



HOUSING DIVISION

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HOUSING COMMISSION STAFF REPORT

December 8, 2025

Subject

Study session to explore policies and programs for tenant protections and anti-displacement for renters in market rate units.

Recommended Action

Receive presentation and recommend approval of tenant protection policy and anti-displacement programs for tenants residing in market rate units to City Council for adoption.

Background

Below Market Rate (BMR) Anti-Displacement Policy

The City of Cupertino previously enacted a BMR Anti-Displacement policy to meet the commitments of the 2023-2031 Housing Element, Strategies HE-3.3.2 (Preservation of At-Risk Housing Units) and partially for HE-3.3.6 (Tenant Protections). This committed the City to explore preservation for expiring rental BMR units. The approval also required that staff work with tenants and local organizations to prevent displacement of low-income tenants within those units if preservation is not feasible, and that a study for an anti-displacement policy is completed and a policy to protect tenants is enacted (that would prevent displacement of at least 100 low-income households). On June 17, 2025, the City Council voted in favor to partially enact the proposed BMR Anti-Displacement Policy. The BMR Admin Manual was amended to include priority replacement for displaced tenants, but relocation assistance for tenants receiving rental increases was not enacted.

Each of these strategies contain multiple action items and requires staff to explore additional protections for Cupertino renters. Specifically, Strategy HE-3.3.6 (Tenant Protections) also requires staff to study displacement in Cupertino due to rising rents and evictions, and to enact a Tenant Protection Ordinance (TPO), if appropriate. This type of displacement would be a separate issue from the type of displacement previously addressed for BMR renters, which is due to affordability expirations. Instead, this type of displacement is faced by renters in market-rate units, who are affected by fluctuations in rental rates and commonly face eviction due to non-payment of rent. To meet this Housing Element commitment, staff must also study displacement faced by tenants in market rate units.

Program Targeting and Income Category

Displacement caused due to rising rents, leading to non-payment of rent and resulting in evictions, is an experience primarily felt by low-income households living in market rate units. This is because low-income households are disproportionately rent burdened and therefore more likely to face homelessness due to high rent increases. In comparison, high and medium-income households can afford to pay higher rents and have the resources to find other housing options affordable to their income level if required to move. They do not require the same assistance to remain stably housed. Thus, any assistance policy or program created from this effort would be targeted to low-income households who live in market rate units.

In the City of Cupertino, the average monthly rent of a market rate unit in 2025 is approximately \$3,900 per month. While there is variation amongst unit sizes, high rent units make up the bulk of the market share. In Cupertino, over 52% of rental units rent at over \$3,000 per month. Studio apartments average \$2,300 per month, 1 bedrooms for \$3,200 per month, 2 bedrooms for \$4,100 per month, 3 bedrooms for \$5,100 per month, and 4 bedrooms for \$6,300 per month. Within the renter population, 17.9% of renters are cost burdened, paying between 30% - 50% of their monthly income towards housing costs. Another 16.2% of renters are significantly cost burdened, paying over half of their income towards their rent. This burden is disproportionately felt by low-income renters, where 57.3% of them are cost burdened, very-low income renters, where 63% of renters are cost burdened, and extremely-low income renters, where 81.4% of renters are cost burdened. In comparison, for households that meet average median income or higher, only 13.5% of renters are cost burdened.

Anti-Displacement Survey and Bay Area Housing Finance (BAHFA) Study

The City of Cupertino released a survey alongside other cities in Santa Clara County to engage tenants regarding their concerns for housing stability and to collect data on the primary causes for displacement they are facing. This survey was active throughout the months of October and November 2025 and was promoted through postings on the City's website, email promotions, and the City's housing interest list. The study was created through the City's participation in the Santa Clara County Planning Collaborative (SCCPC), a regional quasi-governmental organization that coordinates the completion of shared work tasks of planning and housing staff for Santa Clara County jurisdictions. Examples of shared work tasks would be enacting similar Housing Element commitments that each of the cities are obligated to fulfill in order to maintain certification from the state. The preliminary results of the study were released to staff in November 2025. Of the survey respondents who reported having to move from their homes, the most common reason given was rent increase. The survey respondents identified their top concerns for housing instability as lack of affordable housing (30%), rising costs (27%), and overcrowded living conditions (13%). Their top concerns for displacement included: stability of neighborhoods (36%), loss of community culture (33%), and neighbors being forced to move (31%). The main factors contributing to displacement listed were: not enough affordable housing (61%), higher income people moving into the area (42%), and homes being sold to investors (39%). The final results of the survey will be made available for public viewing on the SCCPC website.

In July 2025, the Bay Area Housing Finance Authority (BAHFA) released studies on eviction and displacement, based on recent legal data from the various nine Bay Area counties. In this

study, it was noted that Santa Clara County had 4,053 evictions in 2023. The most common reason for eviction in Santa Clara County cities is non-payment of rent at 96.5%. While this study confirms that the primary cause of displacement faced by renters in Santa Clara County is eviction for non-payment of rent, the SCCPC survey gives insight on the conditions that lead to Cupertino renters being unable to pay rent. For the City to effectively prevent displacement, policies and programs should aim to prevent the conditions that cause or contribute to unaffordable rents and to mitigate the impacts for renters facing eviction.

Potential Strategies and Staff Assessment

The following potential strategies have been included for the Housing Commission to discuss and explore options for addressing the issue of displacement due to rising rents and evictions. Some strategies were prescribed to be explored in the Housing Element while others have been suggested as best practices through either the Housing Commission, or recent anti-displacement studies.

Acquisition Preservation

In accordance with the policy requirements of Housing Element strategy HE-3.3.2, staff previously studied the feasibility of re-restricting expiring units through acquisition preservation for earlier anti-displacement efforts. This process involves purchasing units to be owned by the City and maintained as affordable in the BMR program. However, restricting rental units via acquisition would require the purchase of entire apartment buildings as individual rental units within a multi-family building or development cannot be bought separately. This limitation exponentially raises the costs of preservation. This strategy was previously determined to be fiscally infeasible to prevent displacement but has been reincluded in the current study to reaffirm its status as an infeasible strategy.

Rent Stabilization

The Housing Element also lists rental stabilization as a strategy to study and explore in relation to tenant protections and anti-displacement. This strategy would entail passing an ordinance prohibiting disproportionate rental increases by limiting the increases to a percentage of the current rent and/or tying rent increases to changes in the Consumer Price Index (CPI). Some cities have also created rent boards as hearing bodies to set general maximum annual rent adjustments and to grant exceptions for appeals. Cities that do not use this method would simply have staff calculate and administer permissible rent increases. The following nine cities in the Bay Area have enacted rent control ordinances.

Figure 1: Bay Area Cities Rent Control Ordinances

City	Rent Increase Limitation	Unit Type	Commission
AB 1482	5% of rent + CPI or 10%	Rental units 15+ years old (with exceptions)	No
San Jose	5% of rent	3+ units before 1979	No
Mountain View	5% of rent or 100% of CPI	3+ units before 1995	Yes
Los Gatos	5% of rent or 70% of CPI	3+ units before 1995	No
Hayward	5% of rent	5+ units before 1979	No
Alameda	5% of rent	2+ units before 1995	No

Berkeley	5% of rent or 65% of CPI	Apartments before 1980	Yes
East Palo Alto	80% of CPI	2+ units before 1988	Yes
Oakland	3% of rent or 60% of CPI	Rental units before 1983	Yes
Richmond	3% of rent or 60% of CPI	2+ units before 1995	Yes
San Francisco	60% of CPI	2+ units before 1979	Yes

Local rent control ordinances must be consistent with applicable state law in order to be enforceable. The Costa-Hawkins Rental Housing Act (1995) limits municipalities from enacting rental control on single-family homes, condominiums, and apartment units constructed after 1995. Additionally, the Tenant Bill of Rights (2019), also known as AB 1482, established a statewide rental control policy that limited rent increases to 5% of rent plus 100% of the CPI increase or a maximum of 10% of rent. An enforceable rent control ordinance that is also consistent with common practices across the Bay Area would be an ordinance that limits rent increases to 5% of rent or 60% of CPI for multifamily buildings of 2+ units constructed before 1995. Using estimates from the 2001 Housing Element on the City of Cupertino's 1995 housing stock, this rent control ordinance would be able to protect approximately 3,700 units in the City of Cupertino. This would represent 57% of the current 6,500 multifamily and du/tri/four-plex units in the City's total housing stock. Staff recommend that if this policy were to be considered for a Tenant Protection Ordinance (TPO), that it be pursued in tandem with other protective measures for a more comprehensive displacement prevention.

Rent Mediation/Review

The strategy involves the City providing funding support to a non-profit organization to act as an intermediary between renters and property owners to resolve disputes regarding rent raises. If a resolution cannot be reached, then the dispute is referred to a rent review board which oversees the case during public hearing and recommends a compromise. Five Bay Area cities that offer this process are: Campbell, Fremont, Palo Alto, San Leandro, and Union City. The arbitration services through non-profit organizations are generally successful as an enforcement mechanism for rent control laws, though, this service is strongest if used in tandem with enacting local rent control. However, without a local ordinance, it is still able to be used for enforcement of state rent control. Most issues appear to be resolved at the mediation level with the non-profit service provider, with some jurisdictions reporting one or fewer cases heard by rent review boards per year. Without vested power to determine rental rates, the advisory rent review board can only provide non-binding recommendations, which both landlords and tenants are free to disregard.

The City currently contracts with Project Sentinel to provide tenant-landlord dispute resolution and Fair Housing enforcement. Staff recommends that if this program were to be considered, to expand the scope of the agreement with Project Sentinel, or a similar organization, to include rent mediation services with an appropriate increase of funding. The creation of a rent board with limited advisory powers would be less effective at preventing displacement. Staff recommend prioritizing the addition of rent mediation services through a non-profit organization if this strategy is pursued. If the commission recommends the creation of a rent

review board, staff recommend utilizing the Housing Commission as the hearing body, rather than create a new board that would seldom meet for this specific purpose.

Eviction/Legal Defense

This strategy involves using local funds to enact agreements with legal defense organizations to represent tenants who have been served unlawful detainers. In 2023, 4,053 households faced an eviction in Santa Clara County, with 37% of evictions resulting in default judgements where tenants would bear significant penalties. In San Francisco and San Mateo counties, legal representation for tenants reduced from 48% to 17%, issued court orders for eviction. An overall reduction of 31%. A similar reduction of default judgements in Santa Clara County would be able to assist approximately 1,260 households. Tenants that did not receive a court order for eviction were able to find alternative resolutions to settle disputes with their landlords. These alternative resolutions may include rent forgiveness or relocation assistance. As previously stated, the most common reason for eviction in Santa Clara County cities is non-payment of rent at 96.5%, making low-income households the primary households to benefit from eviction defense.

In terms of legal services, low-income renters in Santa Clara County are among the least served in the Bay Area. In 2023, only 1.6% of low-income renters were represented by tenant legal service providers. Furthermore, Santa Clara County attorneys who represent tenants have the highest caseloads in the Bay Area, with each attorney having an average of 480 cases a year. If this strategy is pursued, staff would recommend enacting an agreement with a legal defense organization, such as Bay Area Legal Aid, Legal Aid Society of Santa Clara County, or other similar organizations to provide representation to low-income households faced with an eviction. Additional funding is needed to increase staff capacity and can be targeted for the benefit of low-income Cupertino households. This strategy would be greatly beneficial for mitigating the impacts of evictions by creating more favorable outcomes for low-income renters and would overall create more housing stability.

Just Cause Terminations

A no-cause termination is an eviction where an owner does not state a “just cause” for removing the tenant. In this scenario, tenants are served a notice to vacate without a clearly stated reason. Just causes are typically separated into two categories: at-fault evictions and no-fault evictions. An at-fault eviction would be non-payment of rent, a tenant-created nuisance, or some other infraction of the lease. A no-fault eviction would be if the landlord wishes to live in the unit, perform construction within the unit, or otherwise wants to withdraw the unit from the market. The state Tenant Bill of Rights (2019) currently has protections that limit landlords’ right to evict to a stated just-cause reason for tenants that have lived in the unit for longer than 12 months. Furthermore, it requires that one month of fair market rent be provided to the tenant as relocation assistance if the tenant is evicted for a no-fault reason. It exempts tenant protections for single-family homes, townhomes, condominiums, and other housing built within the last 15 years. However, the law also expressly authorizes cities to enact more protective local ordinances for just cause protections.

Following this directive, many Bay Area municipalities have enacted local just cause protections which expand upon state protections. Common items include: an increased penalty for no-fault eviction to 3 months of fair market rent for relocation assistance, expanded protections to tenants living in units less than 12 months, enhanced protections for adding family members and subleasing, restrictions on owner move ins, extended noticing for Ellis Act evictions, and removal of loopholes for remodels, single family homes, townhomes, and condos. Just cause eviction protection would be a necessary component to include in a TPO to close loopholes for owner-initiated displacement and to ensure enforceability. Based on common practices, components for a potential Cupertino just cause eviction protection ordinance have been identified in the figure below. For the purposes of this study, Santa Clara County municipalities were utilized for closest comparisons:

Figure 2: Santa Clara County Cities Just Cause Eviction Ordinance

City	Relocation Assistance	Occupation Minimum	Exemption for SFH, TH, Condos	Restriction on Remodel Eviction	Notice for Ellis Act	Family/Sublease Protection	Restriction on Owner Move in
AB 1482	1 month FMR	12 months	Yes (no corporations)	No	None	None	Owner must be a “natural person” with at least 25% recorded ownership interest
Milpitas	1 month rent	12 months	Yes (no corporations)	No	None	No	Authorizes move-in by an “owner”
Mountain View	3 months FMR	None	Yes	Yes	120 days or 1 year for special circumstances	Yes	Owner must be a “natural person” with at least 50% recorded ownership interest
Palo Alto	Unique calculation, similar to 3 months FMR	6 months	Yes (no corporations)	No	None	No	Owner must be a “natural person”
San Jose	Unique calculation, similar to 3 months FMR	7 days	Yes	Yes	120 days or 1 year for special circumstances	Yes	Owner must be a “fee owner” with at least 50% recorded ownership interest
Sunnyvale	3 months FMR	12 months	No	No	None	No	Owner must be a “natural person” with at least 25% recorded ownership interest
Santa Clara County	3 months FMR	None	No	Yes	120 days or 1 year for special circumstances	Yes	Owner must be a “natural person” with at least 50% recorded ownership interest
Cupertino (potential)	3 months FMR	None	No	Yes	120 days or 1 year for special circumstances	Yes	Owner must be a “natural person” with at least 50% recorded ownership interest

Relocation Assistance (Rent increase)

Staff previously studied the feasibility of enacting relocation assistance as a disincentive for disproportionately high rental increases in expiring BMR rental units. The proposal was to introduce regulations that require landlords to provide three (3) months of Fair Market Rent if a tenant were to move out after receiving a rent increase beyond a reasonable threshold.

Figure 3: 2025 Santa Clara County Fair Market Rent

Unit Size	Studio	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	6 Bed
Fair Market Rent	\$2,608	\$2,975	\$3,446	\$4,477	\$4,878	\$5,610	\$6,341
3x	\$7,824	\$8,925	\$10,338	\$13,431	\$14,634	\$16,830	\$19,023

This proposal was ultimately declined at the City Council meeting on June 15, 2025, due to concerns related to legal enforceability when only applying the law to expiring BMR rental units. There are currently a few cities, such as Alameda and San Leandro, within the Bay Area that have policies requiring the provision of rental assistance if a tenant vacates a unit after receiving a high rent increase. A relocation assistance policy for market rate units would be consistent with policies adopted by other cities and remove concerns over legal enforceability. The following cities have adopted similar policies:

Figure 4: Relocation Assistance as Rent Increase Prevention

City	Rent Increase Threshold	Move Out	Assistance
Alameda	10%	90 days	Similar to 3 months FMR
San Leandro	12%	n/a	3 months FMR

Overall, this strategy appears to be less pursued because it acts similarly to rent stabilization but is overall less protective due to functioning as an incentive, rather than a price control. Staff, therefore, recommend that if rent control is identified as a goal, that rent stabilization be pursued rather than relocation assistance for rent increases.

Deposit/Fee Regulations

During the Housing Commission study session on December 19, 2024, Commissioner He proposed a potential alternative strategy to consider. The proposal would be to introduce regulations that require landlords to provide primary source documentation in the form of contractor invoices prior to charging fees to tenants related to maintenance of the unit, particularly when deducting from tenant deposits. Adopting such a policy for all rental units could help reduce housing costs throughout the City by preventing unexpected spikes in housing cost. Staff recommend that this item be included as a provision if the commission recommends pursuing a TPO.

Sustainability Impact

None

Fiscal Impact

Fiscal impacts are to be determined depending on the recommendation of the Housing Commission and evaluation of program costs.

Environmental Impact

The item is a discussion before the Housing Commission of tenant protection policies and anti-displacement programs for tenants residing in market rate units that would subsequently require adoption by the City Council. The project is exempt from the California Environmental Quality Act (CEQA) and the CEQA Guidelines subject to CEQA Guidelines Section 15061(b)(3), since it can be seen with certainty that the activity has no possibility to result in a significant effect on the environment.

Next Steps

If the recommendation of the Housing Commission is to pursue any of the identified strategies, this would be the first of multiple public hearings. A future public hearing of the City Council may be held to approve resolutions for funding certain programs or for hearing and enacting a Tenant Protection Ordinance. This meeting may be held in summer of 2026 with a date and time to follow.

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Attachments:

A – BAHFA Study - Evictions in the Nine County Bay Area
B – BAHFA Study – Tenant Legal Services in the Nine-County Bay Area