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## Leveraging the **Housing Element** to Advance Rent Control & Just Cause

Millions of people in California urgently need Rent Control and Just Cause to protect them from arbitrary evictions, predatory rent hikes, and landlord harassment. A stable and safe home is crucial for renters and the communities where they live to thrive and prosper. The Housing Element process is an opportunity to ensure renters of all backgrounds can continue to call the Bay Area home.

Each Housing Element must contain a program of actions committing the jurisdiction to concrete actions necessary to meet their housing needs for people of all income levels. Given the urgent and systematic crisis facing renters in all corners of the region, Housing Elements should include commitments to passing (or strengthening) Rent Control and Just Cause protections. This is an introduction to how advocates can advance Rent Control and Just Cause through the Housing Element process.

**Rent Control** policies limit how much a landlord can raise the rent on an existing tenant each year. **Just Cause** for Eviction policies prohibit landlords from evicting tenants without a specific reason, such as nonpayment of rent. It is essential to pair Rent Control with Just Cause to prevent landlords from evicting tenants in order to raise rents or from raising rents so much that tenants are forced to leave.

Together, Rent Control and Just Cause are an essential cornerstone of protecting renters from displacement, harassment, and uninhabitable living conditions — all of which the Housing Element must address. Unaffordable rent hikes and no-cause evictions disproportionately impact protected classes; these are fair housing issues that are causing displacement. Rent Control and Just Cause protections have [existed in select cities](#) across the country for many decades and have a strong track record of success.

Local Rent Control and Just Cause protections are essential, even though the State of California provides some protections for many renters. The statewide Rent Cap limits massive annual rent increases, which can help prevent rent hikes that force renters out overnight, but it is not Rent Control, which ensures that rents do not rise faster than inflation and can provide long-term stability. Statewide Just Cause protections fail to protect tenants from arbitrary evictions in the first year of their tenancy, and tenants who rent certain types of homes (like duplexes where the landlord lives in one of the units) are not covered.<sup>1</sup> But local governments have clear authority to pass Rent Control and Just Cause ordinances that are more protective than state law.<sup>2</sup> This [PowerPoint by Alliance of Californians for Community Empowerment \(ACCE\) Action](#) is a helpful resource and advocacy tool that can be adapted for your city or county – explaining the difference between the state Rent Cap and Rent Control and identifying the limits of statewide Just Cause that can be filled by local Just Cause policies.

Community members can leverage multiple legal

requirements in the Housing Element process to advocate for Rent Control and Just Cause. For example, when the jurisdiction is conducting the required assessment of housing needs, community members can advocate for a robust analysis of the needs of renters, including the numbers and demographics of renters who are forced to pay more than they can afford for rent, trends in the displacement of renters over time, evidence of landlord harassment, and other issues facing renters. When the jurisdiction is developing the required program of actions, community members can press their jurisdiction to commit to passing Rent Control and Just Cause to preserve existing non-subsidized affordable housing stock and affirmatively further fair housing. Throughout the process, public participation requirements provide a pathway for community members to advocate for strong engagement of renters and low-income people, so that those on the front lines can identify Rent Control and Just Cause as community priorities.

An action program committing the community to adopt Rent Control and Just Cause should contain as many specifics about the strength of the ordinance as possible. For example, strong rent control ordinances will include formulas that ensure the annual rent increases are as low as legally possible; apply to mobile homes; and provide for relocation benefits. Just Cause policies should avoid abuses of owner move-ins, “Ellis Act” evictions, and “renovictions.” There is a vast knowledge about the important components of strong and effective rent control among tenant advocates and lawyers. Make sure you consult with them.

## **Rent Control & Just Cause Address Unmet Needs of Low-Income Households**

The Housing Element is grounded in an assessment of the community’s current and projected housing needs.<sup>3</sup> Everything else in the Housing Element — including the goals, objectives, and programs — flows from this needs assessment. The assessment must separately examine the

housing needs of all economic segments of the community, including extremely low income households, as well as the needs of vulnerable residents such as people with disabilities, farm-workers, female headed households, and those currently unhoused.<sup>4</sup> The analysis should include issues such as the amount people are paying for housing compared to their ability to pay, overcrowding, and substandard living conditions or disrepair.<sup>5</sup>

Community members can leverage the housing needs assessment to bring to light a realistic and nuanced view of the housing needs of lower income households, renters, and other key constituencies instead of merely a recitation of Census data. A legally adequate assessment of housing needs should identify that lower-income people, as well as many vulnerable populations, are disproportionately likely to rent rather than own their homes – and it should dig deeply into what causes those patterns and the specific needs of renters. For example, a legally adequate assessment of housing needs should examine how the dramatic increase in rents over the past ten years, combined with stagnating wages for lower-paid workers has increased overpayment for housing, led to overcrowding, driven displacement, and made it more difficult for low-income people to find homes in the community. The analysis should also consider “[jobs-housing fit](#)” – the number of low-wage jobs in the jurisdiction compared to the number of homes affordable to low-wage earners, which is woefully inadequate almost everywhere in the Bay Area.

Because Housing Element law requires jurisdictions to develop a plan to address these needs, it is important for advocates to press their city or county to do a thorough housing needs analysis — including a focus on the particular issues facing renters – as a way to ground advocacy for a strong Housing Element action plan that includes passing or strengthening Rent Control and Just Cause policies to reduce overpayment, unjust evictions, and displacement.

## **Rent Control and Just Cause Preserve the Affordability of Existing Non-Subsidized Affordable Housing**

Housing Elements must contain a program that addresses the conservation of existing affordable housing stock in the community.<sup>6</sup> Cases interpret this requirement in Housing Element law to include action programs that preserve all housing that is already affordable to lower and moderate income households, not just housing that is currently subsidized or has restricted rents. Rent Control and Just Cause are essential tools to accomplish that objective. Community members can advocate for jurisdictions to commit to passing Rent Control and Just Cause in the program of actions in order to meet the requirement to preserve existing non-subsidized affordable housing stock and maintain the affordability of that housing.

## **Rent Control and Just Cause Affirmatively Further Fair Housing (AFFH)**

Affirmatively Furthering Fair Housing (“AFFH”) is a legal requirement that government bodies take active steps to remedy disparities in housing need, access to opportunity, and segregation based on protected characteristics.<sup>7</sup> Protected characteristics under California law include race, immigration status, disability, and many other identities.

The program of actions in the Housing Element must include an Assessment of Fair Housing which analyzes the housing needs of members of protected groups and housing inequality, and which identifies and prioritizes concrete actions to remedy these injustices.<sup>8</sup> Since a majority of Black, Latinx, and many other communities of color, immigrant communities, and people with disabilities are renters, the assessment and action plan should focus on the needs of renters and renter protections.

Community members can press jurisdictions to identify **fair housing issues** that relate to Rent

Control and Just Cause such as: the percentage of renters who belong to protected groups locally and regionally; the percentage of each protected class who rent their homes; trends of overpayment, overcrowding, substandard conditions, and other characteristics of housing insecurity faced by renters; or displacement trends and displacement risk for members of protected groups. Even in the absence of census data or statistical evidence, jurisdictions must include in their analysis **local data and knowledge**, including narrative descriptions of lived experiences. Community members can advocate for jurisdictions to identify and include in the AFH the most important **contributing factors** to the issues facing renters in protected groups that are documented, including unaffordable rent hikes, no-cause evictions, landlord harassment, and discrimination in the rental housing market.

In developing policies and programs to respond to documented fair housing issues, cities and counties must **prioritize** the issues that emerge from their analysis. Advocates should press to make sure that renter issues are at the top of the list of barriers to fair housing that their Housing Element must address. The most effective ways to remedy these fair housing issues is through adoption and/or expansion of renter protections — especially Rent Control and Just Cause policies.<sup>9</sup> To meet legal requirements, such Housing Element policies and programs should include specific commitments, timelines, and responsible government parties that will ensure that the identified policies and programs have an impact within the 8-year Housing Element period (i.e. policies to be adopted within 1-2 years).<sup>10</sup>

### **Cities must Engage Renters & Low-Income People in the Housing Element Process**

Local jurisdictions must make a “diligent effort [...] to achieve public participation of all economic segments of the community in the development of the housing element.”<sup>11</sup> For jurisdictions to meaningfully engage with all economic segments of the community during

the Housing Element process, cities and counties must make intentional, proactive, and robust efforts to solicit and incorporate input from low-income people, many or most of whom are renters. Jurisdictions must also specifically include members of protected groups, such as people of color, immigrants, people with disabilities, and others who often face barriers to being heard in public decision making.

Community members can use these requirements to fight for robust engagement of renters and low-income people in the Housing Element process. Low-income residents and members of protected groups are more likely to be tenants<sup>12</sup> who face the most pressing challenges that would be addressed by Rent Control and Just Cause policies. Integrating their voices and perspectives in the Housing Element process is both a legal requirement and an important pathway to ensuring robust policies to address the needs of renters.

### **Resource List for Rent Control and Just Cause Advocacy**

Tenants Together, [Communities Thrive with Rent Control: A Guide for California Cities](#) (2017).

PolicyLink, Center for Popular Democracy, The Right to the City Alliance, [Our Homes, Our Future: How Rent Control Can Build Stable Healthy Communities](#) (2019).

### **Credits**

This toolkit reflects the work of a Bay Area Housing Element advocacy working group that includes (in alphabetical order): East Bay Housing Organizations, Enterprise Community Partners, GENESIS, Greenbelt Alliance, The Housing Leadership Council of San Mateo County, The Law Foundation of Silicon Valley, The Nonprofit Housing Association of Northern California, Public Advocates, Public Interest Law Project, RichmondLAND, Urban Habitat, and Working Partnerships USA.

## Endnotes

- 1 See Civ. Code §§ 1947.12(a)(1), (d), 1946.2(a), (e).
- 2 Civ. Code §§ 1947.12(m), 1946.2(g).
- 3 Gov. Code § 65583(a).
- 4 Gov. Code §§ 65583(a)(1), (7).
- 5 Gov. Code § 65583(a)(2).
- 6 Gov. Code § 65583(c)(4)
- 7 Gov. Code §§ 65583(c)(5), 8899.50(a)(1).
- 8 Gov. Code § 65583(c)(10)(A).
- 9 Housing element law explicitly states that protecting residents from displacement may be a strategy to implement fair housing priorities and goals. Gov. Code § 65583(c)(10)(A)(v).
- 10 Gov. Code § 65583(c)(10)(A)(v); Gov. Code § 65583(c).
- 11 Gov. Code § 65583(c)(9).
- 12 Drew DeSilver, [As national eviction ban expires, a look at who rents and who owns in the U.S.](#), Pew Research Center, (Aug. 2, 2021) (“U.S. renters tend to earn less, have less wealth than homeowners”).