

San José Charter Review Commission
Recommendation Memo
Drafted April 19th, 2021; Revised July 2nd, 2021

1) Proposal Name

Proposal Name:	<i>Memo to City Council: The Community to Purchase Act (COPA)</i>
Submitted by:	<i>Commissioner Veronica Amador</i>
Date submitted:	<i>10/29/2021 Revised 11/12/2021 (Arguments Against)</i>

2) Proposal Details

<p>1) What problem(s) are you trying to address? <i>Before suggesting a solution, it is important to be clear about the problem you aim to solve.</i></p>	<p>This memo seeks to promote and improve accountability, representation, and inclusion under a racial equity lens within the housing department and anti-displacement efforts at the City of San José. By promoting and supporting the Community to Purchase Act (COPA). That promotes the prevention of tenant displacement and creation and preservation of community-owned affordable housing to build a more just and equitable city. Preservation strategies are needed in order PREVENT further displacement, segregation, a negative quality of life, and generational poverty. Preservation strategies often struggle for funding sources and commitment from cities which ultimately impacts BIPOC (Black, Indigenous, People of Color) and low income families. Preservation strategies are necessary to address long term affordability and to complement our housing production goals and no net loss ratios. Preservation strategies are key to ensure BIPOC families do not experience homelessness and a cycle of institutional violence. Protecting tenant rights, producing affordable housing and investment should be seen as a long term priority as part of our vision to cement our cities commitment to ending displacement and materializing housing as a human right.</p> <p>Per Council, the Charter Review Commission has been tasked with the following directives, specifically the following directives pertain to the Commission's work:</p> <p style="padding-left: 40px;"><i>"(5) Consider additional measures and potential charter amendments, as needed, that will improve accountability, representation and inclusion at San José City Hall."</i></p> <p>Additionally, this memo aligns with the City of San José's newly created Office of Racial Equity in advancing systems change through a citywide racial equity framework that will examine and improve San José's internal policies, programs, and practices to eradicate any structural and/or institutional racism in the City of San José.</p> <p style="padding-left: 40px;"><i>"This includes a focus on enabling the organization, at all levels and in all departments, to identify ways to improve outcomes for Black, Indigenous, LatinX, and People of Color."</i></p>
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In addition, this COPA memo aligns with the overall San Jose Anti-Displacement goals and strategies set for with community input, housing department direction, and City Council Board approval.

The 10 recommendations in this multi-year Strategy are designed to complement each other and are listed below. The recommendations are prioritized by timing, from near-term to medium-term.

1. Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners
2. Establish a Neighborhood Tenant Preference for Affordable Housing
- 3. Explore a Community Opportunity to Purchase Program/Ordinance (COPA)**
4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions
5. Create a Role for Local Government in State Tenant Protections
6. Increase Housing Quality and Prevent Code Enforcement-related Displacement
7. Create a Preservation Report and Policy
8. Develop YIGBY Land Use - Yes in God's Backyard
9. Optimize Urban Villages for Affordable Housing Development and Anti-Displacement
10. Establish New Sources of Funding for Affordable Housing and Anti-Displacement

Source:

<https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/citywide-anti-displacement-strategyt>

This memo also align with our Commissioner Agreement(s): We Value Diversity:

“We believe that bringing together a broad range of ideas, experience and backgrounds will result in the best outcomes for San Jose. We keep an open mind and seek to learn from others.”

We cannot longer wait nor be scared of Co-Op's or Community Land Trust because we have seen these policies make changes throughout the Country in cities like San Francisco and Washington D.C.. CO-OP and community ownership models have been discussed by city council as well to address the impact of displacement.

2) How has this problem possibly benefited or burdened people, especially BIPOC, low-income, undocumented and immigrant, those experiencing houselessness, etc.?

Is there data that speaks to the impact of this problem? What does the disaggregated data tell us?

We are seeing neighborhoods rapidly changing before our eyes over the last few years with increases in home sales and evictions of dozens of families. Many of our neighbors have been displaced; we are seeing the destabilization of our once culturally rich communities, culture and heritage erased from spaces, and our local family-owned businesses closed.

Several documents provide data to the urgent need to create preventative measures to staff displacement and its impact on communities of color:

<https://www.sanjoseca.gov/home/showdocument?id=50331>

According to a staff memorandum:

“A 2016 report from Urban Habitat found a significant regional out-migration of Black and Latinx households to outlying areas of the Bay Area or to neighboring counties like San Joaquin and Stanislaus.⁶ **Further, a 2018 study from the California Housing Partnership and the Urban Displacement Project found that rising housing costs have led to large increases in Black and Latinx households living in high poverty, segregated areas.**⁷ Between 2000 and 2015, the study found a 15% increase in the number of Black households and 100% increase in the number of Latinx households living in segregated and high poverty neighborhoods in the Bay Area.”

Furthermore locally in San Jose,

“According to UDP research, 43% of all census tracts in San José are either at-risk of or are experiencing ongoing displacement. While all City Council districts are experiencing some level of displacement, Council Districts 3 and 5 have the highest number of census tracts with either ongoing displacement or being at-risk of displacement. Latinx households are overrepresented in these areas. **In San José, 47% of all Latinx households and 45% of all Black households live in areas categorized as experiencing ongoing displacement or at-risk of displacement.**¹⁹”

As COPA attempts to address historical and current discrimination based on home ownership and opportunities to build wealth, the same memo highlights the racial impacts of home ownership:

“In San José, Black households have a homeownership rate of 33%. The homeownership rate for Latinxs is 41%. In comparison, White households have the highest homeownership rate in the City at 66%.

Furthermore, COPA attempts to address the racial impact of the 2008 foreclosure on BIPOC Communities. From 2007-2010 East San Jose was

	<p>named “Ground Zero” of the foreclosure crisis and nationwide black and latinx communities were 2 to 2.5 times more likely to experience foreclosure than their white peers.</p> <p>Wealth building is connected to asset ownership and BIPOC communities and value of assets owned is also impacted by racism.</p> <p>Housing displacement greatly impacts black and latinx residents as it relates to affordability, home stability and overcrowded homes as well which greatly impacted families during the covid pandemic and caused health harms.</p> <p>Unemployment and other economic barriers tied to housing leads to Overrepresentation of Balck and Latinx families in the homeless count.</p> <p>Source: https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=</p> <p>Displacement is happening now! The need to continue supporting and establishing a neighborhood tenant community own housing needs to be prioritized as a long term solution.</p>
<p>3) What change are you proposing? <i>Describe the revision to San José’s Charter that you are proposing. Include relevant Charter section numbers.</i></p>	<p>No changes to the charter but rather support policies that will prioritize establishing and continuing to support Community Opportunity to Purchase Program (COPA) and creating new sources of funding for affordable housing community ownership models and anti-displacement and the continuation of tenant protections.</p> <p>Following the example of San Francisco and Washington D.C.,</p>
<p>4) Is this change feasible? <i>Think through the revision you are proposing. Is it legally possible? Is it practical? If there are questions you cannot answer, list them here.</i></p>	<p>Yes! We have many different cities throughout the country, such as San Francisco and Washington D.C., have implemented COPA and TOPA in efforts to support anti-displacement and build ownership possibilities for tenants.</p> <p>https://allincities.org/toolkit/tenant-community-opportunity-to-purchase</p>

5) Who might benefit from or be burdened by this change?

Is there data that speaks to the potential impact of this change? What are the potential unintended consequences of this change?

BENEFIT: Communities that have historically been impacted by redlining, housing segregation and historical disinvestment in communities that majorly have affected Black, African American Descent, Indigenous, LatinX, and People of Color.

BURDEN: The burden of change weighs on EVERYONE, all participants, both those on the city staff and residents stepping into unfamiliar environments and roles to create sustainable and long lasting change for our City and Communities that improves social and racial equity, accountability, and inclusion.

6) What are the arguments against this proposal?

Summarize the arguments you expect or data you have found in opposition to this recommendation.



FREQUENTLY ASKED QUESTIONS - LANDLORDS:

- 1 Does COPA force me to sell my rental property before I want to sell it?**
No. COPA does not force an owner to sell before they are ready. When you choose to sell, COPA provides a process for existing tenants to remain in the property by purchasing it themselves or assigning their purchase rights to a qualified organization. If tenants/qualified organizations do not respond or waive their purchase rights, the owner can proceed to sell the property on the market.
- 2 Does COPA control the price owners can sell their property for?**
No. Owners receive fair market value for the sale of their property under COPA. The owner has the right to accept or reject the initial offer they receive from tenants or a qualified organization. If an owner rejects the initial offer and subsequently receives an offer from another buyer they want to accept, then tenants/qualified organization, have a certain amount of time to match the offer and purchase the property.
- 3 Will COPA prevent me from transferring my property to my family?**
No. COPA exempts transfers, even when money is offered, between immediate family members, including spouses, domestic partners, parent and child, siblings, grandparent and grandchild.
- 4 Can I market my rental property for sale before complying with COPA?**
No. COPA requires sellers of rental properties to give existing tenants and qualified organizations the exclusive opportunity to make an offer before marketing it to other buyers.
- 5 Who would I have to notify that I intend to sell my rental property and how long would they have to respond?**
You would notify existing tenants and a list of qualified organizations vetted by the City. You would also file copies of the notices with the City. Tenants and qualified organizations would have time to submit a statement of interest.
- 6 If I accept the offer from tenants or a qualified organization, what happens?**
You enter into contract. Your contract should include a financing contingency that complies with COPA timelines for securing financing, giving the tenants/qualified organization sufficient time to secure financing and close the deal.
- 7 If I reject the initial offer from tenants or a qualified organization, what happens?**
You're then free to solicit offers on the market. If you receive an offer you would like to accept, or make an offer that another buyer would like to accept, you would need to notify the tenants or qualified organization (whoever submitted the initial offer) and give them an opportunity to exercise their Right of First Refusal to match the offer.



FREQUENTLY ASKED QUESTIONS - TENANTS:

- 1 If my landlord decides to sell the property, what are my options?**
You can decide to make the first offer on the property, choose a qualified organization to assign your rights to, or wave your rights altogether by choosing not to respond.
- 2 What does the COPA process look like?**

 1. Landlord decides to sell their property.
 2. Landlord notifies tenants and qualified organizations of intent to sell.
 3. If tenants are interested in purchasing or assigning their rights to a qualified organization, a majority must submit a collective statement of interest to the owner.
 4. If tenants do not submit a statement of interest, qualified organizations may submit a statement of interest to the landlord and go through a similar process.
 5. If no qualified organizations submit a statement of interest, then the landlord can proceed to sell on the open market.
- 3 Is my only option to purchase the property?**
No. If you wish to stay in your home but do not wish to purchase or find that it is financially infeasible for you to purchase, you can choose to assign your COPA rights to a qualified organization who may be ready and willing to purchase. The City of San Jose will maintain a list of qualified organizations (nonprofit housing developers, community land trusts and cooperatives) that are committed to permanent affordability, partnering with tenants and keeping you in your home
- 4 If I choose to remain a renter and a Qualified Organization purchases the building, will I still have tenant protections?**
Yes. Tenants would continue to be able to live there, either as owners, or as tenants with tenant protections and the enforcement of tenant's rights, under existing local, state, and federal laws. The policy is designed to NOT lead to any internal displacement as a result of COPA sales. As a tenant, COPA ensures tenant protections post-purchase, including just cause eviction and rent control.



FREQUENTLY ASKED QUESTIONS - RACIAL EQUITY:

1

What are some of the racial equity policy goals of COPA?

The most important racial equity goal of COPA is to reduce displacement, which disproportionately impacts the Black and Latinx communities in San Jose. By opening up pathways to ownership for tenants, COPA also represents an opportunity to reduce barriers to homeownership. Historic barriers to homeownership, like redlining, have led to the racial wealth gap. And this wealth gap is clear in homeownership numbers broken down by ethnicity. COPA represents one part of a strategy to confront this racial wealth gap.

2

Given that many of San Jose's Black and Latinx residents have already been displaced, how can we ensure that this policy still benefits Black and Latinx people with ties to San Jose?

While COPA is initially going to benefit those who are already in a building to help them stay, there would be opportunities with vacancies in COPA buildings to rehouse people displaced in the past. COPA is about preventing displacement of current residents AND, through the creation of permanently affordable housing, creating a more accessible and less exclusionary San Jose in the long run.

3

What are the impacts of COPA on intergenerational wealth-building in communities of color?

COPA exempts transfers, even when money is offered, between immediate family members, including spouses, domestic partners, parent and child, siblings, grandparent and grandchild. COPA also does not interfere with transfers of property to one's heirs upon the death of the owner. This applies to properties bought by tenants as a result of the COPA program as well.

4

How will this impact property owners for whom their rental property is one of their only assets?

Property owners selling under COPA will still get Fair Market Value when selling their property.

5

Why should property owners of color, who have had to come up against systematic discrimination, have to comply with a process for how they sell their property?

The impacts on property owners from the COPA policy are minimal, property owners can still sell to family, and COPA does not interfere with estates. For those property owners who do participate, the COPA process adds time but does not control the sales price.

At the same time, the potential positive impacts for marginalized renters and for making San Jose a less exclusive place into the future are large. People of color benefit disproportionately when displacement is reduced and tenants have the opportunity to become homeowners.

7) Must this be a Charter revision?

Can this problem be addressed without changing the charter (e.g., Council action, cultural change)? If not, should this be a policy recommendation to be included in the Commission's report?

In the future this policy could be a charter amendment as the city continues to work and implement this policy to combat anti-displacement and promote the prevention of tenant displacement and creation and preservation of community-owned affordable housing is important to expand our City Charter to address our commitment to housing equity.

This recommendation should be in the commission report.

<p>8) Are there other examples of this change? <i>If you have found other examples of this change, please share them and any outcomes that have been observed.</i></p>	<p>Yes, cities like Washington D.C., and San Francisco have implemented these policies.</p> <p>Examples of TOPA policies that has been implement in Washington D.C., The District encourages tenants to exercise this right—it stabilizes city neighborhoods, combats urban displacement and helps tenants become homeowners. With DHCD’s assistance, the tenant groups are able to purchase the building and convert the units into cooperatives or condominiums. DHCD provides the following services:</p> <ol style="list-style-type: none"> 1. financial assistance such as seed money, earnest money deposits, and acquisition funding; 2. technical assistance; and 3. specialized organizational and development services, to include structuring the tenant association, preparing legal documents, and helping with loan applications¹
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3) Proposal Research & Citations

List below the results of any research conducted to inform this memo.

<p>List of citations <i>All data must be cited so that Commissioners who are not part of the Subcommittee in question may locate the source of information as needed.</i></p>	<p>https://ota.dc.gov/page/tenant-opportunity-purchase-act-topa</p> <p>https://sfmohcd.org/community-opportunity-purchase-act-copa</p> <p>https://dhcd.dc.gov/service/tenant-opportunity-purchase-assistance</p> <p>https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=</p> <p>https://allincities.org/toolkit/tenant-community-opportunity-to-purchase</p>
<p>Any speakers who presented to the subcommittee must be listed. <i>Include name, title,</i></p>	

¹ <https://dhcd.dc.gov/service/tenant-opportunity-purchase-assistance>

<p><i>affiliations, etc., along with a brief summary of the information presented by them.</i></p>	
<p>Relevant Links <i>Provide links or locations of the information in this research as much as possible, otherwise provide attachments.</i></p>	<p>https://ota.dc.gov/page/tenant-opportunity-purchase-act-topa</p> <p>https://sfmohcd.org/community-opportunity-purchase-act-copa</p> <p>https://dhcd.dc.gov/service/tenant-opportunity-purchase-assistance</p> <p>https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=</p>