

TENANT DISPLACEMENT IN AUSTIN

**A Policy Report Analyzing the City of Austin's Tenant
Relocation Policy at Shoreline Apartments with
Recommendations for a City-Wide Policy Approach**

April 2012

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COMMUNITY DEVELOPMENT CLINIC

THE UNIVERSITY *of* TEXAS SCHOOL *of* LAW

I. Introduction

As older apartments are redeveloped in Austin's urban core, a growing number of low-income tenants find themselves displaced from their homes. With displacement comes an array of deeply detrimental impacts.¹ For many tenants, these impacts include increased rents, hundreds of dollars in moving-related expenses, and moves farther outside of the urban core. Those who lack the resources to locate within the same neighborhood can suffer from loss of community support networks, as well as the inability to keep their children in their current schools. And tenants who depend on public transit for work can suddenly find themselves without access to a transit-oriented unit, much less alone the means to search for a new unit. For the most vulnerable tenants, displacement can even lead to homelessness.²

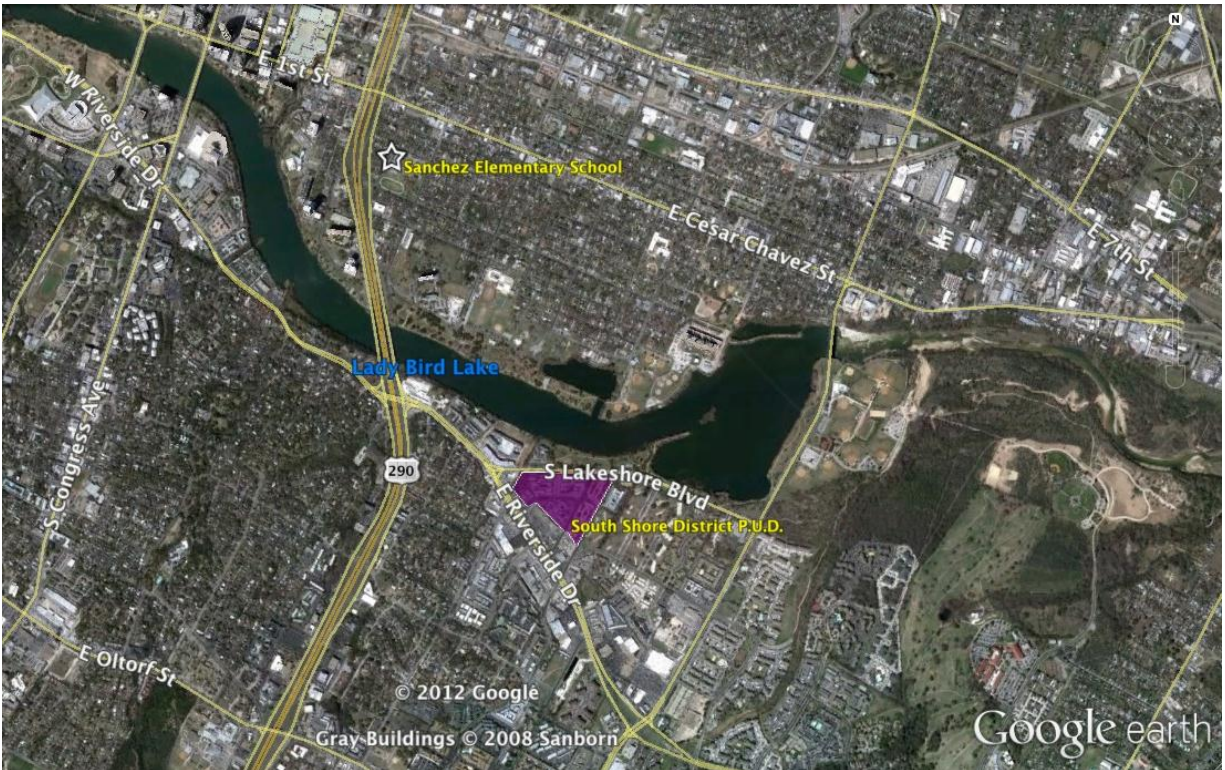
The City of Austin does not have a formal policy for systematically assisting tenants who are displaced from their apartments. So far, this pervasive issue has been addressed in Austin only on an ad hoc basis through individually negotiated deals with developers. We are aware of only two instances where this has happened locally: at Shoreline Apartments, where the City included the requirement in a re-zoning ordinance; and at Sunnymeade Apartments, where the tenants and apartment developer negotiated a relocation agreement. As a general rule, other tenants who have been displaced from market-rate (i.e., non-subsidized) apartments undergoing redevelopment have not received relocation assistance from their landlords.

The rezoning and subsequent demolition of Shoreline Apartments on East Riverside Drive involved the latest relocation policy in Austin. In 2009, when Grayco Partners approached the City to obtain new zoning for the redevelopment of the Shoreline site, the City Council included a relocation assistance requirement in the rezoning ordinance. The implementation of this policy was by and large disastrous. The developer failed to deliver the assistance the developer had pledged to provide, and the City of Austin failed to monitor implementation of the ordinance until advocates notified the City in Summer 2011 that the developer had been out of compliance for several months.

This report begins by examining the Shoreline relocation policy and why it failed the tenants. The next sections of the report discuss the benefits of adopting a uniform tenant relocation assistance policy in Austin and examine lessons learned from the Shoreline and Sunnymeade policies. Finally, this report closes with specific recommendations for an Austin-wide tenant relocation assistance ordinance.

¹ Carolina Guzman and Rajiv Bhatia, "Anticipated Effects of Residential Displacement on Health: Results from Qualitative Research" (Nov. 8, 2005), San Francisco, CA: Department of Public Health, *available at* <http://www.sfphes.org/component/downloads/summary/6-housing/211-anticipated-effects-of-residential-displacement-on-health-results-from-qualitative-research?Itemid=62>.

² *Id.* at 2.



Location of South Shore District PUD and Sanchez Elementary School

II. Overview of Shoreline Apartments

The Shoreline Apartments was a 308-unit complex on East Riverside Drive near Lady Bird Lake. Grayco demolished Shoreline in 2011—along with a smaller 36-unit complex called Brookhollow—to make way for a \$200-million upscale, mixed-used development. Grayco purchased the triangular site where these two complexes were located in 2006 for \$30 million. Three years later, Grayco asked the City of Austin to re-zone the site to a Planned Unit Development (PUD). As part of this re-zoning request, Grayco requested an increase in permissible height from 60 feet to 90 feet, and in some areas to 120 feet. In exchange for the new zoning and height increases, the City negotiated a number of community benefits, including space for a new police station, a regional storm water pond, and contributions to affordable housing.

During City Council's review of the zoning request, the Council discussed concerns about the loss of affordable units at Shoreline and the lack of affordable housing in the new development. The affordable housing discussion focused primarily on whether on-site or off-site affordable units were preferable. The Council also discussed the appropriate amount of fee-in-lieu for the option of off-site units. Replacement of the lost affordable housing units dominated the discussion rather than a focus on the Shoreline tenants. There was little discussion on the Council dais about the \$90,000 in tenant

relocation assistance that was part of the package agreed to by Grayco “to sweeten the deal” with Council.³

On December 17, 2009, the City Council adopted the final PUD ordinance, which included the following section on relocation assistance for the Shoreline tenants:

Before . . . owner’s first notice to any tenants of termination of tenant leases in anticipation of demolition of existing buildings, the owner must submit to the Director of the Neighborhood Housing and Community Development Department for review an agreement between the owner and an entity acceptable to the Director of the Neighborhood Housing and Community Development that provides for at least \$90,000 in displacement and relocation assistance for displaced tenants.⁴

During the third reading of the PUD ordinance in December 2009, Steve Drenner, the lobbyist and attorney for Grayco, estimated that Shoreline Apartments was 60% occupied, with 185 occupied units. Based on this estimate, the \$90,000 in assistance would have equaled on average \$486 per apartment unit. In February 2010, Grayco recorded a restrictive covenant that included language about a tenant placement program, but did not provide specific details.

Later that fall, in September 2010, Shoreline Apartments provided written notice to the tenants, stating that all tenants had to move by the end of June 2011. The letter noted the extension of a previous apartment closure date that Shoreline had set for December 31, 2010.⁵ The notice stated that all tenants would receive a \$125 moving stipend provided they were in good standing and remained until the final vacate date in June. No other mention was made of relocation benefits. The failure to deliver assistance until the final vacate date meant that residents could not utilize the funds to help pay for apartment applications or for the security deposit and first month’s rent needed to secure a new apartment.

The tenants received a subsequent written notice from Shoreline Apartments on June 14, 2011, informing them that the move out date had been changed to August 19.⁶ The notice did not mention anything about relocation resources for the tenants. The notice did state that if the tenants did not provide 30-days notice then they would not be refunded their security deposit. As a recap, the only written notice Shoreline provided to the tenants about relocation assistance—prior to the City’s intervention in late June 2011—was the December 2010 notice mentioning the \$125 available for tenants in good standing who stayed through the final vacate date in June 2010.

³ Sarah Coppola, “Developer slow to help residents in Southeast Austin apartments slated for demolition,” *Austin American-Statesman* (July 7, 2011).

⁴ See Appendix 1.

⁵ See Appendix 2.

⁶ See Appendix 4.

In June 2011, Ruby Roa, a housing advocate in Austin, heard from the Shoreline tenants that Grayco was not providing them with appropriate relocation assistance. They were facing a very difficult time relocating to safe and affordable apartments in the area. Among the specific concerns expressed by the tenants were (1) the inadequacy of the \$125 relocation offer, (2) the withholding of the financial assistance until the move-out date, (3) the lack of information about the assistance, (4) the difficulties in securing new rental units and lack of assistance to locate alternative housing, and (5) rampant health and safety code violations at Shoreline. Tenants also expressed concerns about Shoreline's deduction of back rent and unpaid utility costs from the moving assistance, and the requirement that tenants had to provide 30-days notice of move-out as a condition for receiving a refund of their security deposits.

After talking to the tenants about their concerns, Ms. Roa contacted the City and Heather K. Way, the Director of the Community Development Clinic at the University of Texas School of Law. Professor Way contacted Grayco's attorneys to inquire about the tenants' concerns.

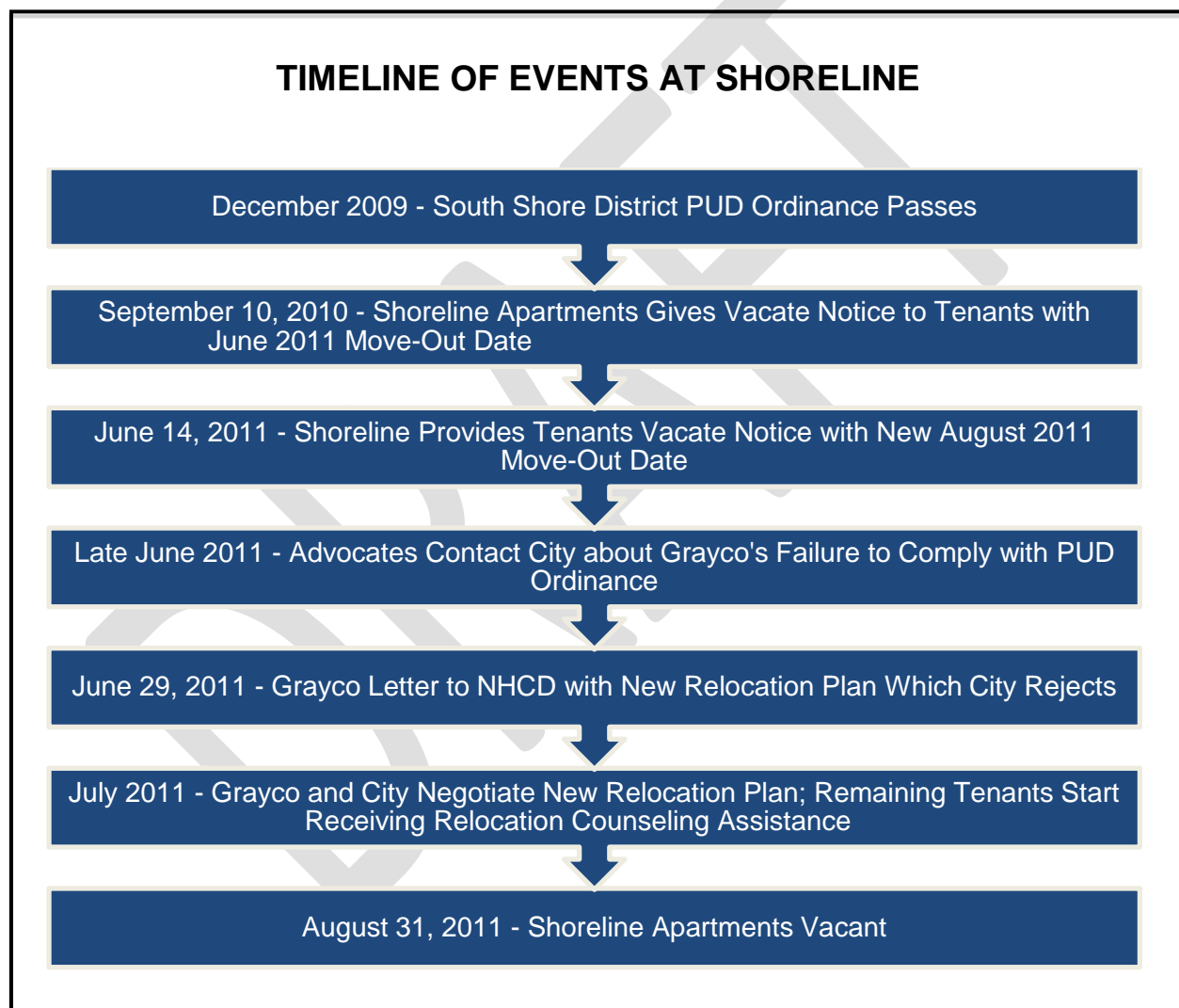
At the same time, tenant advocates also started to make inquiries with the City as to the status of the relocation agreement required under the PUD ordinance governing Shoreline. As discussed above, the ordinance specifically required Grayco—before sending termination notices to the tenants—to “submit to the Director of the Neighborhood Housing and Community Development Department for review an agreement between the owner and an entity acceptable to the Director of the Neighborhood Housing and Community Development that provides for at least \$90,000 in displacement and relocation assistance for displaced tenants.” The City reported that it never received any notice of such an agreement from Grayco.

Grayco claimed it sent the required notice of the relocation agreement to the City's Neighborhood Housing and Community Development Department's (NHCD) Director in a letter dated December 16, 2010.⁷ The letter stated that Grayco was submitting for city review an agreement with Blanca Garcia of Casa Blanca Realty to provide displacement and relocation assistance for the tenants. The agreement said that moving stipends, of up to \$250 a unit and totaling \$60,000, would be provided for an anticipated 240 valid apartment leases. Grayco further stipulated that an additional \$30,000 would be provided to the tenants in the form of returned security deposits. Grayco also said it would utilize Casa Blanca Realty to provide tailored assistance “to help relocate each resident to affordable residences that meet their needs.” City officials say they never received this letter or agreement.

There are lots of troubling issues that arise from the letter and agreement that Grayco claimed it sent but that the City says it never received. In addition to the dispute over whether Grayco actually delivered the letter to the City, there is Grayco's attempt to count the tenants' security deposits towards the \$90,000 in relocation assistance.

⁷ See Appendix 3.

Further, Blanca Garcia reports that, contrary to Grayco's statements in the December 16, 2010 letter, she and her company did not enter into an agreement with Grayco to provide relocation assistance until July 2011. What is equally troubling is that Grayco never followed through with the agreement it contends to have sent the City in December 2010. Tenants continued to move out of Shoreline with minimal, if any, assistance. Until the City intervened in July 2011, Grayco never provided the tenants with the \$250 in moving assistance or the tailored relocation assistance from Casa Blanca Realty that Grayco promised in its alleged December 2010 agreement and letter to the City.



After the tenant advocates' intervention in late June 2011, Grayco sent an updated relocation plan to the City. In a letter to NHCD dated June 29, 2011, Grayco stated that,

instead of using a realtor, it would be using onsite staff to aid tenants with relocation.⁸ Grayco also said it would be paying each of the remaining households a \$325 moving stipend, because a number of tenants had already moved.

The City and the tenants' attorney from Texas RioGrande Legal Aid rejected this plan. Around the same time, Grayco's treatment of the tenants received broad coverage in the media, including a July 12th editorial in the American-Statesman sharply criticizing Grayco for "mak[ing] a deal and then fail[ing] to follow through in a timely fashion."⁹

Developer slow to help residents in Southeast Austin apartments slated for demolition

By **Sarah Coppola**
AMERICAN-STATESMAN STAFF

Published: 9:44 p.m. Thursday, July 7, 2011

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As Arturo Garcia walks the grounds of Shoreline Apartments in Southeast Austin, he points out rotted steps, peeling paint, cracked concrete and broken fencing.

This dilapidated, 308 -unit complex is now half vacant. Many tenants moved out this year, before Houston-based Grayco Partners demolishes Shoreline to build an upscale \$200 million apartment and retail project in its place, near Lady Bird Lake.

But Garcia's family is still waiting on "relocation assistance" that Grayco agreed to provide Shoreline's mostly low-income tenants when the company sought city approval for the mixed-use project in 2009 . And city officials say Grayco only last week submitted a plan — due months ago — explaining how they'll help find new homes for Shoreline tenants and those at Brookhollow, a smaller apartment complex nearby.

Shoreline residents have been told they must leave by Aug. 19 ; many are worried about not being able to get low-rent housing nearby, forcing their children to change schools.

"To me, Grayco hadn't had much compassion. They just don't seem to care," Garcia said. "It has felt like, 'Here's your notice; get your stuff out.' Where are we supposed to go?"



Alberto Martínez /AMERICAN-STATESMAN

[ENLARGE PHOTO](#)

Arturo Garcia walks out of the apartment he will vacate soon. Last year, the Austin City Council agreed to let developer Grayco demolish Shoreline Apartments and displace about 300 residents.



[ENLARGE PHOTO](#)

Austin-American Statesman article from July 7, 2011.

⁸ See Appendix 5.

⁹ Editorial Board, "Developers Must be Held Accountable," Austin American-Statesman (July 12, 2011).

Grayco's attorneys and the City negotiated a revised relocation assistance plan in mid-July.¹⁰ Under this final plan, Grayco agreed to:

- Provide tenants with a \$485 per unit moving stipend. Half the stipend would be provided by July 22, 2012, and the other half on the move-out date.
- Provide tenants with their security deposits. Grayco could deduct back rent or unpaid utility costs from the security deposits but not from the moving stipend.
- Eliminate the 30-days notice requirement. Instead, tenants were asked to give 10-days notice of their move-out date and could receive a pro rata refund of rent they already paid.
- Retain Casa Blanca Realty to administer the relocation assistance plan by placing and relocating tenants, communicating with the City, and updating NHCD on a weekly basis with the status of tenant relocation.¹¹

After the agreement was finally approved, Blanca Garcia provided extensive one-on-one assistance throughout the rest of July and into August to help the tenants relocate. This assistance included counseling the tenants about their options, visiting other apartments, and negotiating with prospective landlords. Families faced many challenges in securing new housing they could afford. Blanca Garcia estimates that many Shoreline tenants paid \$100 to \$300 more per month for comparable apartments in the same area. This increased price prohibited some tenants from renting in the Riverside area, forcing them to move away from employment, schools, and established social networks. These tenants—who at Shoreline had lived in one of the most transit-rich neighborhoods in the City—also ended up relocating to neighborhoods with less mobility options. Some tenants could no longer walk to work, and many tenants could no longer utilize public transportation.

By August 1, 2011, there were still 90 occupied units at Shoreline. During the final week before Shoreline's closing, there were ten occupied units. On August 19th, the tenants continued to move out of their apartments. The final tenant moved out a few days after this date. By the end of August, the property was completely vacant. NHCD estimates that Grayco paid \$114,460 in moving stipends to tenants and \$20,000 to Casa Blanca Realty for its relocation services.

In summary, the unfolding of events at Shoreline Apartments reveals that the City's relocation policy at Shoreline was woefully inadequate. While the tenants who remained at Shoreline in July 2011 ended up receiving significant relocation assistance, this was principally the result of pressure from tenant advocates and the media and belated intervention by the City. Without the involvement of tenant advocates, the developer would likely have continued to skirt its legal obligations under the PUD ordinance. Just as concerning is the large number of tenants who had already moved out by July 2011

¹⁰ See Appendix 7.

¹¹ See Appendix 7.

– in response to prior notices that the complex was shutting down in June – and who thus failed to receive any assistance.

III. Why the Tenant Relocation Policy at Shoreline Apartments Failed

There are three principal policy reasons why the City's relocation assistance policy for Shoreline Apartments, via the PUD ordinance, failed:

- (1) Under the City's interpretation of the PUD ordinance, the City's only authority was to review the relocation plan submitted by Grayco. The City had no role in ensuring that the plan adequately met the needs of the tenants.
- (2) The City did not have any clear monitoring and enforcement mechanisms to ensure compliance with the ordinance and the relocation plan.
- (3) Tenants had no private right of action to enforce the ordinance or to seek damages for the developer's failure to comply.

City's Limited Role to Review Plan

Under the City's interpretation of the PUD ordinance, the City's only authority in relation to the relocation plan was for the Neighborhood Housing and Community Development Department to review the plan submitted by Grayco—the plan itself was not subject to the City's approval. As such the City had no authority to require changes to the plan. While the tenants' attorney advocated that the PUD ordinance could have been interpreted more broadly, the City disagreed.

Because of the limitations on the City's authority to approve Grayco's relocation plan, the City could not require Grayco to specify in more detail how it should allocate the \$90,000 in relocation assistance Grayco was required to provide under the PUD ordinance. Nor could the City reject Grayco's allocation of the \$90,000 under the plan. As a result, the City had no ability to require specification on when the tenants would receive relocation assistance or how much of the \$90,000 could include fees for a relocation specialist. The City likewise had no authority to require certain standards for the one-on-one tenant relocation assistance, such as a requirement that the assistance be provided by an experienced realtor.

No Enforcement Mechanisms

The PUD ordinance failed to provide the City with clear enforcement mechanisms to ensure compliance with the ordinance and the developer's subsequent relocation plan. When tenant advocates complained to the City in late June 2011 about Grayco's noncompliance with the ordinance, the City did discuss holding up approval of Grayco's site plan until Grayco complied. Whether the City had this authority was not spelled out in the PUD ordinance. Nor did the ordinance provide the City with authority to assess fines for Grayco's noncompliance with the ordinance, including Grayco's failure to provide assistance to the tenants who had already moved out as of July 2011.

The City also lacked any kind of monitoring mechanisms to track Grayco's noncompliance with the ordinance prior to the tenant advocates involvement in July 2011. For example, there were no requirements that Grayco provide regular reports to the City on its implementation of the relocation plan. Nor was any City department clearly charged with monitoring for compliance, beyond the requirement that NHCD review (but not approve) the relocation assistance plan provided by Grayco.

No Right of Action for Tenants

The PUD ordinance did not include a private right of action for the Shoreline tenants to enforce violations of the ordinance in court. The individual residents who never received relocation assistance when they moved out thus had no right to sue Grayco to recover the relocation assistance that Grayco originally promised to provide them. Nor did the tenants who remained at Shoreline in June 2011 have a right to seek injunctive relief in court to require Grayco's compliance.

IV. Why Austin Needs a Uniform Tenant Relocation Policy

There are several reasons why Austin needs a uniform tenant relocation policy – one that includes individualized assistance to help tenants locate new homes, as well as cash assistance to offset the high costs of moving:

- (1) In Austin's hot rental market, the problem of low-income tenants being displaced will continue to grow.
- (2) A relocation policy helps offset some of the costs and other challenges that tenants face when they are displaced.
- (3) Relocation counseling helps tenants with children secure housing in the same school attendance zone, abating the negative impacts that relocation can have on neighborhood schools and children's well being.
- (4) A relocation policy applied citywide enables developers to calculate the relocation assistance requirements and costs upfront when purchasing an existing complex and to build those costs into the purchase price.

A Growing Problem

Austin's tight rental housing market has made the City a magnet for developers looking for redevelopment opportunities and has driven up the rents at existing complexes. In the past year, the occupancy rate in Austin was as high as 96% and rents have been at an all-time high.¹² With these pressures, an even greater number of affordable Class C apartment complexes are likely to join the ranks of Shoreline and be redeveloped into high-end apartments. This means that a growing number of low-income tenants will find

¹² Shonda Novak, "Soaring rents, occupancy rates have Austin apartment market among hottest in nation," Austin American-Statesman (Aug. 12, 2011).

themselves displaced from their rental housing and facing challenges similar to those faced by the Shoreline tenants in securing alternative housing that is safe and affordable. The challenges are heightened especially for families with children: Shoreline was part of a diminishing supply of market apartments that offer affordable, three-bedroom units for families. The bulk of new apartments being developed in Austin, including the new units at the Shoreline site, are targeted to singles and couples.

The Costs of Displacement

For older apartment complexes like Shoreline under-going redevelopment, most of the tenant population is likely to consist of low-income and other vulnerable tenants, such as seniors or individuals with disabilities. For example, according to Greg Guernsey, the Director of Planning and Development Review for the City of Austin, 90% of the public school students from the Shoreline area were at or below the federal poverty level. These tenants face an array of challenges when finding a replacement apartment, paying for all the costs associated with renting, and moving to the apartment.

Finding a replacement apartment in Austin's tight rental market can be extremely daunting for a low-income tenant. Displaced tenants face a series of hard choices: paying higher rents, moving into substandard housing, doubling up with other family members, or moving farther out of the urban core. Tenants who are pushed outside the urban core typically face longer commutes in less transit-oriented neighborhoods, which imposes yet another financial burden on these tenants. Many of the tenants at Shoreline utilized public transit on a daily basis or were able to walk to their jobs—for example, one Shoreline resident was able to walk from her apartment to the restaurant where she worked for twelve years.

Displacement can also tear apart a tenant's community and social networks. One University of Texas study of the East Riverside area found that tenants there had a strong sense of community and social networks that helped community members manage their daily lives.¹³ For example, some tenants provided after-school childcare for other tenants' children.

Low-income tenants with mobility impairments, limited education, or limited English proficiency face additional challenges in searching for and applying for new housing. Tenants with criminal records or credit issues likewise face additional challenges in securing replacement housing. These tenants often need additional help navigating the apartment market.

For low-income tenants the moving costs also pose an enormous barrier. Blanca Garcia estimates that for a tenant to move into a \$500 a month apartment in Austin would cost at least \$1500. Tenants must pay the following moving expenses: application fees,

¹³ Elizabeth J. Mueller and Sarah Dooling, Sustainability and Vulnerability: Integrating equity into plans for central city redevelopment 23-24 (May 30, 2010) (unpublished submission to the Journal of Urbanism, on file with the Community Development Clinic).

which range from \$30-\$50 per adult for each application submitted; moving boxes and packing tape; a truck rental; and utility transfer costs. A tenant also has to pay a new security deposit, usually equal to one month's rent. This deposit will be due before the tenant receives a refund of his current security deposit. On top of all this, tenants also typically have to pay in advance the first month's rent for the new apartment. Tenants with mobility impairments can face even greater challenges to the extent they lack the ability to drive, which impedes their ability to visit alternative housing opportunities and requires the hiring of movers when the tenants finally secure alternative housing.

All of these barriers can result in a range of harmful impacts on tenants' mental and physical well-being. For the most vulnerable tenants, these barriers can even lead to homelessness.¹⁴ For example, a study of one community found that as much as 26% of the homeless population had been evicted or locked out of their apartments.¹⁵

A relocation assistance policy can offset the impact of these barriers by providing cash assistance to help tenants cover the costs of applying for new apartments, new security deposits, and first month's rent. The policy can further assist tenants by providing relocation counseling assistance to help secure new housing in areas that offer the best opportunities for success.

An additional problem created by displacement of tenants is the heightened security issues that exist for tenants who remain at a complex until the final move-out date. Throughout the summer of 2011 as the Shoreline tenants moved out, tenants reported lots of issues with increased crime as a result of unauthorized persons occupying a number of the vacated units at the complex. The tenants attributed this to the owner's failure to adequately secure the vacant units. A relocation policy could address this issue by requiring increased on-site security during the final months before the final move-out date.

Impact on Neighborhood Schools and Children

A city-wide relocation policy in Austin—especially one utilizing counseling to help tenants stay in their neighborhoods—can help offset some of the negative impacts that tenant displacement has on children and neighborhood schools.

When school-age children are displaced from housing, they typically have to leave their neighborhood public school, unless they are able to secure housing in the same school attendance zone. While the Austin Independent School District has a transfer policy allowing students to remain at their current school even if they move outside the school boundaries, the transfer policy requires that students provide their own transportation from their new place of residence, which many low-income households are unable to provide.

¹⁴ Guzman, *supra* Note 1.

¹⁵ *Id.*

Students who transfer schools are at a greater risk for academic and social problems. Studies have shown that frequent moves can put students behind by as much as a year, and that students who frequently change schools are at a greater risk of dropping out of school.¹⁶ In the long run, these changes can “result in major learning and behavior problems” and “the psychological and social impacts may be devastating.”¹⁷

High rates of student mobility also stress school systems and individual schools.¹⁸ The negative impacts on a school include a drop in academic performance, increased administrative costs, classroom disruption, and diminished teacher morale.¹⁹ In areas with broad-scale tenant displacement, such as the Shoreline area, the future of an entire neighborhood school can be jeopardized as a result of the dramatic drop in student enrollment. At Shoreline alone, more than 100 children residing at the complex attended the local elementary school, Sanchez Elementary—almost one-fifth of the student body.

Clear and Equitably Applied Regulations for Developers

To date, the City of Austin’s recent relocation policies have been applied on an ad hoc basis. A small number of developers have been required to cover some of the costs of displacing their tenants, while others have not had to pay anything. An ad hoc approach is not only unfair for the tenants who do not receive any assistance but also for the small subset of developers who have been singled out for a benefit requirement. Such an approach also limits developers’ ability to plan effectively. A relocation policy applied city-wide enables developers to calculate the relocation assistance requirements and costs in advance when purchasing an existing complex and to build those costs into the purchase price.

V. Lessons Learned from Tenant Relocation Policies

There is a range of policies that the City of Austin can adopt to ensure the fair and equitable treatment of low-income tenants displaced from their apartments. The City adopted some of these policies during the relocation at Shoreline. The relocation agreement governing the redevelopment of the Sunnymeade Apartments site contains additional policy guidance. A series of best practices can also be found in other cities that have already adopted city-wide relocation assistance ordinances.

The relocation agreement provided much more for the displaced tenants than Grayco’s Tenant Placement Program did. Kaplan and South River City Citizens Neighborhood

¹⁶ “Student Mobility,” Education Week (Sept. 21, 2004), *available at* <http://www.edweek.org/ew/issues/student-mobility/>.

¹⁷ Cardenas, et. al., “Transition support for immigrant students,” 21 J. of Multicultural Counseling and Development, 203-10 (1993).

¹⁸ Russell W. Rumberger, “The Causes and Consequences of Student Mobility,” 72 J. of Negro Educ. 1, 11-12 (2003).

¹⁹ *Id.*

Association (SRCC) agreed to the following stipulations. Kaplan fulfilled their obligations without outside intervention. The agreement's specificity and binding nature protected the tenants' rights.

Sunnymeade Apartments

In 2008, Kaplan Management (Kaplan) met with SRCC regarding Kaplan's plans to demolish the 1960s-constructed Sunnymeade Apartments and to build a new residential complex in its place. SRCC sought neighborhood endorsement of a plan to request an increase in height from City Council. Kaplan and the Sunnymeade Tenants' Association reached an agreement that incorporated a tenant relocation policy with a number of tenant protections.²⁰

- **Adequate Notice to Tenants** – Kaplan provided tenants with six-months notice of the vacate date.
- **Flexibility of Move-out Date** – Tenants whose current lease ended before the vacate date could continue to lease on a month-to-month basis up to the vacate date. Kaplan also did not penalize or decrease the moving stipend for tenants who moved prior to the vacate date.
- **No Deductions from Security Deposits** – Kaplan agreed to not deduct any amount from the security deposits for damages to the apartment units. Kaplan returned full deposits to tenants six months prior to the vacate date, permitting tenants to use this money towards relocation costs.

²⁰ See Appendix 8.



Sunnymeade Apartments at 501 E. Oltorf, April 2006, pre-demolition.

- **Free Moving Assistance** – Kaplan agreed to provide free moving assistance within the Austin area for all residents who were not in default of their leases after the vacate notice.
- **No Rent Charges for Final Month** – Tenants who stayed until the final month of the vacate date did not have to pay their last month's rent.
- **Sensitivity to Tenants' Needs** – Kaplan acknowledged the particular needs of the Sunnymead community: low-income residents, families with children, and the elderly. Kaplan agreed to host open houses at Sunnymead and provide transportation to other apartments for viewing to facilitate the tenants' search for other affordable housing. Kaplan provided these open houses and transportation arrangements within thirty days of providing tenants' with the vacate notice. Kaplan agreed to assist tenants who wanted to stay in the same complex find new residences with multiple vacancies.

- **Bilingual Communications** – Kaplan paid for the professional translation of the final agreement into Spanish so that all tenants would be aware of the relocation assistance Kaplan promised to provide.
- **Private Right of Action** – The Sunnymeade agreement provided tenants with a private right of action if Kaplan did not comply with the relocation agreement.

Shoreline Apartments

Three parts of the Shoreline relocation effort worked well, two of which resulted from the involvement of advocates after Grayco defaulted on its original obligations:

- The effectiveness of the realtor hired to provide the relocation assistance;
- The apartment closing over the summer; and
- The waiver of utility deposits with Austin Energy.

Effective Realtor Assistance – Relocation counseling assistance provided by an experienced, bilingual realtor was crucial at Shoreline. Blanca Garcia, the realtor aiding the Shoreline tenants, had extensive experience working with low-income households to secure housing and put those skills to work in providing extensive one-on-one support to the tenants. Her time and skills led to many residents being able to successfully relocate in the Riverside area. While Ms. Garcia had only about 6 weeks to help 260 tenants, she worked tirelessly during the week and on weekends to assist as many tenants as possible. Ms. Garcia steered tenants away from apartments that had no vacancies but still accepted applications to receive the application fees. Ms. Garcia also visited many apartment buildings to ensure they were in livable condition.



Shoreline Apartments in October 2011.

Summer Closing Date – The final move-out date for Shoreline tenants was during the summer. This allowed children at Shoreline to complete the school year at their current schools. Given the 100-plus Shoreline children attending Sanchez Elementary, the summer move-out date also helped the school by not forcing out such a large number of students in the middle of the school year.

Waiver of Austin Energy Deposits – After relentless urging by Ruby Roa, Austin Energy and the City of Austin formed an internal policy whereby Shoreline residents did not have to pay new utility deposits at their new residences. Austin Energy has a policy requiring a new \$200 deposit to be paid at a new residence. This \$200 expense can be problematic for low-income tenants who also have to pay application fees and security deposits. Austin Energy also waived this deposit for the displaced Sunnymeade tenants.

Relocation Models

Many jurisdictions across the country have implemented tenant relocation policies. The following table compares the relocation policies adopted in Chicago, Seattle, Dallas, Boston, and Maryland:

Example of Cities with Relocation Assistance Policies

	Chicago ²¹	Seattle ²²	Dallas ²³	Boston ²⁴	Maryland ²⁵
Who Pays Assistance	Property Owner	City Pays Half and Property Owner Pays Half	Property Owner in Skillman TIF District (Developer reimbursed by TIF at a later date)	Property Owner	Property Owner
Amount per Tenant	\$1,500	\$3,000	\$500	\$3,000	\$375-\$750 and three-months rent
Eligible Income Levels	At or below 120% MFI.	No income limits	No income limits	No income limits	Different levels of assistance and process based on income level
Extra Assistance for Special Circumstances	If a tenant's rent is greater than \$1,500 a month, the tenant may receive up to \$2,500.	None	For families with school-age children	\$2,000 extra for households with one or more tenants, seniors, persons with disabilities, and for low to moderate-income households	

²¹ Chicago Municipal Ordinance 13-72-065, available at http://www.chicityclerk.com/legislation/sublegmatters/2010/sept8th/mayor/hsg%20amdm%202010-5234_20100908211426.pdf. This ordinance applies only to condominium conversions.

²² Department of Planning and Development, Seattle's Tenant Relocation Assistance Ordinance (Jan. 5, 2012) available at <http://www.seattle.gov/DPD/publications/CAM/cam123.pdf>.

²³ Skillman Tax Increment Financing District, available at <http://www.dallas-ecodev.org/incentives/tifs-pids/skillmancorridor.tif.htm>

²⁴ City of Boston Rental Housing Resource Center, Good Neighbor's Handbook (Jul. 2008), available at <http://www.cityofboston.gov/rentalhousing/pdfs/handbook.pdf>.

²⁵ Maryland Condominium Act, MD Real Prop §11-102.1, §11-137, 1974.

VI. Recommendations for an Austin Tenant Relocation Ordinance

Given the range of challenges and issues tenants face when they are displaced from their apartments, we recommend the City of Austin adopt a city-wide tenant relocation assistance ordinance. Based on recommendations from the numerous stakeholders we spoke with in preparation of this report, we recommend that the ordinance contain the following elements:

Applicability

The relocation assistance ordinance should apply to all developments that involve the demolition or renovation of an apartment complex with more than four units that results in the displacement of low-income tenants, defined as households making 80% or less of the median family income. The policy should include apartments being converted into condominiums.

Adequate Notices

Developers covered by the ordinance should be required to provide tenants with at least six-months notice of the final move-out date.

Relocation Stipend

Developers should provide tenants with a stipend to offset the cost of relocating to a new residence. These stipends should equal at least one-month rent plus \$300. The stipend should be distributed to each tenant upon receipt of the tenant's notice of move out. This stipend would help a tenant pay some but not all of the costs associated with moving, such as the first month's rent, increased rents, moving expenses, transportation costs, and application fees. It should be up to the tenant to decide how to allocate the stipend.

Special-Circumstance Households

Households with a tenant age 65 or older or with a disability should receive an additional stipend of \$400. This higher amount reflects these tenants' additional needs for moving assistance and the limited availability of affordable housing with adequate accommodations. Los Angeles and Boston both provide additional stipends for such tenants.

No Final Month's Rent

Although this should not necessarily be a required policy in the relocation ordinance, it is advisable for developers to not charge rent for the final month before the vacate date—as an incentive to motivate tenants to stay until the vacate date. This continued occupancy helps keep the premises more secure. The waiver of the final month's rent also recognizes the lower value of the rental unit due to the declining maintenance and

security of the premises that is typical in the final days of the complex leading to demolition.

Security Deposit Refunds

Developers who are demolishing a complex should be required to refund each tenant's security deposit upon the tenant's notice of his or her move out date. The refund will assist the tenant in paying for the security deposit needed to secure a new apartment. In addition, the developer should be barred from deducting damages to the unit from the security deposit, given that the property is about to be demolished and, therefore, any damages to the unit result in no cost burden to the developer. Tenants at Sunnymeade received full security deposits despite any damage to the unit since the building was going to be demolished.

Security of Premises

The developer must ensure the safety and security of the tenants still living in an apartment complex that is about to shut down. A developer should be required to change the locks on vacant units. After more than 50 percent of a complex is unoccupied, the complex should be required to provide extra security measures to protect the tenants remaining on the premises.

Flexible Move-Out Dates

Tenants with school-age children should be allowed to move out of their units during the summer months when public schools are not in session. In addition, given that a tenant who is being displaced may find that her alternative housing selection requires an immediate move in, a developer should be barred from penalizing tenants who fail to give 30-days notice or who move prior to the final vacate date.

School Transfer Issues

The City and AISD's Education Impact Statement process should be modified to ensure that the school district's student services office and the impacted schools receive a copy of the statement. In addition, the statement should include the move-out schedule and be updated when the move-out schedule changes. Education Impact Statements (EIS) were first utilized by the City of Austin in April 2008 to provide the City and local school district with information about the number of children who would be impacted by a new development. An EIS was utilized at Shoreline Apartments but, according to staff at AISD, the Student Services office and school staff were not adequately informed about the dislocation of the 100-plus school children from Shoreline.

We also recommend that the local school district (in most cases, AISD) adopt additional policies to promote the ability of displaced tenants to stay in their local school. For example, we recommend that the school district provide notice to all tenants impacted by a redevelopment of the school district's policies related to transfers and staying at their current school. We also recommend that the school district explore providing more

transportation options to allow school children to stay in the same school, especially in instances like Shoreline where many displaced children are moving from an area with an under-enrolled campus (Sanchez) to a nearby area with an over-enrolled campus (Linder). Rather than paying to build new school facilities at an over-enrolled campus to accommodate a growing number of displaced school children, the district could potentially save money by offering transportation options to allow school children to attend the nearby under-enrolled facility. As discussed above in Part IV, adopting policies to further the ability of displaced children to stay in their schools could also lead to a number of wide-reaching educational benefits for the children and impacted schools, and, consequently, a range of larger societal benefits.

Qualified Realtor Assistance

In adopting a relocation ordinance, the City of Austin will need to incorporate a system ensuring that only qualified and effective realtors or nonprofit social service providers are providing relocation assistance to the displaced tenants. This type of quality assistance was critical at Shoreline in allowing many of the tenants to secure new housing. A qualified realtor should include someone with Spanish language skills, knowledge of the community in which the apartment is located, knowledge of school boundaries, and experience working with low-income tenants. To advance this goal, one recommended strategy is for the City to require developers to hire relocation assistance providers from a list of qualified candidates pre-screened by the City.

Reports by Developer

Developers subject to the City's relocation ordinance should be required to provide the City with regular reports throughout the relocation process. The report should include the following information: the number and names of tenants who have moved, their rent at the complex before they moved, the type of relocation assistance they received, and the number of tenants who remain. Developers should also report the zip code of the residence where the tenants relocated, the amount of the tenants' new rent, and whether or not the tenants with children were able to remain in the same school attendance zone. This information is important in determining the impact of the displacement on low-income tenants and their children, in evaluating the quality of the relocation assistance provided, and in tracking other general displacement trends.

Private Right of Action and Remedies for Violations

The ordinance should provide tenants with a private right of action to enforce violations of the ordinance in court. The ordinance should also set up clear procedures for the City to enforce the ordinance and set remedies available to the City and tenants for instances when a developer is out of compliance with the ordinance.

Austin Energy

We recommend the City of Austin and Austin Energy adopt an internal policy whereby displaced low-income tenants are allowed to obtain waivers for payment of the utility

deposits at their new apartments. As a general rule, Austin Energy requires an additional \$200 deposit to be paid at a new residence, even if the tenant at his previous residence has already paid a deposit. This \$200 expense, added to the other expenses of moving, can pose a huge barrier for low-income tenants needing to hook up to new utility services.

VII. Conclusion

We recommend the City of Austin adopt a tenant relocation policy that incorporates the best practices described in this report. This policy response will help ensure the consistent and fair treatment of low-income tenants displaced by redevelopment in Austin.

Appendices

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| 1. Excerpt from South Shore District PUD Ordinance | December 2009 |
| 2. Shoreline Apartments Notice to Tenants | September 10, 2010 |
| 3. Letter from Grayco to NHCD | December 16, 2010 |
| 4. Notice Provided to Tenants | June 14, 2011 |
| 5. Letter from Grayco to NHCD | June 29, 2011 |
| 6. Shoreline Apartments Notice to Tenants | <i>undated</i> |
| 7. Grayco and Casa Blanca Realty Agreement | July 14, 2011 |
| 8. Sunnymeade Restrictive Covenant and Agreement | |