity and ensuring renter protection policies advance racial equity. Considering that incarceration disproportionately impacts members of the Black, Indigenous, People of Color (BIPOC) community, a fair chance ordinance could help address racial equity goals and renter protection goals.

As is seen in Attachment E, there are several different places in the rental process where discrimination against formerly incarcerated individuals occurs. Passing a Fair Chance ordinance does not mean that a landlord cannot make choices about who to offer housing to, but simply requires reviewing each applicant and can be customized to best suit the community. For example, Berkeley and Oakland exempt single family homes and allow for specific background

<sup>18</sup>[https://static1.squarespace.com/static/5d3a3edf4508ff00014b406f/t/5fd168448ba64b78df48a6f7/1607559237612/JustCities\\_FCH\\_PolicyComparisonChart.pdf](https://static1.squarespace.com/static/5d3a3edf4508ff00014b406f/t/5fd168448ba64b78df48a6f7/1607559237612/JustCities_FCH_PolicyComparisonChart.pdf)

<sup>19</sup> <https://fairchance4all.org/faq>

checks like the State’s Lifetime Sex Offender list. Likewise, some communities “ban the box” on the initial application but allow checks after a tenant passes initial screening.

The topic of incarceration and/or a tenant’s criminal history is a sensitive one. As landlords and property managers are risk averse, removing access to this information may be seen to increase their risk. However, the assumption that past behavior can invariably predict future behavior can perpetuate discriminatory behavior.

***PTC Motion & Deliberation:*** *PTC recommends limiting landlords’ ability to inquire about an applicant’s criminal history. Staff seek Council recommendation regarding when in the lease-up process inquiries would be acceptable.*

The PTC believed very strongly in the importance of this policy. Commissioners who voted against the policy, who were not in the majority, did so because they believed that other legislation applied or they were not convinced that recommending following a specific city’s example was the best option.

***HRC Motion & Deliberation:*** *The HRC unanimously supported the PTC’s recommendation.*

The HRC noted that this policy should be considered the sixth priority. Other discussion revolved around whether this policy should be higher on the list of priorities, due to how impactful it could be for some tenants, but eventually came to agree with staff’s recommendation with regard to prioritization. The HRC was very interested in moving this policy forward.

7. Right to Counsel (3P: Protection) - ***PTC recommends*** *that the City (1) endorse the concept of Right to Counsel, (2) advocate to the County—to the Courts and Supervisor—that an eviction court be established, and (3) support legislative efforts to fund Right to Counsel (AB1487). HRC recommends the City support the PTC’s recommendation and that this be considered the seventh priority.*

Right to counsel is when a jurisdiction provides legal assistance to tenants so that they have help navigating the legal system for evictions.

**Table 10: Cities with Right to Counsel**

City	Population	Right to Counsel	Statewide
New Haven, CT	130, 331	x	x
San Francisco, CA	802,235	x	
Seattle, WA	724,205	x	x
Washington, DC	692,683	x	

Across the nation, there are efforts to provide tenants facing eviction with legal assistance or representation. Efforts are underway in smaller cities like Toledo, Ohio, and larger cities like San Francisco. Some states have even gone so far as to pass Right to Counsel at the state level, like Washington and Maryland.

Right to counsel can help tenants maintain their housing. A 2015 report from the [Permanent Commission on Access to Justice](#)<sup>20</sup> found that 98% of tenants attempting to address any legal issues regarding their housing had no legal representation whatsoever. According to a 2019 article published by the [Center for American Progress](#)<sup>21</sup>, “[w]ithout representation, the majority of tenants lose their cases and ultimately face evictions.”

Circumstances have become increasingly more difficult for many tenants since 2019 and now lawyers are deeply concerned about what will occur once eviction moratoria expire. The [National Housing Law Project](#)<sup>22</sup> said 85 out of 100 legal aid and civil rights attorneys surveyed across 38 states believed that a dramatic surge in eviction cases would occur and they had no idea how they would deal with them. Essentially, Right to Counsel guarantees tenants legal representation. This is important for tenants who cannot afford their own legal representation.

The establishment of a local Right to Counsel program would be cost prohibitive for the City. The Center for American Progress wrote about San Francisco’s No Eviction Without Representation Act that resulted in the appropriation of \$5.8 million by Mayor Breed to start up these efforts. In the same report, Newark, NJ, expected that annual costs for serving renters within 200% of the poverty limit would be approximately one million dollars.

While the establishment of Right to Counsel programs can be expensive, there are some local resources available. Stanford Law School, local law offices, Law Foundation of Silicon Valley and Community Legal Services of East Palo Alto (CLESPA) all have programs to help people with a legal defense. However, many people do not know these resources exist or how to access them. A significant part of implementation of this kind of program would depend on the network of existing services providers, providing outreach and education about those services and finding the places where more assistance needs to be provided.

A new approach to this service is being considered by the City of San Jose and Santa Clara County. They have been working in partnership with legal service providers to establish a Housing Court that could provide renters with a trained legal advocate. A collaborative approach could be a workable solution to provide needed legal services.

<sup>20</sup> [http://ww2.nycourts.gov/sites/default/files/document/files/2018-04/2015\\_Access\\_to\\_Justice-Report-V5.pdf](http://ww2.nycourts.gov/sites/default/files/document/files/2018-04/2015_Access_to_Justice-Report-V5.pdf)

<sup>21</sup> <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/>

<sup>22</sup> <https://www.nhlp.org/wp-content/uploads/Evictions-Survey-Results-2020.pdf>

Initially, AB1487 was a spot bill that would have created funding for establishing local right to counsel programs and passed the Assembly and Senate. However, in early October 2021, AB1487 was vetoed at the Governor’s desk. Therefore, Staff is amending their recommendation so that the recommendations regarding a Right to Counsel policy will focus on supporting local and county level, rather than state-level, opportunities.

***PTC Motion & Deliberation:*** *PTC recommends that the City (1) endorse the concept of Right to Counsel, (2) advocate to the County—to the Courts and Supervisor—that an eviction court be established, and (3) support legislative efforts to fund Right to Counsel (AB1487).*

The PTC was unanimously interested in following staff’s recommendation on this, though they did add that outreach should also be done at local law schools and law firms to build a network of potential providers.

***HRC Motion & Deliberation:*** *The HRC unanimously supported the PTC’s recommendation.*

The HRC noted that this policy should be considered the seventh priority. Other discussion revolved around the need to network resources together and perform adequate outreach about existing resources.

8. Tenant or Community Opportunity to Purchase Act (TOPA/COPA) - ***PTC recommends that the City not move forward with this policy at this time. Additionally, PTC voted to request Council to direct staff to pursue other means for displacement at time of property sale. HRC recommends that the City not move forward with this policy at this time.***

Tenant Opportunity to Purchase Act (TOPA) and Community Opportunity to Purchase Act (COPA) are both programs that provide the tenants within multifamily rental housing properties advance notice that the landlord is trying to sell the building. Advance notice is given to those tenants so that they can secure resources to purchase the building from the property owner instead of having the property owner put the building on the open market.

TOPA/COPA ordinances are being explored by several Bay Area jurisdictions as a means of stabilizing the community. However, because large amounts of capital are needed to purchase and Palo Alto property prices are high, staff does not recommend that the City pursue a TOPA or COPA ordinance at this time. An opportunity-to-purchase ordinance does not address the most urgent needs of the community and would detract from development of other policies.

***PTC Motion & Deliberation:*** *PTC recommends that the City not move forward with this policy at this time. Additionally, PTC voted to request Council to direct staff to pursue other means for displacement at time of property sale.*



The PTC was very interested in this idea, though they did understand that resources are limited. While the PTC agreed with staff that pursuing TOPA currently was not the best use of time, they also asked Council consider directing staff to pursue other means of preventing displacement at the point of sale, which may or may not include giving a period of time of notice that a sale is going to occur.

***HRC Motion & Deliberation:*** *The HRC recommended to not move forward with this policy.*

Other discussion revolved around the policy being a nice idea, but harder to put into practice due to the high purchase prices in Palo Alto.

9. Proactive Rental Inspection Program - *PTC recommends that the City not move forward with this policy at this time. HRC supports PTC's recommendation to not move forward with this policy at this time.*

Proactive rental inspection programs are another powerful renter protection tool being explored by neighboring jurisdictions. A proactive rental inspection program would mean that building inspectors routinely visiting the entire rental housing inventory to make sure that the units are safe and legal. Traditionally, proactive rental inspection programs have the most impact in jurisdictions where rental housing units may be substandard.

Given the City's limited available resources in the code enforcement program, staff does not recommend pursuing this policy at this time. Instead, staff recommends ensuring that tenants are aware of how they can report code violations to the City if their landlords are not responsive.

***PTC Motion & Deliberation:*** *PTC recommends that the City not move forward with this policy at this time.*

The PTC agreed with staff's recommendation about this policy and unanimously recommended that Council not consider it.

***HRC Motion & Deliberation:*** *The HRC voted to support staff and the PTC's recommendation not to consider this policy.*

Other discussion revolved around whether a policy such as this would actually impact people who provide substandard housing.

### **Summary of Key Issues:**

Staff is seeking Council direction on nine renter protection policies with regards to:

- A. Which policies are supported;
- B. What specific directives/parameters should staff focus on in the policy development; and
- C. Establish priority of individual policies for the work program.

Renter protection policies:

- |  |   |
|--|---|
| 1. Rental Survey Program               | 6. Fair Chance Ordinance                                    |
| 2. Expand Tenant Relocation Assistance | 7. Right to Counsel   |
| 3. Eviction Reduction Program          | 8. Tenant/Community Opportunity to Purchase Act (TOPA/COPA) |
| 4. Anti Rent-Gouging Policy            |   |
| 5. Security Deposit Limit              | 9. Proactive Rental Inspection                              |

### **Policy Implications:**

The proposed policy development is a result of the 2017 and 2018 Council Colleagues memos directing staff to research and propose policies to support renters. Renter protections is generally consistent with overarching goals in the Comprehensive Plan/Housing Element to provide adequate housing for all.

### **Resource Impacts:**

Resource impacts associated with development of policies and associated implementation requirements will require additional analysis. Staff has provided in the discussion of each policy above the general resource implications and challenges for development.

### **Timeline:**

Upon direction from City Council, staff will begin development of the policies. Staff will subsequently work with the PTC and other appropriate bodies to draft ordinances reflecting Council direction. Staff anticipates returning to the PTC in Spring 2022 with draft ordinances for review.

In addition, the Planning and Development Services Department continues to find ways to gather qualitative information from local Palo Alto renters to better understand the challenges they face. It is worth noting that the percentage of renters in Palo Alto (i.e. 46%) surprises people because renter voices are not routinely heard at community engagement events. A significant undertaking for this program is to strengthen the connection between the City and its renters, allowing the renters to understand that their needs and desires are considered.



**Stakeholder Engagement:**

Staff conducted outreach with the Palo Alto renter population in a variety of different settings. Staff acted as a liaison in conversations with the Palo Alto Renter Association (PARA), created several webinars to engage the public and educate them about laws that applied specifically to the renter population. Staff also created three webinars in partnership with local providers in order to decrease the barriers to access, showing renters who to reach out to in times of need. Ultimately, all of these webinars and information are cataloged on the City’s online Renter Resource Portal<sup>23</sup>.

Staff conducted interviews with property owners, both market rate and below market rate, property managers, and tenants to gather feedback on the proposed policies. Multiple forms of outreach were done over the phone and via email, which can be seen in Attachment F While centering on the needs of the most vulnerable is essential, staff wants to engage with all stakeholders in the policy creation process. Members of the public will also be able to comment on these policies during the related public hearings.

As staff moves to the next phase of policy research and development, a concentrated outreach effort will be conducted to reach a more diverse group in the community to have increased representation and engagement in the policy development.

**Environmental Review:**

This discussion is not a project under the California Environmental Quality Act.

<sup>23</sup> <https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Long-Range-Planning/Renter-Resources>

**Attachments:**

- Attachment14.a: Attachment A: Existing Renter Protections (DOCX)**
- Attachment14.b: Attachment B: Overview of Comparable California Cities with Renter Protections (DOCX)**
- Attachment14.c: Attachment C: Potential Metrics for Tenant Relocation Assistance (DOCX)**
- Attachment14.d: Attachment D: Just Cause Reasons (DOCX)**
- Attachment14.e: Attachment E: Just Cities Policy Comparison (PDF)**
- Attachment14.f: Attachment F: Challenge Grant Outreach Efforts (DOCX)**

## ATTACHMENT A

Existing Renter Protections

Some local and state renter protections currently exist and serve as the foundation for proposed enhancements. The following are permanent protections currently in place in Palo Alto.

- ***One-Year Lease Requirement*** - The one-year lease requirement has been in place since 1981 and requires a landlord to offer a tenant a lease with a minimum term of one year in writing (Palo Alto Municipal Code (PAMC) Chapter [9.68](#)).
- ***Mediation Program*** - The Palo Alto Mediation Program has been in place since 2002 and requires landlords and tenants to participate in the conciliation and mediation of rental housing disputes (PAMC Chapter [9.72](#)).
- ***Tenant Relocation Assistance*** - Tenant Relocation Assistance is a more recent protection, passed in 2018, for tenants in properties with 50+ units that are part of a no-fault eviction (PAMC Chapter [9.68](#)). The required assistance includes a flat fee for tenants being evicted, based on the unit size.

There are several recent State bills that apply to renters. The following renter protections apply:

- **[AB838](#)<sup>9</sup> (*State Housing Law*)** – AB838 requires jurisdictions to investigate any claims that are made about substandard housing. This legislation will not expire.
- **[AB978](#)<sup>10</sup> (*Mobile Home Park Rent Caps*)** – AB978 adapts the previously passed AB1482’s rent cap and applies it to mobile home parks in two incorporated cities, lowering the rent cap to 3%. This legislation will expire on January 1, 2030.
- **[AB1482](#)<sup>11</sup> (*Tenant Protection Act of 2019*)** - AB1482 requires a landlord to have a “just cause” to terminate a tenancy and caps annual rent increases at 5% plus the local rate of inflation as an anti-rent-gouging mechanism. This legislation will expire on January 1, 2030.
- **[AB1487](#)<sup>12</sup> (*Legal Services Trust Fund Commission*)** – AB1487 establishes an income-limited legal fund that will help distribute grants to legal organizations so that they can prevent homelessness by providing a variety of housing related services. This legislation passed through the Assembly and Senate, but must still be signed by the Governor before October 10, 2021, to become law.
- **[SB330](#)<sup>13</sup> (*The Housing Crisis Act of 2019*)** - SB330 predominantly concerns streamlining the housing development process. In addition, there are tenant relocation benefits and right of first refusal protections in the law. This legislation will expire on January 1, 2025.

ATTACHMENT B

Overview of Comparable California Cities\* with Renter Protections

City Name	Population	Rental Survey	Tenant Relocation	Just Cause Eviction	Rent Control	1482 Patch	Fair Chance	Security Deposit Limit	Right to Counsel	TOPA / COPA	Proactive Rental Inspection
Palo Alto	64,403		x								
City of Alameda	78,522	x		x	x						
Berkeley	120,926	x	x	x	x		x			*	
Concord	129,183	x	x	x		x					
East Palo Alto	28,155	x	x	x	x					*	
Mountain View	82,379	x	x	x	x						
Oakland	433,031	x	x	x	x		x			*	
Redwood City	76,815		x	x							
San Francisco	802,235	x	x	x	x		x		x	x	
San Jose	1,002,000	x	x	x	x				*	*	
Santa Cruz	64,608	x	x	x							
Santa Monica	91,577	x	x	x	x						

*This attachment provides a statewide overview of what similar local cities have adopted. Of note is that while Menlo Park is a similar neighboring city, no renter protections exist and therefore the city is not included. Jurisdictions that received a Challenge Grant fellow and support the 3Ps approach are highlighted in orange.*

*X represents a current ordinance  
\* represents currently in pursuit or consideration*

*Though not in the Bay Area, Santa Monica, California, is a comparable city with substantial renter protections.*

 Challenge Grant Jurisdiction

## ATTACHMENT C

Potential Metrics for Determining Tenant Relocation Assistance

- Use of Other Assistance Programs
  - Individuals participating in other income-subsidizing programs such as Medicaid, SNAP, or other programs could provide proof of participation in said programs, which could illustrate a need.
  - Requiring proof of participation in income-subsidizing programs does not necessarily mean an individual is rent-burdened, though they would most likely be low income households.
  
- Pinpointing a Rent that Rent-burdened Tenants Typically Pay
  - Pinpointing this rent without a rental survey to verify information would be difficult
  - Creating a rent based on a maximum occupancy for a unit size and using one third of that household size's income (an affordable rent according to HUD) could create an approximate number, but it would most likely not speak to every situation.

Unit Size	HUD Occupancy Limit	Santa Clara County Area Median Income (AMI) for Occupancy Limit	Affordable Monthly Rent (AMI/36)
Studio	2	\$70,800.00	\$1967.00
1-Bedroom	3	\$106,200.00	\$2950.00
2-Bedroom	4	\$141,600.00	\$3934.00
3-Bedroom	5	\$177,000.00	\$4917.00

## Reasons for “Just Cause” Evictions

The following is an [excerpt](#) from TenantProtections.org that outlines the Tenant Protection Act (AB1482). Under the Tenant Protection Act, eligible renters are protected from unjust evictions. This means a landlord must have a valid reason for eviction as outlined below:

### At-Fault Evictions:

1. Failure to pay rent.
2. Breach of a material term of a lease that continues after a written notice of the right to cure. The written notice must provide at least three days to cure. If the tenant does not cure, then a non-curable notice of termination may be served.
3. Maintaining, committing, or permitting a nuisance.
4. Destruction of property or creating a nuisance.
5. Failure to sign a lease with similar terms after the expiration of a lease.
6. Criminal activity on the property, or criminal activity or criminal threat directed at an owner or manager of the property.
7. Assigning and subletting in violation of the lease.
8. Refusal to provide the owner access to the unit.
9. Using the premises for an illegal purpose.
10. Failure of a licensee, agent or employee of the landlord to vacate after termination of the relationship.
11. Failure of a tenant to deliver possession after the tenant gives a notice to move out or after the landlord and tenant agree in writing that the tenant will vacate.

### No- Fault Evictions:

1. Owner or relative move in only where the original lease or a new lease allows for an owner or relative to move in. The eviction must be done by an owner or the owner’s spouse, domestic partner, children, grandchildren, parents, or grandparents. The original lease or new lease must reserve the right to move in an owner or the owner’s spouse, domestic partner, children, grandchildren, parents, or grandparents.
2. Withdrawal of the unit from the rental market
3. Where a city or county agency requires the unit to be vacated due to uninhabitable conditions.
4. Intent to demolish or substantially remodel a unit. “Substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing or mechanical system that requires a permit, or the abatement of hazardous material, including lead, mold or asbestos that cannot be reasonably accomplished in a safe manner with the tenant in the unit and that requires the tenant to vacate for more than thirty days. Cosmetic improvements alone, including painting, decorating, and minor repairs, do not qualify, nor does any work that can be done safely with the tenant in the unit.





# Comparison of National North Star Fair Chance Housing Laws

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As part of a national reckoning with the profound injustice and senselessness of US mass incarceration policies, criminal justice reforms have occurred at the federal, state, and local levels. However, when people who have “done their time”, including those for wrongful convictions, return home they are met with extreme and discriminatory barriers that prevent them from accessing basic support needed to successfully reintegrate back into society.

A growing number of jurisdictions across the nation have been addressing these injustices including through the passage of Fair Chance Housing laws that seek to remove barriers to housing for people with a criminal record. However, there are only a few policies that we consider north star policies. Only the cities of Seattle, Berkeley, and Oakland have passed policies that completely do away with relying on criminal background checks, at all stages of the rental process, on all forms of housing. Why use a tool of the criminal background check that has no proven correlation between one’s criminal history and success as a future tenant, especially when it has been proven to be extremely unreliable and discriminatory? The commonsense and racially just response would be what these three cities have enacted. In addition, we consider the Portland policy to be a north star policy because when faced with State preemption issues that prevented them from enacting a similar policy, instead of giving up, Portland government and formerly incarcerated leaders worked together to craft a problem-solving policy. Here’s a comparison of the main policy terms.

Policy Term	Seattle	Portland	Berkeley	Oakland
<b>Links</b>	<a href="#">Link to Ordinance</a> <a href="#">Link to FAQ</a>	<a href="#">Link to Ordinance</a> <a href="#">Link to FAQ</a>	<a href="#">Link to Ordinance</a>	<a href="#">Link to Ordinance</a> <a href="#">Link to FAQ for Formerly Incarcerated People</a> <a href="#">Link to FAQ for Housing Providers</a>
<b>What the Ordinance Does</b>	Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.	Criminal background checks are still allowed, but the Ordinance prohibits discrimination on the basis of criminal history	Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.	Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.
<b>Public Policy Rationale</b>	Focus on racial justice and addressing racial inequities in the criminal justice system, as well as the direct link between stable housing and successful reintegration.	Focus on racial justice, and eliminating screening barriers that prevent people's right to housing.	Focused on homeless prevention. There's a California State pre-emption on local anti-discrimination policies.	Focused on homeless prevention. There's a California State pre-emption on local anti-discrimination policies.
<b>Housing Type Explicitly Covered</b>	All Housing Units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)	All housing units- Including Private and Section 8 housing units.	All housing units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)	All housing units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)
<b>Housing Type Explicitly Exempted</b>	<ul style="list-style-type: none"> <li>Single family home where owner occupies part of the home</li> <li>Accessory Dwelling Units where the owner resides on the same lot</li> </ul>	<ul style="list-style-type: none"> <li>Units shared with a Landlord, roommate, or a sub-lessor using the unit as a primary residence</li> <li>Accessory Dwelling Units where the owner resides on the same lot</li> <li>Duplexes where the owner occupies the second unit as a principal residence</li> <li>Non-profit housing</li> <li>Units not rented to, or advertised for rental to the general public</li> </ul>	<ul style="list-style-type: none"> <li>Single-family homes, duplexes, triplexes, and Accessory Dwelling Units where the owner occupies one of the units or bedrooms as a principal residence</li> <li>Tenants who seek to add a co-tenant or a roommate</li> </ul>	<ul style="list-style-type: none"> <li>Single-family homes, duplexes, triplexes, and Accessory Dwelling Units where the owner occupies one of the units or bedrooms as a principal residence</li> <li>Tenants who seek to add a co-tenant or a roommate</li> </ul>
<b>Advertisement, Housing Application &amp; Review process</b>	Removes any requirement to disclose any Conviction History unless it's for a "legitimate business reason"	<b>Option 1: Low-barrier (lookback period)</b> <ul style="list-style-type: none"> <li>Denial only for misdemeanor offences that occurred within the past 3 years</li> </ul>	Prohibits advertisement, applications, and review process that would require disclosure of criminal history	Prohibits advertisement, applications, and review process that would require disclosure of criminal history

		<p>and felony offenses that occurred within the past 7 years</p> <p><b>Option 2: Individualized assessment model</b></p> <ul style="list-style-type: none"> <li>Landlords can set the criteria they choose if they disagree with the low-barrier criteria, but must provide information to the applicant about what they were denied for, the specific business interest reason the landlord has determined as basis for mandate automatic exclusion, and allow applicants opportunity to provide mitigating evidence</li> </ul> <p>Landlords are not able to deny applicants on the basis of arrests that did not result in conviction; participation/completion of a deferral of judgement program; convictions that have been judicially dismissed, expunged, voided or invalidated; conviction for a crime that is no longer illegal in the state of Oregon; or convictions issues through the juvenile justice system.</p>		
<p><b>When would the Background Check be Allowed/What kind of Background Check is Allowed</b></p>	<p>Landlord can check to see if applicant's on the Sex Offenders Registry per county, statewide, or national sex offender registry</p> <p>HUD funded housing subject to HUD regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production on federally assisted housing</p>	<p>Under the low-barrier option, background checks may be conducted for Misdemeanor offenses that occurred within the past 3 years and felony offenses that occurred within the past 7 years</p> <p>Landlords can set the criteria they choose if they disagree with the low-barrier criteria, but must provide information to the applicant about what they were denied for, the specific business interest reason the landlord has determined as basis for mandated automatic exclusion, and allow applicants opportunity to provide mitigating evidence</p>	<p>Housing providers may check the State's Lifetime Sex Offender List, but must first make a conditional housing offer, receive the written consent of an applicant to check, and allow the applicant the chance to provide rebutting or mitigating information</p> <p>If required by federal or state law, HUD funded units may conduct limited background checks. HUD funded housing subject to federal regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production</p>	<p>Housing providers may check the State's Lifetime Sex Offender List, but must first make a conditional housing offer, receive the written consent of an applicant to check, and allow the applicant the chance to provide rebutting or mitigating information</p> <p>If required by federal or state law, HUD funded units may conduct limited background checks. HUD funded housing subject to federal regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production</p>

		HUD funded housing subject to HUD regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production on federally assisted housing	on HUD funded housing. However, these housing providers must seek written consent from the applicant, provide the applicant with a copy of the background check, and provide the applicant a chance to submit rebutting or mitigating information.	on HUD funded housing. However, these housing providers must seek written consent from the applicant, provide the applicant with a copy of the background check, and provide the applicant a chance to submit rebutting or mitigating information.
<b>Does the City have a First in Time rental requirement policy?</b>	Yes	Yes	No	No
<b>Allowable Disqualification of Applicant</b>	<p>If on Sex Offenders registry for adult conviction and there's a "legitimate business interest" where there must be "reliable evidence" of a nexus between resident or property safety in light of:</p> <ul style="list-style-type: none"> <li>Nature &amp; severity of conviction</li> <li>Number &amp; types of conviction</li> <li>Time lapsed from conviction date</li> <li>Age at time of conviction</li> <li>Evidence of good tenant history before and/or after conviction</li> <li>Any supplemental info re rehabilitation, good conduct, and additional info from applicant</li> </ul>	<ul style="list-style-type: none"> <li>Misdemeanor and felony offenses that occurred within the lookback periods. Applicants denied for criminal history have an automatic right to appeal and provide supplemental evidence.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant is on the State's Lifetime Sex Offender Registry</li> <li>For HUD funded units, applicant has been convicted for manufacturing methamphetamine on the premises of federally assisted housing</li> </ul>	<ul style="list-style-type: none"> <li>Applicant is on the State's Lifetime Sex Offender Registry</li> <li>For HUD funded units, applicant has been convicted for manufacturing methamphetamine on the premises of federally assisted housing</li> </ul>
<b>Administrative Complaint Process</b>	<p>File complaint with Director of Seattle Office for Civil Rights. Applicant can appeal Director's decision to the Seattle Human Rights Commission</p> <p>Civil Penalties are no more than:</p> <ul style="list-style-type: none"> <li>\$11,000 if the respondent has not been determined to have committed any prior violation</li> <li>\$27,500 if the respondent has been determined to have</li> </ul>	N/A	<p>File a complaint with the City of Berkeley. Close family members may file a complaint on behalf of their formerly incarcerated family member(s), even if <b>they do not reside in the unit</b> that their family member lives in or is seeking to move into. Close family members include a spouse, domestic partners, parents, children, siblings, grandparents, grandchildren.</p>	<p>File a complaint with the City of Oakland.</p> <p>Housing providers can be fined for up to \$1,000 per violation.</p>

	<p>committed one other violation during the five-year period ending on the date of the filing of this charge</p> <ul style="list-style-type: none"> <li>\$55,000 if the respondent has been determined to have committed two or more violations during the 7 year period ending on the date of the filing of this charge</li> </ul>		<p>Housing providers can be fined at least \$1,000 and up to \$10,000 for each violation</p> <p>Additional civil penalties of up to \$5,000 per violation committed against a person who is disabled within the meaning of California Government Code section 12926 et seq., or is aged sixty-five (65) or over.</p>	
<b>Right of Individuals to Sue to Enforce</b>	<b>No</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
<b>Landlord Retaliation Protection</b>	Explicitly covered		Explicitly covered	Explicitly covered
<b>Limits to Financial Screening Criteria</b>	<b>No</b>	<p>Yes- Limits the income to rent ratio to 2.5 times the rent for units with a monthly rent amount below 80% of Median Family Income (MFI), and to 2 times the rent amount for units with a monthly rent above 80% MFI</p> <p>Applicants with multiple adults in the household can choose who is legally responsible for the rent and only those they choose can be screened for income.</p> <p>Under the low-barrier screening criteria, landlords agree not to reject applicants for insufficient credit history, or having a credit score of 500 or higher.</p>	<b>No</b>	<b>No</b>

## ATTACHMENT F

Challenge Grant Outreach Efforts

There are 11,764 rental units in Palo Alto, according to ACS data. When doing outreach in the community, many different approaches were taken by staff:

Contact Medium

- City Newsletter
- City Website
- Email
- Partner Networks
- Phone Calls
- Service Providers
- Social Media
- Word-of-Mouth

Direct Contact

- 9,992 landlords of multifamily housing identified by partnering with Palo Alto Utilities
  - 92 individual emails sent
- 18 interviews conducted
  - Service Providers
    - 2 Non-Profit Developers
    - 2 Case Managers
  - Property Managers
    - Properties with 1-5 Units: 2
    - Properties with 6-49 Units: 4
    - Properties with 50+ Units: 2
  - Property Owners
    - Properties with 1-5 Units: 1
    - Properties with 6-49 Units: 1
    - Properties with 50+ Units: 4

Indirect Contact

- Webinars
  - 3 on Eviction Moratoriums
  - 1 on Affordable Housing
- Renter Resource Portal
- Partner Communication
  - LifeMoves
  - Alta Housing
  - Project Sentinel
  - Palo Alto Renters' Association

Comparable Cities Interviewed

- |                  |                 |
|------------------|-----------------|
| • Berkeley       | • Mountain View |
| • Concord        | • Redwood City  |
| • East Palo Alto | • San Jose      |
| • Menlo Park     | • Santa Cruz    |