Tenant Relocation Policy Recommendations

Council Resolution 20121108-059

The purpose of this report is to provide recommendations responsive to Council Resolution 20121108-059, regarding tenant relocation standards and the feasibility of and mechanisms for implementing these standards in zoning and demolition permit applications.

RESOLUTION DIRECTION

The Resolution directs staff to work with the Community Development Commission and stakeholders to develop recommendations regarding relocation standards and to identify the feasibility of and mechanisms for implementing these standards in zoning and demolition permit applications. The resolution further directs staff to present the recommendations to city commissions, including the Community Development Commission (CDC) and the Planning Commission, for feedback and report the recommendations to the City Council by April 30, 2013.

For the purposes of this report, the objective of a tenant relocation policy is one that provides displaced or dislocated tenant households with resources and assistance in the event of new or rehabilitated development of their rental unit.

SUPPORTING RESEARCH

Key research that served to inform policy recommendations is the attached study conducted by the Community Development Clinic at the University of Texas at Austin School of Law. To address these recommendations, a representative of the Community Development Clinic presented the findings to the members of the Community Development Commission Housing Committee on February 12, 2013, in conjunction with the public input session.

The Community Development Clinic released the report examining the practices for dealing with tenant displacement issues in conjunction with the demolition of an apartment complex on East Riverside Drive in 2011. The redevelopment of what is currently known as the Southshore Planned Unit Development (PUD) triggered the displacement of numerous low-income tenants. The report focuses on policy recommendations offered to better protect tenants who are displaced from future apartment demolitions. In addition, the report recommends the adoption of a uniform citywide tenant relocation ordinance with stronger enforcement mechanisms.

The Report can be found on the Community Development Clinic's Web site at: *www.utexas.edu/law/clinics/community/TENANT_DISPLACEMENT_IN_AUSTIN_Aug2012.pdf*.

An item to discuss a tenant relocation policy and standards was included on the Community Development Commission Housing Committee agenda from February 12, 2013, to April 4, 2013, to provide an opportunity for public feedback through the Community Development Commission Housing Committee.

BOARD AND COMMISSION ACTIVITY /PUBLIC INPUT

Responsive to the Resolution, staff conducted the following public input sessions and board and commission public input sessions:

1. ***February 12, 2013***: Presentation at the Community Development Commission; public input session at the Community Development Commission Housing Committee.
2. ***March 5, 2013***: Agenda Item at the Community Development Commission Housing Committee.
3. ***April 4, 2013***: Agenda Item at the Community Development Commission Housing Committee; Community Development Commission.
4. ***April 16, 2013***: Presentation and discussion at the Codes and Ordinances Committee of the Planning Commission.
5. ***April 23, 2013***: Public input session (scheduled).
6. ***May 1, 2013*:** Public input session (scheduled).

RECOMMENDATIONS

The recommendations noted below reflect feedback from public input to date. NHCD staff further acknowledges the contributions of CDC members to contribute and refine the policy recommendations, which has served to enhance the overall outcome of this report.

It is important to note that the policy recommendations are high level recommendations. The recommendations are not intended to present the level of detail that will be required for program design and/or potential program guidelines for future administration. NHCD staff asserts that should policy recommendations lead to future codification and program design, additional stakeholder meetings should be conducted, specifically targeting the development community, Austin Apartment Association, Board of Realtors and the Austin Tenants' Council. In addition, further analysis should be conducted to determine resources required for program administration.

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Recommendations are all based on elements where there is no State of Texas precedent that supersedes the City's ability to take action. NHCD staff in partnership with the Law Department and participating stakeholders has developed the following policy recommendations that could be implemented to further tenant relocation policies and practices. *(Note that the recommendations will be modified to reflect input by the Planning Commission Codes and Ordinances Committee scheduled April 16, 2013).*

Eligibility

A tenant relocation policy should apply to all developments with the intent to demolish and/or renovate a multi-family apartment complex that will result in the displacement of its residents.

Notification Process

The developer should be required to provide at least a six-month notice of the final move out date to each tenant household.

Relocation Assistance

- In certain situations, where the complex is presumed to be affordable to households at 80% or below median family income, the developer should be required to provide a relocation stipend to qualified tenants.
- In certain situations, where a low-income household requires additional assistance because of certain special needs (i.e. elderly or disabled), the developer should be required to provide an additional moving stipend to cover the costs of moving.
- The City can make available a list of qualified realtors who can assist in relocating tenants.
- The developer should allow flexible move-out dates to tenants who choose to move out after notice is given.
- The developer should be required to refund full security deposits to households where no developer-owned property is missing upon move-out (i.e. metal scraps, copper, fixtures or appliances).

PROGRAMMATIC CONSIDERATIONS

Furthermore, programmatic enhancements or requirements have been identified through the stakeholder discussions that can assist in the design and implementation of a program to support these policies:

- **Reporting**: The developer should be required to provide regular reports to the City to show compliance to potential tenant relocation policy requirements.

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- **Compliance**: If a developer is shown to be in violation of the Policy, steps would need to be identified to bring the developer into compliance.
    - Monitoring personnel will be required in order to carry out program requirements.
    - The recommendations will require changes to the City's Development Review and intake process as well as may require changes to the City of Austin's enterprise-wide computer application that allows City departments to automate respective business processes and allows users to share records and data across City departments and with the public.
    - The Application Management and Data Automation system (AMANDA) is used by multiple departments and is essential in the current development and review process administered by the Planning and Development Review Department.
- **Analysis to determine costs**: A study should be conducted to determine costs to the developer to ensure costs are proportionate to the anticipated negative impacts of the development and the overall cost to the displaced tenants.

NEXT STEPS/FUTURE STAKEHOLDER DISCUSSIONS

Additional stakeholder meetings are scheduled for April 23rd and May 1st. NHCD will specifically target stakeholders to include, amongst others, members of the development community, Austin Apartment Association, Board of Realtors and the Austin Tenants' Council. Upon future implementation of a tenant relocation policy, staff would recommend additional stakeholder discussions to solicit feedback on future programmatic design and implementation.

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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

August 2012

By: The University of Texas School of Law
Community Development Clinic

Law Students: Allyson Boney & Molly Powers
Faculty Supervisor: Heather K. Way, J.D.

COMMUNITY DEVELOPMENT CLINIC
THE UNIVERSITY *of* TEXAS SCHOOL *of* LAW

I. Introduction[1]

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.[2] 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.[3]

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.

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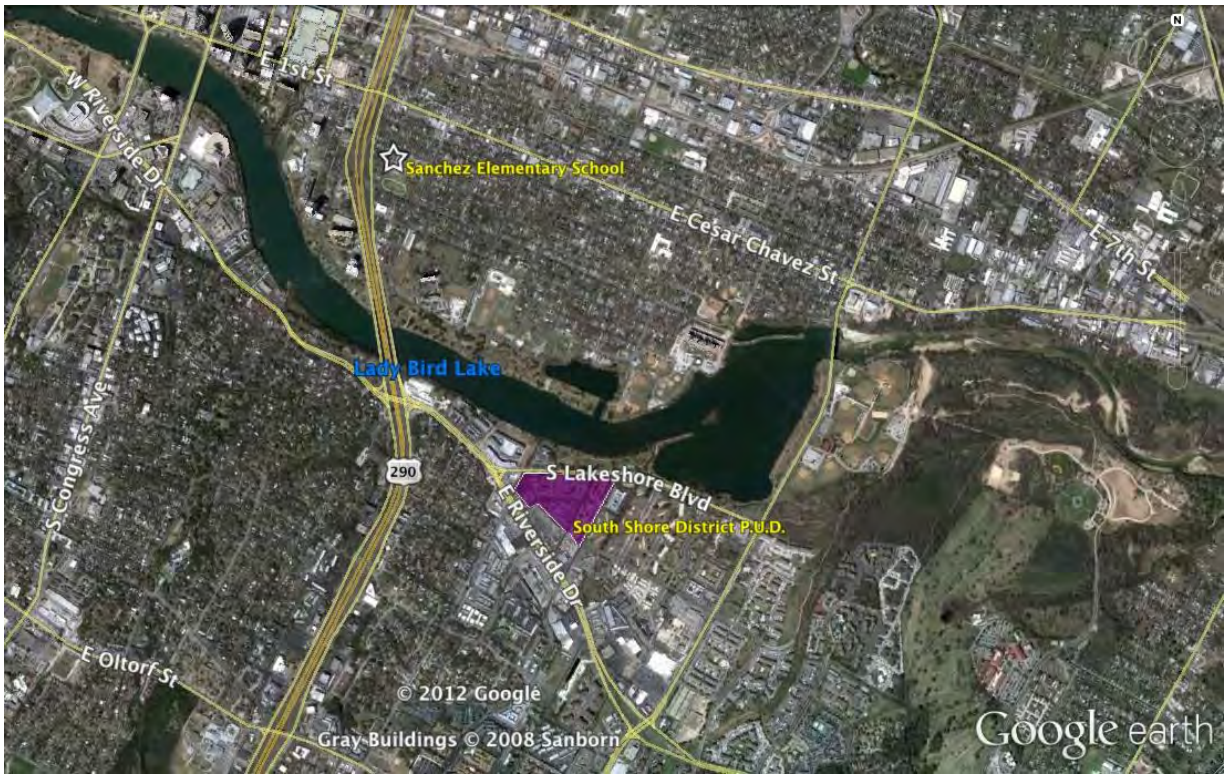
[1] This report reflects the legal research and opinions of the Community Development Clinic only, not any official position of the UT School of Law or of the University of Texas.

[2] 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/jdownloads/summary/6-housing/211-anticipated-effects-of-residential-displacement-on-health-results-from-qualitative-research?Itemid=62.

[3] *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.[4]

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.[5]

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.[6] 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.[7] 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.

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[4] Sarah Coppola, "Developer slow to help residents in Southeast Austin apartments slated for demolition," Austin American-Statesman (July 7, 2011).
[5] *See* Appendix 1.
[6] *See* Appendix 2.
[7] *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.

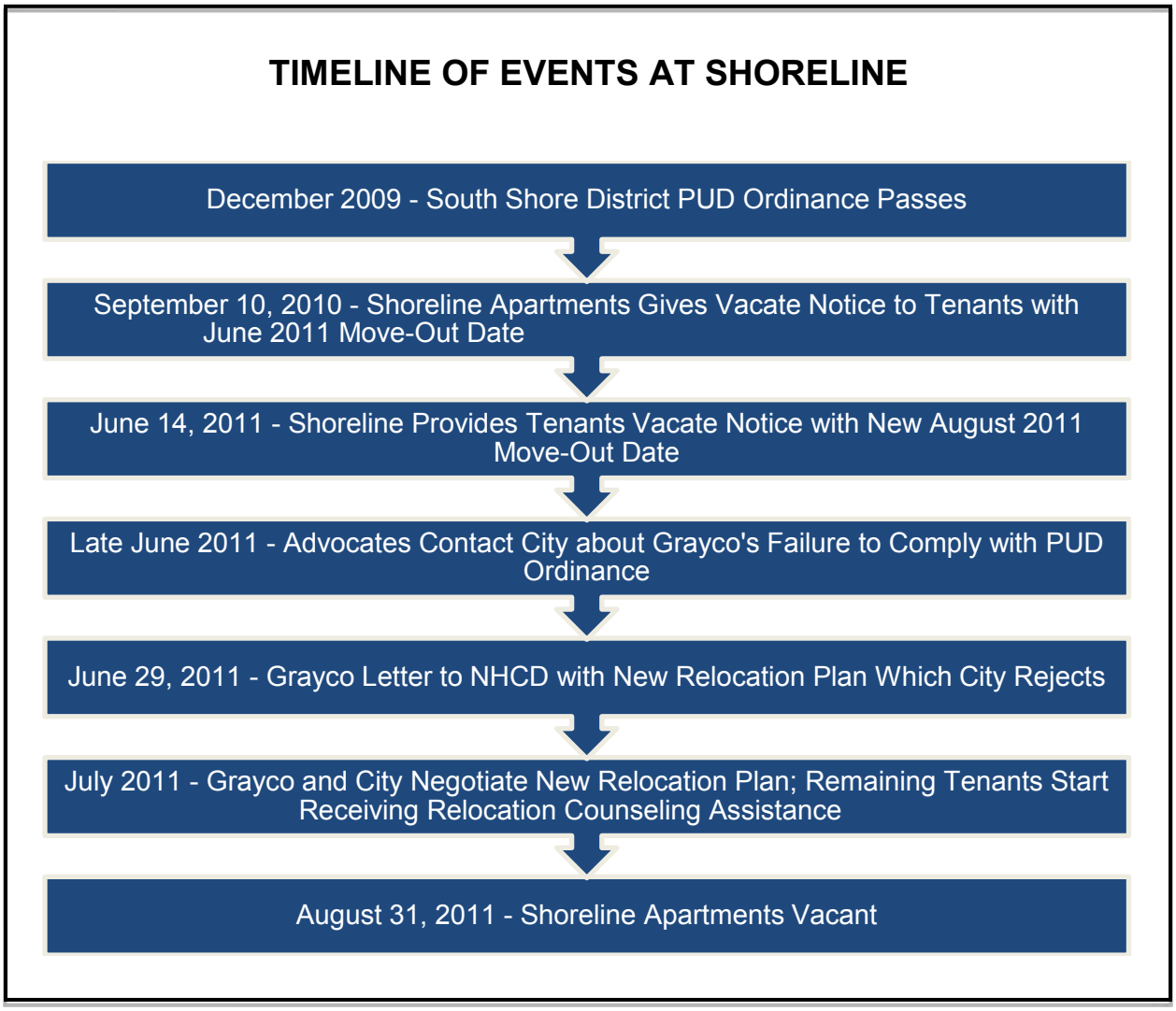
At the same time, tenant advocates also started to made inquiries with the City as to the status of the relocation agreement required under the PUD ordinance governing Shoreline. As discussed above, the ordinance specifically required Grayco—before sending termination notices to the tenants—to "submit 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.[8] 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. 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

[8] *See* Appendix 3.

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.[9] Grayco also said it would be paying each of the remaining households a $325 moving stipend, because a number of tenants had already moved.

[9] *See* Appendix 5.

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."[10]

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

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

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?"

Austin-American Statesman article from July 7, 2011.

Grayco's attorneys and the City negotiated a revised relocation assistance plan in mid-July.[11] 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.

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[10] Editorial Board, "Developers Must be Held Accountable," Austin American-Statesman (July 12, 2011).
[11] *See* Appendix 7.

- 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.[12]

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

[12] *See* Appendix 7.

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.[13] 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 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.

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

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.[14] 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, 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.

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[14] 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).

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.[15] 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.[16]

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.

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.[17] In the long run, these changes can "result in major learning and behavior problems" and "the psychological and social impacts may be devastating."[18]

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[15] Guzman, *supra* Note 1.
[16] *Id*.
[17] "Student Mobility," Education Week (Sept. 21, 2004), *available at* http://www.edweek.org/ew/issues/student-mobility/.
[18] Cardenas, et. al., "Transition support for immigrant students," 21 J. of Multicultural Counseling and Development, 203-10 (1993).

High rates of student mobility also stress school systems and individual schools.[19] The negative impacts on a school include a drop in academic performance, increased administrative costs, classroom disruption, and diminished teacher morale.[20] 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 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

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[19] Russell W. Rumberger, "The Causes and Consequences of Student Mobility," 72 J. of Negro Educ. 1, 11-12 (2003).
[20] *Id*.

reached an agreement that incorporated a tenant relocation policy with a number of tenant protections:[21]

- **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.

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

[21] *See* Appendix 8.

- **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 Sunnymeade community: low-income residents, families with children, and the elderly. Kaplan agreed to host open houses at Sunnymeade 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[22]	Seattle[23]	Dallas[24]	Boston[25]	Maryland[26]
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 Circum-stances	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 house-holds with one or more tenants, seniors, persons with disabilities, and for low to moderate-income households	

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

[23] 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.

[24] Skillman Tax Increment Financing District, *available a*t http://www.dallas-ecodev.org/incentives/tifs-pids/skillmancorridortif.htm

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

[26] 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

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	*undated*
7.	Grayco and Casa Blanca Realty Agreement	July 14, 2011
8.	Sunnymeade Restrictive Covenant and Agreement	

Appendix 1: Excerpt from South Shore District PUD Ordinance

E. Before the earlier of the first anniversary of the effective date of this ordinance, the filing of the first development application to be filed after the effective date of this ordinance, or 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. The Director of the Neighborhood Housing and Community Development may require the agreement to be recorded in the Travis County real property records as a restrictive covenant against the Property.

F. To accept the density bonus granted to the owner under this ordinance, within 45 days of the effective date of this ordinance the owner shall submit to the Director of the Neighborhood Housing and Community Development Department for approval and thereafter execute and record in the Travis County real property records a restrictive covenant applicable to the Property that contractually commits any owner of the Property to comply with the requirements of Sections A through E of this Part of this ordinance and Subsections 10 and 11 of Section F of Part 4 of this ordinance. The owner may not file a development application for the Property before recording the restrictive covenant. If the owner does not accept the density bonus by submitting, executing, and recording the restrictive covenant within 45 days of the effective date of this ordinance, the PUD may not be developed as allowed by this ordinance, but instead may only be developed as allowed by the Property's zoning in effect immediately prior to adoption of this ordinance, and the ordinances zoning the Property in effect when this ordinance is adopted shall remain in effect for that purpose.

G. Sections A through F of this Part of this ordinance are not severable from Parts 1 through 4 of this ordinance. If all or any part of the density bonus and affordable housing program under Sections A through F of this Part of this ordinance is held to be void or otherwise unenforceable, Parts 1 through 4 of this ordinance are void *ab initio*, but this section is severable and shall remain valid. Any use or development in the PUD that conflicts with or exceeds restrictions or limits under the zoning regulations applicable to the Property immediately before approval of this ordinance shall not have nonconforming use or structure status under the City Code.

Appendix 2: Shoreline Apartments Notice to Tenants

Shoreline

Apartments

1801 S. Lakeshore Blvd.
Austin, TX 78741

9-10-10

RE: Delay in Closing of Shoreline Apartments

Dear Resident(s) and All Occupants:

As you are aware, the owner of the Apartment Community has elected to close the Apartments, remove the existing buildings and redevelop the property. The expiration date was previously set for December 31, 2010. Grayco has decided to delay the closing of the community until June 30, 2011. Grayco will also provide a notice confirming the closing date at least 90 days prior.

We would like to offer you the opportunity to stay and renew your lease contract through June 30, 2011 at the current rental rate that you are paying. Please fill out the bottom portion of this letter and drop it off in the leasing office so that we can get your lease typed and ready for you to sign.

We regret any inconvenience the closing of the property may cause, but we are trying in every way possible to accommodate the needs of our valued residents. When the time comes for the property to close next winter, we will assist residents in finding another apartment home in the area. **Additionally, all residents who remain at Shoreline until the final vacate date and are in good standing (not in default on lease) will also be provided with $125 stipend per apartment to assist with moving expenses during the final month.** If you have any questions regarding your lease responsibilities, or your renewal lease contract, please contact the management office at 512-442-6668.

Sincerely,

Shoreline Apartments Management

Apt #_____

I would like to renew my lease through June 30, 2011

Signed by: _____Phone #:_____

By signing this document you are requesting a new lease through June 30, 2011.

shoreline@greystar.com ph. (512) 442-6668 fax (512) 440-1424

Appendix 3: Letter from Grayco to NHCD

GRAYCO
PARTNERS

December 16, 2010

Ms. Betsy Spencer, Acting Director
Neighborhood Housing and Community Development
PO Box 1088
Austin, TX 78767-1088

Dear Ms. Spencer,

On December 17, 2009, the Austin City Council approved Zoning Case No. C814-2008-0087 by adopting Ordinance No. 20091217-126 (the Ordinance). This matter was referred to as the South Shore District PUD, and it contained various provisions related to affordable housing and a tenant placement program.

The purpose of this letter is to comport with provisions of both the Ordinance and a Restrictive Covenant (the Covenant, attached) regarding the tenant placement program. The Ordinance became effective on December 29, 2009, and the Covenant was executed and recorded on February 10, 2010 after review by appropriate City officials. We are now submitting for review an agreement between the Owner, Grayco Town Lake Investment 2007 L.P., and its successor, Grayco Town Lake Investment 2010 LP, (Grayco) and Casa Blanca Realty that provides for at least $90,000 in displacement and relocation assistance for displaced tenants.

Casa Blanca Realty and its principal, Blanca Zamora Garcia, specialize in working with low-income tenants. Casa Blanca is equipped to meet the unique needs of this demographic by working with clients to find housing that meets budgetary concerns. Mrs. Garcia and the Casa Blanca staff are fully bilingual and able to understand the cultural nuances of any Austin community. The firm has served as the exclusive brokers to list HUD properties in the Central Texas region. Through this experience, Mrs. Garcia and Casa Blanca have demonstrated an ability to search and find additional affordable housing inventory, mastered various financial products and incentives for clients and identified programs for housing assistance.

The tenant placement program enacted as part of the South Shore District PUD has been viewed as a positive and unprecedented approach to assist existing tenants. We hope that the partnership between Grayco and Casa Blanca Realty will serve as a model for others

to employ when relocation and placement of tenants is necessary for similar redevelopment efforts.

Sincerely,

Adam L Hamilton
Vice President, Development
Grayco Partners

The Tenant Placement Program, an agreement between Grayco and Casa Blanca Realty to assist in the relocation of existing residents, shall consist of the following:

- **Notice.** 90-day minimum notice to vacate, with lease terms extending beyond the minimum notice date to be fully honored;

  Estimated Cost:

  See below

- **Financial Support.** Security deposits to be returned to tenants and a moving stipend of up to $250 will be provided for each lease valid through the end of June, 2011 to assist with moving expenses. Additionally, Grayco will hire Casa Blanca Realty to assist with relocation efforts;

  Estimated Costs:

  Returned Deposits – approximately $30,000 (deposits for tenants with lease expirations beyond 12/31/2010 will be returned to tenants).

  Moving Stipend – approximately $60,000 (Grayco anticipates approximately 240 valid leases through to the vacate date).

- **Information on Housing Options to Tenants.** Grayco will make available information on replacement housing that shows prices for units with corresponding size and number of bedrooms and baths; distance from grocery stores, pharmacies, public schools, and bus stops; Grayco will also conduct an open house for residents with leasing representatives from prospective landlords;

  Estimated Cost:

  Unknown at this time (Grayco will pay additional expenses to Casa Blanca Realty to provide these services to tenants).

- **Tailored Assistance.** Affirmative steps will be taken to help relocate each resident to affordable residences that meet their needs;

  Estimated Cost:

  Unknown at this time (Grayco will pay additional expenses to Casa Blanca Realty to provide these services to tenants).

- **Recognizing Families with School-Age Children.** Vacate date shall not be scheduled during or conflicting with the Fall or Spring AISD school semesters;

efforts will be made to find housing for families with school-age children within the same AISD school boundaries (Sanchez ES, Martin MS, Austin HS); and

Estimated Cost:

Unknown at this time (Grayco will pay additional expenses to Casa Blanca Realty to provide these services to tenants).

- **Recognizing Importance of Support Groups**. Affirmative steps will be taken to help locate housing that may accommodate groups of friends or families that desire to remain together.

  Estimated Cost:

  Unknown at this time (Grayco will pay additional expenses to Casa Blanca Realty to provide these services to tenants).

  Total Estimated Cost: $90,000.00 + fees charged by Casa Blanca Realty for the services described above.

This program, as an effort voluntarily entered into by Grayco, has been included within a private restrictive covenant recorded on February 10, 2010.

Appendix 4: Notice Provided to Tenants

Shoreline

Apartments

1801 S. Lakeshore Blvd.
Austin, TX 78741

UPDATE
Final day August 19th 2011

June 14, 2011

Dear Shoreline Resident(s):

Shoreline Apartments will be closing August 19th, 2011. **PLEASE MAKE SURE YOU ARE LOOKING FOR A NEW HOME!** If you are interested in staying till August 19th, please sign the form below and drop off at the office. We will note it on your file that you will be staying till August 19, 2011, at the current rate.

If you have not submitted a 30 day notice in writing do so immediately! 30 day notice becomes effective on the day of submission to our office.

NO 30 DAY NOTICE…NO DEPOSIT…

Please fill out the bottom of this form and return to the office so we can keep track of how many people will be staying till August 19th, 2011

We look forward to hearing from you.

Shoreline Management

Apartment #_____

Name_____

Phone #_____

Please Check One:

_____ Yes, I am interested in extending till August 19, 2011 at my current lease rate.

_____ No, I am not interested in extending my lease past the current expiration date. I understand I need to provide a **30** day written notice to vacate.

shoreline@greystar.com ph. (512) 442-6668 fax (512) 440-1424

Shoreline

Apartments

1801 S. Lakeshore Blvd.
Austin, TX 78741

DIA FINAL 19 DE AGOSTO

June 14, 2011

Estimado residente(s) y ocupantes:

Shoreline sierra sus puertas el 19 de Agoste de 2011. **POR FAVOR ASEGURE QUE ESTE BUSCANDO DONDE VIVIR!** Si esta interesado en quedarse hasta el 19 de Agosto por favor firme esta forma y dejelo en la oficina. Tenemos el gusto de ofrecerles el mismo pago de alquiler que paga ahora.

Si no a entregado su notificacion de 30 dia en escrito agalo de imediato! 30 dias comiensan de la fecha que la notificacion es entregada a nuestra oficina.

NO 30 DIAS DE NOTIFICACION...NO DEPOSITO...

Firme la forma y regresela a la oficina, por lo que podemos hacer un seguimiento de cómo muchas personas se quedarán hasta 19 de Agosto. Esperamos escuchar de usted. We look forward to hearing from you.

Shoreline Management

Apartment #_____

Name_____

Phone #_____

Please Check One:

_____ SI, me gustaria quedarme hasta el 19 de Agosto 2011 a la renta actual.

_____ No, me interesa quedarme hasta ese dia y entiendo que tengo que entregar mis 30 dias de notificacion de desalojo.

shoreline@greystar.com ph. (512) 442-6668 fax (512) 440-1424

Appendix 5: Letter from Grayco to NHCD

GRAYCO
PARTNERS

Via Electronic Mail

June 29, 2011

Ms. Regina Copic
Neighborhood Housing and Community Development
PO Box 1088
Austin, TX 78767-1088

Dear Ms. Copic,

On December 17, 2009, the Austin City Council approved Zoning Case No. C814-2008-0087 by adopting Ordinance No. 20091217-126 (the Ordinance). This matter was referred to as the South Shore District PUD, and beyond its mere entitlements, it contained generous provisions related to affordable housing and a robust tenant placement program.

Grayco Town Lake Investment 2007 L.P., and its successor, Grayco Town Lake Investment 2010 LP, (Grayco) have comported with provisions of both the Ordinance and a Restrictive Covenant regarding the tenant placement program. The Ordinance became effective on December 29, 2009, and the Covenant was executed and recorded on February 10, 2010 after review by appropriate City officials. On December 16, 2010, Grayco submitted to Ms. Betsy Spencer an agreement that provides for at least $90,000 in displacement and relocation assistance for displaced tenants.

The tenant placement program applicable to the South Shore District PUD represents a comprehensive effort that benefited from the involvement of the Neighborhood Planning and Development Review Department, the City of Austin Affordable Housing Finance Corporation, the City of Austin Attorney's Office, the Planning Commission and the City Council. The terms and conditions were carefully crafted by all involved to reach the objective of best serving the tenants who would be eventually displaced.

You will also notice that Grayco's actions to date have actually resulted in more timely notice to affected tenants than required and more financial resources being available to our tenants. Grayco's initial notices, citing a potential lease termination date of June 30, 2011, have been extended for additional months while still honoring its financial commitment to residents moving out on the previously stated termination date of June 30,

2011. In addition, because the number of anticipated on-site tenants has decreased, a larger portion of pledged resources are now available per tenant.

We have attached a timeline demonstrating actions taken to date regarding the tenant placement program as well as a copy of the notices sent to residents. We appreciate your interest and pledge to continue to work with you and others on a successful program.

Sincerely,

Adam Hamilton
Grayco Partners

cc: John Donisi
Jeff Gray
John Britton
Marci Carbaugh
Jeannine Boswell
File: 07.104.3.00.01

Enclosures: South Shore District Tenant Placement/Relocation Assistance Program Timeline
Copies of Notices to Tenants
Housing Fair Flyers

South Shore District Tenant
Placement/Relocation Assistance Program
Timeline

Provided below is a timeline and summary of the Tenant Placement/Relocation Assistance efforts. Copies of each cited item has been included with this correspondence.

12/29/09
South Shore District PUD is approved and becomes effective on this date. A draft Restrictive Covenant, consistent with the terms of the PUD, is submitted to the City Attorney for review and comment.

2/10/10
A Restrictive Covenant reviewed and approved by the City of Austin addressing tenant placement was executed and recorded.

9/10/10
Grayco sent notice to residents indicating that the closing of the community would occur on June 30, 2011 and that residents in good standing as of the vacate date would be given a $125 moving stipend.

12/16/10
In compliance with the PUD and subsequent Restrictive Covenant, Grayco presented Ms. Betsy Spencer with its plan for tenant relocation assistance including its commitment to return rental deposits and to pay each leaseholder with a valid lease a moving stipend of up to $250 at the time of move-out based on a vacate date of June 30, 2011.

5/20/11
After deciding not to vacate the property at the end of June and in compliance with our requirement to provide a 90-day notice to residents, Grayco issued an updated notice informing residents that the new vacate date would be August 19, 2011. This vacate date does not fall within the Fall AISD school semester and allows residents more time over the summer months to find alternate housing.

7/16/11
Scheduled for July 16, 2011, Grayco will host a Housing Fair bringing in representatives from 14 different housing communities within the 78741 zip code. On-site staff will be available to answer any questions the tenants might have regarding the status of their current lease and their options for vacating prior to the August 19, 2011 vacate date. Depending on demand Grayco plans to host a second Housing Fair later in July.

Information Packets
On-site staff will make available to residents information about area housing alternatives showing prices, unit types, as well as proximity to local amenities.

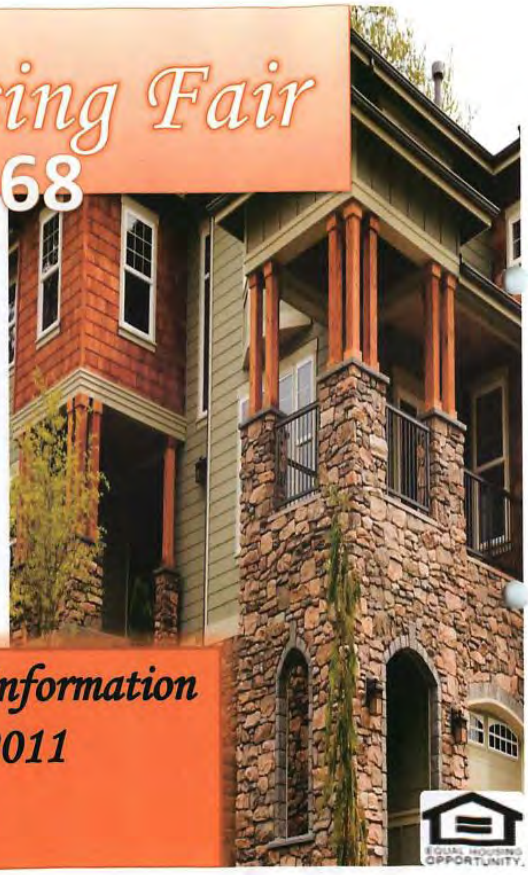
Casa Blanca Realty

The December 16th letter to Ms. Spencer states that Grayco will use the services of Casa Blanca Realty to assist in the relocation assistance efforts. Subsequent to that date, Grayco has engaged the on-site staff to handle all information gathering and consultations with residents because of their extensive local knowledge and long-term relationship with the majority of the residents. Grayco is confident that this group, because of their on-going relationship with the tenants, will best serve in this role.

In addition it is important to note that Grayco does not have any leases beyond June 30, 2011 with residents staying beyond this date on a month-to-month basis. However, we are requiring that each resident provide at least 30-days notice prior to their move-out. And because of a slightly lower than anticipated occupancy, each resident will now receive a $325 moving stipend as well as their returned deposit. Both the moving stipend and deposit return are conditioned upon the leaseholder being in good standing with all rent and utilities paid in full upon move-out.

Shoreline Housing Fair

512-442-6668



Food, Drinks and Apartment information provided on July 16th 2011

Time: 10am-12pm

EQUAL HOUSING OPPORTUNITY.

NOTE: AUGUST 19TH IS NEAR...PLEASE STOP BY OUR OFFICE TO GATHER INFORMATION ON COMMUNITIES . WE HAVE FLOOR PLANS, PRICES, AND MOVE IN CRITERIA FROM 14 DIFFERENT APARTMENT HOMES IN THE 78741 AREA. IF YOU ARE NEEDING FURTHER INFORMATION OR WOULD LIKE TO SET AN APPOINTMENT PLEASE CALL: 512-442-6668
August 2011
S M T W TH F S
1 RENT DUE
4 LATE FEES START
Final Day
SHORELINE APTS WILL HOST A HOUSING FAIR JULY 16TH 2011

Appendix 6: Shoreline Apartments Notice to Tenants

Via CMRRR and Hand Delivery

RE: Apartment Lease Contract dated _ (the "Lease") by and between _ and _ Apartments (the "Owner") for Apartment No. _ at _, Austin, Texas _ (the "Premises")

As you may be aware, the Owner has decided to redevelop the property, including demolishing all buildings on the property. To accomplish this, the Owner will require all residents to vacate their units by August 19, 2011 (the "Termination Date"). Demolition will begin immediately after the termination date.

Your contract is either on a month to month term or expires on or before the termination date. The Owner hereby exercises its right to terminate the Lease as of the Termination Date. In either case you are required to vacate your unit by the Termination Date. At the time of move out, please remove all personal items and trash from your apartment. Fixtures and appliances are the property of the owner and should be left in good working condition.

We realize that having to move from your home may be a frustrating and inconvenient experience and wanted to give you as much advanced notice as possible. In order to accommodate our residents, we have arranged for certain relocation services to be provided to you. In order to take advantage of these services, please schedule an appointment with the management office.

We appreciate your occupancy in our community. If you have any questions, please contact the management office.

Sincerely,

_____ Apartments

By:_____
Name:_____
Title:_____

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Appendix 7: Grayco and Casa Blanca Realty Agreement

DISPLACEMENT AND RELOCATION ASSISTANCE CONSULTING AGREEMENT

This Displacement and Relocation Assistance Consulting Agreement (this "Agreement") is made and entered into as of the 14th day of July, 2011 by and between Grayco Town Lake Investment 2010 L.P., successor-in-interest to Grayco Town Lake Investment 2007 L.P. (the "Declarant") and Blanca Zamora Garcia d/b/a Casa Blanca Realty ("Consultant"). The purpose of this Agreement is to comply with the requirements of the Declaration of Covenants, Conditions and Restrictions (the "Declaration") dated February 10, 2010 and filed of record in the Travis County Real Property Records under File No. 2010020254, which requires the Declarant to submit to the Director of the Neighborhood Housing and Community Development Department for the City of Austin (the "City") for review an agreement between the Declarant and an entity acceptable to the City that provides for at least $90,000 in displacement and relocation assistance for displaced tenants in conjunction with the redevelopment of the apartment communities located at 1801 South Lakeshore Boulevard, 1414 Arena Drive, 1333 Arena Drive, in Austin, Travis County, Texas (collectively the "Property").

For and in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Services Provided by the Consultant.** Consultant represents that: (i) she is equipped to meet the unique needs of the demographics of the tenants currently residing at the Property by working with tenants to find housing that meets their budgetary concerns; (ii) her staff is bilingual and able to understand the cultural nuances of the tenants of the Property; (iii) she is a licensed real estate broker and lists HUD properties in the Central Texas region. Accordingly, Consultant shall: (i) assist in placing and relocating tenants of the Property in accordance with the timeline set forth by the Declarant; (ii) assist Declarant in communicating with the City and assist the Declarant in meeting the guidelines for displacement and relocation set forth in the Declaration and this Agreement; and (iii) provide the Director of Neighborhood Housing and Community Development or her designee with information on at least a weekly basis on the status of placement and relocation of tenants. Consultant acknowledges that she has no authority to bind Declarant to any promise or representation of any nature whatsoever and represents to Declarant that Consultant will not misrepresent by action, implication, omission or otherwise that Consultant has authority to bind Declarant to any promise or representation;

2. **Compensation.** For the services provided by the Consultant, Declarant shall pay to the Consultant a total of $20,000.00 which shall be payable as follows:

a. $5,000.00 upon execution of this Agreement;

b. $5,000.00 on August 19, 2011; and

c. $10,000.00 upon confirmation by Declarant that all tenants residing at the Property as of the date of this Agreement have vacated the Property.

Notwithstanding the foregoing, Consultant shall not be entitled to receive any payment under this Agreement in the event that Consultant is in default of this Agreement.

1

3. **Tenant Notice to Vacate.** Consultant acknowledges that Declarant has provided tenants of the Property a notice of lease termination on or about May 20, 2011 identifying a termination date effective as of August 19, 2011. Consultant further acknowledges that, in the event tenants desire to vacate their units prior to August 19, 2011, they may do so without penalty, fee or other charge, but will be requested to provide at least 10 days prior written notice to the on-site staff. This will allow on-site staff time to properly close out a tenant's lease and will allow accounting functions, which occur off-site, enough time to prepare checks for tenants. The noticed vacate date will then be used to prepare the tenant's final estimated utility bill as well as their prorated partial monthly rent amount (A tenant will not be charged a fee, incur a penalty or be required to pay for rent for moving earlier than the noticed vacate date). Any tenant who moves out either prior to their noticed vacate date or without proper notice will risk delaying the processing of their deposit return. Delayed processing will require that the tenant provide forwarding information.

4. **Deposits.** Deposit checks will be made available at move-out to tenants who give proper written notice and are in good standing, which includes payment of all rent and utilities due. Tenants will only be required to remove all of their belongings from the premises (including all vehicles, trailers, etc.) and all trash from their unit. On August 19, 2011 or within the 10-day notice period, as applicable, on-site staff and accounting personnel will determine the final amounts owed by each tenant. At the time of move-out, if the tenant has a balance due on their account, this amount will be deducted from their deposit.

5. **Unpaid Rent/Utilities.** Rent and utilities must be paid, and other lease obligations must continue to be complied with, through the date a resident vacates his or her unit. The deposit will be applied to any balance owed as indicated above.

6. **Stipend Payment.** Consultant acknowledges that Declarant has agreed to pay residents a stipend payment in the amount of $485 per lease. The stipend shall be payable in two equal installments as follows:

   a. $242.50 will be available for residents to receive on or after July 22, 2011 when residents come to the management office and sign a cancellation of lease document confirming their move out date; and

   b. $242.50 will be paid to the residents at the time of move out.

7. **Information on Housing Options to Tenants.** Consultant will make available information on replacement housing that shows prices for units with corresponding size and number of bedrooms and baths, distance from grocery stores, pharmacies, public schools, and bus stops. Consultant acknowledges that Declarant will give a neutral reference to any prospective landlords of residents vacating the Property. Consultant will assist Declarant in conducting a "housing fair" for tenants with leasing representatives from prospective landlords.

8. **Tailored Assistance.** Consultant shall take affirmative steps to help relocate each tenant to affordable residences that meet their needs.

9. **Recognizing Families with School-Age Children.** Consultant will assist tenants with school-aged children to find housing within the same AISD school boundaries (Sanchez ES, Martin MS and Austin HS).

10. **Recognizing Importance of Support Groups**. Consultant will take affirmative steps to help locate housing that may accommodate groups of friends or families that desire to remain together.

11. **Transportation Reimbursement.** Declarant will make a one-time payment of up to $25 per lease to reimburse any tenants residing at the Property as of the date of this Agreement in need of transportation for costs of transportation during a tenant's search for alternative housing. Any tenants requesting reimbursement must provide: (i) verification of the need for the transportation; and (ii) receipts indicating the tenant actually paid for the transportation. Consultant shall verify tenant requests for reimbursement of transportation costs.

12. **Default.** In the event that either party defaults under the terms of this Agreement, the non-defaulting party shall be entitled to terminate this Agreement by providing notice to the defaulting party. The non-defaulting party shall have all rights and remedies afforded to the non-defaulting party under applicable law.

Executed as of the date first written above.

DECLARANT:

GRAYCO TOWN LAKE INVESTMENT 2010 LP,
Successor-in-interest to
Grayco Town Lake Investment 2007, LP
A Delaware limited partnership by:

By: Grayco Project Town Lake GP

By: _____
John J. Britton, Vice President

CONSULTANT:

BLANCA ZAMORA GARCIA
D/B/A CASA BLANCA REALTY

By: Blanca Zamora Garcia
Blanca Zamora Garcia
Address: 1715 S. 1st St.
Austin, Texas 78704
Email: blancagzamora@gmail.com
Phone No.: 512-789-6714

3

Appendix 8: Sunnymeade Restrictive Covenant and Agreement

ORIGINAL
FILED FOR RECORD

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This Declaration of Covenants, Conditions, and Restrictions (this "Declaration") is made as of the 6th day of March, 2008, by Kaplan Acquisitions, L.L.C., a Texas Limited Liability Company ("Declarant").

RECITALS

WHEREAS, Declarant has the contractual right to purchase the approximately 4-acre tract of land described as Tract 2, DM Bryant Subdivision, a subdivision in the City of Austin, according to the map or plat thereof recorded in Book 9, Page 58, Plat Records, Travis County, Texas, and located at 501 E. Oltorf Street, Austin, Texas, and more particularly described on Exhibit "A" attached hereto (the "Property");

WHEREAS, the Property is zoned MF-4-CO-NP;

WHEREAS, Declarant currently intends to purchase the Property and develop a new multifamily project (the "Project") thereon, and is seeking MF-6-CO-NP zoning from the City of Austin for such development pursuant to City of Austin Zoning Case No. C C14-2007-0202 (the "Zoning Case");

WHEREAS, Declarant is seeking certain compatibility variances for the Project pursuant to Board of Adjustment Case No. C-15-2007-0127 (the "Variance Case") (collectively, with the Zoning Case, the "City Applications");

WHEREAS, in consideration of support for the Zoning Case by the South River City Citizens Neighborhood Association ("SRCC"), and subject to all of the terms and conditions of this Declaration, Declarant has agreed to establish certain restrictive covenants, which are described herein, in connection with the development of the Property.

NOW, THEREFORE, for and in consideration of SRCC's support before the City of Austin's boards, commissions, and the City Council of the City Applications, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to all of the terms and conditions of this Declaration, the undersigned agrees to hold, sell and convey the Property subject to the following covenants, conditions, and restrictions, which are impressed upon the Property by this Declaration.

DECLARATION

I. Covenants, Conditions, and Restrictions

1.1 Rooftop Elements. The Project shall be constructed using green-colored rooftops similar to those used as of the date of this Declaration at the Gardner Betts Juvenile Detention Center buildings, located at 2512 South Congress Avenue, Austin, Texas.

1.2 Affordable Housing.

(a) Affordable Units. Subject to adjustment as provided in subpart (b) below, if Declarant constructs the Project, Declarant will negotiate restrictive covenants with the City providing that for a period of forty (40) years the owner of the Property shall make ten percent (10%) of the total units in the Project available to persons whose income is no more than sixty percent (60%) of the median family income ("MFI") for the City of Austin, as adjusted for family size, as MFI is published from time to time by the US Secretary of Housing and Urban Development.

(b) Additional Affordable Units. Declarant will use reasonable and affirmative steps to work with the City of Austin to provide city funding to allow for setting aside up to fifteen percent (15%) of the units in the Project as affordable units and/or to set units in the Project aside for households earning no more than fifty percent (50%) of the MFI.

(c) Letter to Residents. Declarant will honor the terms of the Agreement, dated March 6th, 2008, with Sunnymeade residents, a copy of which letter is attached hereto as **Exhibit "A"**.

(d) Housing Vouchers. Declarant agrees that it will participate in the Section 8 housing voucher program with respect to the affordable units to be constructed in the Project.

1.3 Stormwater Detention. If allowed by the City of Austin, Declarant shall design the stormwater detention facilities for the Property as follows:

(a) Flood Detention. The flood detention facilities for the Project will detain all design storm runoff (2-100 year events) to pre-developed conditions or to the capacity of the existing downstream drainage system, whichever is less. To estimate site runoff, the pre-developed hydrologic conditions are defined as follows:

1. zero impervious cover,
2. undeveloped open space, fully vegetated and in good condition,
3. flow paths used to estimate time of concentration include 300 ft of sheet flow conditions, and
4. site slopes and grades consistent with the surrounding tracts.

(b) Proposed Site Discharges. The stormwater discharges under each simulated design storm event will not exceed the flows estimated for the pre-developed site as defined above. In addition, the proposed site discharges will not exceed the existing capacity of the City of Austin's storm drain system at any point between the proposed site outfall and Blunn Creek, without providing necessary system upgrades, if any, pursuant to the requirements outlined in the City of Austin's Drainage Criteria Manual.

(c) Verify No Adverse Downstream Impacts. The proposed on site and off site stormwater controls will be modeled to simulate proposed condition discharges and their impacts on the City of Austin's storm drain system, including the receiving waters of Blunn Creek. Declarant will use the City of Austin's hydrologic and hydraulic watershed

model of Blunn Creek. Declarant will deliver a copy of its stormwater control analysis results to the City of Austin's Watershed Protection and Development Review Department, Watershed Engineering Division (WED), for WED's review.

(d) Water Quality and Erosion Control. Development of the Project shall satisfy the stormwater control requirements of the City of Austin's Land Development Code as they relate to both erosion and water quality as of the date of this Declaration.

II. Conditions on Effect; Amendment of Existing Declarations; Notice of C.O.

2.1 Approval of the City Applications. Notwithstanding any other provision of this Declaration to the contrary, the agreements of Declarant reflected herein are conditioned upon (a) final approval (i) (i.e., third reading) of the Zoning Case by the City of Austin City Council, and (ii) of the Variance Case by the Board of Adjustment, in both cases with no subsequent appeal and in a form reasonably acceptable to Declarant, and (b) Declarant's or its successors or assigns acquisition of fee simple title to the Property.

2.2 Notification Date. When Declarant receives a final certificate of occupancy for the Project, Declarant shall promptly notify SRCC thereof in writing (the date that such notice is delivered to SRCC is the "Notification Date" herein).

III. Default and Remedies

3.1 Remedies. In the event of a breach or threatened breach of this Declaration, only Declarant, including its successors and assigns, and SRCC shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. If any party (a "Defaulting Party") shall fail to comply with any term, provision or covenant of this Declaration and shall not cure such failure within thirty (30) days after receipt of written notice (or if the default is of such character as to require more than thirty [30] days to cure and the Defaulting Party shall fail to commence to cure the same within such period or shall fail to use reasonable diligence in curing such default thereafter) from an entity with the right hereunder to seek relief for such breach (a "Non-Defaulting Party") to the Defaulting Party of such failure, the Non-Defaulting Party shall have the option of pursuing any remedy it may have at law or in equity, including without limitation specific performance or injunctive relief from a court of competent jurisdiction.

3.2 Security Deposit. As security for the performance of its obligations under this Declaration, Declarant, on the effective date of this Declaration, has placed a $50,000.00 Letter of Credit (the "Security Deposit") in an escrow account held by LandAmerica Commercial Services, attention Debbie Dubelbeis, Commercial Escrow Assistant, Phone: 512-481-9560 (the "Escrow Agent"). If, on or before the date that is eighteen (18) months after the Notification Date, as the result of a breach by Declarant hereunder, subject to applicable notice and cure periods, SRCC institutes legal proceedings to enforce its claim that Declarant is in breach hereunder and provides the Escrow Agent written notice thereof, then SRCC may draw on the Security Deposit from time to time thereafter to pay invoices for the actual out-of-pocket expenses it has incurred (but not required to be paid) as a direct result of instituting and pursuing such

legal proceedings, including reasonable attorneys' and other consultants' fees and court costs by submitting a written request for reimbursement to the Escrow Agent along with copies of such invoices for such expenses (the amounts paid by the Escrow Agent to SRCC hereunder, the "Paid Costs"); provided, however, that if SRCC's claim that Declarant is in breach hereunder is not successful in such legal proceedings, then SRCC must immediately upon demand reimburse Declarant for twenty-five percent (25%) of the amount of the Paid Costs plus statutory interest calculated from the date or dates such Paid Costs were paid to SRCC by the Escrow Agent. If SRCC has not instituted legal proceedings and given the Escrow Agent written notice thereof on or before the date that is eighteen (18) months after the Notification Date, then the provisions of this Section 3.2 shall automatically lapse and terminate, and the Security Deposit shall be returned to Declarant by the Escrow Agent.

IV. General Provisions

4.1 No Third-Party Beneficiary. The provisions of this Declaration are for the exclusive benefit of the parties hereto and their successors and assigns, and not for the benefit of any third person, nor shall this Declaration be deemed to have conferred any rights, express or implied, upon any third person or the public. It is expressly understood and agreed that the terms of this Declaration shall not be binding upon the current owner of the Property, it being the intention of the parties that the terms of this Declaration are conditioned upon the occurrence of the events described in Section 2.1 above.

4.2 No Dedication. No provision of this Declaration shall ever be construed to grant or create any rights whatsoever in or to any portion of the Property other than the covenants, conditions, and restrictions specifically set forth herein. Nothing in this Declaration shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever.

4.3 Notice. All notices required or permitted to be given hereunder, or given in regard to this Declaration shall be in writing and the same shall be given and be deemed to have been served, given and received (a) one (1) business day after being placed in a prepaid package with a national, reputable overnight courier addressed to the other party at the address hereinafter specified; or (b) if mailed, three (3) business days following the date placed in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed to the party at the address hereinafter specified. Declarant and SRCC may change their respective addresses for notices by giving five (5) days' advance written notice to the other in the manner provided for herein. Until changed in the manner provided herein, the Declarant's address for notice is as follows, and SRCC's is as set out by its signature below:

Declarant:
Kaplan Acquisitions, L.L.C.
Attention: Geoff Simpson
6363 Woodway, Suite 300
Houston, Texas 77057
Telecopy: (713) 977-5697

Telephone: (713) 977-5699

with a copy to:

Drenner & Golden Stuart Wolff, LLP
301 Congress Avenue, Suite 1200
Austin, Texas 78701
Attn: Steven C. Metcalfe
Telecopy: (512) 404-2244
Telephone: (512) 404-2200

4.4 Attorneys' Fees. Each party shall pay its own attorneys' fees, subject to SRCC's rights under Section 3.2 hereof.

4.5 Entire Declaration. This Declaration constitutes the entire agreement between the parties hereto regarding the matters set forth herein. The parties do not rely upon any statement, promise or representation with respect to the matters set forth herein that is not herein expressed, and this Declaration once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

4.6 Severability. If any provision of this Declaration shall be declared invalid, illegal or unenforceable in any respect under any applicable law by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. It is the further intention of the parties that in lieu of each covenant, provision, or agreement of this instrument that is held invalid, illegal or unenforceable, that be added as a part hereof a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may possible and be legal, valid, and enforceable.

4.7 Rights of Successors. The restrictions, benefits and obligations hereunder shall create benefits and servitudes running with the land. Subject to the other provisions hereto, this Declaration shall bind and inure to the benefit of the parties and their respective heirs, representatives, lessees, successors and assigns. Reference to "Declarant" includes the future owners of their respective portions of the Property, including any portions of the Property that may in the future be created as separate tracts pursuant to a resubdivision of any portion of the Property. The singular number includes the plural and the masculine gender includes the feminine and neuter.

4.8 No Merger. It is expressly understood and agreed that the parties hereto do not intend that there be, and there shall in no event be, a merger of the dominant and servient tenements in the Property by virtue of the present or future ownership of any portion of said tenements being vested in the same person(s) or entity, but instead intend that the easement servitudes shall not be extinguished thereby and that said dominant and servient tenements be kept separate.

4.9 Counterparts; Multiple Originals. This Declaration may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

4.10 Modification and Cancellation. Any changes to the standards and requirements of this Declaration must be approved in writing and executed by Declarant and a minimum of two (2) officers in SRCC.

4.11 Exculpation. Any person or entity subsequently acquiring fee or leasehold title to any portion of the Property shall be bound by this Declaration only during the period such person or entity is the fee or leasehold owner of such portion, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons or entities may be released under this Section 4.11, the covenants, conditions, and restrictions in this Declaration shall continue to be benefits and servitudes upon the Property running with the land.

DECLARANT

Kaplan Acquisitions,
a Texas Limited Liability Company

By: Geoffrey Simpson
Name:
Title: CFO
Date: 3/4/08

STATE OF TEXAS §
§
COUNTY OF Harris §

This instrument was acknowledged before me this 4 day of March, 2008, by Geoff Simpson, the CFO of Kaplan Acquisitions, a Texas LLC, on behalf of the _____.

JEANNE LYNN SLOAN
MY COMMISSION EXPIRES
September 22, 2009

Jeanne Lynn Sloan
Notary Public, State of Texas

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AGREED TO AND ACCEPTED:

SOUTH RIVER CITY CITIZENS NEIGHBORHOOD ASSOCIATION

By: Jean Mather
Name: JEAN MATHER
Title: CO-PRESIDENT
Date: 3/06/08

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 6th day of March, 2008, by Jean Mather, as Co-President of the South River City Citizens Neighborhood Association, a Texas nonprofit corporation, on behalf of said corporation.

NOTARY PUBLIC STATE OF TEXAS
CLARA HILLING
My Commission Expires
July 23, 2010

Clara Hilling
Notary Public, State of Texas

EXHIBIT A

AGREEMENT BETWEEN SUNNYMEADE RESIDENTS AND KAPLAN

This is an agreement between the Sunnymeade Tenants Association and Kaplan. This Agreement by Kaplan is in consideration of the support by the Sunnymeade Tenants Association of the variance requested by Kaplan in zoning case No. C14-2007-0202 and Board of Adjustment Case No. C-15-2007-0127 and will be in effect only if zoning case No. C14-2007-0202 is approved by the city council and Kaplan or its assigns redevelop the property. The Agreement is as follows:

- Kaplan will provide tenants with at least 6 months notice ("Vacate Notice") to the tenants before the "Vacate Date." Those tenants whose current lease extends beyond the Vacate Date may remain until their lease ends. Those tenants whose current lease ends before the Vacate Date may continue to lease from month to month at the monthly rent that they are currently paying until that date unless they are in default under their lease. The term "default" as used in this letter means failing to pay rent or committing a violation of a material term of the lease beyond any applicable notice and cure periods, such as engaging in illegal drug activity on the property. All tenants who stay until the final month of 6-month period after the Vacate Notice will not have to pay rent for the last month of their tenancy.
- Security deposits in the amount paid by the tenant will be returned to all residents who are not in default and move out after receiving the Vacate Notice, less any sums the tenant owes for unpaid rent. Kaplan will not deduct any amounts from the security deposits for damages to the unit.
- While Kaplan cannot guarantee that it can find new apartments meeting all requirements of each current resident, Kaplan will take reasonable and affirmative steps to help relocate each current resident to affordable residences that meet their needs: including residences that are accessible to persons with disabilities; within existing school boundaries; within walking distance of grocery stores, pharmacies, and bus stops; easily accessible to public schools, the Veteran's Administration, and the School for the Deaf; and in a safe, low-crime and low-noise environment. Kaplan recognizes that many of the residents, some of whom are both elderly and infirm, cannot successfully live truly functional lives unless sufficient effort is directed toward securing appropriate affordable replacement housing. Kaplan also recognizes that it would be desirable for families with children to find affordable housing within the same school boundaries so as not to disrupt their children's education.
- These reasonable and affirmative steps include the following. Kaplan will readily provide landlord references to aid the tenants in acquiring new, affordable, decent and safe housing. Kaplan will provide a regularly updated current list of available nearby apartment complexes that include some or all of the attributes listed above that will be available in the management office for review and copying. Kaplan will also provide a regularly updated chart of apartment complexes that shows the complex's prices for units with corresponding size and number of bedrooms and baths; projection of utility costs at the complex; distance from grocery stores, pharmacies, public schools, the Veteran's Administration, the School for the Deaf, and bus stops; the public schools that serve the complex; whether the complex accepts Section 8 voucher holders; and whether the apartments are accessible to persons with disabilities. Kaplan will also host several open houses at Sunnymeade Apartments to

facilitate the tenants' search for replacement housing. Kaplan will use commercial reasonable, efforts to have at least one open house that will host leasing representatives from prospective landlords. At least one open house will host APD police officers that may inform the tenants of the safety of various neighborhoods in Austin. Kaplan will also make reasonable arrangements for the transportation of tenants to other residences to view them during their housing search. Kaplan will also use commercially reasonable efforts to work with landlords and property managers at other complexes to reduce any security deposit required and secure more affordable rents, but can not promise such commercially reasonable efforts will be successful. All of these steps will be taken no later then thirty days after the tenants receive their Vacate Notice.

- If two or more current tenants want to move to the same complex, Kaplan will take commercially reasonable and affirmative steps to help find locations with groups of vacancies to help keep the tenants together.
- For all residents not in default who move out after the Vacate Notice, Kaplan will provide free moving to another location in Austin.
- Kaplan will sign and record in the Travis County Real Property Records, a Declaration of Land Use Restrictive Covenants (on a form to be negotiated with the City of Austin) that will provide that for a period of forty years ten percent of the apartments in the redeveloped property will be maintained as rent-restricted for individuals whose income is 60% or less of area median family income for the City of Austin, as adjusted for family size, as published from time to time by the Secretary of Housing and Urban Development.
- Kaplan agrees that it will participate in the Section 8 housing voucher program with respect to the affordable units to be constructed in the New Project.
- In addition, Kaplan will take reasonable and affirmative steps to work with the City to provide city funding to allow for setting aside more than 10% of the units as affordable units and/or to set units aside for households at 50% of the MFI.
- If a current tenant sends Kaplan a notice (and a forwarding address) after the Vacate Notice expressing an interest in renting a unit in the redeveloped property, then at least ninety (90) days before the new project begins leasing, Kaplan will send the tenant information regarding the availability date, size, location, and rents of the available units (including the affordable units). Kaplan will keep a unit available for each tenant for 30 days after Kaplan sends the leasing information while tenants decide whether or not to return. Any tenant wishing to return will be required to send Kaplan a return notice indicating what kind of unit it would like to rent (affordable/regular/size/etc.) within such 30-day period and will be required to enter into a lease within thirty (30) days after the end of the 30-day period.
- If more current Sunnymeade residents want affordable units than are available in the new complex, or in the case of any other aspect of a new unit for which there are more people interested than units available, units will be rented giving priority to those current residents with the longest tenure at the existing Sunnymeade project (i.e., priority will be based on the length of time the tenant has rented at Sunnymeade -- the longer the tenant has been in Sunnymeade the higher the tenant's priority will be for units in the new project).
- Kaplan will provide free moving services for residents returning to the new complex. Security deposits will be waived for returning residents.
- Returning tenants may choose either to receive (i) first 3 months rent free, or (ii) the right to cancel without penalty an initial 12-month lease on 30 days' notice to the landlord.
- Kaplan will pay for the professional translation of the final agreement between Kaplan and the Sunnymeade residents into Spanish so that all residents will be aware of the relocation assistance and the right to return being offered by Kaplan.
- This final agreement is enforceable by the residents in a court of law or equity.

Dated: 3/6/08

Kaplan, by its Designated
Representative

Sunnymeade Tenants Association
By its Designated Representative

After Recording Return to:

Steven C. Metcalfe
301 Congress Ave, Suite 1200
Austin, TX 78701

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2008 Mar 07 01:29 PM 2008036513

CLARKMM $56.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS