



Office of the City Manager

WORKSESSION  
February 21, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services

Subject: Referral Response: Affordable Housing Preference Policy for Rental Housing Created Through the Below Market Rate and Housing Trust Fund Programs

SUMMARY

Staff are providing information on work to date on an Affordable Housing Preference Policy (HPP), and requesting the City Council provide feedback on which preferences to move forward for policy development and adoption. Staff will use this guidance to inform the policy, Fair Housing analysis, and implementation plan. Staff anticipate returning to Council in Summer 2023 for adoption of the policy.

The HPP, if adopted, will focus on preventing displacement from Berkeley, responding to displacement from Berkeley that has occurred, and addressing historical injustices. Preference policies for affordable housing are unique amongst anti-displacement policy tools for their potential to help already-displaced residents return to their community. Preference categories may assist people who faced or are facing displacement in Berkeley, those with ties to Berkeley's historically redlined areas, and households with children to receive priority for new affordable housing units. The HPP is intended to apply to units created by the City's Below Market Rate (BMR) and Housing Trust Fund (HTF) programs. Opportunities for implementation of the policy will be shaped by staffing levels, Fair Housing law, and approvals by other government funding sponsors for HTF projects.

The current proposal is a product of work undertaken by the Department of Health, Housing, and Community Services (HHCS) in partnership with community-based organizations. In 2019, in response to Council referrals and ongoing community advocacy for a preference policy, HHCS and the Department of Planning applied for a Partnership for the Bay's Future (PBF) Challenge Grant. The Challenge Grant, which commenced in March 2020, allowed HHCS to support community partners East Bay Community Law Center (EBCLC) and Healthy Black Families (HBF) to engage in a community-driven process to make recommendations for an HPP. Housing Advisory Commission (HAC) also provided recommendations on a Housing Preference Policy.

CURRENT SITUATION AND ITS EFFECTS

*Council Guidance & Next Steps*

The preferences recommended by community engagement and the HAC are identified in Table 1. Staff are requesting City Council identify which preferences to move forward for policy development and implementation. Staff will use this guidance to inform the policy, Fair Housing analysis, and implementation plan. Staff anticipate returning to Council in Summer 2023.

Table 1: Summary of Preferences Recommended by HAC & Community Engagement

Proposed Preferences	Details	Rationale & Potential Benefits
<b>Displacement due to BART construction (first priority)</b>	Descendant of someone who was displaced due to construction of BART in Berkeley.	Supports those who lost their homes due to BART construction and forewent intergenerational wealth-building opportunities as a result. Acknowledges this harm and provides an opportunity to return to the community with stable housing.
<b>Displaced due to foreclosure</b>	Displaced due to foreclosure in Berkeley since 2005.	Supports displaced residents to return to Berkeley and acknowledges lack of support during the foreclosure crisis. The foreclosure crisis disproportionately impacted communities of color.
<b>Displaced due to eviction</b>	Displaced in Berkeley due to eviction within the past seven years.	Supports renters facing challenges finding new housing due to an eviction, which stays on a record for seven years. Evictions disproportionately impact Black women. Eviction court cases move quickly, and renters are at a significant disadvantage when they do not have legal representation.
<b>Families with children</b>	Household with at least one child aged 17 or under.	Increases community cohesion, since families are being displaced from social networks and school districts, often to lower resource places. Research and community knowledge indicate that children are most impacted by displacement, with impacts on education, child care, and peer networks.
<b>Homeless <u>OR</u> at-risk of homelessness</b>	Homeless <u>OR</u> At-Risk of Homelessness with current/former address in Berkeley	Supports housing insecure Berkeley residents become stably housed in their community. Berkeley’s homeless population is disproportionately people of color.
<b>Ties to redlined areas</b>	Residential ties to Berkeley’s redlined areas – current or former address of applicant.	Acknowledges historic racialized injustices that contributed to the displacement crisis, supports displaced residents to return to Berkeley, and supports those in

Proposed Preferences	Details	Rationale & Potential Benefits
		neighborhoods facing gentrification-related displacement pressures to become stably housed.
<b>Ties to redlined areas – historical</b>	Residential ties to Berkeley’s redlined areas – current or former address of parent/guardian or grandparent of applicant.	<i>See above.</i>

*Policy and Implementation Considerations*

Staff identified several additional considerations related to policy development and implementation:

- Displacement due to BART construction:
  - Staff submitted a Public Records Request to BART and received some records on individuals who lost their homes due to BART construction. Staff are seeking further clarification on whether these records are comprehensive.
  - Community discussions have centered around those displaced due to eminent domain, but staff are proposing a broader scope to this preference in light of examination of BART records.
  - Staff collected examples from other cities with similar preferences on documentation verification processes.
- Displacement due to eviction:
  - Feedback from affordable housing providers suggested that it may make sense to identify specific causes for eviction that would qualify for this preference, such as nonpayment of rent, owner move-in, and demolition.
  - HAC will be discussing recommendations for an ordinance prohibiting landlords from considering eviction history and other factors, such as credit checks, in rental applications at the March HAC meeting.
- Homeless or at risk of homelessness:
  - The City currently supports homeless individuals to access affordable housing with supportive services via the BMR program’s Shelter Plus Care voucher requirements and HTF program’s Permanent Supportive Housing units.
  - Typically, when affordable housing projects include homeless-designated units, these units are dedicated to homeless households and include supportive services. Homeless advocates have noted that people may be at-risk of homelessness or homeless with a wide range of circumstances and service needs.

- At the same time, affordable housing providers expressed concern that a homeless preference may lead to chronically homeless residents being housed without adequate support if they are able to income-qualify for a unit.
- Affordable housing providers indicated typically homeless units on average require \$5,000 - 6,000 in additional subsidy per unit that has not been identified.
- Affordable housing providers also expressed concern that there may be an excessive administrative burden to screen chronically homeless applicants who will be prioritized but will not ultimately qualify for income-restricted units (i.e., 50-60% AMI). This could result in delayed lease-up and increased projects costs.
- Implementation must consider how homeless people can demonstrate local ties without being overly burdensome. Narrowing this preference to those with a former address in Berkeley may help prioritize those with local ties. At the same time, filtering for local ties could filter out eligible applicants who have a difficult time supplying documentation.
- Affordable housing providers also stressed the importance of definitions of homelessness and risk of homelessness that are consistent with existing definitions.
- For these considerations, monitoring and adjusting implementation as needed will be important.
- Number of preferences
  - Affordable housing providers emphasized that additional administrative requirements related to preferences may cause lease-up delays and increase project costs.

### *Fair Housing Analysis*

Fair Housing law requires disparate impact analysis (DIA) for preferences before a preference policy can be implemented on HTF projects. DIA assesses whether specific racial groups or other protected classes would be inadvertently disproportionately impacted by the HPP. County, State, and Federal funding agencies that contribute funding to HTF projects require this analysis to permit use of the HPP on specific projects. Staff will need the discretion to adjust the application of preferences in order to ensure no disparate impact and secure the necessary funding approvals for HTF projects.

This analysis also determines what percentage of units can receive preferences without creating disparate impacts on protected classes under state and federal law. Staff's intent is for the policy to be applied to the maximum percentage of units permitted by disparate impact analysis. Research from other cities shows this analysis will limit the share of affordable housing units the policy can apply to; it will not be able to be applied to 100% of units in a development.

Staff issued a Request for Proposals (RFP) for Fair Housing analysis of the proposed preferences in August 2022. The Fair Housing analysis report will help determine how each preference can be applied to the maximum percentage of units permitted by disparate impact analysis, and will help secure approval for use of preferences from funding agencies. Staff submitted a report for February 28, 2023 to receive Council approval for a contract with the selected bidder.

### *Implementation Considerations*

The following considerations will help shape the implementation plan:

- **Preferences:** The proposed preferences vary in scope and reach and will take time to effectively implement. Most jurisdictions surveyed typically implement three to four preferences. Staff will prepare an implementation plan predicated on the scope of the preferences selected by Council.
- **Sequencing of Rollout:** Disparate Impact Analysis is not required for BMR units as they are not reliant on outside government funders. Staff recommend implementing the policy on new BMR units upon adoption of administrative guidelines, while the Fair Housing analysis required for HTF projects is simultaneously completed.
- **Outreach:** Staff will issue an RFP to select a local community-based organization to conduct outreach and education.
- **Reporting:** Staff will provide an annual report to Council documenting the policy's impact and request any policy amendments to better serve the anti-displacement goals.

### *Housing Advisory Commission Vote*

The Housing Advisory Commission (HAC) supported adopting a Housing Preference Policy at the October 6, 2022 meeting with the following vote:

Action: M/S/C (Simon-Weisberg/Mendonca) to recommend City Council take the following actions:

- 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;
- Structure the preferences 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 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).

The HAC supported all six preferences staff identified via the community engagement process, and added a preference for those displaced by eviction, due to challenges renters may face finding new housing with an eviction that stays on their record for seven years, as well as the racial disparities of evictions. Community engagement leaders and the HAC agreed that a preference for displacement due to BART construction should have a first priority above other preferences.

### *Referrals*

This report responds to two referrals: #001-3208, which originally appeared on the agenda of the April 5, 2016 meeting and was sponsored by Councilmembers Droste, Moore, Capitelli, and Maio; and #000-3732, which originally appeared on the agenda of the April 30, 2019 Council meeting and was sponsored by Councilmembers Davila and Bartlett.

The Housing Preference Policy is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support services for our most vulnerable community members. The HPP will apply to units created by the BMR and HTF programs.

### BACKGROUND

Over the past several years, multiple community-based organizations in Berkeley have called for a Housing Preference Policy to help address gentrification and displacement in Berkeley, particularly from the African American community in South Berkeley. In 2016, Council made a referral to develop Neighborhood Preference in Affordable Housing to reduce the impact of displacement. The Adeline Corridor Specific Plan prioritized the development of a local preference policy for affordable housing, specifically mentioning preference policy on potential future affordable units at the Ashby BART station. In 2019, the City Council made a referral to create policies to develop a "right to return" for Berkeley's displaced residents, "especially People of Color, including the African American communities who have been displaced."

In 2020, with the support of the Mayor and Councilmembers Bartlett and Harrison, the City began the PBF Challenge Grant with a focus on developing a Housing Preference Policy rooted in community engagement and research. Also in 2020, the City and BART Joint Vision & Priorities included a Housing Preference Policy for future housing at Ashby and North Berkeley BART stations.

As part of the PBF Challenge Grant, the City of Berkeley worked with community partners East Bay Community Law Center and Healthy Black Families to engage in a community-driven process to design the Housing Preference Policy. Community input was solicited through outreach and engagement strategies including:

- Community surveys: A targeted displacement-focused survey led by Healthy Black Families, and a city-wide survey focused on a Housing Preference Policy hosted on Berkeley Considers (results and analysis of the survey are included as Attachment 1);
- Outreach led by Healthy Black Families;
- A “Community Leaders Group” comprised of representatives from local community-based organizations and community groups led by Healthy Black Families and East Bay Community Law Center. Participants were selected by the lead community groups.

The discussions around a Housing Preference Policy revolved around addressing specific challenges facing Berkeley’s most impacted residents:

- Significant displacement within and from Berkeley has already occurred. The number of people experiencing homelessness in Berkeley steadily grew at an average rate of 10% every two years between 2006 and 2019. The most common response to the question of why homeless people chose to sleep in Berkeley was that they grew up in Berkeley. Black people are disproportionately represented in Berkeley’s homeless population; since 2006, 65% of homeless service users in Berkeley are Black while Black people comprise less than 8% of the overall population. Between 1990 to 2018, Berkeley lost 49% of its Black population while other racial groups all grew slightly.
- There is ongoing housing insecurity and displacement pressure in Berkeley. Approximately 49% of low-income renters in Berkeley spend more than half their income on rent.
- There is historical harm to communities of color in Berkeley. Redlining facilitated patterns of disinvestment that continue to enable gentrification. Approximately 83% of today’s gentrifying areas in the East Bay were rated as “hazardous” (red) or “definitely declining” (yellow) by the government agency that introduced redlining. These policies limited homeownership and housing stability in these Berkeley neighborhoods, which were predominantly populated by people of color. In the 1960s, BART bought blocks of homes in order to build Ashby and North Berkeley BART stations, in some cases invoking eminent domain; those who lost their homes due to BART construction lost their opportunities for intergenerational wealth-building.

In September 2022, SB 649 was adopted at the state level. This legislation established that it is the state’s policy that lower-income individuals residing in neighborhoods and

communities experiencing significant displacement need access to housing that is affordable and assists in avoiding displacement, and that a local tenant preference adopted pursuant to the bill's provisions is subject to the duty of public agencies to affirmatively further fair housing.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Displacement can lead to long commutes as displaced people continue to return to their community of origin for school, work, faith institutions, healthcare, and/or social networks. A Housing Preference Policy can help reduce greenhouse gas (GHG) emissions associated with these longer commutes by reducing or reversing displacement of those with ties to Berkeley.

#### POSSIBLE FUTURE ACTION

Staff will return to Council based on recommendations for preference categories with a resolution for Council consideration to create a new Housing Preference Policy applicable to new residential housing units created via the BMR and HTF program. The policy will be inclusive of Fair Housing law and government funder program requirements and approvals. Staff will also bring to Council an implementation plan that includes staffing, outreach, and data collection.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

A Housing Preference Policy will require new staff time for training/education, leasing certification, contract management, data collection and evaluation, and other ongoing implementation responsibilities. HHCS' Housing and Community Services Division (HHCS/HCS) estimates needing 0.3 FTE Community Service Specialist I (CSSI), 0.3 FTE Community Development Project Coordinator (CDPC) and 0.1 FTE Senior Community Development Project Coordinator to fulfill these duties. This represents an estimated annual staffing budget of \$136,299. HHCS/HCS is currently working with a consultant on a staffing study to assess overall staffing needs for the division. The draft study indicates there is a sufficient increased workload associated with new programs and regulations, including the HPP if adopted, to warrant a full-time CSSI position. The results of the staffing study and associated staffing requests and funding plan will be brought forward for consideration in early 2023. Staffing for the Housing Preference Policy implementation will be incorporated into the division's plan.

Further, as part of an evaluation one year after Housing Preference Policy adoption, staff will assess ongoing staffing needs in the context of current and other oncoming housing policy and program work, and return to Council with the results of the evaluation.

HHCS/HCS issued an RFP for Fair Housing analysis of the proposed preferences in August 2022. Staff submitted a report for February 28, 2023 Council approval of a contract with the selected bidder, in the amount of \$60,055. Funding in the amount of



\$60,055 for this Fair Housing analysis is available in the FY 2023 budget in the General Fund (Fund 011).

It will be critical to conduct outreach to ensure that potential affordable housing applicants are aware of the Housing Preference Policy. Staff recommend conducting an RFP to fund a community-based organization to lead outreach in Berkeley, and outside of Berkeley to reach those already displaced from the community. It will be important to have consistent outreach and education through the development of the two BART sites. Staff can evaluate possible funding sources once the scope of the policy has been determined.

CONTACT PERSON

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Attachments:

- 1: Housing Preference Policy Survey Results
- 2: Research Overview of Preference Policies in Other Jurisdictions
- 3: Referral Report from April 5, 2016
- 4: Referral Report from April 30, 2019

## Attachment 1. Preference Policy Survey Results

Two surveys were conducted as part of the outreach process to inform the Housing Preference Policy: a City survey on Berkeley Considers, and a community survey designed and implemented by Healthy Black Families. Healthy Black Families also supported on targeted outreach to the Black community of the Berkeley Considers survey. It is possible there is overlap in the respondents to the two surveys.

### Healthy Black Families Survey

There were 93 responses to the Healthy Black Families survey.

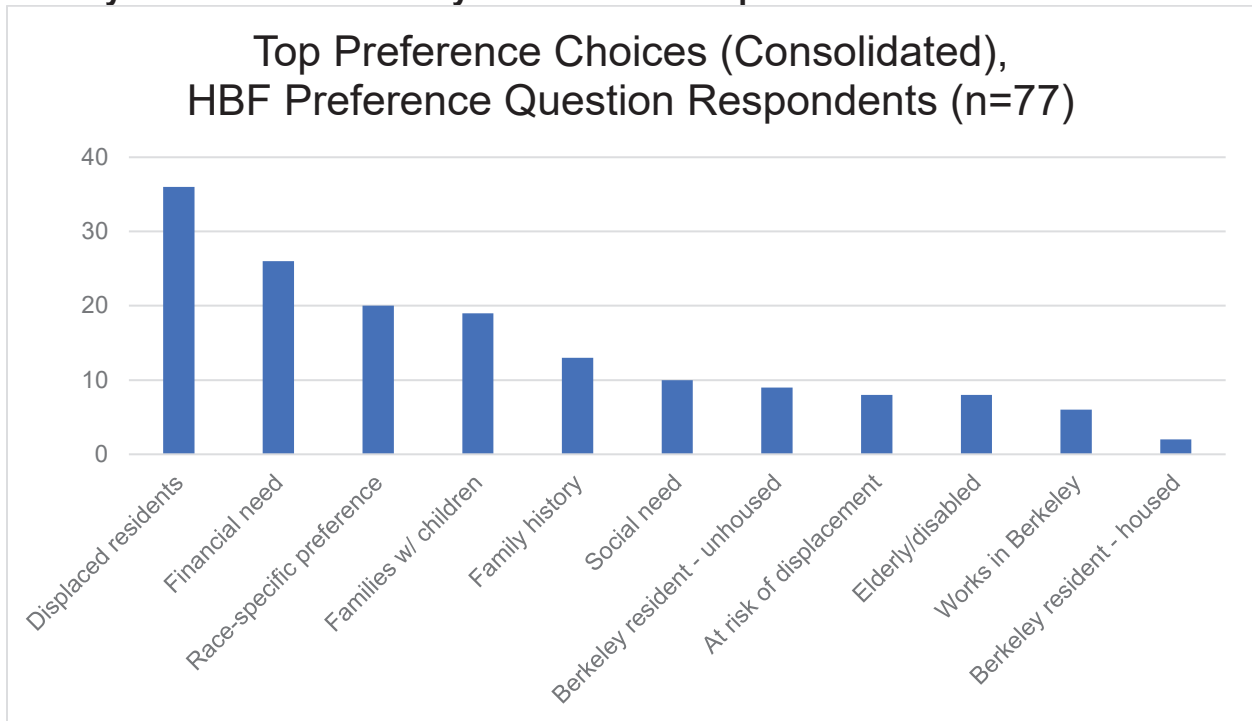
#### Healthy Black Families Survey - Demographics

- Race: 70% of respondents self-identified as Black, Black African, or Black Hispanic/Latinx; 18% identified as white, 3% as Latinx, 3% as other, 3% as Native American/Alaskan, and 2% as Asian/Indian/Pacific Islander.
- Housing tenure: 65% identified as renters, 25% as homeowners, 4% as living with family, 4% as other, and 2% as homeless.

#### Healthy Black Families Survey - Responses

- In the Healthy Black Families survey, respondents wrote in their suggestions for Preferences, and these were consolidated into themes at the analysis stage. There was not a limit on how many Preferences each respondent could indicate.
- Preferences - Overall Respondents: 77 respondents responded to the question, "What experiences or criteria do you think should be used to prioritize affordable housing applications in Berkeley?" The most common overarching categories were displaced residents, including displaced residents (24), displaced Black residents (10), displaced people of color (POC) residents (2) - followed by financial need (26), race - Black (11), POC (9) - and then other categories: families with children (19), family history/ties to Berkeley (13), social need (such as facing domestic violence) (10), unhoused Berkeley residents (9), at risk of displacement (8), elderly/disabled (8), works in Berkeley (6), housed Berkeley residents (2).

Healthy Black Families Survey – Preference Responses



Berkeley Considers Survey

There were 549 responses to the Berkeley Considers survey.

Berkeley Considers Survey - Demographics

- Race: 67% of respondents self-identified as white, 7% as African American/Black, 3% as Hispanic/Latinx, 3% as mixed race, 3% as Asian/Pacific-Islander, 1% other, and 15% preferred not to answer the race question.
- Housing tenure: 59% of respondents identified as homeowners, 31% as renters, 1% as unhoused, 4% living with family and friends and 5% other.
- Income: 41% of respondents reported an annual household income of above \$100,000, 9% reported \$80,000 to \$100,000, 7% reported \$65,000 to \$80,000, 12% reported \$40,000 to \$65,000, 10% reported \$20,000 to \$40,000, 7% reported less than \$20,000, and 13% did not answer.

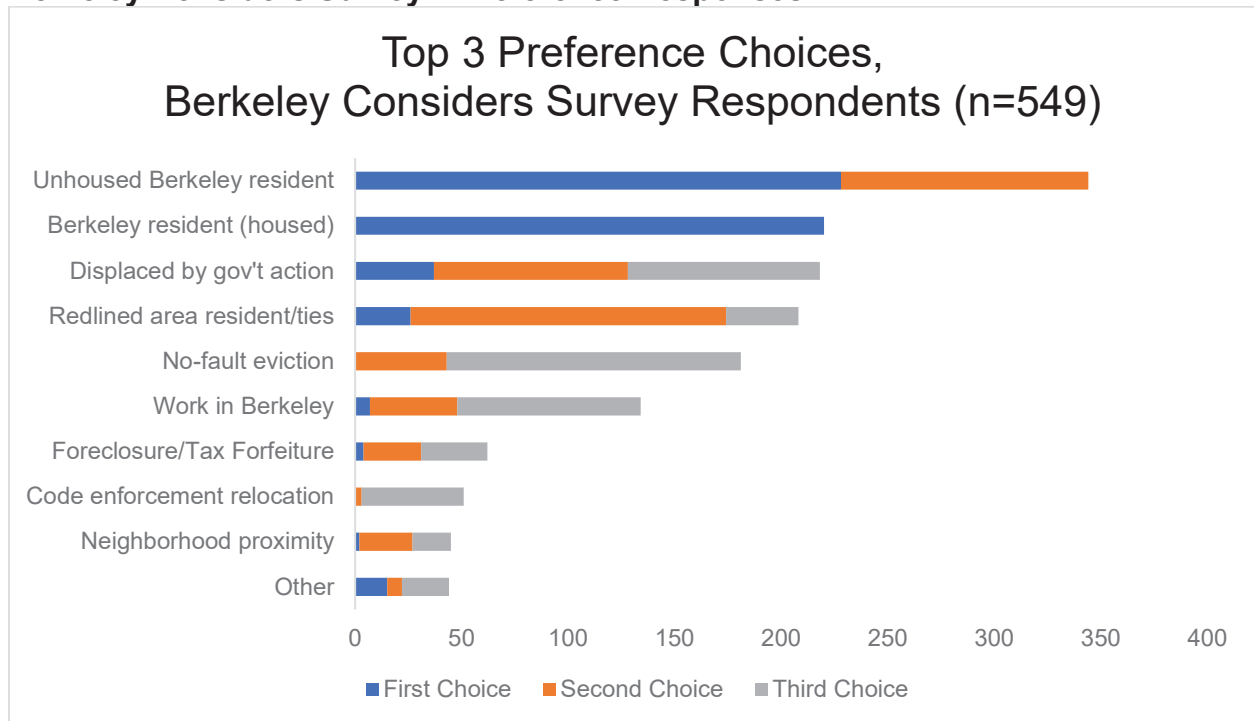
Berkeley Considers Survey - Responses

- Respondents were able to indicate their top three choices amongst a selection of potential Preferences. The numbers below reflect total selections across those who ranked Preferences first, second, or third choice.
- Preferences - Overall Respondents: In order of most common responses, the top Preferences were: unhoused Berkeley residents (344), housed Berkeley residents (220), those displaced by government action (218), those with ties to redlined areas (208), those displaced by no-fault evictions (181), those who work in Berkeley (134), those who lost their home to foreclosure/tax forfeiture (62),

those displaced due to code enforcement (51), those living in proximity to a new affordable housing (45), other (44).

- Preferences - Low-Income Respondents: Isolating the responses of low-income survey respondents (those who would be income-eligible for new affordable housing), the top three responses were the same as for the overall respondents: unhoused Berkeley residents, housed Berkeley residents, and those displaced by government action. Responses were: unhoused Berkeley residents (144), housed Berkeley residents (88), those displaced by government action (86), those displaced by no-fault eviction (80), those with ties to redlined areas (74), those who work in Berkeley (46) those displaced by foreclosure/tax forfeiture (27), those displaced by code enforcement (23), those living in proximity to the new affordable housing (20).
- Preferences - African American Respondents: Looking at the responses of African Americans, the group that has suffered most disproportionately from displacement pressures in Berkeley, “ties with redlined areas” rises to the #2 selection. Responses were: unhoused Berkeley residents (29), those with ties to redlined areas (21), housed Berkeley residents (15), those displaced by government action (12), those who work in Berkeley (8), those displaced by no-fault eviction (7), those displaced by foreclosure/tax forfeiture (4), those living in proximity to the new affordable housing (4), those displaced by code enforcement (3).

**Berkeley Considers Survey – Preference Responses**



## **Attachment 2. Research Overview of Preference Policies in Other Jurisdictions**

Several US cities implemented Preference Policies to prioritize applications for affordable housing projects based on different criteria. Some of these policies prioritize those who live or work in the city or near the specific affordable housing development. Others focus on displacement from the city (through adverse governmental action, no-fault evictions, and/or natural disasters) and ties to neighborhoods with histories of discrimination. These policies can be applied to BMR units and/ or HTF units depending on the context.<sup>1</sup>

### **California Cities:**

#### **East Palo Alto**

The City of East Palo Alto adopted a Local Preference Policy in 2020 for living in East Palo Alto (with a durational requirement of three months that applies to inclusionary housing units only), working in East Palo Alto, and for involuntary displacement (natural disaster, code enforcement, domestic violence, and rent increases above 10%).<sup>2</sup>

#### **Oakland**

The City of Oakland implemented different versions of preference policies over time, but the current version is codified in a 2016 ordinance. Preferences apply to nonprofit affordable housing and include categories for current and former residents displaced by City of Oakland/Oakland Redevelopment Agency's projects, Oakland's code enforcement, or a no-fault eviction; residents who currently live in the same Council District as, or one mile from, the property; and applicants who currently live or work in Oakland.<sup>3</sup>

#### **Redwood City**

Redwood City adopted a Live/Work Preference policy as part of an amendment to its Affordable Housing Ordinance in 2021.<sup>4</sup> This policy allows income-eligible households that live, formerly lived, work, or have been offered work in the city to receive a preference when affordable housing becomes available. The policy is supported by a Live/Work Policy Analysis.<sup>5</sup>

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<sup>1</sup> See "Draft Adeline Corridor Specific Plan", page 93, for more information on how preference policies operate in other cities:

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Land\\_Use\\_Division/AdelineCorridor\\_DraftPlan\\_1.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/AdelineCorridor_DraftPlan_1.pdf).

<sup>2</sup> See

[http://eastpaloalto.igam2.com/Citizens/Detail\\_LegiFile.aspx?Frame=&MeetingID=1070&MediaPosition=&ID=1174&CssClass=](http://eastpaloalto.igam2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1070&MediaPosition=&ID=1174&CssClass=)

<sup>3</sup> See <https://oakland.legistar.com/LegislationDetail.aspx?ID=2685178&GUID=BC70BA9D-D54C-405F-AD33-A194C31A6346>.

<sup>4</sup> See <http://www.redwoodcity.org/AffordableHousingOrdinance>.

<sup>5</sup> See

<https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/ATTACHMENT%20D%20E2%80%93%20LIVE-WORK%20POLICY%20ANALYSIS%20BY%20SEIFEL%20CONSULTING.pdf?meetingId=2250&documentType=Agenda&itemId=5223&publishId=9209&isSection=false>.

## **San Francisco**

The City of San Francisco has adopted Preferences via multiple ordinances over time, with the most recent ordinance adopted in 2019. Preference categories include a Certificate of Preference (for former San Francisco residents displaced in the 1960s and 1970s, during the SF Redevelopment Agency's federally-funded urban renewal program); a Displaced Tenant Housing Preference Program (DTHP) for tenants evicted by Ellis Act or owner move-in, and for tenants whose apartment was extensively damaged by fire; a Neighborhood Resident Housing Preference (NRHP) for San Francisco residents who currently live in the same Supervisor district as, or half-mile from, the property being applied to; and a live-work preference for those who already live in San Francisco, or work at least 75% of working hours in San Francisco.<sup>6</sup> There are also some project-specific Preferences.<sup>7</sup>

## **San Jose**

In 2020, the San Jose City Council directed staff to establish a Neighborhood Tenant Preference for renters seeking affordable housing who live in certain areas of the city that are undergoing or at-risk of displacement. Staff has been working since 2017 on this effort. The City is currently working on gaining HCD approval for its Preferences and also worked with allies to propose the now-adopted state legislation SB 649 to clarify the use of state funding on projects in jurisdictions with preference policies.

## **Santa Monica**

The City of Santa Monica implemented Preferences for inclusionary and nonprofit programs since the programs began in 1998. Preferences include: current or former residents displaced by no-fault evictions, natural disasters, reduction in housing voucher assistance, or government action; and applicants who currently live or work in Santa Monica. The preference for displaced people ranks above the live/work preference in a tiered system. Santa Monica is currently piloting an additional preference for those displaced by specific urban renewal projects.<sup>8</sup>

## **National:**

### **Austin, Texas**

In 2018, the City of Austin adopted Right to Stay and Right to Return policies for families affected by gentrification in certain Austin neighborhoods.<sup>9</sup> Preference points included: having generational ties to a neighborhood or having been displaced from it (by rising rent and property taxes as well as by natural disasters and eminent domain), having a disability, and family size fitting available units.

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<sup>6</sup> See <https://sfmohcd.org/sites/default/files/Preferences%20Manual%20-%20%20203.31.2017.pdf> and <https://sfmohcd.org/lottery-preference-programs>.

<sup>7</sup> In one project, where HUD did not approve of use of the neighborhood proximity preference, San Francisco implemented an "anti-displacement housing preference," where residents of neighborhoods at risk of or undergoing displacement would receive a preference point. See <https://www.kqed.org/news/11582750/part-of-s-f-housing-complex-reserved-for-seniors-at-risk-of-displacement>.

<sup>8</sup> See <https://www.santamonica.gov/programs/below-market-housing-for-historically-displaced-households>.

<sup>9</sup> <https://nextcity.org/daily/entry/austin-residents-have-right-to-return-in-new-development-for-the-first-time>

Eligible neighborhoods were determined by a University of Texas study. Residents will have to prove they or an immediate family member lived in these areas as far back as 2000.<sup>10</sup> This program is not codified in an ordinance and the Preferences are being implemented through development agreements on specific developments.

### **Cambridge, Massachusetts**

The City of Cambridge implemented Preferences for its inclusionary housing program since the program began in 1998. Preference categories include: current Cambridge resident (4 points), household with at least one child under 18 (1 point), household with at least one child under 6 (1 point), household with any of the following emergency needs (1 point): no-fault eviction, homeless, overcrowded housing, 50% or greater rent burden, outstanding code violations, and applicants who work in Cambridge (considered after all residents are considered, also given points for having children or an emergency need).<sup>11</sup>

### **New York, New York**

New York City implemented Preferences in the 1980s that apply to all City-funded affordable housing developments, applying to 50% of units. The policy establishes preference for residents living near the specific affordable housing development.

### **Portland, Oregon**

Portland's Preference Policy was created as part of the North/Northeast (N/NE) Neighborhood Housing Plan in 2015, and applies to 40% of units in all city-funded projects in this historically African American neighborhood, including homeownership units. The policy gives preference to residents that have been harmed by City of Portland action through urban renewal practices within the Interstate Corridor Urban Renewal Area (ICURA).

The Preferences include: current or former residents of N/NE Portland, those with generational ties to N/NE Portland, those who have had property in N/NE Portland seized by the City. Applicants use interactive maps to locate where their address falls in the ICURA maps.<sup>12</sup> As of December 2019, five years into the Policy, 33 households became homebuyers as part of the program; 28 of these households were African American and two were Latinx. Of renter households who accessed affordable housing through the Preference Policy, survey respondents have lived in the neighborhood an average of 32 years, with 65% of respondents having lived in the neighborhood their entire life.<sup>13</sup>

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<sup>10</sup> <https://www.kut.org/austin/2019-11-08/people-with-ties-to-a-gentrifying-neighborhood-to-get-a-better-shot-at-affordable-housing>

<sup>11</sup> See <https://www.cambridgema.gov/CDD/housing/forapplicants/rentalapplicantpool>.

<sup>12</sup> See <https://www.portland.gov/phb/nnehousing/preference-policy>.

<sup>13</sup> See [https://www.portland.gov/sites/default/files/2020/nne\\_neighborhoodhousingstrategy2015-20\\_0.pdf](https://www.portland.gov/sites/default/files/2020/nne_neighborhoodhousingstrategy2015-20_0.pdf).

### Seattle, Washington

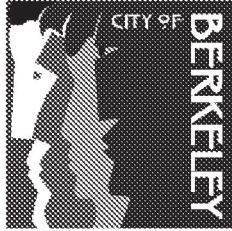
The City of Seattle implemented an opt-in preference policy in 2019 that affordable housing developers can choose to use for buildings in high displacement risk neighborhoods.<sup>14</sup> The preference policy is not to apply to more than 50% of units in a development, and recommended preference categories include: for communities affected by historic and/or current displacement pressures, applicant is a current resident; for projects in neighborhoods currently facing high risk of displacement, applicant, family member, or ancestor (i.e. great-grandparent) is a former resident; for projects in neighborhoods that have historically been affected by high displacement, applicant has community ties or utilizes community services in the neighborhood. For homeownership, if more than one eligible and qualified household has expressed interest in a specific home, community preference could be used to determine who is offered the opportunity.<sup>15</sup>

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<sup>14</sup> See <https://www.seattle.gov/housing/programs-and-initiatives/community-preference> for highlighted census tracts.

<sup>15</sup> See <https://www.seattle.gov/Documents/Departments/Housing/Programs%20and%20Initiatives/Community%20Preference/Community%20Preference%20Guideline.pdf>.





## ACTION CALENDAR

April 5, 2016

(Continued from March 29, 2016)

TO: Honorable Mayor and Members of the City Council  
 FROM: Councilmembers Lori Droste, Darryl Moore, Laurie Capitelli and Linda Maio

SUBJECT: Neighborhood Preference in Affordable Housing to reduce the impact of displacement and Ellis Act evictions

### RECOMMENDATION

Refer to the City Manager and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to qualifying Berkeley residents living within ½ mile of any new development and qualifying tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain qualifying tenants displaced through an Owner Move-In or (Measure Y) eviction.

### CURRENT SITUATION AND ITS EFFECTS

In late 2015, the San Francisco Board of Supervisors passed "neighborhood preference" legislation to address concerns of displacement, particularly within communities of color. The San Francisco legislation, which this proposal mirrors, allocated 40% of affordable —subsidized – units in new affordable developments funded totally or in part with city funds to residents living within ½ mile of the new development.

In 2015, Berkeley rents for studios and one-bedroom apartments are 25% higher than 2012 rents. Many long-term residents would not be able to remain in Berkeley since current market rates rents are unaffordable to those earning a median income (City of Berkeley Affordable Housing Nexus Study, 2015). Since subsidized housing is a scarce resource, the waiting lists number in the hundreds or thousands. A preference in qualifying for affordable housing for residents who have been, or are about to be displaced, is necessary to provide *more* opportunities for *more* residents to remain in Berkeley.

### ENVIRONMENTAL SUSTAINABILITY

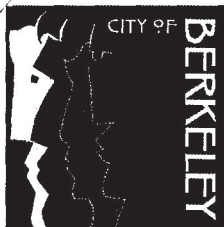
None identified.

### FISCAL IMPACT

Staff time.

CONTACT

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Councilmember Laurie Capitelli	(510) 981-7150
Councilmember Darryl Moore	(510) 981-7120
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Cheryl Davila  
Councilmember District 2

RECEIVED AT  
COUNCIL MEETING OF:

APR 30 2019

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

## REVISED AGENDA MATERIAL

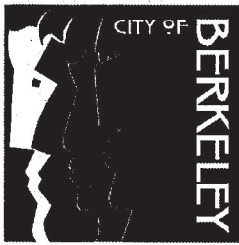
**Meeting Date:** April 30, 2019

**Item Number:** 22

**Item Description:** Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans

**Submitted by:** Councilmember Cheryl Davila and Ben Bartlett

Revised language.



Cheryl Davila  
Councilmember  
District 2

**CONSENT CALENDAR**

April 30, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Cheryl Davila and Ben Bartlett  
Subject: Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans

**RECOMMENDATION**

Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley residents of color. Recommended policies should include real solutions. The Commission should do the following:

- Develop a policy to address the erosion of People of Color (POC), including the African American sector of our Berkeley society.
- Develop rules and regulations to halt the loss of People of Color including the African American communities.
- Develop a "right to return" for Berkeley residents, especially People of Color, including the African American communities who have been displaced by these economic and social developments, and especially those who continue to be employed in our City, even after having to relocate beyond our boundaries.
- Solicit expert and lived experience testimonies regarding displacement and gentrification.
- Recommend alternatives to prevent displacement and gentrification of our valued Berkeley residents of color and African Americans.

**CURRENT SITUATION**

Minority groups are being pushed out of the neighborhoods in which they live. According to a study from the California Housing Partnership, between 2000 and 2015 the number of low-income households of color in the nine Bay Area counties dropped by 28%. This was matched in time by a 30% increase in rent rates. At the same time, there was no change in the proportion of white households. In Berkeley, from a high of 23.5% in 1970,



the Black population has been more than cut in half. According to the United States Census Bureau, it is now less than 10% of the total composition of the city.

Experts agree that the rising costs of housing in the Bay Area, primarily due to the rising fortunes of Silicon Valley, have priced many of the older residents out of the city. This is especially true of those or their family members who don't own homes.

In short, displacement has had a large negative effect on long-term black residents of Berkeley, both as a community and as a fate suffered by individual persons and families at the hands of rent increases by landlords.

### **BACKGROUND**

Berkeley's neighborhoods were historically segregated based upon custom, as well as, contracts. Prior to 1948, so-called restrictive covenants by neighborhood groups blocked African American's and People of Color's access to "white communities". After the Supreme Court ruling *Shelley vs. Kraemer*, redlining or placing color codes on city maps to indicate where minorities could and could not live became the scheme to enforce housing discrimination. The result of this discrimination was that almost all Asian and Black Berkeleyans had to live south of Dwight Way and west of Martin Luther King Jr. Way (aka Grove Street) according to Charles Wollenberg, author of *Berkeley: A City in History*. Under these discriminatory conditions, "redlining" excluded Asian and Black Berkeleyans from most other parts of the City, thousands of Black families moved to South Berkeley during and after WWII.

According to *Redlining: The history of Berkeley's Segregated Neighborhoods*, by Jesse Barber, *Berkeleyside.com*, September 20, 2018, which stated, "They (Black residents after WWII) were cordoned off, not allowed to move to the north or to the east, so they built their own lives right there where they could find housing. Opening shops, stores, cobblers, food, etc. they prospered." The thriving *Lorin Station* business community in what is now called the "Adeline Corridor" developed organically to serve the needs of the growing South Berkeley African-American and Japanese citizenry. Fast forward to the 2000s: Minorities were being pushed out of the very neighborhoods in which they had been formerly compelled to live. According to a study from the California Housing Partnership, between 2000 and 2015 the number of poor households of color in the nine Bay Area counties dropped by 28%. This was matched in time by a 30% increase in rent rates. At the same time, there was no change in the proportion of white households.

In Berkeley, from a high of 23.5% in 1970, the African American population has decreased, significantly. According to the U.S. Census Bureau, it is now less than 10% of the total composition of the City, approximately 7%, currently.

Experts agree that the rising costs of housing in the Bay Area, primarily due to the rising fortunes of Silicon Valley, have priced many of the older residents out of our City. This is especially true of those or their family members who don't own homes.

In short, displacement has had a large negative effect on long-term African American and POC residents of Berkeley, both as a community and as a fate suffered by individual persons and families at the hands of rent increases by the unscrupulous.

**ENVIRONMENTAL SUSTAINABILITY**

Our community will be made whole again by having a diverse community filled with people of color including African Americans who will no longer be displaced. Possible reduction in Green House Gas (GHG's) since commute times may be eliminated or reduced.

**REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS**

There are currently few, if any, protections against the effects of gentrification; this, in conjunction with uncontrollably rising housing costs, makes it probable that Berkeley's declining Black population will continue to decrease. Therefore, the creation of this workshop will be the first steps towards creating legislation and policies to decrease or stop gentrification.

**ACTIONS/ ALTERNATIVES CONSIDERED**

There are very few alternatives that the City can consider, as creating legislation with the guidance of experts on gentrification and displacement may be the best action to combat such issues.

**OUTREACH OVERVIEW AND RESULTS**

This legislation is designed to enable the Berkeley City Planning Commission and Housing Advisory Commission to create a workshop in which it will partner with multiple experts towards finding solutions for the causes and effects of gentrification and displacement.

**RATIONALE FOR RECOMMENDATION**

As the cost of housing and rent continue to rise in the Bay Area and Berkeley especially, low-income populations are struggling greatly to remain in their homes and many have already been displaced. A large proportion of this displaced population are from the black community. This recommendation will serve to protect those who are most vulnerable to the detrimental effects of development and rising housing costs as well as find a more equitable path of development.

**IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT**

The workshop will be created and facilitated by the Berkeley City Planning and Housing Advisory Commissions and will work alongside experts and advisors on displacement and gentrification.

**FINANCIAL IMPLICATIONS**

Staff time will be necessary to implement this workshop. The anticipated date for such a workshop is June 2019.

**CONTACTS:**

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