

June 15, 2022

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Dear City Councilmembers:

RE: Housing Element Update

For much of the Housing Element Update process, the focus has been on the scale of the Regional Housing Needs Allocation (RHNA) and the planning process of identifying potential housing opportunity sites to meet these requirements. What we have observed through this process is that there is relatively less understanding and attention to the broader Housing Element requirements under Affirmatively Further Fair Housing (AFFH).

Through state law, AFFH not only requires that the city plan and implement policies that give low-income families the opportunity to live in high resource and affluent areas, but also to adopt policies that address disproportionate housing needs, including displacement risks, of protected classes. In every jurisdiction in the County lower-income renters - disproportionately working families of color, and people on fixed incomes including seniors and people with disabilities - struggle with housing instability due to extreme rent burden and/or overcrowding. In nearly all jurisdictions the impact of displacement can be tracked through changing demographics over time.

The California Department of Housing and Community Development (HCD) issued [guidelines and examples of policies to Affirmatively Further Fair Housing](#). We know that many jurisdictions throughout the County have been looking at policy options to respond to these requirements. Over the last 36 months the City of Palo Alto, in partnership with SV@Home, explored and adopted a number of creative policies designed to protect renters and stabilize families and communities. While the research and policy making process in Palo Alto was pretty extensive, we believe that the Assessment of Fair Housing, and the targeted outreach through the needs assessment, and program/policy development process, likely provide evidence that tenant protections policies are needed, where few policies existed before.

When the policy process began in Palo Alto, the City already had a right to a one-year lease and voluntary landlord/tenant mediation programs. These programs were valuable in some cases, but research and community engagement found that their reach was very limited and the effective enforcement was difficult to assess. However, a number of policies that alone address only a small piece of the need, were actually determined to be complimentary, and together were more likely to have real impact.

Based on the work in Palo Alto, and a number of other cities, below are a number of policies that your city should consider, or build upon, to further the community's anti-displacement goals by addressing housing instability.

1. Rental Survey Program

Rental survey systems collect basic information on rental housing – changes to tenancies, changes to rents - to empower cities to better understand the challenges faced by renters, and the effectiveness of state and local renter protections.

2. Tenant Relocation Assistance

When tenants are displaced due to redevelopment of an existing rental property, or the

conversion of that property to another use, this policy would require the property owner to provide assistance to the tenant to help them relocate to another home.

3. Eviction Reduction Program

This expands on existing state law (AB 1482: The Tenant Protection Act of 2019), which limits the reasons a landlord can evict a tenant, to additional types of rental properties otherwise not covered by the state. Local jurisdictions can determine which loopholes they would like to close. Currently, state law exempts:

- i) Single family homes not owned by a corporation
- ii) Rental property built within the past 15 years, including accessory dwelling units.
- iii) Any duplex where the owner occupied the unit before the other unit's tenancy and continues to occupy the unit.
- iv) Housing restricted by a deed, regulatory restrictions, or other recorded document limiting the affordability to low or moderate income households.
- v) Mobile homes.
- vi) Rental property subject to local ordinances that restrict rent increases to less than 5% plus CPI.
- vii) Single family homes where the owner occupies and rents at least 2 bedrooms or units (ADUs and JADUs).
- viii) Owner occupied rental properties where the tenant shares bathroom or kitchen facilities with the owner.
- ix) Hotels
- x) Rental property provided by non-profit hospitals, organizations such as churches, extended care for the elderly, adult care facilities etc.

b) Anti Rent-Gouging Policy

This policy also expands on existing state law (AB 1482: The Tenant Protection Act of 2019), which limits annual rent increases to 5% plus the Consumer Price Index (CPI), by including additional units exempted by state law. Each city can determine which loopholes they would like to close. They can also adopt lower thresholds for maximum increases like San Jose (5%) and Mountain View (CPI). Currently, state law exempts:

- i) Single Family homes not owned by a corporation
- ii) Rental property built within the past 15 years, including accessory dwelling units.
- iii) Any duplex where the owner occupied the unit before the other unit's tenancy and continues to occupy the unit.
- iv) Housing restricted by a deed, regulatory restrictions, or other recorded document limiting the affordability to low or moderate income households.
- v) Mobile homes.
- vi) Hotels

4. Security Deposit Limit

This policy would limit the amount that can be charged for security deposits to 1.5 times the monthly rent, and help reduce the financial obstacles to entry for low-income households.

5. Fair Chance Ordinance

This ordinance would limit landlords' ability to ask applicants about their history of interaction with the criminal justice system, which disproportionately impacts Black and brown households. The policy would not make it illegal for landlords to run background checks on tenants, but would make it illegal to include these questions on the initial rental application.

6. Right to Counsel

This program would provide tenants with legal assistance in eviction cases. Tenants experiencing housing instability will be better able to enjoy the rights they have, feel more empowered to exercise those rights, and be more likely to stay housed more often.

7. Tenant/Community Opportunity to Purchase (TOPA/COPA)

The local jurisdiction could provide tenants and/or community-based organizations notice of intended sale of rented property, and provide a specific time period during which the tenants and/or organization have the opportunity to purchase the property. Tenants at risk of being displaced through the sale of a building would be provided with another option to potentially stay in their home. A version of this policy is actively being explored and studied in the City of San Jose.

8. Proactive Rental Inspection

This establishes a program for code enforcement officers to routinely inspect the rental housing inventory. Through these programs tenants are more likely to be protected from living in substandard housing, and local jurisdictions may catch habitability issues before they become so large that they require “red tag” evictions.

9. Tenant Resource Center

As a response to the pandemic, the cities of San Jose and Mountain View created Eviction Help Centers where tenants and landlords could receive information on local laws, assistance to apply for rent relief and legal aid. These cities are now looking at making the centers a permanent tenant/housing resource center post-pandemic.

10. City-wide Affordable Rent Portals

A portal for submitting a common application for affordable housing would save the tremendous amount of time and energy it currently takes to submit the same information on separate applications for each affordable property. A clearinghouse of affordable housing opportunities would also allow the city or county to affirmatively market to vulnerable and hard to reach populations. Current examples of these portals include [San Jose Doorways](#) and [Dalia in San Francisco](#).

11. Increase Multi-lingual engagement with city services and housing opportunities

Language barriers can keep many communities from accessing the housing opportunities and services they need. Taking steps to increase the city’s capacity to engage under multiple languages can improve those outcomes.

12. Net-loss policy

SB 330 (The Housing Crisis Act of 2019) requires that protected units are replaced one-for-one in cases of the redevelopment of a rental property. These provisions are currently mandated by state law, but local jurisdictions can adopt permanent no-net-loss ordinances. This policy would protect critical sources of housing affordable to lower-income families, and incentivize higher-density infill redevelopment when paired with land use policies to support the feasibility of this redevelopment.

These policies have been developed with consideration of some of the major barriers to housing stability, and causes of displacement, which have been identified through an extensive research and engagement process in Palo Alto, and a few other jurisdictions in the county. Through the housing element, these anti-displacement policies should be considered a comprehensive package of responses to address the complexity of the challenges faced by renters in your city. For further information and if you have any questions, please feel free to reach out to our Preservation and Protection Associate, Emily Ann Ramos at emily@siliconvalleyathome.org.

Thank you for considering anti-displacement and tenant protections solutions to affirmatively further fair housing.
Sincerely,



Mathew Reed
Policy Director

