


# Deep Dive on Tenant Protections





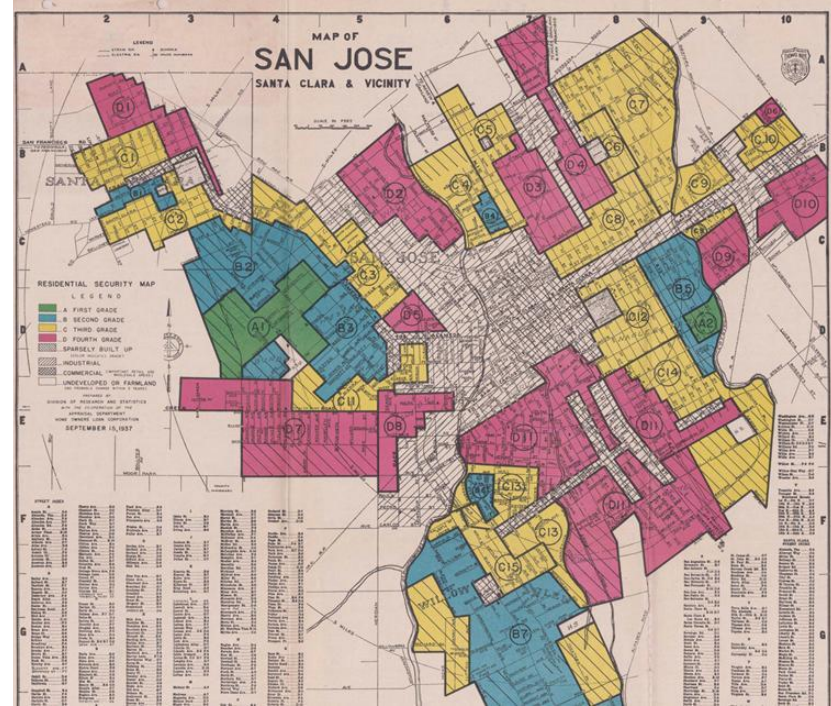
We acknowledge the traditional, ancestral, & unceded territory of the indigenous peoples of the Muwekma Ohlone, Ramaytush Ohlone, Tamien Nation, and Amah Mutsun on which we are learning, working, and organizing today. We are committed to honoring and making visible the indigenous people and tribes that were intentionally displaced from their land, who remain here in Silicon Valley, and are a part of our community.

# Goals for today- Knowledge for more effective advocacy

- Roots of Housing Crisis - how did we get here
- Magnitude and Impact of the Crisis - Instability and Displacement
- 3Ps - What are tenant protections - Different problems, different solutions
- What are the core tenant protection policies and programs
- Where did they come from and how do they work
- What protections do we have in different jurisdictions in Santa Clara County
- We can do better - What are the opportunities for advocacy

# How redlining and other racially discriminatory government policies led to our housing shortage

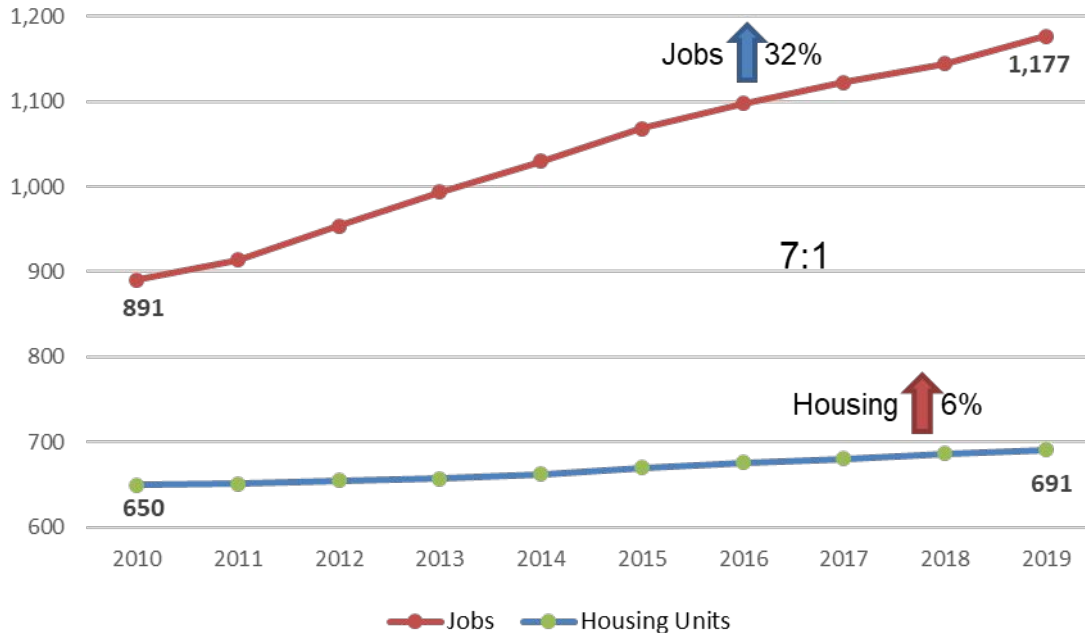
- Redlining & other racially explicit policies
- Single family zoning: racialized
- Only the most expensive types of homes are built
- Significant limits on where multi-family is allowed
- Local control gives a small group of existing residents veto power over what can be built



# Economic growth without policies to build needed housing

## Jobs-housing Imbalance

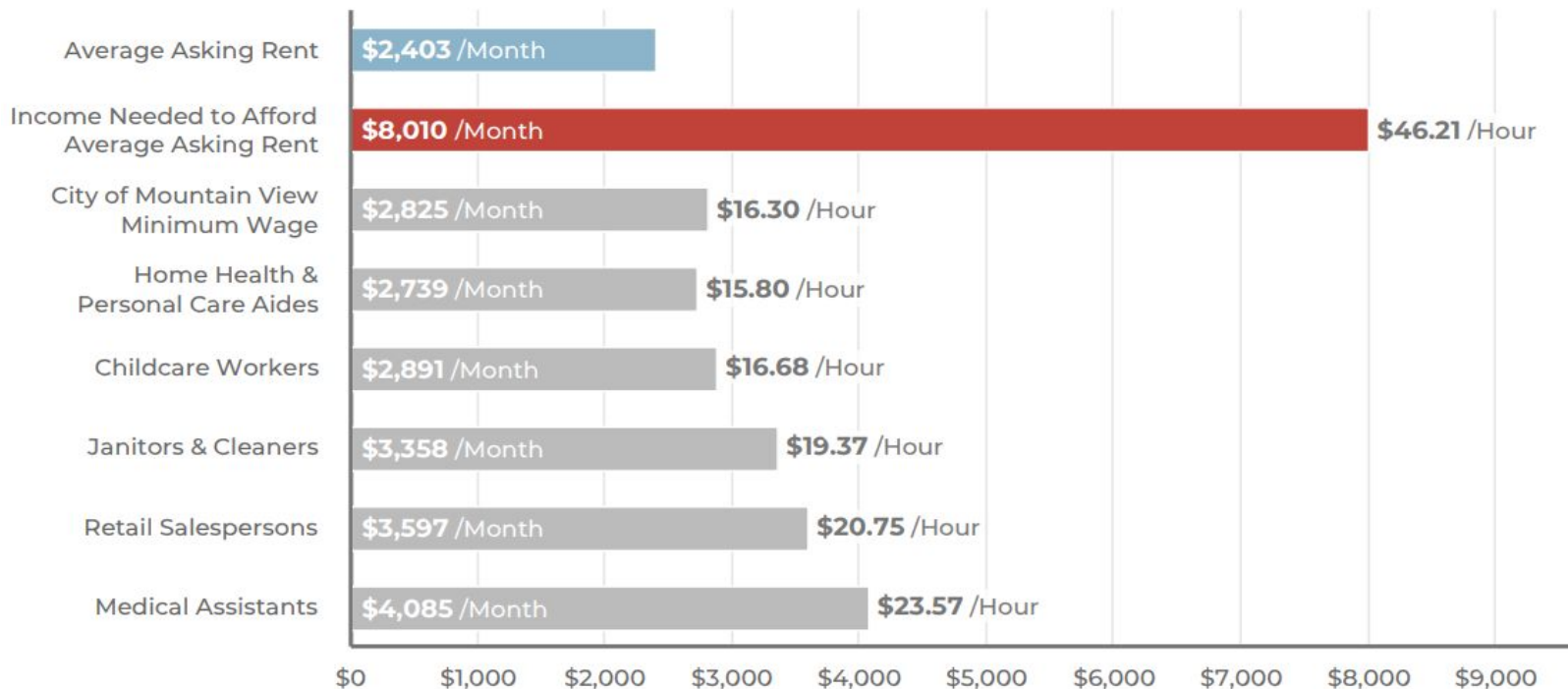
San Jose, Sunnyvale, Santa Clara SMSA  
Total Jobs/Housing (thousands)



- Rents up 75%
- Median home prices up nearly 300%

# Who can afford to rent?

| Renters need to earn **2.8 times** minimum wage to afford the average asking rent in Santa Clara County.

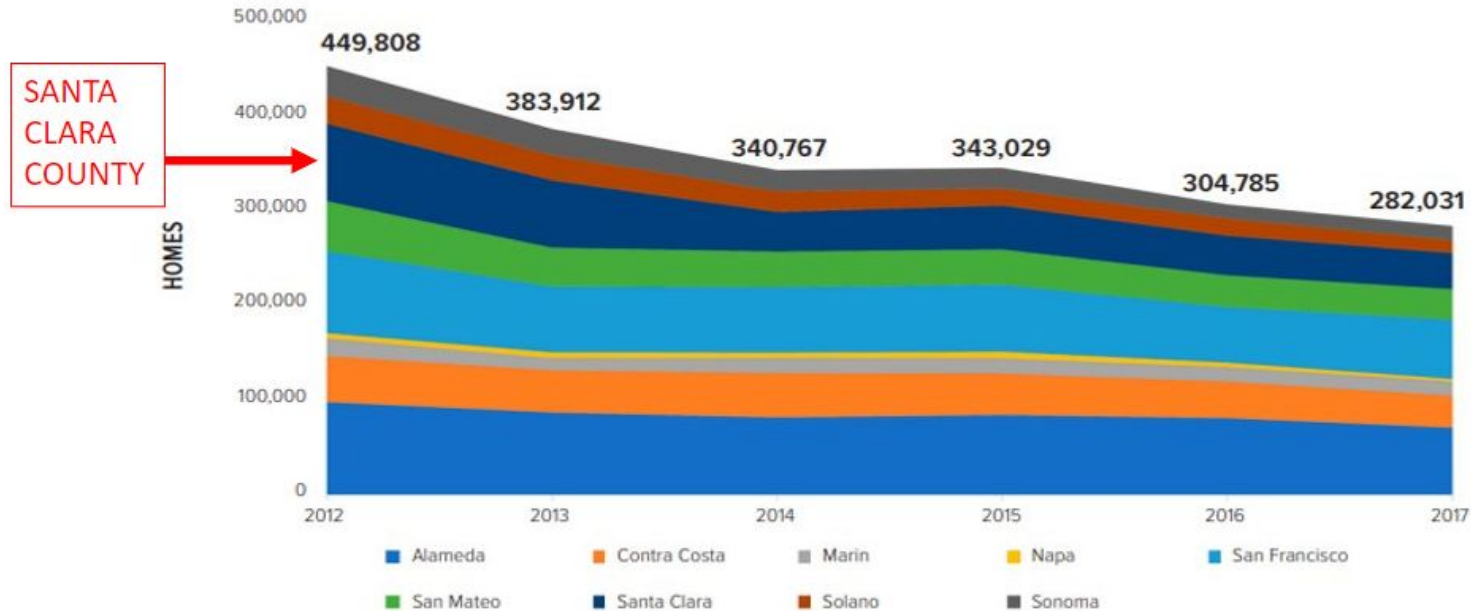


Source: California Housing Partnership's Santa Clara County 2022 Affordable Housing Needs Report

# Continued loss of housing people can afford

Exhibit 1.

Unsubsidized Affordable Homes Occupied by Low-Income Households in the Nine-County Bay Area, 2012 - 2017

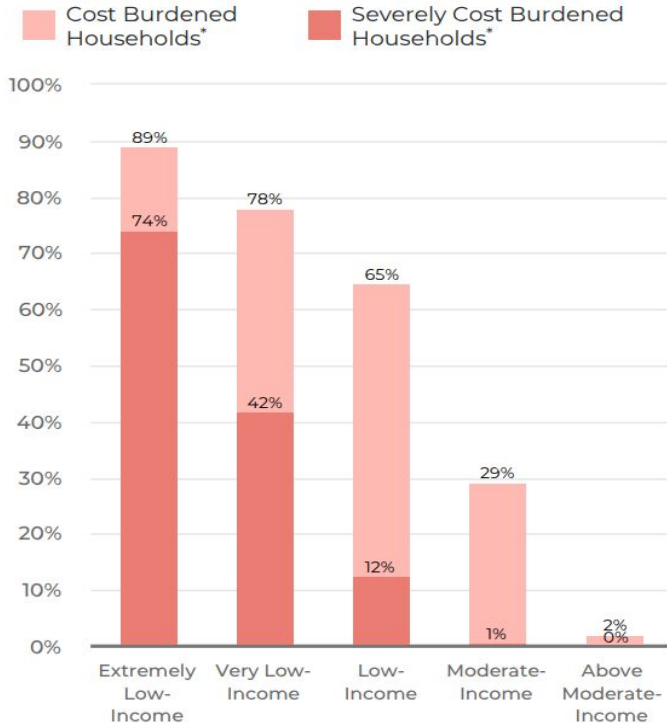


The number of unsubsidized, affordable homes occupied by low-income households has declined in recent years— averaging a decrease of 32,000 such homes per year between 2012 and 2017.

Source: Enterprise Community Partners, "Preserving Affordability, Preventing Displacement"

## COST BURDENED RENTER HOUSEHOLDS

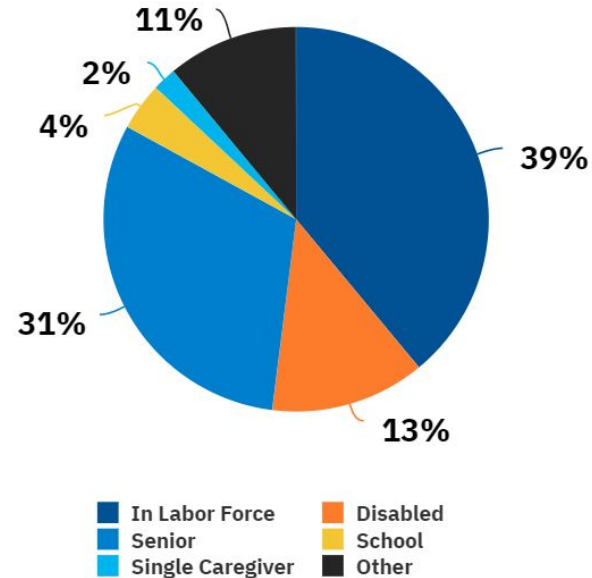
**74% of ELI households** in Santa Clara County are paying more than half of their income on housing costs compared to just 1% of moderate-income households.



Source: CHPC *Affordable Housing Needs Report - 2022*

# The housing shortage affordability crisis

## EXTREMELY LOW INCOME RENTER HOUSEHOLDS



Source: National Low-Income Housing Coalition - *Out of Reach - 2022*



# What is displacement?

Displacement, as defined by The Urban Displacement Project:

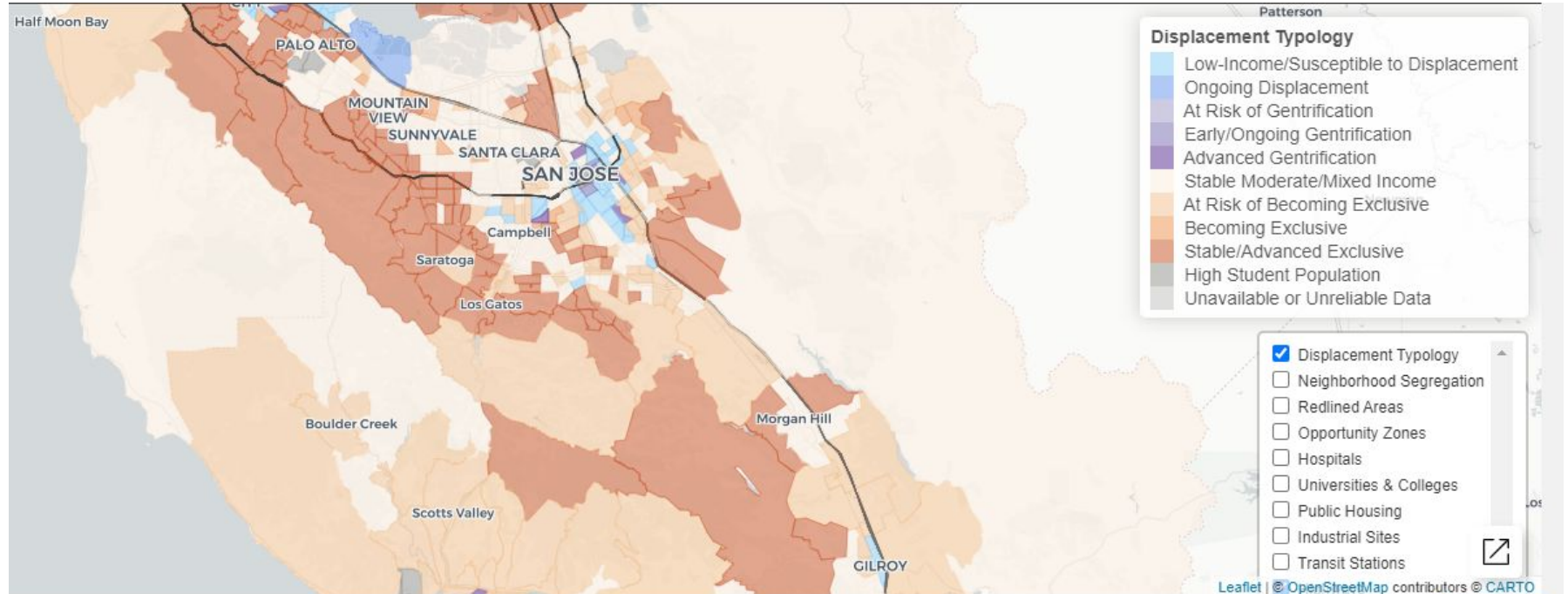
*“when housing or neighborhood conditions actually force moves.”*

This displacement can be physical or economic, based on deteriorating buildings or rising housing costs.

**Gentrification - influx of capital and higher-income, higher-educated residents**

**Displacement - forced moves and exclusion related to either investment or disinvestment**

# Risk of displacement in Santa Clara County



[Source: Urban Displacement Project](#)

# Clear Patterns of Increasing Hardship and Increasing Displacement

## Black, Indigenous, People of Color (BIPOC) households in high-risk areas

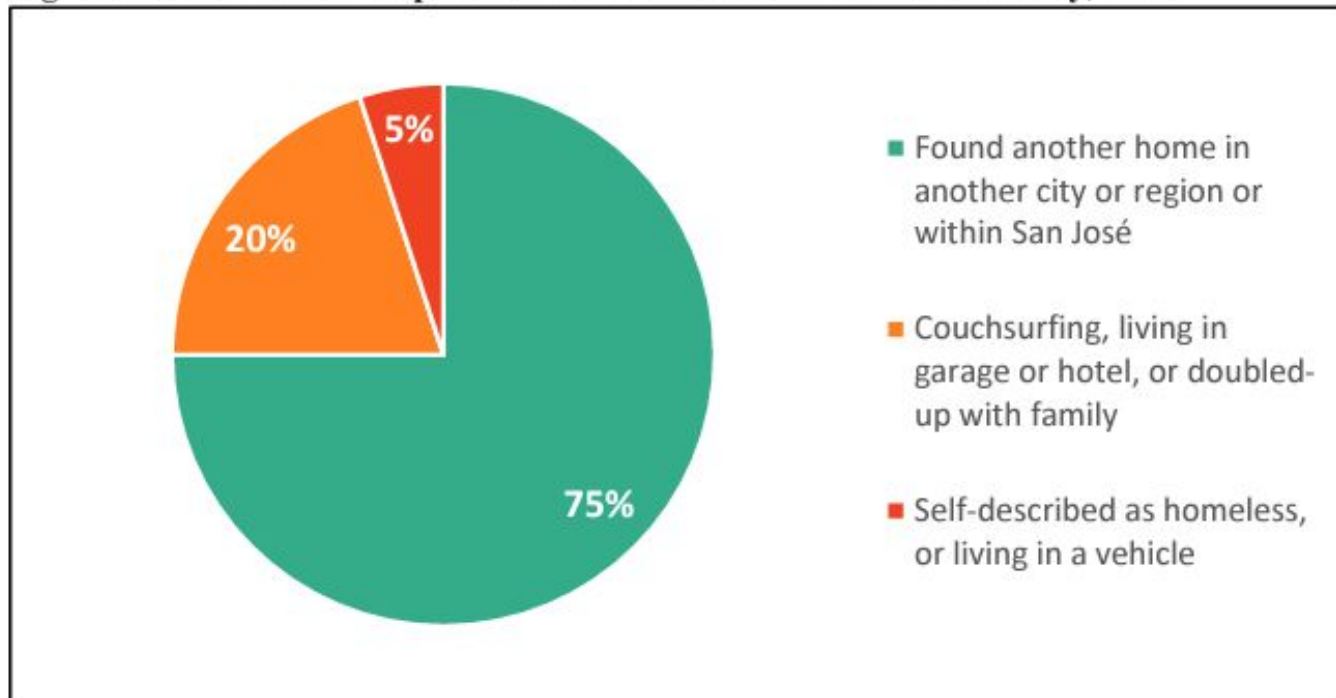
- Hispanic and Latinx residents 3 times more likely than White NH in high displacement areas
- Vietnamese and Black residents 2 times more likely

## Lower income families are being displaced

- Starting in 2018 more lower-income individuals **have left than come into** the County
- In contrast higher-income folks continued to come move in
- Lowest income - **1000**, higher income + **15,400** (2016-2020)

# Impact of Displacement is Significant

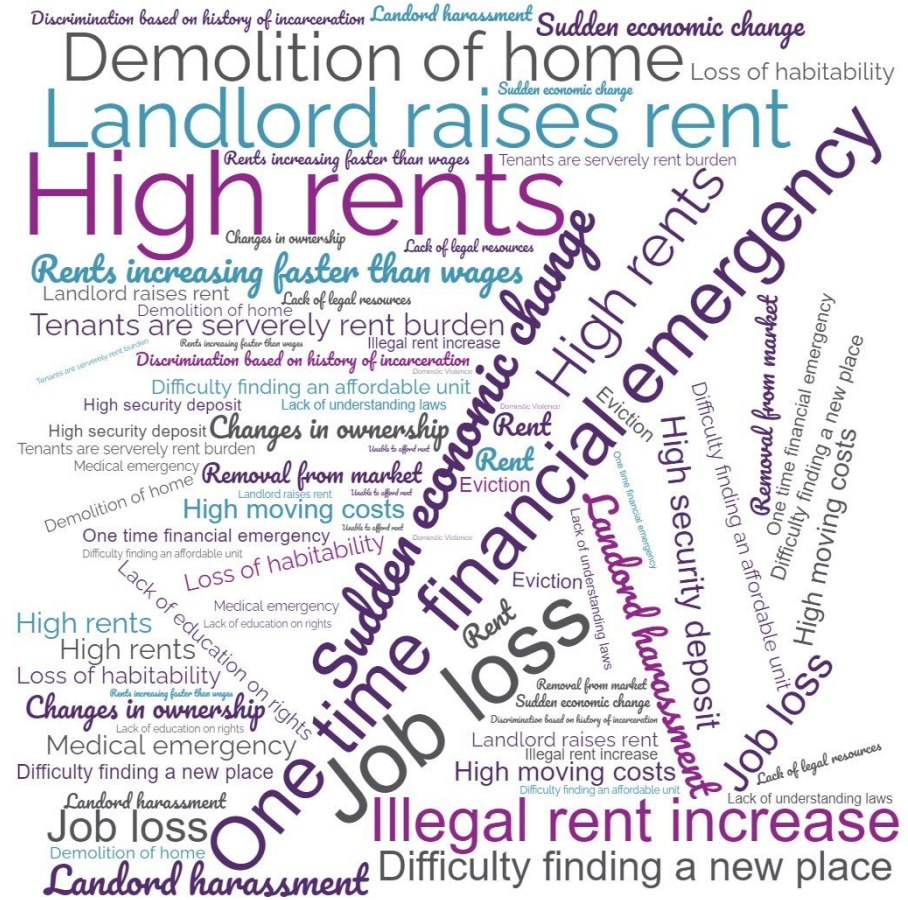
**Figure 4: Outcomes for displaced renter families in Santa Clara County, 2018**



Source: Urban Displacement Project, 2018 (City of San Jose, 2023)

# Personal and Community impacts of housing instability and displacement

- Individual physical, mental, and economic impacts
- Social connections and networks
- Community instability
- Undermines community institutions
  - Schools
  - Faith Congregations
  - Small businesses
- Loss of cultural fabric and history



# Tenant Protections part of a comprehensive approach

## APPROACH—3Ps



### Production

Production of rent-restricted housing for low-income and moderate-income households

### Preservation

Preservation of rent-restricted and naturally affordable housing

### Protection

Protection of low-income residents vulnerable to rising rents and property values

# Different problems require different policies

## Addressing High rents and lack of affordability

- Rent Stabilization
- Anti-Gouging
- Rent Registry

## Emergencies and Evictions

- Just Cause for Eviction
- Emergency Rental Assistance / Rent Relief
- Eviction Help Centers
- Mediation

## Tenant Power and Livability

- Legal Assistance / Right to Legal Counsel
- Anti-Harassment
- Tenant Unions
- Code Enforcement / Proactive Rental Inspection
- Community (Tenant) Opportunity to Purchase Act (COPA/TOPA)

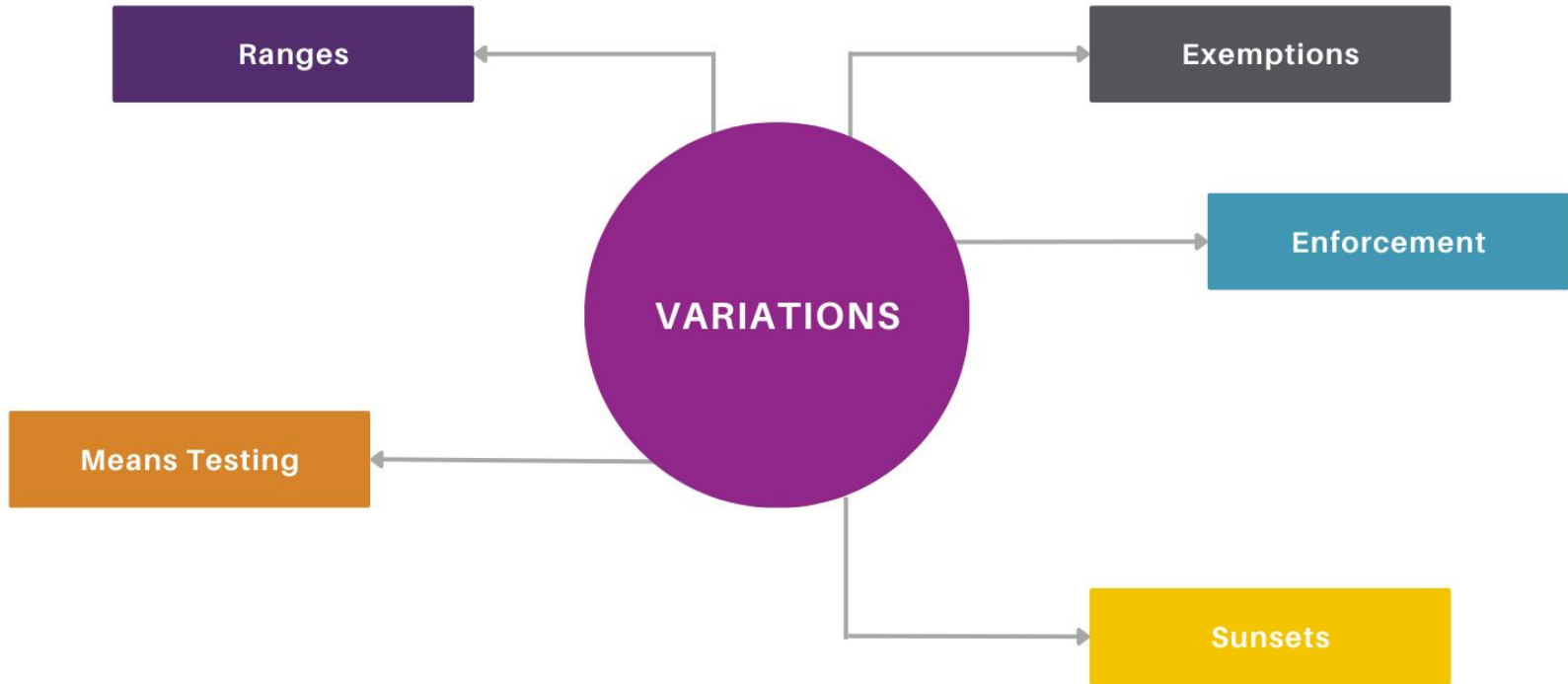
## When you must leave

- Tenant Relocation Assistance
- 1 for 1 Replacement upon demolition/redevelopment
- First right of return

## Struggling to Stay in your Community

- Fair Chance
- Security Deposit Limit
- Tenant Preference Set Aside

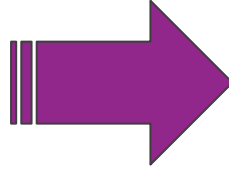
# Local Policies are not all the same - stronger and weaker





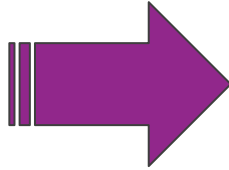
## Policy Solutions 1: Addressing High rents and lack of affordability

Rents are increasing faster than wages



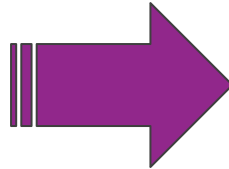
Rent Control / Rent stabilization

Tenants are severely rent burdened and are unable to absorb large increases in rent



Anti-gouging laws

Lack of rental data



Rent Registry

# History of Rent Control - Difference Between Rent “Control” v. “Stabilization”

## Original - Rent Control

- First laws US adopted in 1920s, New York City, mostly abandoned in 1950s
- Limits amount rent landlords can charge to unit — specific rent, doesn't change

## Second Generation - More limited “Rent Stabilization”

- Allows annual increases, but capped to a set percentage
- When tenant moves out rents can increase without caps - Decontrol
- Only applies to older properties - not new construction
- CA - Berkeley, Santa Monica, SF, San Jose etc.

California late 70's - Places significant state restrictions on local ordinances.

# The Costa-Hawkins Rental Housing Act (AB1164 - 1995)

- Limits local jurisdictions on what can be covered under rent control
- Exempts - Single Family Homes, Condominiums, newly constructed homes
- Locks in units covered under existing ordinances - ex. San Jose before 1980
- Requires **“Vacancy De- Control”** - Rents return to market rate upon vacancy

Bi-partisan legislation - Governor Pete Wilson

# How rent stabilization works - Santa Clara County

## Different in different cities

San Jose (1979)

5% cap on annual increase  
San Jose Housing Department  
Anything else requires petition and hearing  
Appeal in courts

Mountain View (2016)

100% of Consumer Price Index (CPI/Inflation) - min 2% max 5%  
Rental Housing Committee  
Anything else requires petition and hearing  
Appeal in courts

Los Gatos (1980)

5% increase or more can be petitioned  
Mediated by Project Sentinel

# Ellis Act (1985)

## Restrictions on local rent stabilization ordinances

- **Must allow property owners to take rental properties out of the rental market**
- **Local jurisdictions can place conditions on the landlord's who take properties out of the rental market**
  - May require landlords to file a "notice of intent to withdraw," provide the city with information about the tenancy (names, dates, rents, etc)
  - May require the payment of relocation assistance
  - May require reconstruction properties to be rent stabilized, or a percentage of new units made "Affordable"
  - Tenants must be allowed to return with rights if the property returns to the rental market within 2-10 years

# Mobile Homes - Rent Stabilization (17,115 in Santa Clara Co.)

Different rent caps and process by city

- Begins in 1980s
- Different from Apartment Rent Stabilization
  - More Cities
  - Usually stricter rent caps - Tied to Inflation

<u>City</u>	<u>Allowed Annual Space Rent Increase</u>	<u>Maximum Increase (Cap)</u>
Campbell (MOU)	75% of CPI or 3% whichever is greater	No maximum
Gilroy	80% of CPI	5%
Los Gatos	100% of CPI or 3%, whichever is greater	5%
Mountain View	100% of CPI or 2%, whichever is greater	5%
Milpitas	50% of CPI	5%
Morgan Hill	75% of CPI	8%
San Jose	75% of CPI or 3%, whichever is greater	7%
Sunnyvale (MOU)	75% of CPI or 3% whichever is greater	No maximum

# The Tenant Protection Act of 2019 (AB 1482)

## Limits rent increases to 5% plus CPI or 10% whichever is lower (anti-gouging)

- Covers units older than 15 years and single family homes not owned by a corporation
- Does not apply to residents with less than 12 months of tenancy in unit
- If local law is stronger, tenant is protected by the local law

## Provides eviction protections - “Just Cause for eviction”

# Rent Registry

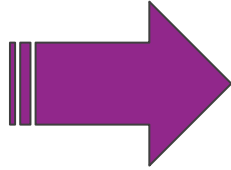
- Inventory of rental units
  - Provides data for decision makers
  - Tracks rent, increases, evictions and unit changeover
  - Complements other tenant protections
  - Requires enforcement mechanism
- 
- Traditionally tied to Rent Stabilization implementation
  - Highlights risks in rental markets
  - Local laws in some places
  - State laws introduced, but hasn't been moving

Recently considered as a stand alone tool in some jurisdictions



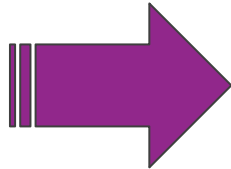
## Policy Solutions 2: Emergencies and Evictions

Uncertainty when you may lose your home



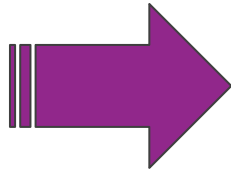
Just Cause for Eviction

Sudden economic change: job loss, emergency expenses



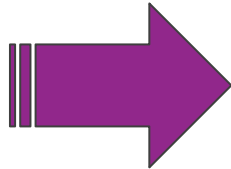
Rent Relief / Emergency Rental Assistance

Unsure of where to go for help



Eviction Help Center

Receiving an eviction



Eviction intervention (Mediation, Legal Assistance. Right to Legal Counsel)

# “Just Cause” and Fault / No Fault Eviction Protections

Uncertainty about when you will be evicted

Cannot be evicted for no reason - Cannot refuse to renew lease without cause

Limited reasons tenant can be evicted for cause

- *Default in payment of rent*
- *Nuisance*
- *Committing waste*
- *Criminal activity*
- *Violation of the lease terms*
- *Refusal to allow the landlord to enter the premises after health/safety notice*
- *Use of the premises for an unlawful purpose*

Restrictions on “No-Cause” evictions reasons tenant can be evicted for cause

- *Owner/Family move-in*
- *Government ordered vacating - uninhabitable “Red Tag”*
- *Demolition or Renovation*

# Rent Relief / Emergency Rental Assistance

- **Homeless Prevention System**
  - With Partner agencies (Emergency Assistance Network / EAN)
  - Recently paired with Eviction Diversion Program (currently only for San Jose)
- **Pandemic Impact**
  - American Rescue Plan Act (ARPA)
  - 2 Goals
    - Prevent eviction tsunami
    - Make landlords whole

# Eviction Support/Intervention

## Mediation

- Most Cities have
- Allows a space for tenants and landlords to resolve issues
- Usually through a vendor like Project Sentinel

## Legal Assistance / Legal Aid

## Right to legal counsel

## Eviction Diversion Court Program

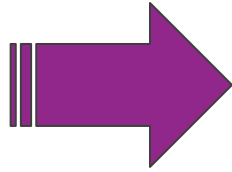
# Eviction / Housing Help Center

## Accessible place to coordinate housing resources

- Eviction intervention
- Rent relief
- Affordable housing
- Education on housing laws
- Serves both tenants and landlords

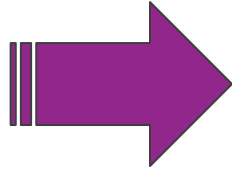
# Policy Solutions 3: Tenant Power and Livability

Harassment from Landlord



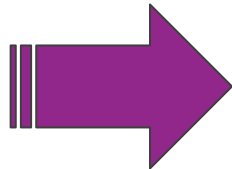
Anti-harassment Policy  
Tenant Unions / Right to Organize  
Legal Services

Loss of habitability



Code Enforcement / Proactive Rental  
Inspection

Changes in ownership



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

# Anti-Harassment Policy

Preventing illegal actions covered by State Law

- Shutting off utilities
- Threatening to call Immigration and Customs Enforcement
- Changing the locks
- Taking other actions meant to intimidate tenants into leaving

Actions made illegal and enforceable through local ordinance

- Failing to accept rent payments
- Failing to make timely repairs
- Entering the rental unit outside business hours unless requested to do so by the tenant

Right to sue landlord

Affirmative Defense against eviction

# Tenant Unions / Right to Organize

Building, neighborhood or city-based organizations made up of and led by renters themselves to fight for their collective interests and rights.

- Generally live in the same building or have the same landlord
- Organize for protections, buyouts, strikes
- Seek legal counsel as a group in times of emergency

Barriers - access to neighbors, landlord restricted access, legal recognition by authorities

Failed to pass state law (2020), San Francisco passed local measure (2022)

## Code Enforcement / Proactive Rental Inspection

- Preventing evictions when units are deemed uninhabitable (“red tag” )
- Ensuring regular habitability
- Keeping Naturally Occurring Affordable Housing (NOAH) in the housing stock

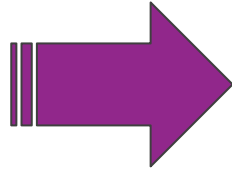


# Opportunity to Purchase (COPA / TOPA)

- Right to make a first offer on a residential property when it is up for sale
- Qualified nonprofit buyer
- Purchase at market price
- Permanent affordability
- Partnership between City, non-profit and/or tenants
- Set timeline
- Supported by designated funding

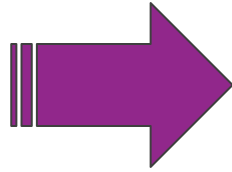
## Policy Solutions 4: When you are forced to leave

Demolition or Removal From Market



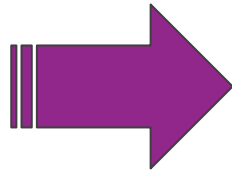
First Right to return  
1 for 1 replacement

High Moving Costs



Tenant Relocation Assistance

Difficulty with finding a new place



Landlord set aside units

# First Right of Return / 1-for-1 replacement

1. Building gets demolished / Unit removed from market
2. Redevelopment requirement for every affordable or protected unit to be replaced with an affordable unit or re-controlled.
3. Tenant is able to return to property in a new unit with similar rent and/or a rent affordable to them

Can be difficult to stay connected during redevelopment, and if rental units are replaced with ownership due to barriers to homeownership

# The Housing Crisis Act of 2019 (SB 330)

- Prevents downzoning unless upzone to allow an equivalent amount housing elsewhere within the jurisdiction
- Require timely processing of housing permits that follow zoning rules
- **Ensure the demolition of housing does not result in a net loss of units**
- Require resettlement benefits and first right of refusal in new units or compensation for rehousing for renters who may be displaced.
- **Expires in 2030**

# Tenant Relocation Assistance Ordinance - Local

Landlord provides payment or other assistance to tenant being evicted

Cash payment - 2-3 times rent, plus search assistance

Can add additional payments for specific hardships

- Families with school age children
- Elderly
- Disabled / Handicapped
- Terminally ill
- Low income

Helps with downpayment and moving costs - Ideally to stay in community  
Unfortunately sometimes moving out of the area

# Landlord Set Aside Units

New concept as a policy

Works mostly with larger landlords with vacancies in other properties

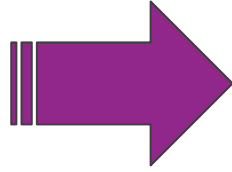
If available, landlord moves tenant from unit being removed from market to another one in the same or nearby property

Should be same cost and amenities

Currently being explored in Mountain View as part of the Displacement Response Strategy

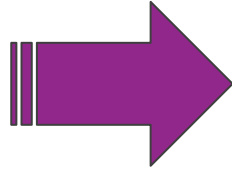
# Policy Solutions 5: Struggling to Stay in your Community

High Security Deposit



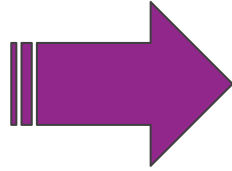
Security Deposit Limit

Inability to rent due to history of conviction or incarceration



Fair Chance ordinance / Ban the Box

Difficulty with finding an affordable unit



Tenant Preference set aside in affordable housing units

# Security Deposit Limit / Fair Chance Ordinance

## Removing barriers to renting a new unit

Limits how much a landlord can charge for a security deposit

- State law currently limits at 2.5 x monthly rent

Limits what a landlord can ask a prospective tenant on rental application  
(Ban the box)

- Cannot discriminate based on prior felony conviction or incarceration
- Cannot use as screener in initial application



# Tenant Preference in Affordable Housing Projects

## Local Neighborhood Preference

- Can be by specific neighborhood streets, radius, or district

## Displacement Risk Preference

- Based on areas most at risk for displacement

## Displaced Tenant Preference

- For tenants who were displaced from the area who want to come back

Analysis required to comply with fair housing laws

# What can we do now? Protections by City – see what’s missing

Jurisdiction	Mobile Home Rent Stabilization	Mediation Program	Tenant Relocation Assistance	Just Cause (AB 1482 Patch)	Anti-Rent Gouging (1482 Patch)	Rent Registry / Survey program	Rent Board	One Year Lease Requirement	Emergency Rental Assistance	Apartment Rent Stabilization	Right to Legal Counsel / Legal assistance	COPA / TOPA	Security Deposit Limit	Fair Chance Ordinance	Proactive Rental Inspection
Los Altos Hills (0)	Dark Grey	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Saratoga (0)	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Cupertino (1)	Green	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Los Altos (1)	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Monte Sereno (1)	Dark Grey	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Santa Clara (1.5)	Dark Grey	Green	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Red
Campbell (2)	Yellow	Green	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Morgan Hill (2)	Green	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
Gilroy (2.5)	Green	Green	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Red	Red	Red
Sunnyvale (2.5)	Orange	Green	Green	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red	Red	Red
Milpitas (3)	Green	Green	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red
Santa Clara County (3)	Dark Grey	Green	Red	Red	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red	Red
Los Gatos (4)	Green	Green	Red	Yellow	Green	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red
Palo Alto (6)	Dark Grey	Green	Green	Yellow	Yellow	Yellow	Red	Green	Red	Red	Yellow	Red	Yellow	Yellow	Red
San Jose (9.5)	Green	Green	Green	Green	Green	Red	Dark Grey	Green	Green	Green	Yellow	Red	Red	Red	Yellow
Mountain View (10)	Green	Green	Green	Green	Green	Green	Green	Dark Grey	Green	Green	Orange	Yellow	Red	Red	Red

# Opportunities to Advocate

- Increasing recognition of displacement (COVID 19, more visible)
- Always time to campaign on tenant protections
- Local jurisdictions required to Affirmatively Further Fair Housing (AFFH)
  - Includes policies to prevent displacement
  - Meet housing needs of BIPOC communities
- Push for policies to be placed in housing element
- Stay involved, stay connected - good policies, actually implemented



# Questions?

DEEP DIVE ON TENANT PROTECTIONS

sv@home



## Become a Member!

When you join SV@Home, we can leverage our resources, magnify our voices, and advance strategic, collaborative solutions to California's affordable housing crisis that meet our local and regional needs.

Help us transform Silicon Valley into the kind of place where all people have access to a safe, stable, and affordable home. Join us today!

# Protections for survivors of domestic violence

- AB 2413 (Chiu – 2018) – Protects victims of domestic violence from being evicted
- SB 1017 (Eggman - 2022) – Expands on AB2413 and removes loophole of eviction protections if abuser was also a tenant
- VAWA reauthorization 2022 (Federal)
- Expands scope of housing covered - now includes catchall provisions
- Section 603 – protect right to report and seek emergency assistance – landlord and impacted tenant