

# BERKELEY CHALLENGE GRANT SUMMARY

Community-Based Partners	Fellow	Government Partner
<p><b>Lead Partner:</b> East Bay Community Law Center</p> <p><b>Additional Partners:</b> Healthy Black Families; Northern California Land Trust; Bay Area Community Land Trust</p>	<p><b>Anna Cash</b></p>	<p><b>Michael Uberti</b> Senior Community Development Project Coordinator, City of Berkeley Department of Health, Housing, &amp; Community Services</p>

## CONTEXT

Despite its long history of student and local activism around housing, Berkeley is experiencing an acute housing crisis and rising displacement like the rest of the Bay Area. The City of Berkeley is pursuing two goals as part of its Challenge Grant (CG) work. One, the Tenant Opportunity to Purchase Act (TOPA), a mayor-driven policy initiative, which means city staff have fewer functions in the development of policy due to staff being directed by the City Manager rather than the Mayor or Council. The other, a local preference policy, is city-driven, which results in city staff providing more input into its development.

## POLICY JOURNEY

Prior to the CG, the City of Berkeley made the following progress in equitable housing policies:

- Adeline Corridor Plan & City Council Referrals:** In 2015, the City of Berkeley launched a community engagement and planning process to develop a specific area plan for the Adeline Corridor to prevent displacement and maintain the vibrancy and history of this historic community. Through this process, stakeholders and community members expressed interest in a local preference policy for prioritizing housing resources more equitably. Council further backed the consideration of a preference policy more broadly in its 2017 Housing Action Plan referral to city staff. Council adopted an additional referral in 2019 to explore policies to address the displacement and historic injustices facing Berkeley's Black and African American communities.
- Measure U1:** In 2016, Berkeley voters approved this City Council-initiated ballot measure to increase annual business license tax on residential rental property owners of buildings with five or more units. The ballot measure language described an intent to support affordable housing and prevent homelessness. Since adoption, the City Council has allocated annual revenue to support local organizations working on tenant protection legal services and anti-displacement initiatives.
- Small Sites Program (SSP) Pilot Program:** In April 2018, the City of Berkeley established the SSP pilot program to provide nonprofit organizations with loans for the acquisition and rehabilitation of multi-family residential properties of 25 units or fewer. The intent of the SSP is to support community land trusts, create deed restrictions for permanently affordable housing, and protect tenants in the city's naturally occurring affordable housing stock.
- Measure O Bond:** In 2018, the Berkeley community adopted Measure O bond to dedicate \$135M towards affordable housing. The bond is supporting 221 units under construction and 314 units in predevelopment. The city dedicated \$53M in funding (\$40 in Measure O) to support affordable housing construction at the North Berkeley and Ashby BART sites.

For the CG, the Berkeley CG team decided to pursue the policies outlined below. The policy focus did not change throughout the grant period, though CG partners needed to adjust activities and timelines to better support policy development.<sup>1</sup>

- **Tenant Opportunity to Purchase Act** (Mayor-led)
- **Local Housing Preference Policy** (City staff-led)

## COMMUNITY ENGAGEMENT

The CG team engaged in community outreach for TOPA through social and traditional media and by providing numerous presentations and creating “train the trainer” materials for policy supporters and organizers to feel more ownership over the policy and its portrayal. These methods of outreach enabled the CG team to empower proponents to broadly disseminate accurate TOPA information to community members and combat misrepresentation of TOPA by opposition lobbyists, who were crafting false narratives, suggesting TOPA would restrict landlords and homeowners from obtaining fair market value and disproportionately impact landlords and homeowners of color.

For the Local Housing Preference Policy, the CG team decided early in the project that they needed to partner with Healthy Black Families (**HBF**), a community-based organization (**CBO**) which had not been originally written into the CG, as an acknowledgement of the long history of activism and the in-depth community engagement of that organization in Berkeley.

The CG team, with HBF leadership, engaged in outreach efforts to understand community demands for specific preferences within the policy. The CG team and HBF also convened a Community Leaders Working Group, composed of community leaders within the Black community in Berkeley, that they engaged over the course of the evolution of the policy. HBF created a targeted survey regarding the experience of Berkeley’s African American community with housing and displacement. This complimented a city-wide digital survey on preference options. The CG team also met with affordable housing developers as the Preference Policy was taking shape to gather feedback on implementation and best practices from developers’ work in Berkeley and other jurisdictions.

## POLICY JOURNEY HIGHLIGHTS

### Successes

- The Fellow created educational outreach materials for organizers to inform the broader Berkeley community about TOPA. The Fellow’s ability to liaise with city staff and research and analyze policy implementation and funding solutions has supported East Bay Community Law Center’s (**EBCLC**) policy development process. While EBCLC focused on crafting and advocating for policy language responsive to community needs, the more direct access to the city provided by the Fellow has helped strategize ways to streamline communication between EBCLC, the Mayor’s office, and the city departments ultimately responsible for implementing the policy if it passes.
- The CG team was able to provide innovative policy alternatives to the community’s direct request for a race-specific preference. The policy recommendations intend to balance the needs to address racial equity and historic injustice with limitations of Fair Housing law and other legal barriers.
- The full incorporation of Healthy Black Families as a CG team member led to a much more robust and representative community engagement process, particularly with Berkeley’s Black community.

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<sup>1</sup> San Francisco Foundation (2019). “City of Berkeley Partnership for the Bay Challenge Grant Submittal.”

## Compromises

- Some applicability standard revisions were made to TOPA, such as exclusions of non-investor-owned single-family homes and owner-occupied duplexes. Through the CG team's advocacy, the Mayor retracted former amendments to reduce closing timeframes and limited the scope of the single-family home and owner-occupied duplex exclusions. The CG team and Mayor settled on acceptable policy language resulting in the Mayor submitting the TOPA bill to a City Council work session in January 2022. Because the policy implementation is still in development, negotiations are still taking place and further compromises related to the gradual phasing-in of the policy may occur.
- The CG team consulted with the City Attorney's Office in order to refine drafts of the Local Housing Preference Policy and determine a defensible strategy for a race-specific preference. The recommendation was to not include a race-specific preference within the Preference Policy. While the CG team did not proceed with race-specific language, these consultations led to adoption of language addressing redlining in subsequent policy drafts (similar to language by the City of Portland, Oregon, in their implementation of local preference policy).

## Challenges

- Working within the structure of a Mayor-led policy for TOPA has been challenging for the CG team because city staff do not have involvement. The fellow was initially expected to support staff with implementation of the policy, but the adoption was delayed due to political reasons. Inadequate city resources to fund and implement TOPA has created additional resistance to adopting the policy from unsympathetic Council members.
- Early on, community members pushed back when the CG team set out to lead the development of the Preference Policy without incorporating Black-led organizations and activists that had been calling for this type of policy for a long time.
- City staffing shortages have also delayed policy development and review processes and complicated CG efforts.

## STATUS OF POLICY PRIORITIES (AS OF MARCH 2022)

- **TOPA:** The city held a working session in late January to provide feedback on the proposal. It is now back with the Mayor's team to make revisions prior to bringing it to City Council. The Mayor has committed to submitting TOPA for a City Council vote after confirming the existence of five positive votes on Council and finalizing the policy's phase-in plan. Currently, the CG team has assessed the existence of three strong Yeses on Council. Council member outreach and education is underway to work towards securing the two Maybe votes on Council along with strategizing with community stakeholders and media outlets to ensure the Mayor prioritizes TOPA's passage.
- **Local Housing Preference Policy:** The CG Team and HBF developed preference policy recommendations with a racial equity lens that received unanimous support from the City's Housing Advisory Commission. Staff are currently drafting a policy based on these recommendations for City Council's considerations. Staff are now coordinating a Fair Housing analysis of the recommendations necessary to secure support from County and State funding partners. Staff anticipate bringing a policy proposal to City Council in Fall 2022.