



Office of the City Manager

## INFORMATION CALENDAR

February 23, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services  
Subject: Partnership for the Bay's Future and Current Anti-Displacement Initiatives

### INTRODUCTION

Displacement and housing insecurity (or risk of displacement) have negative impacts on individuals, families, and communities. Market-based pressures, locally and in the greater Bay Area region, continue to focus these impacts on Berkeley's low-income households and communities of color, particularly the city's African American population.

The City of Berkeley is at the forefront of local governments working to mitigate and prevent displacement. This report provides an overview of the anti-displacement policies and programs currently being implemented and developed for the Berkeley community.

### SUMMARY

Staff recognize residential displacement continues to negatively impact Berkeley despite the wide-breadth of local anti-displacement strategies in practice. The need for additional residential support is one of the community's primary concerns.

The City recently joined the multi-jurisdictional Partnership for the Bay's Future (PBF) to continue to incubate and implement new anti-displacement strategies. PBF brings together other jurisdictions, community-based organizations, and philanthropic partners to develop innovative anti-displacement strategies for the local community and the broader region.

PBF provides the City with a Fellow with experience in anti-displacement work and funds to support a community partner, the East Bay Community Law Center (EBCLC). The Fellow and EBCLC are working closely with HHCS staff to develop Council's top anti-displacement referrals: affordable housing preferences and a Tenant Opportunity to Purchase Act (TOPA). The Fellow and EBCLC are coordinating a variety of community engagement efforts to inform this work.

This new initiative is complimented by 21 anti-displacement policies and programs the City of Berkeley provides to support local community members. These strategies are

reflective of national best practices and local community advocacy over the past four decades. Analysis from UC Berkeley’s Urban Displacement Project demonstrates Berkeley is a leader across the region for anti-displacement strategies at the local level.

These policies are organized within the “Three P’s”: protection, preservation, and production. Anti-displacement advocates use this framework to organize an effective and balanced anti-displacement response.

### CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley offers 21 anti-displacement policies and programs. They demonstrate the City’s commitment to a well-balanced, people-oriented approach to anti-displacement strategies.

The Urban Displacement Project (UDP) is a research and action initiative of UC Berkeley dedicated to creating more equitable and inclusive cities. UDP analyzed all jurisdictions in the nine-county Bay Area to assess how communities are enacting anti-displacement policies and strategies<sup>1</sup>. Berkeley is implementing 12 of the 14 best practices identified by UDP for local governments.

These strategies were developed and implemented over the past four decades, often as the result of local community advocacy and city council initiatives. Staff are providing the UDP framework to detail Berkeley’s existing efforts. While Berkeley is still struggling with displacement, the City continues to demonstrate leadership across the region to address the issue within the capacity of local government.

These policies are organized below under the “Three P’s” framework: Protection, Preservation, and Production. The Three P’s are promoted by housing advocates as a balanced approach to preventing displacement by protecting current at-risk community members, preserving existing affordable housing, and producing new affordable housing.

<b><i>Protection – Existing Programs</i></b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<b>Eviction Moratorium</b>	The Berkeley City Council adopted the Berkeley Emergency Response Ordinance to protect residents from evictions if they are unable to pay rent due to COVID-19’s impacts.	

<sup>1</sup> <https://www.urbandisplacement.org/policy-tools/bay-area>

<b>Protection – Existing Programs</b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<b>Fair Chance to Housing for Formerly Incarcerated People</b>	Property owners are prohibited from using criminal background checks to screen tenant applications.	
<b>First Source Hiring</b>	First Source hiring ordinances ensure that City residents are given priority for new jobs created by municipal financing and development programs.	X
<b>Home Retention/Rental Assistance</b>	<ul style="list-style-type: none"> <li>○ The City provides financial assistance up to \$5,000 for low-income residents at risk of eviction to remain in their current living arrangement.</li> <li>○ Residents impacted by COVID-19 are eligible for up to an additional \$10,000.</li> </ul>	
<b>Just Cause for Eviction ordinance</b>	Nearly all 26,000 rental units in Berkeley have eviction protections for no-fault causes.	X
<b>Landlord/Tenant Mediation</b>	The Rent Board offers landlord/tenant mediation to settle disputes and facilitate positive long-term relationships.	X
<b>Rent Stabilization/Rent Control</b>	Over 19,000 units (approx. 70%) are subject to rent stabilization ceilings.	X
<b>Relocation Protections and Assistance</b>	Tenants who are mandated to vacate their unit temporarily or permanently at no-fault are provided protections (including a right to return) and relocation funding (provided by the landlord).	

<b>Protection – Existing Programs</b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<b>Rent Review Board</b>	The Rent Board provides education to tenants and landlords on tenant's rights related to Just Cause Evictions and Rent Stabilization.	X
<b>Source of Income Protection</b>	Property owners are prohibited from refusing to rent to an applicant based on their source of income (e.g. Section 8 and other Housing Choice Voucher programs, Social Security, disability, unemployment or veterans benefits).	

<b>Preservation – Existing Programs</b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<b>Community Land Trusts</b>	Northern California Community Land Trust (NCLT) and Bay Area Community Land Trust (BACLt) serve Berkeley and receive direct support from the City for the acquisition and rehabilitation of local properties as well as organizational capacity building.	X
<b>Condominium Conversion Regulations</b>	The Condo Conversion ordinance limits the conversion of rental units to condominiums to 100 per year and includes an Affordable Housing Mitigation Fee for each unit converted.  Fees generated from condo conversions provided \$3M in revenue for the Housing Trust Fund program since 2009.	X

<b>Preservation – Existing Programs</b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<b>Senior and Disabled Rehabilitation Loan Program</b>	The City offers deferred, no-interest loans to assist low-income senior and disabled homeowners in repairing/modifying their homes to eliminate conditions that pose a threat to their health and safety and to help preserve the City's housing inventory.	
<b>Single Room Occupancy (SRO) Preservation</b>	The Berkeley Housing Authority provides subsidies for 98 SROs.	X
<b>Small Sites Program (SSP) Pilot</b>	<ul style="list-style-type: none"> <li>○ The SSP Pilot supported the acquisition and renovation of small, multifamily rental properties with up to 25 units. The City received one application during the pilot and awarded \$1.6M to BACLT for the renovation of Stuart Street Apartments.</li> <li>○ There are currently no funds available in this program.</li> </ul>	
<b>Foreclosure/Mortgage Assistance</b>	The City participates on the Mortgage Credit Certificate (MCC) Program through Alameda County. MCC recipients may take up to 15% of their annual mortgage interest payments as a dollar for dollar tax credit against their federal income taxes. Qualified homebuyers can adjust their federal income tax withholdings, which will increase their income available to pay the monthly mortgage	X

<b>Production – Existing Programs</b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<b>Commercial Linkage Fee</b>	<ul style="list-style-type: none"> <li>○ This linkage fee on new commercial development generates revenue dependent on the type of development: Office \$5.00/sf, Retail \$5.00/sf, Industrial \$2.50/sf when greater than 7,500 sf.                             <ul style="list-style-type: none"> <li>▪ 20% of fees go towards childcare programs</li> </ul> </li> <li>○ The Commercial Linkage fee has generated over \$4.4M in revenue for the HTF program since 1992.</li> </ul>	X
<b>Housing Trust Fund (HTF) program</b>	<ul style="list-style-type: none"> <li>○ The City supports the development and rehabilitation of non-profit affordable housing properties via the HTF program. The HTF is supported by a combination of federal, state and local sources, including the Affordable Housing Mitigation fee.</li> <li>○ Voters adopted Measure O in 2018 to provide the City with \$135M in bond funding for affordable housing.</li> </ul>	X

<b>Production – Existing Programs</b>		
<b>Policy</b>	<b>Description</b>	<b>UDP Local Government Best Practice</b>
<p><b>Jobs-Housing Linkage fee (Affordable Housing Mitigation fee)</b></p>	<ul style="list-style-type: none"> <li>○ All new market-rate housing developments are subject to an Affordable Housing Mitigation fee (AHMF) of \$39,746 per unit for each market rate unit built with an option to provide Below Market Rate (BMR) units onsite in-lieu of the fee.                             <ul style="list-style-type: none"> <li>▪ The fee adjusts biennially to reflect the Construction Cost Index (CCI).</li> </ul> </li> <li>○ The AHMF generates the majority of the City’s local contribution to the HTF program, with over \$12.6M in revenue since 2015.</li> <li>○ The in-lieu BMR option has provided over 400 permanently affordable units onsite.</li> </ul>	<p style="text-align: center;">X</p>
<p><b>Public Land Survey</b></p>	<ul style="list-style-type: none"> <li>○ HHCS conducted a survey to identify opportunities for affordable housing development on City-owned property in 2017 and 2019.</li> <li>○ West Berkeley Service Center was identified by Council as an opportunity site for future affordable housing development.</li> <li>○ Vacant City properties were converted into shelters to house homeless individuals at high-risk of COVID-19.</li> </ul>	

In addition to these anti-displacement practices, Berkeley also addresses displacement through the City's homeless services.

<b>Homeless Services</b>	
<b>Homeless Shelters</b>	The City funds local service providers to offer 256 shelter beds across the community.
<b>Pathways STAIR Navigation Center</b>	<ul style="list-style-type: none"> <li>○ STAIR Navigation Center offers a 45-bed, 24/7, service-rich shelter to get people living on the streets sheltered and housed as soon as possible.</li> <li>○ Employs an outreach team to connect with residents in encampments and bring them into shelter.</li> <li>○ Provides services to transition unhoused people into permanent supportive housing.</li> </ul>
<b>Rapid Rehousing</b>	The City connects homeless households with housing navigators and provides financial assistance to transition people into housing and help them sustain their rent overtime.

The remaining two best practices not being implemented are mobile home rent control (the City does not have mobile home parks) and a local density bonus ordinance. Density bonuses allow developers of market-rate housing to build higher-density housing in exchange for dedicating a portion of their units as affordable housing. The State of California allows for density bonuses in new development, which the City accommodates via the BMR program.

Berkeley does not offer a City-wide local density bonus but provides a local bonus program for developers to exceed the height standards in the Commercial Downtown Mixed Use (D-DMU) district in exchange for a Community Benefits Agreement. This was established in the Downtown Area Plan (adopted in 2012). Up to five buildings may take advantage of this benefit; one is under construction (2129 Shattuck), two are entitled (2190 Shattuck & 2190 Shattuck), and two permits are still available. The proposed zoning in the draft Adeline Corridor Specific Plan also includes a tiered local density bonus that increases a project's density allowances contingent on the amount of on-site BMR units. Planning is currently working with Street Level Advisors to consider a city-wide policy.



**Partnership for the Bay’s Future Challenge Grant**

HHCS is participating in the Partnership for Bay’s Future (PBF) Challenge Grant<sup>2</sup> to develop two new anti-displacement policies: an affordable housing preference policy and a Tenant Opportunity to Purchase Act (TOPA) ordinance. Council designated these policies as the top two housing referrals to staff in 2019.

The PBF also provides the City the opportunity to connect with other jurisdictions and community-based organizations to innovate and share together. The grant includes a full-time fellow and a partnership with the East Bay Community Law Center to conduct community engagement, research, and policy development.

<b>Policies in Development</b>	
<p><b>Affordable Housing Preference Policy</b></p>	<p>A preference policy would provide households with ties to Berkeley a priority in applying for new affordable housing units based on specific criteria. Multiple preferences can be layered to create a preference ranking system (e.g., displaced from Berkeley, neighborhood proximity, families with small children).</p>
<p><b>Tenant Opportunity to Purchase Ordinance (TOPA)</b></p>	<ul style="list-style-type: none"> <li>○ TOPA provides tenants the right to purchase a rental property when the owner puts it on the market or accepts an offer from another potential buyer. The housing would be transitioned into permanently affordable housing or land trusts.</li> <li>○ Tenants may assign their rights to a qualified affordable housing provider or community land trust.</li> </ul>

Supporting anti-displacement initiatives is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members and to champion and demonstrate social and racial equity.

<sup>2</sup> <https://baysfuture.org/challenge-grant-fellowship/>

## BACKGROUND

Residential displacement is the process by which a household is forced to move from its residence or is prevented from moving into a neighborhood that was previously accessible to them because of conditions beyond their control<sup>3</sup>. Despite being at the forefront of local government action to stem the tide of displacement through a wide variety of policies and programs, it continues to be a problem in Berkeley.

Displacement is especially problematic for us as a city as we continue to lose low-income households and communities of color, in particular the African-American population.

Community concerns that city programs are not sufficient to stop displacement have been voiced by many. City staff applied to participate in the Partnership for the Bay's Future to enhance our anti-displacement work by developing and recommending innovative ways to fight displacement at the local and regional level. The PBF brings together jurisdictions, community-based organizations, and philanthropic partners to develop and implement innovative anti-displacement strategies across the region. This effort is consistent with the City's efforts to be a leader in innovative anti-displacement initiatives.

The PBF and its outcomes are building off the City's commitment to work directly with the community to better understand their needs and how the City can assist. Most recently, the Adeline Corridor Specific Plan development process brought together local community-based organizations and residents for over four years to directly address displacement concerns. The draft plan includes a number of policies and actions that reflect and respond to community concerns about displacement, and will inform future City strategies.

## ENVIRONMENTAL SUSTAINABILITY

Displacement can lead to increased greenhouse gas (GHG) emissions as people must commute from farther away to access their jobs, schools, spiritual and social networks. Infill affordable housing development is generally considered to be a best practice for reducing GHG emissions.

## POSSIBLE FUTURE ACTION

Staff anticipate presenting the two PBF anti-displacement measures to Council in 2021. Preference policies will be responsive to new affordable housing production, while TOPA will serve as a preservation strategy for existing low-income tenants.

The City Council has an outstanding referral to the Housing Advisory Commission (HAC) to explore additional anti-displacement strategies and hear from the local

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<sup>3</sup> <https://www.urbandisplacement.org/resources#section-56>

community's lived experiences. The HAC anticipates taking up the referral when the normal commission schedules resume.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The fiscal impacts of a local preference policy and TOPA will ultimately be decided by the scope of each ordinance. Implementing each ordinance may require additional staff capacity.

Providing supplemental funds to existing programs will depend on availability of funds and Council direction. Substantial increases to funding and programs may also require additional staff capacity to meet increased demand.

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