



BOARD/COMMISSION RECOMMENDATION

Human Rights Commission

Recommendation Number: 20180423-005a Regarding the People's Plan and Housing Crisis

WHEREAS, the Human Rights Commission of the City of Austin ("Commission") advocates on behalf of human rights for all people in the City of Austin ("City"); and

WHEREAS, housing is a fundamental human right and need; and

WHEREAS, the City seeks to promote a livable city principle, racial equity, and to protect all of its residents from unfair displacement; and

WHEREAS, despite prior housing construction booms, the City has historically failed to achieve those goals¹; and

WHEREAS, migration may be associated with upward economic mobility, such as in instances where a household's move is triggered by a lucrative job opportunity; and

WHEREAS, displacement, in contrast, occurs when a household's move is triggered by financial pressures; and

WHEREAS, migration and displacement may be presumed to be occurring in the City²; and

WHEREAS, displacement may be concentrated in areas experiencing gentrification, that is, according to a definition from a 2001 Brookings Institution report, "the process by which

¹ Report of Mayor's Task Force on Institutional Racism, Mar. 31, 2017, at p. 18-19, *available online at* <http://www.austintexas.gov/edims/document.cfm?id=274706> (recounting the City's history of racially discriminatory housing policies spanning from the period of reconstruction to the modern era.); Dan Zehr, *Austin's History of Discrimination Threatens Its Future; To Understand Why the Region's Widening Prosperity Gap if Leaving Black Residents Behind, Look to the Racist Policies of the Past and Their Repercussions*, Austin-American Statesman, Jan. 18, 2015, *available online at* <http://projects.statesman.com/news/economic-mobility/wealth.html>.; and Dan Zehr, *How Austin Isolated Latinos With a Unique Form of Segregation; Though the Sources of the Divides Differ, the Lasting Effects of Discrimination on Both the City's African-American and Latino Residents Are Similarly Detrimental*, Austin-American Statesman, Jan. 18, 2015, *available online at* <http://projects.statesman.com/news/economic-mobility/latino.html#skip-hero>.

² Katey Psencik, *People Are Leaving Austin in Droves, According to New Report*, Austin-American Statesman, Feb. 1, 2017, *available online at* <http://austin.blog.statesman.com/2016/12/01/people-are-leaving-austin-in-droves-according-to-new-report/> (noting that, in a 2016 study ranking the 50 most populated metro areas in terms of in-migration and out-migration as a proportion of each metro's overall population, the Austin-Round Rock area ranked 4th highest in terms of in-migration and 6th highest in terms of out-migration).

higher income households displace lower income residents of a neighborhood, changing the essential character and flavor of that neighborhood”³; and

WHEREAS, displacement brought about through gentrification tends to disproportionately affect persons working at lower-wage jobs, as well as persons who are disabled, elderly, and/or dependent on fixed incomes and thus unable to afford rising housing costs; and

WHEREAS, persons displaced by gentrification tend to disproportionately be persons of color, which outcome, in this City, is at least partially due to land use policies that historically forced minorities to reside in East Austin, on the very parcels of land now deemed most desirable for redevelopment purposes⁴; and

WHEREAS, displacement brought about through gentrification has and continues to harm the African-American and Hispanic/Latino communities that have resided in East Austin for generations, leading to contraction of small locally-owned businesses, under enrollment in neighborhood schools, loss of community identity, and threats to cultural heritage⁵; and

WHEREAS, in April 2017, as part of the Imagine Austin Comprehensive Plan, the City of Austin Strategic Housing Blueprint (“Blueprint”, Exhibit A)⁶ set forth the City’s long-term goals for housing policy; and

WHEREAS, the Blueprint stated that its first goal was to “prevent households from being priced out of Austin”⁷; and

WHEREAS, the Blueprint cited a study from University of Berkley which had found that “[a]t the regional level, both market-rate and subsidized housing reduce displacement pressures, but subsidized housing has over double the impact of market-rate units”⁸; and

WHEREAS, the Blueprint reported on current housing market conditions in the City, including the fact that Austin faces a shortage (recorded in a 2014 market study) of approximately 48,000 deeply-affordable housing units, that is, units affordable to

³ See Maureen Kennedy and Paul Leonard, *Dealing With Neighborhood Change: A Primer on Gentrification and Policy Changes*, Brookings Institution, 2001, at p. 5, available online at <https://www.brookings.edu/wp-content/uploads/2016/06/gentrification.pdf>.

⁴ See note 1 *supra*.

⁵ See note 1 *supra* and 21-23 *infra*.

⁶ Austin Strategic Housing Blueprint (“Blueprint”), City of Austin Neighborhood Housing and Community Development Department, Final Report, Sep. 2017, copy annexed at Exhibit A, also available online at https://www.austintexas.gov/sites/default/files/files/StrategicHousingBlueprint_Final_September_2017.pdf. A substantially similar Strategic Housing Plan, annexed as backup to item 10 of the April 13, 2017 City Council Meeting is available online at <http://www.austintexas.gov/edims/document.cfm?id=275105>.

⁷ That goal listed as first in the Blueprint’s Executive Summary and first at “Key Actions to Support Community Values.” See Blueprint, Exhibit A, at pp. 2 and 20.

⁸ Miriam Zuk and Karen Chapple, *Housing Production, Filtering and Displacement: Untangling the Relationships*, Institute of Governmental Studies, University of California, Berkeley, May 2016, available online at http://www.urbandisplacement.org/sites/default/files/images/udp_research_brief_052316.pdf, discussed at Blueprint, Exhibit A, at p. 19 and fn 17.

households earning at or below \$25,000 annually or approximately 30% Median Family Income (“MFI”)⁹ (“Extreme Low-Income Housing Gap”); and

WHEREAS, the Blueprint included bar charts representing the Extreme Low-Income Housing Gap in visual terms which indicated that, for households at higher income categories, affordable housing existed in the City’s (then) current housing market¹⁰; and

WHEREAS, according to the market study cited in the Blueprint, the Extreme Low-Income Housing Gap grew by 6,774 units (16.5%) between 2012 and 2014¹¹; and

WHEREAS, presumably the Extreme-Low Income Housing Gap continues to grow in the City, which has been identified as among the worst cities in the nation in terms of its lack of availability of rental homes that are affordable to households at extremely low incomes¹²; and

WHEREAS, the Blueprint, after acknowledging the Extreme Low-Income Housing Gap exists, made no provision to close it, rather it developed building targets assuming the City’s overall population will grow 34% by 2025 and assuming the City is able to add housing units in numbers that correspond to the current percentage of households earning at various MFI ranges¹³, with the goal of adding 135,000 total units by that year, 20,000 of which would be affordable for households earning at or below 30% MFI; and

WHEREAS, assuming the City accomplishes the Blueprint’s goal of building 20,000 units that are affordable to households earning at or below 30% MFI by 2025, that building would serve to slow the growth of the Extreme-Low Income Housing Gap, but it would not stop its growth completely, much less cure the existing unit deficiency¹⁴; and

WHEREAS, Council’s adoption of the Blueprint did not commence adoption of any item within it, rather by Council Resolutions 20170413-024 and 20170413-025 (Exhibits B and C)¹⁵, Council called upon the City Manager to, *inter-alia*, develop a detailed, multi-year implementation action plan on or before October 31, 2017 and to biannually report on progress in preserving affordable housing in transit corridors; and

⁹ Blueprint, Exhibit A, at pp. 3 and 7, citing BBC Research & Consulting, *2014 Comprehensive Housing Market Analysis, Final Report*, City of Austin, July 31, 2014, at p. ES-8, available online at [https://austintexas.gov/sites/default/files/files/NHCD/2014 Comprehensive Housing Market Analysis - Document reduced for web.pdf](https://austintexas.gov/sites/default/files/files/NHCD/2014%20Comprehensive%20Housing%20Market%20Analysis%20-%20Document%20reduced%20for%20web.pdf).

¹⁰ Blueprint, Exhibit A at p. 9.

¹¹ See note 8 *supra*.

¹² National Low Income Housing Coalition, *THE GAP A Shortage of Affordable Homes*, March 2017, available online at http://nlihc.org/sites/default/files/Gap-Report_2017.pdf.

¹³ Blueprint, Exhibit A, at p. 14.

¹⁴ While exact predictions are unknown, assuming a starting gap of approximately 48,000 units in 2014 and assuming an 8.25% annual growth rate (reported in the 2014 study), the Extreme-Low Income Housing Gap is currently estimated at over 56,000 units and, if permitted to continue unchecked, would reach approximately 114,798 units by 2025. Alternately, assuming a flat growth rate of 3,387 units annually (based on the 2012-2014 trend), the Extreme Low-Income Housing Gap, if permitted to continue unchecked, would grow to approximately 85,257 units by 2025.

¹⁵ City of Austin Council Resolutions 20170413-024 and -025, copies annexed at Exhibits B and C, also available online at <http://www.austintexas.gov/edims/document.cfm?id=275681> and <http://www.austintexas.gov/edims/document.cfm?id=275682>.

WHEREAS, the City Manager has not yet produced the multi-year Blueprint implementation plan, although, upon information and belief, a contractor has been hired to do so and that plan should be presented to Council later in 2018¹⁶; and

WHEREAS, in August of 2017, Council passed Resolution 20170817-053 (“Anti-Displacement Task Force Resolution”, Exhibit D)¹⁷, which called for the establishment of an Anti-Displacement Task Force scheduled to convene from November 2017-August 2018 at the conclusion of which time it would make recommendations to Council; and

WHEREAS, according to the Anti-Displacement Task Force Resolution, that task force was to be aided by, *inter-alia*, the services of a consultant to be hired for the project and by a report from the City Auditor’s Office that would inform it of previous policies addressing gentrification and displacement in the City and of their implementation status; and

WHEREAS, although the City is providing limited staff liaison services (by a City employee working on several other projects), the Anti-Displacement Task Force has not been provided with a consultant¹⁸ and the Auditor’s Special Report on City Efforts to Address Displacement and Gentrification (“Audit”, Exhibit E)¹⁹ was not completed until January of 2018; and

WHEREAS, that Audit identified 222 Council Resolutions and 319 Recommendations from various commissions, task forces, community reports and auditors’ reports concerning displacement and gentrification, but only 113 of those were considered “direct and actionable” by the Auditor’s Office, which reported that 13 had definitely been implemented, that 4 had not, that 43 appeared to have been implemented (based on self-executing language), and that, for the remaining 73, the Auditor’s Office was unable to ascertain their implementation status²⁰; and

¹⁶ See November 16, 2017 Memo from Director of City of Austin Neighborhood Housing and Community Development Department (“NCHD”) to Council re: Update on Resolutions (advising that department was soliciting bids from consultants to implement Council Resolutions 20170413-024 and -025), available online at http://www.austintexas.gov/sites/default/files/files/Memo_to_MC_Updated_Resolution_No._20170413_No._20170413_regarding_Str..1.pdf. See also Recommendation for Action, Council Backup for Agenda Item 046, Regular Meeting December 14, 2017 (requesting authorization to negotiate and execute a contract with Asakura Robinson Company, LLC, to provide Strategic Housing Blueprint implementation services for a term of one year in an amount not to exceed \$130,000), available online at <http://www.austintexas.gov/edims/document.cfm?id=289187>. NHCD representatives report that the contractors should have a draft of the Blueprint’s suggested implementation plan ready later this Spring.

¹⁷ City of Austin Council Resolution 20170817-053, copy annexed at Exhibit D, also available online at <http://www.austintexas.gov/edims/document.cfm?id=282905>.

¹⁸ Nina Hernandez, *Anti-Displacement Task Force: Money, or Nothing*, Austin Chronicle, January 19, 2018, available online at <https://www.austinchronicle.com/news/2018-01-19/anti-displacement-task-force-money-or-nothing/>.

¹⁹ *January 2018 Special Report: City Efforts to Address Displacement and Gentrification*, City of Austin, Office of the City Auditor, copy annexed at Exhibit E, also available online at http://www.austintexas.gov/sites/default/files/files/Auditor/Audit_Reports/2_Displacement_and_Gentrification_AS17103_January_2018.pdf. See also that document’s supporting Displacement and Gentrification Recommendation Inventory, available online at <https://data.austintexas.gov/City-Government/Displacement-and-Gentrification-Recommendation-Inv/acst-e5v8>.

²⁰ Auditor’s Report, Exhibit E, at pp. 3-5.

WHEREAS, while Council has the discretion to advance or ignore Recommendations made by boards, commissions, task forces, or auditor's reports, upon information and belief, the City Manager is generally obligated to implement Resolutions (or else offer an explanation for the failure to do so) and thus there should exist a means by which the implementation of Council Resolutions can be tracked, preferably without the guidance of an auditor; and

WHEREAS, according to the Audit, the Anti-Displacement Task Force will be the seventh Task Force within seventeen years to examine gentrification in Austin²¹; and

WHEREAS, over the past decade, as the phenomenon of gentrification in Austin, particularly in East Austin, has been documented at length²², the City has become nationally known as one of the most economically segregated American cities,²³ economic gaps between the City's majority and minority populations have grown²⁴ and, as low-income and minority residents move to the City's suburbs, many African-American and Hispanic/Latino businesses, schools, and neighborhood institutions have been harmed by resident displacement, and those entities may not necessarily be recreated in suburbs whose housing, educational, economic and community development resources may be strained; and

WHEREAS, against that backdrop, on January 22, 2018, the Commission received a presentation on the People's Plan presented by Dr. Fred McGhee and Susana Almanza, which included 6 separate recommendations addressing the housing crisis in Austin ("People's Plan", Exhibit F); and

WHEREAS, several of the recommendations in the People's Plan echo prior recommendations made by various task forces, boards and commissions and even some

²¹ See Audit, Exhibit E, at pp. 7-8 and Audrey McGlinchy, *Mayor Adler Wants a Task Force on Gentrification – We've Had Plenty of Those*, National Public Radio, Aug. 7, 2017, available online at <http://kut.org/post/mayor-adler-wants-task-force-gentrification-weve-had-plenty-those> (discussing prior gentrification task force recommendations).

²² See Cate Smithson, *Extreme Makeover: Gentrification Transforms East Austin*, ABC News, April 27, 2009, available online at <http://abcnews.go.com/OnCampus/story?id=7399717&page=1>; Eric Tang, *Outlier: The Case of Austin's Declining African-American Population*, Issue Brief, University of Texas Institute for Urban Policy Research and Analysis, May 8, 2014, available online at https://liberalarts.utexas.edu/iupra/files/pdf/Austin%20AA%20pop%20policy%20brief_FINAL.pdf; Eric Tang and Bisola Falola, *Those Who Left: Austin's Declining African-American Population*, University of Texas Institute for Urban Policy Research and Analysis, May 2016, available online at <https://liberalarts.utexas.edu/iupra/files/pdf/those-who-left-austin.pdf>; and Eric Tang and Bisola Falola, *Those Who Stayed: The Impact of Gentrification on Longstanding Residents of East Austin*, University of Texas Institute for Urban Policy Research and Analysis, Mar. 2018, available online at <https://assets.documentcloud.org/documents/4404671/Those-Who-Stayed.pdf>.

²³ Richard Florida and Charlotta Mellander, *Segregated City: The Geography of Economic Segregation in America's Metros*, Martin Prosperity Institute, Feb. 2015. Available online at <http://martinprosperity.org/media/Segregated%20City.pdf>.

²⁴ Dan Zehr, *The Price of Wider Gaps and Weaker Links: As Central Texas' Economy Booms, Its Racial Divides Have Only Become More Acute And Costly*, *Austin-American Statesman*, January 18, 2015, available online at <http://projects.statesman.com/news/economic-mobility/divide.html>; and Amanda O'Donnell, *Austin Named No. 1 Most Surprising City Where Gentrification is Displacing Poor*, *Austin-American Statesman*, June 24, 2016, available online at <http://austin.blog.statesman.com/2016/06/24/austin-named-no-1-most-surprising-city-where-gentrification-is-displacing-poor/>.

Council Resolutions that have been passed since 2000 (but possibly not yet implemented, according to the Audit²⁵); and

WHEREAS, some of the recommendations in the People's Plan are analogous to some of the broadly-defined strategies set forth in the Blueprint²⁶; and

WHEREAS, the People's Plan's focus on land-banking and recommendation that 20% of the City's General Obligation Bond allocation be devoted to low-income housing appears to be in accord with the March 2018 recommendations of the Bond Advisory Task Force that 19% (161 million) of this year's General Obligation Bond package be allocated to affordable housing, with a significant portion of that amount (50 million) being earmarked for purposes of land acquisition²⁷; and

WHEREAS, upon information and belief, the People's Plan is not being offered at a final, definitive program to comprehensively address housing policy in the City, rather as a document focusing on bridging the gap between broad policy aspirations and specific policy directives that can be implemented in the upcoming budget cycle; and

WHEREAS, on March 8, 2018, Council passed Resolution 20180308-010 (Exhibit G)²⁸ calling upon the City Manager to analyze a proposed right to return policy similar to that found within the People's Plan for operational and legal issues and to provide Council and the Anti-Displacement Task Force with its results no later than May 25, 2018; and

WHEREAS, City staff is equipped to examine the remaining policies within the People's Plan for operational and legal issues and to provide that information to Council and the Anti-Displacement Task Force.

WHEREAS, the Commission recognizes that the Anti-Displacement Task Force is composed of members with superior expertise in the area of housing policy, that the Blueprint implementation plan is being worked on by experts, and that both efforts should be supported and not second-guessed before their work is complete; and

WHEREAS, conversely, the Commission recognizes that the City's need to address issues of displacement and gentrification, and the Extreme-Low Income Housing Gap in particular, is urgent and must be addressed by the City as it develops its upcoming budget and general obligation bond package; and

NOW, THEREFORE, BE IT RESOLVED, that Council and the City Manager should immediately assist the Anti-Displacement Task Force by providing it with support from at least one employee that can allocate 20 hours per week of his or her work time for the remainder of

²⁵ Compare Exhibit F to list of prior policies at Exhibits D and E, as well as Audit's supporting Displacement and Gentrification Recommendation Inventory, available online at <https://data.austintexas.gov/City-Government/Displacement-and-Gentrification-Recommendation-Inv/acst-e5v8>.

²⁶ Compare Exhibit F to Blueprint, Exhibit A, pp. 21-27, 33 and 35.

²⁷ See 2018 Bond Election Advisory Task Force Recommendation Report, March 9, 2018, available online at http://www.austintexas.gov/sites/default/files/files/Finance/CFO/2018-Bond/Bond_Election_Advisory_Task_Force_FINAL_Report.pdf.

²⁸ City of Austin Council Resolution 20180308-010, copy annexed at Exhibit G, also available online at <http://www.austintexas.gov/edims/document.cfm?id=294977>.

that Task Force's tenure or until such time the consultant provided for in Council Resolution 20170817-053 is hired to do same; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager analyze the remaining recommendations found within the People's Plan for operational and legal issues and provide Council and the Anti-Displacement Task Force with its results no later than May 25, 2018; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Council and the City Manager confer with staff to develop a comprehensive plan and implement the appropriate measures to address the housing crisis for low-income families, while prioritizing the following:

1. The establishment of a dedicated Low-Income Housing Trust Fund (LIHTF) or similar vehicle to focus on preserving, constructing or subsidizing housing for households earning at or below 30% median family income.
2. The allocation of sufficient amounts from the City's General Fund to fund the LIHTF so as to increase the stock of housing that is affordable to households earning up to 30% median family income by an additional 2,000 units per year (above and beyond the Blueprint Goals) and therefore prevent the anticipated widening of the Extreme Low-Income Housing Gap in each annual period and begin to narrow that Extreme Low-Income Housing Gap; and
3. The selection of staff responsible for the LIHTF's operation and administration with professional expertise in: public and private housing development, nonprofit housing development, housing finance, rental housing finance, affordable housing and subsidized housing finance, land use, historic preservation and landmarks, zoning and development rights, urban studies and planning, housing and tenant advocacy, neighborhood and community planning and economic development, equity issues, including health, racial/ethnic segregation, schools, education and crime, and equitable and inclusive development strategies; and
4. The selection of a LIHTF planning and oversight board with diverse membership, including, but not limited to, lower income residents, both homeowners and renters, and representatives who reside within or have experienced displacement from each affected community; and
5. In accordance with the recommendations of the City of Austin's 2018 Bond Election Advisory Task Force, the presentation of a 2018 General Obligation Bond package which allocates 161 million dollars (19%) of the overall sum on affordable housing, with at least 50 million of those dollars to be spent on affordable housing land appropriations; and
6. Commitment by elected representatives to prioritize raising similar sums through General Obligation Bonds or other processes in future years until such time as the Extreme Low-Income Housing Gap is closed or nearly closed; and
7. The creation of a campaign to educate the voting public about the need for and nature of the affordable housing bond request; and
8. Special Focus, in the development of the Blueprint's implementation plan, on consideration of those Resolutions and Recommendations from prior commissions, task forces, community reports and auditors reports that are echoed in the People's Plan, including specifically those that seek to identify City-owned land that can be used for affordable housing,

support for the production of units that can lead to home ownership, such as modular, manufactured, mobile or tiny homes or multi-bedroom apartments with rent-to-own options, creation on an online application process for affordable housing within the City, strictly enforce building codes at affordable housing units throughout the City, increase the use of Tax-Increment Financing (TIFs) for projects, increase the City's revenue derived from density bonus programs, enhance homestead and senior property tax exemptions and home repair programs for elderly and disabled homeowners as well as outreach efforts concerning those programs, heighten the use of historic preservation tools and increase accessibility of those tools to eligible persons, and involvement of the City's Equity Office in development of City housing policy; and

9. Development and funding of robust and effective Right to Return and Right to Stay Programs for East Austin, containing provisions substantially equivalent to those recommended in the model ordinance contained in the People's Plan and in compliance with applicable law; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that, after equitable proactive anti-displacement measures have been put in place, the Council and City Manager will have regular audits of the implementation process and make sure that the needs of the community are being met.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that, in light of the Auditor's January 2018 Special Report on City Efforts to Address Displacement and Gentrification, Council and the City Manager may wish to confer and develop criteria aimed at improving local government accountability, with specific focus on the following goals:

1. that all Council Resolutions be examined for operational and legal issues and found actionable before they come up for a vote,
2. that all Council Resolutions set forth reasonable deadlines for compliance,
3. that failure of the City Manager to meet one or more deadlines contained within a Resolution should trigger an obligation on the City's part to report noncompliance and provide explanation for the delay, and
4. that implementation information relating to each Council Resolution is reported to and easily trackable by members of the general public on the City's website.

Date of Approval: April 23, 2018

Record of the vote: 8-0; Commissioner Brown motion, Commissioner Miguez second. Voting in favor were Chair Davis, Vice Chair Caballero, Commissioner Brown, Commissioner Casas, Commissioner McMahon, Commissioner Miguez, Commissioner Normand, and Commissioner Yang. Commissioner Avashia and Commissioner Royall were absent.

Attest: _____

Jonathan Babiak

Staff Liaison