

PRESERVATION OF AFFORDABLE HOMES NEAR TRANSIT TOOLKIT



PRESERVATION TOOLKIT

THIS TOOLKIT WAS FUNDED THROUGH A REGIONAL PROSPERITY PLANNING GRANT FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AND MANAGED BY THE BAY AREA'S METROPOLITAN TRANSPORTATION COMMISSION (MTC). THE TOOLKIT INCORPORATES LESSONS LEARNED FROM THE THREE JURISDICTIONS (SAN JOSE, FREMONT, AND OAKLAND) WITH WHOM THE CALIFORNIA HOUSING PARTNERSHIP CORPORATION (CHPC) AND RECONNECTING AMERICA (RA) WORKED AS PART OF THE MTC SUB-GRANT, AS WELL AS FROM THE WORK OF OTHER SUBGRANTEES. RECONNECTING AMERICA CEASED TO EXIST IN 2014, AT WHICH TIME CHPC TOOK OVER MANAGEMENT OF THE SUBGRANT WITH APPROVAL FROM MTC.

CHPC WAS CREATED IN 1988 TO ASSIST NONPROFIT AND GOVERNMENT AGENCIES TO CREATE AND PRESERVE HOUSING AFFORDABLE TO LOWER-INCOME CALIFORNIANS AND TO PROVIDE LEADERSHIP ON HOUSING PRESERVATION POLICY AND FUNDING. SINCE ITS FOUNDING, CHPC HAS HELPED HUNDREDS OF NONPROFIT AND GOVERNMENT ORGANIZATIONS LEVERAGE MORE THAN \$5 BILLION IN PRIVATE AND PUBLIC FINANCING TO CREATE, GREEN, AND PRESERVE MORE THAN 22,000 RENTAL HOMES AFFORDABLE TO LOW-INCOME HOUSEHOLDS IN CALIFORNIA. MORE THAN 95% OF THE HOUSEHOLDS ASSISTED THROUGH CHPC'S WORK ARE LOW-INCOME WITH THE MAJORITY QUALIFYING AS EXTREMELY LOW-INCOME. CHPC REGULARLY ADVISES CALIFORNIA'S HOUSING AGENCIES AND STATE AND FEDERAL LEGISLATIVE LEADERS ON HOUSING PRESERVATION AND FINANCIAL RESOURCE ISSUES AND IS RECOGNIZED NATIONALLY AS A LEADER IN THE FIELD.

Disclaimer: The research that provided the basis for this publication was supported by funding under an award to the Metropolitan Transportation Commission (MTC) from the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the federal government or MTC.

Preservation of Affordable Homes Near Transit Toolkit

Preserving affordable rental homes near transit is a critical strategy in addressing the affordable housing crisis in the Bay Area today. Recent analysis indicates a shortfall of 250,000 rental homes affordable to the Bay Area's very low-income households (those earning less than 50% of the area median income).¹ Loss of existing affordable rental homes will only exacerbate displacement pressures on low-income households living in increasingly desirable transit-accessible neighborhoods.

Growing demand for housing near transit is creating a heightened risk of displacement in many transit-rich neighborhoods.

Affordable rental homes located near transit offer particular benefits to low-income households, including access to jobs, education, health services, and food, as well as reduced transportation costs. They also offer important greenhouse gas reduction benefits to the broader community.² However, growing demand for housing near transit is creating a heightened risk of displacement in many transit-rich neighborhoods, which, if unaddressed, risks driving out the very low-income households who would otherwise benefit most from improvements to these areas.

Planned new investments to improve the region's public transportation infrastructure will expand the number of transit-accessible areas but may also place new pressures on the cost of rental homes in these neighborhoods. Preserving existing affordable rental housing is almost always considered more cost effective than building new for multiple reasons including significantly lower costs, lower risk of displacement and being more environmentally sustainable. With more than 5,495 of the area's HUD-funded, rent-restricted affordable rental homes at risk of conversion to market rents in the next five years, a focus on preserving the region's existing affordable rental housing stock is even more critical.

This toolkit outlines how community-based organizations and advocates for equitable transit-oriented development can work together with local jurisdictions to assess the risk of losing existing affordable homes both a property and a neighborhood level, and to take concrete steps to reduce the negative impacts of transit oriented development on existing low-income communities. The toolkit also describes the specific mechanisms that jurisdictions can use to make preservation and anti-displacement efforts more successful. Many of these are already being employed in Bay Area cities and offer real-world models for jurisdictions without these tools.

¹National Low Income Housing Coalition (NLIHC) Analysis of 2007-2011 Comprehensive Housing Affordability Strategy (CHAS) data prepared for the US Department of Housing and Urban Development (HUD) by the Census Bureau. ² **Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy** highlights the GHG reduction power of locating affordable homes near transit. Link to the [executive summary](#), and the [full report](#). ³Planned transit improvements include the BART extension from Fremont to Silicon Valley, the Bus Rapid Transit line along International Boulevard in Oakland, the SMART train in Marin and Sonoma counties, the CalTrain electrification along the Peninsula, and the Grand Boulevard project with rapid bus on El Camino Real in San Mateo County.

The main sections of this toolkit are as follows:

HOW TO ASSESS THE RISK OF EXISTING RENT-RESTRICTED PROPERTIES AT-RISK OF LOSING THEIR AFFORDABILITY. This section describes how advocates and jurisdictions can use the California Housing Partnership’s database of existing federally and state-assisted affordable housing to assess the risk of specific properties losing their rent restrictions over time, as well as how many properties are at risk overall in a jurisdiction or zip code. This section also includes recommendations for how to incorporate locally funded subsidized housing into the overall risk analysis for a city.

HOW TO IDENTIFY PRIORITY PRESERVATION AREAS. Identifying priority preservation areas can help cities target investment and better leverage scarce resources while increasing the likelihood that lower-income families can remain as publicly funded improvements and private investment flow into transit-accessible neighborhoods. This section describes the methodology the California Housing Partnership and Reconnecting America used to identify priority preservation areas in San Jose, Fremont, and Oakland, and how similar approaches can be applied in any Bay Area jurisdiction. The priority preservation area analysis involves first identifying where current and future transit investment and planning initiatives are likely to change rental markets; second, looking at demographics such as median income and percentage of renters to identify areas serving lower-income renters; and third, looking at concentrations of rental units affordable to lower-income households, especially in a deed-restricted or rent-controlled building.

WHAT POLICIES, PROCEDURES AND ACTIONS CAN CITIES USE TO PRESERVE AFFORDABLE HOMES NEAR TRANSIT. The toolkit draws from lessons learned from the work that Reconnecting America and the California Housing Partnership completed with San Jose, Fremont, and Oakland, as well as from other research and best practices identified as part of the HUD grant. These include tools that can be applied at a citywide scale as well as those that are more appropriately applied in priority preservation areas.

APPENDIX. The appendix includes the results of the California Housing Partnership’s analysis of affordable properties and risk factors by city, county, location near existing and future transit, and in regional Priority Development Areas. This analysis is available via a spreadsheet to local governments and nonprofit advocates upon request to the California Housing Partnership.

How to assess the Risk of Losing Rent-Restricted Affordable Homes

Local affordable housing preservation strategies should focus on preserving housing that has existing rent restrictions in the form of a regulatory agreement or covenant with a government agency as well as on housing with rents affordable to low-income families without property-specific restrictions ensuring future affordability. This section focuses on the former and how to assess the risk of losing the affordability status of these government-assisted properties.

The first step in identifying publicly regulated at-risk rental properties is to understand how many properties there are with existing income and rent restrictions and when those restrictions will expire. The California Housing Partnership’s database includes

properties with HUD-subsidized mortgages and capital grants, properties with HUD [Section 8 Project Based Rental Assistance](#) (S8 PBRA) and Project Rental Assistance Contracts (PRACs), and properties financed through the federally funded but state administered [Low Income Housing Tax Credit](#) (LIHTC) program. Loans and grants from the [California Department of Housing and Community Development](#) (HCD) and the [California Housing Finance Agency](#) (CalHFA) contain their own affordability requirements. Additionally, local governments have helped create and preserve affordable developments by investing locally controlled funds from sources such as former redevelopment areas, housing impact and linkage fees, and the federal [Community Development Block Grant](#) (CDBG) and [HOME](#) programs, all which carry additional affordability requirements.

Forms of Federal Assistance and Rent Restrictions

There are three basic mechanisms through which the federal government historically helped to fund the creation of rent-restricted housing in the Bay Area:

1. Subsidized mortgages where HUD either bought down the interest rate at the beginning of the mortgage (e.g. the older [Section 202 loan program or the Section 221\(d\)3 Below Market Interest Rate program](#)) or provided a property-specific fund to do so over time (e.g. the 236 Interest Reduction Program)
2. Rent or operating subsidies through S8 PBRA or PRACs
3. Capital subsidies such as those provided by the later [Section 202 Capital Grant](#) program or the more complicated indirect subsidy provided in the form of tax benefits granted by the LIHTC program.

The following section briefly describes some of the issues involved in tracking and assessing the affordability provided by each of these types of federal assistance.

HUD MORTGAGES carry affordability restrictions that may expire when the mortgages mature or are prepaid. Properties with HUD subsidized mortgages are highly likely to be at risk for conversion to market rate because most of them have reached the end of their mandatory affordability restrictions. Tracking the mortgage maturity date for HUD properties, as well as determining if a property can prepay or has already prepaid its HUD mortgage thus ending rent-restrictions, are important to determining the risk of conversion for a HUD property. However, the time remaining on a property's rental assistance contract with HUD is the strongest indicator of a property's risk of conversion to market rate.

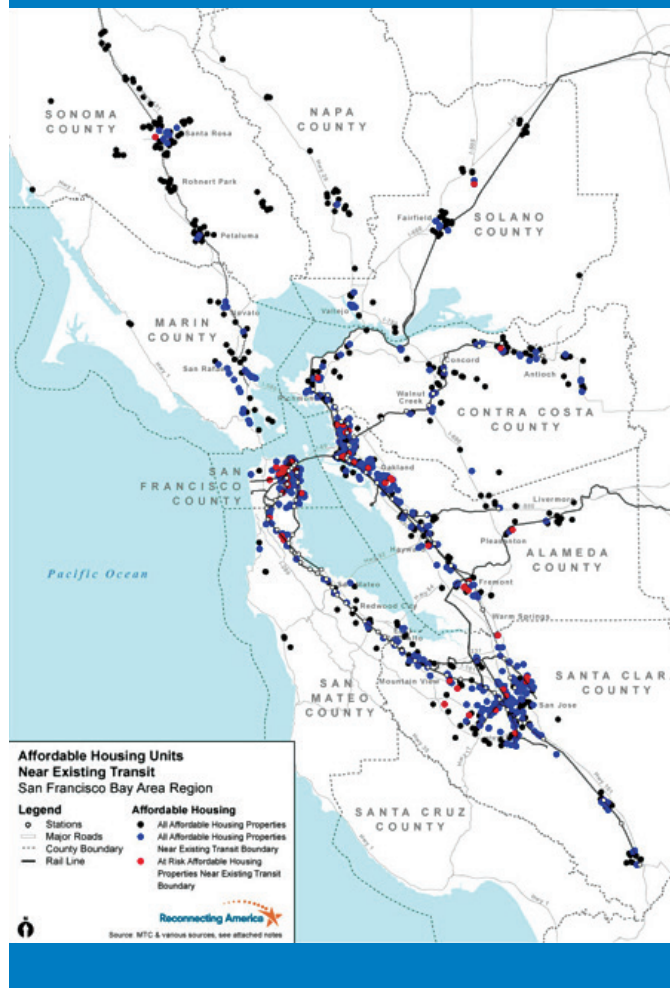
HUD PROJECT BASED RENTAL ASSISTANCE CONTRACTS: There are 452 HUD-assisted properties in Bay Area providing subsidized rents to 37,536 households of which 31,028 receive HUD rental assistance. The vast majority receives assistance through S8 PBRA contracts that provide significantly deeper affordability because they require households pay no more than 30% of their income for rent and utilities. S8 PBRA contracts can have either market-based rents or budget-based rents. PRAC rental assistance is by definition budget-based and renews annually without the options for longer term 5- and 20-year renewals offered to S8 PBRA contract participants. PRACs assist properties with HUD Section 202 or 811 capital grants that typically have use restrictions that ensure affordability to very low-income seniors and/or people with disabilities for at least 40 years. As a result, PRAC properties are considered low risk for conversion to market rate. Properties with market-based S8 PBRA contracts are typically at greatest risk of conversion because they are most often controlled by profit-seeking owners. These

contracts are also a scarce and diminishing resource since HUD stopped issuing new S8 PBRA contracts in 1984.

Owners of S8 PBRA properties committed to long-term affordability generally renew contracts for 20 years. Owners wanting to preserve more flexibility or contemplating sale or conversion of a property may choose to renew rental assistance contracts for one to five years. Based on many years of experience, the California Housing Partnership has found that using the following categories measuring length of time remaining on rental assistance contracts can be an effective estimate of risk when combined with other risk factors:

- **Very High Risk** properties have less than 1 year remaining on rental assistance contracts
- **High Risk** properties have 1-5 years remaining on rental assistance contracts
- **Moderate Risk** properties have 5-10 years remaining on rental assistance contracts
- **Lower Risk** properties have 11 plus years remaining on rental assistance contracts

FIGURE 1.
Federally Funded Affordable Housing in the Bay Area



A few types of rental assistance contracts have lower risk even though they are annually renewed. These include PRACs and USDA Section 521 Rental Assistance contracts. Due to the urbanized nature of the Bay Area, there only are nine properties in the Bay Area with a total of 210 rental homes with Section 521 rental assistance. Seven of these properties are located in rural Sonoma County and two in rural Solano County.

LIHTC: Since its inception in 1987, the LIHTC program has helped fund 76,505 affordable homes in 901 properties in the Bay Area. 16,000 of these homes are in older HUD properties that were rehabilitated using the LIHTC. The LIHTC program provides investors with ten years of tax credits in exchange for up-front equity payments enabling units to be built with rents affordable to low-income households for a minimum of 30 years.

In total, there are over 100,000 affordable rental homes in the Bay Area funded through HUD and LIHTC programs. Sixty-four percent of these homes are located near existing transit infrastructure. Affordable housing properties funded through these Federal

programs are shown on the map at left. Properties in blue are located near transit, while those in red are located near transit and have factors that could place them at higher risk for conversion to market rate.

Property Ownership Type as a Risk Factor

In addition to the length of contracts and regulatory restrictions on a property, ownership structure also plays a major role in assessing the risk of conversion to market rate rents. While each ownership structure will have unique qualities that affect risk, property owners can broadly be divided into three categories to better assess risk.

- **LARGE, MISSION-DRIVEN NONPROFIT AFFORDABLE HOUSING OWNERS** typically have the commitment, staff, and experience to maintain the affordability and condition of rent-restricted housing over the long term. City and county agencies also are committed to the long-term preservation of affordable properties that they own and/or control and manage.
- **FOR-PROFIT OWNERS OF AFFORDABLE HOUSING**, on the other hand, may be more tempted to convert an affordable property to market rate in strong markets if they believe they can increase net operating income and/or property value through a conversion or sale.
- **SMALL NONPROFIT OWNERS** may also present significant risk of conversion due to a changing mission or lack of capacity, both of which can lead to the sale of an affordable property to the highest bidder, which generally ends with a purchase by a for-profit entity. Religiously inspired ownership entities often fall into this category due to changes in the nature of institutional leadership and/or goals over time.

Rent-Restricted Properties and Remaining Affordability Periods in Transit-Rich Areas

The following table summarizes the restricted affordable housing stock in relation to existing transit, future transit, and Priority Development Areas (PDAs) where a significant amount of new growth is designated to occur in coming decades. The table also shows the number of properties with the main risk factors for conversion to market rate: 1) the presence of HUD rental assistance contracts that will expire in the next five

Table 1. HUD Rent-Restricted At-Risk Properties and Expiring Contracts and Ownership

	Bay Area Overall	Near Existing Transit	Near Future Transit	In PDAs
Affordable housing properties	1,242	766	216	666
Rental Assistance Expiring within 5 years	210	125	37	110
Small Nonprofit Owner	199	132	28	115
Profit Motivated	228	136	30	112
High Risk HUD Properties in next 5 years	53	36	7	29
LIHTC & Other Properties at High Risk	3	3	0	0

years 2) ownership by smaller nonprofit or for-profit companies. The table shows those properties considered at high risk due to combination of expiring rental assistance, ownership status, and lack of other HUD or LIHTC restrictions that will maintain affordability.

As mentioned earlier, many HUD- and LIHTC-funded properties are also supported by state and local funding sources with additional affordability restrictions that can extend beyond older HUD use agreements or even state HCD or LIHTC regulatory restrictions. The California Housing Partnership only recently received data on state funding programs and does not currently have data on the local funding from the over 100 cities and nine counties in the Bay Area. As a result, these funding sources are not included in this risk analysis. To understand the full risk of conversion to market-rate facing a particular property, tenants, local governments, regional agencies, and nonprofit and community-based groups should verify the full array of funding sources used to finance that property and the restrictions tied to those funding sources.

In addition to properties with HUD rental assistance considered at-risk, there are 32 properties with 670 rental homes in the Bay Area that were funded by Low Income Housing Tax Credits during the early years of the program from 1987-1989 when the required period of affordability was only 15 years. These properties have likely already converted to market rate. Twenty of these first generation LIHTC properties are located in Oakland. However, because the average size of the properties in Oakland was unusually small (an average of fewer than 10 homes per development), the number of homes likely lost to conversion in Oakland is only 174.

Identifying Priority Preservation Areas

In identifying “Priority Preservation Areas” in San Jose, Fremont, and Oakland, the California Housing Partnership looked at a number of factors that can contribute to the risk of conversion. These factors, described below, can be analyzed at a county or corridor scale as well as the jurisdictional level.

Transit and Transportation Investments and Planning Efforts

Living in walkable/bikeable neighborhoods near transit is increasingly desirable in Bay Area real estate markets. Consequently, public investments, particularly in transit, pedestrian and bicycle improvements, have the potential to significantly increase the demand for homes in neighborhoods where those investments are made, especially as congestion increases. Ensuring that low-income residents can benefit from these investments is at the heart of the Regional Prosperity Strategy. Understanding where land and the housing stock may become more desirable and more expensive as a result of these types of investments and the impacts on housing serving lower-income residents is critical to understanding which anti-displacement tools should be deployed and when. The following are types of investments and planning efforts that are important to examine to determine priority preservation areas:

SUSTAINABLE COMMUNITIES STRATEGIES GUIDE REGIONAL TRANSPORTATION INVESTMENTS THAT AFFECT HOUSING PRICES:

The state-mandated [Sustainable Communities Strategy](#) (SCS) offers a framework for how transit investments and growth in urban areas will help reduce congestion and greenhouse gas emissions. The SCS identifies Priority Development Areas (PDAs) where 80% of the region's growth should occur and where some existing regional and county-level funding programs are directing planning and investment dollars. This includes the One Bay Area Grant (OBAG) program that MTC delegated to the County Congestion Management Agencies (CMAs). The SCS also outlines the region's 2040 long-range transportation plan (RTP) and where new transit investments are planned. When new transit investments connect neighborhoods to major job centers, the demand for housing near those transit stops is likely to increase price pressures on both subsidized and unsubsidized affordable housing stock. Two examples of this kind of investment include the BART extension from Fremont to San Jose and the International Boulevard Bus Rapid Transit (BRT) project in Oakland.

Demographic patterns can point to neighborhoods with populations more vulnerable to rising rents and housing costs.

IMPROVEMENTS TO EXISTING TRANSIT STATIONS AND STOPS:

The location of the Bay Area's extensive existing transit stations and major transit stops are also critical to this analysis. Not all jurisdictions have major planned transit investments, but all PDAs include areas with quality transit service. As demand for housing near transit increases, neighborhoods with existing transit hubs and access to higher quality transit are likely to see increased pressures on housing prices.

CITY AND COUNTY PLANS, POLICIES, AND INVESTMENT PRIORITIES: In addition to regional investments, city and county planning efforts and investment plans are important tools that are being used to implement regional SCSs. To the extent that OBAG grants for transportation and placemaking improvements are an indicator of intentions regarding future larger scale investments, tracking grant decisions by CMAs are important to include in this analysis. Other indicators of future SCS investments include jurisdictional designations of areas for priority investment or growth. For example, the City of San Jose's updated General Plan includes Urban Villages where new employment and housing growth is designated to occur. Some of these areas overlap with new and existing transit stations, indicating a high probability of increasing market pressures on housing prices. Another example is Fremont's decision to invest in existing streets and roads and focus on active transportation improvements rather than expand roads, which will make neighborhoods connecting to BART and other regional transit networks more desirable in the long term.

Demographics and Neighborhood Change Indicators

Demographic patterns can point to neighborhoods with populations that may be more vulnerable to rising rents and housing costs. Neighborhoods with lower median incomes and a higher concentration of renters in particular are indicators of higher risk of displacement as land is purchased for redevelopment or lower quality housing stock is rehabilitated for higher income renters or owners.

MEDIAN INCOME: Areas of the city with concentrations of lower-income residents may face rising housing costs and displacement pressures. Because lower-income workers are more likely to take transit than higher-income workers, ensuring that lower-income households remain connected to transit has positive benefits for equity, transit ridership, and reducing congestion and greenhouse gases.

RENTERS: Renters are more vulnerable to rising housing costs and more easily displaced by rising housing prices than homeowners. Neighborhoods with a higher share of renters are similarly more vulnerable to displacement stemming from increases in housing prices. In cities with strong renter protections (rent control, condo conversion limits, just cause eviction laws), renters are somewhat less vulnerable to displacement though not completely protected, as can be seen from the recent displacement in San Francisco's overheated housing market.

NEIGHBORHOOD CHANGE: Looking at changing demographics in neighborhoods over time can reveal trends that may be harder to understand when looking at only existing data. A recent analysis by UC Berkeley of demographic shifts in neighborhoods in the Bay Area identified neighborhoods that had experienced gentrification from 1990 to 2000. That report defined a gentrified neighborhood as one that started the decade as a low-income neighborhood in a central location and experienced increases in household income and educational attainment greater than the Bay Area region as a whole. Neighborhoods classified as susceptible to gentrification included at least 13 of 19 indicators, such as the presence of parks, a high share of multi-unit housing properties, high share of renters, and a high share of non-family households. The presence of a transit station was one of the neighborhood characteristics most strongly linked to gentrification.

DISPLACEMENT AND GENTRIFICATION RISK: UC Berkeley is currently updating their work completed in 2009 with new census data that will result in a database that identifies the displacement and gentrification risks of neighborhoods across the region. This work will be available in 2015 and should be incorporated into neighborhood change analysis.

Concentrations of Affordable Rental Housing

Finally, in order to identify areas that should be a priority for preservation activities and investments, it is necessary to understand where existing households are paying affordable prices for housing outside of rent-restricted properties. This analysis should include the rents and prices of both deed-restricted affordable housing and market rate housing that is naturally affordable to lower-income families.

DEED-RESTRICTED AFFORDABLE HOUSING: The California Housing Partnership can provide data on the locations of all federally and state-assisted affordable rental properties in the Bay Area and their risk status. Areas where at-risk properties are clustered near transit should be included as priority preservation areas.

SECTION 8 HOUSING VOUCHERS: Information on the location of individual households using [Section 8 Housing Choice Vouchers](#) is protected, but HUD does release this data at a census tract level, allowing for mapping of concentrations of households using vouchers. When vacancy rates are low, landlords can charge higher rents than would be available through the Section 8 program, making voucher households vulnerable to displacement as landlords refuse to renew contracts and raise rents upon renewal

to levels voucher holders cannot afford to pay. Identifying where voucher households reside could facilitate local jurisdictions offering incentives to landlords to agree to longer-term voucher contracts as part of longer-term preservation strategies. For example, cities could make it easier for voucher landlords to make physical upgrades to their buildings in exchange for their agreeing to longer-term voucher contracts and/or automatic renewals.

NATURALLY OCCURRING AFFORDABLE RENTAL HOUSING: A concentration of naturally occurring affordable housing is typically an indicator that a neighborhood is more vulnerable to increased market prices. Preservation investments and activities should be aimed at acquiring or incentivizing continued affordability in rental housing that is not rent-restricted but is serving lower-income households at affordable rents. This is particularly important in jurisdictions without rent control where landlords typically increase rents rapidly when vacancy rates decline below 5%, leading to displacement among lower-income households with limited means to absorb these price shocks.

In jurisdictions with rent control, it is important to map the location of properties subject to rent control to identify neighborhoods where these properties are clustered around transit. For example, the Los Angeles Housing and Community Investment Department (LAHCID) focused on outreach to neighborhoods where smaller rental properties were clustered to educate tenants and landlords on their rights and responsibilities. LAHCID then developed a separate strategy for neighborhoods with clusters of larger rental properties and made them a priority for acquisition and rehabilitation programs in order to impose longer-term restrictions on these larger properties in return for investments to improve their condition. LAHCID was aided in these efforts by its comprehensive database of rental properties with detailed owner and manager information and by an established program to reach out to these owners with information about their obligations under rent control and opportunities to benefit from various city programs.

Concentrations of naturally occurring affordable housing typically indicate that a neighborhood is more vulnerable to rising market prices.

Cities that have rent control but do not maintain a database of rental properties can use parcel data to identify apartments that were constructed within the time period covered by rent control, though parcel data can be more challenging to work with than an accurate list. Cities without access to a functioning rental property database can use Comprehensive Housing Affordability Strategy (CHAS) data, which consists of customized tabulations of housing-related census data prepared for HUD by the U.S. Census Bureau, to identify neighborhoods where there are concentrations of naturally occurring affordable rental

housing. Cities can use CHAS data at the census tract level to identify concentrations of families paying affordable rents as well as the distribution of households paying affordable prices living in single-family homes, buildings with two to four units, or buildings with five or more units.

Using the Results of this Analysis to Assess Displacement Risk

After mapping and analyzing all the risk factors outlined above, it is important to focus on those areas where the risk factors most overlap. Areas that include some combination of new investments in transportation, vulnerable populations, and large amounts of existing rental housing at risk of conversion should be designated as priority preservation areas. As our analysis in San Jose, Fremont, and Oakland found, not all factors will be significant in the same areas, creating the need for a more qualitative analysis.

What future development opportunities exist that will contribute to increased price pressures?

For example, some areas with new transit investments are located in job centers without significant concentrations of existing rental housing at risk of losing affordability or of vulnerable households. The Warm Springs BART station is one such place. Other neighborhoods may have concentrations of at-risk housing and/or vulnerable households, but be located far from transit and therefore be deemed a lower priority for preservation.

Once priority preservation areas are identified, the next step is to understand the specific type of affordable housing that is at risk within those areas and developing specific strategies for preserving each type. This means analyzing both deed-restricted federally and locally subsidized properties as well as properties that are subject to rent control. It is also important to consider what future development opportunities exist in these areas that will likely contribute to increased investment and price pressures. A final step is to analyze where there are buildings that could benefit from rehabilitation and where owners might accept local assistance in return for extending expiring affordability contracts (as the California Housing Partnership recently did for LAHCID) and make these a priority for outreach and investment.

Tools, policies, and actions to preserve affordable homes near transit

Many Bay Area jurisdictions have been successful in finding ways to encourage the preservation of rent-restricted housing, though few to date have analyzed the added impacts of proximity to transit and job centers on the risk of conversion of these properties to market rate. Fewer still have developed specific policies to actively address this added threat of displacement. Going forward, it is critical that cities, nonprofits, and other community-based organizations use the factors described above to further focus scarce local resources to preserve affordability in these areas.

Funding strategies

Without additional funding, preservation and production of affordable homes will fall behind increasing demand and market pressures. In a positive development, Bay Area cities are creating and deploying a growing suite of funding tools for this purpose with support from the MTC. In addition, a number of new state and regional programs, including the Cap-and-Trade-funded Affordable Housing and Sustainable Communities program, could play an important role in meeting affordable housing needs through funding preservation and new construction of affordable housing in transit rich areas.

Steps to Optimizing Local Funding Strategies:

- 1. Assess whether existing local funding is adequate to address the risk of losing affordable homes and displacement in priority preservation areas.** Given the loss of redevelopment funding and increased displacement pressures, the outcome of the assessment may be obvious, but it is important to document that this step was taken by the local jurisdiction in order to build support to take actions to provide additional local funding.
- 2. Balance Preservation and New Construction in Local Affordable Housing Investment Plans.** Preserving existing housing while creating or maintaining affordability can be more cost-effective than new construction. Additionally, targeting preservation investments to priority preservation areas may help provide more affordable homes over the long term for low-income families by protecting important existing housing resources. However, because the State-mandated Regional Housing Needs Allocation (RHNA) counts only a percentage of a preserved affordable unit toward a jurisdiction's progress in meeting its housing goals, cities must find a way to balance preservation and investment in new housing production.
- 3. Fund the acquisition of market rate properties serving low-income households in priority preservation areas or offer subsidy in exchange for long-term affordability.** Targeted purchases of naturally occurring affordable housing are useful for preserving properties already serving low- and moderate-income households without significant government assistance. Jurisdictions should offer loans or other subsidies to acquire these properties in exchange for the establishment of long-term (30-year minimum) income and rent restrictions. Publically controlled land-trusts and nonprofit ownership are both recommended legal structures for these preservation purchases. A less desirable but still useful tool is purchasing long-term affordability restrictions in properties that either have expiring restrictions or none at all.
- 4. Identify and adopt new funding sources to fund affordable housing development, acquisition, and rehabilitation:**
 - a) Dedicate a percentage of "Boomerang funds" to affordable housing. With the end of redevelopment, cities and counties are receiving funds from the tax revenue formerly generated by redevelopment areas. Since redevelopment law required investment of 20% of tax increment funds in affordable housing, many cities and counties are now dedicating this percentage or more of these funds to create and preserve rent-restricted affordable housing. Even though the reconstituted 20% tax increment funding is only a portion of what redevelopment agencies previously had access to, it is still a meaningful tool to fund preservation and creation of affordable rental housing.

- b) Implement a Housing Impact Fee to link market rate development to the production and preservation of affordable housing. Most cities that implement a housing impact fee conduct a nexus study to establish a reasonable contribution on a per square foot basis to affordable housing funds. Housing impact fees may also be structured to incentivize inclusion of affordable housing within larger market-rate developments or land dedication for an affordable development in conjunction with market rate.
- c) Implement a Commercial Linkage fee to address the housing need generated by new commercial development. As with the adoption of a housing impact fee, conducting a nexus study is a typical first step in implementation of a commercial linkage fee.
- d) Explore the feasibility of passing a real estate transfer tax on sales of luxury homes and/or a general obligation bond to fund the preservation of affordable housing. San Francisco, for example, has successfully passed such ordinances in the past despite the challenging two-thirds vote requirement.
- e) Use Public Benefits Zoning in places where increased heights and density are planned. When cities increase allowable heights and densities, especially in relation to new and existing transit or other public infrastructure, landowners receive a windfall increase in land value. Public benefits zoning should link this increase in density and height to requirements for affordable homes or other community benefits, capturing a portion of the increased value for public needs.

State and regional initiatives are also central to the goal of meeting the Bay Area's significant affordable housing needs. Additional resources for affordable housing either newly available or possible include:

- 1. Support the continued development and funding of the Affordable Housing and Sustainable Communities (AHSC) Funding program**, which is scheduled to receive 20% of greenhouse gas reduction funds generated by California's cap-and-trade system through at least 2020 unless changed by the Legislature. The program will provide hundreds of millions of dollars each year to preserve and build location-efficient affordable housing with transportation options that allow lower-income residents to access jobs and services without the expense and greenhouse gas emissions generated by a car. Local governments and advocates should pressure the Strategic Growth Council that oversees these investments to adopt methodologies for evaluating project applications that do not disadvantage housing serving the lowest-income households in transit and job rich areas and that promote major investments in active transportation and urban greening. In addition, local governments and advocates must be vigilant to defend these on-going appropriations against attack by oil company funded interests and others opposed to the full implementation of the state's groundbreaking Global Warming Solutions Act, AB 32.
- 2. Demand the creation of a permanent source of affordable housing funding at the state level** to replace the \$1.5 billion annual loss in redevelopment and expired state housing bond funds. Even if a Redevelopment 2.0 bill as described below is approved, it will likely replace only a small portion of the lost funds. A new permanent source is essential to ensure that local governments have the resources needed to meet their SB 375 obligations and to avoid the displacement that can arise from new

investments in transportation and jobs without adequate planning and funding. The failure of SB 391 to advance in 2014 was a disappointment for those who worked hard on its passage and celebrated the Senate's two-thirds majority that voted in favor of it in 2013. Local governments should continue to press the Legislature to pass and the Governor to sign a similar bill in the current session. In the meantime, support annual budget allocations for affordable housing.

3. **Push the Legislature to pass a Redevelopment “2.0” program** that will allow cities to reinvest in blighted districts, particularly those near planned improvements to transit infrastructure, and require that a minimum of 20% of the new tax increment be used for the preservation and/or creation of affordable housing for lower income households and that 25% of all housing produced in a redevelopment area be affordable to low and very low-income households.
4. **Support the passage of a Bay Area Quality of Life Initiative** that will raise dedicated funds for parks and open space, transportation and transit, climate adaptation and affordable housing of \$750 million to \$1 billion annually.
5. **Continue support of the Transit-Oriented Affordable Housing (TOAH) fund**, which was created with seed funding from the MTC to leverage additional private debt to provide short- to mid-term funding to promote affordable housing development and preservation near transit in the Bay Area. TOAH's financing products include:

Predevelopment Loans - Loan proceeds may be used for a broad range of activities necessary to secure development rights and prepare the project for construction.

Acquisition Loans - Loan proceeds may be used for the acquisition of vacant land and/or real property and lot development expenses, including predevelopment expenses, and allow developers to effectively compete for TOD sites.

Construction Bridge Loans - Loan proceeds may be used to bridge construction funding to either larger or longer-term financing and will help bridge the gap between commitment and funding stages for borrowers in the intervening time period.

Construction/Mini-Permanent Loans - Loan proceeds may be used for construction financing (new or rehabilitation) followed by a mini-permanent takeout.

With additional capital and options for longer-term debt to complement the new state AHSC funding, the TOAH fund could contribute even more to the development and preservation of affordable housing near transit.

6. **Support the expansion and improvement of the state Low Income Housing Tax Credit by advocating for the passage of AB 35 (Chiu-Atkins)**, which would increase the amount of the State Housing Tax Credit by \$300 million per year while also increasing the credit percentage from 13% to 50% to make it possible to leverage \$600 million in additional federal resources; and SB 377 (Beall), which would increase the value of the state credit by allowing it to be taken and sold by the nonprofit general partner outside of the ownership entity, thereby minimizing the need to pay additional federal taxes.

- 7. Coordinate resources at the county level.** County-level collaborations can leverage resources and technical knowledge in a way that smaller cities in particular do not have the staff or resources to achieve. One example is San Mateo County Department of Housing, which initiated the Countywide Housing Solutions Network (CHSN) in late 2006. CHSN is a collaborative effort to improve alignment among a host of complementary activities and initiatives being undertaken by a wide array of public and private organizations. To further bolster existing housing production efforts, the CHSN will also direct attention and resources to fill gaps in technical knowledge and actions. In Santa Clara County, the Housing Authority has invested heavily in tax credit-funded properties and used its ability to project-base vouchers to support these properties. HACSC resources, though subject to future federal budget cuts, could be critical to local preservation efforts. The County is also dedicating a portion of redevelopment funds boomerang funds to creating and preserving rent-restricted affordable housing.
- 8. Support reforms to the state's Costa-Hawkins Law.** The Costa-Hawkins law prohibits rent control on newly constructed buildings. State law should be amended to allow local jurisdictions to require inclusion of affordable units in new rental housing developments and to permit cities to require one-for-one replacement of rent-controlled units at prior rents when a rent-controlled building is demolished as part of a redevelopment.

Strategies for Preserving Federally and State Assisted Affordable Properties

Rent-restricted affordable housing properties with HUD mortgages and expiring affordability requirements are most at-risk of losing their affordability in the next five years. The California Housing Partnership often works with local jurisdictions to create plans for how to track and preserve these properties. The following are four major components of those plans that can be applied jurisdiction-wide or in priority preservation areas:

- **Annually assess the conversion risk** of all federally and state-assisted rent-restricted affordable properties by looking at factors such as owner type and time remaining in rental assistance contracts, subsidized mortgages, and federal and state rent restrictions.
- **Maintain regular contact with owners of the most at-risk properties** in priority preservation areas; work with the California Housing Partnership and other partners to seek preservation buyers and funding for the most at-risk properties.
- **Enforce state and federal laws requiring advance notices** to tenants, preservation purchasers and local governments of any terminations of rental assistance or subsidy programs, or affordability restrictions, as well as actively supporting preservation purchase offers from nonprofit housing organizations. Work with tenant organizations and preservation purchasers to take owners violating notice laws to court when necessary to obtain compliance.
- **Assess the potential benefits of passing a local Preservation Ordinance** such as those adopted in San Francisco, Santa Cruz, Sacramento, or better yet, Chicago, which includes a mandatory sale to a nonprofit preservation purchaser. San Francisco's ordinance requires 12 months' notice to the city, local nonprofits, and tenants'

groups as a result of a triggering event such as opt-out, expiration of affordability, or sale. The ordinance requires 18 months' notice for prepayments of mortgages or early termination of rental assistance contracts. In addition, relocation assistance is mandated for residents displaced by the conversion of an affordable property to market rate. Local rent control laws apply if a property converts to market rate as long as the property was built during the time period covered by the city's rent control ordinance. Rents are set at the contract rent under the rental assistance contract on the property. Since adopting its ordinance in 1990, San Francisco has not lost any affordable housing to conversion. Chicago's ordinance includes a provision that a sale of an affordable property must be referred to the city housing department and gives a qualified preservation purchaser 120 days to submit a purchase offer equal to the existing offer. If the qualified preservation purchaser agrees to close the sale within the 120 days, the seller must complete the sale with the preservation purchaser and enter into an affordability preservation agreement.

Anti-Displacement Tools

While some policies are best when targeted to specific vulnerable neighborhoods in the Priority Preservation Areas, other policies may make more sense when applied to the city as a whole. How policies should be applied will depend on how widespread challenges are within the city, the speed with which the market is changing, and the local political context. The implementation of some of these tools could have significant impacts on the local market for apartment buildings as well as their financing and ownership structures and should be carefully evaluated and discussed publicly prior to adoption.

Create a Right of First Refusal to Purchase for renters in apartment buildings giving long-term tenants the opportunity to purchase individual rental units for sale or, in the event that the entire building is for sale, the right to name a preservation purchaser such as a cooperative or land trust to purchase the property in order to retain current affordability levels. San Francisco's emerging Small Sites Acquisition program could serve as a model for how such a program would be implemented.

Impose Demolition Restrictions on apartment buildings to allow cities to negotiate rights for current tenants such as continuation of rent-controlled units and right to return to the redeveloped property.

Institute a Right of Return that would allow tenants displaced by redevelopment to return to a redeveloped site at their prior rent. This would ensure that existing rental housing is not redeveloped simply to remove lower-income tenants and charge higher rents.

Require Relocation Assistance for lower-income tenants that would include, at a minimum, moving expenses, security deposit and first month's rent for a new apartment. This would serve as a financial disincentive for landlords evicting tenants to increase rents. Assistance payments could be increased for particularly vulnerable tenants such as those who are elderly, ill, or have a disability.

Fund legal services for low-income tenants at-risk of displacement. Access to

competent legal services is essential to ensuring that tenants understand and can use existing federal, state and local protections and are treated fairly under the law. Funding for these activities should be a priority to ensure that these services are available and robust as tenants feel the effects changing landlord behavior in the face of strong market pressures.

Fund tenant organizing and owner outreach especially in priority preservation areas. These activities inform tenants of their rights and the protections for them and their housing. Owner outreach in vulnerable properties informs owners of rules and responsibilities and the tools available to help preserve existing rental housing.

Actively enforce local building and fire codes on at-risk properties owned by non-mission driven owners to maintain quality of affordable housing and identify aging properties that might be good candidates for acquisition and rehabilitation by preservation purchasers with local assistance.

Create a local preservation/anti-displacement working group made up of local government housing staff, affordable housing developers, CDFIs, and funders that can meet regularly to ensure that preservation opportunities are identified and can be acted on quickly. This group could go beyond the jurisdictional level and engage with a subregional set of actors within the county or subregion. Such a group could also work proactively to anticipate where investments or planning initiatives might change market pressures and could use this spatial analysis approach to respond. The City of Los Angeles has a very effective local preservation working group that could offer one potential model.

Implement condo conversion controls. One of the ways in which housing affordable to low-income renters can be lost in appreciating markets is the conversion of apartments to condominiums. In hot housing markets with growing demand for homeownership housing, owners often evict tenants and sell off individual units as condominiums at prices too expensive for existing renters to afford. When combined with a strong Rent Control Policy, condo conversion controls protect existing renters from facing displacement from their current housing. Condo conversion controls can take on several forms, ranging from fees for property owners who choose to convert rental housing to ownership (which can be pooled for other affordable housing purposes), restrictions on the number of conversions allowed in a year or based on rental vacancy rates. In Los Angeles, condo conversions are restricted when rental vacancy rates fall below 4%.

Regulate Short-term Rentals to ensure that rental apartments serving lower-income residents are not permanently converted to short-term lodging.

Revitalize and preserve Public Housing where feasible. HUD's new Rental Assistance Demonstration (RAD) program has made it easier to recapitalize and rehabilitate older public housing developments, though displacement can only be avoided if voluntary agreements are reached similar to the one negotiated by the City of San Francisco with legal services organizations representing public housing tenants to ensure adequate representation.

Require one-for-one replacement of rent-controlled apartments in applicable jurisdictions. Require that any redevelopment of existing rent controlled apartments result in the same number of units covered by rent control in the new building and

that prior tenants have the right to return to the units at prior rents. If the city attorney believes the state's Costa-Hawkins law prohibits retention of rent-controlled rents in this manner, then it is important to have other ways to incentivize developers to agree to these policies such as offering increased densities or by waiving demolition restrictions in exchange for development agreements with explicit legal commitments on the part of the developer to include the same number of rent-controlled units.

Consider implementing or strengthening rent control in cities with a significant amount of multifamily rental properties serving lower-income households in priority preservation areas that currently have limited rental housing protections and potential for large market shifts. Rent control ordinances are most effective when paired with a just-cause eviction ordinance.

Actively monitor rent controlled properties and evictions by neighborhood.

Jurisdictions with rent control should build and maintain a geocoded list of the properties subject to rent control and use it to monitor market and demographic shifts to better understand and even anticipate where market pressures may result in higher rents. This monitoring tool would then allow rent control jurisdictions to employ some of the tools described above to try to stem displacement of lower income households.

Conclusion

The Preservation of Affordable Housing Near Transit Toolkit offers an approach for assessing risk of loss for affordability for restricted affordable properties and a methodology for identifying priority preservation areas. These areas have greater concentrations of lower-income renters and housing affordable to lower-income households (both restricted affordable or market rate that is naturally affordable) as well as proximity to new or existing transit infrastructure and planned growth that could increase pressure on local rental markets. The Toolkit then offers a set of tools, policies, and actions meant to preserve and create affordable housing and prevent displacement. The Toolkit is intended to help local governments, nonprofits, community-based organizations, advocates, and regional policy makers target resources for investment in affordable housing to protect vulnerable renters in transit-accessible neighborhoods while preserving and expanding the region's affordable housing supply.

The Toolkit reflects best practices from around the Bay Area as well as other cities around California and the country but is not meant as a static set of preservation solutions or a one-size-fits-all approach. The tools and policies should be selected to fit the political, financial, economic, and housing characteristics of particular cities and neighborhoods around the region. The information and approaches contained in the Toolkit should also be combined with emerging tools, such as the Regional Early Warning System (REWS) and new approaches to affordable housing funding and anti-displacement efforts undertaken by cities in the Bay Area and beyond. The Toolkit is meant to inform local and regional planning efforts that must accommodate a growing population and economy while attempting to reduce greenhouse gas emissions and, at the same time, ensure that lower income households are not displaced from transit accessible areas and, more broadly, that lower income households are able to find safe, affordable homes that offer access to transportation, jobs, and services.

Appendix

The attached appendix consists of an Excel file with the number of federally subsidized affordable housing properties within each county and city in the Bay Area and the number of properties in those areas at risk of converting to market rate housing.