



Housing Advisory Commission

HOUSING ADVISORY COMMISSION AGENDA

The agenda for the November 9 special meeting was revised to include an updated Zoom link.

Special Meeting Wednesday, November 9, 2022 7:00 pm	Mike Uberti, Secretary HAC@cityofberkeley.info
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PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Housing Advisory Commission will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device use: <https://us06web.zoom.us/j/83193902394>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial US: 1-669-900-6833 and Enter Meeting 831 9390 2394. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Housing Advisory Commission by 5:00 p.m. the day before the meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

All agenda items are for discussion and possible action.

Public comment policy: Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

1. **Roll Call**
2. **Agenda Approval**
3. **Public Comment**
4. **Approval of the October 6, 2022 Regular Meeting Minutes** (Attachment 1)
5. **Approval of 2023 HAC Meeting Calendar**
6. **Update on Council Items (Future Dates Subject to Change)**
 - a. Land Acknowledgment Resolution (10/11)
 - b. Harriet Tubman Terrace Tenant Support (11/3)

- c. Re-enactment of the Berkeley Housing Code (11/3)

7. Announcements/Information Items

8. Future Items

9. Adjourn

Attachments

1. Draft October 6, 2022 Regular Meeting Minutes
2. Proposed 2023 HAC Meeting Calendar
3. Land Acknowledgement Memo and Documents
4. HAC Letter to Council re: Re-enactment of the Berkeley Housing Code; Repealing Chapter 12.48 and Repealing and Re-enacting Chapter 19.40

Correspondence

5. Theo Ferguson, Shared Housing Ownership

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the commission. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary for further information.

Written communications addressed to the Housing Advisory Commission and submitted to the Commission Secretary will be distributed to the Commission prior to the meeting. This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.

COMMUNICATION ACCESS INFORMATION:



To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Time: 7:04 pm
Held via Video and
Teleconference

Secretary – Mike Uberti
HAC@cityofberkeley.info

DRAFT MINUTES

1. Roll Call

Present: Janis Ching (alternate for Nico Calavita), Xavier Johnson, Libby Lee-Egan, Mari Mendonca, Alexandria Rodriguez (left at 8:15pm), Ainsley Sanidad, and Leah Simon-Weisberg (arrived 7:08pm).

Absent: Nico Calavita (excused), Sara Fain (unexcused), Debbie Potter (excused),
Commissioners in attendance: 7 of 8

Staff Present: Anna Cash, Jenny McNulty, and Mike Uberti.

Members of the public in attendance: 2

Public Speakers: 2

2. Agenda Approval

Action: M/S/C (Mendonca/Rodriguez) to approve the agenda.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Rodriguez, and Sanidad. Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Potter (excused), Simon-Weisberg (unexcused).

3. Public Comment

There was one speaker during public comment.

4. Approval of the September 1, 2022 Regular Meeting Minutes

Action: M/S/C (Simon-Weisberg/Johnson) to accept the September 1, 2022 Regular Meeting Minutes.

Vote: Ayes: Johnson, Lee-Egan, Mendonca, Rodriguez, Sanidad, and Simon-Weisberg. Noes: None. Abstain: Ching. Absent: Calavita (excused), Fain (unexcused), Potter (excused).

5. Discussion and Possible Action to Recommend Amendments to the City of Berkeley Housing Code

Public Comment: 1 speaker

Action: M/S/C (Simon-Weisberg/Johnson) to recommend City Council adopt the staff recommendation for the reenactment of the Berkeley Housing Code with the inclusion of a tenant habitability plan.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg.
Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

6. Discussion and Possible Action to Adopt a Tenant Habitability Plan Ordinance

Public Comment: 1 speaker

Action: M/S/C (Simon-Weisberg/Ching) to draft a letter to the City Council recommending the adoption of a Tenant Habitability Plan ordinance expeditiously.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg.
Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

7. Discussion and Possible Action on Preferences for Affordable Housing

Action: M/S/C (Simon-Weisberg/Mendonca) to recommend City Council adopt a policy to establish the following preferences for new affordable housing created via the City's Housing Trust Fund and Below Market Rate programs:

- Displacement due to eminent domain for North Berkeley and Ashby BART construction
- Displaced in Berkeley due to foreclosure since 2005
- Families with children
- Homeless or at risk of homelessness
- Ties to redlined areas
- Ties to redlined areas – historical
- Displaced in Berkeley due to eviction within the past seven years;

- The preferences will be structured to provide applicants that qualify for the “Displacement due to eminent domain for North Berkeley and Ashby BART construction” a first priority and all remaining preferences will be equally weighted; and
- Share the research that informed these recommendations with the City's reparations consultant.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg.
Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

8. Discussion and Possible Action to Fund a Study to Document the City of Berkeley's History of Discriminatory Actions

Public Comment: 1 speaker

Action: M/S/C (Simon-Weisberg/Johnson) to recommend City Council fund a study to document the City of Berkeley's history of discriminatory actions as well as its actions to regulate or fail to regulate discrimination in the housing market. This work should be sourced to local community organizations advancing racial justice initiatives in the community.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg.
Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

9. Discussion and Possible Action to Adopt an Ordinance to Remove Credit Checks and Eviction History from Applications for Housing

Public Comment: 1 speaker

Action: M/S/C (Simon-Weisberg/Mendonca) to recommend City Council adopt an ordinance to remove credit checks and eviction history from applications for housing.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg.
Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

10. Update on Council Items (Future Dates Subject to Change)

- a. Harriet Tubman Terrace Tenant Support (10/11/22)

11. Announcements/Information Items

- a. 1685 Solano Ave. Small Sites Program (SSP) Grand Opening

12. Future Items

13. Adjourn

Action: M/S/C (Simon-Weisberg/Mendonca) to adjourn the meeting at 9:12 pm.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg.

Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

Approved:

_____, Mike Uberti, Secretary

2023 Commission Meeting Dates

Name of Commission: Housing Advisory Commission

Commission Secretary: Mike Uberti

2023 Meeting Dates

Month	Meeting Day and Date	Time
January 2023	Thursday, 01/05/23	7:00 pm
February 2023	Thursday, 02/02/23	7:00 pm
March 2023	Thursday, 03/02/23	7:00 pm
April 2023	Thursday, 04/06/23	7:00 pm
May 2023	Thursday, 05/04/23	7:00 pm
June 2023	Thursday, 06/01/23	7:00 pm

Month	Meeting Day and Date	Time
July 2023	Wednesday, 07/06/23	7:00 pm
August 2023	No Meeting	
September 2023	Thursday, 09/07/23	7:00 pm
October 2023	Thursday, 10/05/23	7:00 pm
November 2023	Thursday, 11/02/23	7:00 pm
December 2023	No Meeting	



City Clerk Department

October 21, 2022

To: Berkeley Unified School District
Berkeley Rent Stabilization Board
Board of Library Trustees
Berkeley Housing Authority
All Berkeley Boards & Commissions

From: Mark Numainville, City Clerk

Subject: Land Acknowledgement Recognizing Berkeley as the Ancestral, Unceded Home of the Ohlone People

On October 11, 2022, the Berkeley City Council unanimously adopted the Land Acknowledgement Statement Resolution. The Statement acknowledges that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people, brings attention to their centuries of resistance to colonial violence, and reminds our City and community of the need to take concrete restorative actions.

The full recommendation of the City Council is as follows:

1. Adopt the Land Acknowledgement Statement Resolution recognizing that Berkeley is the ancestral, unceded home of the Ohlone people.
2. Display the Land Acknowledgement in writing at all in-person or online Regular meetings of the City Council and read the Acknowledgement at the first Regular meeting of each month in which Regular City Council meetings are held.
3. Recommend to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in meeting practices and direct the City Manager to convey a copy of this Item and Resolution to all such entities for reference.
4. Direct the City Manager to post the Land Acknowledgement or a prominent link to the Acknowledgement on the home page of the City's website and to create a webpage dedicated to Ohlone history and culture.
5. Now and in the future, consider additional more substantive reparative and restorative actions, including but not limited to those described under the heading "Actions/Alternatives Considered."

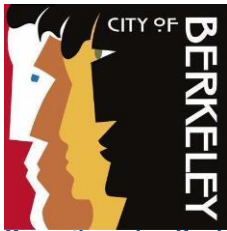
Land Acknowledgement Resolution

This memo transmits the agenda item and resolution to you as directed by the City Council in recommendation number three. Recommendation number three also states that the City Council recommends to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in their meeting practices.

Thank you for your review and consideration of this important item.

cc: Mayor and City Council
Dee Williams-Ridley, City Manager

Enc.



Councilmember Sophie Hahn
City of Berkeley, District 5

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council
From: Councilmember Hahn (Author)
Mayor Jesse Arreguín (Co-Sponsor)
Councilmember Taplin (Co-Sponsor)
Councilmember Robinson (Co-Sponsor)
Subject: Land Acknowledgement Recognizing Berkeley as the Ancestral,
Unceded Home of the Ohlone people.

RECOMMENDATION

1. Adopt the Land Acknowledgement Statement Resolution recognizing that Berkeley is the ancestral, unceded home of the Ohlone people.
2. Display the Land Acknowledgement in writing at all in-person or online Regular meetings of the City Council and read the Acknowledgement at the first Regular meeting of each month in which Regular City Council meetings are held.
3. Recommend to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in meeting practices and direct the City Manager to convey a copy of this Item and Resolution to all such entities for reference.
4. Direct the City Manager to post the Land Acknowledgement or a prominent link to the Acknowledgement on the home page of the City's website and to create a webpage dedicated to Ohlone history and culture.
5. Now and in the future, consider additional more substantive reparative and restorative actions, including but not limited to those described under the heading "Actions/Alternatives Considered."

SUMMARY

Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions.

The settlers of California, primarily Europeans seeking religious converts, agricultural land and economic opportunity during the gold rush, committed one of the most egregious genocides in history. Settlers murdered 80 percent of Indigenous people in the state from

1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation.¹

Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities. Today, land acknowledgments are used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live.² To begin public meetings, dozens of localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements. Many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA), read these acknowledgements as well. The practice has been common for nearly a decade in Canada, New Zealand, and Australia.³

Locally, many public and public-facing private institutions have also adopted land acknowledgement statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board.

However impactful these statements may be, it's important to consider that land acknowledgements have been criticized as appropriating the Indigenous practice of acknowledging the ancestral roots of land without taking concrete action against ongoing oppression.⁴ According to University of Oklahoma Professor of Native American Cultural Studies Dustin Tahmahkera, "To acknowledge Indigenous homelands and to return those lands are related, but the former alone allows for rhetoric without further action."⁵

Dr. Duke Redbird, an Elder of the Saugeen First Nation in Ontario recently noted that Canada has invited non-Indigenous territories such as Prince Edward Island into the government's confederation, giving them lawmaker representation in parliament, while excluding millions of Indigenous people from the same opportunity:⁶

¹ Madley, B. (2016). *An American Genocide. The United States and the California Indian Catastrophe*. Yale University Press. Print. p. 10, 12. Note: approximately, one in ten of these 125,000 deaths were the result of direct violence, often perpetuated by volunteer militias. Others resulted indirectly through displacement and disease.

² Smithsonian National Museum of the American Indian, *Honoring Original Indigenous Inhabitants: Land Acknowledgment*. [Web](#).

³ Dewey, C. (2021). *Growing Number of Cities Weigh Tribal 'Land Acknowledgements.'* Pew Research Trust. [Web](#).

⁴ Kaur, H. (2021). *Land acknowledgments are often an empty gesture, some Indigenous people say.* CNN. [Web](#).

⁵ Wood, G. (2021). *'Land Acknowledgments' Are Just Moral Exhibitionism.* The Atlantic. [Web](#).

⁶ Museum of Toronto (2020). *Ask an Elder: What do Land Acknowledgements represent?* [Web](#).

To get up in government and give a land acknowledgement without even inviting us into confederation, we were left out. What is the land acknowledgement supposed to represent? Give us a feeling that we should be grateful? Grateful for what?

Naomi Bob, an Indigenous Youth Wellness Project Coordinator with the Snaw'naw'as and Nanoose First Nation, shared his perspective:⁷

I'm seeing land acknowledgements done in a way that is tokenizing and minimizes responsibility and our history... It's really easy to list off your host nations you found off of a google search but I want to hear how you as an individual have ended up on their land and I want to hear about the work you're doing to reconcile responsibilities you have inherited . . .

One of the leading advocacy groups for land acknowledgement, the Native Governance Center, acknowledges this issue of “optical allyship,” asking that local governments and community groups craft land acknowledgements that go beyond a mere statement, by providing research on the history of Indigenous peoples and offering concrete actions to support them. The organization’s Guide to Indigenous Land Acknowledgement states “every moment spent agonizing over land acknowledgement wording is time that could be used to actually support indigenous people... an apology or an acknowledgement is one thing, but what are you going to do next?”⁸

At an April 2022 Berkeley Rent Stabilization Board meeting Lisjan Ohlone Chairperson Corrina Gould spoke in support of their land acknowledgment and emphasized that we must acknowledge not only the past but also the future. She stressed that land acknowledgements are “a way to create goals together so there is an ongoing partnership taking care of the lands, and waters, and places that we live.”⁹ The City of Berkeley should honor this intention and use this resolution and the Land Acknowledgement practice as a first step to bring attention to these histories and as a foundation for further concrete actions.

This item asks for the Land Acknowledgement to be formally adopted, displayed, and spoken by the City Council at the start of proceedings, and asks other appointed and elected governmental bodies in Berkeley to consider adopting similar Land

⁷ CFSC Video (2020). Why are land acknowledgments important? Naomi Bob - Indigenous Voices on Reconciliation. [Web](#).

⁸ Native Governance Center (2019), quoting Dr. Kate Beane of the Falandreau Santee Dakota and Muskogee Creek as well as Robert Larson of the Sioux Indian Community. A Guide to Indigenous Land Acknowledgement. [Web](#).

⁹ City of Berkeley (2022). Berkeley Rent Board Adopts Land Acknowledgement Statement. [Web](#).

Acknowledgement practices. More importantly, *it is intended to serve as a starting point for further restorative and reparative work our City and community must engage in*, not as an end in and of itself.

BACKGROUND

The United States, the State of California, and the City of Berkeley came into being through the deliberate and sustained genocide of Indigenous people, and modern forms of this colonial violence continue to this day both here in Berkeley and across the country and globe. This history is often obscured or erased. Schools for decades have failed to teach the truth about this legacy, replacing hard and ugly facts with a variety of convenient myths and misrepresentations. Surviving Native Americans endured forced reeducation at boarding schools that suppressed oral history transmission, and fear of violence and murder drove many to hide their Indigenous ancestry, further eroding culture and memory.¹⁰ But Lisjan Ohlone and other Native American people found ways to survive this murderous and cultural genocide, and many are with us today.

To contextualize this painful history, honor the Indigenous people who have survived and resisted this violence, and chart a new path forward for our community, this item briefly recounts elements of this history to understand the present.

The Ohlone are a group of around 50 separate tribes, who for 10,000 years lived on ancestral lands that spanned the coast of what is now known as San Francisco through Monterey Bay to the lower Salinas Valley.¹¹ There were eight different nations in the Bay Area alone, including the Lisjan; many came to adopt the term Ohlone in solidarity with other nations to push back against the Spanish colonizers' blanket name of "Costanoan."¹²

The territory xučyun (Huchiun), extending from what is now known as the Berkeley Hills to the Bay Shore from West Oakland to El Cerrito, is the home territory of the Chochenyo speaking Ohlone people. The cities of Alameda, Berkeley, Emeryville, El Cerrito, and most of Oakland were created on this ancestral territory. Nearly 310,000 Indigenous people across the region lived in what is now called California, speaking as many as 100 languages.¹³

Spain began colonizing these lands in 1769, establishing military forts and religious "mission" outposts across the region, including Mission San Jose in Fremont and

¹⁰ Madley, B. (2016). Ibid. p. 10.

¹¹ UC Berkeley, n.d. Berkeley sits in the territory of xučyun. [Web](#).

¹² Gould, Corrina. (2021). Berkeley's Ohlone History. Peralta Community Garden. [Web](#).

¹³ Madley, B. (2016). Ibid. p. 23.

Mission Dolores in San Francisco, that enslaved the ancestors of some modern-day Berkeley and East Bay Ohlone people.¹⁴ ¹⁵Spain used slavery, rape, and torture of Indigenous people to secure silver mines to compete against colonial powers like Russia and Britain and “spiritually conquer” the region in the name of Catholicism.¹⁶ In this period, Spain claimed ownership of the land and granted use rights to some ranchers and farmers.¹⁷

In 1818, the Spanish soldier Luis Peralta petitioned the Spanish authorities to be granted 48,000 acres extending from modern day San Leandro Creek to El Cerrito. This area, encapsulating modern day Berkeley, was known as “Rancho San Antonio.” Two of Peralta’s four sons, Domingo and Vicente (for which streets are named today), administered the territory for nearly two decades, through the transfer of the region to Mexico from Spain. Ranching appropriated and destroyed native landscapes and diverted streams for irrigation at great cost to native peoples, some of whom found ways to survive amid ongoing Spanish oppression.¹⁸

Following Mexican independence in 1821, the new Mexican government granted private land rights to individual “ranchos” through the Missions: these land grant settlers began occupying prime agricultural lands across the state, but remained less than 20 percent of California’s population – the remainder being Native American.¹⁹ The Peralta family soon had company in the form of other landed “aristocratic” families, which replaced the missionary friars as the most powerful people across the region.²⁰

Amid the 1850’s Gold Rush, U.S. soldiers victorious over Mexico and other squatters began to make legal claims to the Peralta lands. Federal judges of the California Land Commission in 1851, not well prepared for their tasks, attempted to resolve these numerous land disputes, but the Peraltas were overwhelmed by lawyers’ bills and property taxes, eventually selling off much of their lands to pay their debts.²¹ Meanwhile the violent occupation of settlers as well as the spread of European diseases like smallpox reduced the Indigenous population to only 150,000 people by the time the United States had taken legal control of what is now California in 1846, during the Mexican-American war.²²

¹⁴ Novan, K. (2021). California Agriculture: Dimensions and Issues, 2nd Edition: Chapter 3, California’s Evolving Landscape. University of California: Giannini Foundation of Agricultural Economics. [Web](#). p. 59.

¹⁵ Gould, Corrina. (2021). Ibid.

¹⁶ Novan, K. (2021). Ibid. p. 59.

¹⁷ Madley, B. (2016). Ibid. p. 27 - 38.

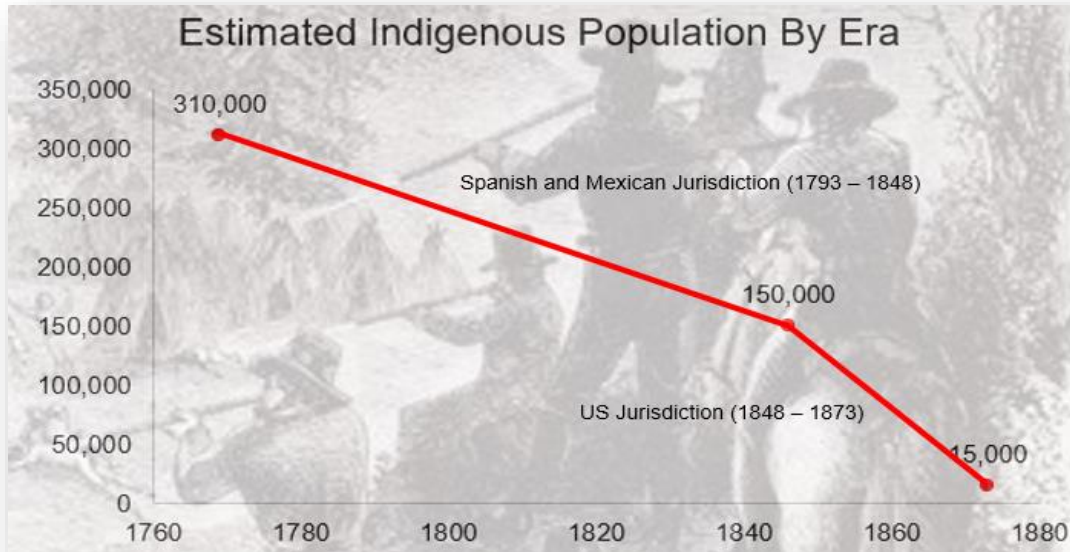
¹⁸ Wollenberg, C. (2008). Berkeley: A City in History. Chapter One: First Settlers. UC Press. p. 8. [Web](#).

¹⁹ Novan, K. (2021). Ibid. p. 60. / Lindsay, B.C. (2012), p. 131

²⁰ Wollenberg, C. (2008). Ibid. P. 8

²¹ Wollenberg, C. (2008). Ibid. P. 14

²² Madley, B. (2016). Ibid. p. 3, 12



So began the era of more affirmative, state-sponsored genocide that led US Indian Affairs Commissioner John Collier to declare in 1935 that “The world’s annals contain few comparable instances of swift depopulation— practically, of racial massacre—at the hands of a conquering race.”²³ Brenden C. Lindsay, Associate Professor of History at Sacramento State and author of *Murder State: California’s Native American Genocide*, concludes that “northern California’s Native population faced a genocidal assault perhaps unrivaled in North America in terms of its ferocity, bloodiness, and loss of human life,” this violence was executed through state-sponsored and state-tolerated violence, enslavement, and displacement.²⁴

It was just not just a select few who engaged in this violence. European settlers flooding into Northern California in search of gold came with a manufactured fear of Indigenous people, due to repetitive, sensationalized, and false storytelling in newspapers and other reports. Deaths from disease, natural causes, and even suicide were attributed to Indigenous people while actual violence by Indigenous people against settlers was quite rare. For example, contrary to popular myths, only 115 of nearly 90,000 new settlers were killed in conflicts with Indigenous people during the 1840s.²⁵ This manufactured fear, which translated into hatred, provided pretext for California Governors John

²³ Madley, B.

²⁴ Lindsay, B.C. (2012) *Murder State: California’s Native American Genocide, 1846-1873*. University of Nebraska Press. Print. p. 177

²⁵ Lindsay, B.C. (2012). *Ibid.* p. 9, 23, 31, 39, 120.

McDougal and Peter Burnett to legally sanction volunteer militias tasked with pushing Indigenous people off farming and ranching lands in the most economically efficient way possible: massacre.²⁶ Justifying this genocide with slurs like “digger,” Indigenous people were equated with animals for the purpose of literally hunting them with guns.²⁷

Many Indigenous people were enslaved for labor as well. Prominent State Senators and ranchers during California’s early years pushed the Governor to create reservations where Indigenous people could be used for hard labor but kept separate from whites. Legislation was also passed echoing legislation in southern States to reduce Indigenous people to non-legal entities who could be legally enslaved.²⁸ If Indigenous people were found drunk on Sundays, they were arrested and enslaved: the Los Angeles Star reported one instance where a jail door fell down because the cell was so crowded with imprisoned native people.²⁹ These and similar atrocities precipitated the unsuccessful pan-Indigenous “Garra Revolt” during the 1850s.

This enslavement also went hand in hand with displacement from ranching, which led to extreme poverty and starvation, with many Indigenous people desperate for work to survive. Ranching throughout California depended on the labor of enslaved Indigenous people as quests for gold by settlers drained the labor force.³⁰ Ranchers hunted deer and elk that competed for food with their cows and horses, devastating wild herds. Domesticated animals like cows, pigs, and sheep ate thousands of acres of plants Indigenous people depended on for food.³¹ This environmental devastation drove some Indigenous people such as the Paiutes to attack cows and horses (though even this tactic of survival was exaggerated by settlers, who often attributed the natural deaths of domesticated animals to Indigenous people).³² In an ironic twist, Indigenous peoples who killed domesticated animals tended to receive more in reservation funding, as this act of resistance created heavy costs for the ranchos.

The legal system, disguised with the veneer of “democratic will,” barred Indigenous people from testifying in court against settlers: in practice, legalizing their murder.³³ The Treaty of Guadalupe-Hidalgo, which ended the Mexican-American War, was violated as California took Indigenous affairs, a federal responsibility, into local hands following

²⁶ Lindsay, B.C. (2012). *Ibid.* p. 151, 170.

²⁷ Lindsay, B.C. (2012). *Ibid.* p. 133, 185

²⁸ Lindsay, B.C. (2012). *Ibid.* p. 146-148

²⁹ Lindsay, B.C. (2012). *Ibid.* p. 23, 153

³⁰ Lindsay, B.C. (2012). *Ibid.* p. 31, 136, 153

³¹ Lindsay, B.C. (2012). *Ibid.* p. 176, 181, 183, 186

³² Lindsay, B.C. (2012). *Ibid.* p. 17, 136, 186

³³ Lindsay, B.C. (2012). *Ibid.* p. 27, 28, 132, 168,

statehood.³⁴ For its part, however, the federal government reimbursed the cost of volunteer militias with millions in funding, effectively bankrolling massacre. It also issued a decree allowing soldiers from the Mexican-American war to claim up to 160 acres of land in California as a bounty, another factor in the demise of Ranchos and the establishment of “land rights” - to land that was stolen once from Indigenous peoples and a second time from the “owners” of formerly Spanish and later Mexican Ranchos.

The Sogorea Te’ Land Trust is an urban Indigenous women-led land trust based in the Bay Area that facilitates the return of Indigenous land to Indigenous people. The Trust’s website includes a short history of the Lisjan Ohlone, which parallels the history recounted in other sources.

“The Lisjan people have lived in the territory of Huchiun since the beginning of time. For thousands of years, hundreds of generations, the Lisjan Ohlone people have lived on the land that is now known as the East Bay in the San Francisco Bay Area. We did not own the land, we belonged to it. Generation after generation, we have cultivated reciprocal relationships with the plants and animals we share this place with, and developed beautiful and powerful cultural practices that keep us in balance.

The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history. Our tribes, cultures and languages are as diverse as the ecosystems we live within. When the Spanish invaded in the late 1700s, in their ignorance they called us Costanoan, people of the coast. In the 1960s and 70s, inspired by the Black Power and American Indian Movements, we organized and renamed ourselves Ohlone. The different nations of Ohlone people are connected but have different territories and languages. The Confederated Villages of Lisjan speak the language Chochenyo.

The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napien (Patwin). Our territory includes 5 Bay Area counties; Alameda, Contra Costa, Solano, Napa and San Joaquin, and we are directly tied to the “Indian Town” census of the 1920s and the Verona Band.

The colonization of this land began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land. The Missions were plantations, built by slave

³⁴ Lindsay, B.C. (2012). Ibid. p. 28, 140-143

labor and sustained through brutal physical violence and extractive land practices. The Spanish brought deadly diseases, invasive species, and Christian ideology, based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings we have shared the land with.

After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely. In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities. Cultural and spiritual traditions were forced into dormancy or secrecy, and much knowledge perished with the passing of generations.

Despite these concerted efforts to erase our history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families. Utilizing a wide array of survival strategies to navigate a profoundly altered 21st century world, we continue to revitalize our cultural practices and uphold our responsibilities to protect and care for our ancestral homeland.

We have survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras. Today, we continue to inhabit our ancestral homeland, fight for our sacred sites and revitalize our cultural practices.”³⁵

Despite the incredible strength it has taken to survive the repeated onslaughts of slavery, disease, environmental destruction, land appropriation, and state-sponsored physical and cultural genocide, centuries of trauma from colonization manifest themselves in ongoing struggles for Indigenous People in California and beyond. The nearly two million Indigenous people living under U.S. jurisdiction suffer the highest rate of poverty of any racial group—almost twice the national average. Rates of suicide, alcoholism, gang membership, and sexual abuse are also far higher than that of the non-Indigenous population, with challenges particularly acute on reservations.³⁶

By restoring sovereignty and land to Indigenous people, with negotiated environmental protections and meaningful economic opportunity, is one way to help repair deeply scarred communities.

As Standing Rock and other pipeline opposition campaigns have shown, Indigenous peoples living under U.S. jurisdiction continue to stand up against pipelines, oil extraction,

³⁵ Sogorea Te' Land Trust, Lisjan (Ohlone) History & Territory. [Web](#).

³⁶ Riley, N.S. (2016). One Way to Help Native Americans: Property Rights. The Atlantic. [Web](#).

and other desecrations that destroy their limited lands and poison communities with cancer and polluted water. The petroleum industry has demolished sacred sites and confronts individuals who resist with rubber bullets, attack dogs, and other war-like practices.³⁷ While Indigenous People are anything but a monolith, this common cause against extraction, pollution and desecration unites many. As Dallas Goldtooth of the Dakota Nation and Indigenous Environmental Network has described:

[Resistance] resonates across the diaspora of Indigenous Peoples. This is a critical moment we find ourselves in on this planet, not just in the sense for addressing climate change, but also a sense for social justice, a sense of just overall justice for all species. Indigenous Peoples tend to be, and rightfully are, on the frontline of those fights and those struggles. That's encapsulated by this idea of us rising together.

This connection even extends internationally, as the state of California plays an outsized role in the extraction and destruction of Indigenous homelands in the Amazon as well. In turn, the deforestation of the Amazon destroys moisture distribution that contains wildfires across North America, and California in particular.³⁸ A recent investigation demonstrated that California consumes more oil extracted from the Western Amazon than any other region on earth, refining it for airports, Amazon, PepsiCo and COSTCO.³⁹

In another example of the enduring nexus between our State and community and forces of destruction to Indigenous lands, a federal investigation found the largest animal production company in the world, JBS, has been implicated in the continued deforestation of the Amazon as well as the torture and murder of Indigenous people of the Amazon.^{40 41} Several of Europe's largest supermarket chains have responded by banning JBS beef products, acknowledging that animal feed crops and animal grazing drives 80 percent of Amazon deforestation.^{42 43} Through our consumption here in Berkeley, we literally fuel practices that continue to destroy Indigenous People and the lands on which they survive.

³⁷ Bunten, A.C. (2017). Indigenous Resistance: The Big Picture behind Pipeline Protests. Cultural Survival. [Web](#).

³⁸ Lazard, O. (2020). One Answer to California's Fires Lies in the Amazon. Carnegie Europe. [Web](#).

³⁹ Amazon Watch. Linked Fates: How California's Oil Imports Affect the Future of the Amazon Rainforest. [Web](#).

⁴⁰ Mano, A. (2021). Brazil's JBS bought 301,000 cattle from 'irregular' farms in the Amazon, audit finds. Reuters. [Web](#).

⁴¹ Phillips, D. (2020). Brazilian meat companies linked to farmer charged with 'massacre' in Amazon. The Guardian. [Web](#).

⁴² Spring, J. and Deutsch, A. (2021). European supermarkets stop selling Brazil beef over deforestation links. Reuters. [Web](#).

⁴³ Butler, R. (2009). Controlling the Ranching Boom that Threatens the Amazon. Yale School of the Environment. [Web](#).

With knowledge of these connections between the meat we eat and petroleum we consume to continued oppression of Indigenous People and desecration of their lands, we should consider actions like the boycotts undertaken in European countries.

Thoughtfully acknowledging our own history and current aspirations for local and other Indigenous Peoples prior to public deliberation offers hope for more permanent and meaningful restorative action in Berkeley as well as statewide, nationally, and across the globe.

REVIEW OF EXISTING PLANS PROGRAMS, POLICIES, AND LAWS

The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as oppressive actions that persist today.

In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day. This action motivated changes to BUSD's history curriculum and undermined a long-standing revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People.⁴⁴ Since then, nearly 130 cities nationwide and 20 states have acknowledged this day of recognition as well.

In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as a landmark. The site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing. In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States.⁴⁵

Regarding the significance of the Shellmound and Village historic district, the "Shellmound - Ohlone Heritage Site and Sacred Ground" website documents that:

"For thousands of years, the people of this original village on the East Bay shore thrived on the abundant resources of land and sea, developing a sophisticated maritime culture. Towering over the village was a great mound, estimated to have been at least 20 feet high and hundreds of feet long, one of the largest of the 425

⁴⁴ Associated Press (1992). In Berkeley, Day for Columbus Is Renamed. New York Times. [Web](#).

⁴⁵ Dinkelspiel, F. (2020). West Berkeley Shellmound is now considered one of the U.S.'s 11 most endangered historic places. BerkeleySide. [Web](#).

shellmound funerary monuments that once lined the shores of San Francisco Bay. These mounds are older than the pyramids in Egypt and most of the major cities in the world.

Archaeologists have long recognized the importance of the West Berkeley Shellmound site, also known as the “West Berkeley Site,” or CA-ALA-307. The site has been determined eligible for listing on the National Register of Historic Places under all four criteria, and is listed on the California Register of Historical Resources. Archaeological evidence from the West Berkeley Site has fundamentally shaped understandings of the early human history of the San Francisco Bay Area, and ongoing research continues to enrich and reinterpret an amazing historical narrative.

Eminent UC Berkeley archaeologist Kent Lightfoot describes the West Berkeley Site as a fishing village where “an active port was maintained over hundreds of years,” with dozens of tule balsa canoes going out on fishing and hunting expeditions, or ferrying people and goods across the Bay. Large nets were used to catch fish such as sturgeon, salmon, thresher sharks, jacksmelt and surfperch. Hunters pursued antelope, deer, tule elk, dolphins, porpoises, otters, sea birds and other quarry, cooking their catch in underground ovens and hearths.

A unique 40-foot long oval-shaped building at the site is thought to have functioned as a center for ceremonies, dances and special meetings. Charmstones, abalone pendants and other ritual items have been recovered from the site. Hundreds of human burials have been recorded, as well as ritual burials of coyotes and a California condor.”⁴⁶

In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People’s right to self-determination.⁴⁷ In 2015, the Council later delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding.

In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and referred to the Berkeley Shellmound landmark.⁴⁸ The latter affirmed the City’s commitment to the “defense of Indigenous rights,

⁴⁶ Shellmound – Ohlone Heritage Site and Sacred Grounds. [Web](#).

⁴⁷ United Nations General Assembly (2007). United Nations Declaration on the Rights of Indigenous Peoples. [Web](#).

⁴⁸ Berkeley Resolution No. 67,352-N.S. Recognizing the Ohlone Peoples. [Web](#).

culture, and dignity” as an official value, committing that “free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site...”⁴⁹ The success of this measure underscores how Indigenous groups including Ohlone members and conservation activists have organized in spreading awareness throughout the community about their homeland and sacred sites in Berkeley and the Bay Area.

In January 2018, Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory." In October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory." As part of their deliberations, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting.

On June 9, 2020 the City Council passed an item to paint the words “Black Lives Matter” and “Ohlone Territory” on streets adjacent to Berkeley’s City Hall.

At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings.⁵⁰

In the spirit of continuing to demonstrate and deepen the City of Berkeley’s commitment to recognition and inclusion of the Ohlone People we bring the proposal for an official land acknowledgment forward, including consideration of concrete actions that may follow from public deliberation.

ACTIONS/ALTERNATIVES CONSIDERED:

The City of Berkeley should consult with Lisjan Ohlone leadership regarding any decisions related to restorative, reparative, or other supportive actions. Some actions the City may wish to consult on include:

⁴⁹ Berkeley Resolution No. 67,353-N.S. Honor Berkeley Shellmound Indigenous Sacred Site, UC Berkeley Return Ancestral Remains to Ohlone Peoples. [Web](#).

⁵⁰City of Berkeley (2022). Berkeley Rent Board Adopts Land Acknowledgement Statement. [Web](#).

Create Easements and/or Return City land: The Sogorea Te' Land Trust and the City of Oakland on September 8, 2022 announced a visionary, historic plan to return approximately five acres of land owned by the City to Indigenous stewardship.

The Oakland City Council will hold hearings to consider conveying the site, known as Sequoia Point, to the Sogorea Te' Land Trust, and the East Bay Ohlone tribe, Confederated Villages of Lisjan Nation. The City would grant a cultural conservation easement in perpetuity to the Land Trust, allowing the Land Trust to immediately use the land for natural resource restoration, cultural practices, public education, and to plan for additional future uses.

What started out with a casual conversation between Oakland Mayor Libby Schaaf and tribal Chairperson Corrina Gould in 2018, grew into a partnership between the City and the Land Trust to begin to address the historic harms of Oakland's founding.

In the short term, the easement would allow the Land Trust to immediately begin tending to the land, gather Native plants and foods, clean up the area, and perform environmental and natural habitat restoration. The long-term vision of this project is to create a thriving, beautiful, ceremonial gathering place and structure where Indigenous people and their guests can come together and share cultural information and celebrations.

"I am committed to returning land to Indigenous stewardship, to offer some redress for past injustices to Native people," said Mayor Schaaf. "I hope the work we are doing in Oakland with the Sogorea Te' Land Trust can serve as a model for other cities working to return Indigenous land to the Indigenous community we stole it from."

In recognition of this historic moment, tribal Chairperson Corrina Gould said, "This agreement will restore our access to this important area, allowing a return of our sacred relationship with our ancestral lands in the hills. The easement allows us to begin to heal the land and heal the scars that have been created by colonization for the next generations."⁵¹

Berkeley should consider this or similar actions to return land to Ohlone ownership and/or stewardship.

⁵¹ Sogorea Te' Land Trust and City of Oakland Announce Plan to Return Land to Indigenous Stewardship. [Web.](#)

Local Support for Land Transfers: As part of the land acknowledgement process, the City of Berkeley might consider encouraging residents to donate land to indigenous stakeholders such as the Sogorea Te' Land Trust that partners with dozens of local food justice and environmental groups to protect our shared environment.⁵² The Council could recognize donations of land or actions taken by community members to donate land through wills. The City could also partner to distribute information on the Sogorea Te' Land Trust and include information about the Trust on its website, including a guide to these types of donations produced by the Sustainable Economies Law Center, a copy of which is attached.^{53 54}

Local support for Voluntary Land Taxes: The City of Berkeley may consider further means to encourage residents to donate Indigenous causes through payment of voluntary land taxes, "Shuumi," that support the return of Indigenous land to Indigenous people.⁵⁵ The Sogorea Te' Land Trust, located in the East Bay, has such a program, and a similar program allows residents of the Humboldt Bay region to pay a voluntary tax to the Wiyot people. In Seattle, nearly 4,300 residents have signed up to pay the Duwamish Tribe symbolic rent.⁵⁶

Support for Statewide Indigenous Land Sovereignty: The City of Berkeley may continue its consideration of support letters, resolutions, and education campaigns that highlight exploitation of ancestral Indigenous people and lands.

Future efforts could support action to return land or pay restitution to Indigenous people. Returning land to Indigenous sovereignty or using restitution funds for Indigenous-led sustainability initiatives acknowledges the leading role that the securing of land had in the genocide of Indigenous people across the region.⁵⁷

Berkeley further may consider statements of support for giving Indigenous people sovereignty over national and local parks, acknowledging the acts of violence and genocide that drove them from these locations. Precedent exists in New Zealand and Australia.

⁵² Sogorea Te' Land Trust. Return the Land / Land Return. [Web](#).

⁵³ Sustainable Economies Law Center. Options for Transferring Land. [Web](#).

⁵⁴ Note: for lands outside this region, individuals can often find information on donations by searching "Tribal Historic Preservation Officer" along with the name of the nation they wish to give to.

⁵⁵ Sogorea Te' Land Trust. Shuumi Land Tax. [Web](#).

⁵⁶ Singh, M. (2019). Native American 'land taxes': a step on the roadmap for reparations. The Guardian. [Web](#).

⁵⁷ Lindsay, B.C. (2012) Murder State: California's Native American Genocide, 1846-1873. University of Nebraska Press. Print. P. 147- 186.

Indigenous communities are already stakeholders in park management, with a century of experience managing the layers of bureaucracy involved in managing these lands.⁵⁸

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Much like the process the Rent Stabilization Board pursued, the wording and intentions behind this land acknowledgement were developed in close consultation with Ohlone representatives. Academic and Native American sources underly the brief historical overview.

RATIONALE FOR RECOMMENDATION

The City of Berkeley has a moral obligation to acknowledge local and broader atrocities against Indigenous people, and continued injustices. The regular repetition of the Land Acknowledgement, coupled with opportunities for deeper learning, will serve as a constant reminder of our responsibilities, and open the door to further restorative actions by the City and members of the community.

IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

Very little staff time or expense is needed to carry out the requirements of this referral. For Zoom meetings, a written version of the Acknowledgement will need to be prepared for screening prior to Council meetings, and the Agenda Committee will need to add the reading of the Acknowledgement to the Ceremonial Agenda of the first Regular City Council meeting of each month. For in-person meetings, a poster-sized version of the Land Acknowledgement should be produced for display in a prominent location in the Council chambers. This likely can be accomplished for under \$100.

Staff will further need to convey a copy of this item and resolution to the secretaries and chairs of each appointed or elected body in Berkeley, with a note that the City Council has requested such bodies to consider incorporating the acknowledgement into their meeting practices.

Posting the Land Acknowledgement on the City's website homepage and completing the new Ohlone history webpage is a limited expense and should be completed as quickly as possible. Other jurisdictions and organizations that practice the reading of Land Acknowledgements often also include pages about the history of local Indigenous People on their websites. These can serve as examples. Consultation with Lisjan Ohlone representatives is central to ensuring what is posted is complete and accurate.

⁵⁸ Treuer, D. (2021). Return the National Parks to the Tribes. The Atlantic. [Web](#).

ENVIRONMENTAL SUSTAINABILITY

This resolution raises awareness of how genocide and exploitation of land and other natural resources intersects with climate change, wildfire, food insecurity, and other major challenges our community – and planet - face. It will also raise awareness of the local conservation and environmental work of the Ohlone people.

FISCAL IMPACT

See Section in Implementation, Administration, and Enforcement for a description of de minimus associated costs.

OUTCOMES & EVALUATION

The City Council should partner with the Ohlone to develop and carry out more substantive acts of education, partnership, and restitution. This will prevent the land acknowledgement statement from becoming a mere “check-box of optical allyship.”

CONTACT PERSON

Councilmember Sophie Hahn, shahn@cityofberkeley.info; 510-682-5905

Attachments

1. Land Acknowledgement Statement
2. Land Acknowledgement Resolution
3. Sustainable Economies Law Center Options for Transferring Land – A Brief Guide

ATTACHMENT 1

Land Acknowledgement Statement

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

ATTACHMENT 2 - RESOLUTION

RESOLUTION #####-N.S.

RECOGNIZING THAT BERKELEY IS THE ANCESTRAL, UNCEDED HOME OF THE OHLONE PEOPLE AND ADOPTING AN OFFICIAL CITY OF BERKELEY LAND ACKNOWLEDGEMENT AND PRACTICES

WHEREAS Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions; and

WHEREAS Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities, land acknowledgments continue to be used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live; and

WHEREAS To begin public meetings, localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements as well as many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA); and

WHEREAS Many public and public-facing private institutions have also adopted land acknowledgment statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board; and

WHEREAS One of the leading advocacy groups for land acknowledgement, the Native Governance Center, asks that land acknowledgements go beyond a mere statement, by providing research on the history of indigenous peoples and offering concrete actions to support them; and

WHEREAS The settlers of California, primarily Europeans seeking religious converts, agricultural land, and economic opportunity during the gold rush committed one of the most egregious genocides in history, murdering 80 percent of Indigenous people in the state from 1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation; and

WHEREAS The Lisjan people have lived in the territory of Huchiun, the land that is now known as the East Bay in the San Francisco Bay Area, since the beginning of time and for thousands of years and hundreds of generations; and

WHEREAS the Lisjan people did not own the land, *they belonged to it*, and generation after generation they have cultivated reciprocal relationships with plants and animals and developed beautiful and powerful cultural practices that keep us in balance; and

WHEREAS The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history, whose tribes, cultures and languages are as diverse as the ecosystems we live within; and

WHEREAS The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napian (Patwin); and

WHEREAS The colonization of the land where Berkeley is located began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land; and

WHEREAS The Missions were plantations, built by slave labor and sustained through brutal physical violence and extractive land practices, and the Spanish also brought deadly diseases, invasive species, and Christian ideology based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings they shared the land with; and

WHEREAS After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely; and

WHEREAS In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities, and cultural and spiritual traditions were forced into dormancy or secrecy resulting in much knowledge perishing with the passing of generations; and

WHEREAS Despite these concerted efforts to erase Lisjan history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families that utilizes a wide array of survival strategies to navigate a profoundly altered 21st century

world, and the Lisjan continue to revitalize their cultural practices and uphold their responsibilities to protect and care for their ancestral homeland; and

WHEREAS Having survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras, the Lisjan continue to inhabit their ancestral homeland, fight for their sacred sites, and revitalize their cultural practices; and

WHEREAS The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking both symbolic and concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as steps to address oppressive actions that persist today; and

WHEREAS In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day, which motivated changes to BUSD's history curriculum and undermined a long-standing revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People; and

WHEREAS In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as an official Landmark, and the site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing; and

WHEREAS In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States; and

WHEREAS In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People's right to self-determination and in 2015 the Council delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding; and

WHEREAS In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and affirmed the City's commitment to the "defense of Indigenous rights, culture, and dignity" as an official value,

committing that “free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site...”; and

WHEREAS In January 2018, the City Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory" and in October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory;" and

WHEREAS During deliberations to recognize the Ohlone on City Limit Signs, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting; and

WHEREAS On June 9, 2020 the City Council passed an item to paint the words “Black Lives Matter” and “Ohlone Territory” on streets adjacent to Berkeley’s City Hall; and

WHEREAS At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings, providing an important example for the City to follow.

NOW THEREFORE, BE IT RESOLVED In the spirit of continuing to demonstrate and deepen the City of Berkeley’s recognition, inclusion, restitution, and repair towards the Lisjan Ohlone, whose ancestral home lies where the City of Berkeley is located, and who have survived centuries of cultural, physical, and environment genocide at the hands of Spanish, Mexican, and American colonists, the Council of the City of Berkeley hereby adopts the following Land Acknowledgement:

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley’s residents have and continue to benefit from the use and occupation of

this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

BE IT FURTHER RESOLVED That the Land Acknowledgement shall be displayed in writing at all Regular Meetings of the Berkeley City Council and shall be read out loud during the Ceremonial portion of the first Regular City Council Meeting of each month.



OPTIONS FOR TRANSFERRING LAND

A BRIEF GUIDE

This short guide summarizes various options for landowners interested in transferring land to another person, group, or community. Landowners who are particularly interested in transferring ownership to nonprofit land trusts, indigenous tribes, and community-based organizations will find this guide most useful.

Because we have written this guide with landowners in mind, we also provide a brief consideration of the advantages and disadvantages of each option from that perspective. Having said that, we think it is essential that landowners consider their own goals as well as the goals and needs of the party or community to whom they would like to transfer land.

Four key questions to consider as you read through this guide focus on the *financial* and *use* needs of the parties.

1. What are the **financial needs** of the transferring party?
2. What are the **financial needs** of the receiving party?
3. What are the **use needs** of the transferring party after the transfer?
4. What are the **use needs** of the receiving party after the transfer?

The land transfer mechanisms covered in this guide include:

- Full Value Sale
- Charitable (Bargain) Sale
- Full Donation
- Donation of a Remainder Interest
- Revocable Transfer on Death (Lady Bird Deed)
- Donation by Bequest
- Sale or Donation of an Easement

In any situation, we strongly recommend that you seek individualized tax, legal, and estate planning advice to determine which of these options is best suited to your circumstances. Laws vary from state to state, so having appropriate counsel where the land is located is critical.



Full Value Sale

This is likely the kind of transfer of ownership that most people are familiar with. In this scenario, the landowner sells to the buyer at a price determined by a third-party appraisal. The buyer pays the full value and receives title to the property. For many people, including nonprofits and other community-based organizations, a full value sale is not an affordable option. However, there are ways to make this option more affordable by delaying payment in two ways.

1. **Installment Sale:** An installment sale allows the buyer to make payments over several years at intervals and amounts that are agreeable to both parties. The landowner would retain title to the property until the final payment. The parties could agree to provide the buyer with use of the land at any point during the payment period, including at the first payment or after payment has been made in full.
2. **Seller Financing:** Alternatively, the landowner could provide seller financing, meaning that title immediately transfers to buyer, and in exchange, the landowner gets a promissory note in which the buyer promises to pay the landowner over time, with or without interest. A deed of trust is recorded on the property to secure payment of the promissory note.

Advantages of this option:

- Fee simple ownership of land gives the buyer the greatest ability to fulfill their mission and ensure secure tenure over the long term.

Disadvantages of this option:

- The landowner will have to pay income tax on the capital gain if the land has appreciated in value since it was originally purchased.
- This is the least financially feasible option for buyers, particularly nonprofit organizations with a limited budget and limited capacity to raise capital.
- An installment sale may limit the buyer's uses of the land until the transfer is complete.



Charitable (Bargain) Sale

A charitable, or bargain, sale occurs when the landowner sells land to a *tax-exempt nonprofit* organization for less than market value. This kind of sale makes the land more affordable to the buying nonprofit, and can offer tax deduction benefits to the selling landowner. The parties can also use the **Installment Sale** or **Seller Financing** options discussed above in this situation as well, if affordability is still a concern for the nonprofit buying the land.

Advantages of this option:

- The difference between full market value and the sale price can qualify the landowner for an income tax deduction and capital gains tax reduction for that portion of the value. This can offset the income taxes and capital gains taxes the landowner will incur from the sale of the property, after reducing ordinary income.
- If the land has significantly increased in value since the seller purchased it, this option can offset a large amount of the resulting capital gains liability for the increased value.
- The nonprofit buyer will be more likely to afford the purchase price of the land.

Disadvantages of this option:

- The landowner does not realize the full income from the market value of the property.
- This may not be the best strategy if the landowner would otherwise qualify for public benefits in the next several years. Recently transferred assets like land can negatively impact eligibility for benefits.



Full Donation

This is the simplest way to transfer land to another party and is the most affordable option for receiving nonprofits or community-based organizations to advance their mission to protect, preserve, and steward land in the long term.

Advantages of this option:

- Fee simple donation to an eligible tax-exempt organization would give the landowner the greatest immediate income tax benefits, sometimes for the full appraised value of the land, in addition to relief from property taxes, and potential estate tax benefits.
- The receiving party would not require financing in order to receive the land.
- The land would be immediately available to the receiving party.

Disadvantages of this option:

- The landowner does not realize the full income from the market value of the property.
- This may not be the best strategy if the landowner would otherwise qualify for public benefits in the next several years. Recently transferred assets like land can negatively impact eligibility for benefits.



Donation of a Remainder Interest

If the landowner would like to donate the land to an eligible tax-exempt nonprofit organization but retain the ability to live on the land during their, or their family members', lifetime, they can donate what is called a "remainder interest" in the land while retaining what is called a "life estate."

Advantages of this option:

- Full transfer to the receiving party will occur immediately upon the landowner's death. Upon the landowner's, or their designated family members', death, this kind of transfer avoids the expense and delay of probate.
- The landowner may be able to receive an immediate income tax deduction for the value of the property that was donated (determined by an appraisal).
- This may be a good option for landowners who receive public benefits. The state can make a claim for repayment of these benefits against an estate and place a lien on property after death. However, because donating a remainder interest is irrevocable, the property will not be part of the estate at death.
- The land will not be subject to capital gains tax on appreciated value.
- The property will not be part of the donor's taxable estate, where the donor (and/or the donor's spouse) are the only life tenants.

Disadvantages of this option:

- The landowner will need to pay the property taxes on the land while retaining use of the property.
- The landowner does not realize the full income from the market value of the property.
- The receiving party would not require financing in order to receive the land.
- Without another agreement, the land will not be immediately available for use by the receiving party.



Revocable Transfer on Death Deed (Lady Bird Deed)

Lady Bird Deeds, which are only available in some states, are similar to deeds described above that create a life estate and donate a remainder interest, except that Lady Bird Deeds are revocable, meaning that the landowner can, during their lifetime, revoke the transfer. This gives more control to the landowner, but can put the receiving party in an uncertain position. Lady Bird Deeds are available in California until 2021, unless legislation is introduced to extend the law.

Advantages of this option:

- Transfer of title will occur immediately upon the landowner's death, so the donation will not be subject to the expense and delay of probate.
- The land donation will not be subject to capital gains tax on appreciated value.
- The landowner can revoke the deed at any time during their lifetime.

Disadvantages of this option:

- Because the deed is revocable, the landowner does not receive an income tax deduction available with other land donations.
- Without another agreement, the land will not be immediately available to the receiving party.
- The receiving party would not require financing in order to receive the land.
- This kind of transfer does not provide reliable certainty to the receiving party since the transfer can be revoked during the landowner's lifetime.



Donation by Will or Living Trust (Bequest)

A landowner can donate land in a will or through a revocable living trust. Both strategies allow the landowner to retain full use of the land during their lifetime.

Advantages of this option:

- Reduces estate or inheritance taxes.
- Can be changed or revoked at any time during landowner's lifetime.
- The receiving party would not require financing in order to receive the land.

Disadvantages of this option:

- The landowner will still be responsible for paying property taxes for the entire property during their lifetime.
- Without another agreement, the land will not be immediately available to the receiving party.



Agricultural, Conservation, or Cultural Easement Donation

An *easement* is an agreement between the landowner and a third party that affects the landowner's rights on the land covered by the easement. Easements are generally recorded on the deed of the property and are therefore permanent. Conservation, agricultural, and cultural easements are specific kinds of agreements that can be entered into with eligible organizations or tribes that can also qualify as a charitable contribution if donated by the landowner.

- A *conservation easement* permanently restricts uses on the land that interfere with the ecological conservation of that land.
- An *agricultural easement* permanently protects farmland by setting limitations on the use of the land.
- A *cultural easement*, available in some states, grants indigenous communities certain access rights to lands for continuing and preserving cultural heritage.

Easements can be sold or donated. The party holding the easement cannot also be the party that holds title to the land.

Advantages of this option:

- The landowner can retain ownership of the land and convey the land to their heirs.
- If the easement meets IRS criteria, the landowner may be able to deduct the value of any donated portion of the easement up to 50% of their adjusted gross income, or 100% if they are a farmer, for up to 15 years.
- Affirmative easements (those requiring certain uses) can increase the value of the easement and reduce the overall value of the land, making it more affordable if the easement is sold instead of donated
- In addition to an income tax deduction, the easement may reduce property taxes and estate taxes.

Disadvantages of this option:

- Easements do not convey an ownership interest in the land to the party holding the easement. This may not align with the intent of either or both parties.
- Easements can be expensive to enforce, thus creating a financial liability for the easement-holding party.
- Easements, alone, do not preserve long-term affordability of land, because an easement only reduces the relative market value of the land, but does not immunize the land value from increasing through speculation and other market forces.

RESOLUTION 70,564-N.S.

RECOGNIZING THAT BERKELEY IS THE ANCESTRAL, UNCEDED HOME OF THE OHLONE PEOPLE AND ADOPTING AN OFFICIAL CITY OF BERKELEY LAND ACKNOWLEDGEMENT AND PRACTICES

WHEREAS Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions; and

WHEREAS Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities, land acknowledgments continue to be used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live; and

WHEREAS To begin public meetings, localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements as well as many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA); and

WHEREAS Many public and public-facing private institutions have also adopted land acknowledgement statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board; and

WHEREAS One of the leading advocacy groups for land acknowledgement, the Native Governance Center, asks that land acknowledgements go beyond a mere statement, by providing research on the history of indigenous peoples and offering concrete actions to support them; and

WHEREAS The settlers of California, primarily Europeans seeking religious converts, agricultural land, and economic opportunity during the gold rush committed one of the most egregious genocides in history, murdering 80 percent of Indigenous people in the state from 1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation; and

WHEREAS The Lisjan people have lived in the territory of Huchiun, the land that is now known as the East Bay in the San Francisco Bay Area, since the beginning of time and for thousands of years and hundreds of generations; and

WHEREAS the Lisjan people did not own the land, *they belonged to it*, and generation after generation they have cultivated reciprocal relationships with plants and animals and developed beautiful and powerful cultural practices that keep us in balance; and

WHEREAS The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history, whose tribes, cultures and languages are as diverse as the ecosystems we live within; and

WHEREAS The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napien (Patwin); and

WHEREAS The colonization of the land where Berkeley is located began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land; and

WHEREAS The Missions were plantations, built by slave labor and sustained through brutal physical violence and extractive land practices, and the Spanish also brought deadly diseases, invasive species, and Christian ideology based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings they shared the land with; and

WHEREAS After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely; and

WHEREAS In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities, and cultural and spiritual traditions were forced into dormancy or secrecy resulting in much knowledge perishing with the passing of generations; and

WHEREAS Despite these concerted efforts to erase Lisjan history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families that utilizes a wide array of survival strategies to navigate a profoundly altered 21st century world, and the Lisjan continue to revitalize their cultural practices and uphold their responsibilities to protect and care for their ancestral homeland; and

WHEREAS Having survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras, the Lisjan continue to inhabit their ancestral homeland, fight for their sacred sites, and revitalize their cultural practices; and

WHEREAS The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking both symbolic and concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as steps to address oppressive actions that persist today; and

WHEREAS In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day, which motivated changes to BUSD's history curriculum and undermined a long-standing

revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People; and

WHEREAS In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as an official Landmark, and the site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing; and

WHEREAS In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States; and

WHEREAS In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People's right to self-determination and in 2015 the Council delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding; and

WHEREAS In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and affirmed the City's commitment to the "defense of Indigenous rights, culture, and dignity" as an official value, committing that "free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site..."; and

WHEREAS In January 2018, the City Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory" and in October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory;" and

WHEREAS During deliberations to recognize the Ohlone on City Limit Signs, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting; and

WHEREAS On June 9, 2020 the City Council passed an item to paint the words "Black Lives Matter" and "Ohlone Territory" on streets adjacent to Berkeley's City Hall; and

WHEREAS At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings, providing an important example for the City to follow.

NOW THEREFORE, BE IT RESOLVED In the spirit of continuing to demonstrate and deepen the City of Berkeley's recognition, inclusion, restitution, and repair towards the Lisjan Ohlone, whose ancestral home lies where the City of Berkeley is located, and who have survived centuries of cultural, physical, and environment genocide at the hands of Spanish, Mexican, and American colonists, the Council of the City of Berkeley hereby adopts the following Land Acknowledgement:

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.


BE IT FURTHER RESOLVED That the Land Acknowledgement shall be displayed in writing at all Regular Meetings of the Berkeley City Council and shall be read out loud during the Ceremonial portion of the first Regular City Council Meeting of each month.

The foregoing Resolution was adopted by the Berkeley City Council on October 11, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.


Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk

Libby Lee-Egan (Chairperson)
Berkeley Housing Advisory Commission

November 1, 2022

Re: [Re-enactment of the Berkeley Housing Code; Repealing Chapter 12.48 and Repealing and Re-enacting Chapter 19.40](#)

Mayor Arreguín and Berkeley City Councilmembers,

On September 1, 2022 the Berkeley Housing Advisory Commission (HAC) took the following action with regard to re-enactment of the Berkeley Housing Code (BHC):

Discussion and Possible Action to Recommend Amendments to the City of Berkeley Housing Code

Public Comment: 2 speakers

Action: M/S/C (Potter/Mendonca) to recommend that the HAC establish an ad hoc subcommittee to examine whether a Habitability Plan can be incorporated as part of the reenactment of the Housing Code, with a term of 45 days. This subcommittee will be composed of Commissioners Simon-Weisberg, Johnson, and Potter. The subcommittee will meet with Planning Staff to determine whether the Habitability Plan can be incorporated as part of the reenactment of the Housing Code.

Vote: Ayes: Calavita, Johnson, Lee-Egan, Mendonca, Potter, Rodriguez, Sanidad, and Simon-Weisberg. Noes: Fain. Abstain: None. Absent: None.

At that meeting on 9/1, the commission conveyed some possible changes to the content of the Housing Code, some of which were later adopted into the amendments prepared by staff. The majority of the HAC's discussion revolved around the BHC's lack of a Tenant Habitability Plan (THP), a document that would ensure tenants' comfort and safety are considered during construction on or near their homes. The Commission found that a compelling reason for incorporating a THP into the Housing Code as opposed to – for example: a Rent Board action – is so *all* tenants in Berkeley can have this protection, not just the tenants in rent-controlled homes. Placing the THP alongside the routine inspection program is important because we will likely see an increase in repairs in response to the inspection. Landlords should make these repairs in a way that is safe but also neither disruptive nor harassing. Requiring that landlords fill out a THP will prevent problems for all parties involved.

To summarize: The draft Tenant Habitability Plan legislation requires that a landlord fill out a form at the time that they apply for a permit. The form outlines the various features of a construction project that could negatively impact tenants in occupied buildings, lots, or adjacent

units. The plan may also define the terms of temporary relocation and compensation. The construction could be elective upgrades and substantial repairs that require permits anywhere on a tenant occupied property.. The permits cannot be granted until the Tenant Habitability Plan is approved and there is a strict timeline for consideration so construction is not held up indefinitely.

The HAC voted to form a subcommittee to meet with staff and find out whether a THP can be incorporated into the Housing Code during this re-enactment process. The subcommittee met on September 13 (the notes and text of the Tenant Habitability Plan are attached to this letter) where staff relayed that the THP must be incorporated via City Council action. Because the Commission's Tenant Habitability Plan discussion happened within the Housing Code agenda item, we are submitting this letter today.

On October 6, 2022 the Berkeley Housing Advisory Commission (HAC) took the following action:

Discussion and Possible Action to Adopt a Tenant Habitability Plan Ordinance

Public Comment: 1 speaker

Action: M/S/C (Simon-Weisberg/Ching) to draft a letter to the City Council recommending the adoption of a Tenant Habitability Plan ordinance expeditiously.

Vote: Ayes: Ching, Johnson, Lee-Egan, Mendonca, Sanidad, and Simon-Weisberg. Noes: None. Abstain: None. Absent: Calavita (excused), Fain (unexcused), Rodriguez (unexcused), and Potter (excused).

The members of the Berkeley Housing Advisory Commission strongly recommend the expeditious consideration and approval of a Tenant Habitability Plan to maintain the safety and comfort of all tenants in the city of Berkeley. If you have any follow up questions or require any additional information, please reach out to Chair Lee-Egan (libbyco@gmail.com).

Sincerely,

Libby Lee-Egan

Housing Advisory Commission Chairperson

Attachments:

- Minutes from 9/13/2022 HAC Housing Code Subcommittee meeting
- Draft Tenant Habitability Plan language

Minutes of the Tuesday, September 13, 2022
Housing Advisory Commission Housing Code Subcommittee

The Subcommittee meeting was convened at 3:05 pm.

Roll Call - Housing Advisory Commission (HAC) Subcommittee members Leah Simon-Weisberg, Xavier Johnson and Debbie Potter were present.

City of Berkeley Staff present: David Lopez, Jenny McNulty, and Mike Uberti.

Election of Subcommittee Chair - Commissioner Potter moved that Commissioner Simon-Weisberg be elected chair. Commissioner Johnson seconded. The motion was approved unanimously.

Agenda Approval - The Subcommittee meeting agenda was approved unanimously – moved by Commissioner Johnson and seconded by Commissioner Potter.

Public Comments – none

Action Item – Discussion and Possible Action on Recommended Amendments to the City of Berkeley Housing Code and Adopt a Habitability Plan

Staff noted the importance of the goals of the proposed Tenant Habitability Plan, but also discussed the complexity of preparing an ordinance to require such a Plan.

Subcommittee Chair Simon-Weisberg asked staff to outline the process for getting such an ordinance drafted and considered for adoption by the City Council.

Staff explained that it would not move forward on such an effort without a referral from the City Council as it takes its direction regarding work programs from City Council based on a priority-setting process that has been established by the City Council.

Commissioner Johnson moved that the Subcommittee recommend to the HAC that City Council consider a referral to direct staff to prepare a Tenant Habitability Plan ordinance. Commissioner Potter seconded the motion and it was approved unanimously.

The Subcommittee did not make a motion regarding recommending approval of the Amendments to the City of Berkeley Housing Code and agreed that that item should be considered by the HAC at its October 6, 2022 meeting.

Commissioner Johnson moved that the meeting should be adjourned, Commissioner Potter seconded and the motion was approved unanimously. The Subcommittee meeting adjourned at 3:47 pm.

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19.40.125 Tenant Habitability Plan

1251 – Purpose and Intent

In its adoption of Section 19.40.125 *et seq.* of this Code, the City recognizes that construction and repairs on Rental Units or adjacent to such Rental units can create hardships on tenants; especially those who are senior citizens, persons on fixed incomes and low and moderate-income households. The City also recognizes that there is a shortage of decent, safe, and sanitary affordable housing in Berkeley. The City further declares, in its adoption of section 19.40.125 *et seq.* of this Code, that it is in the public interest of the people of Berkeley to protect and promote the existence of sound and wholesome residential buildings, dwelling units, and neighborhoods by the adoption and enforcement of such standards, regulations, and procedures as will remedy the existence or prevent the development or creation of dangerous, substandard, or unsanitary and deficient residential buildings and dwelling units.

However, both preventative maintenance as well as code enforcement related maintenance sometimes involves the replacement or substantial modification of major building systems or the abatement of hazardous materials and, by its very nature, such work generally makes rental units untenable, as defined by California Civil Code Section 1941.1, on a temporary basis.

Additionally, through the passage of AB 68, AB 670, AB 881, SB 13, and SB 9 _____ the State of California has passed several laws which have streamlined the ability to build on lots and in and next to residential units that are already occupied by residential housing. These provisions have recently been extended to include not only units built in owner-occupied lots but also investment properties owned by developers who are not local to the area.

This article is adopted to facilitate landlord investment in renovations and the construction of new housing without subjecting tenants to either untenable housing conditions during such renovation work or forced permanent displacement. The tenant habitability program requires landlords to mitigate such temporary untenable conditions, either through actions to ensure that tenants can safely remain in place during construction, or through the temporary relocation of tenants to alternative housing accommodations. These two options should not be regarded as mutually exclusive but rather as complementary approaches that might be appropriate to different stages of the renovation process.

1252 – Definitions

The following words and phrases, whenever used in this article, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Section 13.76.040 of this Code if defined in that section.

Construction means construction on tenant occupied buildings, lots, or adjacent units. This includes elective upgrades that do not arise to Substantial Repairs but require permits,

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construction of entirely new units or division or creation of additional units from already existing residential units.

Emergency Repairs. Repairs that must be completed in less than 48 hours shall be exempt from the habitability plan process.

Repairs in Response to Notice of Violation means repairs that must be completed to correct a notice of violation.

Notice of Construction on Occupied Buildings

Notice of Substantial Repairs or Construction means a written notice, served by the landlord upon a tenant or tenant household at least 60 days prior to the commencement of any substantial repairs or Construction that uses a form established by the [responsible agency], and advises the tenant of forthcoming Substantial Repairs or Construction, the impact of such work on the tenant, and measures the landlord will take to mitigate the impact on the tenant.

Substantial Repairs means work performed either on a rental unit or on the building containing the rental unit that brings the unit into compliance with the Housing Code by making substantial repairs and that cannot be made while the tenant lives there improves the property by prolonging its useful life or adding value, and involves either or both of the following:

1. Replacement or substantial modification of any structural, electrical, plumbing or mechanical system that requires a permit under the Berkeley Municipal Code.
2. Abatement of hazardous materials, such as lead-based paint and asbestos, in accordance with applicable federal, state and local laws.
3. Repairs required by Building Official in Notice of Violation pursuant to 19.40.100

Temporary Relocation means the payment of relocation costs or the providing of a comparable rental unit in accordance with a Tenant Habitability Plan and Berkeley's Relocation Services and Pavements For Residential Tenant Households Ordinance (Berkeley Mun. Code § 13.84.010 *et seq.*) The temporary relocation of a tenant from his/her permanent place of residence shall not constitute the voluntary vacation of the unit and shall not terminate the status and rights of a tenant, including the right to reoccupy the same unit, upon the completion of the Primary Renovation Work and any Related Work.

1253 – Procedure for Undertaking Substantial Repairs and Construction on Occupied Properties

1253.1 Building Permits

A. No landlord shall undertake Substantial Repairs or commence Construction on Property without first obtaining all necessary permits, pursuant to this Code.

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B. The Planning Department shall only clear a landlord's application for a permit for Substantial Repairs or Construction on Occupied Properties if all of the following conditions have been met:

1. The landlord has submitted a Tenant Habitability Plan to the [responsible agency], in accordance with sections 1253.2 and 1253.3, which the [responsible agency] finds to adequately mitigate the impact of the Substantial Repairs or Construction upon affected tenants; and
2. The landlord has submitted a declaration documenting service to affected tenants of both a Notice of Substantial Repairs and a copy of the non-confidential portions of the Tenant Habitability Plan in accordance with section 1254.
3. The landlord has paid any plan submission fee established by regulation under Berkeley Municipal Code section 13.76.060(F).

1253.2 Tenant Habitability Plan

A. At a minimum, a Tenant Habitability Plan shall provide the following information, together with any other information Berkeley's [responsible agency] deems necessary to ensure that the impact of Substantial Repairs and Construction or any related work upon affected tenants is adequately mitigated:

1. Identification of the landlord, the general contractor responsible for the Substantial Repairs or Construction, and any specialized contractor responsible for hazardous material abatement, including but not limited to lead-based paint and asbestos.
2. Identification of all affected tenants including the current rent each tenant pays and the date of each tenant's last rent increase. In accordance with California Civil Code Sec. 1798 et seq., information regarding tenants shall be considered confidential.
3. Description of the scope of work covering the Substantial Repairs or Construction. Such description shall address the overall work to be undertaken on all affected units and common areas, the specific work to be undertaken on each affected unit, an estimate of the total project cost and time, and an estimate of the cost and time of renovation for each affected unit.
4. Identification of the impact of the Substantial Repairs or Construction on the habitability of affected rental units, including a discussion of impact severity and duration with regard to noise, utility interruption, exposure to hazardous materials, interruption of fire safety systems, inaccessibility of all or portions of each affected rental unit, and disruption of other tenant services.

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5. Identification of the mitigation measures that will be adopted to ensure that tenants are not required to occupy an untenable dwelling, as defined in California Civil Code Section 1941.1. Such measures may include the adoption of work procedures that allow a tenant to remain on-site and/or the temporary relocation of tenants. If due to a declared state of emergency, childcare, eldercare, documented disabilities or work schedule or place of work that makes 8:00 - 5:00 pm Monday through Friday a grave burden, then a reasonableness standard shall be used reflecting the tenant's specific situation.
6. Identification of the impact of the Substantial Repairs or Construction on the personal property affected tenants, including work areas which must be cleared of furnishings and other tenant property, and the exposure of tenant property to theft or damage from hazards related to work or storage.
7. Identification of the mitigation measures that will be adopted to secure and protect tenant property from reasonably foreseeable damage or loss.
8. Identification of a phone number and email address of a responsible party who will be responsive to tenant complaints regarding the execution of the Substantial Repairs.
9. If tenants are to remain in place, the landlord shall voluntarily reduce the tenants' rent to compensate the tenant for any disruption to their tenancy. If a tenant feels the landlord's rent reduction is inadequate, the tenant may file a petition with Berkeley's Rent Program under section 11.100.070(c) or pursue any other legal remedy.

1253.3 Plan Acceptance

- A. The [responsible agency] shall make a determination regarding the adequacy of a landlord's Tenant Habitability Plan within five working days of the [responsible agency]'s receipt of the plan for review. The [responsible agency] shall accept those plans which meet the requirements of section 1251.2 of this section and which it determines, with reference to the standards set forth in California Civil Code Section 1941.1, and in accordance with any applicable regulations or guidelines adopted under section 13.76.060(F)., will adequately mitigate the impacts of Substantial Repairs upon tenants. The Tenant Habitability Plan may allow for the temporary disruption of major systems during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. While brief periods of scheduled untenability between 8:00 and 5:00 am may be acceptable, a tenant's tenancy shall not be substantially disrupted for extended periods or in a manner that would be unreasonably disruptive to the tenant. In determining whether a disruption is reasonable, the [responsible agency] shall consider any relevant issue raised by the tenant, such as the tenant working from home, sleeping during the day, etc. At no point shall tenants

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be exposed to toxic or hazardous materials including, but not limited to, lead-based paint and asbestos.

- B. The [responsible agency]'s acceptance of a Tenant Habitability Plan shall be subject to the landlord having no outstanding balances due for rent registration or code enforcement fees.
- C. The [responsible agency] shall provide landlords with written indications of deficiencies which must be addressed whenever a Tenant Habitability Plan is determined to be inadequate. A landlord may submit an amended plan in order to correct identified deficiencies.
- D. Landlords and tenants may appeal the [responsible agency]'s determination regarding a Tenant Habitability Plan to a hearing officer. The appeal shall be made in writing, upon appropriate forms provided by the [responsible agency], and shall specify the grounds for appeal, such as the plan being overly disruptive or that a temporary relocation should or should not be provided. The appeal shall be filed within 15 calendar days of the service of the Building Division's determination. The requested hearing shall be held within 30 calendar days of the filing of the appeal following the procedures adopted under. The hearing officer shall issue a written decision within ten calendar days of the hearing on the appeal, with a copy of the decision served on the landlord and the tenants by first class mail, postage prepaid, or in person.

1253.4 Notice of Substantial Repairs or Construction

- A. Notice of Substantial Repairs or Construction shall be written in the language in which the original lease was negotiated and shall provide the following information:
 - 1. The estimated start and completion dates of any Substantial Repairs associated with the accepted Tenant Habitability Plan.
 - 2. A description of the Substantial Repairs to be performed and how it will impact that particular tenant or household.
 - 3. Whether temporary relocation will be required, and if so, a notice concerning tenants' rights under Berkeley's Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance (section 13.100 et seq.) and Berkeley's Relocation Ordinance (section 11.102 et seq.)
 - 4. Instructions that tenants with questions should consult the landlord or the Rent Board.
 - 5. Notice of a tenant's right to reoccupy the units under the existing terms of tenancy upon completion of Notice of Substantial Repairs

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6. Notice that the tenant may appeal the [responsible agency]'s acceptance of a Tenant Habitability Plan provided such request is submitted within 15 days of the tenant's receipt of the Notice of Substantial Repairs
7. Notice that a tenant can make complaints to the responsible party identified in section 1253.2 (A)(1).
8. A disclaimer in at least 24 point bold font on the first page of the notice stating "THIS IS NOT AN EVICTION NOTICE. IF YOU IF YOU HAVE QUESTIONS CONCERNING YOUR RIGHTS AS A TENANT CALL 510-981-_____."

1254 – Notice and Service Requirements

After the [responsible agency] accepts the Tenant Habitability Plan, a landlord shall serve a copy of the Tenant Habitability Plan, Notice of Substantial Repairs or Construction, and a summary of the provisions of this article on the tenant. Service of these items shall be provided in the manner prescribed by Section 1162 of the California Code of Civil Procedure and at least 60 days prior to the date on which the Substantial Repairs or Construction are scheduled to begin.

1255 - Notices of Violation

- A. Habitability Plan submittal requirement upon finding of substandard housing pursuant to 19.40.090
 1. Building Officials shall include in Notice of Violation pursuant to 19.40.1002 whether Habitability Plan must be submitted;
 2. Building Official shall require submittal of Habitability Plan anytime owner or agent of owner has failed to apply for permits or submit a Habitability Plan when it would have been required and all Construction or repairs shall be halted until compliance is obtained.

If such pause in construction leaves the rental unit substandard, temporary relocation may be triggered.

1256 - Remedies

- A. A landlord who fails to abide by the terms of an accepted Tenant Habitability Plan shall be denied individual rent adjustments under Section 13.76.120 of this Code, absent extenuating circumstances.
- B. In any action by a landlord to recover possession of a rental unit under section 13.76.130(A)(7), the tenant may raise as an affirmative defense the failure of the landlord to comply with any provisions contained in this article. It shall be a complete defense to an unlawful detainer that a tenant's appeal under section 1253.3(D) is pending at the time

Internal

of filing the unlawful detainer complaint, or was decided less than fourteen days before the filing of the Unlawful Detainer unlawful detainer complaint.

- C. Any person who willfully or knowingly with the intent to deceive, makes a false statement or representation, or knowingly fails to disclose a material fact in any plan or notice required under this article, or in any declaration, application, hearing or appeal permitted under this article, including oral or written evidence presented in support thereof, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for a period of not more than six months or both.
- D. Nothing in this article shall be construed to deprive a person of due process rights guaranteed by law, including, but not limited to, a right to appeal the [responsible agency]'s determination regarding a Tenant Habitability Plan to a hearing officer.
- E. The remedies provided by this article are in addition to any other legal or equitable remedies and are not intended to be exclusive. In addition to potentially other violations, a landlord's failure to provide, or bad faith deviation from a Tenant Habitability Plan shall be actionable as a failure to "exercise due diligence in completing repairs" pursuant to section 13.79.060(C)(7).

3.

Cash, Anna

From: Theo Ferguson <theo@healinglivingsystems.org>
Sent: Tuesday, November 1, 2022 1:39 PM
To: Xavier Johnson; Housing Advisory Commission; Harrison, Kate; Marian Wolfe; Igor Tregub
Subject: Shared Housing Ownership
Attachments: BHAC_1642 Milvia_Proposal_addressing_Unhoused People_04042019 (1) (2).pdf

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Councilperson Harrison, Commissioners of the Berkeley Housing Authority Commission and Berkeley HAC Staff--

The attached Shared Housing Ownership document was submitted by Xavier Johnson, Chairperson, Housing Advisory Commission on or about March 16, 2020, but COVID shut down many processes on Friday, March 13, 2020, so this activity "fell in the COVID chasm" and was not considered by the Berkeley City Council.

Many of us, such as myself, have lived in Berkeley for over 40 years and seen a very substantive change in the dynamics and character of the City. I presented the Shared Housing Ownership--in the case of 1642 Milvia Street Condo Association--as a vital and powerful way to uphold alive and aware community members. I did so because of two significant factors. 1) It has worked well for 40 (now 42) years; and 2) many community members really like to be actively involved in the place "each calls home." Building giant housing complexes is one solution to "getting folks off the streets", but inviting community members to collectively buy into, upgrade and "become their homes" of older housing stock that really need owners, is a way to revitalize and engage community members.

I sincerely encourage Chairperson, Xavier Johnson and others among you to (re)submit Shared Housing Ownership to be placed on the City of Berkeley City Council Information Calendar. I would be pleased to elevate again the Shared Housing Ownership modality of housing in Berkeley. Three critical support systems are already in place: 1) Rebuilding Together East Bay (<https://rtebn.org/>); the City of Berkeley Tool Library (<https://www.berkeleypubliclibrary.org/locations/tool-lending-library>); and 3) houses that need owners. Granted there may be no current listing of older houses that a) may be falling apart, but have "renters"; b) may not have "renters". But there are many cities that have undertaken inventories of older houses in need of owners and found solutions that enable unhoused people to rebuild these older houses and call them "home."

Yes, there is more to this story as some detailed back stories about how in 1981:1642 Milvia Street TIC and then in 1994:1642 Milvia Street Condominium Association as "TIC'd Off" won 100% of the City Council challenge as 60% women owned a subset of which was 40% were single mothers and we were the lower and middle income community members in Berkeley and did not want to pay 3% to the City. Then Mayor Hancock wanted the 3% any sale related to a Condominium sale to withhold 3% for low and middle income community members. We were the low and middle income community members. The 1642 Milvia Street TIC owners devised a very equitable process to upgrade the many pages of things that needed attention at 1642 Milvia St. Before we were able to condominiumize, we were able to get a loan with the World Bank and then negotiated our own loans when we became a four-plex condominium.

As one of the founders, I have all the documents and processes that we undertook and would be very willing to advise a City selected facilitator, who would work on this variation of enabling community members to become homeowners and elevate active unhoused and other community members within the city.

I would be honored to collaborate with your associates on enabling vitality and collaboration among the unhoused in Berkeley. 16 sets of people have been owners as either Tenants in Common or Condominium owners over the last 42 years. We have a Unit for sale now. When that closes, that will be our 17th sale.

My very best to you all in support of vital community members in Berkeley,

Theo Ferguson

Theodosia H. Ferguson
1642 Milvia St. #4
cell: 510-684-9071



INFORMATION CALENDAR

To: Honorable Mayor and Members of the City Council
From: Housing Advisory Commission
Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission
Subject: Shared Housing Ownership

INTRODUCTION

The City of Berkeley, along with many other jurisdictions in California, is exploring additional options to make housing more affordable. Most federal and state funding programs focus on rental housing. Therefore, there are fewer options available for Berkeley residents who want to become homeowners but who lack the financial resources to purchase a detached single family home.

The shared housing ownership model presented in this report provides information on one option for affordable homeownership that does not rely on outside funding and which can be affordable.

CURRENT SITUATION AND ITS EFFECTS

There is a limit to the amount of funding and staff support that can be provided to Berkeley residents who want to become homeowners or remain in their homes on limited incomes. Co-operative ownership is one model, land trusts are another, and home sharing is a third option.

Shared housing ownership is another model for the City to learn about. And, since shared housing ownership requires remodeling, it is a program that results in upgrading older housing without reliance on public funds.

Additional advantages of shared housing ownership include the ability for community members, who purchase the condominium units developed under a shared ownership model, to build equity, learn more about capital and maintenance needs, and benefit from the personal relationships developed among owners.

BACKGROUND

The 1642 Milvia Street Condo Complex, is a model for this shared ownership approach. The initial owners had already formed a group and worked with a local realtor to locate a suitable property. The property at 1642 Milvia Street was an appropriate property.

This property was originally built in 1903 as a single family home. It was subdivided into five rental units, and was covered by the City's rent control ordinance when purchased in 1981 by the initial shared housing owners. When the property at 1642 Milvia Street was purchased, the owners converted it to a four-unit property under a Tenants-in-Common (TIC) form of ownership.

The original TIC form of ownership was based on trust and being thoughtful of each other as well as cost sharing. Cost sharing enabled owners to build more flexibility into their lifestyles. These fundamental values were continued as the governance was transferred to a condominium form of ownership. This form of ownership was selected for several reasons, including smoother change of ownership (all loans do not need to be refinanced when an owner sells) and other owners are not liable for other members' debts. Yet members must be credit-worthy and able to obtain financing for their units independently from other members.

When individual condominium owners sell their units, the other owners have little input regarding future buyers. However, the 1642 Milvia Street Condo Association has adopted a House Philosophy which assists in this process.

Available upon request is a complete list of repairs undertaken for the four units at this property along with the chronology of the repairs.

ENVIRONMENTAL SUSTAINABILITY

There are some direct environmental effects associated with the content of this report. When shared ownership results in the rehabilitation of older, small multiple rental properties that are centrally located, there can be a reduction in auto use. The garden at 1642 Milvia Street Condo Assn. was designated as habitat by StopWaste.org in 1991, and the house has been 100% solar heated water since 1981, including a hot tub that has used solar heating for 16 years. Further, energy saving improvements were included in all remodeling work. Examples for the property at 1642 Milvia Street included replacing less energy efficient and minimum water use refrigerators, stoves, clothes washers and dryers, and drip irrigation systems on timers for garden water use.

POSSIBLE FUTURE ACTION

There is real value in working with older houses as homes—stepping stones to other opportunities should a condo owner move. Participants develop capacity in a number of areas, including plumbing, construction, electrical work, accounting, management, as well as interaction with the city's zoning personnel and the laws and interrelationships around housing.

The City of Berkeley could select to train local community members to become self-reliant. As self confidence in trainees grows, the City grows more capable community members. A great synergy between Building Together and the Berkeley Tool Library

Shared Housing Ownership

could be cultivated. Building Together has a history of successful mentorship and training in these areas.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Direct fiscal impacts of this recommendation could include some community training.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406