

Attachment C – Disparate Impact Analysis Summary

This analysis was conducted using a model developed by Charles MacNulty from the City of San Francisco's Mayor's Office of Housing and Community Development. Mr. MacNulty's work is based on methods used in case law in employment and housing cases. It has been supported by the United States Housing and Urban Development Department and the California Housing and Community Development Department. There is no single analysis to show disparate impact, which is why this analysis uses two models:

- The **Four-Fifths test** uses the Equal Employment Opportunity Commission Method, the Langlois Method, and
- The Standard Deviation Analysis.

1) **Four-Fifths test:** This measures whether a selection rate for a minority race/ethnic group is less than four-fifths (80%) of the selection rate for the largest race/ethnic group. The courts generally regard a selection rate of less than four-fifths (or less than 80%) as evidence of adverse impact. The City's quantitative disparate impact model uses two versions of this test:

- a. **EEOC:** Used by the U.S. Equal Employment Opportunity Commission (EEOC), this method compares the selection rates of the minority group against each majority group.

For example, if the selection rate for Asian applicants divided by the selection rate for White applicants (the racial majority in San José) is less than 80%, then the preference would fail this test.

Note: In San José, there is no racial group that is a majority. However, the White population is considered the majority group, given the history of racism and systemic bias/privilege.

- b. **Langlois Variation:** This method compares the selection rates for minority applicants with the preference to the selection rate of the same group without the preference.

For example, if the selection rate for Asians with the residency preference is less than 80% of the selection rate for Asians without the preference, then the preference would fail the test.

2) **Standard Deviation Analysis:** The standard deviation analysis measures the probability of a nonbiased selection system by statistically evaluating the difference between occupancy with and without preference. A z-score (count of standard deviations from the mean) greater than two to three indicates a possible selection bias.

To simplify the math, an example of disparate impact would be if a city were to impose a 100% neighborhood preference for affordable housing, meaning that neighborhood residents were

given priority for all new affordable housing units in their neighborhood. If City Council District A is comprised of only 10% Asian Americans and 90% White residents, but the city as a whole is 50% Asian American residents and 50% White residents, this program would adversely impact Asian American residents relative to White residents, since we would expect that only 10% of the affordable housing units in that City Council District would go to Asian Americans even though Asian Americans are half of the city-wide population. In other words, staff must consider if the proposed Tenant Preference Program will distort what is normally expected given the underlying population.

The two methodologies apply San José's demographic data to the proposed preferences framework to determine disparate impact.

The following data was available to conduct these tests to ensure no adverse impact would occur toward protected classes due to the proposed Tenant Preference Program.

Protected Class	Data Source	Income Levels Analyzed	Geographic Areas Analyzed
Race	Comprehensive Housing Affordability Strategy (CHAS)	50% of the Area Median Income (AMI) or below, 80% of AMI or below	<p>High Displacement Areas: Census tracts experiencing definitive displacement and at risk of displacement in San José.</p> <p>Neighborhoods: Census tracts within a one-mile radius of a pinned address, within a two-mile radius of a pinned address, and within the same City Council District as the pinned address.</p>
Disability	American Community Survey (ACS)	All incomes, due to data breakdown by income unavailable and assuming most people with disabilities are lower-income	<p>High Displacement Areas: Census tracts experiencing definitive displacement and at risk of displacement in San José.</p> <p>Neighborhoods: Census tracts within a one-mile radius of a pinned address, within a two-mile radius of a pinned address, and within the same City Council District as the pinned address.</p>

Protected Class	Data Source	Income Levels Analyzed	Geographic Areas Analyzed
Seniors	CHAS	80% of AMI or below	<p>High Displacement Areas: Census tracts experiencing definitive displacement and at risk of displacement in San José.</p> <p>Neighborhoods: Census tracts within a one-mile radius of a pinned address, within a two-mile radius of a pinned address, and within the same City Council District as the pinned address.</p>
Gender	ACS	All incomes	<p>High Displacement Areas: Census tracts experiencing definitive displacement and at risk of displacement in San José.</p> <p>Neighborhoods: Census tracts within a one-mile radius of a pinned address, within a two-mile radius of a pinned address, and within the same City Council District as the pinned address.</p>
Veteran	ACS	All incomes	<p>High Displacement Areas: Census tracts experiencing definitive displacement and at-risk of displacement in San José.</p> <p>Neighborhoods: Census tracts within a one-mile radius of a pinned address, within a two-mile radius of a pinned address, and within the same City Council District as the pinned address.</p>
Family Size	CHAS	80% of AMI or below	<p>High Displacement Areas: Census tracts experiencing</p>

Protected Class	Data Source	Income Levels Analyzed	Geographic Areas Analyzed
			definitive displacement and at-risk of displacement in San José. Neighborhoods: Census tracts within a one-mile radius of a pinned address, within a two-mile radius of a pinned address, and within the same City Council District as the pinned address.

The table below shows the breakdown of households by protected class living in definitive and probable displacement areas:

Protected Classes	Households/People in Displacement Tracts	Total Population of Protected Class
Race – 80% AMI	58,012 households	156,323 households
Women Head of Household – all incomes	13,299 households	40,759 households
Veterans - all incomes	5,508 veterans	29,824 veterans
Seniors/Elderly 62+ - 80% AMI	19,467 households	64,716 households
Family Size (>4) – 80% AMI	10,603 households	21,439 households
Disability – all incomes	25,515 people with disabilities	115,395 people with disabilities

Please note that the analysis conducted uses the best data available. Data on some protected classes was unavailable. Please also note that the tenant preference for residents living in the same neighborhood analysis was done for race, considering racial diversity in affordable housing is the highest priority when determining adverse impact on communities.

The analyses indicate that applying preferences to 35% or less of the restricted affordable apartments and allocating 15% of apartments to apply to neighborhood residents at risk of displacement and 20% of the apartments to residents living in high-displacement areas across the City will not likely cause a disparate impact on protected class members.