

May 20, 2021

To: Land Use, Housing and Economic Development Policy Committee

From: Mayor Jesse Arreguín

Subject: Proposed Amendments to TOPA

Thank you for all the time and thoughtful discussion over the proposed TOPA ordinance. Throughout the committee's deliberations, I have listened carefully to public comments and read every email and letter sent in. I strongly support TOPA and believe it is an important tool to prevent displacement and keep housing affordable. But I also understand there are some concerns around the ordinance, specifically as they relate to small property owners. We can launch an effective TOPA program and address suggestions offered by stakeholders.

I am therefore proposing several amendments related to: 1) the applicability of the ordinance; 2) length of timelines; 3) implementation phase-in; 4) and clarifying language in response to committee members' questions and concerns.

As today is the last day for the committee to act on this proposal, I am respectfully requesting that the policy committee make a **Qualified Positive Recommendation to the full Council incorporating the following amendments**. After Committee action I will work with the City Attorney's office to incorporate language reflecting these amendments:

Exemptions (13.89.050)

- Clarify that any owner-occupied properties exempt under the ordinance **must be the "principal residence" of the owner.**
- **Exempt all Single-Family Homes (SFH) from TOPA except investor-owned SFH properties** using a definition based on language in AB 1482 (state rent cap law).

CA Civil Code Section 1947.12 (AB 1482) defines investor-owned properties as

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

- In addition to exempting Single Family Homes and Accessory Dwelling Units where an owner resides in one of the units as their principal residence, **also exempt all owner-occupied Duplex properties where one of the units is the owners' principal residence or that of a family member defined as "Eligible Persons" in Section 13.89.050.B.10.**

- Give tenants standing to file a complaint of non-compliance with the City if there is evidence that a property should be covered under TOPA and is not entitled to an exemption.

Right of First Refusal (13.89.100)

Shorten the timelines for the Right of First Refusal process as follows:

- Acceptance of offer:
 - 5 business days all properties (currently 10 or 30 days)
- Close of transaction:
 - 45 days (under 5 units) (currently 90 days)
 - 90 days (5 units or more) with one 30-day extension upon demonstrating that it is diligently pursuing financing or completing other requirements to close the transaction, to be further defined in the Administrative Regulations

Clarifying Language

- **Include prior definition of “Sale”**
- **Right of First Offer Reset:**
 - Right of First Offer will not reset unless Owner backs out of sale after escrow has opened.
 - If Tenant or QO backs out of sale after escrow has been opened, then Owner will be exempt from complying with TOPA for 12 months.

Implementation Phase-In

- **Delay the effective date of the ordinance until July 1, 2023 so that the program can launch fully resourced**
This would align decisions on funding implementation with the FY23 budget process and provide sufficient time to fund and implement staffing, acquisition funding, and supportive partners.
- Refer to the FY 2022 Budget process \$100,000 for the purpose of hiring a consultant to:
 - **Conduct an Equity Study to inform implementation of TOPA**
 - Draft Administrative Regulations
 - Develop the program model
 - Identify staffing and administrative funding needs at time of effective date for successful launch and ongoing administration of the program
 - Evaluate capacities and costs/benefits of various agencies (COB, Housing Authority, Rent Board, potential not-for-profit partners) to launch and administer the program
 - Identify potential ongoing funding sources to support housing purchases and program administration over at least 5 years
 - Assess other administrative and programmatic needs to support success.