



City Council Public Hearing
November 16, 2021

East Palo Alto Opportunity to Purchase Act

Recommendation

1. Waive the first reading and introduce an Ordinance titled "East Palo Alto Opportunity to Purchase Act" ("EPA OPA"), adding Chapter 14.26 to the East Palo Alto Municipal Code.
1. Find that the adoption by the City Council of the amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.

What is an East Palo Alto Opportunity to Purchase Act?

The proposed Ordinance applies:

- **Tenant Opportunity to Purchase Act (TOPA)** on all non-owner-occupied, single-family (1-unit) dwellings with tenants (with tiered rights for QNPs and the City if tenants do not express interest in purchasing);
- **Community Opportunity to Purchase Act (COPA)** on all non-owner-occupied, single-family (1-unit) dwellings without tenants (with a tiered right for the City if QNPs do not express interest in purchasing); and
- **COPA** on all multi-family (2+ unit) dwellings (with a tiered right for the City if QNPs do not express interest in purchasing).

Background

Oct
2018

June
2019

Fall
2019

Oct
2021

- **October 2018** – goal to “Advance the Concept of TOPA/COPA and Other Homeownership Opportunities” proposed in City’s Affordable Housing Strategy. It was adopted as a City Council priority for 2021.
- **June 2019** - City of East Palo Alto applied for Partnership for the Bay’s Future Challenge Grant for housing protection and preservation, with community partners EPACANDO, PAHALI, YUCA and CLSEPA.
- **Fall 2019** – City of East Palo Alto selected as 1 of 7 Challenge Grant recipients and assigned a Fellow. Challenge Grant goal includes:
 - (3) designing and supporting the passage of a local preservation ordinance – a Tenant Opportunity to Purchase Act/Community Opportunity to Purchase Act (“TOPA/COPA policy”)
- **October 5, 2021** – City Council provided feedback at regular meeting on TOPA/COPA Policy

Community Outreach - Recap



9 Affinity Group Meetings (July-August 2021)

Meetings to present information on potential TOPA/COPA as anti-displacement tool and role of and Community Land Trust (CLT). Collected community input on key aspects of the policy and answered questions.

Total participants: 67

- 93% identify as people of color (36% Latinx, 24% Black/African American, and 22% Pacific Islander)
- 30% homeowners
- 70% renters
- Ages ranging from youth to community elders

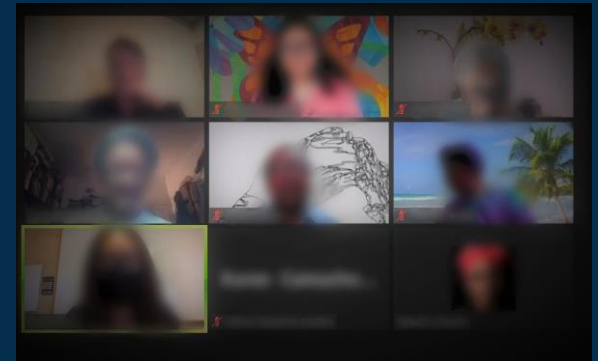
2 Focus Group Meetings (Aug-Sept 2021)

Meetings with community members from affinity group meetings interested in more in-depth information and input on potential TOPA/COPA policy.

Total participants: 19

- August 2021
 - 1/3 homeowners; 2/3 tenants
 - 58% identify as Latinx, 17% Black/African American, 17% White and 8% Pacific Islander
- September 2021
 - 100% homeowners; 25% are also landlords, and 13% are also real estate agents
 - 57% identify as Native Hawaiian/Pacific Islander and 43% as Black/African American

East Palo Alto Affinity Groups
Anamantangi Polynesian Voices
East Palo Alto Council of Tenants
El Comité del Lado Oeste
Envision-Transform-Build (ETB-EPA)
Nairobi Steering Committee
Nuestra Casa's Constituents
Rotary Club of East Bayshore
Tenant Advisory Body
Youth United for Community Action



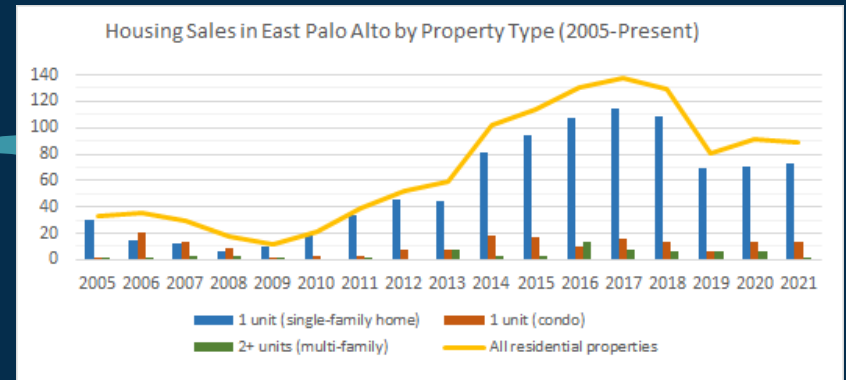
City Council Feedback Received at Oct 5, 2021 Meeting

Element	Direction
Type of Policy	Keep tiered or “waterfall” of rights from tenants, QNPs to City.
Staffing & Admin Implementation	Concerns about administrative costs and staffing capacity for policy implementation.
Affordability Requirements	Use City’s Inclusionary Housing policy for guidance on income limits. Resale formula should create limited equity opportunity and permanent affordability. Goal is to stabilize tenancies.
Qualified Nonprofit Criteria	Keep staff’s recommended language in the Administrative Guidelines. Incentivize QNPs to provide affordable homeownership opportunities for tenants and youth. Concerns about proliferation of nonprofit ownership and reduction in property tax revenues due to welfare tax exemption.
Incentive	Take transfer tax reimbursement off the table because it is controlled by the County. Put a viable source for incentives.
Appraisal	Create “two-way street” appraisal to ensure the property Owner receives fair and reasonable offer, and the Potential Eligible Purchaser receives a bona fide Offer to Purchase.
Applicability	Investigate applicability on foreclosures. Research number of residential properties and units sold each year, and potential administrative burden if policy applies to all residential properties.
Other	Conduct outreach, raise awareness about the Ordinance and enable tenants to organize and make purchase. Find different pots of funding. Address problem of speculator calls to homeowners.

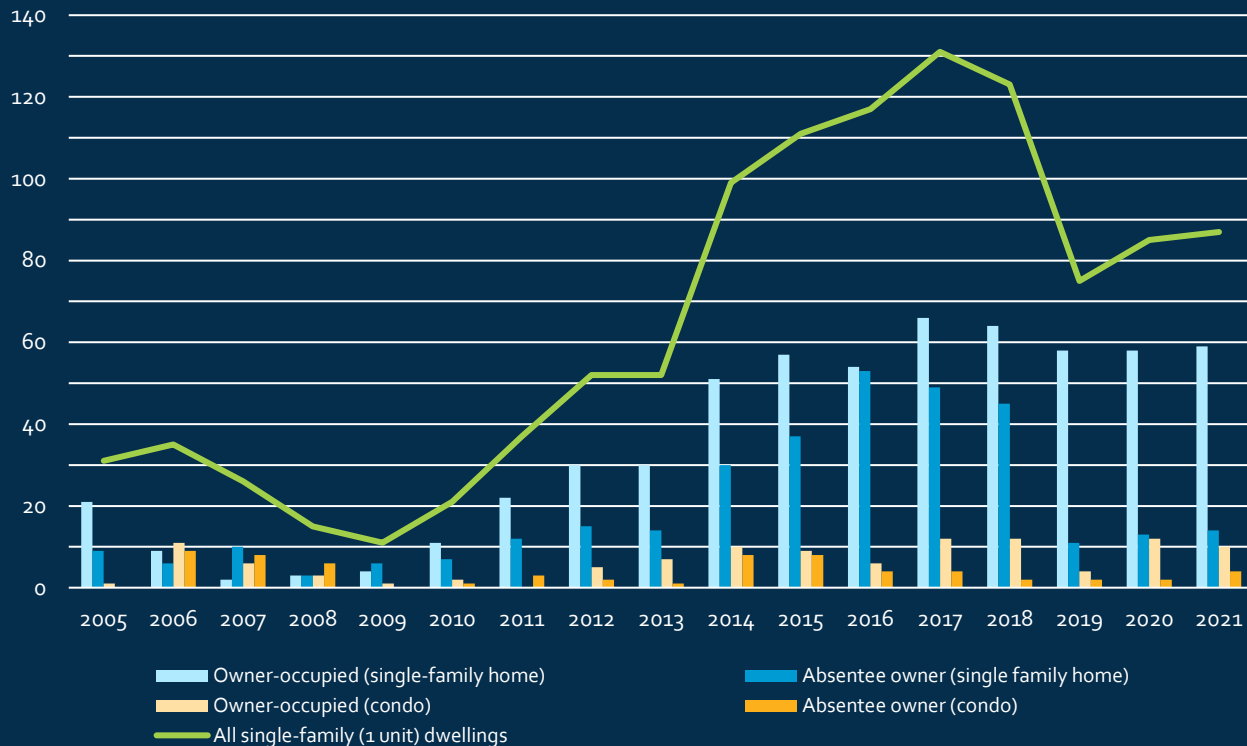
Incorporation of City Council Feedback & Other Ordinance Elements

Element	Ordinance
Applicability	Among other things, it exempts: <ul style="list-style-type: none"> • Owner-occupied single-family dwellings. • Transfers between spouses, domestic partners, parents and children, siblings, and/or grandparents and grandchildren • Foreclosures due to state law. SB 1079 and FIHPP can help homeowners. • Emergency health situations.
Administrative Costs	City's role narrowed down. Program administration will be absorbed by existing staff. Anticipated smaller volume of transactions due to smaller housing stock.
Income Levels/ Affordability Requirements	For tenant purchases, only when using public funds or nonprofit assistance; permanent affordability requirement for QNP and City purchases. Using City's Inclusionary Housing policy for guidance on income limits (rental and ownership).
Qualified Nonprofit Criteria	Criteria broadly written in ordinance, allowing City Council to provide guidance and direction in Administrative Guidelines. Concern about potential loss in City's property tax revenue due to Property Tax Welfare Exemption addressed in staff report.
Incentive	None
Appraisal	"Two-way street" appraisal established in Ordinance through policy process.
Enforcement	Owner certifies compliance with San Mateo County Recorder's Office and files a copy with City. City Attorney and/or any Potential Eligible Purchaser may bring civil action and seek remedies.
Timeline	100 – 280 days
Implementation	Proposed effective date of July 1, 2022.

Applicability



Single-Family Dwelling Sales in East Palo Alto (2005-Present)



Summary

The proposed Ordinance:

1. Creates a tiered structure of rights based on property type;
2. Applies to non-owner-occupied single-family dwellings and all multi-family dwellings;
3. Was informed by community feedback from homeowners, landlords, tenants, and City Council feedback.

Next Steps



- City Council adopt ordinance by end of 2021



- Staff work on guidelines and funding source in early 2022

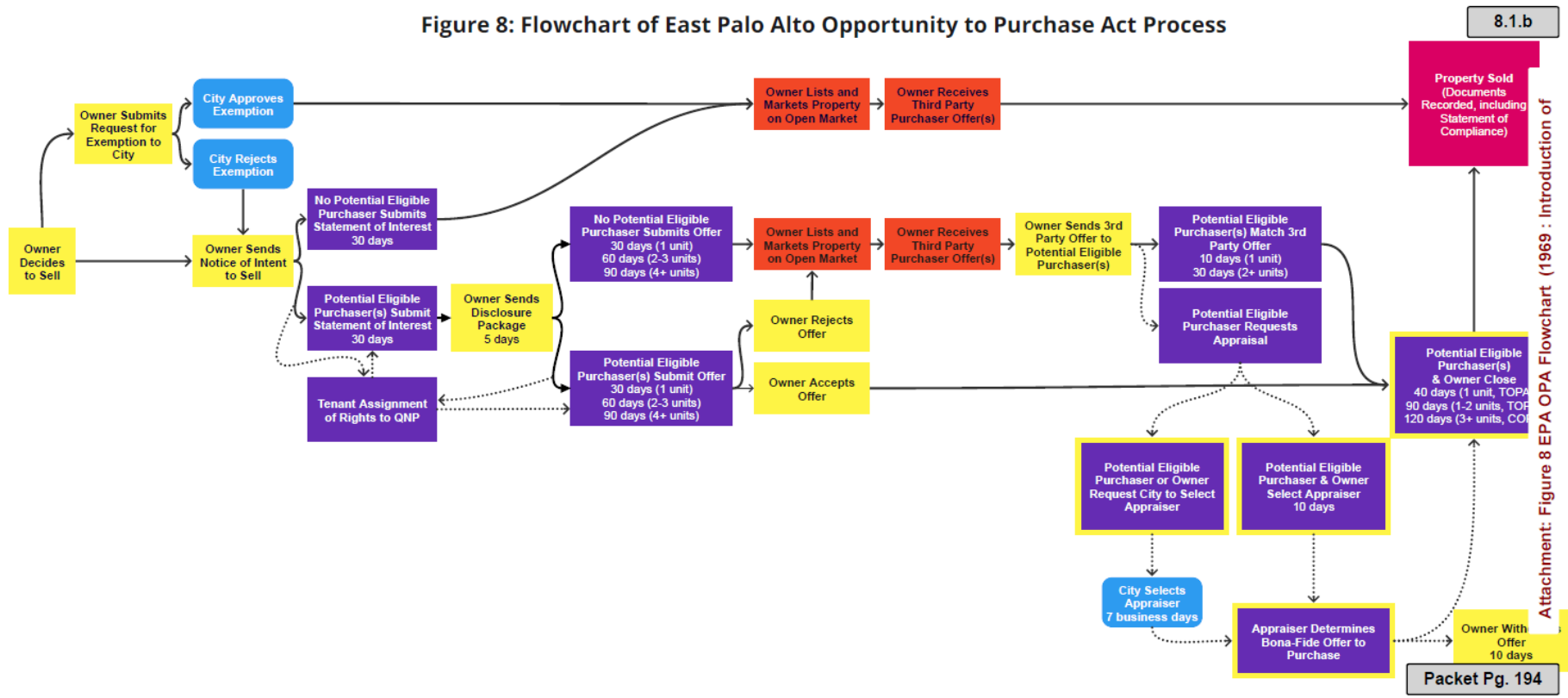


- Ordinance takes effect in July 2022

Questions/Discussion

Flowchart

Figure 8: Flowchart of East Palo Alto Opportunity to Purchase Act Process



Recommended Timelines

EPA OPA Timelines	
Statement of Interest <i>Time for Potential Eligible Purchasers to submit a statement indicating interest in purchasing.</i>	30 days
Disclosure Package <i>Time for Owner to send Potential Eligible Purchasers a disclosure package with information about the property.</i>	5 days
Initial Offer <i>Time for Potential Eligible Purchasers to submit an Offer to purchase.</i>	30 days (1 unit) 60 days (2-3 units) 90 days (4+ units)
Right of First Refusal/Offer of Sale <i>Time for Owner to send Potential Eligible Purchasers a copy of Third-Party Purchaser's Offer.</i>	2 days
Right of First Refusal/Match 3rd Party Offer <i>Time for Potential Eligible Purchasers to match the Third-Party Purchaser's Offer.</i>	10 days (1 unit) 30 days (2+ units)
Close <i>Time for the Potential Eligible Purchaser and Owner to close the transaction.</i>	40 days (1 unit, TOPA) 90 days (1-3 units, COPA) 120 days (4+ units, COPA)
Total	100 – 280 days