

# Memorandum

**TO:** COMMUNITY AND  
ECONOMIC DEVELOPMENT  
COMMITTEE

**FROM:** Nanci Klein

**SUBJECT:** Commercial Anti-  
Displacement Strategy  
Status Report

**DATE:** January 13, 2025

Approved



Date:

1/17/25

## **RECOMMENDATION**

Accept a status report on the project plan and timeline for a commercial anti-displacement and mitigation strategy.

## **BACKGROUND**

This status report provides an update on the design of a commercial anti-displacement strategy for the City of San José, including the establishment of a policy framework with specific goals and actions. The strategy's purpose is to leverage, in part, the work undertaken by the City since 2019 to support small business retention.

The term 'commercial displacement' is used to explain the involuntary relocation of a business from its current/existing location. There are three different definitions that are commonly used to explain why the business has relocated or closed:

- Direct displacement: the redevelopment of a specific site;
- Indirect displacement: commercial rent increases not matched by an equivalent rise in business income with declining long-term profitability; and
- Long-term property/asset appreciation: rising demand and a scarcity of land/sites drive higher prices reflected in the rent within a neighborhood or destination.

Business displacement is not a new issue for cities in the United States. For the past 40 years, the pressure to build higher-density residential and commercial projects in an urban setting has created a net loss of low-density commercially zoned sites and property.

## History

On December 4, 2018, City Council adopted actions associated with the sale of City property to Google in Downtown West, including directions to return in the fall of 2019 with “strategies and financing tools to mitigate small business displacement.” Staff presented an initial [pilot program strategy](#)<sup>1</sup> and a work plan for Fiscal Year 2019-2020 at the City Council Study Session held on October 1, 2019. The pilot program and work plan focused on the Alum Rock-East Santa Clara Street transit corridor. Despite the impact of the COVID-19 pandemic, key outcomes achieved in the Alum Rock neighborhood included providing financial support to establish the new small business service in Quetzal Gardens led by the Latino Business Foundation in partnership with Excite Credit Union, sourcing new business technical assistance service providers such as Start Small Think Big, and kickstarting the revitalization of two business associations. Outreach and targeted communications by staff and partner organizations in the 95116 zip code generated over \$50M of federal and local pandemic aid in the form of loans and grants directly to business owners. The results of the pilot program were [reported](#)<sup>2</sup> at a Planning Commission Study Session on August 11, 2021.

In the summer of 2023, the first Eastside Economic Coordinator (Coordinator) was appointed in the Office of Economic Development and Cultural Affairs for a two-year period with a focus on business retention. This included support to neighborhood business associations, location and financing assistance to individual business owners, and building capacity of organizations that provide free business advice. In addition, the Coordinator promoted storefront grants and assisted community organizations, such as the School of Arts and Culture, to pursue major funding opportunities.

As the San José economy began to recover from the pandemic, staff engaged in the design and procurement of a broader range of projects to support small business retention, including city-wide efforts to mitigate small business displacement. Key highlights included:

- Establishing or revitalizing business associations in 12 neighborhoods, facilitating more effective engagement with commercial property owners, landlords, and tenants;
- Awarding nearly \$2 million in storefront grants to 230 small businesses largely in underserved neighborhoods of the City;
- Piloting new services, including the free legal service managed by Elevate Community, supporting small businesses and landlords to educate, negotiate, and resolve property issues and disputes;

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<sup>1</sup> <https://sanjose.legistar.com/View.ashx?M=F&ID=7741551&GUID=9352974D-33CB-47B0-B964-0C260E8A8D85>

<sup>2</sup> <https://www.sanjoseca.gov/home/showdocument?id=75917>

- Promoting more informed decision-making by business owners through expanded business advice programs with an emphasis on supporting business owners through multi-lingual support.
- Introducing San José's first female-focused entrepreneurship program, Motivando Empoderando Educando, in partnership with Prosperity Labs to encourage entrepreneurship and start-ups to locate in San José. Nearly 80 women successfully completed the program, and 14 businesses have opened; and
- Supporting the Five Wounds Urban Village plan review to consolidate four existing urban village plans with an updated design approach to reflect the future 28th Street/Little Portugal BART station located in the neighborhood. This included considering options to mitigate the impact of both resident and business displacement in the area.

These projects and the ongoing programmatic work focused on strengthening the small business ecosystem, building neighborhood resiliency, and promoting entrepreneurship informed the design of the commercial anti-displacement strategy.

### The Commercial Tenant Protection Act

Until very recently, California has had limited state regulation of the commercial property market. General market conditions and the availability of commercial property drive landlord and tenant behavior, especially when negotiating price and lease terms. In the fall of 2024, the Governor signed into law Senate Bill (SB) 1103, the Commercial Tenant Protection Act, which took effect on January 1, 2025. This bill provides commercial tenant protections for qualifying microenterprises with five full-time equivalent or fewer employees, restaurants with 10 or fewer employees, and nonprofits with 20 or fewer employees. This legislation defines key processes and requirements between the commercial landlord and eligible tenant, in effect creating a two-tier market of commercial tenants defined by headcount. A detailed briefing on SB 1103 was published by the [Office of Public Counsel](https://publiccounsel.org/wp-content/uploads/2024/11/SB-1103-Legal-Alert-2024.pdf).<sup>3</sup>

Key features of the legislation for qualifying commercial tenants include:

- Landlords must provide written commercial leases for qualified commercial tenants translated into the language in which they were negotiated;
- Landlords with month-to-month qualified commercial tenants must give at least 60 days notice prior to terminating a tenancy unless the qualified commercial tenant has occupied the property for less than one year;
- Standard documents are required for calculating and charging qualified commercial tenants fees and identified building costs; and
- The landlord's failure to comply with any of SB 1103's requirements is a defense in an eviction lawsuit.

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<sup>3</sup> <https://publiccounsel.org/wp-content/uploads/2024/11/SB-1103-Legal-Alert-2024.pdf>

All jurisdictions in California are now required to inform commercial landlords and tenants of the new legislation and consult on how the regulations will be applied, such as who verifies the headcount. For eligible commercial tenants, this provides a measure of protection and a process designed to mitigate commercial displacement, but it does not itself prevent displacement.

## **ANALYSIS**

An initial analysis was conducted to quantify the volume of small businesses in San José that qualify for the protections contained in Senate Bill (SB) 1103.

There are just under 58,000 small businesses with an active business license in the City of San José. This represents 97% of all active business licenses. A small business is defined as having a maximum of thirty-five full-time equivalent staff. The breakdown of small businesses by headcount is shown in **Table 1** below.

**Table 1: Small Businesses in San José by Headcount**

<b>Business by Headcount</b>	<b>Volume</b>
Business with a one-person headcount	36,845
Business with a two- to five-person headcount	15,538
Businesses with a six-35 headcount	5,328
Total	57,711

Small business owners who own the property where their business is located were excluded from this calculation as they are both the landlord and tenant and, hence, are not at risk for commercial displacement. This reduces the total number of small businesses from 57,711 to just over 38,000. Small businesses located on residentially zoned parcels of land total approximately 21,000, reducing the volume of small businesses on commercially zoned property to just over 17,000.

This remaining volume of small businesses was analyzed by headcount and location. This included identifying all industrial, retail/office, and special-zoned parcels of land. **Table 2** below shows how many small businesses are assumed to qualify as commercial tenants and who are excluded due to exceeding the headcount limits defined in SB 1103.

**Table 2: Small Businesses by Headcount and Zoned Parcels of Land**

Headcount	Industrial	Retail/Office	Special	Total
One-person	1,551	4,831	1,227	7,609
Two- to Five-person	1,773	4,346	669	6,788
Six - 35 person	1,085	1,901	310	3,296
Total	4,409	11,078	2,206	17,693

Combining the one-person and two- to five-person in the table above, it is estimated that 14,397 small businesses (81% of the total above) are commercial tenants covered by SB 1103, and 3,296 (19%) of commercial tenants have a headcount higher than the legislation allows for and are excluded. This data will be analyzed further and provide an early indication of the impact SB 1103 will have in regulation of the commercial property market in San José.

#### Small Business Advisory Committee

On December 5, 2024, the Small Business Advisory Committee received a staff presentation on commercial anti-displacement and SB 1103. Committee members provided the following feedback:

- Small business owners are generally not familiar with the City's detailed planning and permitting process and would like to have a person in City Hall who they can speak with and who, in turn, can advocate for their interests.
- Small business owners who must relocate need time to make good decisions either in finding a suitable alternative location and/or to raise capital to refinance their business.
- The availability of a commercial property broker, free business advice, and referrals to reputable financial institutions become critically important for the business's survival.
- In response to SB 1103, the availability of free or low-cost legal advice is very important to both the landlord and tenant. The recent launch of the free legal service for small businesses in San José is unique and timely.
- The City should consider the wider use of zoning to protect small business and commercial neighborhoods, particularly in low-income areas with small parcels of land (e.g., Calle Willow).
- The City should look at longer-term initiatives and partnerships to attract new businesses into vacant property and source investment in neighborhoods that have traditionally been underinvested.

The Small Business Advisory Committee welcomed staff's presentation and expressed interest in continuing to engage in the design of the commercial anti-displacement strategy.

### Commercial Anti-Displacement Strategy Development

As a result of the feedback received by the Small Business Advisory Committee, staff will examine the following topics in consideration of a proposed commercial anti-displacement strategy:

- An overview of the commercial property market in San José and the implications of SB 1103, how the City and partners can inform commercial landlords and business tenants, and an evaluation of the current free legal service for small business.
- How City-led economic development can mitigate commercial displacement through data analytics/metrics, advocating for business attraction and business retention, signposting to notify/publicize external services, and the use of critically important tools such as targeted incentives and business grants to catalyze investment, job generation, and wealth creation.
- How key partner organizations, including service providers and advocacy organizations (e.g., chambers of commerce and banks, including community development financial institutions), can potentially play a critical role in supporting small business relocation and survival and identifying new offers and processes to enable business owners to make timely decisions.
- Strengthen neighborhood commercial resiliency by continuing to support and build on the work to date in 12 neighborhoods to establish independent and financially self-sufficient business associations and address under-investment in low-income neighborhoods.
- Evaluating how economic development tools such as prosperity and innovation zones can effectively enhance business retention and the use of city-wide planning.
- Considering how business ecosystem building and services will adapt as major transit projects and residential production targets impact neighborhood economies and assess the commercial opportunities and risks facing small business owners.

The design of a commercial anti-displacement strategy will be undertaken over a 15-month period. This timeline provides for the appointment of a consultant, ensures effective business engagement, and allows for the opportunity to draft policy recommendations involving the Department of Transportation, the Housing Department, and the Department of Planning, Building, and Code Enforcement.

### **EVALUATION AND FOLLOW-UP**

Staff will provide updates on this work to the Small Business Advisory Committee at its quarterly meetings. As the strategy is developed, staff will bring recommended policy proposals to the City Council for consideration.

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## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

/s/

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and Cultural Affairs

For questions, please contact Victor Farlie, Assistant to the City Manager,  
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