



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: January 10, 2024

Approved

Date

1/11/24

**SUBJECT: CITYWIDE RESIDENTIAL ANTI-DISPLACEMENT STRATEGY
STATUS REPORT**

RECOMMENDATION

Accept staff's status report on the Citywide Residential Anti-Displacement Strategy, including information on housing preservation options and proposed priorities for preservation program development, consistent with the City Council direction provided on April 25, 2023.

BACKGROUND

On September 22, 2020, City Council approved the Citywide Residential Anti-Displacement Strategy¹ (Anti-Displacement Strategy). In its 2020 approval and an amendment on March 30, 2021, City Council directed staff to work on the top four priorities under the Anti-Displacement Strategy:

1. Support COVID-19 Recovery Eviction Relief and Mitigation Measures for Renters and Homeowners
2. Create a Neighborhood-Based Tenant Preference
3. Explore a Community Opportunity to Purchase Program
4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

City Council also directed staff to provide regular updates. Accordingly, Housing Department staff have provided 14 updates to City Council committees and the full City Council between spring 2021 and spring 2023, with the most recent update provided to the Community and

¹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4635014&GUID=843B7A57-FFCE-411F-81C5-49D3378215A5&Options=&Search=>

Economic Development (CED) [Committee on May 22, 2023](#).² On April 25, 2023, as part of its action to remove the Community Opportunity to Purchase Act (COPA) program from the Housing Department's work plan, pursuant to the CED Committee's recommendation, City Council gave the following direction:

- Direct staff to explore vehicles for acquiring, rehabilitating, and/or building rental property for the purpose of preventing displacement in impacted communities, such as Community Development Corporations (CDCs), Economic Development Corporations (EDCs), and other similar entities that can act as a vehicle for investing in preserving naturally occurring affordable housing in impacted communities or otherwise preventing displacement of said impacted communities.
 - Return to the CED Committee with a status update by the end of the 2023 calendar year.
- Direct Housing staff to study and develop a work plan centered around housing preservation and return to the CED Committee before the full City Council regarding opportunities to further housing preservation efforts.
- After the housing preservation work plan is created, Housing staff must annually return to City Council to discuss the progress and efficacy of all housing preservation strategies.

This status report provides an update on the Anti-Displacement Strategy, reviews the proposed Preservation Work Plan, and identifies the next steps.

ANALYSIS

Staff made significant progress on top priorities of the Anti-Displacement Strategy over the past eight months. Sections A-C of this memorandum include the following:

- Section A summarizes accomplishments. It also reviews remaining and additional priorities under the Anti-Displacement Strategy, and from recently updated City Council [direction](#).³ to explore vehicles for advancing anti-displacement and housing preservation objectives.
- Section B presents staff's proposed Preservation Work Plan as directed by City Council.
- Section C reviews next steps.

² <https://sanjose.legistar.com/LegislationDetail.aspx?ID=6193233&GUID=653EBAA5-91B9-480A-AC29-A0F2C642FA0A&Options=&Search=>

³ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=6166660&GUID=1EE46693-9035-4E02-BC01-2D083C69FB97&Options=&Search=>

A. Accomplishments from the Anti-Displacement Strategy

Recommendation 2: Create Tenant Preferences to Prevent Displacement

Definition: Tenant preferences prioritize applicants for a percentage of deed-restricted affordable apartments that would otherwise be available to the public for applicants who meet certain criteria. Those people would apply for the affordable apartments and would meet all other application requirements as usual, but because of their preference, would have a better chance of being accepted into the subject affordable housing property. In short, these preferences would make the most efficient use of local affordable apartments to house those who may be most vulnerable to displacement. Staff is developing two tenant preferences:

- 1) **Anti-Displacement Tenant Preference:** Sets aside a portion of affordable apartments in subject properties for low-income applicants who live in certain areas of San José with a high likelihood of displacement. The advantage of the **Anti-Displacement Tenant Preference** is that it increases the likelihood that low-income renters at the highest risk of displacement can access affordable homes and stay in the city, either in their current neighborhoods or wherever they choose. This preference increases housing choices and mobility for low-income renters.
- 2) **Neighborhood Tenant Preference:** Sets aside a portion of affordable apartments for low-income applicants who already live in the vicinity of those particular affordable homes. The advantage of the **Neighborhood Tenant Preference** is that it allows low-income renters to stay close to their local networks that provide vitally important support, including family and friends who may act as childcare providers, schools, doctors, etc. While these preferences can be popular with area residents and local leaders because they operate at a localized scale, they also increase the likelihood of keeping people with similar protected class characteristics in a given neighborhood, which can create issues under Fair Housing laws. Careful analysis is required.

Work Plan: In the last status report, staff noted that the City’s co-sponsorship of legislation to support preferences for residents at risk of displacement was successful, given the Governor’s signature of Senate Bill 649 (Cortese) on September 28, 2022. That law took effect on January 1, 2023. Therefore, future work plans will exclude the legislation subtask. The remaining work plan for this item consists of several components:

- **Program:** Designing the City’s program, working with stakeholders, and obtaining the City Council’s approval.
- **State Housing and Community Development (HCD) Approval:** Obtaining the State HCD’s approval as a lender of the City’s proposed tenant preferences. If HCD approves the City’s tenant preferences, it would allow the preferences to be used on state-funded developments.
- **Implementation:** Creating user guidance and tools, conducting outreach to users, and ensuring the programs are properly implemented.

- **Reapprovals:** Collecting improved data for required analysis and seeking annual program-level reapproval from HCD.

Accomplishments: Since the last status report, the Housing Department's FUSE fellow resigned from her position in October 2023. The Department's Policy and Planning Team reassigned an existing staff member to complete this important work.

Progress towards each of the work plan items listed above is as follows:

- **Program Design:** Staff continued to engage with key stakeholders to discuss and determine program design. Since summer 2023, staff sought input on program design at three community meetings with a total of 105 participants (some may have attended more than one meeting) and seven individual stakeholder meetings. In addition, staff sought input from affordable housing developers/owners and property managers at two roundtable meetings hosted by Silicon Valley at Home (SV@Home). Staff also presented to the Housing and Community Development Commission on September 14, 2023, where Commissioners made supportive comments on the proposed programs. Staff researched and made program design changes to reflect input from all of these meetings.
- **State Housing and Community Development (HCD) Approval:** Staff was focused on the draft analysis and program design refinement in the last reporting period. Staff plans to request HCD re-review after the City Council's approval of the program ordinance.
- **Implementation:** Staff continued to meet on a regular basis with Exygy, the consultant designing the online tenant portal for affordable housing (Doorway) in San José and regionally in the Bay Area. Exygy is creating a geocoding function that will enable the portal to automatically determine if applicants' residences are in the target census tracts that would make them eligible for one or both tenant preferences. Staff finalized Exygy's scope of work in October 2023 and anticipates the geocoding functionality will be fully tested and ready to operate by February 2024. Staff also created a webpage on the City's website⁴ that contains updates and materials on the proposed tenant preferences, additional background information, and recordings of public meetings.

Next Steps: In the next six months, staff plans to accomplish the following:

- Draft administrative guidelines and an implementation manual for property managers.
- Present draft programs to the CED Committee on February 26, 2024, and to City Council for action in mid-March 2024.
- Following City Council consideration, if approved:
 - Complete draft guidelines and hold public comment.
 - Submit program information to HCD for approval.

⁴ <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/housing-policy-plans-and-reports/tenant-preferences>

- Integrate tenant preference reporting procedures into the Housing Department's existing property compliance reviews.
- Identify forthcoming affordable housing transactions and start incorporating tenant preferences into those transactions' requirements.
- Begin the second phase of education and engagement with the community and affordable housing developers/owners and property managers.

Recommendation 4: Increase Equitable Representation of Historically Underrepresented Communities on City Commissions

Definition: Recommendation 4 of the Citywide Anti-Displacement Strategy involves an analysis of the membership composition of the Housing and Community Development Commission and the Neighborhoods Commission. The purpose of Recommendation 4 is to determine whether commission membership is representative of the full range of San José residents and to identify any barriers to participation. The near-term focus of this work is to create a designated lived experience with homelessness (Lived Experience) member seat on the Housing and Community Development Commission per City Council direction on January 12, 2021.

Work Plan: Staff's immediate work plan for equitable commissions focuses on:

- **Process and Program Development:** Researching and developing new guidelines and resources for onboarding the Lived Experience commissioner and alternate commissioner.
- **Compensation:** Establishing a stipend for the Lived Experience commissioner seat.
- **Implementation:** Recruiting and onboarding the Lived Experience commissioner and alternate commissioner and providing them with needed support.
- **Evaluation:** Assessing any further support needed for the Lived Experience commissioner and alternate commissioner based on their feedback.

Accomplishments: As reported in staff's May 2023 report, staff completed all work on **Process and Program Development** and **Compensation** related to the Housing and Community Development Commission's Lived Experience seat. Accomplishments last period on the remaining two subtasks are as follows:

- **Implementation:** Initial work was completed. Staff support, recruitment, and onboarding for Lived Experience commissioner and alternate commissioner will continue ongoing as needed.
- **Evaluation:** This work is near completion. The confidential evaluation of Lived Experience commissioners' needs and lessons learned started in late 2023 and is expected to be completed in February 2024. Staff will implement improvements as suggested through the confidential evaluation and will share any lessons learned with the City Manager's Office and City Clerk's Office to be incorporated into other boards and commissions.

With the conclusion of these two subtasks, recommendation 4 is complete.

B. Preservation Work Plan

Consistent with City Council direction, the following section provides an overview of staff's proposed Preservation Work Plan, contained in **Attachment A – Preservation Work Plan**.

As staff presented to City Council in the study session on Production, Preservation and Protection on September 7, 2023,⁵ housing preservation objectives typically fall into four categories:

1. Keep existing affordable housing in place
2. Ensure all housing is in good physical condition
3. Support acquisition/rehabilitation of existing market-rate housing to create more restricted affordable homes
 - a. Make acquisition/rehabilitation funding available
 - b. Attract and develop entities to do acquisition/rehabilitation projects
4. Establish and operate supportive programs and policies for preservation

In creating the Anti-Displacement Strategy, staff reviewed the programs San José already had in place and learned about preservation work in cities across the country. The analysis indicated that the City lacked programs in categories three and four listed above; thus, the Anti-Displacement Strategy included the creation of an acquisition/rehabilitation practice, strengthening preservation efforts on existing affordable and low-cost homes, and creation of supportive programs and policies for preservation strategies. See **Attachment B – Relation of Preservation Work Plan Items to Existing Plans**, for the list of ten Anti-Displacement Strategy recommendations focused on preservation.

In developing the 2023-2031 Housing Element, staff integrated the preservation items contained in the Anti-Displacement Strategy and built upon them, making the next steps more explicit. The Housing Element strategies also reflect current practices of the Housing Department. There are a total of 15 preservation strategies in the Housing Element, also found in **Attachment B**. Collectively, these strategies constitute the City's existing Preservation Work Plan.

Staff is satisfied that the existing preservation work items in the Housing Element create a balanced strategy that addresses all the areas of preservation objectives listed above. However, to complete the proposed Preservation Work Plan, staff recommends that two work items be added:

- 1) Analysis of different types of entities that could advance preservation properties, pursuant to City Council's April 24, 2023 direction (described in the Background section of this memorandum); and
- 2) Exploration of the City's use of receivership for buildings that constitute an unusually severe health and safety hazard, which is Anti-Displacement Strategy work item 6C (listed in **Attachment B**).

⁵ <https://sanjose.legistar.com/MeetingDetail.aspx?ID=1118643&GUID=0ABD1507-776A-4238-B310-57241E931E31&Options=info&Search=>

To integrate these two items into staff's workflow, they will be added to the Housing Catalyst Work Plan. The first item will be included as a near-term work item now. The second item would be added as a new medium-term work item in spring 2025:

1. **Entities for Preservation:** Explore vehicles such as Community Development Corporations, Economic Development Corporations, and other similar entities that can act as a vehicle for investing in preserving naturally occurring affordable housing in impacted communities or otherwise preventing displacement of said impacted communities.”
Timing: Report research to the City Council by December 2024.
2. **Exploration of Receivership:** Explore if receivership may be appropriate for properties that have become serious health and safety dangers to residents.”
Timing: Report research to the City Council by June 2026.

The resulting Preservation Work Plan in **Attachment A** includes these two additions and incorporates descriptions and milestones in the City's Housing Element.

Staff plans to provide annual updates on the Housing Catalyst Work Plan to the CED Committee and the full City Council. In 2024, these updates are scheduled for February and March, respectively.

C. Next Priority Work Items from the Anti-Displacement Strategy

Staff's previous update in May 2023 identified two new work items from the Anti-Displacement Strategy that staff recommended to undertake as next priorities. However, since that time, two things have become clearer:

- Virtually every recommendation in the Anti-Displacement Strategy has one or more directly corresponding work items in the City's Housing Element; and
- Housing Element timelines must ultimately determine the prioritization of staff work.

Therefore, staff intends to prioritize near-term special project work for anti-displacement in alignment with the Housing Catalyst Work Plan's identified timing. Staff also will amend the Housing Catalyst Work Plan to indicate work items derived from the Anti-Displacement Strategy.

January 10, 2024

Subject: Citywide Residential Anti-Displacement Strategy Status Report

Page 8

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the Department of Planning, Building and Code Enforcement.

/s/

ROSALYNN HUGHEY
Deputy City Manager and
Acting Housing Director

The principal authors of this memorandum are Kristen Clements, Division Manager, and Mindy Nguyen, Development Officer. For questions, please contact Kristen Clements at Kristen.clements@sanjoseca.gov or (408) 535-8236.

ATTACHMENTS

Attachment A – Preservation Work Plan

Attachment B – Relation of Preservation Work Plan Items to Existing Plans