

April 25, 2023

San José City Council  
City of San José  
200 E. Santa Clara Street  
San José CA 95113

Re: Item 8.3 – Housing Stabilization: Community Opportunity to Purchase Act Program Proposal

Dear Mayor Mahan, Vice Mayor Kamei and Councilmembers:

We want to thank the Mayor, City Council, and City staff for the many years of time and effort it took to develop a Community Opportunity to Purchase Act (COPA) for San José. We recognize the challenges that it takes to develop policies that will significantly preserve affordable housing in a city as large, complex, and high cost as San José. We believe that today's decision will be a pivotal moment in the city's commitment to the preservation of deed-restricted permanently affordable housing, and indicative of city leadership's responsiveness to community concerns about the housing shortage and displacement.

Displacement has severely impacted our entire Bay Area region, where over 1.5 million residents have moved away since 2010. The entrenched housing shortage has adversely affected our region and our city's goals to be a more equitable, sustainable, and prosperous community to live and work in – where a disproportionate number of low-income residents and a disproportionate number of BIPOC residents are forced to move, severely inhibiting San José's ability to support economic mobility and undo legacies of systemic and unjust housing policy. Recognizing these challenges, the City of San José Housing Department began work in 2020 under Council approval to develop an anti-displacement plan – including the development of a COPA policy.

**We urge you to take action to meaningfully build and fund a preservation infrastructure that will move the needle in potentially saving thousands of affordable housing units in San José.** City staff and stakeholders engaged in thousands of hours of community input to inform a policy that would address concerns about the housing crisis. Overall, the positive impact of adopting a draft COPA program proposal includes preserving housing for dozens of renter households in the short-term, and potentially thousands in the long term who would gain access to stable, affordable housing. In addition, adopting a COPA policy would help to lay the groundwork for an affordable housing preservation practice in San José.

Moreover, COPA would provide opportunities for non-profit developers and/or tenants to preserve existing affordable housing stock without unduly affecting the rights of property owners, who would be under no obligation to sell to any party except on the terms of their own choosing. COPA would make an additional tool available to the city and its residents to work together to protect tenants, preserve affordable housing stock, and produce additional housing to address homelessness and housing insecurity.

This letter expresses our support for the careful development of the COPA policy that identified and included the following items in the staff memo for applicability and exemptions:

- Including two-to-four-unit properties (unless owner-occupied) that are not currently covered by the City's Apartment Rent Ordinance, meaning that lower-income renters in these housing types can experience rent increases of over 5% per year, placing them at a higher risk of displacement than those renters living in properties with three or more units.
- Refining criteria for Qualified Non-Profit Organizations (QNP) for affordable housing acquisition and rehabilitation, which would ensure that staff can periodically revisit nonprofit lenders' underwriting criteria and ensure that city-listed QNP criteria aligns with those of acquisition lenders.
- Pursuit of joint partnerships between more experienced QNPs and emerging locally-based community housing organizations as a strategy to build capacity

and support for these emerging organizations to become eligible to operate as QNPs doing housing preservation and other community development work.

- Focusing on very low- and low-income renter households, especially those who live in neighborhoods that are experiencing or at risk of displacement.

These actions would ensure that the City continues aggressively pursuing policies that proactively prevent displacement and promote community stability, tenant empowerment, and ownership opportunities. Crucially, COPA has been listed in the update to the Housing Element in Table 3-2 as part of the City's preservation plan. **San José must provide recurring funding for affordable housing preservation and build a preservation ecosystem that will be critical to addressing the housing crisis and meeting its RHNA targets.**

Additionally, we ask that the City Council and staff consider the following items as additional priority items:

- The City Council's Measure E allocation plan adopted in 2022 calls for 75% of it to be spent on affordable housing, including the creation of deed-restricted permanently affordable housing through preservation; and the remaining 25% on homelessness prevention, rental assistance, and unhoused support programs.
- Utilizing Measure E funds can critically support preservation strategies in the Housing Element, including the Preservation NOFA (R-2), Preservation Policy (R-9), Anti-Displacement Strategy (R-12), and Preservation and Community Development Capacity Building programs (N-4)
- COPA should be paired with sufficient funding to subsidize purchases by nonprofits or tenants. The California Department of Housing and Community Development (HCD), the Bay Area Housing Finance Agency (BAHFA) or local housing departments that control subsidy dollars (depending on the scale of the program) could be given the right of first purchase and a certain time frame to assess what funding is available and whether a site is a match for their priorities, their partners and their partners' capacity at a given moment.

- Pairing this policy with tax or property exchange benefits for sellers address concerns about the process.
- Providing capital funding for project acquisition, capacity-building funds for nonprofit organizations, and technical and legal assistance that allows tenants and property owners to navigate the housing preservation process.

Advancing equity means understanding how past policies were shaped by systemic racism and bias in order to best address existing inequities with new policies, and establishing new institutional norms and practices. San José does not currently have established, recurring funding for an affordable housing preservation program. SPUR encourages the City Council to adopt policies that will proactively prevent displacement and promote community stability, tenant empowerment, and provide pathways to economic prosperity.

We appreciate and express support for the recommendations in the memo submitted by Councilmembers Peter Ortiz, Sergio Jimenez, and David Cohen that build upon staff recommendations for a draft COPA policy that has been developed in accordance with extensive stakeholder and resident engagement. SPUR looks forward to working with City staff to further develop and implement such policies, as well as proactively allocate resources to ensure that effective and meaningful housing preservation strategies like COPA are viable. Today represents an important step to meet the needs of our current housing crisis, and the San José community deserves bold action to advance equity. The city will need to adopt preservation policies that move us beyond the status quo.

Sincerely,



Fred Buzo  
San José Director



Erika Pinto  
San José Planning Policy Manager