



TO: Mayor and Councilmembers

SUBMITTED BY: Peter Imhof, Planning and Environmental Review Director

PREPARED BY: Anne Wells, Advance Planning Manager
Andy Newkirk, Supervising Planner
Molly Cunningham, Assistant Planner

SUBJECT: Housing Priority for Goleta Residents and Employees
(Implementation of Housing Element Subprogram HE 2.2(a))

RECOMMENDATION:

- A. Receive a presentation analyzing the feasibility of local housing preference for market-rate units; and
- B. Accept the three recommendations of the Housing Priority Policy for Goleta Residents and Employees Memo ("Memo"), including that the City not extend its Local Preference Program to market-rate units since doing so is not supported by the Memo, and focusing instead on City's local preference for below-market units, monitoring other jurisdictions for new developments in local preference programs, and supporting partners that incentivize other local preference opportunities.

BACKGROUND:

The City adopted the Housing Element 2023-2031 (Housing Element) on December 5, 2023, which was subsequently certified by the California Department of Housing & Community Development (HCD) on February 5, 2024. The City's adopted Housing Element includes goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The Housing Element contains an "Eight-Year Action Plan" that lays out the timeline for program implementation.

One of the Housing Element subprograms identified for implementation early in the Eight-Year Action Plan is HE 2.2(a) Housing Priority for Goleta Residents and Employees. Subprogram HE 2.2(a) states, "[t]o the extent permitted by law, the City will give persons working and/or residing in Goleta priority preference regarding available units, marketing, and selecting occupants for affordable and market-rate units, including rental and ownership units. The intent is to meet local housing needs consistent with the RHNA and

contribute to mitigation of traffic, economic development, and community safety conditions.”

The City’s Affordable Housing Policies & Procedures Manual has a local preference requirement for certain below market-rate (BMR) (sometimes referred to as “affordable”) housing units, consistent with the HE 2.2(a). This local preference requirement provides a preference for local employees or residents during the housing application process for the initial sale or lease, as well as re-rentals, of BMR housing units. These BMR housing units can be created through the application of the City’s inclusionary housing requirements, State Density Bonus Law, City financial subsidy, or other mechanisms that constitute public assistance or incentives. The local preference requirement provides a benefit to households with at least one member who works in the City of Goleta or who currently resides on the South Coast of Santa Barbara County (from the County line near Carpinteria to the tunnel at Gaviota).

However, the City currently has no local preference requirement for market-rate units built within the City. As such, to implement subprogram HE 2.2(a), City staff sought insight into the possibility of extending the existing local preference requirement to include market-rate units. The City contracted with Bay Area Economics (BAE), for this purpose. As part of the contract, BAE, with the assistance of the City’s Housing Element consultant Veronica Tam and Associates (project team), was tasked with preparing a memo to provide information on potential options to consider that would enable the City to expand the existing local preference program to include housing priority to workers and residents in Goleta with specific consideration for local preference regulations and/or incentives for market-rate units.

The project team compiled their findings regarding HE 2.2(a) into a “Considerations for Implementing a Housing Priority Policy for Goleta Residents and Employees Memo (HE Program 2.2a)” (Memo), provided as Attachment 1. On March 10, 2025, City staff and BAE presented the recommendations (explained in the Discussion below) of the Memo to Planning Commission and sought concurrence with the Memo recommendations. Planning Commission supported the Memo recommendations.

DISCUSSION:

The Memo explores the feasibility of extending the City’s existing local preference policy to include housing priority to workers and residents in Goleta with specific consideration for local preference regulations and/or incentives for market-rate units. The Memo looks at existing local preference policy in Goleta, as well as case studies in other jurisdictions, and the possible legal considerations of extending the City’s existing policy to market rate units.

The Memo includes three recommendations for the City, which are as follows:

1. Do not extend the City’s Local Preference Program to market-rate units at present and instead continue to implement the existing policy of giving priority preference to local residents and workers for available BMR units. The reasoning for this

recommendation is that no other jurisdiction in California has included market-rate units in its local preference policy, which means Goleta would be the first. The project team also believes that expanding the existing BMR program may risk violating State and federal fair housing laws.

2. Track local preference expansion efforts elsewhere in Santa Barbara County that aim to expand BMR local preference to market-rate units.
3. Monitor and support other partners to incentivize local preference opportunities. The Memo suggests the City may consider monitoring and supporting organizations such as the Santa Barbara South Coast Chamber of Commerce, which are working with local partners and the private sector to identify strategies for directing housing opportunities to the local workforce.

City staff, and the Planning Commission, supports the three recommendations provided in the Memo and seeks concurrence from City Council. Staff's support for Recommendation 1 is based on several factors, including uncertainties regarding a market-rate unit program and potential legal concerns, the fact that there are no existing market-rate programs to assess and learn from, and because State laws make an exception for BMR units in local preference programs but do not extend these exceptions to market-rate units. Staff also supports Recommendations 2 and 3 because they would allow the City to better understand different options and challenges before embarking on an unknown process.

FISCAL IMPACTS:

This item is to facilitate discussion and confirm staff's approach to the recommendations provided in the Memo on local preference in market-rate housing. As such, there is no immediate fiscal impact associated with the discussion.

ALTERNATIVES:

No alternatives are recommended.

LEGAL REVIEW BY: Isaac Rosen, City Attorney

APPROVED BY: Robert Nisbet, City Manager

ATTACHMENTS:

1. Considerations for Implementing an Expanded Housing Priority Policy for Goleta Residents and Employees (HE Program 2.2a) Memo (BAE Urban Economics and Veronica Tam Associates (VTA), January 2025)
2. Staff Presentation

Attachment 1

Considerations for Implementing an Expanded Housing Priority Policy for Goleta Residents and Employees (HE Program 2.2a) Memo (BAE Urban Economics and Veronica Tam Associates (VTA), January 2025)

Memorandum

To: City of Goleta

From: BAE Urban Economics and Veronica Tam Associates (VTA)

Date: January 2025

Re: Considerations for Implementing an Expanded Housing Priority Policy for Goleta Residents and Employees (HE Program 2.2a)

Introduction

The following Memo is intended to provide the City of Goleta with insights and recommendations as it considers implementing **Housing Element Program 2.2(a): Housing Priority for Goleta Residents and Employees**. This Program, as outlined in the City's Sixth Cycle Housing Element, reads as follows:

"To the extent permitted by law, the City will give persons working and/or residing in Goleta priority preference regarding available units, marketing, and selecting occupants for affordable and market-rate units, including rental and ownership units. The intent is to meet local housing needs consistent with the RHNA and contribute to mitigation of traffic, economic development, and community safety conditions."

Per Section III.E of the City's Affordable Housing Policies & Procedures Manual (AHPP), the City of Goleta already gives priority preference to local residents and workers regarding available units for below market-rate (BMR) units.

As such, this Memo explores the feasibility of expanding the City's existing priority preference policy to market-rate units as well, consistent with the program considerations outlined above.

What is "Local Preference"?

The City's existing "Local Preference" requirement provides a preference for local employees or residents during the housing application process for the initial sale or lease, as well as rentals, of BMR units.

In the State of California, priority preference (also known as "Tenant Preference" or "Local Preference") can be granted based on a number of circumstances, including college

admissions, government purchase orders, and housing. Local Preference for housing units in the State of California is regulated by California Gov't Code 7061, which allows the establishment of local preference policies subject to the following circumstances:

- Local tenant preferences applied to lower income households that are subject to displacement risk within affordable housing projects, provided the policy is applied in a manner consistent with state and federal fair housing laws.
- Local tenant preference policies applied to affordable housing developed and financed with low-income housing tax credit (LIHTCs) and tax-exempt private activity bonds, per tax code. Internal Revenue Service code requires that LIHTC developments are available for “public use,” but preferences are permitted for members of a specified group under a state program or policy that supports housing for that group (26 U.S.C. Section 42(g)(9)).¹

Existing “Local Preference” Policy in Goleta

The City of Goleta already gives priority preference to local residents and workers for below market-rate (BMR) units. Below Market Rate (BMR) housing units in the City can be created via the Inclusionary Housing program, Density Bonus Law, City financial subsidy, or other mechanisms that constitute public assistance or incentives (e.g., waiver of development standards).² In other words, this excludes affordable units created without City participation.

More specifically, the City’s current Local Preference Requirement provides a benefit to households with at least one member who works in the City of Goleta³ or who currently resides on the South Coast of Santa Barbara County (from the county line near Carpinteria to the tunnel at Gaviota).

The Policy provides a preference during the application process for local employees or local residents for the initial sale or lease, as well as re-rentals, of BMR units. A developer may propose additional housing-preference categories, but they must be included in the Marketing Plan and, if applicable, Tenant Selection Plan for the project and approved in writing by City staff.

To comply with the City’s Local Preference Requirement, an initial application period of ten (10) business days must be reserved for applicant households claiming to meet the applicable

¹ <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing/tenant-preference-policies>

² see AHPP Section II-A for additional details.

³ Defined as owning or operating a business located within the City of Goleta, employment for wages or salary for an employer located within the City of Goleta, contract employment where the actual work is conducted within the City of Goleta, or commission work where the applicant's principal location from which they work is located within the City of Goleta, for an average of at least 20 hours per week.

income requirements and Local Preference requirement. If all applications received during that ten-day period are reviewed for eligibility, and none of the applicant households meet the minimum qualifications, and the unit remains available, then applications can be considered from households who do not meet the Local Preference requirement.

Local Preference Case Studies in Other Jurisdictions

Federal fair housing laws such as the Fair Housing Act (FHA) prohibit policies that have a disparate impact on protected classes, even if they do not explicitly discriminate, to make sure that any new or updated policies such as this Housing Preference Policy would not result in unintentional discriminatory practices. The following section includes case studies from jurisdictions in California that have updated and expanded their existing preference policies that apply to BMR units.

Pasadena

Pasadena's Local Preference and Priority System Guidelines ("Local Preference Guidelines") were adopted by the Pasadena City Council in 2006 to determine the order in which eligible applicants would receive priority to rent or purchase available BMR units, including units developed with City subsidy and units created under the Inclusionary Housing Ordinance. Under the 2006 Ordinance, applicants who live and work in the City received the highest priority, followed by applicants who live in the City, those who work in the City, and those who were involuntarily displaced from Pasadena by government action, improper termination of tenancy, domestic violence, participation in the Witness Protection program, hate crimes, inaccessibility issues or substandard housing, and homelessness. All other applicants are considered after those who meet the priority category criteria.

However, there was increasing recognition among policy makers, stakeholders, and housing advocates that these 2006 local preference policies, while perhaps successful in achieving their stated purposes, did not address the impacts of housing displacement created by high housing costs and gentrification. In 2021, the City adopted changes to the Local Preference Ordinance which created a new priority category (Over-Housed Priority) and a new set-aside. Over-Housed Priority, which is an uncapped priority category that gives preference to residents of deed restricted affordable housing units in Pasadena who are currently considered over-housed (e.g., a single-person household residing in a three-bedroom unit). This new "Over-Housed" priority is intended to address inefficiencies in the match between household size and unit size (which occur over time as dependents in larger households move out) and will allow such households the opportunity to move to smaller units and pay a lower rent, while freeing up larger units for larger eligible households.

The "Former Resident Set-Aside" category creates an additional set-aside of up to 20 percent of BMR units to be available to former Pasadena residents. This modification is meant to provide households who were unable to remain in Pasadena, whether due to rising housing costs or gentrification, with the opportunity to return to the City. This set-aside applies to

developments with five or more affordable housing units. Under the set-aside, up to 20 percent of the BMR units would be available to households who can demonstrate that they had maintained a primary residence in Pasadena sometime in the five years prior to their application for available housing. In addition, to be eligible for this set-aside, a household must have maintained a primary residence in Pasadena for at least two years. Within this set-aside, households will receive priority based on length of tenure in Pasadena. This means, for example, that a household who had lived in Pasadena for five years prior to application would receive priority over a household who had lived in Pasadena for two years during the same time period. The table below summarizes Pasadena's new local preference categories.

Pasadena Local Preference Categories for BMR Units (2021)

Set-Aside	
First	Former Resident Set-Aside (capped at 20 percent)
Priority	
First	Over-Housed Priority
Second	Resides and works in Pasadena
Third	Resides (but does not work) in Pasadena
Fourth	Works (but does not reside) in Pasadena
Fifth	Involuntarily displaced from Pasadena
Sixth	All other applicants

The Pasadena local preference policy has two specific objectives: 1) to reverse the trend of displacement and 2) to facilitate aging in community for seniors. High rents in Pasadena have displaced many Pasadena tenants to other communities. Displacement disproportionately affects lower- and moderate-income residents (who are disproportionately comprised of minority persons). Therefore, the Pasadena preference policy reserves a small number of BMR units to allow income-eligible displaced residents the opportunity to move back to Pasadena. This policy aims to benefit those who have been impacted by displacement.

The second component of the policy provides preference to income-eligible seniors for small BMR units. Many seniors who desire to trade down the homes for smaller units have limited housing choices in the community due to the high costs of housing. Therefore, Pasadena has experienced a trend of seniors being displaced out of the community or even out of state. To allow low-income seniors to age in community, the City's policy provides preference to those income-eligible seniors who have sold their homes to relocate to smaller BMR units within Pasadena.

During the Housing Element certification process, the California Housing and Community Development Department (HCD) repeatedly required the City (and the consultant team) to demonstrate that the Local Preference Policy did not have a "disparate impact" on the protected classes in the region. Multiple meetings with HCD and revisions were required to provide analysis on the impact and effectiveness of the policy to receive HCD approval. Specifically, HCD requested data on the demographics of the residents who received priority

status and the inclusion of a housing program in the Housing Element to evaluate and revise the local preference policy to ensure compliance with SB 649.

Berkeley

In July 2023, the City of Berkeley adopted a list of housing preferences to prioritize affordable housing applicants for the City's BMR units and nonprofit affordable units supported by the City's Housing Trust Fund. The policy was adopted after conducting a Disparate Impact Analysis. This analysis assessed how racial groups and other protected classes would be impacted by a preference policy and determines what percentage of units can receive preferences without creating disparate impacts on protected classes under state or federal law. In fall 2023, this Disparate Impact Analysis was shared with California Department of Housing and Community Development (HCD), after which the city received HCD approval to apply the preference policy to BMR units.

The Berkeley Housing Preference Policy Goals and Outcomes are intended to do the following:

- To support individuals who were displaced from Berkeley and desire to return.
- To provide support for individuals who are currently experiencing housing insecurity in Berkeley.
- To acknowledge and address historical injustices, such as redlining and eminent domain to build BART stations.

To comply with the Department of Housing and Urban Development (HUD) regulations, the Fair Housing Act, and other state and federal laws, the City's Housing Preference Policy supports residents who:

- Were displaced or are descendants of someone who was displaced due to construction of BART in Berkeley in the 1960s and 1970s
- Were displaced due to foreclosure in Berkeley since 2005
- Were displaced due to no-fault or non-payment eviction in Berkeley within the past seven years
- Have households with children
- Live or formerly lived in Berkeley's redlined neighborhoods
- Are children or grandchildren of someone who lived in Berkeley's redlined neighborhoods
- Are homeless and not prioritized for local permanent supportive housing or are at-risk of homelessness with current/former address in Berkeley

Legal and Other Considerations

Local preference policies typically only apply to inclusionary or publicly financed BMR units, not market-rate units. Local preference policies typically spark a debate on fair housing issues, including whether the preference will conflict with the constitutional right to travel. The right to travel is a fundamental right under the US Constitution. It protects people from discrimination

based on residency status with respect to “essential activities” and/or “fundamental rights.” Restraints on the right to travel must be shown to be “necessary to further a compelling state interest” to survive constitutional challenges. Durational residential requirements (how long has a person resided in the said community) are commonly held to be unconstitutional when they have a deterrent or penalizing effect on the right to travel.

In the housing context, it is unlawful to discriminate against any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability/medical condition, veteran or military status, or genetic information of that person. These are considered “protected classes”.

Any expanded local preference policy would need to prove that the “preferred populations” in a community are similar in socioeconomic characteristics as those who reside in the region, demonstrating that the policy would not have a discriminatory or exclusionary effect on people who are not local or do not work in the community.

Assembly Bill 686 of 2018 regarding affirmatively furthering fair housing obligates local jurisdictions to promote housing diversity and mobility. A local preference policy can be considered by HCD as perpetuating the local demographics rather than offering housing mobility to a diverse population. This is particularly critical given that during the Housing Element certification process, HCD has consistently required communities to promote housing mobility. For jurisdictions that are considered “exclusive” due to current available housing types (primarily single-family homes), housing prices, and demographics (majority White and higher incomes), HCD requires outreach for the availability of housing opportunities to expand beyond the city limits in order to reach a more diverse pool of potential residents. A preference policy that focuses on existing residents may conflict with this goal, as Goleta generally fits HCD’s perception of an exclusive community.

Recommendations for the City of Goleta

Do Not Extend Local Preference Policy to Market-Rate Units at Present

The consultant team recommends that the City continue to implement its existing policy of giving priority preference to local residents and workers for available BMR units. As it pertains to market-rate units, however, the team recommends that the City does ***not*** extend a local preference policy to these units, as it would be the first jurisdiction in California that the consultant team is aware of to do so.

State and federal fair housing laws govern the selling and renting of units, and the provision of housing services in a way that offers equal opportunity for all. It should be noted that the consultant team does not include legal experts. However, our opinion is that inclusion of market-rate units in a local preference policy may violate state and federal fair housing laws.

While State laws make an exception for BMR units to be included in local preference policies, these exceptions do not extend to market-rate units.

Until the City of Goleta is able to commission a Disparate Impact Study, it is not recommended that the existing local preference policy be altered. A Disparate Impact Study, such as the Study commissioned by the City of Berkeley in advance of updating its own Housing Preference Policy,⁴ would potentially allow the City of Goleta to extend the scope of their local preference targets, but only if no disparate impact on protected classes were found.

Track Local Preference Expansion Efforts Elsewhere in Santa Barbara County

The City may also wish to consider tracking and monitoring the efforts of nearby jurisdictions to expand their own local preference programs. Program 21 in the County of Santa Barbara’s 2023-2031 Housing Element, for example, directs the County to study the feasibility of developing a local preference program that prioritizes people who live and/or work within Santa Barbara County to rent or purchase affordable and upper moderate-income housing units.

According to the Housing Element, the timeline for this effort includes developing an ordinance and/or related guidelines by June 2025.

Monitor and Support Other Partners to Incentivize Local Preference Opportunities

Finally, the City may consider monitoring and supporting organizations such as the Santa Barbara South Coast Chamber of Commerce, who are working with local partners and the private sector to identify strategies for directing housing opportunities to the local workforce. Possible strategies include:

- **Employer Sponsored Housing Consortium**

The Chamber has recently spearheaded an effort to create a local employer sponsored housing consortium. This is a model in which local employers enter into a limited partnership for the purpose of developing or acquiring residential rental properties for their employees. Depending upon the investment level, each employer would hold the right to reserve a corresponding number of housing units available to their employees. As of July 2024, the Chamber has prioritized creating its first employee sponsored housing consortium, as well as fostering official partnerships between the consortium and new housing projects.

- **Workforce Housing “Marketplace”**

A local Workforce Housing “Marketplace” is a tool in which local developers can list units coming to market for rent or sale. Employers and HR departments in the City of Goleta

⁴ <https://berkeleyca.gov/sites/default/files/documents/2023-02-28%20Item%2005%20Contract%20%20Street%20Level%20Advisors.pdf>

could distribute information to their employees, increasing the potential of securing these units locally.

- Chamber Workforce Housing Incentive Program

The Chamber has also previously utilized a Workforce Housing Incentive Program. This Program works with developer partners to market new local housing projects to Chamber employers, who may then pass these opportunities on to their employees. In the past, developer partners have offered a 10 percent discount on 6 months of rent after their first 6 months, provided that the renter is employed by one of the Chamber employers.

While these strategies to incentivize local preference would be driven largely by the private and non-governmental sectors, they nonetheless share significant overlap with the City's policy priority of expanding housing opportunities to local workers and residents

Attachment 2

Staff Presentation

Housing Priority for Goleta Residents and Employees

June 17, 2025

Presentation by:

Anne Wells, Advance Planning Manager

Andy Newkirk, Supervising Planner

Molly Cunningham, Assistant Planner

Aaron Barker, Associate Principal BAE



Background

- Housing Element 2023-2031 adoption (December 2023)
 - HE 2.2(a) Linkage of Housing and Jobs, Housing Priority for Goleta Residents and Employees
- City contracted with BAE
 - Prepared a Housing Priority Policy for Goleta Residents and Employees Memo



Background – Existing Local Preference

- Affordable Housing Policies & Procedures Manual: Local preference for certain Below Market Rate (BMR) units
- Does not extend to market-rate units



Memo Recommendations

1. Continue Existing Local Preference Policy

- Implement existing policy to BMR units
- Do not extend policy to market-rate units
- **Staff Supports Recommendation 1:**
 - No existing market-rate programs to learn from
 - Potential legal concerns
 - Administrative complexities



Memo Recommendations

2. Track Local Preference Efforts

- Track and monitoring the efforts of nearby jurisdictions
- **Staff Supports Recommendation 2:**
 - Informs the City, before embarking on an unknown process



Memo Recommendations

3. Monitor and Support Partners

- Track groups seeking local workforce housing strategies
- Ex: Employee Sponsored Housing Consortium and Chamber Workforce Housing Incentive Program
- **Staff Supports Recommendation 3:**
 - Informs the City before embarking on an unknown process



Council Questions and Feedback