



## REGULAR MEETING AGENDA

**Date:** 9/12/2018  
**Time:** 6:30 p.m.  
**Menlo Park Senior Center**  
**110 Terminal Ave., Menlo Park, CA 94025**  
**---NOTE LOCATION CHANGE---**

### **A. Call To Order**

### **B. Roll Call**

### **C. Public Comment**

Under "Public Comment," the public may address the Commission on any subject not listed on the agenda. Each speaker may address the Commission once under Public Comment for a limit of three minutes. The Commission cannot act on items not listed on the agenda and, therefore, the Commission cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

### **D. Regular Business**

- D1. Approve minutes for the Housing Commission meeting of August 8, 2018 ([Attachment](#))
- D2. Update and quarterly report from Hello Housing ([Attachment](#))
- D3. Review and gather additional public comment on the draft ordinance establishing tenant relocation assistance ([Staff Report #18-017-HC](#))
- D4. Update on the release of the 2018 Notice of Funding Availability ([Attachment](#))
- D6. Discuss and recommend future agenda items

### **E. Reports and Announcements**

- E1. Subcommittee reports (10 minutes):
  - Anti-Displacement Subcommittee (Grove/Horst/Merriman)
  - Below Market Rate Housing Guidelines Subcommittee (Dodick/Grove)
  - Housing Policy Subcommittee (McPherson/Merriman/Tate)
  - Marketing Subcommittee (McGraw-Scherer/Horst)
  - Notice of Funding Availability Subcommittee (McGraw-Scherer)
- E2. Commissioner reports
- E3. Staff updates and announcements

### **F. Adjournment**

At every Regular Meeting of the Commission, in addition to the Public Comment period where the public shall have the

right to address the Commission on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during the Commission's consideration of the item.

At every Special Meeting of the Commission, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during consideration of the item.

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## REGULAR MEETING MINUTES - DRAFT

**Date:** 8/8/2018  
**Time:** 6:30 p.m.  
**City Hall – “Downtown” Conference Room**  
**701 Laurel St., Menlo Park, CA 94025**

**A.** Chair McGraw-Scherer called the meeting to order at 6:31 p.m.

**B. Roll Call**

**Present:** Meg McGraw-Scherer, Karen Grove, Wendy McPherson, Rachel Horst, Michele Tate

**Absent:** Nevada Merriman, Julianna Dodick

**Staff:** Interim Housing and Economic Development Manager Clay Curtin, Senior Planner Corinna Sandmeier, Management Analyst II Mike Noce

**C. Public Comment**

No public comments were received.

**D. Regular Business**

**D1.** Approve minutes for the Housing Commission meeting of July 11, 2018

**ACTION:** Motion and second (Grove/McPherson) to approve the July 11, 2018, Housing Commission meeting minutes, with an amendment to the Commissioner Reports section to include that Commissioner Horst asked staff to consider a survey/study of employee displacement in Menlo Park, particularly in the downtown area. The motion passed (4-0-1-2); McGraw-Scherer abstained, Merriman and Dodick absent).

**D2.** Consider recommending approval of the below market rate agreement term sheet with Florence Lane Ventures, LLC, for the property at 975 Florence Lane (Staff Report #18-015-HC)

Senior Planner Corinna Sandmeier introduced item. A representative from the project architect, Kellond Architects, provided additional information.

- Noel Smith, a resident of Florence Lane, spoke about parking and code enforcement concerns related to increasing the unit count.
- Donna Smith, a resident of Florence Lane, spoke about parking and code enforcement concerns.
- Miss Walker, a resident of Florence Lane, spoke about parking concerns and impacts to the neighborhood.

Senior Planner Sandmeier provided clarification as to why the BMR unit was determined to be a one-bedroom unit. There was consensus for support of the inclusion of the one-bedroom unit; however, the Commission expressed concern about the unit size.

**ACTION:** Motion and second (McPherson/McGraw-Scherer) to approve the below market rate agreement term sheet with Florence Lane Ventures, LLC, for the property at 975 Florence Lane; passes (5-0-2; Merriman and Dodick absent).

- D3. Review and consider recommending the City Council adopt an ordinance establishing tenant relocation assistance (Staff Report #18-016-HC)

Interim Housing and Economic Development Manager Clay Curtin introduced the item and distributed correspondence that had been sent to the City (Attachment)

- Sandra Zamora, Redwood Landing Tenants Union, spoke about receiving an \$800 rent increase within the last sixty days and supported a tenant relocation assistance ordinance.
- Lilian Flores, Redwood Landing Tenants Union, spoke about receiving an \$800 rent increase recently.
- Luis Carriel spoke about impacts of rising rents in the area and his desire to remain a Menlo Park resident.
- Carol Collins spoke about the need for more details and discussion about the ordinance provisions.
- Courtney Pal spoke in support of a tenant relocation assistance ordinance and incorporation of single-family homes, decreasing or eliminating the length of tenancy requirement and keeping the ordinance as an urgency ordinance.
- Rhovy Lyn Antonio, California Apartment Association, spoke against the current draft language and in support of an ordinance that could mutually benefit both landlords and tenants.
- Evan Collins expressed concerns about the impacts of the ordinance to landlords who currently charge below market rate rent.

By consensus, the Housing Commission requested the following changes:  
Section 8.55.020

- (b) Eligible Tenant. Change "and where more than thirty (30) percent of the annual household income is required to pay either, the most current applicable Menlo Park market rate rent, published by the director of community development and updated January 1 of each year or the proposed new rent, whichever is greater." to "whose annual household income, as adjusted for household size, does not exceed two-hundred percent (200%) of the area median household income for San Mateo County"
- (d) Landlord-Caused Termination. Replace all of part (d) with an owner move-in exemption similar to that in the East Palo Alto municipal code.

**ACTION:** Motion and second (Grove/Horst) to 1) approve the formation of a subcommittee to include commissioners Tate, Grove and McPherson to review the updated draft ordinance with the requested revision incorporated, 2) schedule this topic for discussion at public meetings September 12 (in Belle Haven) and September 13 (at the Civic Center), 3) conduct public outreach to gather more public input. The motion passed (5-0-2; Merriman and Dodick absent).

- D4. Update on the release of the 2018 Notice of Funding Availability (NOFA)  
Interim Housing and Economic Development Manager Curtin introduced the item and shared that HEART of San Mateo County had recently approached the City and County with a proposal to borrow below market rate housing funds for use with shovel-ready projects in the county. The Housing Commission expressed concerns with funds being used outside of Menlo Park and

supported proceeding with the release of a Notice of Funding Availability.

- D5. Discuss the Housing Commission quarterly update to the City Council

Interim Housing and Economic Development Manager Curtin discussed the timeline of the Housing Commission's next presentation and update to the City Council.

- Pamela Jones spoke in favor of streamlining the secondary dwelling unit approval process and lowering related fees.

Chair McGraw-Scherer lead a review and discussion of the Enhanced Housing Priorities List and Housing Commission Work Plan (Attachment).

- D6. Discuss and recommend future agenda items

The Commission discussed adding the following items to the October 10, 2018, meeting agenda:

- BMR In Lieu fees
- Presentation on the use of public land for affordable housing

## **E. Reports and Announcements**

- E1. Subcommittee reports (10 minutes):

Anti-Displacement Subcommittee (Grove/Horst/Merriman) – No report

Below Market Rate Housing Guidelines Subcommittee (Dodick/Grove) – No report

Housing Policy Subcommittee (McPherson/Merriman/Tate) – No report

Marketing Subcommittee (McGraw-Scherer/Horst) – No report

Notice of Funding Availability Subcommittee (McGraw-Scherer) – McGraw-Scherer reported the draft is still under review by staff and the City Attorney's Office.

- E2. Commissioner reports

No reports.

- E3. Staff updates and announcements

Interim Housing and Economic Development Manager Curtin provided the following updates:

- The Housing and Economic Development Manager recruitment was unsuccessful. The executive recruiter has recommended changes to the job title and salary (recently approved by the City Council) and will try again
- On August 13, 2018, the City Council will hold a special meeting at 5:30 p.m. in the City Council Chambers to discuss a ballot measure for Menlo Park to become a charter city.

## **F. Adjournment**

Chair McGraw-Scherer adjourned the meeting at 10:19 p.m.

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## Curtin, Clay J

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**From:** Mical Atz Brenzel  
**Sent:** Monday, July 30, 2018 6:19 PM  
**To:** Curtin, Clay J  
**Cc:** \_CCIN; hello@caanet.org  
**Subject:** Menlo Park Housing Commission to Review Rental Relocation Assistance Ordinance

Dear Mr. Curtin, Interim Housing and Economic Development Manager for the City of Menlo Park,

I received an e-mail message on July 27 that stated that “the Housing Commission will be reviewing and considering a draft ordinance that would require rental relocation assistance payments for eligible tenants within Menlo Park.” The staff report on, and draft of, this ordinance will be issued on August 2.

I am writing to you on July 30, in advance of even seeing the staff report and the draft ordinance, because I can tell you *a priori* that any such rental ordinance is a **TERRIBLE IDEA** for City of Menlo Park — indeed for any city on the planet.

If there is one precept that must be inviolate in the residential rental market, it is that no government interference in the workings of the marketplace, no matter how well intentioned, ever turns out well. There are always negative consequences to any attempts to regulate rent increases, eviction requirements, rental tenant screening practices, lease tenors, and now this, relocation assistance requirements.

Rental housing exists because investors build or buy residential properties to rent them at a profit. That is how capitalism works: it is underpinned by private property ownership. Property ownership has risks and it has rewards. The owner takes on both. The tenant is not an owner; he takes none of the risks of property ownership and gets none of the rewards. He has a contractual arrangement with his landlord to pay periodic rent in return for the opportunity to occupy the property. The government needs to steer absolutely clear of that relationship, just as it should in other contractual business relationships. If rents are regulated and a property owner’s return on investment is limited or eliminated, he will cease to rent, buy or develop residential rental property. Rent control **guarantees** a decline in a city’s habitable rental housing stock. This has been proven again and again, in rental markets from New York City (my home town) to San Francisco to Caracas, Venezuela. Imposing other rental regulations, like so-called just-eviction rules, the elimination of vacancy rent de-control, the requirement to consider tenants presenting Section 8 housing vouchers (this is NOT a requirement of the Federal Section 8 program, I will add) and now here, the requirement to provide relocation assistance to tenants whose leases are not being renewed after the lease term, inevitably reduces the return on rental housing and quickly diminishes the quality and quantity of rental housing stock in the city. Tenants have no right to

occupy a rental property outside the terms of their lease and the consent of their landlord. The landlord has **NO OBLIGATION WHATSOEVER** to house or relocate his tenants beyond the term of the lease. The very concept of a “rental relocation assistance payments” flies in the face of this rental contract limitation.

If I own an exercise studio and decide to change it from one catering to adults to one catering to teenagers, am I obligated to find my existing exercise clients — even if they have loyally come to my studio for decades — a new gym and pay for their new gym’s initial membership cost? I have a membership contract with my gym clients, and that is the full extent of my obligations to them. A residential rental contract is absolutely identical in nature.

Menlo Park has started down a very dangerous and destructive road in the housing sector. First, the City Council unwisely passed an ordinance requiring landlords to be indiscriminate in viewing the source of a prospective tenant’s income — directly implying that Section 8 housing vouchers must be considered on an equal footing with earned income, something every landlord in the country knows is not true. Section 8 tenants have a long, long history of being more difficult, destructive, and abusive tenants than individuals who earn their rent themselves. Forcing a landlord to take on Section 8 tenants simply will drive landlords who offer lower rent properties out of the marketplace. They will sell their buildings to investors who will develop them into luxury housing, which will not be subject to the Section 8 tenancy requirement. The next step down this destructive housing road is to make that redevelopment process more onerous, by requiring tenant rental relocation assistance payments from property owners who want to redevelop their property. I can guarantee you that this will be the final nail in the coffin for middle and lower middle income housing in Menlo Park. No one will wait to unload properties immediately for redevelopment, before the relocation requirements and costs are litigated even higher as a result of whatever ordinance you pass.

Scrap this idea before it even reaches the drawing board, or you will be very unhappy with its eventual consequences.

Sincerely,

Mrs. Mical Atz Brenzel  
(30 year Menlo Park resident and homeowner)



**From:** Shirley Gibson

**Date:** Wednesday, August 8, 2018 at 11:02 AM

**To:** Karen Grove

**Subject:** urgency, tenant relocation ordinance

Dear Karen:

This is to follow up on our phone conversation regarding the tenant relocation ordinance under consideration, and why it is important to frame as an urgency ordinance. I understand that staff have drafted the current version without an urgency clause, based on lack of available data that shows how many tenants would face displacement without assistance during the 30-day lag time to implementation. I do think there is sufficient evidence of urgency to support findings for immediate implementation, given what we know of the frequency and severity of these issues.

The current scale of the problem can only be estimated, but that estimate should include both significant rent increases and instances of “no fault” eviction notices, since both scenarios are addressed in the ordinance. Legal Aid knows of 20 “no fault” eviction notices issued within the past 32-months, and that this sample of eviction activity, self-reported by the Menlo Park residents who were motivated to consult a lawyer, is but a fraction of the total. We do not consistently track contacts from Menlo Park tenants regarding rent increases, but our records reflect that at least an additional 10 Menlo Park households reported rent increases of more than 10% during the past 32 months. Again, this is a fractional sampling that in no way captures the full scale of significant rent increases in the city. However, we can extrapolate from this sample that during any recent 30-day period, at least a few households in Menlo Park received a “no fault” eviction notice or significant rent increase.

The rate and scale of significant rent increases will inevitably escalate if tenant protections of any degree are contemplated by the City Council. With prior similar initiatives in other jurisdictions, we know that landlords responded pre-emptively before the potential effective date of a tenant protection measure. Two examples from Legal Aid’s cases:

- In April 2017, in response to the Pacifica City Council agenda item to place a rent control and just cause for eviction ordinance on the November 2017 ballot, the landlord of 360 Talbot Street increased rents on all 16 units of the building by 40%. The landlord was very candid about her intention in doing so, that she wished to avoid potential fiscal impact of the ordinance, and that the increase was more than she would have routinely sought but for the possibility of future increases being limited.
- In August 2016, the landlord of 117 Anita Road, Burlingame, issued 60-day “no-cause” notices of termination of tenancy to all four units in the building, in anticipation of a rent control ordinance on the November 2016 ballot which, if passed, would roll back recently implemented rent increases for existing tenants. This landlord stated openly to the tenants that the only reason the termination notices had been issued was to ensure that the landlord would not be “stuck” with them if the ordinance passed, and that he had been advised to take this pre-emptive step by his attorney Todd Rothbard.

We can be certain that in anticipation of a new obligation to provide relocation assistance to displaced tenants, some landlords will hasten to serve rent increase notices before that obligation becomes effective. In addition, if the 36-month residency qualification for eligibility were to be included in the proposed ordinance, we can be certain that landlords will be motivated to pre-emptively terminate the tenancies of long-term tenants if they wish to avoid the obligations of the ordinance by restricting future rentals to less than 36-months in duration. In short, whatever the current scale of rent increases and displacement, it is reasonable to expect that to escalate in anticipation of the effective date of the ordinance.

Finally, there is recent and relevant research that shows the hardship and community impact when a tenant is displaced without benefit of financial assistance. Even if we cannot precisely quantify the number of households who would face this hardship during a 30-day interval, the severity of the hardship that would certainly result is sufficient to demonstrate urgency. The Urban Displacement study of San Mateo County households ([http://www.urbandisplacement.org/sites/default/files/images/impacts\\_of\\_displacement\\_in\\_san\\_mateo\\_county.pdf](http://www.urbandisplacement.org/sites/default/files/images/impacts_of_displacement_in_san_mateo_county.pdf)) includes these findings:

- Approximately one in three displaced households reported some period of homelessness or marginal housing in the two years following their displacement. Several of these households remained homeless even months after they were displaced.
- After being displaced, only 20 percent of households reported staying in the same neighborhood (within one mile of their previous home). Thirty-three percent of households left San Mateo County, generally moving to the Central Valley or eastern communities in the East Bay.
- After being displaced, households moved to neighborhoods with fewer job opportunities on average, leading to longer, more costly commutes for households who left the county. These new neighborhoods also had more environmental and safety concerns as well as fewer healthcare resources.
- Displacement was a significant disruption and trauma for respondents and their children. Two out of three children in displaced households had to change schools.

These are precisely the types of hardships that the proposed tenant relocation assistance is designed to mitigate. If even a handful of tenant households can have these alleviated by immediate implementation of the ordinance, then an urgency is justified.

I hope this is helpful to your review. Please let me know if there is other information I can provide to support your deliberations.

Regards,  
Shirley

Shirley E. Gibson  
*Directing Attorney*  
Legal Aid Society of San Mateo County  
The Natalie Lanam Justice Center  
Sobrato Center for Nonprofits – Redwood Shores  
330 Twin Dolphin Drive, Suite 123  
Redwood City, CA 94065  
Direct Line 650.517.8927  
Fax 650.517.8973  
Toll Free 800.381.8898  
[www.legalaidsmc.org](http://www.legalaidsmc.org)



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## Curtin, Clay J

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**From:** Rhovy Lyn Antonio  
**Sent:** Wednesday, August 8, 2018 1:50 PM  
**To:** Meg McGraw-Scherer; Julianna Dodick; Karen Grove; Rachel Horst; Wendy McPherson; Nevada Merriman; Michele Tate  
  
**Cc:** Curtin, Clay J  
**Subject:** Letter from CAA re: Tenant Relocation Assistance  
**Attachments:** SKMBT\_C554e18080813440.pdf

Good afternoon Chair McGraw0Shcerer and Housing Commission Members,

Please see the attached letter from the California Apartment Association, Tr-County Division re: Tenant Relocation Assistance that is on tonight's meeting agenda. Thank you for your consideration.

Best,

[Rhovy Lyn Antonio](#) - Vice President of Public Affairs  
California Apartment Association  
1530 The Alameda, Suite 100, San Jose, CA 95126  
[rantonio@caanet.org](mailto:rantonio@caanet.org) - (408) 342-3506

*CAA is your partner in the rental housing industry.  
[Find out how we're working for you.](#)*



California Apartment Association

1530 The Alameda, Suite 100  
San Jose, CA 95126  
408.342.3500 • caanet.org

August 7, 2018

Menlo Park Housing Commission  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025

**Re: August 8, 2017 Housing Commission Meeting Item D3 Tenant Relocation Assistance**

Dear Chair McGraw-Scherer and Members,

The California Apartment Association, Tri-County Division (CAA Tri-County) which represents over 3,000 owners and managers of residential rental properties in San Mateo, Santa Clara, and Santa Cruz Counties offers our feedback on the Housing Commission's proposal to establish a tenant relocation assistance ordinance. Given the nature of the proposal before the Housing Commission, CAA Tri-County opposes the proposed Tenant Relocation Assistance Ordinance and urges the Housing Commission to re-consider its recommendation to the City Council to be consistent with the Council's direction of January 10, 2017.

As a key stakeholder in housing issues in Menlo Park and a participant of the joint City Council and Housing Commission Study Session held on January 10, 2017, CAA Tri-County and its members have worked tirelessly to engage with the city in developing meaningful housing solutions that are fair, equitable, collaborative, and most importantly, based on facts. We partnered with the city in developing its Right to a Lease Ordinance and offer guidance to Menlo Park housing providers to ensure compliance.

As we shared during the January 2017 joint study session, CAA Tri-County and its members do not oppose the city exploring a reasonable tenant relocation assistance program when a unit is permanently removed from the market or when a unit must be vacated for renovations. These were the parameters supported by the City Council at that meeting and CAA Tri-County agreed with this approach. CAA Tri-County also did not oppose the Housing Commission's recommendation to identify tenant relocation assistance as priority #1 at the August 2017 City Council meeting.

However, upon reviewing the current proposal by the Housing Commission, CAA Tri-County has serious concerns with the proposed ordinance as written. The ordinance, in its current form, has

tremendously expanded its scope beyond the City Council's original intention. **Due to the extreme deviation from the program's original intent and eligibility, CAA Tri-County opposes the proposal as written.**

Neither one of the January or August 2017 meetings included a discussion to expand the program scope beyond displacement caused by the sale of a property or redevelopment. Triggers related to rent increases or the ambiguous term "landlord-caused termination" were never addressed. In fact, the City Council made it clear that rent or eviction-related regulations were not included in any of the housing initiatives they discussed. The ordinance's trigger of "significant rent increase" of 5% plus CPI is a form of rent control, which the City Council has already spoken against.

CAA Tri-County is aware of the discussions made to use the City of Mountain View's tenant relocation assistance program as a model. However, the reference to the Mountain View program referred to the provisions of the original program which was related to units permanently removed from the market. There was no indication to replicate Mountain View's amended version tenant relocation assistance program which was just recently overhauled to comply with Measure V, Mountain View's rent control ballot initiative which went into effect in 2016-2017.

CAA Tri-County, in good faith, trusted that the Housing Commission exploration of the program would be aligned with the City Council's feedback. An increased public outreach especially to housing providers would have been helpful as soon as the Housing Commission made the decision to expand the program parameters. Changing course without full disclosure or outreach are not good basis for policy making.

Again, CAA Tri-County and its members continue to recognize the various policy concerns the City of Menlo Park is trying to balance and we are confident that, if all stakeholders continue to work together, we can find a reasonable and lawful solution that more fairly addresses the city's housing challenges. The proposed ordinance, however, is not that solution. We urge you to work with local housing providers and seek more input to explore the feasibility of a tenant relocation assistance program that is aligned with the City Council's original intention.

Thank you for your consideration.

Sincerely,



Rhovy Lyn Antonio  
Vice President of Public Affairs  
CAA Tri-County

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## **Curtin, Clay J**

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**From:** Ryan Carrigan  
**Sent:** Wednesday, August 8, 2018 2:22 PM  
**To:** Curtin, Clay J  
**Cc:** Julianna Dodick; Karen Grove; Rachel Horst; Wendy McPherson; Meg McGraw-Scherer; Nevada Merriman; Michele Tate  
**Subject:** Item D3 Tenant Relocation Assistance - MP Housing Commission

Mr. Curtin,

I am reaching out regarding Item D3, to be discussed at tonight's Housing Commission meeting. On behalf of the real estate community and our members, including property managers and owners, the Silicon Valley Association of REALTORS (SILVAR) has serious concerns with many of the regulations outlined in the draft tenant relocation ordinance. We directly understand the impact the high cost of housing has on families in our community and are proactively working to be part of the solution with many partners throughout the region. However, we feel the draft ordinance, as proposed, will only contribute to the problem and create further obstacles to housing affordability in Menlo Park.

Our foremost concern is the Housing Commission going beyond City Council's original request and proposing regulations they weren't tasked with discussing. From reviewing council discussion in January and August of 2017, it seems clear that council gave direction to bring forward a tenant relocation assistance ordinance that would apply under Ellis Act removals or substantial renovation of a property. In fact SILVAR was part of those discussions, and worked with council to find viable solutions. The original direction given by council was something that we supported, but the subsequent Housing Commission proposal of including rent increases, and rental rates, as terms of relocation assistance are confusing to us and go beyond the policy proposals discussed last year.

The lack of follow up and outreach since then is something that we also have significant concern about. A change in direction of such magnitude, and of such impact, should receive multiple public hearings, and consider input from many stakeholders involved with providing multi-family housing. To submit a draft ordinance that goes beyond council direction and only engages the community and stakeholders after one public meeting seems like a waste of council time and city resources. We hope to see a robust discussion with the many mom and pop property owners, and others providing multi-family housing, as well as tenants, before a finalized draft ordinance is submitted to council.

I look forward to working with you as this issue moves forward.

Thank you,  
Ryan

**Ryan Carrigan**  
**Government Affairs Director**  
**Silicon Valley Association of REALTORS®**  
19400 Stevens Creek Blvd., #100  
Cupertino, CA 95014  
[www.silvar.org](http://www.silvar.org)  
Phone: 408.200.0100  
Direct: 408.200.0108  
Mobile: 510.393.7622  
[rcarrigan@silvar.org](mailto:rcarrigan@silvar.org)

## **Curtin, Clay J**

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**From:** Adina Levin <alevin@alevin.com>  
**Sent:** Wednesday, August 8, 2018 5:04 PM  
**To:** Michele Tate; Julianna Dodick; Karen Grove; Rachel Horst; Wendybmcpherson22@gmail.com; Meg McGraw-Scherer; nevada.merriman@gmail.com; Curtin, Clay J  
**Subject:** Tenant Relocation Assistance

Dear Housing Commissioners,

Thank you for considering the important issue of tenant relocation assistance. As housing prices skyrocket, many of our neighbors are facing eviction due to increased rents. Data shows that many families experience homelessness after eviction, especially among households that are low income and minority, who lack savings to weather the transition.

Please recommend to City Council a policy that provides tenants with financial assistance sufficient to pay for first and last month's rent plus moving expenses at market rate, so they can afford housing while they look for a new home. Such a policy would require the landlord to assist tenants with their move in situations where the tenant is not at fault.

Thank you very much for your consideration,

- Adina  
Adina Levin  
Menlo Park Resident  
650-646-4344



## Tenant Relocation Assistance

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...or “Homelessness Prevention”

...or “Eviction Mitigation”



For communication purposes, prepared by Housing Commissioner, Karen Grove, representing herself as an individual, August 8, 2018

## Evictions in Menlo Park

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- Legal Aid has had 47 eviction cases from Menlo Park since January 2016 (a subset of all evictions in Menlo Park)
- 46% were “no fault” (no failure to pay rent, no breach of rental agreement)
- “No fault” evictions disproportionately impact tenants who identify as Black or Latino, have a female head of household, and who have children in the household.

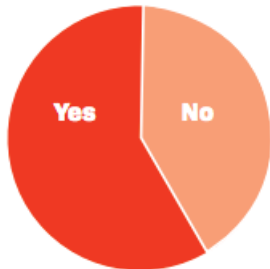
# Eviction data for San Mateo County 2014-2016

## Female Head of Household

Of the 573 respondents in 2014-15 for whom head of household information is known, 63% were female

**63%**  
Yes

**37%**  
No



## Hispanic / Latino people comprise

**25%** of the population  
and **49%** of people  
evicted in San Mateo County

## Children in Household

For 1,100 reported households in 2014-15

**70%**  
Yes

**30%**  
No



## Black / African-American people comprise

**2.5%** of the population  
and **21.4%** of people  
evicted in San Mateo County

Source: San Mateo County Eviction Report 2016



## Eviction and displacement cause of homelessness

After eviction, families often experience homelessness, putting them **at risk for violence, stress, communicable disease, malnutrition and harmful weather exposure**, and making it difficult to treat common conditions such as high blood pressure, diabetes and asthma.

National Health Care for the Homeless Council. "Homelessness and Health: What's the Connection?"

**17.6%**

**of San Mateo County  
tenants who defended  
evictions in court in 2014  
were homeless in Spring  
of 2015**



Source: San Mateo County Eviction Report 2016

# Tenant Relocation Assistance Ordinance

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To be discussed at August 8, 2018 Housing Commission meeting (City Hall Office ground floor conference room, 6:30pm)

- Primary goal is to prevent tenants who are displaced from experiencing a period of homelessness as they find a new home.
- *Might* also act as a deterrent to landlords and prevent some displacement.

## Tenant Relocation Assistance

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When a tenant is displaced, landlord must pay relocation assistance

- What kind of “assistance”?
- What triggers relocation assistance?
- What residences are included?
- Which tenants qualify for the assistance?

# Tenant Relocation Assistance

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What kind of "assistance?"



+



Typically 3-4 months rent at  
market rate  
(at least first & last plus moving  
expenses)

60 day subscription to  
rental listing service

# Tenant Relocation Assistance

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Triggers for relocation assistance:

- Landlord-Caused Termination with exceptions for:
  - Failure to pay rent
  - Breach of rental agreement
  - Nuisance
  - Owner move-in (recommend to *add* this exception, and provide an alternate source of tenant assistance)
  - Significant and Necessary Repairs (recommend to delete this exception)
- Excessive rent increase:
  - Defined as "more than Consumer Price Index + 5% rent increase over 12 months" ( would be 7-8% in today's economy)

# Tenant Relocation Assistance

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Includes multi-unit, 4,3,2-plex, and single family homes



*Not included: BMR Units, ADUs, rooms in owner-occupied home*

# Tenant Relocation Assistance

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Who qualifies?



Tenant household income < 1.5xAMI or 2.0xAMI

AMI = Area Median Income, as defined by HUD for San Mateo County



Thank you!

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# ENHANCED HOUSING PRIORITIES LIST

#	Policy	Benefit	Required resources	Estimated completion	Unit type	Notes	Priority 1-3
1	Reduced parking requirements for affordable housing projects	Reduces the cost of development	This action could be addressed as part of the biennial Specific Plan review in 2017	18 months	All but most likely multifamily units of 4 or more	City Council gave direction that this should be for downtown only and properties within close proximity to transit.	1
2	Amend BMR Guidelines to allow BMR homeowners to sublet rooms to BMR renters	Makes more efficient use of existing housing stock and provides a revenue source for BMR property owners and renters	This action could be incorporated into the planned 2017 BMR guideline revisions	12 months	All BMR units		1
3	Amend BMR Guidelines to expand list eligibility for displaced residents	This action would allow displaced residents to maintain their position on the City's BMR list for up to three years	This action can likely be addressed within current resources	12 months	All BMR Units		1
4	Tenant relocation assistance ordinance	Renters are provided with assistance in seeking housing and it creates a financial disincentive to landlords from displacing residents	Additional staffing for administration and enforcement	6 months	Multifamily units of 4 or more with exemptions	Housing Commission recommends expanding triggers of rental relocation to include renovation along with sale.	1
5	Adopt the Home for All resolution	Shows the City's commitment to Housing	Can be accommodated with current staffing	Complete		Approved by the City Council March 28, 2018	1
6	Promote home sharing programs	Makes more efficient use of existing housing stock	The City would need to work with an organization that has this kind of program.	12 months	All, but primarily aimed at underutilized single-family homes	Housing Commission recommends that the City promotes programs through website and banners, possible water bill or other inserts neighborhood newsletters and at events.  Housing Commission heard from a representative from HIP regarding ways to further enhance our working relationship.	1

## ENHANCED HOUSING PRIORITIES LIST

7	Preservation of market affordable units	Allows the City to leverage existing BMR funds to assist affordable housing providers to purchase market properties and restrict tenancy to renters who qualify for affordable housing	This can be done now and has been through the City's partnership with HIP Housing as an example. It may require a clarification of how the BMR guidelines have been administered.	18 months	All	Referred to Housing Commission for rec. on prioritization  Housing Commission recommends looking at possibility of "tenants first right of refusal" and including projects like this in the NOFA similar to the Oakland and SF NOFA's for small projects.	1
8	Secondary dwelling units	Jan. 24, 2017, City Council approved zoning changes in order to comply with new State legislation, regarding the conversion of accessory structures to SDU's.	Staff is considering additional outreach for the current program. Recommendations for additional incentives will require reprioritization of staffing and possible additional staffing.	24 months depending on direction	Single Family detached homes	The Housing Commission voiced interest in adjustments to the minimum lot size to allow more properties to qualify for SDU's.	2
9	First Hire program	This is a local hire program that may require businesses to hire a portion of their workforce from the local community. This is more an Economic Development strategy than a housing strategy and may result in employees moving into a community in order for the business to comply.	This will require reprioritization of staffing resources and likely require additional staffing to administer.	36 months	N/A	Referred to Housing Commission for rec. on prioritization  Housing Commission discussed the possibility of including language in the 2017 NOFA to include local hire requirements for construction and staffing of new affordable projects.	2
10	Displacement Fund	Provides assistance to residents facing displacement	Linkage Fee Nexus Study	36 months	Any	Due to the need of a nexus study the Housing Commission recommends prioritizing tenant relocation assistance before developing a new displacement fund.	2



## ENHANCED HOUSING PRIORITIES LIST

11	Mandatory nonbinding mediation	Provides renters and landlords the opportunity to address disputes before displacement	Contract Mediation Services and additional Staffing for administration and enforcement	12 months	All	Housing Commission received feedback that mediation can set false expectations and is ultimately not the most effective protection for renters.	3
12	Review and draft policy on Airbnb	This is related to item 3, but would be for all subletting in the City. There are resources becoming available through 21 Elements and other Cities	Prioritization of staff time	24 months	All		3
13	Anti-retaliation ordinance	This is a reiteration of State law and could be combined with an item in the Housing Element implementation to adopt an ordinance prohibiting discrimination	Could be drafted and brought to City Council with current staffing, but additional staffing would be necessary for enforcement.	12 months	All	Housing Commission recognized that this could be included with the anti-discrimination Ord. that is anticipated to be part of the Housing Element implementation.	3
14	Rental housing rehabilitation loans/grants	Provides funding to property owners for improvements. Landlords agree to fix rents for a period of time in return. It is often tied to fire/seismic upgrades.	This will require additional staffing to administer, an ongoing funding source and is similar to homeowner loan programs that the City has found problematic.	36 months	TBD		3
15	Rental housing best practices	This provides guidance to landlords and sets up a certification for compliance with operational standards. It is a voluntary program.	This will require reprioritization of staffing resources and likely require additional staffing to administer.	36 months	All		3

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# HOUSING COMMISSION WORK PLAN 2016-18

City Manager's Office  
701 Laurel St., Menlo Park, CA 94025  
tel 650-330-6620  
[menlopark.org/housingcommission](http://menlopark.org/housingcommission)



## Mission Statement

We are affordable housing advocates.

We make recommendations to the City Council on issues related to housing policy, implement Council policy decisions, and represent the City where needed on housing matters.

We are a conduit of information out to the community about affordable housing programs and a conduit of information back from the community regarding housing matters to the City Council.

## Committee Members Listing and Term Expirations

Julianna Dodick	April 30, 2019
Karen Grove	April 30, 2021
Rachel Horst	April 30, 2022
Wendy McPherson	April 30, 2021
Meg McGraw-Scherer - Chair	April 30, 2020
Nevada Merriman - Vice Chair	April 30, 2021
Michele Tate	April 30, 2021

## Priority List

The Housing Commission has identified the following priorities to focus on during 2016-18:

1. BMR Housing
  - Activities:
    - Monitor and review BMR funds and use.
    - Participate in and advise Council and/or Planning Commission on policy decisions related to BMR.
  - Trigger: Staff will bring items to the commission for consideration.
2. Housing Projects
  - Stay appraised of housing projects in Menlo Park (i.e. CORE, MidPen/Willow, HIP, Habitat)
  - Action: Lead will include information on activities in update at quarterly commission meetings.

3. Given the current housing crisis in the Bay Area and in Menlo Park in particular, promote policies that prevent residential displacement, promote affordable housing preservation, and encourage affordable housing development.

Specific activities to include:

- Implementation of the Housing Priority table
- Facilitation of the completion of the Nexus Study with the goal to update the current fee schedule and originate a residential impact fee program.
- Promotion of policies that support dispersion and development of affordable units throughout all of Menlo Park.
- Encouragement of the development of housing around transit (reduction of parking requirements, density bonuses, use of City land for housing).
- Promotion of the development of the 4,500 residential units provided for in the General Plan.
- Promotion of the use of City-owned land for affordable housing in general and specifically:
  - a. redevelopment of downtown parking lots to include affordable housing
  - b. redevelopment of existing city facilities to include a mix of uses with affordable housing (i.e. main library, community centers)

#### 4. Housing Element Implementation

Activities:

- Monitor and Review of the Housing Element program implementation.
- Our responsibility is to represent the community in an advisory role and continue to advocate for relevant housing programs, as outlined in the Housing Element, with an emphasis on affordable housing.

Timeframe: Ongoing

### Work Plan Worksheet

#### Step 1 - Review purpose of Commission as defined by Menlo Park Council Policy CC-01-0004

Each advisory body has a primary role of advising the City Council on policy matters or reviewing specific issues and carrying out assignments as directed by the City Council or prescribed by law.

The Housing Commission is charged primarily with advising the City Council on housing matters including housing supply and housing related problems. Specific focus areas include:

- Community attitudes about housing (range, distribution, racial, social-economic problems)
- Programs for evaluating, maintaining, and upgrading the distribution and quality of housing stock in the City
- Planning, implementing and evaluating City programs under the Housing and Community Development Act of 1974
- Members serve with staff on a loan review committee for housing rehabilitation programs and a first time homebuyer loan program
- Review and recommend to the Council regarding the Below Market Rate (BMR) program
- Initiate, review and recommend on housing policies and programs for the City
- Review and recommend on housing related impacts for environmental impact reports
- Review and recommend on State and regional housing issues
- Review and recommend on the Housing Element of the General Plan
- The five most senior members of the Housing Commission also serve as the members of the Relocation Appeals

#### Step 2 - Develop or review a Mission Statement that reflects that purpose (*Who we are, what we do, who we do it for, and why we do it*)

We are affordable housing advocates.

We make recommendations to the City Council on issues related to housing policy, implement Council policy decisions, and represent the City where needed on housing matters.

We are a conduit of information out to the community about affordable housing programs and a conduit of information back from the community regarding housing matters to the City Council.

### Step 3 - Discuss any priorities already established by Council

2017 City Council Work Plan - Enhanced Housing Program

### Step 4 - Brainstorm goals, projects or priorities of the Committee

<u>Brainstorm goals, projects or priorities of the Committee</u>	<u>Benefit, if completed</u>	<u>Mandated?</u> <u>by State/local</u> <u>law or by</u> <u>Council</u> <u>direction</u>	<u>Policy</u> <u>change?</u> <u>At Council</u> <u>level</u>	<u>Resources needed for</u> <u>completion</u> <u>Staff or creation of</u> <u>subcommittees</u>	<u>Estimated</u> <u>Completion</u> <u>Time</u>	<u>Measurement Criteria</u> <u>How will we know how we are doing?</u>
BMR Housing	Oversight of compliance with guidelines	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Staff time and Commission meetings	24 Months	Approved BMR Agreements
Housing Element Implementation	In compliance with State requirements	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Funding and Staff time	24 Months	Staff will present actions outlined in the Housing Element's Implementation program
Housing Projects	Continued awareness of upcoming projects	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Staff time (briefs from planning staff on pending projects)	24 Months	Commission knowledge of projects
Community Advocacy for Affordable Housing	More awareness of the need to provide a range of housing opportunities	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Subcommittee	24 Months	More acceptance of affordable housing by the community
Collaborate with area Housing Agencies and Advocates	Access to more resources and ideas	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Subcommittee	24 Months	More communication with area housing agencies and advocates
Housing outreach and support	Explore more effective ways to get housing information to the community	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24 Months	
Become more involved in educational opportunities:	Housing Commission will continue to develop subject matter expertise and enhance the HC's ability to advise the City Council with regard to funding affordable housing and housing policy.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24 Months	Join Housing Leadership Council of San Mateo County Attend housing conferences
Become involved in the NOFAs - Have Housing Commission give feedback on language	Solicit a greater number of applications for funding and affordable units	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Subcommittee	12 Months	Review and recommend changes for the 2017 NOFA
Review Annual BMR Report	Advise City Council	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Staff time and Commission meetings	Ongoing	Review and recommend action to Council

Propose a new regular meeting schedule	Facilitate addressing Menlo Park housing needs	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Staff time and Commission meetings	Complete	Schedule and hold monthly meetings
Review quarterly reports from Hello Housing	Improve communication of BMR program, provide oversight of contractor	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Staff time	Ongoing	The Commission will review quarterly reports from Hello Housing
Prioritization of Enhanced Housing Program Policies	Allow for public input on prioritization and provide advice Council	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Staff time and Commission meetings	6 Months	Presentation to City Council on recommended prioritization
Review and recommend housing policy action	Allow for public input on policy initiatives and recommend action to Council	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Staff time and Commission meetings	24 months	Presentation to City Council on actions to address residential displacement
		Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>			
		Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>			
		Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>			
		Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>			
<b>Step 5 - Prepare final work plan for submission to the City Council for review, possible direction and approval and attach the worksheets used to determine priorities, resources and time lines.</b>						
<b>Step 6 - Once approved, use this plan as a tool to help guide you in your work as an advisory body.</b>						
<b>Step 7 - Report out on status of items completed. Provide any information needed regarding additional resources needed or/and to indicate items that will need additional time in order to complete.</b>						

## MEMORANDUM

**Date:** August 29, 2018

**To:** Clay Curtin, Assistant to the City Manager, City of Menlo Park

**From:** Hello Housing, Administrator of Menlo Park's Below Market Rate (BMR) Housing Program

**Subject:** Quarterly BMR Housing Program Report – Q3 2018

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The City of Menlo Park is currently contracted with Hello Housing, a nonprofit housing organization, to administer its Below-Market Rate (BMR) Housing Program along with providing loan servicing of the City's below market rate loans, including Purchase Assistance Loans, CDBG Loans, Rehab Loans and Emergency Rehab Loans. This Quarterly Report contains an update on Hello Housing's activities during the third quarter of 2018 (Q3).

### **BMR Home Resale and Refinance Activity**

<i><b>BMR Home Re-sales</b></i>	<i><b>BMR Home Refinances or HELOCs</b></i>	<i><b>BMR Home Value Calculation Requests</b></i>
<i><b>0</b></i>	<i><b>0</b></i>	<i><b>1</b></i>

During Q3, there were no re-sales or refinances that took place within the BMR portfolio. One homeowner requested their BMR home value calculations to help them decide whether to refinance their mortgage. Hello Housing is work with this homeowner and their lender to collect the necessary documentation to determine whether the refinance is eligible under the BMR Program Guidelines.

### **Below Market Rate Waiting List Management**

Hello Housing manages the City's Waiting List for the BMR Housing Program. This includes accepting and processing applications from interested households and doing an annual mailing campaign to recertify current waiting list members. Households may apply to be on the waiting list to purchase a BMR unit or may apply to be on the interest list to rent a BMR unit, or both.

During Q3, so far Hello Housing has processed 13 new BMR waiting list applications, 7 of which were eligible to be added to the list.

During Q2, Hello Housing conducted the annual Waiting List Update process, which consisted of three to four rounds of communication to participants from March through June, requesting that each participant submit a new application with their updated household information. The final results of the Waiting List Update were completed in Q3. A summary of the results is as follows:

<b>Annual BMR Waiting List Update Results</b>	<b>BMR Purchase Waiting List</b>	<b>BMR Rental Interest List</b>	<b>BMR Purchase Waiting List + Rental Interest List</b>
<i>Eligible households who will remain on the list(s)</i>	18	49	103
<i>Households who voluntary removed themselves the list(s)</i>	2	3	8
<i>Households who didn't respond and have been removed from the list(s)</i>	3	21	48
<i>Households who are no longer eligible and have been removed from the list: No longer work in Menlo Park (and never listed a Menlo Park residence)</i>	0	1	3
<i>Households who are no longer eligible and have been removed from the list: Income exceeds 120% AMI</i>	1	0	1
<i>Households who are no longer eligible: Income information not provided despite follow-up attempts</i>	0	1	0

#### **Below Market Rate Waiting List Management – Displaced Households**

Households who were on the waiting list but reported that they no longer live or work in Menlo Park due to displacement were not removed from the waiting list during the annual update.



Hello Housing has maintained records of households who have reported having been displaced in order to follow up for supporting documentation to determine if they meet the updated eligibility criteria that will allow for certain displaced households to qualify for the waiting list, as published in Section 7.1 of the latest version of the BMR Housing Program Guidelines as follows:

*A person residing in Menlo Park in 2008 who was subsequently displaced from such housing shall not be disqualified based on current lack of residency, provided they can show their displacement was due to economic conditions beyond their control (including but not limited to job loss, rent increase, eviction, foreclosure or other form of economic hardship resulting in loss of housing). Evidence of such economic displacement shall be in the form of direct evidence (i.e. job termination letter) or declarations submitted under penalty of perjury.*

Hello Housing is currently working with staff to craft an Affidavit that households can submit along with supporting documentation to verify that they qualify for purchase waiting list and/or rental interest list based on their displacement from Menlo Park. Hello Housing will contact the households referenced in the table below, who self-identified as displaced from Menlo Park, to inform them about the new eligibility criteria and request that they submit an Affidavit of Displacement along with supporting documentation to verify that they resided in Menlo Park in 2008. Information about the new criteria will also be posted to the City's website and Hello Housing's website. Applicants who submit the required documentation and meet the new eligibility criteria will be added to the list(s) or be allowed to remain the list(s) as follows:

- Qualifying households who were already on the waiting list prior to their displacement will be able to remain on the list (with their current waiting list position if they are on the purchase waiting list).
- Qualifying households who were not previously added to the waiting list, due not living or working in Menlo Park at the time of applying, will be added in the same fashion as other new eligible applicants. If they are applying for the purchase waiting list, their position will be ranked after the last household who applied before them.

<b>Households who self-identified as displaced from the City of Menlo Park</b>	<b>BMR Purchase Waiting List</b>	<b>BMR Rental Interest List</b>	<b>BMR Purchase Waiting List + Rental Interest List</b>
<b><i>Waiting list members who were on the list prior to displacement and currently remain on the list</i></b>	1	2	5
<b><i>Households who did not live or work in Menlo Park at the time of applying for the waiting list</i></b>	0	7	1

## Below Market Rate Preservation Projects

Hello Housing continues to monitor BMR homeowners who took out non-program compliant home loans or who have other property liens that may put their homes at risk. Below is a summary of each homeowner's current status:

- 3 homeowners are over-encumbered due to having Home Equity Lines of Credit, unapproved first mortgage financing, and/or other debt against their property such as tax liens which in total exceed their maximum BMR home value. They have each signed Affidavits agreeing not to draw any additional funds from their HELOCs and will be providing updated loan statements to Hello Housing each year along with their owner occupancy monitoring.
- 2 homeowners are not over-encumbered but have an open HELOC. They have each signed Affidavits agreeing not to draw any additional funds from their HELOC and will be providing updated loan statements to Hello Housing each year along with their owner occupancy monitoring.
- 3 homeowners are not over-encumbered and do not have any subordinate financing. They have agreed to engage with Hello Housing for any potential future financing transactions and Hello Housing will monitor their properties each year.
- 1 homeowner was identified who had a delinquent property tax payment from 2012-2013 that resulted in a property tax lien of nearly \$17,000. The homeowner is currently in a payment plan with the County and plans to repay the remaining amount in 2018.

Hello Housing also monitors Notices of Default that are recorded on BMR properties with the goal of preventing the BMR home from being lost from the affordable housing portfolio through foreclosure. No Notices of Default have been received during Q3.

## Loan Servicing

In addition to administering the City's BMR Housing Program, Hello Housing provides loan servicing of the City's Purchase Assistance Loans, CDBG Loans, Rehab Loans and Emergency Rehab Loans. Below is a general summary of loans serviced under Hello Housing's contract.

Total funds remitted back to the City through loan servicing in the second quarter\* of 2018:

**\$26,180.00** \*complete data is not yet available for Q3.

BMR Loan	Total Loan's Serviced	Current Active	Current Deferred
Purchase Assistance Loans	23	22	1

<b>CDBG Loans</b>	<b>8</b>	<b>6</b>	<b>2</b>
<b>REHAB Loans</b>	<b>4</b>	<b>4</b>	<b>0</b>
<b>ERL Loans</b>	<b>6</b>	<b>6</b>	<b>0</b>
<b><i>Total</i></b>	<b><i>41</i></b>	<b><i>38</i></b>	<b><i>3</i></b>

Since taking on the loan servicing contract in 2013, Hello Housing has developed a process of engaging with delinquent borrowers in order to assist them to begin making payments on their City loans. As of this report, only one borrower is currently under review due to delinquency and they are engaged with the City to discuss options to resolve their delinquency.

### **BMR Homeownership Opportunities**

#### **133 Encinal Avenue, Menlo Park**

Three new BMR homes being built by Hunter Properties at 133 Encinal Avenue are estimated to be made available to the BMR purchase waiting list in Spring 2019. All three homes will be 4-bedroom units. Hello Housing will meet with City staff, the developer and the City-retained BMR real-estate agent during Q4 to discuss the initial purchase price setting, marketing materials and timing of outreach to the waiting list.

Tentatively in early 2019 (timing is subject to change pending the developer's construction schedule), Hello Housing will invite purchase waiting list members with a qualifying household size of at least four people, to attend an application workshop to learn how to submit a complete and eligible BMR application for these homes. An application deadline will be established and applications received by the deadline will be reviewed in waiting list order to identify eligible purchasers for all three homes.

### **Below Market Rental Recertifications and Compliance**

Hello Housing conducts annual income recertification of the households living in the four BMR rental units located 1175 and 1177 Willow Road, which are owned and managed by the City of Menlo Park. The 2018 annual income certification report was provided to City staff in June. In addition, Hello Housing is working with City staff to craft an approach to ensure that other BMR rental units within the City, such as those at Anton Menlo, maintain ongoing compliance with the BMR Program Guidelines.

### **Other BMR Program Activities**

Hello Housing continues to serve as a resource to all current BMR homeowners and borrowers to field questions that may come up around compliance with program requirements. The BMR

Deed Restrictions and Program Guidelines contain policies on several aspects of owning a BMR home that each homeowner agreed to follow. Hello Housing works with homeowners on an ongoing basis to provide clarity on these policies when questions come up. Topics may include transfers of title, inheritance of BMR homes, refinancing requirements, the resale process, City policy on owner occupancy, preferred lender referrals for refinancing, and other questions.



## STAFF REPORT

### Housing Commission

**Meeting Date:**

**9/12/2018**

**Staff Report Number:**

**18-017-HC**

**Regular Business:**

**Review and gather additional public comment on the draft ordinance establishing tenant relocation assistance**

### Recommendation

Staff recommends the Housing Commission review and consider making a recommendation to the City Council regarding an ordinance establishing tenant relocation assistance and provide feedback to the staff on a public outreach strategy to gather public input.

### Policy Issues

At its August 22, 2017, meeting, the City Council identified tenant relocation assistance as a priority one recommended policy, from among several enhanced housing policy considerations.

### Background

On January 10, 2017, the City Council held a study session on addressing the concerns regarding residential displacement in Menlo Park. The study session included Housing Commissioners Tate and Dodick as well as a panel of four housing experts. Staff presented 10 policies that have been commonly used or considered in other cities. The City Council referred eight of the recommended policies, along with seven others introduced by the expert panel, to the Housing Commission for prioritization. The Housing Commission reviewed the policy table over the course of three consecutive monthly Housing Commission meetings, received input from stakeholders and experts and developed a recommended prioritization list. Staff presented this recommended prioritization list at the August 22, 2017, City Council meeting where the City Council approved the Commission's recommendations without changes.

At its July 11, 2018, regular meeting, the Housing Commission reviewed a draft of the proposed tenant relocation assistance ordinance and recommended changes in regards to the urgency of the ordinance, the household eligibility criteria, the indexing of rent increases to the consumer price index plus 5 percent, the definition of applicable residential units, inclusion of special circumstance provisions and a rental subscription service.

At its August 8, 2018, regular meeting, the Housing Commission modified the eligible tenant definition to include any tenant residing in a rental unit for 12 months or more, subject to an annual household income limit equal to two-hundred percent (200%) of the area median household, and added an owner move-in exemption. The Commission also scheduled public meetings for September 12 and September 13, 2018, to further discuss this issue and requested staff to conduct broad public outreach to solicit additional community feedback.

Staff created a project page for the proposed tenant relocation assistance ordinance on the city website ([menlopark.org/relocationassistance](http://menlopark.org/relocationassistance)), which includes the full text of the ordinance in both English (Attachment A) and Spanish (Attachment B).

The meetings were noticed during the week of August 27, 2018, via mailed postcards to all Menlo Park properties and property owners (including out of town property owners). Additionally, interested organizations who have contacted the city about the draft ordinance were invited to attend and make extended comments or provide advance written comments. These organizations included housing advocacy groups, landlord-tenant mediation services, the California Apartment Association and realtors.

## **Analysis**

Tenant relocation assistance can provide a safety net to renters who are displaced from their current housing and find themselves facing sudden homelessness. The assistance is often provided in the form of cash payments that can be used by the displaced tenant to address the financial challenge of securing alternate housing (first and last month's rent, security deposit, etc.) and pay related expenses (moving costs, utility deposits, etc.). While this is a traumatic and daunting experience for any tenant, it is especially difficult for low-income households. By reducing the financial impacts of unexpected displacement, a relocation assistance ordinance can help keep more of these residents in Menlo Park, reduce household disruption and preserve community continuity.

The sections below highlight some of the key provisions of the current draft ordinance.

### Urgency ordinance provision

Under California Government Code §36937, urgency ordinances that take effect immediately for the preservation of the public peace, health, or safety, must contain a declaration of the facts constituting the urgency, and be passed by a four-fifths vote of the City Council. The updated draft ordinance has a section for urgency findings and currently includes case data provided by Legal Aid of San Mateo County. Through the public comment process, it is possible that additional supporting data could become available and be added to the urgency findings. When adopting urgency ordinances, the best practice is to consider concurrently a similar ordinance on a non-urgency basis following the usual procedure (two readings) in the event the urgency ordinance fails to get the four-fifths vote needed or in the event its urgency findings are challenged. If the urgency ordinance is challenged, the non-urgency version of the ordinance will already have taken effect, thereby limiting the "gap" in coverage to the brief window between the effective dates of the emergency and regular ordinances.

### Eligible tenant

The definition of eligible tenant was modified per the Commission's request at the August 8, 2018, meeting to change the qualifying length of tenancy to 12 months or more (in alignment with the City's 12-month lease ordinance) and to modify the income limit equal to two-hundred percent (200%) of the area median household income adjusted for household size, as published by the State of California Department of Housing and Community Development.

For reference, the table below shows the 2018 income limits for single person, 2-person and 4-person households.

2018 California State Income Limits for San Mateo County Households						Commission-discussed income limits	
Household size	Extremely low-income	Very low-income (50% AMI)	Low-income (80% AMI)	Area median income	Moderate income (120% AMI)	150% AMI	200% AMI
1-Person	\$30,800	\$51,350	\$82,200	\$82,900	\$99,450	\$124,350	\$165,800
2-Persons	\$35,200	\$58,650	\$93,950	\$94,700	\$113,700	\$142,050	\$189,400
4-Persons	\$44,000	\$73,300	\$117,400	\$118,400	\$142,100	\$177,600	\$236,800

Market rents in Menlo Park are often significantly higher than those rents in several other San Mateo County communities, and have become increasingly out of reach for even moderate-income households (defined as 80 percent to 120 percent area median income). Using the federal government's definition of rent burden (e.g., a household should spend no more than 30 percent of household income for rent), a 4-person household should spend no more than \$2,960 per month for rent. Between September 2015 and September 2018, the average effective rent for a two-bedroom apartment in Menlo Park was \$3,685.

The table below shows the federally defined rent burden guideline for various income levels as compared to the average market rate rent for a two-bedroom Menlo Park apartment.

Federally defined rent burden versus average monthly rent for a 4-person household and a two-bedroom Menlo Park apartment over a 4-year period (September 2015 to September 2018)						Commission-discussed income limits	
	Extremely low-income	Very low-income (50% AMI)	Low-income (80% AMI)	Area median income	Moderate income (120% AMI)	150% AMI	200% AMI
Federal rent burden monthly rent limit	\$1,100	\$1,833	\$2,935	\$2,960	\$3,553	\$4,440	\$5,920
Average monthly rent for a two-bedroom apartment	\$3,685	\$3,685	\$3,685	\$3,685	\$3,685	\$3,685	\$3,685
<b>Difference</b>	<b>(\$2,585)</b>	<b>(\$1,853)</b>	<b>(\$750)</b>	<b>(\$725)</b>	<b>(\$133)</b>	<b>\$755</b>	<b>\$2,235</b>

#### Landlord-caused termination

Landlord-caused termination is defined to include situations where a landlord provides an eligible tenant with a significant rent increase and the tenant elects to move out (likely due to inability to pay the significant rent increase). It also includes situations where a landlord takes action to terminate the tenancy of an eligible tenant, with clearly outlined exceptions for the tenant's 1) failing to pay rent; 2) breach of the rental agreement; 3) continuing to commit or expressly permit a nuisance in the rental unit; or 4) owner-move-in.

At the August 8, 2018, Housing Commission meeting, the Commission specifically asked staff to include an owner move-in exception to provide relief for landlords and their families who may need to move back into their rental unit due to their own financial hardship. This exemption includes a clause that use of the rental unit by the landlord under this provision must be for a period of at least 12 months; otherwise, relocation assistance would still have to be paid to the displaced tenant.

### Rental unit

The definition of rental unit in the draft ordinance includes any housing unit in the city (including, but not limited to: multifamily housing, condos, duplexes and single-family homes), except for 1) affordable housing units already required to be rented at restricted rents to income-qualified tenants; 2) secondary dwelling units (commonly referred to as “granny units,” “in-law units,” or backyard cottages; and 3) owner-occupied single-family residences where a room is rented to a third party.

The second and third exclusions were included to provide additional leeway for property owners who are living in close proximity to their third-party tenant and would not want to be forced to keep a problematic tenant because of the burden to pay relocation assistance.

### Significant rent increase

A significant rent increase is defined in the draft ordinance as any increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent during any 12-month period, to an amount more than the previous year’s consumer price index plus 5 percent above the base rent for that same period.

### Relocation assistance

The definition of relocation assistance to be provided to eligible tenants identifies three months of the most current applicable Menlo Park market rate rent, as published by the city, or three times the monthly rent that tenant was paying at the time of landlord-caused termination notice. It also includes a 60-day subscription to a rental agency service and provides for one additional month’s rent for special circumstance households (elderly, individual with a disability, or one or more minor children in the household).

Landlords would be required to pay one-half of the relocation assistance payment no later than five business days following receipt of written notice that the tenant plans to vacate the unit or following service of the notice of a landlord-caused termination. The landlord would also be required to provide the tenant with the 60-day subscription to a rental agency service within the same timeline.

The balance of the relocation assistance payment would be payable no later than five days after the tenant has vacated the unit.

### **Impact on City Resources**

While any tenant relocation assistance payments would be made by the landlord to the tenant directly, management of the program could have significant impacts on staff time and resources. The extent of this is still unknown but would be evaluated based on the final ordinance language and presented as part of the staff recommendation when this ordinance is brought before the City Council for its consideration.

### **Environmental Review**

This action is not a project under the California Environmental Quality Act (“CEQA”) and therefore not subject to the provisions of the CEQA Guidelines under Sections 15378 and 15061(b)(3).

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.



**Attachments**

- A. Draft tenant relocation assistance ordinance (English)
- B. Draft tenant relocation assistance ordinance (Spanish)

Report prepared by:

Clay J. Curtin, Interim Housing and Economic Development Manager

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## ORDINANCE NO. \_\_\_\_\_

**URGENCY ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF MENLO PARK AMENDING TITLE 8 [PEACE,  
SAFETY AND MORALS] OF THE MENLO PARK  
MUNICIPAL CODE TO ADD A NEW CHAPTER 8.55  
[TENANT RELOCATION ASSISTANCE]**

The City Council of the City of Menlo Park does hereby ordain as follows:

**SECTION 1. FINDINGS AND DETERMINATIONS.**

- A. Government Code § 36934 (b) authorizes ordinances to take immediate effect when they are “[f]or the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and [are] passed by a four-fifths vote of the city council.”
- B. The City of Menlo Park currently does not regulate rent increases or reasons for evictions from residential property and certain aspects of public peace, health, and safety are not adequately protected due to the lack of regulation.
- C. The increasing rents combined with a housing shortage places substantial pressure on the existing city residents who rent housing. In particular, rising rents can lead to tenant displacement of longstanding residents.
- D. On August 22, 2017, the City Council directed City Staff to prioritize housing policies, with tenant relocation assistance being part of the priority one recommended policies.
- E. On July 11, 2018, the Housing Commission held a regular public meeting to discuss and consider for recommendation to City Council for adoption of a draft tenant relocation assistance ordinance.
- F. On August 8, 2018, the Housing Commission held an additional regular public meeting to discuss and consider for recommendation to City Council for adoption of a draft tenant relocation assistance ordinance.
- G. The Commission scheduled two additional community meetings, one at the Senior Center on September 12, 2018, and one at the City Council Chambers on September 13, 2018, in order to hear additional public comment on the matter.
- H. Members of the community expressed concern that in light of this proposed relocation assistance ordinance, they received eviction or rent increase notices from their landlords.
- I. The process of adopting a relocation assistance ordinance regulating substantial rent increases and no cause evictions by requiring landlords to pay relocation fees in certain instances creates uncertainty and concerns among some landlords that if they do not evict tenants or raise rents before the effective date of the ordinance, they will be required to pay relocation fees later by the new regulations and such actions would defeat the intent and purpose of the new ordinance and substantially impair its effective implementation.
- J. According to Legal Aid, at least 20 “no fault” eviction notices were issued within the past 32

months in Menlo Park and this sample of eviction activity, self-reported by the Menlo Park residents who were motivated to consult a lawyer, is a fraction of the total. Legal Aid further reports that their records reflect that at least an additional 10 Menlo Park households reported rent increases of more than ten percent (10%) during the past 32 months. Again, this fractional sampling does not capture the full-scale of significant rent increases in the city.

- K. This data is also supported by reports received by City from tenants and community organizations that indicate at least 20 instances of “no fault” evictions and at least 10 instances of tenants having received rent increase notices greater than 10 percent (10%) since December 2015.
- L. Legal Aid also reported that in other jurisdictions, which have adopted similar ordinances, landlords responded pre-emptively before the potential effective date of a tenant protection measure. Two examples from Legal Aid’s cases:
  - In April 2017, in response to the Pacifica City Council agenda item to place a rent control and just cause eviction ordinance on the November 2017 ballot, the landlord of a 16-unit building increased rents on all units of the building by forty percent (40%). The landlord stated her intention in doing so was to avoid potential fiscal impact of the ordinance, and that the increase was more than she would have routinely sought but for the possibility of future increases being limited.
  - In August 2016, a landlord in Burlingame issued 60-day “no cause” notices of termination of tenancy to all four units in the building, in anticipation of a rent control ordinance on the November 2016 ballot, which if passed, would have rolled back recently implemented rent increases for existing tenants. The landlord publicly state that the only reason the termination notices had been issued was to ensure that the landlord would not be “stuck” with them if the ordinance passed, and that he had been advised to take this preemptive step by his attorney.
- M. In light of the numerous concerns noted herein, including but not limited to, the current and immediate threat to the public peace, health and safety by the fact that tenants are not adequately protected due to the lack of regulation and the adverse impacts that would result from displacement of City residents, this emergency measure is necessary to preserve the public peace, health, and safety of the community.
- N. For the reasons set forth above, and to mitigate displacement issues, the City Council of the City of Menlo Park finds and declares the addition of Chapter 8.55 [Tenant Relocation Assistance] is necessary for immediate preservation of the public peace, health, and safety, and the findings and determinations above taken together constitute the City Council’s statement of reasons constituting the urgency.

SECTION 2. ADDITION OF CODE. Chapter 8.55 [Tenant Relocation Assistance] of Title 8 [Peace, Safety and Morals] is hereby added to the Menlo Park Municipal Code to read as follows:

## **Chapter 8.55**

### **TENANT RELOCATION ASSISTANCE**

Sections:

8.55.010 Purpose.

8.55.020 Definitions.

8.55.030 Requirement to provide relocation assistance.

8.55.040 Relocation assistance.

8.55.050 Procedures for relocation assistance payment.

8.55.060 Notice of termination and notice of entitlement to relocation assistance.

8.55.070 Text of notice.

8.55.080 Retaliation prohibited.

8.55.090 Failure to comply.

#### **8.55.010 Purpose.**

In enacting these regulations, the City Council recognizes the need to protect tenants and tenant households from the adverse health, safety and economic impacts of displacement. It is the purpose and intent of the City Council to mitigate such impacts on these residents with this Chapter.

#### **8.55.020 Definitions.**

For the purpose of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

- (a) **BASE RENT** means the rent for a rental unit required to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase. Base rent shall not include ancillary services including, but not limited, to pet deposits, storage, additional parking or utility pass-throughs.
- (b) **ELIGIBLE TENANT** means any tenant(s) residing in a rental unit in the City for twelve (12) months or more under a valid rental agreement whose annual household income, as adjusted for household size, does not exceed two-hundred percent (200%) of the area median household income for San Mateo County according to the United States Department of Housing and Urban Development, as may be adjusted from time to time.
- (c) **LANDLORD** means any person, partnership, corporation or other business entity offering for rent or lease any rental unit in the City. Landlord shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord's behalf. For the purposes of the owner move-in exception provided in Section 8.55.020 (d)(4) below, "landlord" shall be defined as an owner of record of at least fifty percent (50%) interest in the property.
- (d) **LANDLORD-CAUSED TERMINATION** means the circumstances where a landlord provides an eligible tenant with a proposed significant rent increase and the tenant elects to not remain in the rental unit. It also includes a landlord taking action to terminate the tenancy of an eligible tenant occupying a rental unit, except when at least one of the following conditions exists after the landlord has served the notice(s) required under California Code of Civil Procedure § 1161:
  - (1) Failure to Pay Rent. The tenant has failed, after three days' written notice as provided by law, to pay the amount stated in the notice, so long as the amount stated does not

exceed the rent to which the landlord is legally entitled under the rental agreement, this Chapter, state law, or any other local law.

- (2) Breach of Rental Agreement. The tenant has not cured a violation of a material term of the rental agreement.
  - (3) Nuisance. The tenant has continued, after the landlord served the tenant with a written notice to cease, to commit or expressly permit a nuisance in the rental unit.
  - (4) Owner Move-In. The landlord seeks to recover possession in good faith:
    - a. For the landlord's use or occupancy as his or her principal residence for a period of at least twelve (12) continuous months
    - b. For the use or occupancy of the landlord's parents, children, brother or sister, as their principal place of residency for a period of at least twelve (12) continuous months.
- (e) **RENT** means the amount of fixed periodic compensation paid by a tenant to a landlord, as defined by the rental agreement between the tenant and landlord, for the possession and use of a rental unit. Rent shall not include ancillary services including, but not limited to, pet deposits, storage, additional parking or utility pass-throughs.
- (f) **RENTAL AGREEMENT** means the legal written or oral agreement, including all changes and addenda, governing occupancy of the rental unit between landlord and tenant.
- (g) **RENTAL UNIT** means any housing unit offered for rent or lease in the City of Menlo Park, except that for purposes of this Chapter Rental Unit shall exclude:
- (1) Any housing unit that is subject to a recorded affordable housing regulatory agreement that requires that the housing unit be rented at restricted rents to income-qualified tenants as defined by the regulatory agreement;
  - (2) Secondary Dwelling Units as defined by Chapter 16.79; and
  - (3) Owner occupied Single Family Residences where a room is rented to a third party.
- (h) **RENT INCREASE** means any upward adjustment of the rent from the base rent amount.
- (i) **SIGNIFICANT RENT INCREASE** means a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent during any twelve (12) month period, to an amount more than the previous year's Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area, published by the U.S. Department of Labor, Bureaus of Labor Statistics (CPI) plus five percent (5%) above the base rent that was in place at the beginning of such twelve (12) month period.
- (j) **SPECIAL-CIRCUMSTANCES HOUSEHOLD** means an eligible tenant with any of the following characteristics at the time of notice of landlord-caused termination:
- (1) At least one resident of the rental unit is sixty-two (62) years of age or older;
  - (2) At least one resident of the rental unit qualifies as disabled as defined by Title 42, United States Code Section 423 or has a handicap as defined by California Health and Safety Code Section 50072; or
  - (3) One or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes) reside in the rental unit.
- (k) **TENANT** shall have the same meaning as defined in Chapter 8.53.

#### **8.55.030 Requirement to provide relocation assistance.**

If any eligible tenant receives notice(s) of a landlord-caused termination, that eligible tenant is

entitled to relocation assistance in accordance with this Chapter.

**8.55.040 Relocation assistance.**

The landlord shall provide relocation assistance where required by Section 8.55.030 to an eligible tenant as set forth below:

- (a) Three times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated January 1 of each year, or three times the monthly rent that the tenant(s) is paying at the time the notice of landlord-caused termination is delivered, whichever amount is greater.
- (b) A sixty-day (60-day) subscription to a rental agency service.
- (c) Special circumstances households will also receive one times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated January 1 of each year, or one times the monthly rent that the tenant(s) is paying at the time the notice of landlord-caused termination is delivered, whichever amount is greater.

**8.55.050 Procedures for relocation assistance payment.**

The landlord shall pay relocation assistance as follows:

- (a) The landlord shall pay one-half of the relocation assistance to the eligible tenant(s) no later than five business days following receipt of written notice that the tenant intends to vacate the rental unit, or following service of the notice of landlord-caused termination; and the balance of the relocation assistance no later than five days after the tenant has vacated the rental unit. If the tenant ultimately fails to vacate the rental unit where a landlord provides a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively creates a significant rent increase at any time during a twelve (12) month period, the tenant shall reimburse relocation assistance to the landlord.
- (b) The landlord shall provide tenant with the sixty (60) day subscription to a rental agency service no later than five business days following receipt of written notice that the tenant intends to vacate the rental unit, or notice of a landlord-caused termination.
- (c) Nothing provided herein prohibits a landlord and a tenant from agreeing to relocation assistance different from that provided in this section. A landlord shall not attempt to influence a tenant to agree to relocation assistance different from that provided in this Chapter in bad faith by means of fraud, intimidation or coercion (including, but not limited to, threats based on immigration status).

**8.55.060 Notice of termination and notice of entitlement to relocation assistance.**

Where a landlord provides a notice of a landlord-caused termination or a significant rent increase to an eligible tenant the landlord shall provide a written notice of tenant's entitlement to relocation assistance at the same time. Such notice of entitlement to relocation assistance shall be posted on the door to the rental unit and sent certified mail or first class mail, or personally served upon tenant, and shall be provided in both English and Spanish language.

**8.55.070 Text of notice.**

The notice of entitlement to relocation assistance for a landlord-caused termination shall state:

NOTICE: Under Civil Code Section 827(b), a landlord must provide a tenant with thirty (30) days' notice before a rent increase of ten percent (10%) or less and sixty (60) days' notice of a rent increase of greater than ten percent (10%). Under Title 8, Chapter 8.55 of the Menlo Park Municipal Code, a landlord must at the same time as a notice under Civil Code Section 827(b), for any landlord-caused termination, provide this notice of the tenant's entitlement to relocation assistance. Eligible tenants are entitled to the following forms of relocation assistance: (a) A relocation fee which shall be the cash equivalent of three times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated January 1 of each year, or three times the monthly rent that the tenant(s) is paying at the time the notice of the landlord-caused termination is delivered, whichever amount is greater; (b) a sixty (60) day subscription to a rental agency service; and (c) for special circumstances households one times the most current applicable Menlo Park market rate monthly rent, published by the director of community development and updated January 1 of each year, or one times the monthly rent that the tenant(s) is paying at the time the notice of landlord-caused termination is delivered, whichever amount is greater. Special-circumstances households include the following: (1) At least one resident of the rental unit is sixty-two (62) years of age or older; (2) At least one (1) resident of the rental unit qualifies as having a disability defined by Title 42, United States Code Section 423 or has a handicap as defined by California Health and Safety Code Section 50072; or (3) One or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes) reside in the rental unit. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

#### **8.55.080 Retaliation prohibited.**

Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

#### **8.55.090 Failure to comply.**

A landlord's failure to comply with any requirement of this Chapter may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the rental unit. Additionally, any attempt to recover possession of a rental unit in violation of this Chapter shall render the landlord liable to the tenant for damages permitted by law in a civil action for wrongful eviction. The tenant may also seek injunctive relief and money damages for wrongful eviction and/or failure to pay relocation assistance. A landlord may seek money damages for a tenant's failure to reimburse relocation assistance if the tenant ultimately fails to vacate the rental unit where a landlord provides a legal notice to terminate without cause or where the landlord provides a legal notice of a significant rent increase, or proposed multiple rent increases that cumulatively create a significant rent increase at any time during a twelve (12) month period. The prevailing party in an action for wrongful eviction and/or failure to pay relocation assistance or reimburse relocation assistance shall recover costs and reasonable attorneys' fees.

**SECTION 3. SEVERABILITY.** If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

**SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.** The City



Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") under Sections 15378 and 15061(b)(3) of the CEQA Guidelines.

SECTION 5. EFFECTIVE DATE AND PUBLISHING. This Ordinance shall take effect 30 days following its adoption. The City Clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posted in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the council members voting for and against the amendment.

INTRODUCED on the \_\_\_ day of \_\_\_\_\_, 2018.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the \_\_\_ day of \_\_\_, 2018, by the following vote:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Judi A. Herren, City Clerk

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**ORDENANZA No. \_\_\_\_****ORDENANZA DE URGENCIA DEL AYUNTAMIENTO DE LA CIUDAD DE MENLO PARK, LA CUAL ENMIENDA EL TÍTULO 8 [PAZ, SEGURIDAD Y MORAL] DEL CÓDIGO MUNICIPAL DE MENLO PARK PARA AGREGAR UN NUEVO CAPÍTULO 8.55 [ASISTENCIA PARA LA REUBICACIÓN DE INQUILINOS]**

El Ayuntamiento de la ciudad de Menlo Park ordena de la siguiente manera:

**SECCIÓN 1. HALLAZGOS Y DETERMINACIONES.**

- A. El Código de Gobierno § 36934 (b) autoriza que las ordenanzas entren en vigor inmediatamente cuando “son para la preservación inmediata de la paz, salud o seguridad públicas, contienen una declaración de los hechos que constituyen la urgencia, y son aprobadas por cuatro quintas partes de los votos del Ayuntamiento”.
- B. Actualmente, la ciudad de Menlo Park no regula los aumentos de alquiler o las razones de los desalojos de propiedades residenciales, y ciertos aspectos de paz, salud y seguridad públicas no están adecuadamente protegidos debido a la falta de regulación.
- C. El aumento de los alquileres, combinado con la escasez de viviendas, ejerce una presión considerable sobre los residentes actuales de la ciudad que alquilan viviendas. En particular, el aumento de los alquileres puede derivar en el desplazamiento de residentes de mucha antigüedad.
- D. El 22 de agosto de 2017, el Ayuntamiento ordenó al personal de la ciudad priorizar las políticas de vivienda, con la asistencia para la reubicación de inquilinos como parte de las políticas de primera prioridad recomendadas.
- E. El 11 de julio de 2018, la Comisión de Vivienda celebró una reunión pública regular para analizar y considerar la recomendación al Ayuntamiento de adoptar una ordenanza preliminar de asistencia para la reubicación de inquilinos.
- F. El 8 de agosto de 2018, la Comisión de Vivienda celebró una reunión pública regular adicional para analizar y considerar la recomendación al Ayuntamiento de adoptar una ordenanza preliminar de asistencia para la reubicación de inquilinos.
- G. La Comisión programó dos reuniones comunitarias adicionales, una en el Senior Center el 12 de septiembre de 2018, y otra en la Cámara del Ayuntamiento el 13 de septiembre de 2018, con el fin de escuchar comentarios públicos adicionales sobre el tema.
- H. Los miembros de la comunidad expresaron su preocupación de que, a la luz de esta ordenanza de asistencia de reubicación propuesta, recibieran avisos de desalojo o aumento de alquiler de parte de los arrendadores.
- I. El proceso de adoptar una ordenanza de asistencia para la reubicación que regula los aumentos de alquiler sustanciales y los desalojos sin causa al requerir a los arrendadores pagar tarifas de reubicación en ciertos casos crea incertidumbre y preocupaciones entre algunos arrendadores respecto al hecho que si no desalojan a los inquilinos o aumentan

los alquileres antes de la fecha de entrada en vigor de la ordenanza, se les exigirá que más adelante paguen las cuotas de reubicación mediante las nuevas regulaciones, y dichas acciones anularían la intención y el propósito de la nueva ordenanza y afectarían sustancialmente su implementación efectiva.

- J. De acuerdo con Legal Aid, al menos 20 avisos de desalojo “sin culpa” se emitieron dentro de los últimos 32 meses en Menlo Park, y esta muestra de actividad de desalojo, autoreportada por los residentes de Menlo Park que fueron motivados a consultar con un abogado, es una fracción del total. Legal Aid informa además que sus registros reflejan que al menos 10 hogares adicionales en Menlo Park reportaron aumentos de alquiler de más del diez por ciento (10%) durante los últimos 32 meses. Una vez más, este muestreo fraccionado no captura la escala completa de los aumentos de alquiler significativos en la ciudad.
- K. Estos datos también son respaldados con informes recibidos por la ciudad de parte de inquilinos y organizaciones comunitarias que indican al menos 20 casos de desalojos “sin culpa” y al menos 10 casos de inquilinos que recibieron avisos de aumento de alquiler superior al 10 por ciento (10%) desde diciembre de 2015.
- L. Legal Aid también reportó que, en otras jurisdicciones, que han adoptado ordenanzas similares, los arrendadores respondieron de manera preventiva antes de la posible fecha de entrada en vigor de una medida de protección del inquilino. A continuación, se presentan dos ejemplos de casos de Legal Aid:
  - En abril de 2017, en respuesta a la iniciativa del Ayuntamiento de Pacifica de colocar en la boleta de votación de noviembre del 2017 la ordenanza de control de alquiler y desalojo por causa justa, el arrendador de un edificio de 16 viviendas aumentó los alquileres de todas las unidades del edificio en un cuarenta por ciento (40%). El arrendador declaró que su intención al hacerlo era evitar el impacto fiscal potencial de la ordenanza, y que el aumento fue más de lo que habría buscado rutinariamente por la posibilidad de una limitación en los aumentos futuros.
  - En agosto de 2016, un arrendador en Burlingame emitió avisos sobre la rescisión de arrendamiento “sin causa” con 60 días de anticipación a las cuatro viviendas en el edificio, en previsión de una ordenanza de control de alquileres en la boleta de votación de noviembre del 2016, que, de aprobarse, habría anulado los aumentos de alquiler implementados recientemente para inquilinos existentes. El arrendador declaró públicamente que la única razón por la cual se emitieron los avisos de rescisión fue para asegurarse de que el arrendador no se viera forzado a mantener a los inquilinos si la ordenanza se aprobaba, y que su abogado le aconsejó tomar esta medida preventiva.
- M. A la luz de las numerosas preocupaciones aquí señaladas, que incluyen, entre otras, la amenaza actual e inmediata a la paz, salud y seguridad públicas por el hecho de que los inquilinos no están adecuadamente protegidos debido a la falta de regulación y los impactos adversos que resultarían del desplazamiento de los residentes de la ciudad, esta medida de emergencia es necesaria para preservar la paz, salud y seguridad públicas de la comunidad.
- N. Por las razones expuestas anteriormente, y para mitigar los problemas de desplazamiento, el Ayuntamiento de la ciudad de Menlo Park concluye y declara que la adición del Capítulo

8.55 (Asistencia para la Reubicación de Inquilinos) es necesaria para la preservación inmediata de la paz, salud y seguridad públicas, y los hallazgos y determinaciones indicados anteriormente, en su conjunto, constituyen la declaración de razones del Ayuntamiento que constituye la urgencia.

SECCIÓN 2. ADICIÓN DEL CÓDIGO. El Capítulo 8.55 (Asistencia para la Reubicación de Inquilinos) del Título 8 (Paz, Seguridad y Moral) se agrega por el presente al Código Municipal de Menlo Park para que se lea de la siguiente manera:

## **Capítulo 8.55**

### **ASISTENCIA PARA LA REUBICACIÓN DE INQUILINOS**

Secciones:

8.55.010 – Propósito.

8.55.020 – Definiciones.

8.55.030 – Requisito de proporcionar asistencia para la reubicación.

8.55.040 – Asistencia para la reubicación.

8.55.050 – Procedimientos para el pago de asistencia para la reubicación.

8.55.060 – Aviso de rescisión y aviso de derecho a asistencia para la reubicación.

8.55.070 – Texto del aviso.

8.55.080 – Prohibición de represalias.

8.55.090 – Incumplimiento.

#### **8.55.010 – Propósito.**

Al promulgar estas regulaciones, el Ayuntamiento reconoce la necesidad de proteger a los inquilinos y los hogares de inquilinos de los impactos adversos que el desplazamiento tiene en la salud, la seguridad y las finanzas. Es el propósito y la intención del Ayuntamiento mitigar con este Capítulo tales impactos sobre estos residentes.

#### **8.55.020 – Definiciones.**

A los fines de este Capítulo, a menos que se indique de otra manera en el contexto, ciertas palabras y frases utilizadas en este Capítulo se definen de la siguiente manera:

- (a) **ALQUILER BASE** significa el alquiler de una unidad de alquiler que debe pagar el inquilino al arrendador en el mes inmediatamente anterior a la fecha de entrada en vigor del aumento del alquiler. El alquiler base no debe incluir servicios auxiliares que incluyen, entre otros, depósitos por mascotas, almacenamiento, estacionamiento adicional o tomas y salidas de servicios públicos.
- (b) **INQUILINO ELEGIBLE** significa cualquier inquilino que reside en una unidad de alquiler en la ciudad durante doce (12) meses o más conforme a un contrato de alquiler válido, y cuyo ingreso anual familiar, ajustado para el tamaño del hogar, no excede el doscientos por ciento (200%) del ingreso familiar promedio del área para el condado de San Mateo de acuerdo con el Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos, según se ajuste ocasionalmente.
- (c) **ARRENDADOR** significa cualquier persona, sociedad, corporación u otra entidad comercial que ofrece en alquiler o arrendamiento cualquier unidad de alquiler en la ciudad. “Arrendador” incluye al agente o representante del arrendador, siempre y cuando dicho agente o representante tenga plena autoridad para responder por el arrendador y celebrar contratos vinculantes en nombre del arrendador. A los efectos de la excepción de

mudanza del propietario provista en la Sección 8.55.020 (d)(4) a continuación, el “arrendador” se definirá como un propietario con un registro de al menos el cincuenta por ciento (50%) de interés en la propiedad.

- (d) **RESCISIÓN CAUSADA POR EL ARRENDADOR** significa las circunstancias en las que un arrendador proporciona a un inquilino elegible un aumento significativo propuesto de alquiler, y el inquilino elige no permanecer en la unidad de alquiler. También incluye cuando un arrendador toma medidas para rescindir el alquiler de un inquilino elegible que ocupa una unidad de alquiler, excepto cuando al menos una de las siguientes condiciones existe después de que el arrendador ha entregado los avisos requeridos en virtud del Código de Procedimiento Civil de California § 1161:
- (1) Falta de pago del alquiler. El inquilino no ha pagado, después de un aviso por escrito que concede tres días adicionales de acuerdo con la ley, el monto estipulado en el aviso, siempre y cuando el monto indicado no exceda el alquiler al que el arrendador tiene derecho legalmente según el contrato de alquiler, este Capítulo, la ley estatal o cualquier otra ley local.
  - (2) Incumplimiento con el contrato de alquiler. El inquilino no ha remediado un incumplimiento de un término material del contrato de alquiler.
  - (3) Molestia. El inquilino ha continuado, después de que el arrendador ha notificado al inquilino por escrito que cese de cometer o de permitir expresamente una molestia en la unidad de alquiler.
  - (4) Mudanza del arrendador. El arrendador desea recuperar la posesión de la vivienda de buena fe:
    - a. Para el uso o la ocupación por parte del arrendador como su residencia principal por un período de al menos doce (12) meses continuos.
    - b. Para el uso u ocupación de los padres, hijos o hermanos del propietario como su lugar principal de residencia durante un período de al menos doce (12) meses continuos.
- (e) **ALQUILER** significa el monto del pago periódico fijo pagado por un inquilino a un arrendador, según se define en el contrato de alquiler entre el inquilino y el arrendador, para la posesión y el uso de una unidad de alquiler. El alquiler no debe incluir servicios auxiliares que incluyen, entre otros, depósitos por mascotas, almacenamiento, estacionamiento adicional o tomas y salidas de servicios públicos.
- (f) **CONTRATO DE ALQUILER** significa el acuerdo legal escrito o verbal, incluyendo todos los cambios y adiciones, que rigen la ocupación de la unidad de alquiler entre el arrendador y el inquilino.
- (g) **UNIDAD DE ALQUILER** significa cualquier unidad de vivienda ofrecida para alquiler o arrendamiento en la ciudad de Menlo Park, excepto que a los fines de este capítulo “Unidad de Alquiler” excluirá lo siguiente:
- (1) Cualquier unidad de vivienda que esté sujeta a un acuerdo regulatorio de vivienda asequible registrado y que requiera que la unidad de vivienda se alquile a precios restringidos para inquilinos elegibles por sus ingresos, según se define en el acuerdo regulatorio;
  - (2) Unidades de vivienda secundaria como se define en el Capítulo 16.79; y
  - (3) Residencias unifamiliares ocupadas por los propietarios donde se alquila una habitación a un tercero.

- (h) **AUMENTO DE ALQUILER** significa cualquier ajuste al alza del alquiler sobre el monto base de alquiler.
- (i) **AUMENTO DE ALQUILER SIGNIFICATIVO** significa un aumento de alquiler propuesto que aumenta el alquiler, o bien, aumentos de alquiler múltiples propuestos que aumentan acumulativamente el alquiler durante cualquier período de doce (12) meses, hasta un monto mayor que el Índice de Precios al Consumidor del año anterior para todos los consumidores urbanos de la región San Francisco-Oakland-San José, según lo publicado por la Oficina de Estadísticas Laborales (BLS) del Departamento de Trabajo de los Estados Unidos, más un cinco por ciento (5%) por encima del alquiler base que estaba vigente al comienzo de dicho período de doce (12) meses.
- (j) **HOGAR EN CIRCUNSTANCIAS ESPECIALES** significa un inquilino elegible con cualquiera de las siguientes características en el momento del aviso de rescisión causada por el arrendador:
- (1) Al menos un residente de la unidad de alquiler tiene sesenta y dos (62) años de edad o más;
  - (2) Al menos un residente de la unidad de alquiler califica como discapacitado tal como se define en el Título 42, Código de Estados Unidos, Sección 423, o tiene un impedimento tal como se define en la Sección 50072 del Código de Salud y Seguridad de California; o bien,
  - (3) Uno o más menores de edad (menores de dieciocho (18) años de edad) que son legalmente dependientes (según se determine para fines de impuestos sobre la renta federales) residen en la unidad de alquiler.
- (k) **INQUILINO** tendrá el mismo significado que se define en el Capítulo 8.53.

**8.55.030 – Requisito de proporcionar asistencia para la reubicación.**

Si algún inquilino elegible recibe cualquier aviso de una rescisión causada por el arrendador, ese inquilino elegible tiene derecho a la asistencia para la reubicación de acuerdo con este Capítulo.

**8.55.040 – Asistencia para la reubicación.**

El arrendador debe proporcionar asistencia para la reubicación, cuando lo requiera la Sección 8.55.030, a un inquilino elegible tal como se establece a continuación:

- (a) Tres veces el alquiler mensual aplicable más actual, a los precios de mercado de Menlo Park, publicado por el director de desarrollo comunitario y actualizado el 1 de enero de cada año; o bien, tres veces el alquiler mensual que el inquilino está pagando en el momento en que se entrega el aviso sobre la rescisión causada, la cantidad que sea mayor.
- (b) Una suscripción de sesenta días (60 días) al servicio de una agencia de alquiler.
- (c) Los hogares en circunstancias especiales también recibirán el monto equivalente al alquiler de un mes aplicable más actual, a los precios de mercado de Menlo Park, publicado por el director de desarrollo comunitario y actualizado el 1 de enero de cada año; o bien, el monto equivalente al alquiler de un mes que el inquilino está pagando en el momento en que se entrega el aviso sobre la rescisión causada por el arrendador, la cantidad que sea mayor.

#### **8.55.050 – Procedimientos para el pago de asistencia para la reubicación.**

El arrendador pagará la asistencia de reubicación de la siguiente manera:

- (a) El arrendador debe pagar la mitad de la asistencia para la reubicación a los inquilinos elegibles a más tardar cinco días hábiles después de recibir el aviso por escrito de que el inquilino tiene la intención de desalojar la unidad de alquiler, o bien, después del aviso de rescisión causada por el arrendador; el arrendador debe pagar el saldo de la asistencia para la reubicación a más tardar cinco días después de que el inquilino haya desocupado la unidad de alquiler. Si el inquilino finalmente no abandona la unidad de alquiler cuando el arrendador proporciona un aumento de alquiler propuesto, o si propuso aumentos de alquiler múltiples que crean acumulativamente un aumento significativo del alquiler en cualquier momento durante un período de doce (12) meses, el inquilino debe reembolsar al arrendador la asistencia para la reubicación.
- (b) El arrendador debe proporcionar al inquilino la suscripción de sesenta (60) días a un servicio de agencia de alquiler a más tardar cinco días hábiles después de recibir el aviso por escrito de que el inquilino tiene la intención de desalojar la unidad de alquiler, o después del aviso de una rescisión causada por el arrendador.
- (c) Nada de lo dispuesto en este documento prohíbe que un arrendador y un inquilino acepten asistencia para la reubicación diferente de la proporcionada en esta sección. El arrendador no debe intentar influenciar a un inquilino, de mala fe por medio de fraude, intimidación o coacción (incluyendo, entre otras, amenazas basadas en el estado migratorio), para que acepte una asistencia para la reubicación diferente de la proporcionada en este Capítulo.

#### **8.55.060 – Aviso de rescisión y aviso de derecho a asistencia para la reubicación.**

Cuando el arrendador proporciona un aviso de una rescisión causada por el arrendador, o un aumento significativo del alquiler a un inquilino elegible, el arrendador debe proporcionar al mismo tiempo un aviso por escrito sobre el derecho del inquilino a la asistencia para la reubicación. Dicho aviso de derecho a asistencia para la reubicación se debe publicar en la puerta de la unidad de alquiler y enviarse por correo certificado o correo de primera clase, o entregarse personalmente al inquilino, y se debe proporcionar en ambos idiomas, inglés y español.

#### **8.55.070 – Texto del aviso.**

El aviso de derecho a asistencia para la reubicación por una rescisión causada por el arrendador deberá indicar lo siguiente:

AVISO: Según la Sección 827(b) del Código Civil, un arrendador debe proporcionar al inquilino un aviso con al menos treinta (30) días de anticipación a un aumento de alquiler del diez por ciento (10%) o menos, y con al menos sesenta (60) días de anticipación a un aumento en el alquiler mayor del diez por ciento (10%). En virtud del Título 8, Capítulo 8.55 del Código Municipal de Menlo Park, un arrendador debe, al mismo tiempo que se entrega un aviso en virtud de la Sección 827(b) del Código Civil para cualquier rescisión causada por el arrendador, proporcionar este aviso del derecho del inquilino a la asistencia para la reubicación. Los inquilinos elegibles tienen derecho a las siguientes formas de asistencia para la reubicación: (a) Una cuota de reubicación que debe ser equivalente al efectivo de tres veces el alquiler mensual aplicable más actual, a los precios de mercado de Menlo Park, publicado por el director de desarrollo comunitario y actualizado el 1 de enero de cada año; o bien, tres veces el alquiler mensual que el inquilino está pagando en el



momento en que se entrega el aviso sobre la rescisión causada por el arrendador, la cantidad que sea mayor; (b) una suscripción de sesenta (60) días a un servicio de agencia de alquiler; y (c) para hogares en circunstancias especiales, el monto equivalente al alquiler de un mes aplicable más actual, a los precios de mercado de Menlo Park, publicado por el director de desarrollo comunitario y actualizado el 1 de enero de cada año, o bien, el monto equivalente al alquiler de un mes que el inquilino está pagando en el momento en que se entrega el aviso sobre la rescisión causada por el arrendador, la cantidad que sea mayor. Los hogares en circunstancias especiales incluyen lo siguiente: (1) Al menos un residente de la unidad de alquiler tiene sesenta y dos (62) años de edad o más; (2) Al menos un (1) residente de la unidad de alquiler califica como persona con una discapacidad definida por el Título 42, Código de Estados Unidos Sección 423, o tiene un impedimento según lo define la Sección 50072 del Código de Salud y Seguridad de California; o (3) Uno o más menores de edad (menores de dieciocho (18) años de edad) que son legalmente dependientes (según se determine para fines de impuestos sobre la renta federales) residen en la unidad de alquiler. En virtud de la Sección 1942.5 del Código Civil, es ilegal que un arrendador tome represalias contra un inquilino por ejercer legal y pacíficamente sus derechos legales.

#### **8.55.080 – Prohibición de represalias.**

El inicio de un proceso de desalojo contra un inquilino por ejercer sus derechos conforme a este Capítulo se considera desalojo como represalia. En virtud de la Sección 1942.5 del Código Civil, es ilegal que un arrendador tome represalias contra un inquilino por ejercer legal y pacíficamente sus derechos legales.

#### **8.55.090 – Incumplimiento.**

El incumplimiento de un arrendador con cualquier requisito de este Capítulo puede considerarse como una defensa afirmativa en una acción legal presentada por el arrendador para recuperar la posesión de la unidad de alquiler. Además, cualquier intento de recuperar la posesión de una unidad de alquiler en incumplimiento con este Capítulo causará que el arrendador sea responsable ante el inquilino de los daños permitidos por la ley en una acción civil por desalojo indebido. El inquilino también puede solicitar medidas cautelares y daños monetarios por desalojo indebido y/o incumplimiento de pago de la asistencia para la reubicación. Un arrendador puede solicitar daños monetarios si el inquilino no reembolsa la asistencia para la reubicación en los casos en que el inquilino no abandona definitivamente la unidad de alquiler cuando el arrendador proporciona un aviso legal para rescindir sin causa el contrato de alquiler, o si el arrendador proporciona un aviso legal de un aumento significativo del alquiler, o si el arrendador propuso aumentos de alquiler múltiples que acumulativamente crean un aumento significativo en el alquiler en cualquier momento durante un período de doce (12) meses. La parte ganadora en una acción legal por desalojo indebido y/o incumplimiento de pago de la asistencia para la reubicación, o por no reembolsar la asistencia para la reubicación, recuperará los costos y los honorarios razonables de los abogados.

SECCIÓN 3. DIVISIBILIDAD. Si cualquier sección de esta ordenanza, o parte de ella, es declarada nula, anulable o inaplicable por un tribunal de jurisdicción competente en una acción judicial final, dicha sección o parte de ella se considerará separable de las demás secciones de esta ordenanza, y de ninguna manera afectará la validez de las secciones restantes de este documento.

SECCIÓN 4. DETERMINACIÓN DE LA LEY DE CALIDAD AMBIENTAL DE CALIFORNIA. El Ayuntamiento determina que esta ordenanza no está sujeta a las disposiciones de la Ley de Calidad Ambiental de California ("CEQA") bajo las Secciones 15378 y 15061(b)(3) de las Pautas de CEQA.

SECCIÓN 5. FECHA DE ENTRADA Y VIGOR Y PUBLICACIÓN. Esta Ordenanza entrará en vigor 30 días después de su adopción. El Secretario de la Ciudad publicará la ordenanza dentro de los 15 días posteriores a su publicación en un periódico de circulación general publicado y distribuido en la ciudad, o si no existiera ninguno, publicará la ordenanza en al menos tres lugares públicos de la ciudad. Dentro de los 15 días posteriores a la adopción de la enmienda de la ordenanza, se publicará un resumen de la enmienda con los nombres de los concejales que votaron a favor y en contra de la enmienda.

PRESENTADO el día \_\_\_\_ de \_\_\_\_\_ de 2018.

APROBADO Y ADOPTADO como una ordenanza de la ciudad de Menlo Park en una reunión regular de dicho Ayuntamiento el día \_\_\_\_ de \_\_\_\_\_ de 2018, con la siguiente votación:

A FAVOR:	Concejales:
EN CONTRA:	Concejales:
AUSENTE:	Concejales:
ABSTENCIÓN:	Concejales:

APROBADO:

\_\_\_\_\_  
Alcalde

DOY FE:

\_\_\_\_\_  
Judi A. Herren, Secretaria de la Ciudad

City Of Menlo Park  
Notice of Funding Availability (NOFA)  
**October 10, 2018**

The City of Menlo Park is announcing the availability of funds for new affordable rental housing projects in Menlo Park. Approximately **\$6.5 million** in Below Market Rate (BMR) housing funds is available under this NOFA to support the preservation, acquisition, rehabilitation or new construction of permanent housing that will provide long-term affordability. The funding is intended to fill the financing gap between the projected total development costs and other available funding sources.

Qualified developers of affordable housing who can meet the NOFA qualifications and demonstrate their ability to design, build, and manage affordable housing are encouraged to submit proposals. All proposals must be received no later than 5 p.m., **January 31, 2019**. Interested parties may submit as an individual entity and/or may collaborate with other entities, so long as the collective group meets the NOFA requirements. Applications submitted after this deadline will not be considered. Funding will be awarded by the City Council on a competitive basis to those projects that are most successful in addressing the City's affordable housing needs and benefit the community.

The City is seeking proposals demonstrating: an understanding of the community; the unique attributes and opportunities of the neighborhood where the project will be located; successful experience in developing and managing affordable housing; and a commitment to an inclusive and informative public engagement process. Applicants must have successfully completed a minimum of two affordable, deed-restricted housing projects containing a minimum of 10 units. Joint venture partnerships are allowed assuming at least one member of the partnership meets the minimum experience requirement.

Eligible projects include preservation of existing affordable housing, new construction and acquisition, with or without rehabilitation, for developing permanent affordable rental housing for extremely low, very low and low-income households. Development of emergency shelters for the homeless and transitional housing is not eligible because they do not result in permanent affordable housing. Mixed income projects containing both affordable and market rate rental units are eligible, with only the affordable housing portion of the project eligible for assistance under this NOFA.

The City will evaluate proposals based on City Council adopted project goals and housing priorities. All proposals will be reviewed for consistency with the recently adopted Housing Element and the City's General Plan. There will not be a point system applied to these goals and priorities.

To be considered for funding under this NOFA, the project should attempt to meet the following project priorities:

Project priorities:

- Housing units will remain affordable through deed restrictions for at least 55 years.
- The project is consistent with the goals and objectives of the City's Housing Element and General Plan
- The project has reasonable costs, the ability to compete well in securing competitive funding sources, and is soundly underwritten.
- The project will allow the City to spend housing funds expeditiously
- The project site allows a development to achieve maximum density and is consistent with the zoning and neighborhood setting.
- The project provides dual benefits by preserving/developing affordable housing and creating a substantial improvement of a blighted property and/or neighborhood.
- The building incorporates green building practices and materials.
- The project incorporates appropriate community spaces, amenities and services for the target population.
- The project site is within walking distance of transit, services and amenities and is convenient for the target population.

- The project will attempt to implement a Local Hire program for Menlo Park residents (via construction and/or operations)
- The development team has demonstrated experience with successful affordable housing projects and the capacity to work cooperatively with communities in the design and development of projects.
- The project provides rental housing targeting low households earning 60 percent or less of the median income for San Mateo County.
- The project is in Central or West Menlo Park.
- The project contains larger units (2+ bedroom units and larger) and generally targets families.
- The project targets occupancy for Menlo Park households dislocated by the current displacement crisis
- The project's management plan promotes a healthy living environment for tenants and a compatible relationship with neighbors.

#### Application submittal requirements

- Applicants must submit the following material:
- One (1) original and six (6) copies of a complete application with all required supporting materials.
- Applications must be submitted by 5 p.m., Thursday, January 31, 2019.
- Under the California Public Records Act, all documents submitted as part of this application are considered public records and will be made available to the public upon request.
- The attached application form describing the project, the location, the proposed financing, developer qualifications, plans for neighborhood compatibility, community engagement and any other information relevant for describing how the project meets the goals stated above.

#### Application review

Staff will review all proposals to verify the applicant is eligible. Proposals from developers that do not meet the City's minimum required experience will not be considered. Incomplete proposals will not be considered.

Please note that the city hopes to target BMR funds toward projects serving households at the lowest affordability levels. The City also hopes to maximize the impact of its investment by awarding project funds to projects requesting reasonable levels of subsidy. So, in instances where there are multiple projects applying for funds, affordability targeting and subsidy level per unit will be considered.

#### Environmental review and assessment

Before the final funding commitment, projects must be assessed in accordance with the California Environmental Quality Act (CEQA). If Federal funding is involved, the project must also be assessed in accordance with the National Environmental Policy Act (NEPA).

#### Application process timeline

The tentative time line for evaluating and selecting proposals is anticipated to be:

City Council approval:	Tuesday, October 9, 2018
NOFA summary and application circulated:	Wednesday, October 10, 2018
NOFA proposals due:	Thursday, January 31, 2019
City Council study session:	TBD, February 2019

Contact information

Questions regarding this NOFA may be directed to Clay Curtin, Interim Housing and Economic Development Manager by calling 650-330-6615 or sending an email to [cjcurtin@menlopark.org](mailto:cjcurtin@menlopark.org).

Changes to NOFA process

The City of Menlo Park reserves the right to request additional information from applicants, reject any and all submittals, waive any irregularities in the submittal requirements or cancel, suspend or amend the provisions of this NOFA. If such an action occurs, the City will notify all interested parties in advance.

Submit your completed application to:

City Clerk  
City of Menlo Park  
701 Laurel St.  
Menlo Park, CA 90425

CITY OF MENLO PARK  
2018 NOFA APPLICATION

PROJECT APPLICANT

1. Project Applicant

Applicant Name (Organization/ Agency): \_\_\_\_\_

Primary Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone No: \_\_\_\_\_

Email: \_\_\_\_\_

What is the role of the Applicant in the project (check all that apply)

- ☐ Ownership Entity
- ☐ Managing Partner or Managing Member
- ☐ Sponsoring Organization
- ☐ Developer
- ☐ Other (describe): \_\_\_\_\_

2. Legal Status of Applicant

- ☐ General Partnership
- ☐ Joint Venture<sup>1</sup>
- ☐ Limited Partnership Corporation
- ☐ Nonprofit Organization
- ☐ Other specify \_\_\_\_\_

3. Status of Organization

- ☐ Currently Exists
- ☐ To be formed (estimated date) : \_\_\_\_\_

4. Name(s) of individuals who will be General Partner(s) or Principal Owner(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the Applicant is a Joint Venture, a Joint Venture Agreement is required clearly describing the roles and responsibilities of each partner who is the lead partner or if the responsibilities are approximately equally split between the partners

## PROJECT DESCRIPTION

5. Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Assessor's Parcel No: \_\_\_\_\_

6. Project Type (check all that apply):

- ☐ Families
- ☐ Senior
- ☐ Special Needs
- ☐ Other describe \_\_\_\_\_

7. Project Activity (check all that apply):

- ☐ Acquisition
- ☐ Rehabilitation
- ☐ New Construction
- ☐ Preservation
- ☐ Mixed Income
- ☐ Mixed Use
- ☐ Other (please specify): \_\_\_\_\_

8. Project Description

No. Units \_\_\_\_\_ Commercial/Office Uses (specify) \_\_\_\_\_  
No. Res. Bldgs \_\_\_\_\_ Commercial Floor Area \_\_\_\_\_  
No. Stories \_\_\_\_\_ Office Floor Area \_\_\_\_\_  
Land Area \_\_\_\_\_ Residential Floor Area \_\_\_\_\_  
Elevators \_\_\_\_\_ Other Uses (specify) \_\_\_\_\_  
Community Room(s) Floor Areas \_\_\_\_\_

9. Parking

Total Parking Spaces \_\_\_\_\_  
Parking Type \_\_\_\_\_  
Residential Spaces and Ratio \_\_\_\_\_  
Guest Spaces \_\_\_\_\_  
Commercial Spaces and Ratio \_\_\_\_\_  
Office Spaces and Ratio \_\_\_\_\_

10. Number of Housing Units by Income Category:

City BMR funds may only fund units serving households at or below 60 percent AMI. The City will require a baseline affordability requirement of 10 percent of the units at or below 30 percent AMI and 50 percent of the units at or below 60 percent AMI. Inclusions of units for homeless households are encouraged.

Category	Number of Units	Percentage of Units
0 to 30 percent AMI Extremely Low		
31 to 50 percent AMI Very Low Income		
51 to 60 percent AMI Low Income		
60 to 80 percent AMI Moderate Income		
Unrestricted		

11. Unit Amenities (air conditioning, laundry in unit, balconies, etc.):

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12. Number of Unit Types

Studio \_\_\_\_\_  
1 Bedroom \_\_\_\_\_  
2 Bedroom \_\_\_\_\_  
3 Bedroom \_\_\_\_\_  
4 Bedroom \_\_\_\_\_

PROJECT NARRATIVE (Please use additional sheets of paper as needed.)

13. Project Description: Provide a brief narrative summary of the proposed project. Please include location, project type (new versus rehab), target population and any unique project characteristics.

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14. Project Design: Provide a description of the project's architectural and site plan concepts and how these concepts address the opportunities and limitations of the site and location.

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15. Green Building Features: Describe the green building features that will be incorporated into the project.

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16. On-Site Amenities: Describe any on-site amenities including any project characteristics that address the special needs of the population you intend to serve.

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17. Neighborhood Off-Site Amenities: Describe the property location, neighborhood transportation options, and local services and amenities that are within 1/4 mile and 1/2 mile of the site.

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18. Potential Development Obstacles: Are there any known issues or circumstances that may delay or create challenges for the project? If yes, list issues below including an outline of steps that will be taken and the time needed to resolve these issues.

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SITE INFORMATION (Please use additional sheets of paper as needed.)

Site control is required. Evidence should also be submitted demonstrating that the entity that has site control is the same entity applying for funds. Please include the site control document with the application.

19. Site Control

- a. What type of site control does the applicant currently hold?  
\_\_\_\_\_
- b. Will site acquisition be a purchase or long-term lease? \_\_\_\_\_
- c. What is the purchase price of the land? \_\_\_\_\_  
For proposed leaseholds, indicate the amount of the annual lease payment and the basis for determining that amount: \_\_\_\_\_
- d. What is the current County-assessed value of the site? \_\_\_\_\_
- e. Who is the current property owner and what is their address and contact information?  
\_\_\_\_\_

20. Site Information

- a. Total square footage of site \_\_\_\_\_
- b. Existing uses on the site and the approximate square footage of all structures:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- c. Planned use of on-site existing structures  
☐ Demolish  
☐ Rehabilitate  
☐ Other (describe) \_\_\_\_\_

- d. Provide the following information for each on-site building to be retained as part of this project: Square Footage, Date Built, No. of Stories.

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- e. Provide a brief description of the condition of any buildings to be rehabilitated:

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- f. Describe unique site features (Heritage trees, parcel shape, etc.)

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- g. Identify problem site conditions (high noise levels, ingress/egress issues, etc.)

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- h. Is the site in a floodplain? Yes \_\_\_\_\_ No \_\_\_\_\_ Map used \_\_\_\_\_  
If yes, type of floodplain \_\_\_\_\_ number of years \_\_\_\_\_

- i. Describe adjoining land uses:

West \_\_\_\_\_  
East \_\_\_\_\_  
North \_\_\_\_\_  
South \_\_\_\_\_

## 21. Zoning

- a. What is the current zoning of the project site? \_\_\_\_\_  
b. Is the proposed project consistent with the existing zoning status of the site?  
Yes \_\_\_\_\_ No \_\_\_\_\_ (explain) \_\_\_\_\_  
c. Indicate any discretionary review permits required for the project (Planned Community Permits, Design Review Permits, Rezoning, etc.)

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- d. If rezoning is required identify the requested zoning district for the project:

\_\_\_\_\_

22. Community Priorities

- a. Explain how this project meets the objectives of the project priorities identified on the second page of this NOFA and the goals and objectives of the City's Housing Element and General Plan:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT FUNDING (Please use additional sheets of paper as needed.)

23. Project Budget

- a. City Funds Requested \_\_\_\_\_ Funds Per Assisted Unit \_\_\_\_\_  
b. Total Project Cost \_\_\_\_\_ Cost Per Assisted Unit \_\_\_\_\_  
c. How will the requested City funding be used? \_\_\_\_\_  
d. Assess the chances of the project securing required funding and steps that will be taken to make the project competitive.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- e. What is the self-scored 9 percent tax credit tiebreaker score for the project if applicable?

\_\_\_\_\_

DEVELOPER EXPERIENCE (Please use additional sheets of paper as needed.)

Applicants may be nonprofit or for-profit affordable housing developers or owners who have affordable housing experience in the nine-county Bay Area (San Mateo, San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda and Santa Clara) and a successful track record of at least two years of ownership of at least two affordable, deed-restricted housing projects within the nine-county Bay Area in which 100 percent of the units, are targeted to those at or below 60 percent AMI. Joint venture partnerships are allowed assuming at least one member of the partnership meets the minimum experience requirement. Previous development/ownership experience must include projects that contain at least 10 units.

24. Provide a summary of affordable housing experience:

Years of Experience \_\_\_\_\_  
Number of Projects \_\_\_\_\_  
Number of Projects in San Mateo County \_\_\_\_\_  
Average Size of Projects \_\_\_\_\_  
Number of Units Placed in Service \_\_\_\_\_

25. Please describe two projects completed in the last 10 years that are similar to the proposed project and provide photographs of each project:

- a. Project 1 / Name of Project \_\_\_\_\_  
 Location \_\_\_\_\_  
 Number of Units \_\_\_\_\_  
 Type of Development (senior, family, etc.) \_\_\_\_\_  
 Name of project manager \_\_\_\_\_  
 Number of Stories \_\_\_\_\_  
 Unit Types (studio, 1 bedroom, etc.) \_\_\_\_\_  
 Type of Construction \_\_\_\_\_  
 Project Amenities \_\_\_\_\_  
 Entitlement Date \_\_\_\_\_  
 Occupancy Date \_\_\_\_\_  
 Funding Sources \_\_\_\_\_
- b. Project 2 / Name of Project \_\_\_\_\_  
 Location \_\_\_\_\_  
 Number of Units \_\_\_\_\_  
 Type of Development (senior, family, etc.) \_\_\_\_\_  
 Name of project manager \_\_\_\_\_  
 Number of Stories \_\_\_\_\_  
 Unit Types (studio, 1 bedroom, etc.) \_\_\_\_\_  
 Type of Construction \_\_\_\_\_  
 Project Amenities \_\_\_\_\_  
 Entitlement Date \_\_\_\_\_  
 Occupancy Date \_\_\_\_\_  
 Funding Sources \_\_\_\_\_

26. Personnel

List the names of key members of the applicant's development team, their titles, responsibilities and years of experience in affordable housing.

Project Staff	Name	Role in Proposed Project	Years of Housing Dev Experience	Years with this Developer
Project manager				
Director of Real Estate Development				
Executive Director				
Chief financial officer				
Other				
Other				

27. Other Team Members

Indicate which of the following development team members have been selected and identify them if different from applicant:

Developer \_\_\_\_\_  
Architect(s) \_\_\_\_\_  
Engineer(s) \_\_\_\_\_  
Attorney(s) and/or Tax Professionals \_\_\_\_\_  
Property Management Agent \_\_\_\_\_  
Financial and Other Consultant (s) \_\_\_\_\_  
General contractor \_\_\_\_\_  
Investor \_\_\_\_\_

28. List all other participants and affiliates (people, businesses and organizations) proposing to participate in the project.

Name

Address


29. Property Management

Describe how the property will be managed including the number of staff, locations and management office hours.


30. If the project will be managed by an agency other than the project applicant describe the project applicant's role in the ongoing management of the project and resolution of management issues.


### Applicant Certification

I certify that the information submitted in this application and all supporting materials is true, accurate and complete to the best of my knowledge. I acknowledge that if facts and or information herein are found to be misrepresented it shall constitute grounds for disqualification of my proposal. I further certify that the following statements are true except if I have indicated otherwise on this certification:

- ☐ I have not sold any of the projects listed on the 10 Year Projects list
- ☐ No mortgage on a project listed by me has ever been in default, assigned to the
- ☐ Government, or foreclosed, nor has mortgage relief by the mortgagee been given
- ☐ I have not experienced defaults or noncompliance under any contract or regulatory agreement nor issued IRS Form 8823 on any Low Income Housing Tax Credit (LIHTC) project on the 10 Year Projects list
- ☐ To the best of my knowledge there are no unresolved findings raised as a result of Agencies' audits, management reviews or other investigations concerning me or my projects for the past 10 years
- ☐ I have not been suspended, been barred or otherwise restricted by any state agency from participating in the LIHTC program or other affordable housing programs
- ☐ I have not failed to use state funds or LIHTC allocated to me in any state

I have checked each deletion, if any, and have attached a true and accurate signed statement, if applicable; to explain the facts and circumstances that I think help to qualify me as a responsible principal for participation in this NOFA.

Applicant Name(s) \_\_\_\_\_

Signature Date \_\_\_\_\_

Print Name and Title \_\_\_\_\_

This application and all supporting material are regarded as public records under the California Public Records Act.

## APPLICATION SUPPORTING MATERIAL

In addition to submitting a complete application, the following additional supporting material must be provided with the application:

1. Cover Letter  
Provide a brief summary of the proposed project and discuss your agency's qualifications and why your proposal should be selected for funding.
2. Community Outreach Plan  
Include the plan for conducting community outreach to neighbors of the proposed development and interested community groups. The Outreach Plan should describe how the developer intends to build support for the project and address community concerns. The Outreach Plan should also discuss any anticipated community concerns and how they would be handled.
3. Site Control Documents  
Site control is required. Please include the site control document as well as documentation demonstrating that the entity that has site control is the same entity applying for funds.
4. Development Schedule  
Include a detailed project schedule identifying all major milestones. The schedule must include major milestones for the development approval process such as purchase of the property, community outreach process, financing, applications, approvals, closings, project construction and lease up. Projects with schedules projecting completion within three years will be given priority.
5. Experience – Owner/Developer and property manager  
Please provide resumes for the owner/developer and property manager. The resume should include a list of affordable housing projects owned/developed and managed. Please include the following: name of project, address, number of units, target population, project PIS date and years under ownership/management.
6. Experience and References - Staff  
Provide resumes and project experience for all key staff working on the project including but not limited to: principals, project manager, project staff and financial officer. Indicate the level of experience of the project manager with projects similar to the proposal. Provide at least three references from City or County staff involved with projects completed in the last six years.
7. Financial Proformas  
Please provide the following financial forms for the proposed project: permanent and construction sources, detailed permanent development budget, unit affordability mix/rent schedule, operating budget and 30-year cash flow. If the project will use tax credits, please provide the tax credit calculations.
8. Photos  
Attach recent clearly labeled photos of the project site and surrounding area.
9. Board of directors  
Provide a listing of the board of directors including the city of residence.