



URBANDISPLACEMENT Project

Policy Inventory Overview

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How to Stop Displacement:

A Bay Area Cities Policy Inventory

Gentrification, or the influx of high-income, highly-educated people and/or capital into formerly disinvested, low income neighborhoods, is often accompanied by pressure on housing prices and the housing stock that lead to displacement. Even in the absence of gentrification, displacement can (and, in the Bay Area, does) occur.

What policies can mitigate these pressures? There are many; they can be primarily grouped into three categories: policies that preserve existing affordable housing; those that produce new affordable housing; and those that focus on improving households' assets and income.

In our anti-displacement policy inventory, we look at 14 of these policies in the 109 jurisdictions of the Bay Area to find out who is doing what to prevent displacement. See Appendix 3 for the full list of anti-displacement policies that were reviewed prior to selecting these 14.

Policy Inventory

We inventoried the following policies. This table also includes basic descriptions of the policies and summary statistics for Bay Area cities.

Table 1: Anti-Displacement and Affordable Housing Policies in the Bay Area

Policy	Description	Number of Bay Area Cities With Policy (Nov '15)	Percent of Bay Area Cities With Policy
<i>Preservation Strategies</i>			
Just Cause eviction ordinance	Just cause eviction statutes are laws that allow tenants to be evicted only for specific reasons ("just causes"). Legal evictions under these policies can include such things as a failure to pay rent or violation of the lease terms.	7	6%
Rent Control/ Stabilization	The purpose of Rent Control ordinances is to protect tenants from excessive rent increases, while at the same time allowing landlords a reasonable return on their investments. Such ordinances regulate the percentage of annual rent increase; in California, cities are required by state law to allow landlords to raise rents to the market rate upon vacancy.	6	7%
Rent review boards and/or mediation	Rent review boards allow for mediation between tenants and landlords on issues related to rent increases, encouraging them to reach a voluntary agreement. The mediator normally does not make a binding decision in the case. In some jurisdictions all rent increases must also include a notice to the tenant of their right to mediation and a tenant can file a mediation petition with the jurisdiction.	14	13%
Mobile Home Rent Control	Some cities place specific rent increase restrictions on the land or mobile homes rented by mobile home residents.	34	31%
SRO (Single-Room Occupancy) Preservation	Any ordinance that helps to preserve or allow new properties with single room occupancies, also called residential hotels.	38	35%

Condominium conversion regulations	In addition to state laws regulating the conversion of multi-family rental property into condominiums (like subdivision mapping and homeowner association formation), many cities have enacted condominium conversion ordinances. These impose either procedural restrictions (like notification requirements) and/or substantive restrictions on the ability to convert apartment units into condominiums (such as prohibiting conversions unless the city or regional vacancy rate is above a certain fixed amount). The purpose of such ordinances is to protect the supply of rental housing.	77	70%
Foreclosure Assistance	Many cities and counties have local programs that assist home owners (financially or otherwise) when they are at risk of foreclosure. These programs may be funded with federal grants.	45	41%
<i>Affordable Housing Production Strategies</i>			
Jobs-Housing Linkage Fee or Affordable Housing Impact/Linkage Fee	Affordable housing impact/linkage fees are charges on developers of new market-rate, residential developments. They are based on the square footage or number of units in the developments and are used to develop or preserve affordable housing.	30	27%
Commercial linkage fee	Commercial linkage fees are charges on developers per square foot of new market-rate, commercial development. Revenues are used to develop or preserve affordable housing.	26	24%
Housing Trust Fund	A housing trust fund is a designated source of public funds—generated through various means—that is dedicated to creating affordable housing.	15	14%
Inclusionary zoning/ housing (Below Market Rate Housing)	Inclusionary housing policies require market-rate developers of rental or for-sale housing to rent or sell a certain percentage of units at affordable prices. Some policies include a provision for developers to pay “in-lieu fees” in place of building the housing; this revenue is used to develop affordable units elsewhere. Several court cases have made unenforceable the requirements for affordable rental units within market-rate buildings; by contrast, inclusionary homeownership policies have been upheld in the state supreme court.	77	70%
Density bonus ordinance	Density bonuses allow developers of market-rate housing to build at a higher density in exchange for offering a certain portion of their units at affordable prices. We inventory cities that have additional density allowances beyond those mandated by the state of California.	21	19%
Community Land Trusts	Community land trusts are nonprofit, community-based organizations (supported by the city or county) whose mission is to provide affordable housing in perpetuity by owning land and leasing it to those who live in houses built on that land.	27	25%
<i>Asset Building and Local Economic Development</i>			
First Source Hiring Ordinances	First Source hiring ordinances ensure that city residents are given priority for new jobs created by municipal financing and development programs.	14	13%

The State of Anti-Displacement Policies in the Bay Area

Table 2: Anti-Displacement Policies/Programs by County

County	# Cities in County	Average # Policies per city
San Francisco	1	12.0
Alameda	14	6.1
Napa	5	5.6
Santa Clara	15	5.2
Sonoma	9	4.6
San Mateo	20	3.1
Contra Costa	19	3.1
Marin	11	2.9
Solano	7	2.3

Source: UC Berkeley internal analysis. Note that policies in unincorporated parts of each county are excluded from these figures.

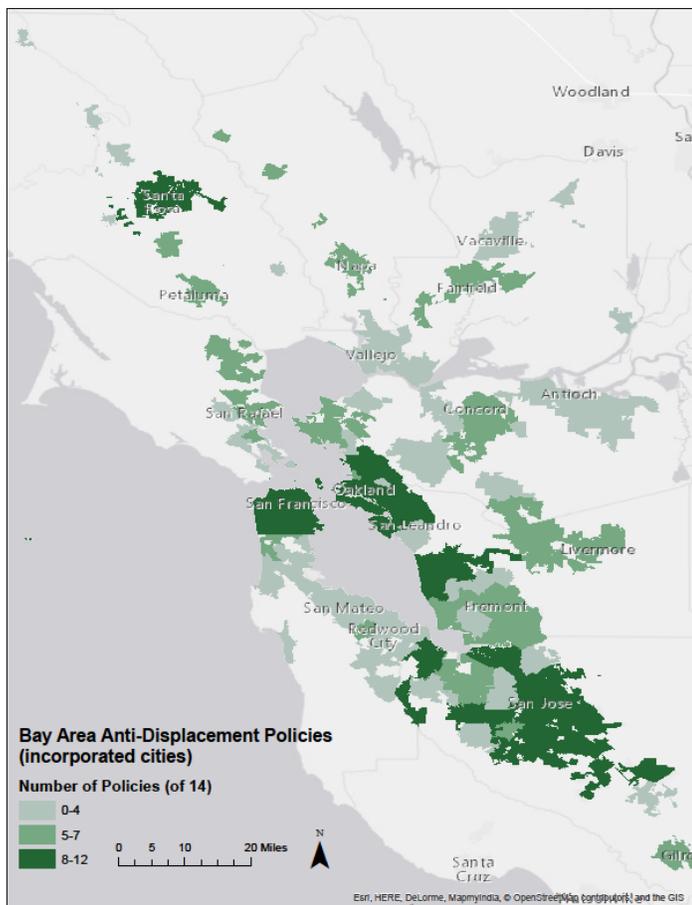


Figure 1: Number of Anti-Displacement Policies by City

Source: UC Berkeley Internal Analysis. 2015

Inclusionary housing and the regulation of condominium conversions are the most prevalent policies in the Bay Area. Most of these policies were adopted in the early 2000s, with some adopted in the 1980s and 1990s. In contrast, rent control can be found in only 6 jurisdictions in the Bay Area, which were all adopted in the early 1980s.

Alameda County has the most policies per city (Table 2), at 6.1 policies per city, after San Francisco (where the sole city of San Francisco has implemented 12 of the 14 policies). Besides San Francisco, the cities with the most policies in place are Berkeley (12), East Palo Alto (12), Oakland (12), Cupertino (9), and Hayward (9).

Do production policies result in more affordable housing?

Using housing production figures that cities must report as part of their Regional Housing Needs Allocation (RHNA) requirements, it is possible to see how different cities perform based on whether they have each of the production policies considered here (Table 3).

In terms of the production of very low income (30-50% of the area median income, or AMI) housing, we found that, of Bay Area cities, those with each of the production strategies produce more total units (on average, and per capita) than those without each strategy, though the differences are statistically significant only for affordable housing fees and commercial linkage fees. This could mean that cities that build more are more likely to adopt production strategies perhaps because there are greater housing pressures and activism in those places, or that the causation is the reverse: cities with the strategies produce more affordable housing because the policies are doing what they are supposed to. This is a hopeful finding.

Interestingly, the same pattern does not apply to low-income (50-80% AMI) housing, except for inclusionary housing.

In terms of the production of units for moderate income (80-120% AMI) people, some policies are associated with higher production levels (commercial linkage fees, inclusionary housing, density bonuses, and community land trusts), and the others are not; however, none of the differences are statistically significant.

Table 3: Average Number of Below-Market Rate Housing Units Constructed per 10,000 People in Bay Area Cities, by Affordable Housing Production Strategy (Average of Constructed Units 2007-2013 / Population in 2010 * 10,000)

	Affordable Housing Fee ³		Commercial Linkage Fee		Housing Trust Fund		Inclusionary Housing		Density Bonus	
	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes
Very Low Income	9	19*	9	20*	12	12	11	12	11	17
Low Income	9	7	8	8	9	5	7	9	9	7
Moderate Income	10	8	9	12	10	6	4	12	9	13
Total Below Moderate (VL+L+ Mod)	28	34	27	40	31	23	22	33	29	36

Significance levels: * $p < .10$, ** $p < .05$, *** $p < .01$

Numbers in bold are where cities with the policy have, on average, higher production than those without the policy. Source: Internal policy inventory, combined with Regional Housing Needs Assessment progress from Bay Area Legal Aid, EBHO, and NPH.

Using housing production figures that cities must report as part of their Regional Housing Needs Allocation (RHNA) requirements, it is possible to see how different cities perform based on whether they have each of the production policies considered here⁴ (Table 3).

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³ Or Jobs-Housing Linkage Fee.

⁴ The Regional Housing Needs Allocation is a “state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its Housing Element” (Association of Bay Area Governments 2015). The state tells the Bay Area regional planning agencies how many units of housing at each income level they need to produce in an eight-year period. These agencies then distribute those units among the various jurisdictions, who are in turn required to modify their Housing Elements to be in compliance with these allocations.

Interestingly, the same pattern does not apply to low-income (50-80% AMI) housing, except for inclusionary housing.

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Will current production policies meet future affordable housing demand?

The above figures are for production in the recent past; what about future production? A projection of affordable housing supply and demand found large gaps between the amount of housing needed and the amount likely to be supplied by current programs (Wegmann 2012). About 70% of the demand will not be met by the projected supply—a striking conclusion.

Table 4 summarizes the analysis and provides insight into the relative housing production potential of the suite of financing programs and inclusionary zoning: 27% of the projected units would be built through affordable housing finance, while 11% would be constructed through inclusionary zoning. This analysis provides evidence that inclusionary zoning, in general, is likely to produce fewer units than affordable housing finance.

Table 4: Projected housing demand, supply, and shortfall for the nine-county Bay Area region (Wegmann, 2012)

	Very Low Income dwelling units	Low Income dwelling units	Moderate dwelling units
Increase in regionwide housing demand, 2010-2040	231,142	164,216	115,286
<i>Demand absorbed by:</i>			
Affordable rental housing production, 2010-2040	(23,359)	(16,829)	
Inclusionary Zoning housing production, 2010-2040	(4,620)	(7,712)	(3,366)
Habitat for Humanity housing production, 2010-2040	(1,799)	(1,799)	
Foreclosed inventory, 2010-2020	(9,707)	(24,938)	(23,345)
Increase in tenant-based Housing Choice Vouchers, 2010-2040	(30,458)	(1,078)	
Housing demand not met by supply	161,200 dwelling units	111,859 dwelling units	88,576 dwelling units
As % of total	70%	68%	77%

Source: Wegmann 2012. Wegmann's report includes detailed methodology for arriving at each of these figures. Note that three of these strategies (Habitat for Humanity, foreclosed inventory, and Housing Choice Vouchers) are not considered in our inventory; more detail on these sources of new units is in Wegmann's report.

Conclusion

Bay Area cities have many affordable housing and anti-displacement policies in place. However, even with these policies, the region is still massively under-producing housing for low- and moderate-income households.

The range of anti-displacement and affordable housing policies is wide. Some policies (like inclusionary housing and condominium conversion restrictions) have been adopted in many places; others (like rent control) in only a few.

Some policies show clear results, like those that fund affordable housing projects—you can see and count the units once they are built. There appears to be a

correlation between cities with production policies in place and construction of more affordable housing—preliminary evidence that these policies may be working as intended. Others are difficult to track, like inclusionary housing, or show their effectiveness only through counter-factuals (the amount of condominium conversions would have been higher without laws on the books), which are nearly impossible to find.

Even with this plethora of policy options, it is not clear that the policies we have developed today, as currently implemented, come anywhere close to addressing the displacement pressures around the region, nor to meeting the enormous gap in affordable housing—existing and future. Stronger enforcement of existing policies, expansion of policies, and more organizing will be necessary to ensure the stability of low-income populations going forward.

Appendix 1: Methodology and Data Collection

We reviewed anti-displacement toolkits and policy documents to generate a comprehensive list of anti-displacement policies and strategies considered by advocates, researchers and policy makers (see Appendix 2 for sources). From this initial list of nearly 50 policies (see Appendix 3 for the complete list), we applied the following criteria to select the policies and strategies to be inventoried for Bay Area:

1. Applies uniformly to the jurisdiction as a whole (i.e., was not restricted to specific neighborhoods)
2. Has been implemented in at least two jurisdictions in the Bay Area
3. Varies across jurisdictions (i.e., not all jurisdictions have implemented the policies/strategies)
4. Has teeth/gets implemented

We consulted several housing policy experts from the Bay Area, who provided feedback on the initial list, identifying which policies and strategies were likely to have a significant impact and which would be difficult to analyze. Following that consultation, the list was reduced down to the 14 policies and strategies summarized in the following section⁵.

⁵ Two policies (single-room occupancy preservation and housing trust funds) were added later on based on stakeholder feedback, and so do not appear in our initial list.

Researchers took an inventory of the policies by reviewing each city's (and county's) Housing Element and Municipal Code. First, we searched key words in the city's Municipal Code to find the chapters that pertain to a given policy. We reviewed relevant chapters to find details about the policy/program. Researchers then reviewed descriptions of the city's policies and programs in their respective Housing Elements. In some cases, the Housing Elements did not provide extensive descriptions, so researchers would turn to the city's website or general web searches to find relevant documents that offered more details. For cases where the policy was found to exist, but no detail could be found, we listed "Yes" on the inventory. For two of the policies (single-room occupancy preservation and zoning policies, and Housing Trust Fund policies), we first used a recent Association of Bay Area Governments inventory and two papers from the Center for Community Change, respectively, to conduct the inventory (Association of Bay Area Governments 2015; Center for Community Change 2013; Center for Community Change 2015). We later independently verified this information.

This work was completed in 2014. In September-November of 2015, we updated the inventory using the same methodology (little had changed). An online survey of policy stakeholders in Bay Area cities, conducted separately from the inventory, helped us to discover a few cities with policies in place that we could not find online.

The following table includes notes on how to read and understand the data in our inventory.

Table 4: Projected housing demand, supply, and shortfall for the nine-county Bay Area region (Wegmann, 2012)

Policy	Notes on Our Inventory's Data
Just Cause eviction ordinance	N/A
Rent stabilization or rent control	Where applicable, we include the allowable increase, whether it is adjusted to inflation/cost of living (usually a measure of inflation called the consumer price index), and how often the rent adjustment is allowed.
Rent review boards	N/A
Mobile Home Rent Control	N/A
SRO (Single-Room Occupancy) Preservation	N/A
Condominium conversion regulations	We note any procedural ordinances. For substantive ordinances, we note the method of regulation. We also note provisions that increase the cost of conversion by requiring major rehabilitation in order to convert, such as sound walls.
Foreclosure Assistance	N/A

Jobs-Housing Linkage Fee or Affordable Housing Impact/Linkage Fee	N/A
Commercial linkage fee	N/A
Housing Trust Fund	N/A
Inclusionary zoning/housing (Below Market Rate Housing)	We note the percentage of units that must be affordable, whether the policy applies to rental or for-sale housing or both, whether in-lieu fees are allowed, and the affordability requirements (i.e. the levels of income that are targeted).
Density bonus ordinance	We write “No” if the jurisdiction does not have their own density bonus policy. These jurisdictions are still subject to state requirements.
Community Land Trusts	N/A
First Source Hiring Ordinances	We only include city-wide ordinances, not project-specific ones.

Appendix 2: Sources used to create the list of anti-displacement strategies

ABAG (2014). Affordable Housing Funding Gap Analysis.

Bates, LK. (2013). Gentrification and Displacement Study: Implementing an Equitable Inclusive Development Strategy in the Context of Gentrification. Commissioned by City of Portland, Bureau of Planning and Sustainability. www.portlandoregon.gov/bps/article/454027

Causta Justa :: Just Cause (2014). Development without Displacement: Resisting Gentrification in the Bay Area. <http://www.cjjc.org/images/development-without-displacement.pdf>

Chapple K. (2009). Mapping Susceptibility to Gentrification: The Early Warning Toolkit. University of California Center for Community Innovation. <http://communityinnovation.berkeley.edu/reports/Gentrification-Report.pdf>

Cravens M, et al. (2009). Development Without Displacement, Development with Diversity. Association of Bay Area Governments. www.bayareavision.org/initiatives/dwd-final.pdf

Damewood R, Young-Laing B. (2011). Strategies to Prevent Displacement of Residents and Businesses in Pittsburgh’s Hill District. www.prrac.org/pdf/Hill_District_Anti-Displacement_Strategies-final.pdf.

Great Communities Collaborative. (2007). “Preventing Displacement Policy Fact Sheet.” www.mapc.org/sites/default/files/Preventing%20Displacement%20Policy%20Fact%20Sheet.pdf

Figuroa Corridor Coalition for Economic Justice and Los Angeles Coalition to End Hunger and Homelessness. (2002). Share the Wealth: A Policy Strategy for Fair Redevelopment in L.A.’s City Center. A Policy Paper Submitted to the Community Redevelopment Agency and the Los Angeles City Council. www.saje.net/atf/cf/%7B493B2790-DD4E-4ED08F4EC78E8F3A7561%7D/sharewealth2.pdf

Levy DK, Comey J, Padilla S. (2006). Keeping the Neighborhood Affordable: A Handbook of Housing Strategies for Gentrifying Areas. The Urban Institute, Metropolitan Housing and Communities Policy Center. www.urban.org/uploadedPDF/411295_gentrifying_areas.pdf

Mallach A. (2008). Managing Neighborhood Change: A Framework for Sustainable and Equitable Revitalization. Prepared for The National Housing Institute. www.nhi.org/pdf/ManagingNeighborhoodChange.pdf

Appendix 3: Complete List of Policies Considered for the Inventory

	Strategy/Policy	Included?	Reason
1.	Acquire existing low-cost units for preservation	N	Not city-wide
2.	Affordable housing impact fees on market rate residential in "upzoned" plan areas (a value recapture policy)	N	Unlikely to find multiple jurisdictions with such fees
3.	Anti-harassment policies	N	Difficult to discern whether or not the policies have "teeth" (i.e., carefully define harassment and get enforced)
4.	Commercial linkage fee/program	Y	Multiple jurisdictions have it and could potentially generate significant source of funding
5.	Community benefits agreements	N	Not city-wide
6.	Community Impacts Report (CIR)	N	Unlikely to find multiple jurisdictions that use such reports
7.	Community land trusts	Y	Often cited as a measure to combat displacement and exist in several Bay Area jurisdictions
8.	Condo conversion regulations	Y	Often cited as a measure to combat displacement and exist in several Bay Area jurisdictions
9.	Demolition controls	N	Unlikely to find multiple jurisdictions with such controls and may be hidden in other ordinances
10.	Density bonus ordinance	Y	Multiple jurisdictions have additional density bonuses beyond the State policy
11.	Development impact fees	N	Not city-wide
12.	Document recording fee	N	Unlikely to find multiple jurisdictions that use this as a method for combatting displacement.
13.	Environmental Impact Report (EIR)	N	Does not vary across jurisdictions
14.	Federally subsidized housing	N	Does not vary across jurisdictions
15.	First source hire ordinances	Y	
16.	Foreclosure assistance programs	Y	
17.	Health Impact Assessment (HIA)	N	Not city-wide
18.	Homeownership assistance programs	N	
19.	Housing Balance Requirement	N	Unlikely to find in multiple jurisdictions
20.	Housing levy	N	
21.	Incentive programs for housing production	N	Captured in density bonus
22.	Inclusionary zoning	Y	
23.	Individual Development Accounts (IDAs)	N	
24.	Installment land sale contract	N	
25.	Just Cause eviction policy	Y	Often cited as a measure to combat displacement and exist in several Bay Area jurisdictions
26.	Land banking	N	Not city-wide
27.	Land value capture	N	Unlikely to find in multiple jurisdictions
28.	Lease purchase agreement	N	
29.	Limited equity housing co-ops	N	Not city-wide

30.	Location Efficient Mortgage (LEMs)	N	
31.	Low cost rehab grants/loans	N	
32.	Master lease	N	
33.	No net loss policy/one-for-one replacement	N	Unlikely to find in multiple jurisdictions
34.	On-site relocation	N	Unlikely to find in multiple jurisdictions
35.	Permitting secondary units	N	
36.	Preserve some industrial areas	N	
37.	Real Estate Transfer Tax (penalize speculative investment)	N	Unlikely to find large enough to significantly deter speculation
38.	Reduced fees/waivers- for affordable housing developers	N	Unlikely to have large impact
39.	Relocation policies	N	Unlikely to find in multiple jurisdictions
40.	Rent review Boards	Y	
41.	Rent control	Y	
42.	Retain expiring-subsidy units	N	
43.	Right of first refusal policies	N	Unlikely to find in multiple jurisdictions
44.	Right to return policies	N	Unlikely to find in multiple jurisdictions
45.	Small site acquisition	N	
46.	Speculation tax	N	Unlikely to find in multiple jurisdictions
47.	Split-Rate Taxes	N	Unlikely to find in multiple jurisdictions

Works Cited

Association of Bay Area Governments. 2015. "Bay Area Housing Policy Database v.1.0."
<http://abag.ca.gov/planning/housing/research.html>.

———. 2015. "Final Regional Housing Need Allocation Adopted." Accessed October 1.
<http://www.abag.ca.gov/planning/housingneeds/>.

Center for Community Change. 2013. "City Housing Trust Funds 2013."
<http://housingtrustfundproject.org/wp-content/uploads/2013/09/City-htfund-admin-and-date-2013.pdf>.

———. 2015. "County Housing Trust Funds 2015."
<http://housingtrustfundproject.org/wp-content/uploads/2015/05/County-htfund-admin-and-date-2015.pdf>.

Wegmann, Jake. 2012. "Affordable Housing Demand and Supply Analysis, 2010-2040."