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Regina Celestin Williams
Executive Director

February 25, 2024

Mayor & City Council
City of San José
200 East Santa Clara Street, 18th Floor
San José, CA 95113
Sent via electronic mail

Re: 8.2, ANTI-DISPLACEMENT TENANT PREFERENCE AND NEIGHBORHOOD TENANT PREFERENCE FOR AFFORDABLE HOUSING DRAFT PROGRAMS STATUS REPORT

Dear Mayor Mahan, Vice Mayor Kamei, and City Council:

On behalf of our members, we write today in strong support of the tenant preference policy. This is an innovative policy. It creates direct connections between the city's investments in affordable housing production, sustained community stability, and targeted anti-displacement efforts in neighborhoods where displacement risks are the greatest. Because these targeted tools work by leveraging affordable housing production, this ordinance will only be effective if the city continues to invest in affordable housing development.

It has been a long road since the City of San Jose adopted the Citywide Residential Anti-displacement strategy in 2020, which included a tenant preference as a priority policy. This policy is the result of a tenacious and committed partnership between the Housing Department, the City Council, and community partners led by SOMOS Mayfair. There were concerns that a local preference policy could conflict with fair housing laws and SV@Home joined in support of a bill sponsored by the City and SOMOS Mayfair, and introduced by Senator Cortese (SB 649), which created a state policy to clarify how tenant preferences could work with federal and state funding sources. It successfully passed and was signed by the governor in 2022.

Shortly after that, SV@Home worked with the city to host Developer Roundtables with affordable housing developers to educate them on the policy and create a space where they could provide feedback. Members of the affordable housing development and property management community, expressed broad support for the intent of the ordinance and shared areas where they felt that successful implementation would be facilitated through detailed administrative guidelines. The input the department received through these events, and through further outreach conducted by the department directly with the developers and managers, included the following:

- The program must conform with fair housing law, and the developers would request inclusion of language indemnifying the developers from liability for fair housing litigation resulting from compliance with the neighborhood and tenant preference policy.
- Administrative guidelines for the policy should include details that acknowledge the potential administrative challenges of matching qualifying households with units of the appropriate size, providing appropriate procedures for allowing leasing to proceed as qualifying households are identified. The development partners and the city must share

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accountability for ensuring that the “Doorway” system is effectively marketed to reach qualifying households.

- Administrative guidelines should similarly include details addressing the potential for these administrative challenges during re-leasing of vacant units.
- The administrative guidelines should be assessed and evaluated at regular intervals to ensure that they may be adjusted if appropriate to ensure that the ordinance is functioning effectively.

It is not possible to fully indemnify affordable housing developers from litigation, but the department has taken extensive steps to establish a legal framework for this policy including sponsoring state legislation (SB 649), establishing and vetting a detailed disparate impact assessment protocol, entering into ongoing coordination with the California Department of Housing and Community Development to ensure compliance with state law, and detailed review by the city attorney. **While not delineated in the Tenant Preference Program Framework attached to this item, it is our understanding that the Department has acknowledged that effective implementation will require that administrative guidelines and an implementation manual outlining program operations and procedures for property management staff be developed to be responsive to the additional challenges raised through this stakeholder input.**

SV@Home appreciates the work and the thoughtfulness the city has shown to prepare for the integration of tenant preferences in the “Doorways” program. We recognize the city’s commitment to supporting effective and efficient integration of this preference ordinance for affordable housing development and management. We also understand that significant additional work is required to effectively implement this policy.

Finally, and perhaps most importantly, this policy’s effectiveness is dependent on community access to the “Doorway” portal and program. This can be achieved through affirmative marketing, community education, collaboration with established community based organizations, full integration into city tenant resource programming and materials, and effective coordination with affordable housing developers and managers. It must be recognized, however, that online technology can pose barriers to individual and community access. Without proactive and affirmative commitments to ensuring access and opportunity this program will fall short of its intent and potential. **We appreciate and support the efforts to support this effort in the memorandum submitted by councilmembers Ortiz, Torrez, Candelas, and Cohen.**

We remain committed to assisting the city in sustaining and strengthening their partnership with communities across the city and to supporting ongoing collaboration with affordable housing developers in implementing these preferences. We appreciate the broad support this policy has received and the ongoing commitment to invest in the affordable housing needed to make it effective in preventing displacement and reducing homelessness in San Jose.

Sincerely,



Regina Celestin Williams
Executive Director

