ROOTED IN HOME

COMMUNITY-BASED ALTERNATIVES TO THE BAY AREA HOUSING CRISIS

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Community-Based Alternatives to the Bay Area Housing Crisis

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EXECUTIVE SUMMARY

The San Francisco Bay Area, as one of the wealthiest metropolitan regions in the world, should be able to provide stable, decent, affordable housing for all of its residents. Instead, the region is in the grips of an acute housing affordability crisis.

In this report, we introduce real-world examples of alternative solutions and responses to the housing crisis—rooted in permanent affordability and democratic community control—that people are actively working on in the Bay Area and beyond. It is time to move past the current for-profit market system and the crisis it has created. We must move boldly in a different direction—towards an understanding that housing is a human right.

We discuss the following responses and alternatives:

- Informal settlements respond to the failure of the market. They are part of a spectrum of non-market responses organized by people who have been pushed out of, or were never able to fully enter, the housing market. Using a harm reduction approach, cities should sanction encampments and provide sanitation and social services, thereby allowing people to survive through the housing crisis.

- Community land trusts and cooperatives offer a clear model for creating permanently affordable housing that is replicable and scalable across the Bay Area. Community land trusts limit increases in land and housing prices over time and can provide stability for communities most at risk of displacement and economic hardship from speculative land development. Permanent real estate cooperatives, an emerging cooperative model, have the potential to raise community-sourced capital from a broad membership base, in order to develop affordable and community controlled housing.

- Public land can host pilots or expansions of the models we highlight in this report. Municipalities and other public entities have a major opportunity to mitigate the cost of land in hot markets, build deeply affordable housing, and make a key political intervention into the increasing privatization of public goods.

- Cities can enact a first-right-of-refusal policy to help level the playing field for low- and moderate-income tenants, community land trusts, and cooperatives trying to purchase property in the Bay Area. Cities can also create funding programs to subsidize the acquisition and rehabilitation of existing affordable buildings in which tenants are at risk of displacement, thereby protecting long-term tenants against eviction and preserving properties as permanently affordable.

- Lastly, cities and other governments should promote a scaled-up social housing system in which housing is not owned and operated to make a profit and provides security of tenure for residents. Cities can support progressive taxation, tenant protection policies, and the use of public land to promote social housing types, such as public housing, resident-controlled limited-equity cooperatives, and deed-restricted affordable housing held by community land trusts and non-profits.

This report supplements the many conversations already happening within communities, between organizations working on the ground, and among policymakers committed to creating a just Bay Area.

INTRODUCTION

BUILDING A MORAL ECONOMY FOR LAND AND HOUSING

How is it that one of the wealthiest metropolitan regions in the world—the San Francisco Bay Area—cannot manage to provide stable, decent, affordable housing for its residents? What is the relationship between the region's wealth and soaring inequality, chronic housing insecurity, displacement, and increasing homelessness?

We can ask the same questions at the state level. California is the world's fifth-largest economy, yet nations with far less wealth provide far more housing security.[1] What—and who—accounts for our state and our region's failures?

This report focuses on alternatives to the commodification of land and housing in the Bay Area. Commodification refers to the transformation of land and housing into goods to be bought and sold on the market. Access to these commodities is solely determined by the ability to pay. Popular arguments about supply and demand function according to this logic, missing the point that housing supply only meets demand for high-wage earners, while need is persistent across the income spectrum. This is why a market dependent on land and housing as

Rally to demand immediate renter protections in Oakland. Source: Brooke Anderson Photography, 2016

commodities will never adequately meet the needs of low-income and working class communities. We must replace this market economy with a moral economy that is attuned to what people need and is shaped by our vision for stable, healthy, democratically controlled communities. This is what we mean by decommodification.

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In their recent report, *Communities Over Commodities: People-driven alternatives to an unjust housing system*, the Right to the City Alliance explains that "[m]ainstream policy discussion on the question of housing affordability and stability is shaped by the idea that the market should provide housing and that any intervention should not interfere with the ability of owners and investors to profit from ownership of land and housing."[2] This "hands off" approach reflects the market fundamentalism that is deeply rooted in American society. In this view, the market is the solution to all social problems and policy interventions only make matters worse.[3]

It is hard to reconcile this view with what we have seen in the Bay Area. The 2007-2014 Regional Housing Needs Allocation Progress Report, a state-mandated report on housing production, shows that the market was perfectly capable of meeting the demand for housing of affluent residents, meeting 99% of the region's need.[4] When it came to housing for moderate-, low-, and very-low-income residents,

however, the market managed to meet just over a quarter of the demand for new production. The market performs no better over time as the market-rate housing stock ages. In the Bay Area, researchers estimate that only 1.5% of this stock trickles down, or becomes "naturally" affordable to lower-income households each year.[5]

In a world fundamentally shaped by race, class, and gender inequality, the housing market has been an efficient mechanism for reproducing these same injustices across generations. This is why land and housing remain disproportionately concentrated in the hands of historically privileged groups. We see that even by the most conventional measure—private homeownership—the market has failed Black and Latinx households. Ownership rates for these groups have never exceeded 50% and currently stand at 41.6% and 46.6% respectively.[6] Far from reducing racial inequalities, the market operated throughout much of the 20th century—alone and in conjunction with government policy and organized white homeowners—to *further* exacerbate wealth inequality.

We saw this most recently in the national foreclosure crisis, in which the market redistributed generations of accumulated Black and Latinx wealth to financial institutions and investors in those institutions.[7] Expecting markets to correct for structural, historical inequalities is no rational basis for policy. Real, lasting solutions will have to come from the outside, either in the form of regulation, where the market is tamed but otherwise remains fundamentally unaltered, or in the form of structural change, where the market itself is transformed.

The failure of the market for Bay Area renters is now well known. The Urban Displacement Project

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at the University of California, Berkeley estimates that nearly 900,000 low-income renter households currently live in neighborhoods that are either at risk of or already experiencing gentrification or displacement in the thirteen-county Bay Area mega-region.[8] Without effective interventions in the rental market, hundreds of thousands of additional Bay Area residents will struggle to pay rising rents and risk losing their homes.

The current crisis demands that we question old assumptions, discuss alternative visions and policies, and move boldly in a different direction. This report is our attempt to contribute to these efforts. In it, we look beyond the current for-profit market system and the crisis it has created to real-world responses and potential long-term alternatives to that system.

We present these examples as evolving models, not as ready-made solutions. Many challenges and lessons lie ahead, but we know that current approaches are not working and show no promise of working in the future. Change is clearly needed, and the time to start is now.

LOOKING BEYOND THE CRISIS

The term "housing crisis" is misleading because it implies a temporary and exceptional problem. For many people in this country, there has always been a housing crisis.

Low-income people, people of color, people with disabilities, LGBTQ+ communities, undocumented individuals, and seniors on fixed incomes, have historically struggled for access to safe, decent housing and to stable, democratically controlled communities. Yet, we must resist the tendency to see these structural inequalities as inevitable and the problems they generate as intractable.

Finding our way to real, lasting solutions requires that we acknowledge the deep roots of our current crisis and expand our notions of what is politically feasible. This will only happen when impacted communities drive the discussion. Low-income renters and people of color often struggle just to be heard, much less to influence the debate and shape policy. On the other hand, real estate interests, homeowners, and elected officials form a powerful political bloc that sets the parameters of the housing debate. This long-standing imbalance of power explains why the housing market remains a primary mechanism for reproducing racial inequality and segregation.[9]

The growing housing justice movement is challenging this imbalance. Low-income and working-class people of color, the groups most impacted by the failure of the market-housing system, are building and leading a movement grounded in their lived experiences. The wave of tenant organizing around the state is bringing resistance to market rule to a wider audience. Rent control—the principle demand of the tenant movement—is by itself a very mild form of market regulation. But it forces the question of whether every consideration, when it comes to land and housing, should be secondary to that of profit-maximization and the interests of the propertied classes.

In so doing, the tenant movement opens the door to popularizing longer-term, transformative approaches to the housing crisis. We believe that as the crisis grinds on, and as the shortcomings of the market become more apparent, the housing justice movement's demands for a new approach to land and housing will find greater public acceptance. While many of the movement's demands may appear idealistic today, they reflect the collective experiences and insights of thousands of people across the state, and in that sense they are more practical and grounded than their opponents' attempts to portray the for-profit market as a mechanism for justice.

To close this section, we look briefly at the "just housing index" outlined in *Communities over Commodities*.[10] The index captures the values, vision, and collective experiences of the housing justice movement over decades, and translates these into principles that will be useful to community groups, advocates, and decision makers. It is a practical guide for assessing specific projects and policies, and can also inform overall housing strategy for cities, regions, and states.

The index provides five criteria: affordability, inclusivity, permanence, health and sustainability, and community control. These criteria push us to think beyond the narrow scope of affordability alone. While affordability dominates current policy discussions around solutions to the housing crisis, the barriers to housing justice are more complex than this one measure suggests.

Further, the standard measures of **affordability**, captured as a percentage of Area Median Income (AMI), are not set in relation to what low- and very-low-income people are able to pay while still meeting other necessary expenses. Affordability has also proven to be an incredibly elastic concept, and can include households making up to 120% (and in some cases more) of AMI. From the perspective of housing justice, affordability needs to more explicitly reflect what low- and very-low-income households can actually afford to pay, and not what developers would prefer to build.

Even genuine affordability does not ensure justice. Many communities face other housing barriers, including discrimination based on race, immigration status, and criminal background, to name just a few. Housing also needs to be **inclusive**, meaning that policies—and the implementation of those policies—must actively dismantle barriers to access. Policy must also prevent the forms of social and spatial isolation that locate affordable housing far from public transportation, shops, amenities, and services.

Municipalities must also keep land and housing **permanently** affordable. Typically, affordable housing provided through the market expires after a certain amount of time and converts to market rate. In hot markets, the financial pressure to remove various affordability restrictions means that the supply of affordable housing can actually decline just as the need for it grows.

LAND AND HOUSING SHOULD BE UNDER DEMOCRATIC FORMS OF COMMUNITY CONTROL THAT PUT POWER IN THE HANDS OF THOSE WHO LIVE THERE AND UPHOLD THE BASIC PRINCIPLES OF HOUSING JUSTICE.

Housing justice also means that we invest in the **health and sustainability** of housing. We must reject the all-too-common-notion that housing for low-income and working-class people is by necessity old, run-down, and plagued by structural deficiencies and unhealthy conditions. Affordable housing, whether new or redeveloped, can and should be seen as a model for ecological design that supports the well-being of residents and anchors neighborhood health.

Finally, land and housing should be under democratic forms of **community control** that put power in the hands of those who live there and uphold the basic principles of housing justice. The absence of this power is clear in the tenant/landlord relationship and in most forms of affordable housing, despite a history of tenant and resident governance in public and private housing in the United States.[11]

We will not use the index to assess the examples in this report. Instead, we focus largely on the questions of permanent affordability and community control, though other aspects of the just housing index appear throughout this report. We see the index as a means of translating the values of housing justice into tools for shaping policies, strategies, and debates. It is important that we consistently and intentionally work to shift the conventional wisdom around land and housing. In doing so, we provide a framework for making sense of the alternatives on our own terms, and for constructing a moral economy and just society.

ALTERNATIVES TO MARKET-BASED LAND AND HOUSING

INFORMAL SETTLEMENTS

Informal settlements often emerge into the public consciousness as an extension of homelessness. We argue, however, that they are better understood as an extension of the broader housing crisis and an indictment of housing commodification across the Bay Area. Informal settlements respond to the failure of the market. They exist along a spectrum of non-market responses that are organized by people who have been pushed out of, or were never able to fully enter, the housing market. The rise of informal settlements, from rural land occupations to urban squats and urban and suburban homeless encampments, is a global phenomenon that also has deep roots in US history.[12]

The number of informal settlements and attention to the issue are both on the rise. A 2017 report by the National Law Center on Homelessness and Poverty found that media reports of informal settlements across the country increased an astounding 1,342% from 2007 to mid-2017, in the wake of the housing crisis.[13] Of all states, California has the largest number of encampments.[14] The 2017 Homeless Point in Time Count suggests that there are at least 29,000 unhoused residents across the Bay Area's nine counties.[15] These estimates are usually lower than actual numbers of unhoused residents because the count takes place on a single night and because many unhoused residents are in hiding.[16]

We understand informal settlements as the active occupation of public or private land to create spaces that provide shelter and community. Informal settlements can take different forms, from squatting in vacant structures to sleeping in tents or constructing makeshift homes. In the Bay Area, some settlements are developed communities with democratic structures and rules; others are simply places where various unhoused individuals have gathered to form a broader community.

Regardless, these settlements exist outside of a city's legal framework. This means that residents do not have the legal right to remain on the land, through

INFORMAL SETTLEMENTS REVEAL JUST HOW BROKEN THE PRIVATE HOUSING MARKET IS AND ALSO REPRESENT PEOPLE'S EFFORTS TO AVOID BEING DISPLACED FROM THEIR NEIGHBORHOOD, CITY, OR THE REGION ALTOGETHER.

a lease or deed, and that their housing structures do not necessarily meet building, safety, and health code standards. Even when these settlements are not displacing other uses and are meeting very real needs for unhoused residents, they remain outside of the law.

Residents of informal settlements endure criminalization, and are typically unable to access basic facilities and resources because of their legal marginalization. Criminalization of informal settlements and their residents includes outlawing camping within city limits or in certain public spaces, using police to evict and clear camps

(i.e., sweeps), and outlawing sitting, lying, and standing on public sidewalks and benches.[17] These responses shift residents from place to place, not only perpetuating and prolonging their houselessness but also undermining their ability to find solutions to their problems because of the instability caused by evictions and arrest.

Informal settlements reveal just how broken the private housing market is and also represent people's efforts to avoid being displaced from their neighborhood, city, or the region altogether. The organizing work behind informal settlements in the Bay Area merits discussion of these settlements as a short-term and immediate response to the housing crisis in the face of inadequate institutional responses. These settlements also demonstrate how unhoused residents and their allies are creating alternatives to the market from which they were expelled.

Here we look at two examples of informal settlements in the Bay Area, with differing perspectives on their role as alternatives to the market system.

First They Came for the Homeless

First They Came for the Homeless (FTC) is a politically oriented community of unhoused residents in Berkeley that has been organized and active since 2014, though the group originally came together in the aftermath of the 2008 recession.[18] FTC membership encompasses a range of people who

"Here There" homeless encampment in Berkeley, California. Source: Photo by Humans of Berkeley and the Bay Area, courtesy of Indybay, 2017.

have been affected by the housing crisis, including "[former] lawyers, doctors, nuns, people with disabilities, and women and children."[19]

FTC's overarching goal is to see their encampment recognized and sanctioned by the City of Berkeley (the City). The group has two purposes: 1) to provide housing to its members; and 2) to advocate for the decriminalization of homelessness, so that individuals can house themselves without the fear of having their camps raided or destroyed. In this sense, FTC sees itself as an alternative to the for-profit housing system.

The group views immediate access to shelter, regardless of its form, as the first and most vital step in protecting and transforming the lives of unhoused people. The group tries to provide tent housing to its current 60-plus members, many of whom are people of color and long-time residents of the Berkeley-Oakland area. FTC members agree to abide by a series of community principles to ensure a healthy, inclusive, and democratic living environment. FTC also organizes unhoused residents in Berkeley to fight the City's attempts to evict or sequester the unhoused, and to compel the City to legalize all encampments, particularly those located on public land, so that unhoused people have a guaranteed form of shelter.

The City and Bay Area Rapid Transit (BART)'s reactions to FTC exemplify city governments' and transit

THE EVICTIONS OF ENCAMPMENTS TYPICALLY EXACERBATE MENTAL AND PHYSICAL HEALTH ISSUES AND DESTROY THE SOCIAL FABRIC CREATED BY HOMELESS COMMUNITIES, WHICH IS OFTEN CRUCIAL FOR THEIR SURVIVAL.

agencies' aggressive responses to even well-organized informal settlement communities. FTC's encampment has been subject to a number of sweeps and was forced to move to twelve different locations over the course of less than two years.[20] The group's longest period of stability was about ten months, at the Here-There sign on the Oakland-Berkeley border.[21] The encampment received a significant amount of community support during this time, and even managed to obtain porta-potties and handwashing stations with the support of neighbors, local businesses, and community groups.[22]

But in October 2017, BART evicted the group for alleged trespassing, with the backing of the City of Berkeley.[23] FTC sued BART and the City in federal court, asking for permanent relief from eviction, among other things.[24] The eviction moved forward, but the judge did order the City to "[s]ubmit a plan that will shelter substantially all of Berkeley's homeless" during that coming winter.[25] However, in its response, the City essentially said it did not have the resources to house all of its homeless residents that winter, and that it could only conceivably house "268 of the 664 people experiencing unsheltered homelessness (or living outside) in Berkeley on any given night."[26]

City governments seem to believe that sweeps will push encampment residents into shelters and reduce the number of encampments altogether.[27] However, persistent police raids and sweeps only worsen the conditions of unhoused residents across the Bay Area. The evictions of encampments typically exacerbate mental and physical health issues and destroy the social fabric created by homeless communities, which is often crucial for their survival.[28] Moreover, without a designated place to go, homeless communities are forced to search for new areas that may be worse than their previous sites.

A September 2018 ruling by the United States Ninth Circuit Court of Appeals, however, may change the fate of informal settlements like FTC. The Court ruled that cities cannot criminally prosecute unhoused people for sleeping outside on public property when there is no indoor sleeping space available to them, as this constitutes a form

The Village's tiny homes under construction at site in East Oakland. Source: The Village, Twitter account, 2018

of cruel and unusual punishment that violates the Eighth Amendment of the U.S. Constitution.[29]

Though it will be some time before we see the ruling's full effect, it may mean that cities that do not have enough affordable housing and shelter space for their homeless populations cannot evict encampments.[30] The ruling has immense ramifications for the entire Ninth Circuit region, which includes California. San Francisco and other cities are already reviewing their ordinances to ensure they conform to the law.[31] Homeless advocates hope that this new ruling will spur cities to develop comprehensive solutions to the housing crisis and address its root causes. In the meantime, it's important that we view informal settlements as a legitimate response to the housing crisis and their residents as integral members of the housing justice movement.

The Village

The Village is a group of housed and unhoused Oakland activists and residents who are pushing for the de-criminalization of homelessness, the recognition of housing as a human right, and a new approach to local land use policy. In early 2017, The Village reclaimed underused public land to build tiny, temporary homes for unhoused residents in West Oakland. The Village's initial settlement was quickly dismantled by the City of Oakland (the City), but they secured a new, temporary public site in East Oakland. In October 2017, The Village and its allies successfully lobbied the City to reinstate a shelter crisis through 2019 (see Opportunities section for a definition), in order to allow non-traditional means of housing people in public facilities. Their model has since expanded into a broader homeless advocacy and housing policy project.

The Village counts 6,000 unhoused people across Oakland (the City counts less than half as many), and they have identified 69 camps of six people or more across Oakland. They are advocating for full sanitation services in all 69 camps of six or more residents, and, so far, have succeeded in securing full sanitation for 16 camps.[32] The 2017 Point in Time Count finds that 82% of unhoused residents in Alameda County report having lived in the County immediately prior to becoming unhoused.[33] Needa Bee, a lead organizer of The Village, adds that the majority of unhoused

THE VILLAGE COUNTS 6,000 UNHOUSED PEOPLE ACROSS OAKLAND (THE CITY COUNTS LESS THAN HALF AS MANY), AND THEY HAVE IDENTIFIED 69 CAMPS OF SIX PEOPLE OR MORE ACROSS OAKLAND.

residents in Oakland are sleeping in the neighborhoods where they were raised.

Given the scale of the homelessness problem and their dissatisfaction with the City's response, The Village attempts to bypass both the market and local government, at least initially, by claiming the right to use vacant public and private land to address Oakland's housing and homelessness crisis—even without the City's approval. In the future, they also plan to use adverse possession law to expand beyond public sites and take over vacant private properties for new villages. Adverse possession law in California allows a squatter to gain a legal right to the property when certain requirements are met.[34]

The City of Oakland has since developed a partial harm-reduction approach to homelessness, with mixed results. They have sanctioned certain encampments, compiled an encampment management team that includes staff from many city departments, and built two sites of Tuff Shed shelters. The management team works closely with the Department of Public Works and the Oakland Police Department (OPD) to clean sites and enforce no-camping areas. However, the inclusion of OPD in the management team, the designation of no-camping areas, and the continued eviction of some encampments muddies the extent to which the City is committed to harm reduction over punitive responses.

The Village's immediate strategy is similar to that of First They Came for the Homeless, but the two groups have divergent long-term visions. Bee does not see encampments as a solution, but as a

stop-gap measure that reduces harm and saves lives. Bee said that she has "been telling the city from the jump that their real focus needs to be building permanent housing."[35] She calls for housing that is affordable to no-income, low-income, and working-class residents who have been or are at risk of being priced out of their Oakland homes. She is deliberate about not using the term "affordable housing" because it is a market-based mechanism. "[W]e aren't asking for affordable housing [from the city] because that's not a fixed term," she explained. "It fluctuates with the market."[36]

In 2018, The Village formed a partnership with the Ron Dellums Institute for Social Justice and the East Oakland Collective to expand their model. The coalition calls for the City of Oakland to release public lands at a mass scale until the end of the housing crisis, leasing land to them for $1 per year.[37] They would use this land, in addition to private properties reclaimed through adverse possession laws, to build six to eight emergency villages, with the goal of housing 2,000 people over the next year. In addition to advocating for the construction of permanent housing, The Village is also calling for an end to market-rate development on public land and the passage of a public land ordinance that prioritizes deeply affordable housing; a moratorium on condominium construction; and the acquisition of hotel and apartment buildings for conversion into low-cost housing.

In the meantime, The Village is asking for the space and leeway—including an end to evictions—to further develop and expand its model of self-governed villages for unhoused residents. Bee cites the United Nation's "Universal Declaration of Human Rights," which explicitly names housing as an integral component of "a standard of living adequate for the health and well-being of him/[her]self and of his/[her] family."[38] Criminalizing people living on the street violates the legal and moral framework of the right to housing, as articulated in the United Nations Declaration. For both The Village and FTC, their actions to house people the cities are unable or unwilling to house, free from harassment, are just responses to the failure of government to protect this right for its most vulnerable residents.

INFORMAL SETTLEMENTS:
OPPORTUNITIES

Instead of seeing informal settlements as a problem to be eliminated via raids and sweeps, Bay Area cities must move away from a criminalization approach and toward a rights-based approach that includes working directly with unhoused communities. Using a harm reduction approach, cities should sanction encampments and provide sanitation and social services, thereby allowing people to survive through the housing crisis. Lastly, local jurisdictions must invite unhoused communities to play a role in shaping such policy.

Cities need to tackle homelessness through a multi-pronged approach. To start, certain cities already have access to legal tools for accommodating informal settlements.

- Oakland, Berkeley, Emeryville, San Francisco, and Santa Clara, for example, can take advantage of Assembly Bill 932, which allows local governments to declare a shelter crisis. According to this bill, "certain state and local laws, regulations, and ordinances are suspended during a shelter crisis, to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis."[39]

- Cities should use AB 932 to permit private property owners (e.g. faith communities and non-profits) to open parking lots and underused spaces for unhoused people to live and sleep. The Interfaith Council of Alameda County, for example, is piloting a tiny homes and safe parking program that could house up to 1,000 residents across 20 institutions.[40]

- Cities should reconsider punitive ordinances regulating sleeping overnight in a car and encampment sweeps. Emeryville, for example, allows people to sleep in their cars. Other local jurisdictions should follow suit.

Many informal settlements do not have strong democratic governance structures and may struggle to provide safety, shelter, and a habitable environment. Cities need to provide comprehensive supportive housing to safely transition chronically unhoused people into stable circumstances.

- Housing should be coupled with job training, rehabilitation services, Supplemental Security Income assistance, food stamp assistance, and warrant/criminal eviction assistance.

- Cities should focus on the support provided by social workers and case managers, rather than bringing in law enforcement.

- Counties should provide additional funding for sanitation and other supportive services because they are responsible for public health, mental health, and behavioral health services.

- If sweeps must take place because of serious health and safety concerns, cities should formalize policies to regulate the way in which they are conducted. The National Law Center on Poverty and Homelessness calls for consultation with all residents, provision of alternate housing, cooperation with social workers, and protection of residents' belongings.

Finally, basic democratic principles dictate that city-led task forces on homelessness meaningfully incorporate the voices of unhoused residents in crafting solutions and making decisions. Unhoused residents and their allies in Oakland and Berkeley have tried to gain formal recognition in task forces and working groups, but to no avail. Unhoused residents and allies must be given positions on city task forces, in order to share the problems they encounter and identify possible remedies.

The crisis of homelessness is a moral wake-up call. Until cities recognize the humanity of their unhoused residents and offer them full participation in policymaking processes, it is unlikely that the cities and the region will develop adequate responses to the housing crisis.

COMMUNITY-OWNED REAL ESTATE MODELS

While informal settlements represent a last-ditch response to the Bay Area's housing shortage, some local advocates are exploring community-owned real estate as an approach to guarantee housing stability. Two examples of community-owned real estate are being implemented in the Bay Area: community land trusts and permanent real estate cooperatives. These are not mutually exclusive models and practices; in fact, they represent approaches that communities can combine and adapt to fit their particular circumstances.

Community Land Trusts

A community land trust (CLT) is a non-profit public benefit corporation that acquires and holds land for the benefit of local communities, as a way to ensure permanent affordability of homes and community facilities. By removing the land from the for-profit market, the CLT insulates its housing from the routine economic crises in that market, preserves affordability, and ensures ongoing access to stable housing for low-income communities.[41] There are currently about 300 CLTs across the country. One of the largest and best-known of these is Dudley Street Neighbors Incorporated in Boston, Massachusetts. Dudley Street comprises 225 homes, commercial space, and a park.[42]

CLTs exist in all types of geographies in the United States, and they have a positive track record of acquiring property for the purpose of providing affordable housing.[43] In the Bay Area, there are currently seven active CLT organizations: Oakland CLT (OakCLT), San Francisco CLT (SFCLT), Bay Area CLT (BACLT), Community Land Trust Association of West Marin (CLAM), Housing Land Trust of Sonoma County (HLSC), Preserving Affordable Housing Assets

HOW COMMUNITY LAND TRUSTS WORK

A new resident buys their house outright...

...but leases the land underneath from the CLT.

They pay an annual fee to the CLT to support its operations...

CLT

...and the CLT retains permanent ownership of the land.

Current resident sells their house at a price set by the CLT, earning a portion of the increase in value of their home...

CLT

...while the CLT retains the land.

A new resident buys the house at a price that's been kept affordable...

...and agrees to the same requirements around resale.

CLTs are typically governed by:

1/3 CLT residents

1/3 Other community residents

1/3 Experts and stakeholders

CLT

The CLT's geographic focus allows it to not only provide affordable housing, but to play an important role in stabilizing neighborhoods.

As it diversifies its portfolio, the CLT can also own land in trust for permanently affordable rental housing or community-focused commercial developments.

Source: CLT Graphic, Community-Wealth.org

Long Term Inc. (PAHLI), and the Northern California Community Land Trust (NCLT). They all demonstrate a deep commitment to building and/or preserving permanently affordable housing for low-income communities.

While CLTs can take several forms—cooperative ownership, tenancy in common, rental, single- or multi-family homes, or multi-unit buildings—all CLT properties emphasize affordable, permanent housing and community ownership. For example, in a CLT, homeowners own their homes and lease the land underneath it from the CLT, which holds a 99-year land lease. The individual lease contains enforceable restrictions on future resale prices to ensure units remain affordable for future generations. CLTs often have access to public and private subsidies to assist with affordability—some CLTs even provide homeowners with loan assistance on down-payments.

While the CLT model has recently become better known, it is by no means new. The first modern community land trust, New Communities Farm, was established in the 1960s by Black sharecroppers,

in an effort to gain economic self-sufficiency and housing security. It came in response to the aggressive displacement of Black Southerners involved in the Civil Rights Movement.[44] New Communities managed to grow to the size of Rhode Island before ultimately succumbing to financial pressures that resulted from racist state policy.[45]

The two cases below exemplify how CLTs can protect tenants against displacement by providing permanently affordable housing in Bay Area cities suffering from soaring rents and intensifying gentrification.

23rd Avenue

The 23rd Avenue project is a building in the Fruitvale district of Oakland, home to sizeable Latinx and Asian immigrant populations, which was purchased by the Oakland Community Land Trust (OakCLT) in January 2017. The mixed-use building provides housing to low-income residents of color, and parts of the ground floor are dedicated to commercial space for non-profits serving the community. The project turned the impending sale of the building and the eviction of its

23rd Avenue Residents (left to right): Eri, Robbie, Ricardo, Blanca, Devi. Source: Sam Lefebvre, SFMOMA Open Space, 2018

"This project has shown me how powerful our community is and can be to support us to not only survive, but thrive right where we are. As a Queer/Trans person of Japanese ancestry from O'ahu, Hawai'i, where being gentrified out of town is a familiar feeling, I feel really affirmed to have been met with success in this campaign to save our building from being sold to the highest bidder."

— Eri Oura, Cycles of Change

tenants into an opportunity to mobilize. Long-time residents and community organizations formed an innovative partnership with OakCLT that allowed them to purchase the building they called home.

Shortly after hearing that the property had been put up for sale, the residents of 23rd Avenue launched a campaign to buy the building. In a matter of weeks, they raised $90,000. They also contacted the People of Color Sustainable Housing Network (POCSHN), who put them in touch with OakCLT. The residents of 23rd Avenue and OakCLT found common purpose in their shared commitment to permanently affordable housing and community empowerment and decided to work together to purchase the property.

OakCLT and the residents of 23rd Avenue received news that the owner was willing to work with them on a deal to sell the property at a rate slightly below market value. The owner had deep ties to the community and recalled that her daughter had once benefited from the property, so she wanted to give back in a meaningful way. OakCLT was able combine money from the crowdfunding campaign and the City of Oakland with its own organizational funds to make an equity contribution of $240,000 and begin the financing process. Ultimately, OakCLT was able to acquire the property with a loan from the Northern California Community Loan Fund, a community development financial institution (CDFI) that lends to community-based non-profits and enterprises.

In the case of 23rd Avenue, OakCLT intentionally fosters residents' governance skills, so that it can eventually transfer ownership of the property to the tenants. OakCLT believes that helping tenants to acquire this knowledge will allow them to navigate the private market in the future, should they ever decide to leave the property. The property is also mixed use, which stabilizes community-serving businesses and organizations, such as Cycles for Change,[48] and has long-term economic benefits for the project; residents can use revenues from the commercial space, for example, to invest in the upkeep of the property. Ultimately, the residents of 23rd Avenue hope to establish a Limited Equity Housing Cooperative (LEHC) model, which will allow them to own the building by purchasing individual shares of the property.

LIMITED EQUITY HOUSING COOPERATIVE

In LEHCs, members can only receive a portion of the equity generated between the initial purchase price of their shares and the price at resale. This preserves affordability for both current and future residents and often makes LEHCs significantly more affordable than market-rate housing cooperatives.[46]

OakCLT stresses the need for community control and stewardship to help low-income communities stay in their homes and stave off displacement. When asked about the significance of acquiring a property whose tenants are low-income, Zachary Murray, the Program Manager at OakCLT said, "[O]ur purpose really is to foster community control because we believe the people have a great ability to meet their own needs, if given the opportunity. The CLT is just a way that affordable housing can be maintained."[47]

OakCLT hopes to continue to expand its portfolio and assist more communities like those who have benefitted from the 23rd Avenue project, especially as gentrification and displacement intensify in Oakland.

Columbus United Cooperative

San Francisco's historic Chinatown neighborhood, the largest and oldest Chinatown in North America, has long served as a cultural hub for many of the city's Chinese immigrants. In 2005, a small community of low- and very-low-income Chinese immigrants living in a 21-unit mixed-use building came together to save their homes. San Francisco City College owned the building at the time, and planned to demolish it and convert it into a parking structure. Residents reached out to the Asian Law Caucus and

the Chinatown Community Development Center, and together they formed the Columbus United Cooperative, the first of its kind in Chinatown.

The Asian Law Caucus and Chinatown Community Development Center, through intensive on-the-ground organizing, convinced the City of San Francisco to force City College to sell the building to the San Francisco Community Land Trust (SFCLT). Although the sale occurred in 2006, prices in San Francisco were already on the rise. SFCLT was, however, able to secure funding from the San Francisco Restabilization Fund, Federal Low-income Tax Credits, and private financing to purchase the building. After taking over ownership, SFCLT worked with residents and community partners to rehabilitate the property and convert it to a Limited Equity Housing Cooperative (LEHC). With support and direction from SFCLT, the residents, many of whom were first-time homeowners, were then able to buy their apartments.

When asked if it was difficult to convince a population of people who had likely never heard of a LEHC to buy into it, Megan Svoboda, the Education and Outreach Manager at SFCLT, shared that "it was a much bigger task to convince [tenants] to take leadership… it was hard to train people on how to run a limited equity cooperative, but they have gotten better and better as time goes on [such that] they now have competitive elections and finances."[49] The LEHC model layered over the CLT structure means that the land is leased by the CLT to the housing cooperative, which sells a share, or unit, of the building with a restricted resale value. This pairing is useful because it provides more insulation against the speculative market and provides residents with collective ownership education and skills.

The Columbus United Cooperative shows how the CLT model can create deep affordability in perpetuity. In order for an individual to join the Columbus United Cooperative, they have to show proof that they earn no more than 40% of the Area Median Income (AMI), though an individual can

exceed that threshold once they become a co-owner. When a resident leaves their unit, the unit remains affordable because the buy-out price for cooperative shares is tied to median income, not to market price. As property values in San Francisco continue to skyrocket, these price-stabilized units have proven to be an invaluable resource not only for the original residents of the property, but for their families and the neighborhood as well.[50] So far, the Columbus United Cooperative has maintained the historic culture of the neighborhood while continuing to house local elders and immigrant families. SFCLT hopes to develop more neighborhood-specific community land trusts in order to scale the community ownership model in San Francisco.

"THIS EMPOWERED MY FAMILY BECAUSE OF HOW CLOSE THEY ARE TO THE CHINATOWN AND THEIR OWN COMMUNITY. WE AREN'T RENTING ANYMORE, WE ARE OWNERS! THERE IS SO MUCH KNOWLEDGE WE'VE GAINED BY ESTABLISHING A COOPERATIVE. I'VE BEEN GOING TO MEETINGS SINCE I WAS YOUNG, AND I'VE TAKEN ON LEADERSHIP IN THE PLACE I CALL HOME."

— Nancy Mei, resident of Columbus United Cooperative

COMMUNITY LAND TRUSTS:

OPPORTUNITIES

CLTs offer a clear model for creating permanently affordable housing that is replicable and scalable across the Bay Area. Through resale restrictions, CLTs limit increases in land and housing prices over time and can provide stability for the communities most at risk of displacement and economic hardship from speculative land development.

The greatest hurdle for CLTs is finding adequate funding to acquire land in the Bay Area. City governments are vital to supporting and expanding the CLT model; by adopting the following recommendations, cities can more quickly bring the model to scale.

- Cities should enact a first-right-of-refusal policy, such as a Tenant Opportunity to Purchase Act [see Community Opportunity to Purchase section], to create opportunities for tenants to purchase their buildings to convert into CLTs.

- Cities should also create a fund to channel money to CLT projects in neighborhoods experiencing displacement, such as a Small Sites Program [see Community Opportunity to Purchase section].

- Cities and other jurisdictions should support the scaling of CLTs in the Bay Area through the transfer of public land to CLTs, at low or no cost [see Public Land section]. This would significantly help CLTs overcome the high cost of land, thereby enabling them to provide permanently affordable housing to low-income communities of color. Currently, there is capacity for 35,000 units of affordable housing on public land near transit across the Bay Area.[51]

Residents of Columbus United Cooperative. Source: San Francisco Community Land Trust, 2018

East Bay Permanent Real Estate Cooperative

The East Bay Permanent Real Estate Cooperative (EBPREC) is an emerging real estate cooperative that works to develop long-term, price-stabilized housing and a broad membership base. EBPREC is the product of a partnership between the Sustainable Economies Law Center (SELC) and the People of Color Sustainable Housing Network (POCSHN). EBPREC centers racial justice in its work and incorporates education, leadership development, democratic governance, and permanent affordability on mixed-use properties.

EBPREC is developing a model that expands on the goals of a typical cooperative to form a "movement cooperative."[52] While other housing cooperatives have only as many members as they can house, EBPREC takes advantage of a change in state law to develop a wide base of members called community- and investor-owners. These owners do not necessarily intend to work or live in the cooperative, but they are investing in a new mode of land and housing ownership to benefit those who have been excluded from stable housing; they also receive limited voting power in governing the cooperative.

In 2015, SELC, EBCLC, and a coalition of allies won a change to a California law that governs investments

in cooperatives. The "California Worker Cooperative Act" increased the threshold for investing in worker cooperatives from $300 to $1,000, such that someone could now invest up to $1,000 before securities rules, which govern all investments in a business, are triggered. This greatly expands the cooperative's access to community-based capital. By adding this funding source, explained Chris Tittle, Director of Organizational Resilience at SELC, the model seeks to detach from the speculative market at every phase of development and produce "community-owned housing, community-sourced capital, and community-governed cooperative development."[53] EBPREC's Executive Director, Noni Session, explained, "We are working to shift the physical and legal status of a piece of property—and almost the social status—from a commodity speculated on and traded … back into a state of being in the commons, of collective ownership."[54]

Whereas CLTs are non-profit corporations, real estate cooperatives are for-profit corporations owned by their members, or shareholders. Unlike typical for-profit corporations, however, these cooperatives are member-controlled and distribute net income to members according to their level of participation in the cooperative, rather than their level of capital investment. The model uses a for-profit cooperative, rather than a non-profit structure, to: "create [price-stabilized] housing for everyone, not just low-income people; access capital in diverse forms; transform relationships from charity to mutual aid and self-help; and, create self-organizing and scalable governance systems that enable bottom-up organizing by hundreds or thousands of members, rather than top-down management by a board and staff."[55]

PREC has access to capital not available to non-profits and is not restricted by means-testing, they aim to grow their model to a scale that intervenes in the speculative housing market by developing more rapidly than previous models have been able to. This means that the PREC model can be a mechanism to support CLTs. PRECs can raise capital and loan or donate money to CLTs, given that they have access to forms of capital that CLTs do not. This could, but would not necessarily, give the PREC an active role in the stewardship of the property. The two structures can also be overlaid such that the CLT owns the land

> "WE ARE WORKING TO SHIFT THE PHYSICAL AND LEGAL STATUS OF A PIECE OF PROPERTY—AND ALMOST THE SOCIAL STATUS—FROM A COMMODITY SPECULATED ON AND TRADED … BACK INTO A STATE OF BEING IN THE COMMONS, OF COLLECTIVE OWNERSHIP."
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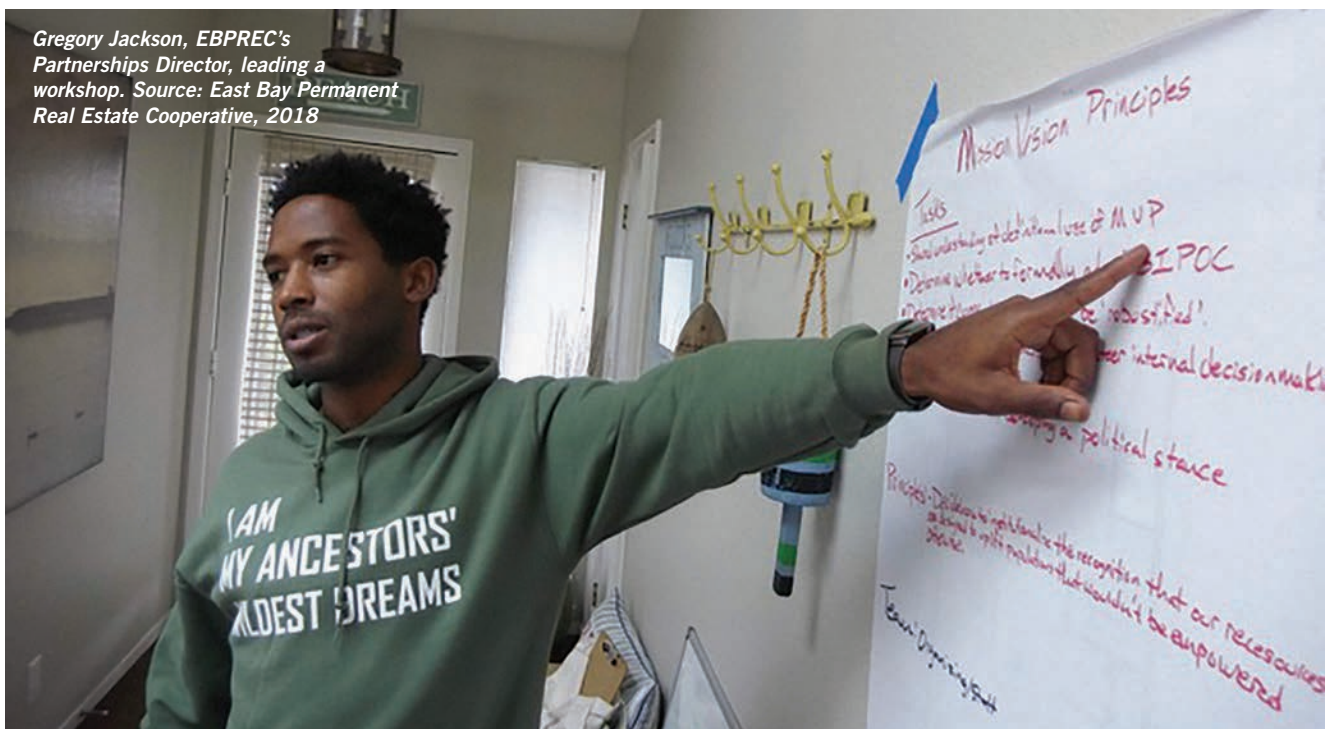> — Noni Session, Executive Director of EBPREC

or holds the ground lease, and the cooperative owns or holds a long-term lease to the building (similar to the CLT-LEHC model). This formation provides another level of protection against the speculative market.

Further, EBPREC will forego institutional investors and the typical membership strategy by developing a core cohort and a broad community investment campaign that sells membership shares of up to $1,000 to a range of neighbors and supporters across the region, who will also form its membership base.[56] EBPREC will also go to activist banks and impact investors for capital investments.

EBPREC began by cultivating a core cohort of members, prioritizing people of color, women, indigenous peoples, and community-based organizations who could become resident-owners. EBPREC's model includes education for members about cooperative principles, financing, democratic governance skills, and property maintenance. It is finalizing its overall business model as the cooperative prepares to go public, but it will likely include four classes of members, each of which has a different level of voting power: community-owners, investor-owners, resident-owners, and worker-owners.

Community-owners are dues-paying members who want to be part of the broader movement by participating in PREC meetings and events throughout the year. Investor-owners support the cooperative by purchasing a share of up to $1,000 in the cooperative. Resident-owners own a lease to a unit within the cooperative that is long-term and renewable and which sets terms for affordability. Resident-owners can also choose to invest up to $1,000 in the cooperative. This is also true for commercial tenants, such as non-profits or businesses, who occupy units within the cooperative. Worker-owners will not necessarily own a lease for a unit within the cooperative, but they are employed by the cooperative and can also invest up to $1,000 in it.

Resident-owners will get financial returns in three ways. First, they gain equity in their units with each rent payment, providing a "huge benefit over traditional rent, which all goes to the landlord."[57] Second, if they decide to move, they can sell their housing rights and get back their equity with additional gains from limited growth. (Their equity stake will not grow as quickly as it would in the speculative market, in order to maintain affordability over time.) Finally, when the cooperative makes a profit from its commercial activities, it will pay

Gregory Jackson, EBPREC's Partnerships Director, leading a workshop. Source: East Bay Permanent Real Estate Cooperative, 2018

dividends to the various classes of owners based on their participation.

EBPREC plans to acquire its first property and test the model in late 2018 or early 2019. EBPREC is surveying sites that are zoned for mixed-use to acquire in partnership with a community-based organization. Through alternative revenue streams, such as

co-locating a community center or neighborhood-serving business, the model will keep rents low and provide limited returns to investors. This pilot phase will rely on gift capital, mostly to cover operating costs, in addition to community capital. EBPREC is also working to de-risk the community capital they raise, through partnering with foundations to build a reserve fund, for example.

PERMANENT REAL ESTATE COOPERATIVES:

OPPORTUNITIES

EBPREC offers a long-term vision of housing all people, regardless of class, in decommodified, cooperative housing. The pilot will be East Bay-specific, but PRECs are replicable by design and can exist across the country. Once up and running, EBPREC plans to host a workshop series that will teach interested parties about the model's structure, and they also plan to provide technical assistance to community organizers and members who would like to form PRECs in other regions.

Clear bylaws and succession plans—plans that delineate terms should the corporation dissolve—are essential to permanently removing properties from the speculative market and preserving affordability and community control. EBPREC has internal commitments in its bylaws that govern individual leases as well as the cooperative as a whole.

- To support both affordability and community control, EBPREC's bylaws will mandate that individual leases can only be sold at a capped price and that the cooperative will not sell the building itself. The bylaws will also encourage indigenous and Black-led organizations to join its board of directors.

- PRECs, like CLTs, should include directives on succession in their bylaws in case the cooperative corporation dissolves. EBPREC will likely name the Sogorea Te Land Trust,

the OakCLT, and the Northern California Land Trust as organizations that must get first right to purchase EBPREC properties if EBPREC dissolves. Its succession plan will also limit possible profits to individuals if EBPREC were to dissolve.

The 2015 change to state-level securities law was a major win for cooperatives, but more work remains to create a legal and policy framework that supports cooperatives and other models of democratic governance. Tittle explained that "[l]egislators need to look not only at corporate form but the internal governance of organizations" in order to recognize the value and social benefits of "commons-based organizations."[58] This would mean formally recognizing cooperatives' public benefits and would include:

- Making PRECs eligible for tax-exempt status, grants from private foundations, and types of government funding currently restricted to non-profit organizations. This would allow the model to scale more quickly.

- Allowing PRECs to act as a purchasing entity under a Tenant Opportunity to Purchase policy.

Overall, PRECs present an exciting opportunity to shift investment, ownership, and governance to a broad membership base, which would increase long-term affordability and community control. It is also a political opportunity to organize a coalition of Bay Area residents around housing as a human right and push forward a corresponding policy agenda.

PUBLIC LAND

The cost and availability of land in the Bay Area are often cited as major barriers to the production of affordable housing. While cities, counties, and the state government can and must do far more to secure privately-held land, public land has great potential to host pilot projects or expansions of the models we highlight in this report. Municipalities can use public land to mitigate land costs, especially in urban core markets with inflated land values, and can utilize sites that are close to public transportation, schools, and jobs.

Utilizing public land is also a key political strategy: It's clear to many Bay Area residents that public land should remain a public asset and should not be sold off to the highest bidder. These assets should support those whose needs are not met by the private market. A recent study by the Metropolitan Transportation Commission (MTC) reveals that there are almost 500 parcels of land across the Bay Area that are close to transit and suitable for housing, and that these parcels could accommodate 35,000 genuinely affordable housing units.[59] Building these units on the available parcels would not solve the region's housing crisis, but it would provide housing to tens of thousands of low-income residents and serve as an anchor for a new regional approach to land and housing more broadly.

MTC defines public land as land that is owned by a public entity, such as a city or county. That also includes land owned by school districts, transit agencies, and other public agencies and special districts. In the Bay Area, transit agencies are the largest owners of public lands.[60] By understanding this land as a public resource, its "highest and best use"—an urban planning term that is typically understood in terms of revenue production—is reframed to mean serving the public good.

Local jurisdictions should use a land banking framework to maintain ownership of public land and to acquire private sites. In this context, a land banking strategy means that jurisdictions would hold onto public sites and acquire new sites for future development, in order to pull land out of the

speculative market. They should then work with CLTs and cooperatives to help them access this land for the purpose of building permanently affordable housing and other community amenities. This approach is an immediate investment in equity that also doubles as a long-term investment in housing, community, and financial stability.

James Vann of the Oakland Tenants Union, for example, argues that the City of Oakland should "transfer land to the OakCLT at the lowest possible price; it is not obligated to get market value [as per the Surplus Land Act]."[61 62] Vann also suggests the city act as its own developer, or use a turnkey developer—a developer who plans and executes the entire design and construction process—in order to speed up the development process and ensure housing on public land that is affordable to residents making 60% or less of AMI.

In 2014, the state legislature took a step in the right direction by amending the Surplus Land Act (the Act), which was originally passed in 1968, to strengthen the law's mandate to prioritize the development of affordable housing, affordable housing near transit, and green space on surplus public lands (defined as land owned by a public entity that

A RECENT STUDY BY THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) REVEALS THAT THERE ARE ALMOST 500 PARCELS OF LAND ACROSS THE BAY AREA THAT ARE CLOSE TO TRANSIT AND SUITABLE FOR HOUSING, AND THAT THESE PARCELS COULD ACCOMMODATE 35,000 GENUINELY AFFORDABLE HOUSING UNITS.

*E. 12th Coalition community planning process.
Source: E.12th Wishlist website, 2015.*

is no longer necessary for the entity's use).[63] Since then, San Francisco, for example, has adopted a detailed procedure for the disposition of public land. In Oakland, on the other hand, community-based organizations have accused the City of violating the Act, and the City has yet to pass a comprehensive public land ordinance that is agreeable to both City and community representatives.[64] San Jose has asserted that as a charter city, as opposed to a general law city, it maintains power over its local affairs and is not subject to the Act.[65]

Oakland's E. 12th Coalition

The E. 12th Coalition, a community coalition anchored by residents from Eastlake United for Justice in Oakland's Eastlake neighborhood, ignited a critical public dialogue about the appropriate use of public land. In early 2015, the E. 12th Coalition, in partnership with the legal firm Public Advocates, protested the City of Oakland's closed-door deal with Urban Core Development to build a luxury condominium tower on the E. 12th Street public parcel. The Coalition alleged that the City had violated the Surplus Land Act by failing to give first right of refusal to affordable housing developers.[66] In July 2015, the Oakland City Attorney's confidential legal opinion, written in February 2015, that agreed the City had violated state law, became public.[67]

The Coalition then gathered extensive community input and partnered with Satellite Affordable Housing Associates (SAHA) to develop a 100% affordable housing proposal for the site that included green space, a community center and garden, and commercial space. Eve Stewart, Vice President of Real Estate Development at SAHA, explained that the Coalition's community-led proposal was both practical, in that it was possible to accomplish, and radical, in that it was based entirely on community-identified needs.[68] Their work shows that thoughtfully-developed housing need not be prohibitively expensive, especially when built on affordable public land and utilizing different government subsidies. The Coalition/SAHA budgeted just under $61 million to build a 133-unit building, with capacity to house more than 700 people, including families.[69]

In March 2016, the City entered into a closed-door deal with Urban Core Development and the East Bay Asian Local Development Corporation to develop a mixed-income building with only 90 low-income units, in addition to 18-moderate income units, and 252 market-rate units on the E. 12th Street parcel.[70] Despite this disappointing conclusion, the E. 12th Coalition's activism has spurred a much-needed public land conversation.

PUBLIC LAND:

OPPORTUNITIES

Most immediately, we need more data about the existence and availability of public land. Before the release of MTC's public land inventory and action plan, jurisdictions across government entities had not collected data about their public land inventory. Equity advocates should also push for the passage of a bill similar to AB 2065 to clarify important aspects of and loopholes within the Public Lands Act.[71] Public Advocates and the Non-Profit Housing Association of Northern California (NPH) have been working to clarify the definition of "surplus," the negotiations process with developers, the types of public entities subject to the Act, and minimum affordability levels, among other terms. Different jurisdictions are interpreting the Act differently, and it is vital that the state give a clear mandate to local jurisdictions about the use of their public land.

The state of California, the Bay Area, and our regional cities and counties must create and maintain full inventories of their public land. These inventories should:

• Include the zoning for and statuses of different sites (e.g. vacant, underutilized, in use, etc.), following the example of the 2018 MTC public lands study.

• Improve on MTC's model, with jurisdictions taking full account of their public land, and not limit inventories to developable parcels within a half mile of rail stations and select bus corridors.

• Post inventories online for public access and transparency.

Local jurisdictions must pass ordinances that affirm their commitment to developing permanent, deeply affordable housing on public land and clarify their disposition processes.

• Ordinances should be paired with easy-to-use systems that notify affordable housing developers, CLTs, cooperatives, and other eligible organizations about the availability of sites.

• Local jurisdictions should include public lands in their Housing Elements to encourage compliance with inventory requirements.[72] [73]

• Regional transportation dollars should be tied to community planning processes, developing affordable housing on public land, and other demonstrations of how a jurisdiction is utilizing public land for public benefit.[74]

While many local jurisdictions want to sell their public land to raise money for various projects, including the development of some affordable housing, that approach is short-sighted. Cities should use long-term, renewable ground leases to lease their public land rather than sell it. The Council of Community Housing Organizations (CCHO) advocates that all land stay in public control with long-term ground leases, with smaller housing sites (under 150 units) developed as 100% affordable and larger sites (more than 150 units) as at least 50% affordable and developed by a non-profit or cooperative entity with community accountability.[75]

These policy changes will help scale the development of affordable housing and other community benefits on public land. If properly enforced, the model included in local ordinances governing public land disposition will be the one that is brought to scale. As this process moves forward and various localities develop successful methods of notification, disposition, financing, and development, their proven local models can be replicated across the region. It is crucial that we expand our political imagination now, implement alternative models of development, and begin the process of decommodifying land.

COMMUNITY OPPORTUNITY TO PURCHASE

There are two primary obstacles to purchasing property in the Bay Area: inflated land values and the rapid rate at which sales occur. The median price for a single-family home in the Bay Area is nearly $1 million, and can reach as high as $1.6 million in cities like San Francisco.[76] The Bay Area also has the fastest turnaround for home sales nationwide, meaning that housing in this region spends the shortest amount of time on the market.[77] Buyers must act quickly, often in competition with cash offers well above the list price. Homes were sold within an average of 43 days in the San Francisco metro area in 2017; the national average is 81 days.[78]

These are average figures, however. In cities and neighborhoods with higher-than-average demand, a home may sell after only one week on the market.[79] The rapid rate of Bay Area home sales has resulted in bidding wars that privilege cash offers and put buyers who use conventional financing at a disadvantage.[80] These challenges place low- and moderate-income tenants, first-time homebuyers, and non-profits such as community land trusts at a severe disadvantage when trying to purchase property in the Bay Area.

To help level the playing field, cities can adopt a first-right-of-refusal policy modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA)[81] and implement an acquisition loan fund modeled

THE RAPID RATE OF BAY AREA HOME SALES HAS RESULTED IN BIDDING WARS THAT PRIVILEGE CASH OFFERS AND PUT BUYERS WHO USE CONVENTIONAL FINANCING AT A DISADVANTAGE.

after San Francisco's Small Sites Program (SSP).[82] These interventions could empower long-time and low-income residents to stay in their neighborhoods and preserve housing as permanently affordable, while helping organizations like CLTs overcome issues with funding, timing, and scalability.

Tenant Opportunity to Purchase, Washington D.C.

Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) requires owners of rental accommodations to give tenants the opportunity to purchase the property before the owner can sell the building on the market or issue a notice for tenants to vacate for purposes of discontinuance or demolition.[83] TOPA does this by creating legal rights for tenants and requiring reasonable timelines for the sale of property, all of which gives tenants and qualified affordable housing developers the first opportunity to purchase rental accommodations when the owner decides to sell.

Tenants may exercise their right to purchase the property on their own or assign or sell their rights to a third party.[84] TOPA also establishes timelines that slow down the sales process and give tenants enough time to organize, access technical and legal support, negotiate a contract of sale, secure financing, and close the deal.[85] The City has a hand in facilitating the financial, educational, and technical support for tenants to move through the TOPA process successfully.[86] TOPA is funded primarily through D.C.'s Housing Production Trust Fund.[87]

TOPA can function as a broad community stabilization policy. Studies show that TOPA was critical in preserving nearly 1,400 units of affordable housing between 2002 and 2013 in Washington D.C.[88] Many units preserved under the Act were in neighborhoods undergoing gentrification. The Act has allowed residents to stay in units that would have been converted to luxury rentals or market-rate condos, indicating that TOPA can be an effective tool in preventing the displacement of long-time residents and preserving affordable housing.[89]

SF CLT purchased this property in April 2016 with funding from the City's Small Sites Program, preventing the displacement of multiple generations of SOMA residents. Source: San Francisco Community Land Trust, 2016

Small Sites Program, San Francisco

The Small Sites Program (SSP) is a loan program that funds the acquisition and rehabilitation of existing residential buildings with five to 25 units.[90] SSP helps San Franciscans avoid displacement or eviction by removing small rent-controlled properties, which are often vulnerable to market pressures, from the speculative market and converting them to permanently affordable units.[91] SSP results in more permanently affordable housing, stabilized housing for current residents, improved physical conditions, and financial sustainability.[92] SSP's funding selection criteria achieve these goals by prioritizing projects located in neighborhoods in San Francisco experiencing high levels of Ellis Act evictions (the Ellis Act gives landlords the legal right to evict their

tenants if they are getting out of the rental business), and which house specifically-defined vulnerable populations.[93] The City initially funded SSP with $3 million in 2014.[94] As of September 2018, the City has allocated $102.5 million to SSP, which has in turn supported non-profits to acquire 27 buildings encompassing 189 units, with an additional 11 buildings and 134 units in the pipeline.[95]

Together, TOPA and SSP jointly confront displacement and preserve permanently affordable housing by facilitating the removal of properties from the speculative market and placing them into the hands of the community. In the Bay Area, Berkeley, Oakland, and San Francisco are already considering first-right-of-refusal policies and creating funds like the Small Sites Program.

COMMUNITY OPPORTUNITY
TO PURCHASE:

OPPORTUNITIES

A TOPA-like policy should be tenant-centered and rooted in the goals of preventing displacement and preserving permanently affordable housing. This means:

- The non-sellable right of first refusal must belong to tenants, but tenants can assign their right(s) to a qualified third party organization that is committed to permanent affordability.

- The timelines under a TOPA policy must give tenants enough time to organize, negotiate a contract, secure funding, and close a deal. We recommend starting with Washington, D.C.'s TOPA timelines and adjusting as necessary.

In order to truly preserve affordable housing, all housing accommodations purchased under TOPA and SSP should be subject to permanent affordability restrictions for current and future residents.

- Permanent affordability restrictions should include limitations on rents (e.g. building average rents not to exceed 70% AMI rent), as well as limitations on the resale of the whole building or separate ownership interests.

- To determine a fair initial sales price, those who purchase under TOPA should have the right to an appraisal of the property by an independent, qualified appraiser to set the sales price.

SSP should prioritize funding the purchase of buildings in neighborhoods with a high risk of displacement and buildings that house vulnerable populations with the lowest incomes. SSP guidelines should require purchasers to adopt an affordability standard that sets rent to the lowest amount possible while ensuring the financial stability of the project. SSP should also provide greater subsidies for buildings with lower-income residents and ensure the timely availability of funds to make purchases possible under tight timelines.

TOPA should also guard against legal challenges and ensure that the right of first refusal is not circumvented through loopholes. For example, we can draw one lesson from D.C.: The definition of a "sale" under TOPA should include a broad array of transfers of ownership and/or control that may not appear as conventional sales, such as a transfer of the property in intervals.[96] Instead, "sale" could be defined broadly to include any sort of transfer that transfers both ownership and control of the property from one group of people to another.[97]

Finally, cities considering adopting a TOPA-like policy or SSP must work with community-based organizations to create the infrastructure to support their implementation and success. This support includes:

- Education so that tenants fully understand their rights and obligations under TOPA.

- Financial resources to support the purchase and rehabilitation of buildings.

- Legal and technical assistance to support tenants through the TOPA process.

SOCIAL HOUSING

TOPA, SSP, CLTs, and PRECs represent relatively small-scale policy interventions to move specific properties into tenant and community ownership. While these programs certainly can and should be scaled to the levels of state and even federal government, they still represent a somewhat piecemeal approach to a systemic problem. We are at a moment when we are encouraged to think even bigger and push for transformative housing policies as alternatives to private, market-based approaches. To this end, it is fitting that we close this report by examining social housing.

Broadly, we define social housing as a system in which housing provides security for residents and is not owned and operated for the purpose of making a profit. It differs from the U.S. understanding of public housing in that it requires major and consistent government intervention to provide high-quality and stable housing to residents across income brackets. Social housing, furthermore, is universal rather than means-tested. The models we highlight in this report fit into this system as specific types, but the scale of social housing is much larger and requires significant government support.

Examples of social housing types include the direct provision of housing, in the form of federally funded public housing projects, mutual housing associations, and resale-restricted homeownership programs. Local governments can also help subsidize publicly financed non-profit housing, such as resident-controlled limited-equity cooperatives, deed-restricted housing held by community land trusts, and non-profit-developed affordable housing.[98] As Jeff Levin from East Bay Housing Organizations notes, it is helpful to understand social housing on a continuum along several axes: a range of ownership types, all non-commodified; a range of control that looks at both resident participation in management and community participation in siting, design, and development; and a range of financing that makes housing more or less dependent on public, social, or private capital funds and at times private capital markets.[99]

Public housing is the best known and least understood form of social ownership in the United States. California currently has 219 public housing developments, comprising more than 37,000 units.[100] Public housing was first created as part of President Franklin D. Roosevelt's New Deal programs during the Great Depression. The Housing Act of 1937 allowed the federal government to provide financial assistance to state and local governments to provide decent, safe, and sanitary housing for low-income families, and for economic stimulation.[101] This resulted in the low-cost construction of 170,000 low-rent units between 1937-1941. Tenants in this new housing typically paid no more than one-third of their income on housing costs, subject to rent adjustments as incomes changed.[102]

It is essential, however, to note the racialized history of public and private housing in this country. Historian Richard Rothstein refers to this history in his book, *The Color of Law*, as a "state-sponsored system of segregation."[103] Public housing was envisioned as a short-term stepping stone for working-class white families to transition into middle-class home ownership. The Federal Housing Administration (FHA), created in 1934, subsidized mortgages for white middle- and lower-middle-class families to move into exclusionary suburbs. Once public housing buildings became majority-Black, the government did not adequately

BROADLY, WE DEFINE SOCIAL HOUSING AS A SYSTEM IN WHICH HOUSING PROVIDES SECURITY FOR RESIDENTS AND IS NOT OWNED AND OPERATED FOR THE PURPOSE OF MAKING A PROFIT.

Alt-Erlaa social housing complex in Vienna, Austria, which includes more than 3,000 family-sized units, two clinics, three schools, two daycare centers, recreational gyms, a shopping center, a church, and its own rail station. Source: Rafael Wiedenmeier, Getty Images, 2018

invest in their operations and maintenance, allowing them to fall into severe disrepair.[104] At the same time, the FHA refused to insure mortgages in and near Black neighborhoods—a practice known as redlining—which effectively trapped Black residents between racist public and private housing options. Racial covenants also restricted the reselling of private homes to Black, Latinx, and Asian families, preventing them from living in integrated and better-resourced neighborhoods. These laws significantly limited upward mobility and exacerbated the wealth gap between white and non-white families for decades to come.

Today, low-income people of color remain in disconnected areas, a direct result of past plans and practices. Systemic disinvestment, mismanagement, evictions, free-market pressures, and the outright demolition of public housing units to make way for private housing all conspire to make public housing scarce.[105] However, social housing models that center on racial equity, deep affordability, land stewardship, and community control are possible in the United States.

Social Housing in Vienna

The Viennese model of affordable housing proves that a country's social and political framework can successfully drive a long-term project in which the government houses a majority of its population and no one is left unhoused. Austria's capital city of Vienna began its social housing program during a period of social democracy in the 1920s known as "Red Vienna." In this period, the city government built 61,175 housing units, and Vienna's Social Democrats introduced a wave of reforms for the working class, including progressive taxes (such as

a luxury tax for the wealthiest citizens), universal public education, and government-sponsored healthcare.[106] This winning housing strategy relied on strengthening and unifying local labor movements, so that workers, tenants, and policymakers could take state power and execute their people-centered social agenda. Social housing remains a municipal priority for the city and the region.[107]

The scalability, feasibility, and financing of social housing varies from place to place. In Vienna, for example, where more than 60% of residents live in houses owned, built, or managed by their local municipality or state-aided limited-profit housing, regardless of their class and income. The government uses a land banking strategy to retain its public land and to continuously pull public and private land out of the speculative market for affordable housing development. Initial financing is done through a blend of public loans at very low interest rates to cover construction and land costs.[108] The remaining portion is financed through low-interest bank loans subsidized through government tax incentives and a quasi-loan paid for by prospective tenants who can pay it.[109]

In many international contexts, social housing is not means-tested, in contrast to public housing in the United States. This means that most people can benefit regardless of their income. Social housing is often built in close proximity to community amenities such as public transportation and schools. Housing is priced so that families have enough money remaining for education, mass transit, groceries, recreation, and leisure, all of which support local economies. People are less likely to be uprooted or disrupted by the fear of displacement, which, in turn, can increase civic engagement and social cohesion among neighbors. Social housing is also shown to increase the physical and mental wellness associated with housing stability.[110]

National and local governments play an active role in managing social housing. Typically, social housing is either regulated by rent stabilization to control for yearly price inflation; rent payments are directly tied to household incomes; or rents are limited by a set formula based on changes in the Area Median Income. Jurisdictions also incentivize the upkeep of homes and encourage attractive and high-quality design innovations by offering subsidies through a competitive bidding process (thereby not substituting quality for quantity).

While these social programs have been successful on the whole, they are not without their drawbacks. Journalist Anna Bergren Miller points out that a city's high quality of life, increased by the availability of affordable housing, attracts additional residents. This can lead to housing stock pressures and challenges with gentrification and displacement, with public-private partnerships starting to fill the supply gap.[111] Some also argue that well-known cases of social housing tend to be top-down and offer minimal citizen participation opportunities to engage social housing tenants.[112] Despite this, these alternatives offer a universalist approach that we can learn from, especially in the United States, where there is a lack of education about socialized housing, and public housing is highly stigmatized.

SOCIAL HOUSING:

OPPORTUNITIES

Under the current housing system, housing is a private good that rewards property owners.[113] If we are to create a transformative vision for a large-scale social housing program, it must be predicated on the understanding that land is a public resource to be utilized for its productive value of providing shelter. Social housing represents a way to integrate community efforts here in the Bay Area, around the state, and around the nation into a comprehensive strategic framework to truly address our need for permanent homes for all.

Social housing could potentially materialize housing justice at a significant scale. Governments, from the federal to local levels, must make a political and financial commitment to large-scale public investments that guarantee the right to housing. States can use financing tools like low-risk government bonds, capital grants, direct operating subsidies, welfare assistance, and low-interest bank loans issued to municipal agencies to acquire, rehabilitate, construct, and purchase properties.

Cities can also support progressive taxes such as an anti-speculation tax, a vacancy parcel tax, and a corporate head tax paid by high-earning companies, with collected funds going into a social housing and anti-displacement fund that can help with building upkeep, tenant education services, and small site acquisitions to preserve additional affordable units. Cities should build tenant protections like rent stabilization, just cause for eviction, right to legal counsel, one-to-one replacement, and relocation assistance into social housing programs. Additionally, any new social housing production strategy must take direction from residents living at the intersection of income inequality and housing insecurity. They can best articulate the challenges they confront, and they know which solutions will best address their needs.

Different forms of social housing should also be zoned for and located in all neighborhood types—urban, suburban, high-income, opportunity-rich, and historically disinvested areas—to curb regional exclusion and facilitate the growth of mixed-income communities. As previously mentioned in this report, cities should make public land available at little or no cost for below-market rate, non-speculative, tenant-controlled, and permanently deeded housing developments and other community uses. This can lead to cost savings in the broader community in the form of an overall stable rental market. [114]

CONCLUSION

We must radically rethink our relation to land and shelter in this country, moving towards a model where housing is seen as a decommodified public good that is available to everyone.

Our report highlights how community organizations, advocates, and policymakers are sharing strategies to challenge supply-side arguments that we can build our way out of the crisis, and to create solutions that imagine a new system based on the right to housing.

Many governments across the world have made a political commitment to ensure that their populations are adequately housed across age, ability, income, gender, and racial spectrums. We believe this region can facilitate universal social housing that is non-speculative, affordable, safe and healthy, and that benefits no-income, low-income, middle-income,

and special needs populations (e.g. undocumented individuals; seniors; people with disabilities; formerly incarcerated people; queer, transgender, and gender non-conforming people; unhoused people; and sex workers among others).

Making real progress towards alternatives to the for-profit market requires building movements for the right to remain in our communities and to shape how they develop. We hope that this report contributes to the hard and necessary work of building a more just Bay Area.

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"REVOLUTION IS BASED ON LAND. LAND IS THE BASIS OF ALL INDEPENDENCE. LAND IS THE BASIS OF FREEDOM, JUSTICE, AND EQUALITY."

— *Malcolm X, A Message to the Grassroots, November 10, 1963*