

BAHFA PROGRAM DESCRIPTION: 2022-2032

PROTECTIONS: TENANT PROTECTIONS AND HOMELESSNESS PREVENTION PROGRAM

— DRAFT —

BAHFA Role and Program Objectives	In the Bay Area, there is no regional government body advocating for and supporting tenant protections across the nine counties. Though Bay Area residents tend to live, work, and play across jurisdictional boundaries, the fragmented approach we take to ensuring that our workforce and vulnerable residents can remain stably housed creates distinct challenges. Eviction and displacement are a chronic threat for many low-income tenants. Gaps in our housing safety net include a lack of knowledge and clear guidance about how to implement tenant protections policies; prohibitive administrative burdens for smaller jurisdictions seeking to implement protections; and a lack of sufficient funds to meet the direct financial assistance needs of tenants. BAHFA’s Protections Program (the “Program”) seeks to fill those gaps in support of jurisdictions and tenants. The Program will support both “tenant protections” and “homelessness prevention.” Tenant protections include a range of interventions and policies that help protect low-income tenants from displacement and help them stay stably housed. Interventions may include providing rental assistance to tenants who are cost-burdened (where 30% or more of income goes to rent), free legal services for those at risk of eviction or facing habitability, discrimination, or other housing concerns, and local jurisdiction implementation of just cause eviction policies and anti-harassment policies between tenants and landlords, as well as enforcement of building code violations and habitability of units. Tenant protections are often considered an “upstream” intervention to prevent homelessness. However, homelessness prevention typically means much more targeted strategies to identify persons most at risk of homelessness and providing rapid funding and support to keep them housed. Prevention services are typically administered within a homelessness services setting and may include wraparound support such as mental and physical health services and case management. We envision implementation as an iterative and phased program, as BAHFA secures new resources, responds to tenant and jurisdictional needs, and works responsively with partners and stakeholders to changing economic and social conditions. Near- and longer-term goals are described below.
--	---

Near-Term Tenant Protections Objectives:

- **Create regional support for protections.** BAHFA can help solve for the lack of coordination and support for a regional lens on tenant protections by facilitating regional collaboration, research, and technical assistance. BAHFA anticipates beginning this work in 2023, which will include:
 - Hosting regional convenings of local jurisdictions and community-based organizations advancing tenant protections.
 - Conducting a research project to understand the feasibility and implementation of programs that best support tenant needs.
 - In coordination with MTC and ABAG, providing technical assistance to ensure that protections programs are developed and implemented using best practices.
- **Support innovative tenant protections pilot programs.** Local jurisdictions in the region are currently exploring innovative programs to help tenants stay in their homes including court-based eviction diversion, right to counsel, and expanded tenant rights education programs. BAHFA seeks to use the findings from its 2023 research project, in tandem with findings from local jurisdictions, to fund and support ongoing pilot programs in local jurisdictions to improve tenant protections and prevent displacement.

Longer-Term Tenant Protections Objectives:

- **Improve system capacity and infrastructure to implement and evaluate tenant protections across the region.** BAHFA will work to overcome the system capacity and infrastructure challenges that currently hinder the implementation of regional tenant protections and make it difficult to understand the efficacy of existing programs. This could include:
 - Creating and maintaining data systems, such as a housing inventory, to identify and understand displacement and displacement risk caused by rising rents and evictions across the region.
 - Providing technical assistance focused on specific problems within protections systems, such as setting up fast and effective rental assistance application and distribution processes.

	○ Creating new regional infrastructure, such as resource-sharing agreements or other collaborative administrative structures, to support smaller jurisdictions to implement protections policies like just cause eviction and rent stabilization in a cost-effective manner. ○ Supporting efforts to improve retention and create a stronger housing legal aid pipeline in response to workforce shortages in the legal aid profession that hinder delivery of tenant legal services across the region. While related to and sometimes overlapping with tenant protections, targeted homelessness prevention interventions exist in a distinct context that requires a tailored approach. Because there are many funding streams from federal, state and local agencies, this work can often end up siloed within multiple departments in a jurisdiction. Given the wide diversity of stakeholders and funders in the space, if BAHFA successfully passes a new regional housing bond (a general obligation, or “GO bond”) in 2024 it would seek to utilize its funds to support resource integration efforts that advance local jurisdictions’ ongoing work to prevent and end homelessness (see Funding Strategies section for an overview of other potential funding sources). BAHFA will pursue the following homelessness prevention objectives based on that need: <u>Near-Term Homelessness Prevention Objective:</u> ● Collaborate with local jurisdictions to better integrate and grow homelessness prevention programs. For any jurisdiction seeking assistance to make changes to, or improvements in, integrating health, housing, and homelessness program delivery, BAHFA will provide collaboration and support to bring stakeholders together and secure financial resources to implement specific actions (e.g., rental assistance, legal assistance). This work would be fully supportive of the jurisdiction’s goals and, in all likelihood, complement the jurisdiction’s deployment of new resources generated by the regional ballot measure. <u>Longer-Term Tenant Protections and Homelessness Prevention Objective:</u> ● Provide funding for tenant protection services and/or direct rental and relocation assistance. Currently, jurisdictions seek additional funding streams to support the direct financial assistance needed to prevent and end homelessness. Pending the receipt of additional funding sources, and, again, as a response to stated jurisdictional needs, BAHFA would fund eligible organizations providing direct services and financial assistance to
--	--

	low-income renters and people at risk of homelessness in the region, including: ○ Pre-eviction and eviction legal services, counseling, advice and consultation, training, renter education, and representation, and services to improve habitability that protect against displacement of tenants. ○ Emergency rental assistance for lower income households. Rental assistance may not exceed 48 months for each assisted household, except that for severely rent-burdened seniors on fixed incomes, rental assistance may be renewed for successive 48-month terms. For purposes of this clause, a “severely rent-burdened senior” is a senior that pays more than 50% of their pre-tax income on rent. ○ Relocation assistance for lower income households beyond what is legally required of landlords according to local or state law. <u>Throughout All Program Interventions:</u> ● Advance Equity Goals. BAHFA is committed to advancing equity through its Protection Program and to achieving the Equity Objectives identified in the Equity Framework. The Protection Program objectives were designed with the Equity Objectives in mind, as were the potential funding sources detailed later in the document. The Program will seek to: 1. Increase access to tenant services. Deploy BAHFA funding to organizations with a track record of preventing displacement and improving tenant quality of life, such as legal assistance, counseling and advice, rental assistance, and enhanced relocation assistance. 2. Support tenant education and advocacy. Invest in training, education, advocacy, and outreach that raises awareness of tenants’ rights and community resources available to support housing stability. Support tenant associations and similar organizations that reduce power disparities between renters and property owners. 3. Prioritize protections and investments in households and communities facing the greatest housing precarity. Target BAHFA programs so that tenants at greatest risk of displacement and homelessness—disproportionately ELI, residents of Equity Priority Communities, and other impacted households in areas facing displacement pressures – are prioritized.
--	---

	4. Ensure adequate funding for tenant protections. For BAHFA revenue sources that prohibit expenditures on Protections (e.g., GO bonds), design BAHFA funding programs so that they generate new revenue streams that can be reinvested in Protections region wide. Proactively seek other revenue such as state and federal grants to enhance BAHFA tenant protection funding. 5. Elevate the urgency of tenant protections through regional leadership. Invest in research, data collection, and coordination to inform policy change and region wide adoption of best practices. As described above, BAHFA anticipates that this Program will be iterative and phased, as BAHFA secures new resources, responds to tenant and jurisdictional needs, and works responsively with partners and stakeholders to changing economic and social conditions. As such, BAHFA has included a Draft Protections Program Budget in Table 1 which outlines the priority programs it will create pending available funds. Therefore, while BAHFA plans to advance all areas the Equity Objectives, some may be prioritized in the near-term according to Program needs and funding availability.
Landscape Analysis: Existing Conditions	In 2019, the Bay Area had over 1 million Extremely Low Income (“ELI”) residents - defined as households with incomes of 30% or less of the area median income - with an average annual income of \$17,800, representing 17% of all households. Approximately half of these households spend more than one-third of their income on housing, placing them at severe risk of displacement or homelessness. Black and Hispanic/Latinx people are disproportionately represented in these numbers: Black individuals make up 11% of the ELI population, despite making up only 5% of the Bay Area population, and 33% of the ELI population is Hispanic/Latinx, despite representing 24% of the overall population.¹ The state of homelessness in the region: In a 2021 report, “Bay Area Homelessness”, The Bay Area Council estimated that 73% of the population of people experiencing homelessness in the region is unsheltered. Knowing the exact number of people experiencing homelessness is challenging, and many methods, including the Point-in-Time (“PIT”) count, are considered undercounts. However, this remains one of the most standardized methods of data collection and is utilized

¹ “On the Edge of Homelessness: The Vulnerability of Extremely Low-Income Households in the Bay Area.” The Turner Center, December 2, 2021.

	for funding allocation methodologies at the federal and state level. The 2022 PIT was the first count conducted by every county since 2019 due to the COVID-19 pandemic. This count represents people residing in shelters, transitional housing, vehicles, tents, abandoned buildings, and other places not meant for human habitation. According to the 2022 data reported individually below, there are 37,989 people experiencing homelessness in the 9-county region: • Alameda County: 9,747 (21.5% increase since 2019) people experiencing homelessness. • Contra Costa County: 3,093 (34.8% increase). • Marin County: 1,121 (8.4% increase). • Napa County: 366 (13.7% increase). • San Francisco: 7,754 (-3.5% decrease). • San Mateo: 1,808 (19.6% increase). • Santa Clara: 10,028 (3.3% increase). Note: Although Santa Clara successfully prevented large increases in homelessness county-wide, the city of San Jose saw an 11% increase to 6,739 inside city limits. • Solano: 1,179 (2.4% increase). • Sonoma: 2,893 (2% increase). The state of displacement in the region: The landscape of eviction and displacement in the Bay Area is complex and continues to evolve as policies and programs created during the COVID-19 pandemic wane and new local programs begin. Region-wide, there has been a sharp increase in evictions since the end of the statewide emergency rental assistance program on March 31, 2022, and the end of the statewide eviction moratorium on June 30, 2022. This number is expected to keep growing as the effects of these state programs as well as local COVID-related programs phase out. Housing costs and the need for stronger region-wide tenant protections policies continue to affect the displacement of low-income communities: • Rising housing costs between 2000 and 2020 in the urban cores have resulted in significant movement of low-income and extremely low-income households to less expensive parts of the Bay Area and outside of the region altogether. This has heightened pressures for policies and programs in areas undergoing displacement and created new pressures in areas where there has been an influx of lower-income households (e.g., the North and
--	---

	Northeast Bay Area counties and southern Santa Clara County). The populations of low-income Black people have disproportionately decreased overall, and there has been significant movement outside of the urban cores in the region.² • Tenant protections, such as rent stabilization, access to tenant education, access to pre-eviction and eviction legal services, and emergency rental assistance, are primarily enacted and enforced at the local level with significant variation, creating a patchwork of these policies and programs in the region. The state-level protections enacted through AB 1482 provide a base level of protections for eligible tenants, however emerging research suggests that a lack of data and enforcement threaten the efficacy of this policy.³ The solutions to create a more stable housing landscape for low-income and extremely low-income residents are known, but require significant funding investment, political will, and policy change. These interventions include: • Production and preservation of more affordable housing targeted to extremely low-income and formerly homeless households; • Tenant protections policies and programs to create a rental market where low-income renters can enjoy stable, healthy places to live, and where landlords have the tools and resources needed to mediate conflict outside of eviction; • Stronger safety net programs to ensure that if households fall behind on rent or other expenses, they can get the financial assistance needed to stay housed and meet basic needs; and • Homelessness-specific services for households most at-risk of homelessness (representing a portion of but not all ELI households).
Landscape Analysis: Interventions	Overview of Tenant Protections Across the Region: Cities, counties, and community-based organizations provide a variety of services and legal protections to tenants depending on local funding availability and decision-making. Some cities like San Francisco, Mountain View, Berkeley, San Jose, City of Alameda, Fairfax, and Oakland have rent stabilization and just cause eviction policies funded through fees assessed on landlords, while others have only just cause policies (Petaluma) or rent stabilization

² "Rising Housing Costs and Resegregation in the San Francisco Bay Area." Urban Displacement Project, 2018.

³ "Rising Rents, Not Enough Data: How a Lack of Transparency Threatens to Undermine California's Rent Cap." The Turner Center, September 28 2022.

	(Antioch). Local jurisdictions may also establish service-based protections like Right to Counsel (currently implemented in San Francisco) to provide a guarantee of legal services to people facing eviction. As with homelessness prevention programs, jurisdictions that offer multiple types of protections policies and programs offer the strongest support to tenants to prevent displacement. Pandemic-era programs like California Housing is Key (rental assistance) offered emergency rental assistance through state and federal funding sources. This program closed applications after March 31, 2022, however some local jurisdictions in the Bay Area are continuing to offer reduced versions of the program using funds primarily raised through local measures. Finally, statewide measures in recent years have created new protections for tenants. For example, SB 330 (2019) created a right for low-income renters to return if their apartment building is torn down or redeveloped, and AB 1482 (2019) requires landlords to have a just cause in order to terminate a tenancy and also limits annual rent increases. Between all the different interventions, policies, and programs occurring at the state and local levels, there is a need for a regional body to help harness the learnings from implementation, increase coordination and resource sharing between entities, and help fund what’s working in more jurisdictions. BAHFA could play this role as part of its tenant protections work. Overview of Homelessness Prevention Programs Across the Region: Cities, counties, continuums of care (COCs), and community-based organizations provide homeless services throughout the region. In the past few years, there has been an increased focus on preventing new incidences of homelessness, and most, if not all, Bay Area counties have programs focused on homelessness prevention. State funds such as the one-time 2018 Homeless Emergency Aid Program (HEAP), Homeless Housing Assistance Program (HHAP), and CDSS Housing and Homelessness programs include homelessness prevention as eligible costs and populations. Tenant protections policies, as described above, also provide upstream homelessness prevention. BAHFA has the opportunity to help all jurisdictions fully understand what works best, make adjustments as indicated, and continue to implement best practices as needs and resources change over time.
--	---

Funding Strategies	While AB 1487 states that a minimum of 5% of BAHFA revenues be directed toward tenant protection activities for low- and moderate-income households up to 120% AMI, sources included in the legislation have restrictions that make this challenging (general obligation bonds and commercial linkage fees). As a result, BAHFA will need to consider several strategies to fund these critical activities. Sources and strategies may include: 1. Ballot Measure with Constitutional Amendment: A 2024 ballot measure, dependent upon the final language of a simultaneously passed constitutional amendment expanding bond expenditures, may enable BAHFA to use a portion of the GO bond revenue for homelessness interventions and other protections for vulnerable residents. If the amendment passes, both jurisdictions and BAHFA can and must use at least 5% of the GO bond revenues for these purposes. Assuming the success of a \$10 billion measure, this equates to \$500 million across the region. For BAHFA, available resources would total \$100 million. With bond funding allocated in approximately 5 tranches, this translates to about \$20,000,000 from each bond issuance for tenant protections/homelessness prevention activities just for BAHFA, or approximately \$7M annually over a 15-year period. 2. Revenue from lending programs: BAHFA's production and preservation funding efforts will produce a stream of income from interest and fees charged to developers. This funding will ramp up over time and is estimated to produce between \$10-15 million over the first five years. 3. Private funding: BAHFA has an opportunity to engage with the corporate and philanthropic sector to raise funding to jumpstart Protections programs. If the statewide amendment does not pass, or if amendment language does not enable spending on the full suite of priorities, then it will be particularly important to raise funds through other means. A push for private funding could result in significant new funding for tenant protections and homelessness prevention. 4. State and Federal Funding/CalAim: Additional state and federal funding, whether administered by BAHFA or directly to communities, is greatly needed to prevent and end homelessness. One notable state opportunity is the CalAim program. CalAim provides both services and expanded access to housing, working through managed care organizations. Through CalAim's Providing Access and Transforming Health (PATH) initiative, funding will be
---------------------------	---

	available for a variety of housing-related interventions and services, including navigation services, housing deposits, and housing tenancy services. Helping unlock or facilitate access to new funds for jurisdictions, like CalAim or new state dollars, would be additive to the region. BAHFA does not want to compete with jurisdictions for scarce resources, nor does it want to engage in activities that are duplicative of ongoing work. Instead, BAHFA seeks to pursue and raise funds that will be additive to the work jurisdictions are already doing. See Table 1 Draft Protections Program Budget below, which prioritizes potential programs based on near-term funding availability.
--	---

Table 1: 2022-2032 Draft Protections Program Budget

Prioritized Tenant Protections and Homelessness Prevention Programs based on anticipated funding availability. Longer-term objectives identified above could be funded as described above with additional resources.

Program	Activities and Description	Budget Amount and Sources	Timeline
Tenant Protections Regional Research, Coordination, and Technical Assistance: Help solve for the lack of coordination and support for a regional lens on tenant protections.	Contract with qualified firm(s) to gain knowledge about opportunities and challenges relating to tenant protection programs. Findings will support regional interventions supporting tenant protections, including eviction diversion and mediation, right to counsel, and tenant outreach and education programs. BAHFA will ensure coordination with other MTC/ABAG research and technical assistance efforts.	<i>Total cost:</i> \$150,000 <i>Sources:</i> • BAHFA pilot funds: \$130,000 • Fundraised private funds: \$20,000	2023-2024
	In response to requests and need for more collaboration and learning between jurisdictions, BAHFA will regularly convene stakeholders working on tenant protections to: • Share promising practices and research • Discuss available funding sources and how to maximize funding	<i>Total cost:</i> \$10,000 annually <i>Sources:</i> • In-lieu costs (e.g., event space, staffing) provided by BAHFA • Other costs covered by fundraised private funds	2023-2032

Program	Activities and Description	Budget Amount and Sources	Timeline
	Build a shared vision and priorities for regional and state tenant protections <i>Note: This activity may evolve over time in response to needs of the region.</i>		
	Through the MTC Regional Planning Program (RPP), provide regional technical assistance on tenant protections (as part of the “3Ps”). This activity builds upon the Regional Housing Technical Assistance Program launched by ABAG and MTC in 2020. Through this expansion, BAHFA could support jurisdictions to implement protections-related commitments made in their 6th Cycle Housing Elements via grants and technical assistance. It can also support jurisdictions seeking to comply with MTC’s recent Transit Oriented Communities (TOC) Policy. <i>Note: Significant inter-agency coordination for this technical assistance project is currently underway and new activities are expected to launch in 2023.</i>	<i>Total cost:</i> Approximately \$15 million program budget, though TBD how much funding will be focused on Protections (vs the other “Ps”). <i>Source:</i> Regional Early Action Planning Grants (REAP 1.0 and 2.0). REAP 1.0 is administered by ABAG and REAP 2.0 will be administered by MTC.	2023-2026

Program	Activities and Description	Budget Amount and Sources	Timeline
State and Federal Advocacy	As appropriate and in coordination with the MTC Legislative and Public Affairs (LPA) team, BAHFA may advocate for tenant protections and homelessness prevention support in alignment with other programs and priorities – with a particular emphasis on securing new funding.	MTC and BAHFA staff time and other administrative costs.	2022-2032
Tenant Protection Pilot Program(s)	Using findings from the 2023-24 tenant protections study, develop an RFP for pilot program(s) to help jurisdictions test strategies to: 1) Improve eviction outcomes for tenants in pre-eviction and eviction proceedings. 2) Increase tenant knowledge of existing rights and responsibilities. Exact scope to be determined pending research outcomes and funding availability. Based on the costs of other regional programs, BAHFA estimates a cost of a pilot program at \$2-4M annually.	<i>Total Cost:</i> To launch one pilot program, BAHFA anticipates a budget of \$2M annually for 5 years, requiring at least \$10M to begin a program. <i>Sources:</i> • Revenue from lending programs projected to be up to \$2M per year after the initial start-up years. • Private funds to be determined.	2025-2032
Homelessness Prevention Systems Integration Pilot	For any jurisdiction seeking assistance to make changes to, or improvements in, integrating health, housing, and homelessness program delivery, BAHFA will	• 2024 GO bond (if statewide amendment also approved): A minimum of \$5M annually.	2025-2032

Program	Activities and Description	Budget Amount and Sources	Timeline
	work in collaboration with those jurisdictions and provide support to bring stakeholders together, financial resources to implement specific actions (e.g., rental assistance, legal assistance). This work would be fully supportive of the jurisdiction's goals. BAHFA anticipates that this support would complement the jurisdiction's deployment of new resources generated by the regional ballot measure.	• BAHFA funds to be complemented by local jurisdiction funding, e.g., regional bond funds returned to source.	