

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannan Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



July 15, 2025

Zachary Dahl, Director of Community Development
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403

Dear Zachary Dahl:

RE: City of San Mateo, Relocation and Right of First Refusal – Letter of Technical Assistance

The purpose of this letter is for the California Department of Housing and Community Development (HCD) to provide technical assistance to the City of San Mateo (City) regarding implementation of the relocation and right of first refusal requirements in the Housing Crisis Act's (HCA) provisions regarding demolition of housing units.¹

Background

The HCA's provisions regarding demolition of housing units include the following two types of requirements regarding protected units:

1. Replacement of protected units.²
2. Requirements for benefits that must be provided to any existing occupants of any protected units that are lower-income households, specifically, relocation benefits and a right of first refusal for a comparable unit affordable to the household.³

Protected units include:

1. Units that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years,
2. Units that are or were subject to any form of rent or price control within the past five years,
3. Units that are or were rented by lower- or very low-income households within the past five years, and

¹ Gov. Code, §§ 66300.5, 66300.6.

² Gov. Code, § 66300.6, subd. (b)(1).

³ Gov. Code, § 66300.6, subd. (b)(4).

4. Units that were withdrawn from rent or lease in accordance with the Ellis Act within the past ten years.⁴

The City reached out to HCD to request technical assistance with two questions:

Question 1: What documentation should the City require from project applicants regarding the income of existing occupants?

The statute does not include specific documentation requirements. However, a common practice⁵ is for jurisdictions to require both of the following types of documentation from applicants:

1. A signed affidavit from the applicant stating whether there are any protected units on the project site and of what type, and affirming that any lower-income residents of those protected units have been offered the required benefits.
2. Signed affidavits from each tenant, including their household size and income.

HCD recommends the City consider the following principles when designing any tenant-facing documentation to make it more likely that tenants will provide the needed information:

- Clearly explain at the beginning of the form that tenants may be entitled to certain benefits.
- Put the forms on City letterhead.
- Include the name and phone number of a contact at the City who the tenant can call with any questions.
- Include options for language access for households for whom English is not their primary language.
- Allow tenants who are not lower-income households to simply affirm that they are not lower-income (rather than requiring them to provide income information).

Question 2: What action should the City take if the applicant states that they are unable to obtain income information for existing occupants?

The replacement unit requirements of the HCA provide direction for how the number of required replacement units should be calculated if tenant incomes are unknown.⁶ Specifically, if incomes are unknown, “it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most

⁴ Gov. Code, § 66300.5, subd. (h).

⁵ See for example the City of Carlsbad’s forms for applicants (P-38) and tenants (P-38B), available at <https://www.carlsbadca.gov/departments/community-development/permit-center/applications-and-forms/planning-submittals-forms>, and the City of San Francisco’s forms, available at <https://sfplanning.org/resource/unit-replacement-and-relocation-affidavit-sb-330>.

⁶ Gov. Code, §§ 66300.5, subd. (i)(1); 65915, subd. (c)(3)(B).

recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database."⁷

However, while the rebuttable presumption approach is useful in the context of *replacement* of protected units, it is unhelpful in the context of determining the incomes of existing occupants who may represent lower-income households and be eligible for *relocation* and *right of first refusal* benefits. By definition, those benefits are only provided to households that meet the specified income criteria.

Unfortunately, the statute does not provide direction for what action a local government should take regarding those benefits if the applicant states that they are unable to obtain income information for existing occupants. In such a scenario, HCD encourages the City to consider the following strategies:

A. Adopt an ordinance that would create a local procedure to address this situation.

The HCA authorizes local governments to do so, stating, "This section shall not supersede any objective provision of a locally adopted ordinance that places restrictions on the demolition of residential dwelling units or the subdivision of residential rental units that are more protective of lower income households, requires the provision of a greater number of units affordable to lower income households, or that requires greater relocation assistance to displaced households."⁸

This provision gives jurisdictions the flexibility to adopt ordinances that include more specific provisions regarding obtaining income information for existing occupants, if those provisions are more protective of lower-income households than state law.

B. Allow applicants to collect income information later in the approval process.

The City noted that some applicants state that they have difficulty reaching out to existing occupants because they do not yet own the property, and the current property owner would not provide the applicant with access to the property.

The HCA states that "an affected city... shall not approve a development project that will require the demolition of occupied or vacant protected units... unless all of the following requirements are satisfied: ...

(4) The developer agrees to provide both of the following to the existing occupants of any protected units that are lower income households:

(A) Relocation benefits...

(B) A right of first refusal for a comparable unit..."⁹

⁷ Gov. Code, § 65915, subd. (c)(3)(B)(i).

⁸ Gov. Code, § 66300.6, subd. (c).

⁹ Gov. Code, § 66300.6, subd. (b).

Technically, at the time of approval, the applicant must only “agree to provide” the required benefits; the benefits do not actually need to be provided at that time. This gives jurisdictions some flexibility regarding when in the development process the applicant must provide income information for existing occupants.

For example, the City could adopt a policy of addressing relocation benefits as a condition of approval (for example, including a condition of approval that the applicant must provide the required relocation benefits before a demolition permit is issued) rather than requiring the applicant to provide relocation benefits before the land use entitlement is issued. Doing so would give the applicant more time to obtain the information, which would reduce permit processing times.

HCD understands that current occupants are sometimes hesitant to work with applicants, causing the applicants to need to make multiple attempts over a series of weeks or months to obtain the necessary information. However, the City may not, under any circumstances, pursue an approach that would deny the affected persons the relocation benefits to which they are entitled.

C. Require evidence of due diligence by the applicant in collecting income information.

The HCA requires applicants to provide “relocation benefits that are equivalent to the relocation benefits required to be paid by public entities pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 and any implementing regulations.”¹⁰ Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 is known as the Relocation Assistance Act.

The HCA only requires applicants to provide equivalent relocation benefits to those required to be paid under the Relocation Assistance Act (i.e., the applicant is not required to comply with all provisions of the Act and its implementing regulations). However, the implementing regulations for the Relocation Assistance Act contain a helpful list of best practices regarding due diligence with respect to outreach to existing occupants, including:

1. Conducting personal interviews and maintaining personal contacts with occupants of the property¹¹;
2. Utilizing meetings, newsletters, and other mechanisms, including local media available to all persons, for keeping occupants of the property informed¹²; and
3. Arranging to have the material either hand-delivered to each occupant of the property with a request for a written receipt, or sent by certified mail, return receipt requested.¹³

¹⁰ Gov. Code, § 66300.6, subd. (b)(4)(A).

¹¹ Cal. Code Regs., tit. 25, § 6046, subd. (a)(2).

¹² Cal. Code Regs., tit. 25, § 6046, subd. (a)(3).

¹³ Cal. Code Regs., tit. 25, § 6046, subd. (c).

D. Require a signed affidavit from the applicant.

As part of the signed affidavit from the applicant discussed above under Question 1, the City could allow the applicant to confirm that they were unable to obtain income information for some or all existing occupants even after significant due diligence.

E. Assist the applicant with outreach to existing occupants.

Finally, if an applicant states that they are unable to obtain tenant incomes, the City has the option to assist with outreach to existing occupants. This service could be performed by qualified City staff or contracted professionals with experience working with lower-income communities, including those that include racial or ethnic minorities, people with limited English language proficiency, and/or persons with disabilities. Doing so may also constitute an action by the City to Affirmatively Further Fair Housing (AFFH) and may help the City implement its Fair Housing Action Plan (Housing Element section 6.3.2¹⁴).

Conclusion

HCD commends the City's desire to fully comply with the HCA's provisions regarding the demolition of housing units and hopes this technical assistance is helpful. If you have any questions regarding the content of this letter or need additional technical assistance, please contact Stephanie Reyes at Stephanie.Reyes@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal flourish extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

cc: Sung Kwon, Deputy Director
Steve Golden, Principal Planner
Rachel Horst, Housing & Neighborhood Services Manager
Van Diggans, Housing Specialist

¹⁴ San Mateo Housing Element 2023-2031, available at <https://www.cityofsanmateo.org/4478/Housing-Element-2023-2031>.