

**OPA EPA Email Correspondence Received from November 7, 2023 - December 5, 2023**

*This is a log of emails the Housing team received between **November 7, 2023**, and **December 5, 2023**. To allow for enough time for staff to transpose all the emails, this log ends with any emails received before 4pm on December 5, 2023.*

*If any correspondence was missed, please email [Housing@cityofepa.org](mailto:Housing@cityofepa.org). Thank you!*

**From:** [Carol Cunningham](#)  
**To:** [Lisa Yarbrough-Gauthier](#); [Antonio D. Lopez](#); [Ruben Abrica](#); [Carlos Romero](#); [Martha Barragan](#); [Karen Camacho](#); [Housing](#); [cmoffice](#)  
**Subject:** Final Thoughts On EPA OPA  
**Date:** Monday, November 13, 2023 3:35:50 PM  
**Attachments:** [Average Annual Sales Price with EPA Trendline.pdf](#)

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Dear East Palo Alto City Council and Staff,

Thank you for your time and for staying so late at the meeting last week in order to hear public comment on OPA, although I'm sure it's like listening to a broken record. Obviously, I was very disappointed with the outcome, but am also confused and upset after learning which version of the ordinance was approved to advance as it was apparently the draft that includes SFHs, ROFR and maybe even the "generous" 15% penalty for a 3rd party buyer to prevail over ROFR (?). Regardless, I won't reiterate all of the issues/flaws with OPA that I've documented in detail over the last 2 years, but would just like to highlight a few thoughts as you prepare for the final reading/vote:

1. In the real estate market, home prices are ultimately determined by the balance of supply and demand, not by sellers or their agents. You can attempt to rebalance the market (and prices buyers are willing to pay) by increasing supply, such as building more housing and incentivizing homeowners to sell, or by depressing demand, which is OPA's impact through the regulation of certain sales via an arduous/bureaucratic/punitive process. **I believe you'll agree that addressing the issue of affordability from a supply perspective will be a much more popular approach than driving down prices by deterring demand/buyers. Also, please remember that EPA's market is NOT an out-of-control/imbalanced market that needs to be regulated, especially compared to our neighboring cities.** I attached a chart that I've shared earlier where you can see how EPA's market has been stagnant over the last 6 years and is even on the decline again, partly due to current forces affecting all buyers, such as high interest rates, so we don't need additional regulation to further depress the market.
2. OPA is essentially a lose-lose tool as even the theoretical benefit to tenants will be minimal at best, \*perhaps\* helping only a small number of tenants a year, which I still question. Councilmember Abrica recognizes OPA is not an affordable housing or anti-displacement solution, so if it comes down to opportunity, aren't there better, less risky solutions to consider if you feel the current tenant protections/opportunities are insufficient? **He has also been willing to concede that he doesn't know what the impact to the real estate market will be, so wouldn't that be true of the purported benefits as well? Can he or Councilmember Romero guarantee that any tenants will definitely be helped by OPA in a given year? At best, this just highlights the considerable uncertainty and risk with the OPA experiment, for little to no benefit, that at least some supporters can recognize, so does not sound like a wise gamble.**
3. From the various meetings, emails and public comment over the last 2 years, the overwhelming majority of the community is strongly opposed to OPA. Aside from YUCA and other non-profit representatives, who have nothing to lose and everything to gain by supporting OPA, there has been very little advocacy for this ordinance. **Therefore, why does the City continue to push OPA against the community's wishes?? Regardless of how you feel about the real estate industry and investors, is this how government representation is supposed to work? Do you truly believe that EPA will be better off with an OPA policy, despite the community's input and what other cities have concluded, or are you "cutting off your nose to spite your face" as a means to punish investors?**
4. There is a better way and a number of win-win solutions that would be much more impactful and popular while uniting the community, as I shared with you on 8/25.

If you take nothing from my previous emails, comments, meetings, I hope you will at least consider the above points with an open mind and honestly answer these questions for yourself before casting your final vote. Please let me know if you have any questions or would like to discuss in more detail.

Thank You,



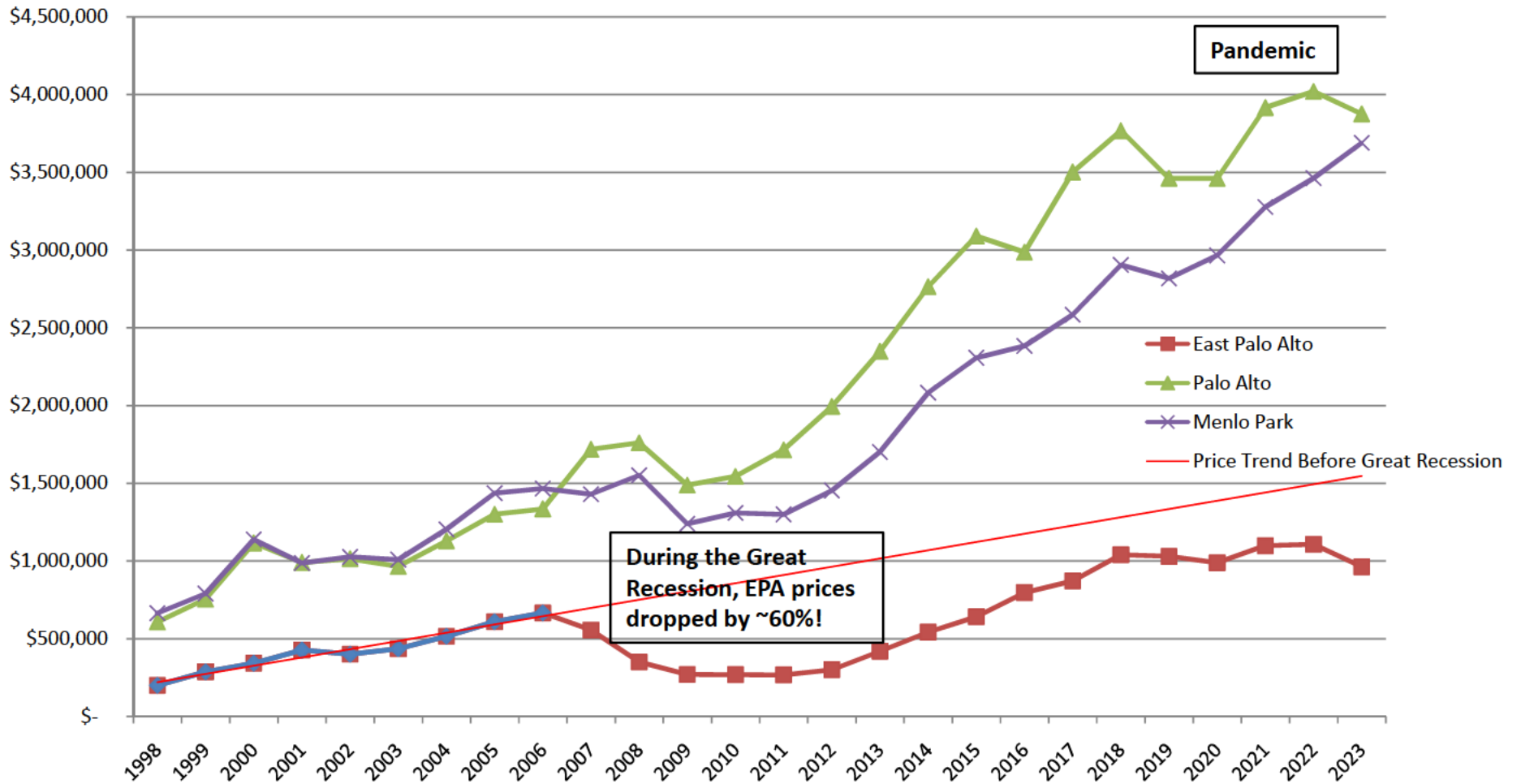
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**CAUTION:** This e-mail originated from outside of the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

# Average Sales Price Comparison for Single-Family Homes Since 1998

## East Palo Alto, Palo Alto, Menlo Park



\*YTD (5/25/2023)

COMPASS



[Redacted Name]  
[Redacted Phone]  
[Redacted Email]

**From:** [Housing](#)  
**To:** [Graeham Watts](#)  
**Cc:** [Housing](#)  
**Subject:** Housing Inquiry re EPA OPA  
**Date:** Monday, November 27, 2023 4:01:27 PM  
**Attachments:** [image001.png](#)

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Hi Graeham,

Your email has been received. Please expect a response in the order of emails received. If you would like to speak with a staff member sooner based on our availabilities, please schedule an appointment at: <https://tinyurl.com/appointmentsEPAhousing>, selecting "Opportunity to Purchase."

The latest version of the draft ordinance was presented and discussed at the December 7, 2023 City Council [meeting](#) (you can find the draft ordinance in the December 7, 2023 [agenda packet](#)). Please note that City Council directed staff to make additional amendments summarized in the updates section of the [EPA OPA webpage](#) you shared, under "11/8/2023 Update". If you want to learn more details about Council's direction, please watch [this video recording](#) of the December 7, 2023 City Council meeting (select "Public Hearing" to jump to the presentation and discussion).

Please note that the second reading of this ordinance will go before City Council for final adoption next Tuesday, December 5<sup>th</sup>. Per Council's direction on December 7<sup>th</sup>, the effective date of the ordinance will be the sooner of Council adoption of the administrative guidelines by resolution, or 60 days after the date of the second reading.

Best regards,



#### **Housing Division**

Community & Economic Development  
Department  
City of East Palo Alto  
**Phone:** (650) 853-3195  
**Email:** [housing@cityofepa.org](mailto:housing@cityofepa.org)  
**Web:** [www.cityofepa.org/housing](http://www.cityofepa.org/housing)  
1960 Tate Street, East Palo Alto, CA 94303

*\*\* View City office hours [here](#). The City continues to offer virtual appointments as an alternative to in-person meetings. For inquiries or to request an appointment with Housing, please email [housing@cityofepa.org](mailto:housing@cityofepa.org) or set up a meeting via this [link](https://tinyurl.com/appointmentsEPAhousing) (<https://tinyurl.com/appointmentsEPAhousing>). \*\**

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**From:** Graeham Watts <graehamwatts@gmail.com>  
**Sent:** Monday, November 27, 2023 12:42 AM  
**To:** Housing <housing@cityofepa.org>  
**Subject:**

Hello, I'm a realtor i'm trying to answer a client's question about selling a property now with the Tenant Opportunity to Purchase Act coming up we are trying to put the home on the market but are trying to understand this new legislation that passed and need your help to clarify some items that are not clear in the legislation.

-Can you first of all please confirm that the attached is the most current and up-to-date copy of the legislation? If not can you please provide a current copy. (Please do not refer me to the below link, the below website does not have the link to the most current legislation, and if it does it is not readily apparent where it is located on that web page. )

<https://www.cityofepa.org/housing/page/east-palo-alto-opportunity-purchase-act-epa-opa-0#:~:text=Background,owner%20is%20ready%20to%20sell>.

- Am I correct in understanding that if you owner occupy the property for one year or more then this does not apply? Can you please confirm this is the case if someone as example lived in the property for one year 20 years ago and then turned it into an investment property it's been an investment property since then for the past 19 years or more, then they do not need to follow the OPA act?

- It also says that it will not apply to limited liability corporations where the owners of the corporation come up with what if the owner of the corporation is an individual person, or what if their property is owned by a corporation which is owned by a corporation but eventually owned by a person? And no other people are involved and no other corporations are involved?

- Also can you confirm that a transfer of title as mentioned is exempt as an example a transfer of title from an individual person if they decide to then put the property into a corporation, or if they decide to transfer the property into a trust, or if they decide to transfer the property from them as an individual or from their corporation into the ownership of another corporation or individual person?

- Can you also clarify item 3 transfer of legal title or an interest in an entity holding legal title to a Residential Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Potential Eligible Purchasers under California Civil Code Sections 2924(f)-(h), 2924(m)-(n), or 2929.3

- Also what does this mean: Any transfer in which the transferee receives a low-income housing credit pursuant to 28 U.S.C. § 42.

- Also I assume this is saying that these are except from the act: A transfer of a Residential Property with no more than four (4) Dwelling Units made for the purpose of either: (a) paying for imminently necessary health care expenses of an Owner of the Residential Property, or (b) an emergency circumstance placing the Owner in financial hardship and at imminent risk of foreclosure or bankruptcy and the Owner has occupied the Residential Property as the Owner's Principal Residence during the prior year. For purposes of this subsection only, "Owner" shall be limited to a natural person having an undivided interest in the Residential Property of at least fifty percent (50%). An Owner may claim this Exempt Transfer within one (1) year of having vacated the Residential Property where the Owner demonstrates the existence of the conditions set forth in this subsection.

If the person did not live in the property for one year, but they are facing imminent hardship or risk of foreclosure et cetera then they can sell it and do not have to comply with this act? What qualifies as an emergency circumstance or health risk, or financial hardship?

- I am not understanding the assignment of Rights, Am I correct in understanding that if the tenant is unable to purchase the property through the Act they can assign their right to purchase to a qualified nonprofit? Is that what this part is saying

- Where can the notice of intent to sell on the city's website be found? where are the instructions for this?

- In regards to the timeline the documentation says that the seller has 15 days to present the intent to sell and follow the instructions provided by the city but where can those instructions be found, and then it says that there is 30 days for a purchaser to declare intent? So am I correct in understanding that is a total of 45 days that someone has in order to declare intent to purchase the property?

- In regards to : Disclosure Package. Within five (5) days of receiving a Statement of Interest, the Owner must provide a disclosure package that includes documents and information set forth in the Administrative Guidelines, and at minimum, an itemized list of annual income and expenses, including but not limited to rent and other income collected, and costs of

management, insurance, utilities, maintenance, and repairs.

Can you be more specific on this disclosure package, in real estate generally we have a seller's disclosure package that is usually filled out to come out and that time frame is different than the time frame indicated here by the city I want to confirm that these disclosures are separate from standard real estate disclosures and if so what additional disclosure must be made. Am I also correct understanding that this would only apply if the owner receives a statement of interest to purchase the property during the 45 days after they have provided notice of intent to sell?

- The next part of the documentation says that during the extended notice. What is the extended notice. That time frame exactly?

- The next part also says that you are then prohibited from marketing the property on the multiple listings service while there is an intent to purchase the property. This conflicts with Current MLS regulations where an agent is required by a seller to list a home shortly after, How is this taken into consideration given that MLS rules and regulations require an agent to list a home, but the E Palo Alto opportunity to purchase act requires that the home be withheld from the MLS?

- In the next section it states: Before the Owner of a Residential Property may list or market that property for sale to any purchaser, the Owner shall give all Potential Eligible Purchaser(s) an opportunity to purchase at a price and terms that represent a Bona Fide Offer to Purchase. The Owner is not required to give the Potential Eligible Purchaser(s) an opportunity to purchase when the Owner has received an unsolicited offer unless the Owner takes any action to accept the unsolicited offer.

14.26.080 Potential Eligible Purchasers and Priority Order : In reading this, it seems that any tenant, nonprofit or city can make ANY kind of offer for the property, as an example A nonprofit, or the tenants can make a lowball offer to the owner, even if they are not qualified and the owner would then have to respond and decline the offer but this would mean that the owner would have to wait the full 45-day time frame before they can list the home? Am I correct in understanding that after that 45 day time frame that is when they can decline the offers they have received if they are too low and decide to list the home on the market if they want to?

14.26.090 Offer to Purchase

A. Submission of Offer to Purchase. The Potential Eligible Purchaser may deliver to the Owner of the Residential Property an offer to purchase the property at any time prior to the expiration of the Notice Period. The Owner may accept or reject any offer to purchase received from a Potential Eligible Purchaser following the steps set forth in Section 14.26.080.

This is a little unclear am I correct in understanding that there is now an additional 60 days to provide a purchase contract after the initial 45 days that the tenant or city or nonprofit has to make an offer on the property after they have indicated unintended purchase?

14.26.100 Exercise of Right of First Refusal- After reading this I want to make sure I understand this correctly. Says that an owner must disclose the third-party offer to the tenant city or nonprofit if they have indicated an intent to purchase. I have a legal question here which is sometimes in a real estate transaction there is a nondisclosure agreement between buyers and sellers to not disclose any price or terms what happens in a situation where a buyer has written an offer on a property with a nondisclosure agreement?

Am I also correct in understanding that it only has to be disclosed if the 3rd party offer is within 15 of the tenants, cities, or nonprofits offer? What if there are counteroffers between the 3rd party and the seller? Increasing the price? is it the original offer or the final offer that has to be accounted for this?

It then goes on to say that this offer can be matched by the tenant to come a city Oregon nonprofit, when I say matched, does that include price, deposit, terms, et cetera as an example, if the 3rd party offer is completely non-contingent but the tenants offer or nonprofits or cities offer has contingencies but the price is the same how is that considered? And what if there are any subtle differences in other terms, even as simple as a home warranty? Am I correct in assuming that the offer that has to be made by the tenant, city or nonprofit has to match the 3rd party offer exactly or be better? Can you please clarify on this.

If the offer is within that 15%, it looks like the owner only has to wait five days for a matching offer? Is that correct? In the real estate industry most offers expire from 3rd parties within three business days period. Is there a way or a request that can be made to these 3rd parties to respond before the 3rd party offer expires?

- can you please clarify this: Reduced Price. If the Owner sells or contracts to sell the Residential Property to a Third-Party Purchaser for a price more than fifteen percent (15%) less than the price offered to the Potential Eligible Purchaser or for other terms which would constitute not bargaining in good faith, the sale or contract is void and the Owner shall comply anew with all requirements of this chapter as applicable

- am I correct in understading this section:

Financial Assurances. The Owner may not require the Potential Eligible Purchaser to prove financial ability to perform as a prerequisite to entering into a contract. The Owner may not require the Potential Eligible Purchaser to pay the purchase price in installments unless the Owner provides deferred purchase money financing on terms reasonably acceptable to the Potential Eligible Purchaser. The Owner may require the Potential Eligible Purchaser to prove that the Potential Eligible Purchaser, either alone or in conjunction with a third party, has comparable financial ability to the Third-Party Purchaser before the Owner will be required to grant deferred purchase money financing to the Potential Eligible Purchaser on the same terms and conditions agreed between the Owner and the Third-Party Purchaser. If the Potential Eligible Purchase can prove comparable financial ability alone, the Owner may not require the Potential Eligible Purchaser to secure a third-party guarantor. This proof cannot be required as a prerequisite to contracting. It may be required only as a prerequisite to the Owner granting deferred purchase money financing at settlement.

This is stating that the owner may not require proof of ability to Purchase from the tenant a city or nonprofit, if that is the case, am I understanding correctly that a tenant, city OR nonprofit can make an intent to purchase, but be completely unqualified?

- I don't want to read and it seems like if it's a multifamily building that the purchase price will be determined by the city?

-The sale or transfer of any Residential Property subject to this chapter is prohibited unless the Owner complies with Section 14.26.040. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c)

Can you specif what this change of owner is specifically is and is not?

- Any violation shall be subject to a civil penalty not to exceed \$1,000 per day of violation. Each failure to provide the required notice or disclosure shall be considered a separate violation for each unit on a Property.

how many days would this fine apply?

Does this legislation take effect immediately? How long will it last?

Thank you for your help in clarifying these items.

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**CAUTION:** This e-mail originated from outside of the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

**From:** [Housing](#)  
**To:** [Housing](#)  
**Subject:** Media Request: EPA Opportunity to Purchase Act || Deadline: FRI December 1  
**Date:** Tuesday, December 5, 2023 3:09:14 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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**From:** Karen Camacho [kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)  
**Sent:** Tuesday, December 5, 2023 3:08 PM  
**To:** Housing [housing@cityofepa.org](mailto:housing@cityofepa.org)  
**Subject:** RE: Media Request: EPA Opportunity to Purchase Act || Deadline: FRI December 1

Hi Juli,

In preparation for our call today, here are some links that will help you gather more information. Please look these over and let us know if you have any follow-up questions.

• **What is EPA OPA and what was the purpose of its introduction and implementation?**

In a landmark decision, the City of East Palo Alto's City Council passed the East Palo Alto Opportunity to Purchase Act (EPA OPA) ordinance. The Opportunity to Purchase Act, often referred to as "TOPA/COPA" (Tenant Opportunity to Purchase Act/Community Opportunity to Purchase Act), is a vital policy aimed at ensuring tenants, qualified affordable housing providers, or jurisdictions have the first opportunity to purchase a residential property at market value when the owner is ready to sell. This groundbreaking legislation is designed to combat displacement and promote community stability by providing pathways to homeownership and maintaining rental housing affordability. The City of East Palo Alto's City Council's commitment to this progressive policy reflects its dedication to preserving the well-being of its residents and the sustainability of the community. The passing of the East Palo Alto Opportunity to Purchase Act ordinance marks a significant step toward empowering residents to have a say in the future of their housing and neighborhoods. The City of East Palo Alto joins a growing number of jurisdictions across the nation in adopting such measures to ensure housing remains accessible and affordable for all.

To learn more background, please visit: <https://www.cityofepa.org/housing/page/east-palo-alto-opportunity-purchase-act-epa-opa-0>. You can see links to City Council staff reports and presentations. For example:

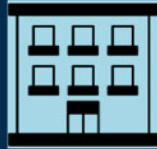
E.g. [July 18, 2023 City Council meeting presentation](#)

## Background: What is Opportunity to Purchase (OPA)?

One part helps tenants purchase the home or building where they live.

Another part is very important for neighbors who can't afford to buy – it helps affordable housing providers and/or the City purchase a residential building when an owner is ready to sell, and convert it into permanently affordable housing.

1. Requires the owners to notify tenants of sale,
2. Gives tenants the chance to make the first offer,
3. Gives tenants a tiebreaker if they can match the best competing offer



## Background: Why OPA?



### OPA Objectives:

- Combat displacement short term and long term
- Promote community stability
- Increase homeownership opportunity for EPA residents
- Preserve affordable housing

### • What was the result of the vote?

On November 7, 2023, during the first reading, the ordinance passed in a 3-2 vote. The final adoption (second reading) will be on Tuesday, December 5, 2023. Please watch the December 7, 2023 City Council meeting [here](#). Please join the December 5, 2023 City Council meeting at: <https://www.cityofepa.org/citycouncil/page/agenda-and-minutes>.

### • What was the outreach like related to the propagation of information about the OPA?

The City conducted over three years of community outreach, starting in late 2020. This includes nine initial affinity group meetings (67 participants) and 2 focus group meetings (19 participants) between July 2021 – September 2021, a virtual community meeting on December 1, 2021 (during the pandemic) and virtual office hours on December 3 and 6, 2021, January 13 and 14, 2022. The City also held a community forum co-facilitated with Peninsula Conflict Resolution Center (PCRC) on May 30, 2023, and a policy discussion co-facilitated with PCRC on June 13, 2023. In addition, the City held nearly ten City Council meetings and/or public hearings where we heard from members of the

public.

The video and staff reports for the City Council meetings can be found by following the links below:

- [Link to October 5, 2021 City Council Meeting](#)
- [Link to October 5, 2021 PowerPoint Presentation](#)
- [Link to November 16, 2021 City Council Meeting](#)
- [Link to November 16, 2021 PowerPoint Presentation](#)
- [Link to December 7, 2021 City Council Meeting](#)
- [Link to December 7, 2021 PowerPoint Presentation](#)
- [Link to December 22, 2021 City Council Meeting](#)
- [Link to January 25, 2022 City Council Meeting](#)
- [Link to January 25, 2022 PowerPoint Presentation](#)
- [Link to March 1, 2022 City Council Meeting](#) (draft Ordinance attached to staff report)
- [Link to March 1, 2022 PowerPoint Presentation](#)
- [Link to July 18, 2023 City Council Meeting](#)
- [Link to July 18, 2023 PowerPoint Presentation](#)
- [Link to October 3, 2023 City Council Meeting](#)
- [Link to October 3, 2023 PowerPoint Presentation](#)
- [Link to November 7, 2023 City Council Meeting](#) (draft Ordinance attached to staff report)
- [Link to November 7, 2023 PowerPoint Presentation](#)
- [Link to December 5, 2023 City Council Meeting](#) (draft Ordinance attached to staff report)

For more information, please see the following City Council meeting presentations. For example:

October 5, 2021 – initial outreach summarized.



**Outreach**

- Outreach began August 2020; put on pause due to pandemic
- 9 Affinity Group Meetings (July 2021 - August 2021)
  - Anamantangi Polynesian Voices
  - East Palo Alto Council of Tenants
  - El Comité del Lado Oeste
  - Envision-Transform-Build
  - Nairobi Steering Committee
  - Nuestra Casa's Constituents
  - Rotary Club of East Bayshore
  - Tenant Advisory Body
  - Youth United for Community Action
- 2 Focus Group Meetings (August 2021 – September 2021)
  - *Questions and group discussions included: outcomes/goals, type of policy, tenant power, permanent affordability, income levels, sales price, incentives, exemptions, property type, financing, timing/timelines, qualified nonprofit requirements, disclosures, and more.*

The slide features a blue background with white text. In the top right corner, there is a white icon of an ear with sound waves. A grid of nine small video thumbnails is positioned in the middle right section of the slide.

July 18, 2023 – continued outreach recap.

## Background: Outreach & Input Process

EPA OPA Milestones	
Date	Description
October 2018	City's Affordable Housing Strategy approved with 200 unit preservation goal
June 2019	Resolution No. 5128, authorizing Partnership for the Bay's Future for a Challenge Grant for Housing Protection and Preservation ("Challenge Grant").
November 2019	City awarded Challenge Grant (work from February 2020- January 2022)
January 2021	City Council priority: "Advancing the Concept of TOPA/COPA and Other Homeownership Opportunities."
July 2021	Authorization to apply for Partnership for the Bay's Future Breakthrough Grant.
July 2021 – September 2021	9 Affinity Group meetings (67 participants); 2 Focus Group meetings (19 participants)
October 2021	Policy & Action. City Council direction to bring back a proposed OPA Ordinance.
November 2021	Public Hearing on November 16, 2021.
December 2021	Virtual community meeting on December 1, 2021 Virtual office hours on December 3 and December 6, 2021. Public Hearing on December 7, 2021. Public Hearing on December 22, 2021.
January 2022	Staff office hours on January 13 and 14, 2022. Public Hearing on January 25, 2022 (David Rosen & Associates presentation).
March 2022	Public hearing on March 1, 2022. Latest version of the Ordinance reviewed.
March 2023	Affordable Housing Preservation funding conversation on March 21, 2023.
May 2023	Community Forum with PCRC on May 30, 2023.
June 2023	Policy Discussion with PCRC on June 13, 2023.
July 2023	City Council Policy Discussion

## Community Feedback Summary

### Additional Community Engagement with PCRC

- May 30, 2023 Community Forum
- June 13, 2023 Policy Discussion

### Community Concerns:

- How OPA works
- Transaction timelines
- Funding/Financing
- Misinformation
- Property values
- Right of First Refusal for single-family homes



- What are your long term goals with OPA?
  - Combat displacement, promote community stability, increase homeownership opportunity, and preserve affordable housing.

## Background: Why OPA?



### OPA Objectives:

- Combat displacement short term and long term
- Promote community stability
- Increase homeownership opportunity for EPA residents
- Preserve affordable housing

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On Fri, Dec 1, 2023 at 11:42 PM Karen Camacho <[kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)> wrote:

Thanks, Juli! Looking forward to speaking with you today at 3:30pm.

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On Fri, Dec 1, 2023 at 11:35 PM Jui Sarwate <[jsarwate@epatoday.org](mailto:jsarwate@epatoday.org)> wrote:

Hello,

I have included some of the general questions that I have below:

- What is EPA OPA and what was the purpose of its introduction and implementation?
- What was the result of the vote?
- What was the outreach like related to the propagation of information about the OPA?
- What are your long term goals with OPA?

Thank you,  
Jui Sarwate

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On Thu, Nov 30, 2023 at 2:44 PM Jui Sarwate <[jsarwate@epatoday.org](mailto:jsarwate@epatoday.org)> wrote:

Hello,

Thank you so much and I will send you questions reasonably ahead of the call tomorrow. I look forward to us speaking.

Best regards,  
Jui Sarwate

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On Thu, Nov 30, 2023 at 2:43 PM Karen Camacho <[kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)> wrote:

Hi Juli, I've sent you a Teams invite. You can call-in at the number in the invite, or join via the link.

Best,  
Karen

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**From:** Jui Sarwate <[jsarwate@epatoday.org](mailto:jsarwate@epatoday.org)>

**Sent:** Thursday, November 30, 2023 2:06 PM

**To:** Karen Camacho <[kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)>

**Subject:** Re: Media Request: EPA Opportunity to Purchase Act || Deadline: FRI December 1

Hi Karen,

3:30PM tomorrow would work perfectly. Would the number in your signature be the best to call?

Thank you for making the time,

Jui Sarwate

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On Thu, Nov 30, 2023 at 1:38 PM Karen Camacho <[kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)> wrote:

Hi Juli,

Thank you for reaching out. We'd be available to speak with you this Friday between 3:30-4pm.

Please let me know if that time would work for you. In the meantime, I encourage you to take a look at the resources linked below.

You can find the full agenda packet for the upcoming City Council second reading under the December 5, 2023 City Council meeting here: <https://www.cityofepa.org/citycouncil/page/agenda-and-minutes>.

You can find updates at the City's EPA OPA webpage:

<https://www.cityofepa.org/housing/page/east-palo-alto-opportunity-purchase-act-epa-opa-0>.

Best,  
Karen



**Karen Camacho**

(she/her/ella)

Housing & Economic Development  
Manager

Phone (650) 853-3195

Email [kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)

Web [www.cityofepa.org/housing](http://www.cityofepa.org/housing)

[1960 Tate Street, East Palo Alto, CA 94303](https://www.cityofepa.org/housing)

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*\*\* View City office hours [here](#). The City continues to offer virtual appointments as an alternative to in-person meetings. For inquiries or to request an appointment with Housing, please email [housing@cityofepa.org](mailto:housing@cityofepa.org) or set up a meeting via this [link](https://tinyurl.com/appointmentsEPAhousing) (<https://tinyurl.com/appointmentsEPAhousing>). \*\**

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**From:** Jui Sarwate <[jsarwate@epatoday.org](mailto:jsarwate@epatoday.org)>

**Sent:** Thursday, November 30, 2023 7:00 AM

**To:** Karen Camacho <[kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)>

**Subject:** Media Request: EPA Opportunity to Purchase Act || Deadline: FRI December 1

Hello,

My name is Jui Sarwate and I am a contributing journalist with the newspaper East Palo Alto Today reporting on EPA and Belle Haven communities.

I am currently working on an explainer piece about the recently-passed ordinance, the "East Palo Alto Opportunity to Purchase Act." I watched the November 7th City Council meeting and public hearing which included your presentation of the EPA OPA.

I am interested in talking with you about the OPA and its background, as well as, the general response to its passing. I would greatly appreciate getting to speak with you.

Would you be able to give me around 20-30 minutes of your time for a call today or

tomorrow? My deadline for this story is **Friday (12/1) at 6PM PST.**

Thank you,  
Jui Sarwate



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**From:** [Housing](#)  
**To:** [Sean Ripley](#); [Housing](#)  
**Subject:** RE: EPA OPA - clarification on passage  
**Date:** Tuesday, December 5, 2023 12:05:39 PM  
**Attachments:** [image001.png](#)

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Hello Mr. Ripley,

Tonight, the City Council of East Palo Alto will be reviewing the second reading of the EPA OPA ordinance. Please find this and all future updates, as well as links to other resources (e.g. [link](#) to view the agenda packet or [link](#) to view the ordinance), at: <https://www.cityofepa.org/housing/page/east-palo-alto-opportunity-purchase-act-epa-opa-0>.

Based on City Council's direction at the November 7, 2023 City Council meeting, the effective date of ordinance will be the sooner of Council adoption of the administrative guidelines by resolution, or 60 days after date of the second reading (i.e. February 5, 2024).



### Housing Division

Community & Economic Development  
Department  
City of East Palo Alto  
**Phone:** (650) 853-3195  
**Email:** [housing@cityofepa.org](mailto:housing@cityofepa.org)  
**Web:** [www.cityofepa.org/housing](http://www.cityofepa.org/housing)  
1960 Tate Street, East Palo Alto, CA 94303

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**From:** Sean Ripley <[sean.d.ripley@gmail.com](mailto:sean.d.ripley@gmail.com)>  
**Sent:** Thursday, November 9, 2023 3:40 PM  
**To:** Housing <[housing@cityofepa.org](mailto:housing@cityofepa.org)>  
**Subject:** EPA OPA - clarification on passage

Hi, EPA staff,

Congratulations on the passage of the EPA Opportunity to Purchase Act. I was hoping to get some clarification on what (if any) action is still required. Did the meeting on Nov 7th count as the first reading and passage of the ordinance, or was the first reading waived, making the Nov 7 vote the final vote on EPA OPA?

Thanks, and best wishes,  
Sean Ripley

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**From:** [Housing](#)  
**To:** [Graeham Watts](#)  
**Cc:** [Housing](#)  
**Subject:** RE: EPA OPA act follow up questions.  
**Date:** Tuesday, December 5, 2023 11:52:51 AM  
**Attachments:** [epa\\_opa\\_ordinance\\_dec\\_5.pdf](#)  
[image001.png](#)

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Hi Graeham,

Please find the responses to your questions in blue below. Please note that your questions were referring to an outdated version of the ordinance, not the most up-to-date [ordinance](#) we shared with you on November 30, 2023 (also attached).

If you have any follow-up questions, please send them over and schedule a time to chat with us at: <https://tinyurl.com/appointmentsEPAhousing>.



### Housing Division

Community & Economic Development  
Department  
City of East Palo Alto  
**Phone:** (650) 853-3195  
**Email:** [housing@cityofepa.org](mailto:housing@cityofepa.org)  
**Web:** [www.cityofepa.org/housing](http://www.cityofepa.org/housing)  
1960 Tate Street, East Palo Alto, CA 94303

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*\*\**

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**From:** Graeham Watts <graehamwatts@gmail.com>  
**Sent:** Sunday, December 3, 2023 9:44 PM  
**To:** Housing <housing@cityofepa.org>  
**Subject:** EPA OPA act follow up questions.

Hello, I was emailing Because I had some follow-up questions from our meeting the other day. If you could please get back to me on these it would be very helpful in understanding what is going on with the ordinance. Please let me know when you can respond or chat about these, Thanks

-I just wanted to confirm that if a seller receives an offer from a potential tenant but decides that the offer isn't good enough and opts to put the property on the market after the 60-day time frame required. And lists the home at a certain price and offers are received above 15% of the offer the tenant made, then the owner is not required to provide that tenant a chance to write a new offer, But I wanted to ask what happens if it is within that 15% target? Does the owner then have to go back to the tenant and give them an opportunity to match that offer? And if so, does it then require the owner of the property to disclose the price in terms of the offer to the tenant? My follow-up question here is if that is the case what if there is a nondisclosure agreement between buyer and seller to not disclose the price in terms to any 3rd

parties such as a tenant, a nonprofit, or the city? At the outset, it is important to note the right in question (Right of First Refusal) is not applicable to single family homes. For multifamily, however, the right would indeed apply. The ordinance is intended to provide the rightsholder (e.g., tenant), the ability to exercise this right. Specifically, the right in question is designed to allow the rightsholder to match an offer obtained by the owner on the open market. If an agreement functions as a barrier to the exercise of this right, it must yield to local law.

And for any single-family homes after the 60-day time farm (15-day intent to sell) +(Additional 15 days for formal intent)+ ( 30 days to then make an offer), and the offer is turned down on day 61 can the owner list the home on the market? Yes, the owner may indeed market the property after the 60 day period, if all other parts of the ordinance are complied with. If an offer is provided by a tenant at that time does the ordinance under 1426.100 C clarify that the owner has 5 days to respond to that offer? ( most offers have a default expiration of 3 day). No. The ordinance does not set an expiration for when the owner needs to make a decision and/or respond. Section 14.25.070.E states that the owner cannot list, market or solicit offers from any purchaser other than the Rightsholder until the Right of First Offer has been exercised (i.e., until the owner has received all offers from qualified rightsholders and made a decision). Section 14.25.070.C is irrelevant to your question, as it states that within five days of sending a Notice of Intent to Sell to the Rightsholder, the Owner must provide a disclosure package.

q: Does the fact that you're stating that the deposit is refundable in the event of good faith failure in this case overwrite a standard liquidated damages clause in a standard California Association of Realtors purchase contract? Does this make a deposit refundable in any situation? The reason I ask is because of "good faith" while I understand the term I can see there being situations where this could be Ambiguous. Please note that you have cited the wrong provision. The relevant one is 14.25.120. The question you pose is a legal one that would require a legal opinion from an attorney. Nevertheless, staff believes whether a rightsholders has demonstrated "good faith" would ultimately, if at all, be determined by a court of law. Any such right to terminate in "good faith" is subject to the sales contract in question, as noted in Section 14.25.120.

1426.110 E: Deposit. The Owner shall not require the Potential Eligible Purchaser to pay a deposit of more than three percent (3%) of the contract sales price to make a contract. The deposit is refundable in the event of a good faith failure of the Potential Eligible Purchaser to perform under the contract unless otherwise provided in the contract.

14626.120

I know when spoke that you mentioned that E Palo Alto will not be determining the price or sale of these properties however the way I read the below seems to indicate that the E Palo Alto guidelines indicate the sales price for any vacant units, or is this referring to rents?

C. Owned Multiple-Family Units. The sales price shall be calculated based on Chapter 18.37 of the East Palo Alto Municipal Code and the inclusionary housing guidelines. The sales price for any vacant units shall be set at an affordable price to Median Income Households and to Moderate Income Households, with the first vacant unit restricted to Median Income Households. The resale or transfer of ownership units shall be subject to long-term affordability covenants consistent with Section 18.37.100 of the East Palo Alto Municipal Code. Section 14.25.130 only applies upon the resale of subsidized residential properties purchased under the ordinance. See "Subsidized Purchaser" definition.

It also says: A restrictive covenant placed on the deed to the Residential Property that runs with the land and is enforceable by the City against the purchasers and their successors;

Does the above refer to rents? Yes.

You may have answered this above, but just to ask it again, it seems to indicate here that all information shall be kept ch Confidential, so does that mean a seller cannot disclose price in terms of offers to any 3rd parties or to tenants and vice versa? No, a seller *can* disclose information that facilitates the sale of the property. The confidentiality clause (Section 14.25.150)'s intent is to facilitate the sale of property, while protecting personal information (e.g. tenants' names).

### Confidentiality

Any information exchanged between Owner(s) and Potential Eligible Purchasers intended to facilitate the sale of property including, but not limited to, disclosures, any intent to sell, and terms and conditions of an offer of sale, shall be kept confidential to the greatest extent permitted by law. This section shall not prohibit disclosure of information necessary to effectuate the purpose of this chapter to any Owner, Tenant, Qualified Nonprofit, or to the City or its agents or contractors, nor shall this chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.



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**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF EAST PALO ALTO**

**ADDING CHAPTER 14.25 ENTITLED “EAST PALO ALTO OPPORTUNITY TO  
PURCHASE ACT” TO THE EAST PALO ALTO MUNICIPAL CODE**

**WHEREAS**, the City Council finds that East Palo Alto is experiencing a shortage of affordable housing, especially for extremely low-income, very low-income, low-income and moderate-income residents, and a displacement crisis; and

**WHEREAS**, rapid displacement is evidenced in East Palo Alto by high rates of eviction, increasing rents, and increasing home values; and

**WHEREAS**, there is a disproportionate impact of displacement, homelessness, and unmet affordable housing and homeownership needs in East Palo Alto borne by African American, Latinx, and Pacific Islander communities of color; and

**WHEREAS**, sixty percent (60%) of East Palo Alto’s population are renters, and over half of these renters are cost-burdened, meaning they spend over thirty percent (30%) of their monthly income on rent; and

**WHEREAS**, according to the Bay Area Equity Atlas and the Urban Displacement Project, seventy-two percent (72%) of low-income households in East Palo Alto live in gentrifying neighborhoods; and

**WHEREAS**, due to state law, tenants living in single-family homes and tenants living in buildings built after 1988 are not protected by rent stabilization (although the Just Cause for Eviction provision applies); tenants in rent-stabilized units are not protected from displacement by owner move-in; and when a tenant moves out, the rent for that unit can be raised to market value; and

**WHEREAS**, according to the American Community Survey (2015-2019) and San Mateo County Income Limits, the median household income in East Palo Alto of \$67,087 is less than half the county’s median household income, and most East Palo Alto households fall into the “extremely low-income” to “very low-income” category, or 30-50% AMI, making residents highly susceptible to dramatic shifts in the housing market; and

**WHEREAS**, according to the Center for Responsible Lending, during the foreclosure crisis from 2004-2008, African Americans and Latinxs in California were more than twice as likely as non-Hispanic Whites to lose their homes to foreclosure; and

**WHEREAS**, there is a concentration of properties in East Palo Alto owned by individual and entity investors and the majority of these investors are not residents of the City of East Palo Alto; and

**WHEREAS**, historically, East Palo Alto residents, both owners and renters, have been denied opportunities to build wealth through property ownership due to discriminatory housing policies, including the practice of redlining that impacted longer term residents and continues to impact successive generations of East Palo Alto residents; and

**WHEREAS**, it is a necessary and important public purpose to provide relief for these economic and social ills arising from the housing challenges facing East Palo Alto residents; and

**WHEREAS**, approximately 5.8% of properties in East Palo Alto are owned by East Palo Alto residents with a primary residence elsewhere in the city; and

**WHEREAS**, a limited exemption for these local residents who own other properties within East Palo Alto will promote the purpose of providing relief for these economic and social ills experienced by residents of East Palo Alto; and

**WHEREAS**, Tenant and Community Opportunity to Purchase Act programs have been adopted in a number of jurisdictions including Washington, D.C. and San Francisco to protect residents' ability to stay in a neighborhood in a cost-effective manner; and

**WHEREAS**, the City Council desires to prevent further displacement of East Palo Alto households, to supply a variety of affordable rental and ownership housing options, and to protect the health, safety and general welfare of the public through an opportunity to purchase program; and

**WHEREAS**, this action is exempt from the California Environmental Quality Act ("CEQA"), each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines Section 15378 (regulatory actions). Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning.)

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES ORDAIN AS FOLLOWS:**

**SECTION 1. AMENDMENT TO THE EAST PALO ALTO MUNICIPAL CODE**

The City Council hereby adds Chapter 14.25 (“East Palo Alto Opportunity to Purchase Act”) to the East Palo Alto Municipal Code to read as follows:

**Chapter 14.25  
East Palo Alto Opportunity to Purchase Act**

**14.25.010 Title and Purpose**

- A. This chapter may be referred to as the “East Palo Alto Opportunity to Purchase Act” or “EPA OPA” program.
- B. The purpose of this chapter is to confer upon Tenants, Qualified Non-Profit Housing Organizations, and the City of East Palo Alto an opportunity to purchase upon the transfer or sale of Residential Property to prevent displacement of lower-income tenants, to facilitate ownership for residents, and to create more affordable housing opportunities in East Palo Alto.

**14.25.020 Definitions**

“**Absentee Owner(s)**” means an owner (or owners) of a residential property who do not occupy the residential property as the owner’s (or owners’) principal residence.

“**Accessory Dwelling Unit (ADU)**” means a separate dwelling unit providing complete independent living facilities for one or more persons containing living, sleeping, kitchen and sanitation facilities as defined in and subject to the provisions in Chapter 18.96.

“**Administrative Guidelines**” means any requirements for implementation and administration of this chapter adopted by the City.

“**50% AMI Income Household**” means households whose income does not exceed fifty percent (50%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Bona Fide Offer to Purchase”** means an offer to purchase a property or the interest in the property that is either:

(1) In cases in which a First Offer made by a Rightsholder is acceptable to an Owner, an offer with a price and other material terms at which a willing Owner would sell and a willing Buyer would purchase the property, or the appraised value; or,

(2) In cases following the expiration of marketing prohibition in which a Third-Party Offer is acceptable, an offer with a price and other material terms at which a willing Owner would sell and a willing Buyer would purchase the property, or the appraised value; or,

(3) In cases involving the exercise of the Right of First Refusal, an offer to purchase for the Rightsholder at a price and other material terms that are substantially equivalent to those accepted by an Owner in an arm’s length Third-Party Offer.

**“City”** means the City of East Palo Alto, including any departments within the City that are assigned any responsibilities under this chapter.

**“Condominium”** means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential structure located on the real property in compliance with Civil Code Section 783. A condominium may include, in addition, a separate interest in other portions of the real property.

**“Day or Days”** means calendar day(s) unless otherwise stated.

**“Dwelling Unit”** means a structure or the part of a structure that is used as a residence that provides complete, independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.

**“Duplex”** means a single building that contains two dwelling units or two dwelling units on a single parcel. Duplex does not include accessory residential units.

**“First Offer”** means an offer made by a Rightsholder (Tenant, Qualified Non-Profit Housing Organization, or the City) during the Offer Period.

**“Junior Accessory Dwelling Unit (JADU)”** means an accessory dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence, as defined in Chapter 18.96.



**“Low-Income Households”** are households whose income does not exceed sixty percent (60%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Listing or Marketing”** means adding the property to the Multiple Listing Service (MLS) or any other private or public online database, or adding or disseminating information about the property, with the intent of informing Third-Parties or their representatives about the opportunity to purchase, promoting the property, or any actions that promote or facilitate communications from prospective buyers.

**“Median-Income Households”** are households whose income does not exceed eighty percent (80%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Moderate-Income Households”** are households whose income does not exceed one hundred and twenty percent (120%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Multiple-Family Dwelling”** means any property with two or more dwelling units.

**“Non-Exempt”** means a residential property or a transfer that is not exempt under provisions of this chapter.

**“Notice of Intent to Sell”** means a required notice from a non-exempt residential property owner of their intent to sell a residential property, to be provided to the Rightsholders prior to listing or marketing the residential property for sale.

**“Offer Period”** means the time allotted, as varied by building type following the timely submittal of a Statement of Interest by a Rightsholder, during which Rightsholders may make First Offers to purchase the property.

**“Owner”** means any natural person, corporation, association, partnership, joint venture, limited liability company, trustee, business entity and its respective agents, or any other entity, who is the owner of record of a residential property.

**“Owner-Occupied Single-Family Dwelling”** means a single-family dwelling that is occupied by the owner(s) as the owner’s or owners’ principal residence.

**“Owner-Occupied Duplex”** means a duplex in which at least one unit is occupied by the owner(s) as the owner’s or owners’ principal residence.

**“Owner-Occupied Triplex”** means a triplex in which at least one unit is occupied by the owner(s) as the owner’s or owners’ principal residence.

**“Pre-Marketing Period”** means the time before a non-exempt residential property owner may list or market the residential property to prospective Third-Party Purchasers, which may include the Statement of Interest Period and/or the Offer Period.

**“Principal Residence”** means a residential dwelling that is occupied and is the usual place of return of a natural person. A dwelling qualifies as a primary residence when the person has lived in the dwelling for more than fifty percent (50%) of the time in the year prior to the proposed sale; and the person acknowledges the dwelling as the person’s primary residence by voter registration, address on tax returns, homeowner’s exemption, and/or mailing address.

**“Qualified Non-Profit” or “Qualified Non-Profit Housing Organization”** means an organization that is exempt from Federal Income Tax under 26 USC Section 501(c)(3), or a California cooperative corporation that has the capacity to acquire, provide and manage affordable housing for low, very low, and extremely low income households as defined by the City’s annual Area Median Income calculations, has a commitment to prevent displacement, has a demonstrated commitment to community engagement, and is certified by the City through an application process.

**“Rent”** means the consideration, including security deposit, cleaning deposit and any other deposits, bonus, benefit or gratuity demanded or received for or in connection with the use or occupancy of rental units and housing services. Rent includes monies and the fair market value of goods or services rendered to or for the benefit of the landlord under the rental agreement.

**“Residential Property”** means any property containing one or more dwelling units and located in the City.

**“Right of First Offer”** means the Rightsholder's right to make a first offer to purchase a residential property, during the Offer Period following timely submittal of a Statement of Interest, prior to its listing or marketing to a broader audience by the Owner.

**“Right of First Refusal”** means the Rightsholder’s right to match a Third-Party Purchaser’s Bona Fide Offer to Purchase. Single-Family Dwellings are exempt.

**“Rightsholder”** means Tenant, Qualified Non-Profit Housing Organization, or the City in reference to the Right of First Offer and Right of First Refusal as conferred in this chapter.

**“Single-Family Dwelling”** means a building, structure or dwelling unit (e.g. accessory dwelling unit), or portion of a building, structure, or dwelling unit principally designed for the residential habitation of one household, with all secure entrances leading to the same set of interior common areas.

**“Statement of Rights and Obligations”** means a statement provided by a Qualified Non-Profit to a Tenant that assigns their rights under this chapter, or by a Qualified Non-Profit that purchases a residential property under this chapter, outlining its responsibilities as the Rightsholder and/or Subsidized Purchaser.

**“Subsidized Purchaser”** is any Rightsholder (Tenant, Qualified Non-Profit, or City) receiving public or private subsidy to support a purchase.

**“Tenant”** means a renter, tenant, subtenant, lessee or sublessee of a rental unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any rental unit, or any other person entitled to the use or occupancy of such rental unit.

**“Third Party”** means any person or entity that is not a Rightsholder and not the Owner/Seller of the property.

**“Third-Party Offer”** means any offer made by a person or entity for a Residential Property other than a Rightsholder.

**“Third-Party Purchaser”** means any person or entity other than a Rightsholder that has entered into a bona fide contract of sale for a Residential Property.

**“Triplex”** means a single building that contains three dwelling units or three dwelling units on a single parcel. Triplex does not include accessory dwelling units.

#### **14.25.030 Applicability**

This chapter applies to the sale or transfer of all Residential Property in the City unless otherwise exempted.

#### 14.25.040 Exemptions

A. Exempt Residential Property. Residential Property not subject to the requirements of this chapter:

1. Owner-Occupied Single-Family Dwellings, including those with an Accessory Dwelling Unit(s) (inclusive of any Junior Accessory Dwelling Unit) when the Owner has occupied the Single-Family Dwelling or the ADU as the Owner's Principal Residence for at least one (1) year or more.
2. Non-Owner-Occupied Residential Property owned by an East Palo Alto resident, when the Owner has occupied a Residential Property within East Palo Alto as the Owner's Principal Residence for at least one (1) year or more. This exemption shall not apply to any Residential Property owned by:
  - a. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code;
  - b. A corporation; or
  - c. A limited liability company in which at least one member is a corporation.
3. Owner-Occupied Condominiums when the Owner has occupied the Condominium as the Owner's Principal Residence for at least one (1) year or more.
4. Any Owner-Occupied Duplex with or without any Accessory Dwelling Unit(s) (inclusive of any Junior Accessory Dwelling Unit) when the Owner has occupied any Dwelling Unit on the property as the Owner's Principal Residence for at least one (1) year or more.
5. Any Owner-Occupied Triplex with or without any Accessory Dwelling Unit(s) (inclusive of any Junior Accessory Dwelling Unit) when the Owner has occupied any Dwelling Unit on the property as the Owner's Principal Residence for at least one (1) year or more.
6. Residential Property owned by the local, state, or federal government.
7. Residential Property subject to resale price control under Chapter 18.37.

8. Residential Property owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

B. Exempt Transfers. Transfers of Residential Property not subject to the requirements of this chapter:

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, nieces and nephews, and/or grandparents and grandchildren.
2. A transfer for consideration by a decedent's estate if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity.
3. A transfer of legal title or an interest in an entity holding legal title to a Residential Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Rightsholders under California Civil Code Sections 2924(f)-(h), 2924(m)-(n), or 2929.3.
4. A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.
5. A transfer by devise, descent, or operation of the law upon the death of a natural person.
6. A transfer pursuant to court order or court-approved settlement.
7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.
8. Any transfer of a fractional interest in a Residential Property that is less than fifty percent (50%) of an undivided interest in the Residential Property.
9. Any transfer in which the transferee receives a low-income housing credit pursuant to 28 U.S.C. § 42.

10. A transfer of a Residential Property with no more than four (4) Dwelling Units made for the purpose of either: (a) paying for imminently necessary health care expenses of an Owner of the Residential Property, or (b) an emergency circumstance placing the Owner in financial hardship and at imminent risk of foreclosure or bankruptcy and the Owner has occupied the Residential Property as the Owner's Principal Residence for at least one (1) year or more. For purposes of this subsection only, "Owner" shall be limited to a natural person having an undivided interest in the Residential Property of at least fifty percent (50%). An Owner may claim this Exempt Transfer within one (1) year of having vacated the Residential Property where the Owner demonstrates the existence of the conditions set forth in this subsection.

C. Transfer Exemption Procedures. The Owner shall submit a Certificate of Exemption signed under penalty of perjury to the City after deciding to sell and before marketing the property, self-certifying one of the exemptions described in subsection B. A Certificate of Exemption must be accompanied by supporting documents as set forth in the Administrative Guidelines. The City shall make the template Certificate of Exemption publicly available, including on the City website. This section shall not be construed to or used in a manner that unreasonably delays an Owner's valid and lawful transfer of a real property interest under Exempt Transfers.

#### **14.25.050 Qualified Non-Profits**

A. Certification, Term, and Renewal. The City Council shall certify and recertify Qualified Non-Profits through the Administrative Guidelines which establish the application process. A Non-Profit organization's certification as a Qualified Non-Profit shall be valid for five (5) years. The City Manager or designee shall solicit new applications for Qualified Non-Profit status at least once each calendar year, at which time existing Qualified Non-Profits shall be eligible to apply for renewed certification. A list of Qualifying Non-Profits shall be published on the City's website.

B. Disqualification of Qualified Non-Profits. The City Manager or designee shall promptly investigate any complaint alleging that a Qualified Non-Profit has failed to comply with this chapter. If after providing the Qualified Non-Profit with notice and opportunity to respond, the City Manager or designee determines that an organization listed as a Qualified Non-Profit has failed to comply with the requirements of this chapter, the City Manager or designee may decide whether to exercise their discretion to recommend to City Council to limit, suspend, or revoke that organization's certification as a Qualified Non-Profit.

**14.25.060 Assignment of Rights**

- A. A Tenant living in a Non-Exempt Single-Family Dwelling with Absentee Owner(s) may assign rights to a Qualified Non-Profit.
- B. A Qualified Non-Profit assignee shall sign and submit a “Statement of Rights and Obligations” to the Tenant. The content of the statement shall be set forth in the Administrative Guidelines.
- C. The assignment of rights may occur at any time during the Statement of Interest Period and/or Offer Period no later than the end of the Offer to Purchase period.
- D. Neither Qualified Non-Profit assignees nor the assignor shall accept any payment or reward in exchange for the assignment of rights under this section. An offer to rent (or continue renting) the Single-Family Dwelling at terms favorable to a Tenant or Qualified Non-Profit assignee, including at an affordable rate, shall not be considered payment or reward.

**14.25.070 Notice of Intent to Sell; Statement of Interest**

- A. Notice of Intent to Sell. An Owner of a Non-Exempt Residential Property shall provide all Rightsholders a Notice of Intent to Sell prior to listing or marketing a Residential Property for sale. The City shall make the template Notice of Intent to Sell available on the City website. The Notice of Intent to Sell shall be sent to each Rightsholder as set forth in the Administrative Guidelines, and shall include the following:
  - 1. A statement that the Owner intends to sell the Residential Property.
  - 2. A statement describing the rights of Rightsholders and stating the deadlines for exercising those rights.
  - 3. Instructions for submitting a Statement of Interest, including the address and email address where a Statement of Interest may be sent.
- B. Statement of Interest. A Rightsholder may respond to the Notice of Intent to Sell by submitting a Statement of Interest during the thirty (30) day Statement of Interest Period. The purpose of the Statement of Interest is to notify the Owner of the Rightsholder’s interest in exercising the Right of First Offer and/or Right of First Refusal. To be eligible to submit a Statement of Interest, within the first fifteen (15) days of receiving the Owner’s Notice of Intent to Sell, a Rightsholder shall notify the Owner by reliable means of communication (established by

Administrative Guidelines) of the Rightsholder’s intent to submit a Statement of Interest. A Rightsholder subsequently has the remainder of the thirty (30) day Statement of Interest Period to deliver the Statement of Interest to the Owner of the Residential Property. The template Statement of Interest shall be available on the City website.

- C. Disclosure Package. Within five (5) days of sending a Notice of Intent to Sell to Rightsholder, the Owner must provide a disclosure package, as required by applicable law, and that may include documents and information set forth in the Administrative Guidelines, and at minimum, an itemized list of annual income and expenses, including but not limited to rent and other income collected, and costs of management, insurance, utilities, maintenance, and repairs.
- D. Effect of Statement of Interest. Receipt of a timely Statement of Interest by the Owner and transmission of a disclosure package to the Rightsholders shall initiate the Offer Period during which rightsholders can exercise Right of First Offer as follows:

<b>Dwelling Type</b>	<b>Offer Period</b>
Single Family	30 calendar days
Multiple 2-3 Units	60 calendar days
Multiple 4+ Units	60 calendar days

During the Offer Period, Rightsholders may submit an offer to purchase the property pursuant to Section 14.25.090.

- E. Prohibition on Listing or Marketing Property During the Statement of Interest Period and Offer Period. Before the Owner of a Residential Property may offer, list, market, or solicit offers for that property for sale to any purchaser other than a Rightsholder, the Owner shall notify each Rightsholder of the intent to sell the property. The Owner is prohibited from offering, listing, marketing, or soliciting offers until the Right of First Offer has been exercised or waived by each of the Rightsholders.



#### 14.25.080 Rightsholders and Priority Order

A. Before the Owner of a Residential Property may list or market that property for sale to any purchaser, the Owner shall give all Rightsholder(s) an opportunity to purchase at a price and terms that represent a Bona Fide Offer to Purchase. The Owner is not required to give the Rightsholder(s) an opportunity to purchase when the Owner has received an unsolicited offer unless the Owner takes any action to accept the unsolicited offer.

B. The priority order for Rightsholders for Tenant-Occupied Single-Family Dwellings and Condominiums from Absentee Owner(s) not maintaining a Principal Residence in City is Tenants, Qualified Non-Profits, and the City:

1. Notice of Intent to Sell. The Owner must provide all Rightsholders with a Notice of Intent to Sell, followed by a disclosure package as required in this chapter.
2. Statement of Interest. All Rightsholders are allowed to submit a Statement of Interest to Purchase.
3. Right of First Offer.
  - a. In the event a Tenant submits a Statement of Interest in response to the Notice of Intent to Sell, the statement shall be given priority over any Statement of Interest submitted by a Qualified Non-Profit or the City. Nothing prohibits the Tenant(s) from assigning their Right of First Offer to a Qualified Non-Profit during the Statement of Interest period. A Qualified Non-Profit may be conferred a Right of First Offer if a Tenant assigns in writing the Tenant's Right of First Offer, or executes a written waiver of the Tenant's Right of First Offer, or no Tenant submits a Statement of Interest.
  - b. In the event no Tenant submits a Statement of Interest in response to the Notice of Intent to Sell, the statement(s) submitted by Qualified Non-Profit(s) shall be given priority over any statement submitted by the City.
  - c. In the event no Tenant or Qualified Non-Profit submits a Statement of Interest in response to the Notice of Intent to Sell, any Statement of Interest submitted by the City shall be given priority.

4. Right of First Refusal.

- a. No Right of Refusal is conferred to Rightsholders for Single-Family Dwellings and Condominiums.

C. The priority order for Rightsholders for Non-Tenant Occupied Single Family Dwellings and Condominiums, Duplexes and Triplexes (with or without tenants) and Multiple-Family Dwellings, with four (4) or more units (with or without tenants), from Absentee Owner(s) not maintaining a Principal Residence in City is Qualified Non-Profits and the City.

1. Notice of Intent to Sell. The Owner is required to provide all Rightsholders with a Notice of Intent to Sell, followed by a disclosure package as required in this chapter.
2. Statement of Interest. All Rightsholders are allowed to submit a Statement of Interest.
3. Right of First Offer.
  - a. In the event any Qualified Non-Profit submits a Statement of Interest in response to the Notice of Intent to Sell, the statement(s) shall be given priority over any statement submitted by the City.
  - b. In the event no Qualified Non-Profit submits a Statement of Interest, any Statement of Interest submitted by the City shall be considered, and the City may proceed with the Right of First Offer process.
4. Right of First Refusal.
  - a. The Right of First Refusal is applicable only for Duplexes and Triplexes (with or without tenants) and Multiple-Family Dwellings, with four (4) or more units (with or without tenants), from Absentee Owner(s) not maintaining a Principal Residence in City. The Right of First Refusal is not applicable for Single-Family Home Dwellings and Condominiums (with or without tenants) and residential properties and transfers exempt under Section 14.25.040.

- b. In the event the Owner rejects the offer(s) submitted by all Rightsholders and takes any action to move forward with a qualifying Third-Party Offer, the Owner must notify all the Rightsholders, who timely submitted a Statement of Interest and a First Offer, and give priority in the order described for the exercise of Right of First Refusal.
- c. In the event the Qualified Non-Profits do not submit a match to the Bona Fide Offer to Purchase for the exercise of Right of First Refusal, the City’s offer to match Third-Party price and terms in the exercise of Right of First Refusal will stand.

**14.25.90 Offer to Purchase**

A. Submission of Offer to Purchase. The Rightsholder may deliver to the Owner of the Residential Property an offer to purchase the property at any time prior to the expiration of the Offer Period. The Owner may accept or reject any offer to purchase received from a Rightsholder subsequent to the steps set forth in Section 14.25.080.

<b>Dwelling Type</b>	<b>Offer Period</b>
Single Family	30 calendar days
Multiple 2-3 Units	60 calendar days
Multiple 4+ Units	60 calendar days

B. Acceptance of Offer to Purchase. Upon acceptance of an offer to purchase a Residential Property, the Rightsholder shall make reasonable and good faith efforts to close escrow on the transaction. The timeline for close of escrow is:

<b>Dwelling Type</b>	<b>Close of Escrow</b>	<b>Extended Escrow Period</b>
Single Family	30 calendar days	60 calendar days* + any agreement between the parties
Multiple 2-3 Units	90 calendar days	Any agreement between the parties
Multiple 4+ Units	90 calendar days	Any agreement between the parties

\*If the Rightsholder provides written documentation that the lender requires a commercial loan for the purchase of the property.

C. Termination of Right of First Offer. Upon rejection of all offers to purchase made within the Offer Period, or the closure of the Statement of Interest Period and/or Offer Period by expiration or waiver of rights by all qualifying Rightsholders, the Owner may list and market for sale the Residential Property and may solicit and conditionally accept any Third-Party Offer, subject to the requirements of Section 14.25.100.

#### **14.25.100 Exercise of Right of First Refusal**

- A. The Right of First Refusal is applicable only for Duplexes and Triplexes (with or without tenants) and Multiple-Family Dwellings, with four (4) or more units (with or without tenants), from Absentee Owner(s) not maintaining a Principal Residence in City. The Right of First Refusal is not applicable for Single-Family Home Dwellings and Condominiums (with or without tenants), and residential properties and transfers exempt under Section 14.25.040.
- B. The Right of First Refusal is not applicable to accepted or conditionally accepted Third-Party Offers which exceed 115% of the highest rejected First Offer made by a Rightsholder.
- C. Disclosure of Third-Party Offer to Purchase. An Owner interested in accepting a Third-Party Offer less than or equal to one hundred fifteen percent (115%) of the highest First Offer received, shall disclose terms of that Third Party Offer to any Rightsholder that submitted a First Offer. Within two (2) days of signaling intent and/or taking action to accept of the Third-Party Offer, the Owner shall disclose to each Rightsholder that submitted a First Offer all material terms, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser; provided, however, that any confidential information not necessary to comply with the requirements of this section shall be redacted from such offers.
- D. Right of First Refusal. Any Rightsholder that submitted a Statement of Interest and an Offer may have the Right of First Refusal. When an Owner takes action to accept a Third Party Offer at a price less than or equal to one hundred fifteen percent (115%) of the First Offer, the Rightsholder may exercise a Right of First Refusal and match the Third Party Offer within the time period set forth in this section. To exercise its Right of First Refusal, the Rightsholder must make an offer of substantially equivalent price and terms except for the time to close escrow as described in this section and the deposit amount as described in Section 14.25.110; provided, however, the financing of the Rightsholder's purchase shall

not be considered a material term of the Offer to Purchase so long as it does not affect the net value of the Sale to the Owner.

- E. Time to Exercise Right of First Refusal. Subsequent to accepting, conditionally accepting, or taking any action to accept a Third-Party Offer less than or equal to 115% of the highest rejected First Offer, the Owner shall disclose the terms of that offer and provide any Rightsholder that submitted a Statement of Interest and an Offer these minimum amounts of time to match the Third-Party Offer:

<b>Dwelling Type</b>	<b>Exercise of Right of First Refusal</b>
2-3 Units	20 calendar days
4+ Units	20 calendar days

The acceptance of a Rightsholder's First Offer to Purchase by an Owner extinguishes any Right of First Refusal of other Rightsholders.

#### **14.25.110 Closing**

- A. Time to Close Escrow. Upon acceptance of the Offer to Purchase, the Rightsholder shall have these minimum amounts of times to close escrow:

<b>Dwelling Type</b>	<b>Close of Escrow</b>	<b>Extended Escrow Period</b>
Single Family	30 calendar days	60 calendar days* + any agreement between the parties
Multiple 2-3 Units	90 calendar days	Any agreement between the parties
Multiple 4+ Units	90 calendar days	Any agreement between the parties

\*If the Rightsholder provides written documentation the lender requires a commercial loan for the purchase of the property.

- B. Rejection of Offer or Failure to Close. If each Rightsholder entitled to receive an Offer to Purchase waives or fails to exercise the Right of First Offer within the time set forth in this section, or if an Owner rejects any and all First Offers made by Rightsholders during the Offer Period, or if a Rightsholder that submits an accepted Offer to Purchase

fails to close escrow within the time set forth in this section, the Owner may immediately proceed with the sale or transfer of the Residential Property to a Third-Party Purchaser.

C. Notwithstanding any other provision of this section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement preserves the Right of First Refusal as conferred by this chapter.

#### **14.25.120 Contract Negotiation**

A. **Bargaining in Good Faith.** The Rightsholder and Owner shall bargain in good faith. The following constitute prima facie evidence of not bargaining in good faith:

1. The failure of an Owner to offer the Rightsholder a price or term substantially equivalent to that offered to a Third Party, without a reasonable justification for so doing;
2. The failure of an Owner to make a contract with the Rightsholder substantially equivalent to the price and terms of a Third-Party contract within the time periods specified in this chapter, without a reasonable justification for so doing; or
3. The intentional failure of a Rightsholder or an Owner to comply with the provisions of this chapter, including but not limited to Rightsholders making offers without intention to close, or Owners soliciting Third-Party Offers to disqualify the Right of First Refusal without the intention to close.

B. **Reduced Price.** If the Owner sells or contracts to sell the Residential Property to a Third-Party Purchaser for a price more than fifteen percent (15%) less than the price of the highest rejected First Offer by a Rightsholder or for other terms which would constitute not bargaining in good faith, the sale or contract is void and the Owner shall comply anew with all applicable requirements of this chapter .

C. **Financial Assurances.** The Owner may not require the Rightsholder to prove financial ability to perform as a prerequisite to entering into a contract. The Owner may not require the Rightsholder to pay the purchase price in installments unless the Owner provides deferred purchase money financing on terms reasonably acceptable to the Rightsholder. The Owner may require the Rightsholder to prove that the Rightsholder, either alone or in conjunction with a Third-Party, has comparable financial ability to the Third-Party Purchaser before the Owner will be required to grant deferred purchase money financing to the Rightsholder on the same terms and conditions conditionally accepted between the Owner and the Third-Party Purchaser. If the Rightsholder can

prove comparable financial ability alone, the Owner may not require the Rightsholder to secure a third-party guarantor. This proof cannot be required as a prerequisite to contracting. It may be required only as a prerequisite to the Owner granting deferred purchase money financing at settlement.

D. Transfers of Interest in a Partnership or Corporation and Master Leases. In the event of a transfer of interest in a partnership or corporation or in the event of a master lease or agreement that is considered a sale but which does not involve a transfer of record title to the real property, the Owner shall be bargaining in good faith if the Owner offers the Rightsholder the opportunity to acquire record title to the real property or offers the Rightsholder the opportunity to match the type of transfer or agreement entered into with the Third Party. With respect to either type of offer, all provisions of this chapter apply.

E. Deposit. The Owner shall not require the Rightsholder to pay a deposit of more than three percent (3%) of the contract sales price to make a contract. The deposit is refundable in the event of a good faith failure of the Rightsholder to perform under the contract unless otherwise provided in the contract.

#### **14.25.130 Long-Term Affordability and Tenant Protections in Properties Purchased Pursuant to this Chapter**

All Residential Properties purchased pursuant to this chapter, except for Single-Family Dwellings purchased with no subsidy, shall be subject to rental affordability restrictions and restrictions on the resale value of a given property.

A. Subsidized Purchaser(s). In exchange for the rights conferred by this chapter, Subsidized Purchasers shall sign and submit a Statement of Rights and Obligations, available on the City website, agreeing to maintain the Residential Property as permanently affordable. This Statement of Rights and Obligations shall be recorded.

B. Rental Units. If, upon purchase, the average rental rate of the units in the property, based on the existing tenancies of the non-purchasing Tenants exceeds a rent affordable to 50% AMI households, the new Owner shall rent each vacant unit to 50% AMI income households until the 50% AMI rental rate average is achieved. Future rental rates of any vacant units shall not exceed a rent affordable to Low-Income Households. These affordability levels may be amended by Council resolution.

C. Owned Multiple-Family Units. The sales price shall be calculated based on Chapter 18.37 and the inclusionary housing guidelines. The sales price for any vacant

units shall be set at an affordable price to Median Income Households and to Moderate Income Households, with the first vacant unit restricted to Median Income Households. The resale or transfer of ownership units shall be subject to long-term affordability covenants consistent with Section 18.37.100.

D. Permanent affordability standards shall remain in force in perpetuity or for no less than ninety-nine (99) years and be renewable. The standards shall be evidenced by one of the following:

1. A restrictive covenant placed on the deed to the Residential Property that runs with the land and is enforceable by the City against the purchasers and their successors;
2. A Community Land Trust lease, which is a ninety-nine (99)-year renewable land lease with affordability and Owner-occupancy restrictions; or
3. Affordability covenants in land leases or other recorded documents which run with the land and are enforceable.

E. The sale of a Residential Property pursuant to this chapter shall not impair the rights of any Tenant under Chapter 14.04 or any other applicable state law or local law. Further, any Tenant who resides in any unit at the time of the sale of a Residential Property under this chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this section.

F. All covenants created in accordance with this section shall be recorded with the San Mateo County's Recorder's Office.

G. Required Filing to Certify Compliance with Affordability Restrictions. In the case that permanent affordability restrictions materialize as a covenant enforceable by the City, the Owner(s) of the Residential Property shall file a document every three (3) years with the City in which the Owner(s) affirmatively state the rents for each unit in the Residential Property.

#### **14.25.140 Conduct**

A. The sale or transfer of any Residential Property subject to this chapter is prohibited unless an exemption applies and the Owner complies with Section 14.25.040. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c) shall be considered a sale or transfer of Real Property for purposes of this Chapter.



B. A Tenant or Rightsholder is prohibited from receiving any consideration in exchange for foregoing any right afforded to them under this chapter or sell a waiver of any such right.

C. An Owner shall not coerce a Rightsholder to waive their rights, retaliate against or harass a Tenant seeking to exercise their rights, or engage in conduct intended to prevent a Tenant from exercising their rights under this chapter.

D. Any agreement between the Owner and a Rightsholder to shorten the time periods provided for exercise of any right afforded under this chapter is prohibited unless all other Rightsholders have waived their rights under this chapter. Notwithstanding the foregoing, any Rightsholder may affirmatively indicate they have no interest in a Residential Property prior to the expiration of any deadlines and in accordance with the Administrative Guidelines. Nothing in this section shall prohibit an agreement to extend the deadlines set forth herein.

E. Any Rightsholder that Purchases a Residential Building under the right of first offer set forth in Section 14.25.090 shall, to the maximum extent permitted by law and otherwise feasible, be obliged to work with the Owner in good faith to facilitate an exchange of real property of the kind described in 26 US. C. § 1031, for the purpose of facilitating the Owner's realization of any federal tax benefits available under that section of the Internal Revenue Code.

#### **14.25.150 Confidentiality**

Any information exchanged between Owner(s) and Rightsholders intended to facilitate the sale of property including, but not limited to, disclosures, any intent to sell, and terms and conditions of an offer of sale, shall be kept confidential to the greatest extent permitted by law. This section shall not prohibit disclosure of information necessary to effectuate the purpose of this chapter to any Owner, Tenant, Qualified Non-Profit, or to the City or its agents or contractors, nor shall this chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

#### **14.25.160 Enforcement**

A. **Owner Certification.** Before close of escrow, the Owner(s) shall cause to be executed, through the escrow company that facilitates the sale of the property, a notarized signed declaration, under penalty of perjury, affirming that the sale of that property substantially complied with the requirements of this chapter. Owner shall instruct the

escrow company to file a copy of the Owner Certification with the City. The City will publish addresses of all such sales on its website.

B. The City Attorney, any non-exempt Owner subject to the provisions of this chapter, and/or any Rightsholder may bring a civil action to enforce this chapter and shall be entitled to the remedies set forth in this section to the greatest extent permitted by law.

C. A prevailing party in any action to enforce this chapter shall be entitled to civil damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may enforce the affordability requirements of this chapter, when applicable. Any court of competent jurisdiction may enjoin a transfer or sale of Property, or rescind a sale of Property, where the Owner failed to comply with requirements of this chapter, and may order that an Owner comply with the requirements of this chapter.

D. Penalties for violation of this chapter:

1. Any violation shall be subject to a civil penalty not to exceed \$1,000 per day, unless such a penalty would not be in the interests of justice, as determined by a court of law. Each failure to provide the required notice or disclosure shall be considered a separate violation for each unit on a Property. Penalties assessed for violations found not willful shall not exceed \$15,000; no such maximum shall apply for willful violations.
2. If the Owner's violation was knowing or willful, mandatory civil penalties equal to ten percent (10%) of the sale price for a first violation; twenty percent (20%) for the second, and thirty percent (30%) for each violation thereafter.

E. Suspension or Disqualification of Qualified Non-Profits. The City shall promptly investigate any complaint alleging that a Qualified Non-Profit has failed to comply with this chapter. If, after providing the Qualified Non-Profit with notice and opportunity to be heard, the City determines that a Qualified Non-Profit has failed to comply with this chapter, the City may suspend or revoke a Qualified Non-Profit's certification.

#### **14.25.170 Financial Assistance**

A. The City Manager or designee shall develop guidelines, which shall be subject to approval by the City Council, for providing financial assistance to allow for the acquisition of Residential Property. Financial assistance may be provided to Rightsholders. Nothing in this section commits the City Council to providing a specified level of funding for the acquisition of Residential Property under this chapter.

B. The provision of financial assistance to any Tenant who acquires an interest in a Residential Property pursuant to this chapter must be conditioned on the Tenant's agreement to reside at the Residential Property for at least three (3) years. The City Manager or designee is authorized to impose a lien on the Residential Property to enforce the requirements of this section.

#### **14.25.180 Implementation**

A. The City Council shall initially approve the Administrative Guidelines, by resolution, necessary to implement the requirements of this chapter. Thereafter, the City Council may delegate to the City Manager the authority to amend the Administrative Guidelines as needed.

B. The City shall annually post and update the City's website with information on the East Palo Alto Opportunity to Purchase Act process, including information about rights and sales.

C. The City Manager or designee shall develop online and printed forms and databases, Qualified Non-Profit list and registry, and other administrative services to ensure efficient management of the program.

### **SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Adoption of this Ordinance is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act ("CEQA") Guidelines. The City Council therefore directs that the Planning Division file a Notice of Exemption with the San Mateo County Clerk.

### **SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

**SECTION 5. EFFECTIVE DATE.**

The Effective Date of this chapter shall be the earlier of City Council adoption of Administrative Guidelines by resolution, or 60 days after ordinance adoption.

**SECTION 6. EVALUATION**

By operation of law, this Ordinance shall be evaluated in its entirety commencing two years from the Effective Date. Upon evaluation, the City Council may by an affirmative vote take action to retain or revise the Ordinance and any amendments thereto, or portions thereof.

**SECTION 7. PUBLICATION.**

The City Clerk is hereby directed to cause publication of this Ordinance as required by Government Code Section 36933.

This Ordinance was introduced at the \_\_\_\_\_ meeting of the City Council of the City of East Palo Alto.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 202\_ by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Lisa Gauthier, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
James Colin, City Clerk

\_\_\_\_\_  
John D. Lê, City Attorney

**From:** [Stewart Hyland](#)  
**To:** [Housing](#)  
**Subject:** Re: Join EPA OPA Public Hearing - December 5, 2023 at 6:30 P.M.  
**Date:** Wednesday, November 29, 2023 3:13:13 PM  
**Attachments:** [image001.png](#)

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Thanks for the update,

Stewart

On Wed, Nov 29, 2023 at 2:51 PM Housing <[housing@cityofepa.org](mailto:housing@cityofepa.org)> wrote:

*\*En español más abajo\**

## City Council Second Reading – December 5, 2023

### Opportunity to Purchase

Dear East Palo Alto Resident,

Thank you for participating in the City of East Palo Alto's discussions on the Opportunity to Purchase policy. The second reading and final adoption will be held on December 5, 2023, after 6:30 p.m.

- When: Tuesday, December 5, 2023, after 6:30 p.m.
- You can join virtually via Zoom or in-person at City Hall. Find the agenda here: <https://www.cityofepa.org/citycouncil/page/agenda-and-minutes>
- Zoom link: <https://us06web.zoom.us/j/85077033240>

**What is the East Palo Alto Opportunity to Purchase Act?** The East Palo Alto Opportunity to Purchase Act is a policy component of the 2019-2023 Affordable Housing Strategy to address displacement and increase opportunities for local homeownership. It requires some owners of residential buildings to notify tenants, local affordable housing providers, and the City when the property owner is ready to sell. It is designed to help stabilize local tenants looking to purchase the spaces they rent and to also enable affordable housing preservation by purchasing the buildings at market price, but reselling or renting them at a price that is affordable to local residents.

**How can I get involved?** Stay up-to-date and explore our Housing page at [www.cityofepa.org/housing](http://www.cityofepa.org/housing). You can also submit your comments to [cityclerk@cityofepa.org](mailto:cityclerk@cityofepa.org), cc'ing [housing@cityofepa.org](mailto:housing@cityofepa.org), using "Opportunity to Purchase Act" in the subject line.

Visit the [East Palo Alto Opportunity to Purchase Act](#) webpage for more info.

If you would like to unsubscribe from these updates, please reply "unsubscribe."

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## Oportunidad de Compra

Estimado/a residente de East Palo Alto,

Gracias por participar en las discusiones de la ciudad de East Palo Alto sobre la póliza de Oportunidad de Compra. El martes, 5 de diciembre del 2023 después de las 6:30 pm será la segunda lectura y aprobación final de la Oportunidad de Compra de East Palo Alto (EPA OPA).

- Cuando: Martes, 5 de diciembre, 2023, después de las 6:30 p.m.
- Puede asistir por Zoom o en persona. Vea la agenda aquí: <https://www.cityofepa.org/citycouncil/page/agenda-and-minutes>
- Enlace de zoom: <https://us06web.zoom.us/j/85077033240>

*¿Qué es la póliza de Oportunidad de Compra de East Palo Alto? La Oportunidad de Compra de East Palo Alto es un componente de la Estrategia de Viviendas Asequibles de 2019-2023 para reducir el desplazamiento y aumentar las oportunidades para la propiedad de vivienda local. Requiere que algunos propietarios de edificios residenciales notifiquen a los inquilinos, a los proveedores locales de viviendas asequibles y a la ciudad de East Palo Alto cuando las propiedades estén a la venta. Está diseñada para ayudar a estabilizar a los inquilinos locales buscando comprar espacios que alquilan y también para permitir la preservación al comprar los edificios a la tasa de mercado, y hacerlas asequibles para residentes locales.*

*¿Por qué es importante mi participación en la discusión sobre la póliza de Oportunidad de Compra de East Palo Alto? Su participación en la discusión ayudará la discusión de nuestra Ciudad sobre los detalles de la póliza y su implementación. Su participación nos ayuda a mantener nuestro proceso lo más inclusivo y comunitario posible.*

*¿Cómo me puedo involucrar? Manténgase actualizado/a visitando la página de la Ciudad en [www.cityofepa.org/housing](http://www.cityofepa.org/housing). También puede enviar sus comentarios a [housing@cityofepa.org](mailto:housing@cityofepa.org), utilizando "Oportunidad de Compra" en la línea de asunto.*

**Visite la página web de la [Ley de Oportunidades de Compra de East Palo Alto](#) para obtener más información.**



## Housing Division

Community & Economic Development  
Department

City of East Palo Alto

Phone: (650) 853-3195

Email: [housing@cityofepa.org](mailto:housing@cityofepa.org)

Web: [www.cityofepa.org/housing](http://www.cityofepa.org/housing)

1960 Tate Street, East Palo Alto, CA  
94303

\*\* View City office hours [here](#). The City continues to offer virtual appointments as an alternative to in-person meetings. For inquiries or to request an appointment with Housing, please email [housing@cityofepa.org](mailto:housing@cityofepa.org) or set up a meeting via this [link](https://tinyurl.com/appointmentsEPAhousing) (<https://tinyurl.com/appointmentsEPAhousing>). \*\*

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*"It is not our differences that divide us. It is our inability to recognize, accept, and celebrate those differences."  
Audre Lorde*

Stewart Hyland



**CAUTION:** This e-mail originated from outside of the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

**From:** [Housing](#)  
**To:** [Graeham Watts](#)  
**Cc:** [Housing](#)  
**Subject:** RE: New booking: for Opportunity to Purchase  
**Date:** Friday, December 1, 2023 10:12:14 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image004.png](#)

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Yes, we will go over the questions you sent in your email during our 2:15pm appointment.



**Housing Division**  
Community & Economic Development  
Department  
City of East Palo Alto  
**Phone:** (650) 853-3195  
**Email:** [housing@cityofepa.org](mailto:housing@cityofepa.org)  
**Web:** [www.cityofepa.org/housing](http://www.cityofepa.org/housing)  
1960 Tate Street, East Palo Alto, CA 94303

*\*\* View City office hours [here](#). The City continues to offer virtual appointments as an alternative to in-person meetings. For inquiries or to request an appointment with Housing, please email [housing@cityofepa.org](mailto:housing@cityofepa.org) or set up a meeting via this [link \(https://tinyurl.com/appointmentsEPAhousing\)](https://tinyurl.com/appointmentsEPAhousing).*  
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**From:** Graeham Watts <[graehamwatts@gmail.com](mailto:graehamwatts@gmail.com)>  
**Sent:** Friday, December 1, 2023 12:28 AM  
**To:** Housing <[housing@cityofepa.org](mailto:housing@cityofepa.org)>  
**Subject:** Re: New booking: for Opportunity to Purchase

Thank you, this does look similar to what I had emailed previously. I assume you also have the email I sent with the questions?



On Thu, Nov 30, 2023 at 9:42 AM Housing <[housing@cityofepa.org](mailto:housing@cityofepa.org)> wrote:



Mr. Watts,

In preparation for our meeting tomorrow (12/1) at 2:15pm, please read the attached ordinance that was published on the City Council agenda Tuesday night.

You can find the full agenda packet under the December 5, 2023 City Council meeting here:

<https://www.cityofepa.org/citycouncil/page/agenda-and-minutes>.

You can find this and future updates at the City's EPA OPA webpage:

<https://www.cityofepa.org/housing/page/east-palo-alto-opportunity-purchase-act-epa-opa-0>.

Best,

Housing Division  
Community & Economic Development Department  
City of East Palo Alto  
1960 Tate Street  
East Palo Alto, CA 94303  
[housing@cityofepa.org](mailto:housing@cityofepa.org)  
[www.cityofepa.org/housing](http://www.cityofepa.org/housing)



\*\* Please be advised that City Hall and other City facilities are now open to the public. View public office hours [here](#). We will continue to offer virtual appointments as an alternative to in-person meetings. For inquiries or to request an appointment with Housing, please email [housing@cityofepa.org](mailto:housing@cityofepa.org). \*\*

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**From:** East Palo Alto Housing <[EastPaloAltoHousing@cityofepa.org](mailto:EastPaloAltoHousing@cityofepa.org)>

**Sent:** Tuesday, November 28, 2023 11:53 AM

**To:** East Palo Alto Housing <[EastPaloAltoHousing@cityofepa.org](mailto:EastPaloAltoHousing@cityofepa.org)>

**Subject:** New booking: for Opportunity to Purchase



New booking from

# Graeham Watts

Opportunity to Purchase with  
Benjamin Toney, Karen Camacho



Friday, December 1, 2023  
2:15 PM - 2:30 PM

(UTC-08:00) Pacific Time (US & Canada)

[Join your appointment](#)

via Microsoft Teams

[View in Bookings](#)

East Palo Alto Housing  
1960 Tate St, East Palo Alto, California, 94303, United States  
650-853-3189 <https://www.cityofepa.org/housing>

Powered by Microsoft Bookings

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**From:** [Jeanne Jeanne](#)  
**To:** [Lisa Yarbrough-Gauthier](#); [Antonio D. Lopez](#); [Ruben Abrica](#); [Carlos Romero](#); [Martha Barragan](#)  
**Cc:** [Housing](#)  
**Subject:** Re: no EPA OPA  
**Date:** Tuesday, December 5, 2023 1:55:50 PM

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Dear EPA City Council Members,

I am communicating again today, the day of the 2<sup>nd</sup> reading, to please OPPOSE and vote NO for EPA OPA. Including Single Family Homes will negatively affect single family home owners who live in their homes and also those who decide to move away and rent out their homes. A delay in being able to sell one's house will result in money lost, not only in the selling price of the house, but also in the additional mortgage payments that the owner must make while waiting to move forward with the sale.

Even though EPA wants to penalize absentee landlords who live far away, many of us live here and are NOT rich. I currently live in my home, but having EPA OPA will just make me never to want to rent it out.

I do appreciate that this fight over OPA has made me become a more active citizen and really aware of who the city council members are and who to vote for in the future. Thank you.

Best regards,  
Jeanne Yu

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**From:** Jeanne Jeanne  
**Sent:** Monday, November 6, 2023 8:30 PM  
**To:** [lgauthier@cityofepa.org](mailto:lgauthier@cityofepa.org) <[lgauthier@cityofepa.org](mailto:lgauthier@cityofepa.org)>; [Antonio D. Lopez](mailto:alopez@cityofepa.org) <[alopez@cityofepa.org](mailto:alopez@cityofepa.org)>; [Ruben Abrica](mailto:rabrica@cityofepa.org) <[rabrica@cityofepa.org](mailto:rabrica@cityofepa.org)>; [cromero@cityofepa.org](mailto:cromero@cityofepa.org) <[cromero@cityofepa.org](mailto:cromero@cityofepa.org)>; [mbarragan@cityofepa.org](mailto:mbarragan@cityofepa.org) <[mbarragan@cityofepa.org](mailto:mbarragan@cityofepa.org)>  
**Cc:** [Housing](mailto:housing@cityofepa.org) <[housing@cityofepa.org](mailto:housing@cityofepa.org)>  
**Subject:** no EPA OPA

Dear EPA City Council Members,

I am a teacher and single family home owner in EPA who lives in my house. I strongly OPPOSE EPA OPA, TOPA, and COPA. Regarding EPA OPA and TOPA, First Right of Refusal to Single Family homes delays the potential sale of my house, deters other buyers due to timeline delays, and therefore limits the selling price of my home should I ever want to rent it out first. A previous argument by certain city council members is that this ordinance is targeted towards absentee landlords taking advantage of tenants. However, as we have seen in the past few years, much of the opposition to OPA is from regular citizens like me who work hard and struggled in order to afford our homes and actually still live in our homes. Even if we

never rent out our homes and decide to sell, nearby sales affected by OPA will also lower the value of our homes. Even an economics professor from UCLA wrote an article about this.

Regarding the current changes of OPA, my understanding is that Single Family Homes are removed from the First Right of Refusal Clause. What is confusing is whether or not SFH's with ADUs are still affected. While I do not have an ADU, I certainly will not be building one if that would activate OPA on my property. For the past several years, EPA has been encouraging home owners to build ADUs in order to increase housing. Applying OPA to ADU's would seem like a betrayal now.

Regarding multi-unit properties, it doesn't make sense to why a tenant renting out one unit would want to or be able to purchase multiple units at one time. Regarding non-profits that want first rights of refusal, the process of approving such organizations and which ones they would be is still not clear enough. Many of the non-profits that have voiced their support of OPA also had a hand in drafting it and/or received the same funding sources that helped fund the writing of OPA. There needs to be more transparency.

Please vote NO for EPA OPA, COPA, and/or TOPA.

Best regards,

Jeanne Yu

**CAUTION:** This e-mail originated from outside of the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

**From:** [Grace Popple](#)  
**To:** [Lisa Yarbrough-Gauthier](#); [Antonio D. Lopez](#); [Carlos Romero](#); [Ruben Abrica](#); [Martha Barragan](#); [cmoffice](#); [Karen Camacho](#); [Housing](#)  
**Cc:** [City Attorney's Office](#); [cityclerk](#)  
**Subject:** Re: OPA - Risk of Court Rescinding the Sale remains.  
**Date:** Friday, November 10, 2023 9:02:46 PM  
**Attachments:** [Screenshot 2023-11-10 at 8.55.01 PM.png](#)  
[Screenshot 2023-11-10 at 8.55.13 PM.png](#)

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As a follow up (when you've read my earlier always-too-long text) I dug in a bit more with AI. Here are two other questions I asked of ChatGPT4. You could try something similar with Claude or another strong LLM.



**You**

What are examples of Ordinances in other Cities that have provisions like the one in the East Palo Alto Opportunity to Purchase Act that allows "any court of competent authority... to rescind a sale of property"?



**ChatGPT**

Finding examples of municipal ordinances similar to the East Palo Alto Opportunity to Purchase Act, particularly those that allow a court to rescind a property sale, is challenging based on the available online resources. The concept of a court having the authority to rescind a property sale is typically more associated with broader state or federal laws and regulations regarding real estate transactions and consumer protections, rather than specific municipal ordinances.

In general, the power to rescind a contract or a property sale often lies within the broader legal framework of contract law or real estate law. This authority is usually contingent on specific circumstances such as fraud, misrepresentation, or other legal grounds that render the contract void or voidable. The rescission of a real estate transaction can be a complex legal matter, often involving state or federal statutes and case law rather than local ordinances.

For a more detailed and specific inquiry into municipal ordinances with provisions like the one in the East Palo Alto Opportunity to Purchase Act, it may be beneficial to consult legal databases or contact legal professionals who specialize in real estate law or municipal law. These sources could provide more targeted and comprehensive information on such ordinances.





You

Do any other cities' TOPA and COPA ordinances allow the courts to rescind the sale of property?



ChatGPT

I found information regarding the Tenant Opportunity to Purchase Act (TOPA) and the Community Opportunity to Purchase Act (COPA) in other cities, but I did not come across explicit provisions allowing courts to rescind property sales within these ordinances.

1. In Washington, D.C., a bill (Bill 22-0739) was introduced to amend the TOPA. This bill sought to include properties acquired through bankruptcy sales and court orders within the scope of TOPA, requiring property owners in these situations to submit to TOPA regulations. However, it does not explicitly state that the courts have the authority to rescind the sale of property [7].
2. In San Francisco, the COPA allows qualified non-profit organizations the first offer or refusal to purchase properties on the market. TOPA in San Francisco gives tenants in multi-family buildings the right to purchase their building if the landlord plans to sell. While these ordinances provide rights to purchase and certain protections, they do not explicitly mention the authority of courts to rescind property sales [7].

In summary, while TOPA and COPA in various cities do provide mechanisms for tenant or community purchase of properties, they do not directly address the ability of courts to rescind property sales. The focus of these ordinances is more on preemptive rights to purchase rather than post-transaction legal remedies. For more detailed information or specific cases where courts may have rescinded property sales under these ordinances, it would be necessary to consult legal databases or seek advice from legal professionals.



So it seems that EPA is going way out on a limb with the "nuclear option". According to this AI research, nobody else has a provision like this in their enforcement section.

Why do we have to have the harshest enforcement of any system anywhere? Is this necessary (from the outset, even)?

Thank you.

Grace

----- Forwarded message -----

From: **Grace Popple** <[grace.webber@gmail.com](mailto:grace.webber@gmail.com)>

Date: Fri, 10 Nov 2023 at 20:30

Subject: OPA - Risk of Court Rescinding the Sale remains.

To: Lisa Yarbrough-Gauthier <[lgauthier@cityofepa.org](mailto:lgauthier@cityofepa.org)>, Antonio D. Lopez <[alopez@cityofepa.org](mailto:alopez@cityofepa.org)>, Carlos Romero <[cromero@cityofepa.org](mailto:cromero@cityofepa.org)>, Ruben Abrica <[rabrica@cityofepa.org](mailto:rabrica@cityofepa.org)>, <[mbarragan@cityofepa.org](mailto:mbarragan@cityofepa.org)>, <[cmoffice@cityofepa.org](mailto:cmoffice@cityofepa.org)>, Karen Camacho <[kcamacho@cityofepa.org](mailto:kcamacho@cityofepa.org)>

Cc: <[cityattorney@cityofepa.org](mailto:cityattorney@cityofepa.org)>, cityclerk <[cityclerk@cityofepa.org](mailto:cityclerk@cityofepa.org)>

Dear Mayor, Vice-Mayor, Councilmembers, and Staff (cc City Attorney, City Clerk)

(note please pass on to Benjamin Toney too, I can't find his email):

Thank you for the discussion on OPA at the City Council meeting on Tuesday November 7th.

I appreciate that the Council recommended that Staff modify the Proposed Ordinance to put a cap on the monetary penalties to be extracted from an inadvertent violator of the Ordinance: a maximum of \$15,000. While this might still exceed the cash proceeds to the seller from the sale (and it seems most unfortunate that this might put a seller into a debt situation), it is at least some sort of cap and would reduce harm to well-intended sellers, and lower somewhat the incentive for a rash of frivolous lawsuit filing.

I went up to the platform at the end of the meeting after the vote to ask some Councilmembers and the City Attorney whether this cap would also cause the “ultimate nuclear option” penalty listed in the Ordinance to be removed - that being the idea that the Court could, after the close of sale, **rescind the sale**. Thank you all for your time late at night. **The City Attorney informed me that the cap would NOT have that effect. So the modification agreed in the meeting still doesn't protect against the worst case.**

**Worst case:**

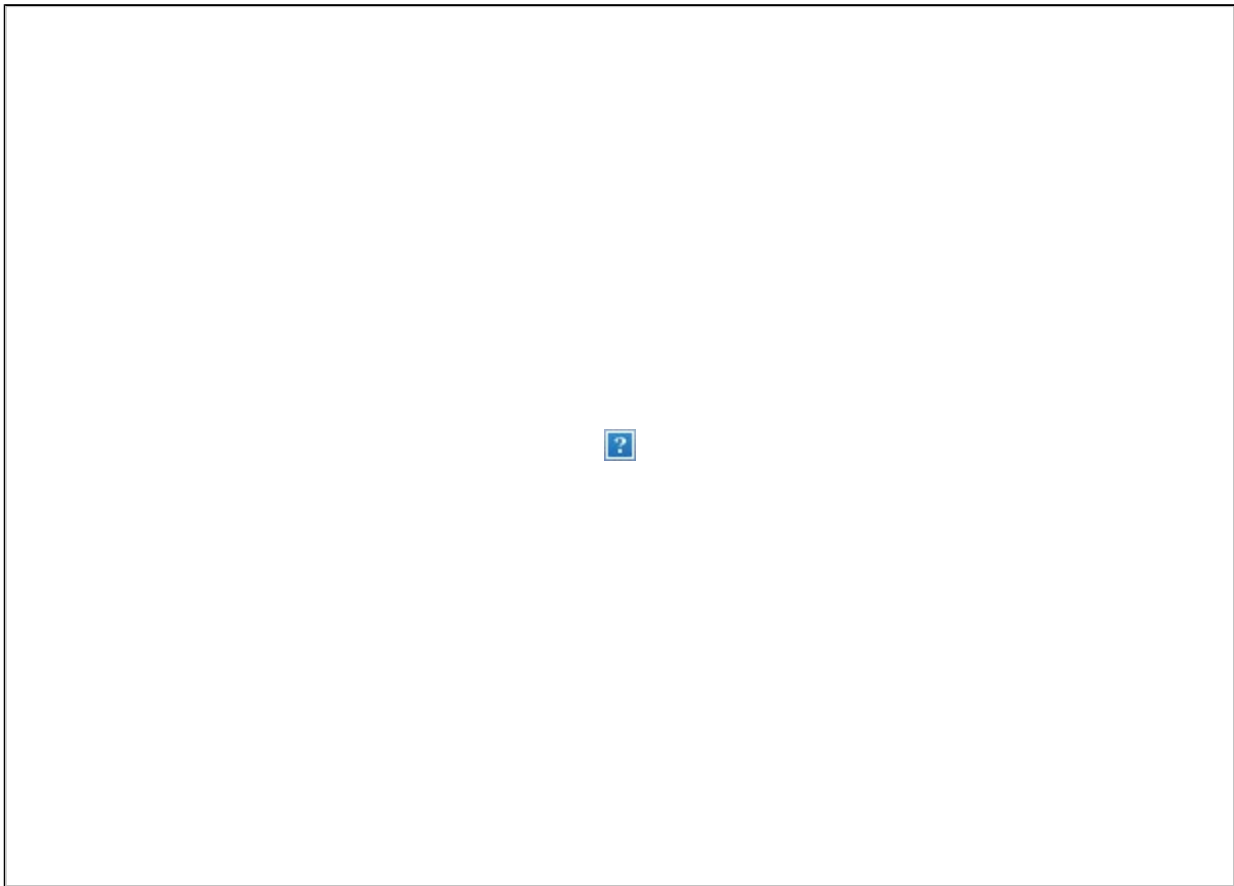
Some period after a sale, maybe years later, a tenant or a nonprofit may take a civil action and the court **rescinds the sale**. At that point as I understand it everything about the transaction needs to be unwound. If a new family has moved in and done renovations, and started their life in East Palo Alto, what is to become of them? (presumably their old property, whether they leased or owned it, is now occupied by someone else...) If the old seller doesn't have the money to pay back the buyer for the renovations, and needs a hefty mortgage to own the place and now the rates are higher, what is to become of her? If the old seller has purchased something else and cannot afford both, what happens then? (Of course the rescinding of the sale does not necessarily mean that the tenant or nonprofit (or even, in an ultimate exercise of government control, the City itself) is actually willing and able to follow through on the ultimate purchase of the property, even if that was their genuine intention.)

Perhaps this isn't so awful in a multi-family situation where the whole building is tenant-occupied and even when ownership changes, the tenancies can remain - but in a single-family-home situation that is far less likely to work “smoothly” from the perspective of the resident(s).

I asked the City Attorney how long after a sale it would be possible for a civil action to be started seeking the penalties outlined in the Ordinance (my thinking is the longer it is, the worse the impact on everyone). He said that would depend on the Statute of Limitations as pertains to this in the State of California. I went home to look this up and

found that there is a whole range of time periods that might apply depending on the “Cause of Action”. A variety of them can be seen here: <https://www.courts.ca.gov/9618.htm> and they range from 1 year, to 2 or 4 years for various kinds of civil contracts, up to (in the worst cases) none. I had no idea which would apply here so I asked the City Attorney and he said he is not allowed by law to advise me on this matter. I hope he may be able to advise you - either City Councilmembers or Staff! I think it is important to know the answer to this to understand this nuclear option scenario better.

In the absence of proper advice I decided to ask ChatGPT4 what it thought the Statute of Limitations might be in our case. Here’s the Q&A (TL;DR: it thinks it’s **3 years**):



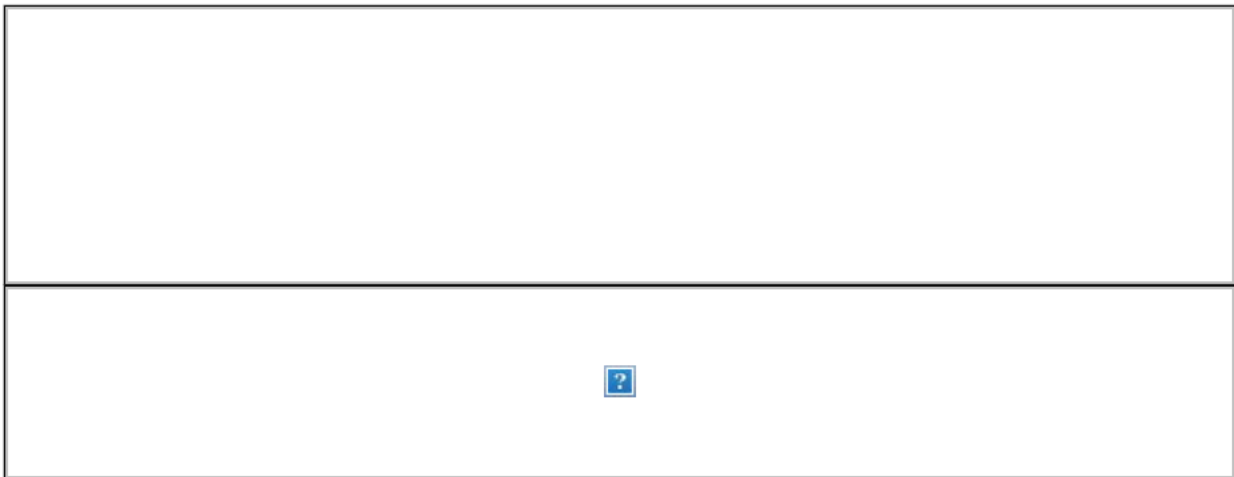
**But would the Court really apply the rescind-the-sale penalty?**

I do not know what the Judge may choose to do. But we can see what the Ordinance now says the Ordinance provides for.

Here’s what is written:







So assuming some entity would have been a Rightsholder under the Ordinance, then they are “entitled to the remedies set forth in this section **to the greatest extent permitted by law**” (*my emphasis*). Now I am not a lawyer but doesn't that seem to tie the Judge's hands? If the Rightsholder wants that property, and the seller violated OPA (inadvertently or deliberately), then perhaps this means that the judge would have to award the Rightsholder the rescinding of the sale, even if that "feels" unjust.

Certainly we can imagine the impact when a former EPA homeowner receives notice that they are being sued for violation of OPA and they look up what the penalties might be. The idea of risking rescinding of the sale would be highly likely to make the former homeowner want to settle out of court to make the problem go away, **perhaps for a far greater amount than \$15,000**. That might even be the case where they did not think they were in violation of OPA at all, even after reading up on the details of the Ordinance. **The risk that they could not prove they were not in violation** and the consequences if they were not believed might just be too high to withstand. That a penalty could grow that large was a concern to all Councilmembers I believe.

During the discussion at the Council Meeting, the City Attorney indicated that perhaps **the language of the Ordinance could be amended to grant discretion to the Judge/Court to decide in favor of a just outcome** at their discretion - I think perhaps the City Attorney was indicating that there could be some language amendment that would be less restrictive on what the Court could choose to do. But this wasn't taken up further in the discussion (it was getting late and everyone wanted to go home!).

I described to you previously a pretty heart-jerk kind of situation with a community-connected family as seller that we could really imagine existing (perhaps in many instances all over the City) all over East Palo Alto. I am convinced that the inheriting families of deceased EPA elders will be at particular risk of falling into this trap.

### **Economic Effects**

But I would also point out that since we have over the last couple of years also looked at the economic effects of what is proposed, that this “rescind the sale of Property” risk

is likely to have a seriously chilling effect on any buyer considering purchasing a property in EPA. There is nothing a prospective buyer can do to determine whether or not the seller is actually complying with all the provisions of OPA (how is the buyer to know whether the seller notified ALL the Rightsholders correctly and on time, or even should have done anything about OPA at all or the property, or the seller, or the transaction was indeed fully exempt? There could be several tenants or Nonprofits and there is no public place for them to look up and check what was filed and be able to get surety that the purchase is secure). If their Realtor is on the ball and shows them this provision to properly inform them that this is a risk to the purchase they should consider, are they not more likely to decide to buy in another City and not EPA? This is the sort of thing that freaks people out at the inspection/contingency stage. We have previously examined the impact of Right of First Refusal on home prices and as a result of that economic analysis it was determined it would be better to remove ROFR for Single Family Homes.

**Might it also be better to remove the Nuclear Option (“rescind the sale”) for all Single Family Homes too - and also for any “inadvertent” violations (SFH/MFH)? Or at the very, very minimum, to give the Court some discretion in application, and perhaps to see if there is a way to put a time limit on how long one might wait before starting a Civil Action to get this penalty? The longer, the worse, it seems to me. Three years is a LONG time!**

I am not able to get legal guidance from the City Attorney. I urge you, if you are able/allowed, to seek and get it from him. I do intend to raise this issue in summary form in public in my 120 words/1 minute at the next City Council Meeting. We can't just sweep it under the rug and just hope that nothing happens with this language. If the language in the Ordinance is dangerous to our current homeowners and also our future homeowners.

*A side note: please remember that OPA applies to all properties, not only properties that have tenants in them. Several times during the Council Meeting some speaker or other (from the floor or the platform) stated that it only applied to properties with tenants in. That is simply not true - there are whole multi-page sections of the Ordinance that deal with the situation where there are no tenants involved. There can be many kinds of circumstances where there are not tenants involved and a sale takes place that may in fact be subject to OPA or may appear possibly subject to OPA. There is no City determination of whether a transaction is or is not subject to OPA. There is no “authority” here to turn to for certainty, or to advocate for a City-approved result later on. It is all down to the robustness of one’s representation in Court if a lawsuit takes place, the evidence one can product, and the language of the Ordinance itself which intent the Court must interpret. Reading just a few TOPA cases that have been litigated in the past helps one get a sense of how this goes. The language is critical! The Court*

*takes what is written in the Ordinances, precisely, very seriously.*

**Of course, stopping OPA in its tracks would completely avoid any harm from these penalties. Please, Councilmembers, vote “no”.** But if you are determined to pass it, **please complete the fix you started with the \$15K cap** which was in itself a sensible modification - but I don't know that any of you realized it was leaving the “worst case” out there and untouched.

Thank you for your continuing attention to avoiding harm to our community members (current and future).

Grace Popple  
The Gardens

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Grace Popple, nee Webber

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Grace Popple, nee Webber

**CAUTION:** This e-mail originated from outside of the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

**From:** [Housing](#)  
**To:** [Kilpatrick, Scott](#)  
**Cc:** [Housing](#)  
**Subject:** RE: OPA COPA  
**Date:** Tuesday, December 5, 2023 12:03:20 PM  
**Attachments:** [image001.png](#)

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Hello Mr. Kilpatrick,

Tonight, the City Council of East Palo Alto will be reviewing the second reading of the EPA OPA ordinance. Please find this and all future updates, as well as links to other resources (e.g. [link](#) to view the agenda packet or [link](#) to view the ordinance), at: <https://www.cityofepa.org/housing/page/east-palo-alto-opportunity-purchase-act-epa-opa-0>.

Based on City Council's direction at the November 7, 2023 City Council meeting, the effective date of ordinance will be the sooner of Council adoption of the administrative guidelines by resolution, or 60 days after date of the second reading (i.e. February 5, 2024).



#### Housing Division

Community & Economic Development  
Department  
City of East Palo Alto  
**Phone:** (650) 853-3195  
**Email:** [housing@cityofepa.org](mailto:housing@cityofepa.org)  
**Web:** [www.cityofepa.org/housing](http://www.cityofepa.org/housing)  
1960 Tate Street, East Palo Alto, CA 94303

*\*\* View City office hours [here](#). The City continues to offer virtual appointments as an alternative to in-person meetings. For inquiries or to request an appointment with Housing, please email [housing@cityofepa.org](mailto:housing@cityofepa.org) or set up a meeting via this [link \(https://tinyurl.com/appointmentsEPAhousing\)](https://tinyurl.com/appointmentsEPAhousing).*

*\*\**

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**From:** Kilpatrick, Scott <Scott.Kilpatrick@nrmk.com>  
**Sent:** Wednesday, November 8, 2023 12:27 AM  
**To:** Housing <[housing@cityofepa.org](mailto:housing@cityofepa.org)>  
**Subject:** OPA COPA

Could you please send a summary once created on the specifics of the law, and when it will go into effect. I am not sure if tonight was the second reading, or that is next meeting? Thanks

**Scott Kilpatrick**  
*Managing Director*  
*Investment Sales Multifamily Capital Markets*



m 650-868-0738

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