

Chapter 22

HOUSING SEGREGATION AND UNJUST PROPERTY TAKINGS

This chapter details the policy proposals to address the harms set forth in Chapter 5, Housing Segregation.

- Prioritize Responsible Development in Communities and Housing Development
- Enact Policies Overhauling the Housing Industrial Complex
- Collect Data on Housing Discrimination
- Provide Anti-Racism Training to Workers in the Housing Field
- Expand Grant Funding to Community-Based Organizations to Increase Home Ownership
- Provide Property Tax Relief to African Americans, Especially Descendants, Living in Formerly Redlined Neighborhoods, Who Purchase or Construct a New Home
- Provide Direct Financial Assistance to Increase Home Ownership Among African Americans, Especially Descendants, Through Shared Appreciation Loans and Subsidized Down Payments, Mortgages, and Homeowner’s Insurance
- Require State Review and Approval of All Residential Land Use Ordinances Enacted by Historically and Currently Segregated Cities and Counties
- Repeal Crime-Free Housing Policies
- Increase Affordable Housing for African American Californians
- Provide Restitution for Racially Motivated Takings
- Provide a Right to Return for Displaced African American Californians

A. Prioritize Responsible Development in Communities and Housing Development

The Task Force recommends the Legislature prioritize responsible development by enacting statewide “Responsible Development” standards to require new developments to enhance the surrounding contributing resources (e.g., prioritize a medical facility instead of a coffee shop), improve overall environmental quality, and advance climate justice. These standards should lead to the development of more hospitals, community-based mental health facilities, urgent care medical training programs, and first responder ambulance services in neighborhoods significantly populated by African Americans, especially those who are descendants of enslaved persons. This expanded public health infrastructure should be staffed with culturally competent providers. The Legislature should also support community-based programs and research groups that use the “housing first” and harm reduction models to work with chronically homeless-dually diagnosed populations suffering from mental illness and addiction due to self-medication. A “housing first” approach prioritizes providing permanent housing, therefore addressing people’s basic needs before attending to less critical needs like securing a job, budgeting properly, or attending to substance use issues.¹ Harm reduction models aim to reduce the negative consequences of drug use and include strategies such as safer use, managed use, abstinence,

¹ National Coalition to End Homelessness, Housing First (Mar. 2022).

meeting people who use drugs “where they’re at,” and addressing conditions of use along with the use itself.² Harm reduction strategies are tailored to meet individual and community needs.³

In tandem with “housing first” programming, the Legislature should fund mobile crisis units staffed with psychiatric experts to assist chronically unhoused people in lieu of criminalizing homelessness. Mobile crisis teams are often managed by community mental health organizations, hospitals, or government agencies, such as a health department and provide a range of comprehensive crises services such as administering medication, referring people to additional treatment, and providing follow-up support.⁴

B. Enact Policies Overhauling the Housing Industrial Complex

As discussed in Chapter 5, the persisting harms of housing segregation include more than just the discrimination by those who directly own or sell homes. These persisting harms include the discrimination by many other entities that play a role in housing—from landlords to property developers to banks and financial institutions. To address this historical and ongoing discrimination among these other parties that play a role in housing—what the Task Force refers to as the housing industrial complex⁵—the Task Force recommends the Legislature adopt several measures.

First, the Task Force recommends the Legislature fund increased enforcement of laws requiring landlords to accept housing vouchers (such as federal Section 8 housing vouchers). In 2020, the Legislature amended the Fair Employment and Housing Act to include people using a federal, state, or local housing subsidy as a group protected from housing discrimination,⁶ as landlords had long discriminated against those receiving housing subsidies as an often thinly-masked form of discrimination against African Americans.⁷ One study found that nearly half of Los Angeles County properties tested in 2022 “showed evidence of unlawful discrimination.”⁸ Housing advocates have called for greater enforcement of laws prohibiting discrimination against those receiving housing subsidies,⁹ and the Task Force recommends that the Legislature adequately fund sufficient positions to enforce this anti-discrimination provision.

Second, the Task Force recommends the Legislature further protect African American tenants by implementing rent caps—not just rent control—for historically redlined ZIP codes; the Task

² National Harm Reduction Coalition, [Principles of Harm Reduction](#) (as of Apr. 11, 2023).

³ *Ibid.*

⁴ Thomas, [How to Successfully Implement a Mobile Crisis Team](#) (Apr. 2021) Council of State Governments Justice Center (as of February 2, 2023).

⁵ The housing industrial complex refers to the system of public-private partnerships built around housing development that have become entrenched in society and difficult to reform. Many of these partnerships and resulting policies have been harmful to and racist against African Americans. Husock, [The Time the Federal Government Built a Flawed Housing Project and Tore It Down 20 Years Later](#) (Mar. 16, 2022) Reason (as of Apr. 11, 2023).

⁶ Dept. of Fair Employment and Housing, [Source of Income FAQ](#) (Feb. 2020) (as of Apr. 12, 2023).

⁷ See, e.g., Khouri, [For First Time, California Civil Rights Officials File Lawsuit Alleging Section 8 Discrimination](#), L.A. Times (Jan. 5, 2023) (as of Apr. 12, 2023) (alleging that landlord rejected housing applicant as a “government leech[.]” and called the tenant the “N-word”).

⁸ Khouri, [California Outlawed Section 8 Housing Discrimination. Why it Still Persists](#), L.A. Times (Nov. 19, 2022) (as of Apr. 12, 2023).

⁹ *Ibid.*

Force recommends that the Legislature prohibit increased rents for units that are either run-down or that have not been improved, to prevent landlords from raising rents on units simply because the market rate has increased.¹⁰

Third, the Task Force recommends the Legislature provide funding for developers, land trusts, and community-based organizations for affordable housing operated by or serving African Americans, especially descendants of persons enslaved in the United States. Land trusts, for instance, provided a model of shared-equity homeownership that emerged during the civil rights movement to combat housing discrimination, and originated in efforts by Black farmers in the South to combat discrimination and eviction.¹¹ The Task Force recommends that the Legislature first fund studies documenting the substantial evidence of discrimination and disparities in housing, to provide justification for such funding.

Fourth, the Task Force recommends the Legislature provide for a private right of action (or immediate action) against banks and private entities that knowingly or purposefully appraise African American-owned homes at lower values, a discriminatory practice that persists to this day in California, as Paul Austin relayed in his testimony before the Task Force.¹²

Fifth, the Task Force recommends the Legislature provide compensation to redress the discriminatory harms eligible individuals experiences from other predatory housing industrial complex issues—e.g., having to pay higher costs on insurance—due to race or other contributing factors.

C. Collect Data on Housing Discrimination

The Task Force recommends the Legislature collect data on housing discrimination by providing community-based organizations (CBOs) with resources and fund capacity to collect anecdotal data (qualitative) of stories about ongoing housing discrimination and to conduct focus groups.

The Legislature should also require governments to collect and *make transparent* quantitative data and statistics on housing disparities. This data should be racially disaggregated data, including, where possible, identifying those who are descendants of persons enslaved in the United States. Finally, the Legislature should provide resources to CBOs and subject matter experts to periodically analyze the data and make recommendations for the remediation of continuing disparities exposed by the data.

¹⁰ See Desmond, [Why Poverty Persists in America](#), N.Y. Times (Mar. 9, 2023) (as of Apr. 12, 2023) (observing how “rents have jumped even in cities with plenty of apartments to go around,” with particular effect on “poor Black families”); see also Desmond and Wilmers, [Do the Poor Pay More for Housing? Exploitation, Profit, and Risk in Rental Markets](#) (2019) 124 Am. J. Soc. 1090, 1092 (documenting “higher levels of renter exploitation in poor neighborhoods” and that “[l]andlords operating in those neighborhoods also enjoy higher profits”).

¹¹ Weekly, [How Community Land Trusts Can Advance Black Homeownership](#), Federal Reserve Bank of St. Louis (Apr. 27, 2022) (as of Apr. 12, 2023).

¹² California Task Force to Study and Develop Reparation Proposals for African Americans (Oct. 13, 2021), [Testimony of Paul Austin](#) (as of Apr. 12, 2023).

D. Provide Anti-Racism Training to Workers in the Housing Field

The Task Force recommends that the Legislature provide resources to community-based organizations with subject matter expertise in equity, cultural competence, and bias elimination to establish Diversity, Equity, and Inclusion (DEI) certification programs for affordable housing contractors, providers, and decision makers. The Legislature should also fund housing-focused anti-racism education programs and communications to help communities move away from the NIMBY (Not in My Back Yard) mentality to the reparatory justice mentality of redressing past harms due to state action.

E. Expand Grant Funding to Community-Based Organizations to Increase Homeownership

Discriminatory policies, including redlining, have produced persistent and longstanding housing segregation and inequities in home ownership in California.¹³ Between 1934 and 1962, the federal government issued \$120 billion in home loans, 98 percent of which went to white people.¹⁴ Between 1946 and 1960 in northern California, African Americans received less than one percent of Federal Housing Authority loans.¹⁵ By ensuring that funds flowed almost entirely to white Californians, the State has enabled discriminatory policies that produce persisting inequities today: in 2019, the percentage of Black Californians who owned homes was lower than the percentage of Black Californians in the 1960s, when forms of express housing discrimination were legal.¹⁶

To address housing discrimination, the Task Force recommends providing hyper-local grants or contracts to community-based organizations that focus primarily on providing financial and homeownership assistance to African Americans, with funds reserved for those who are descendants of enslaved persons. This recommendation should include specific grant criteria or changes to existing local ordinances to ensure that community-based organizations — rather than government entities, for example — are the recipients of grants. This grant program will also facilitate a process for community-based organizations to buy property in historically African American neighborhoods and gathering spaces to act as a bulwark against African American pushout and displacement.

Additionally, the Task Force recommends the Legislature (or administering agency) impose transparency and quality control mechanisms on these grants and contracts, including, for example, reporting requirements to assess whether the funds are being spent as intended. The Legislature should also allocate funding for disparity studies of public contracts and grants to community-based organizations seeking to provide financial aid (and other assistance) to increase homeownership among African Americans in California.

¹³ See generally Chapter 5, Housing Segregation, *supra*, at pp. 162–192.

¹⁴ Adelman, *Real Life/Affirmative Action for Whites/The Houses that Racism Built*, SF Gate (Jun. 29, 2003) (as of Nov. 23, 2022).

¹⁵ Chapter 5, Housing Segregation, *supra*, at p. 182.

¹⁶ Cal. Housing Finance Agency, *Black Homeownership Initiative: Building Black Wealth* (as of Nov. 22, 2022).

If the Legislature enacts this proposal, the Legislature will need to identify a state agency that will administer the grants — likely the Housing Finance Agency or Housing Community Development Agency¹⁷ — and the Legislature should define eligibility criteria for the recipient community-based organizations.

F. Provide Property Tax Relief to African Americans, Especially Descendants, Living in Formerly Redlined Neighborhoods, Who Purchase or Construct a New Home

To address housing discrimination, the Task Force recommends providing property tax relief by allowing Descendants who reside in formerly redlined neighborhoods to transfer the assessed value of their primary home to a newly purchased or constructed primary residence. If the Legislature enacts these property tax cuts, it should also consider accompanying proposals that would supplement any public school funding that would be lost from the reduced tax revenue.

Such a proposal follows the model of Proposition 19, which provides property tax relief to Californians who are severely disabled, victims of wildfires, or over the age of 55 when purchasing or constructing a new home.¹⁸ Under Proposition 19, such individuals who purchase or construct a new home in California “may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence[.]”¹⁹ A similar policy created for African Americans, especially those who are descendants of a person enslaved in the United States, in formerly redlined neighborhoods would counteract the property tax barriers that have reinforced existing patterns of housing segregation.

G. Provide Direct Financial Assistance to Increase Home Ownership Among African Americans, Especially Descendants Through Shared Appreciation Loans and Subsidized Down Payments, Mortgages, and Homeowner’s Insurance

As another proposal to address housing discrimination, the Task Force recommends providing financial aid to African Americans, with funds reserved for those who can demonstrate that they are the descendant of a person enslaved in the United States, who reside in formerly redlined neighborhoods to enable them to become homeowners by: (1) providing them shared appreciation loans for the purchase of homes anywhere in the state,²⁰ with subsidized down payments; and (2) subsidizing mortgage payments and homeowner’s insurance fees. Shared appreciation loans could follow the model of the existing California Dream for All Shared Appreciation Loan Program, which seeks to increase homeownership among low- and moderate-

¹⁷ Cf., e.g., Cal. Housing Finance Agency, [ADU Grant Program](#) (as of Dec. 1, 2022) (describing mortgage products “offered through private loan officers who have been approved and trained by our agency”).

¹⁸ [Cal. Stat. 2020, ch. 31](#).

¹⁹ *Id.* § 2.1(b)(1).

²⁰ A shared appreciation loan (or mortgage) is one with a fixed interest rate set below prevailing market rates, where the borrower eventually pays a percentage of the appreciation of the home’s value to the lender. See Friend, *Shared Appreciation Mortgage* (1982) 34 Hastings L.J. 329, 339.

income homebuyers, generally.²¹ Other jurisdictions, like the City of Evanston, Illinois, have also offered down payment and mortgage assistance as part of their reparatory program.²²

Alternatively, the Legislature could provide such financial aid to those currently living in or seeking to move to formerly redlined neighborhoods, but further limit eligibility to first time homeowners or those who do not currently own a house to maximize home ownership and focus on those most in need. The Legislature could also consider an alternative approach, and provide such financial aid to *any* California African American, with funds reserved specifically for those who are descendants of an enslaved person, to broaden the eligible recipients of such aid.

To the extent the state subsidizes down payments or homeowner's insurance, rather than providing the money to the eligible Californian, the state should: disburse the funds to the closing agent when an applicant closes on a home purchase; to the lender for a mortgage payment; or to the insurance company for a homeowner's insurance payment. Doing so would ensure maximum use of the subsidy to aid home ownership, as otherwise portions of the subsidy would become taxable income.²³

H. Require State Review and Approval of All Residential Land Use Ordinances Enacted by Historically and Currently Segregated Cities and Counties

Residential zoning ordinances have been used for decades in California to prevent African Americans from moving into neighborhoods, thereby maintaining residential segregation.²⁴ Various laws were also used to prevent additional housing from being built, effectively shutting out African Americans.²⁵

To address local zoning laws that reinforce and recreate this systemic housing segregation, the Task Force recommends that the Legislature: (1) identify California cities and counties that have historically redlined neighborhoods and whose current levels of residential racial segregation are statistically similar to the degree of segregation in that city or county when it was redlined;²⁶ (2) require identified cities and counties to submit all residential land use ordinances for review and

²¹ Cal. Stat. 2022, ch. 197, § 14; Cal. Housing Finance Agency, [California Dream for All Shared Appreciation Loan Program](#) (as of Nov. 22, 2022).

²² City of Evanston, [Evanston Local Reparations](#) (as of Nov. 22, 2022).

²³ Cf. *ibid.* (explaining in its FAQ that direct payments to recipients of reparations would be subject to taxation). Though the State could exempt reparations subsidies from state taxes, it is not able to exempt the subsidy from federal income taxes.

²⁴ See, e.g., Chapter 5, Housing Segregation, *supra*, at pp. 170-171; Taylor, Toxic Communities: Environmental Racism, Industrial Pollution, and Residential Mobility (2014) p. 154; see also Baldassari and Solomon, [The Racist History of Single-Family Home Zoning](#), KQED (Oct. 5, 2020) (as of Nov. 27, 2022).

²⁵ Taylor, *supra*.

²⁶ For example, the State could use the methodology the Brookings Institute used to compare racial segregation in formerly redlined cities to levels of racial segregation in those cities today. See Perry and Harshbringer, [America's Formerly Redlined Neighborhoods Have Changed, and So Must Solutions to Rectify Them](#) (Oct. 14, 2019) Brookings Institute (as of Nov. 23, 2022). The Department of Housing and Community Development also has, among its publicly available data tools, an "Affirmatively Furthering Fair Housing Data Viewer," which includes data concerning segregation and integration. See Cal. Dept. of Housing and Community Development, [AFFH Data and Mapping Resources](#) (as of Nov. 28, 2022).

approval by a state agency, with the agency rejecting (or requiring modification of) the ordinance if the agency finds that the proposed ordinance will maintain or exacerbate levels of residential racial segregation;²⁷ and (3) remove this process of additional review and approval for identified cities or counties if the city or county eliminates a certain degree of housing segregation in its geographic territory.

Scholars have found that similar efforts by California to influence localities' residential zoning decisions—through state supervisory authority—has had some beneficial effects. In the early 1990s, about a quarter of California jurisdictions had a Housing and Community Development-approved housing element in place,²⁸ whereas today, about 77 percent of California jurisdictions have a Housing and Community Development-approved housing element.²⁹

As an alternative to state review and approval of ordinances in the localities described above, the state could adopt a post-hoc approach by creating an administrative appeal board to review challenges to developmental permitting decisions or zoning laws and reversing the denial of a development permit if the underlying zoning requirement is deemed to maintain or reinforce residential racial segregation.

I. Repeal Crime-Free Housing Policies

Crime-free housing policies have proliferated across California as part of a national trend adopted by landlords and public housing authorities to ban renting to individuals with a criminal history, incorporate crime-free addendums into their lease agreements to facilitate evictions, and evict tenants who allegedly commit crimes or drug-related activities.³⁰ Alongside crime-free housing policies, municipalities have often adopted chronic nuisance ordinances, which classify certain tenant activities like excessive noise or contact with the local police department as a nuisance and encourage or require landlords to evict tenants who engage in those activities.³¹ The result of these policies and ordinances is a disproportionately negative effect on people of color and heightened racial segregation in housing.³² According to the *Los Angeles Times*'s analysis of eviction data for Los Angeles, Long Beach, Oakland, and Sacramento, nearly 80

²⁷ The reviewing agency could be either the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Justice, or some form of joint-partnership between these agencies.

²⁸ Lewis, [California's Housing Element Law: The Issue of Local Noncompliance](#) (2003) Pub. Policy Institute of Cal., pp. 21–22 (as of Nov. 27, 2022) (19% were compliant in 1991, 37% by 1993).

²⁹ Cal. Dept. of Housing and Community Development, [Housing Element Review and Compliance Report](#) (2019) (as of Nov. 27, 2022).

³⁰ See Werth, *The Cast of Being "Crime Free": Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* (2013) Sargent Shriver National Center on Poverty Law, pp. 2-4; Dillon et al., [Black and Latino Renters Face Eviction, Exclusion amid Police Crackdowns in California](#), L.A. Times (Nov. 19, 2020) (as of Nov. 22, 2022). Crime-free housing policies refer to both crime-free housing ordinances and crime-free housing programs, collectively.

³¹ See NYCLU and ACLU, [More than a Nuisance: The Outsized Consequences of New York's Nuisance Ordinances](#) (2018) p. 6.

³² Archer, *The New Housing Segregation: The Jim Crow Effects of Crime-Free Housing Ordinances* (2019) 118 Mich. L. Rev. 173, 208.

percent of those targeted for eviction under crime-free housing ordinances from 2015 through 2019 were not white.³³

The Task Force recommends the Legislature require jurisdictions to review and modify or repeal any crime-free housing policies that result in disparate impacts on African Americans or otherwise violate state or federal fair housing laws. The Legislature should also limit the scope of crimes and associations with criminal activity that qualify for eviction and require landlords to use look-back periods and individualized assessments of relevant mitigating factors like post-conviction rental history, nature of underlying conduct, age of the conviction, age at the time of conviction, and general post-conviction record when reviewing evictions. Landlords should be prohibited from evicting tenants based on any of the following:

- A previous arrest that did not result in a conviction;
- Participation in, or completion of, a diversion or a deferral of judgment program;
- A conviction that has been judicially dismissed, expunged, voided, invalidated, sealed, vacated, pardoned, or otherwise rendered inoperative, including under sections 1203.4, 1203.4a, or 1203.41 of the Penal Code, or for which a certificate of rehabilitation has been granted pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code;
- A determination or adjudication in the juvenile justice system or information regarding a matter considered in or processed through the juvenile justice system;
- Information pertaining to a conviction, if consideration of that conviction would violate Section 12269 of Title 2 of the California Code of Regulations³⁴, or any successor to that regulation, as it reads on the date of the application for rental housing accommodations;
- A conviction that is not directly related to one or more substantial, legitimate, nondiscriminatory purposes that support the owner's business interests. In determining whether a criminal conviction is directly related, a practice should include consideration of the nature and severity of the crime and the amount of time that has passed since the criminal conduct occurred;
- Information pertaining to a conviction that occurred more than seven years before the date of the conviction; or
- Information indicating that an individual has been questioned, apprehended, taken into custody, detained, or held for investigation by a law enforcement, police, military, or prosecutorial agency.³⁵

Assembly Bill (AB) No. 2383, introduced in 2022 but not enacted, would have prohibited landlords from inquiring about an applicant's criminal record during the initial phase of the rental application. It also would have completely banned inquiries into certain types of criminal records, which are generally already prohibited under the Fair Employment and Housing Act

³³ Dillon et al., [Black and Latino Renters Face Eviction, Exclusion amid Police Crackdowns in California](#), Los Angeles Times (Nov. 19, 2020) (as of Nov. 22, 2022).

³⁴ This section of the CCR lists uses and specific practices related to criminal history information that are unlawful.

³⁵ This list is based on Assem. Bill No. 2383 (2021-2022 Reg. Sess.).

regulations, such as arrests that did not result in a conviction, juvenile records, and convictions that were dismissed or expunged.³⁶ This policy essentially replicates these provisions and applies them in the eviction context. The protections for housing applicants listed in AB 2383 should be extended to protect prospective renters as well as tenants.

Finally, the Task Force recommends the Legislature makes affordable housing a fundamental right that requires legal representation in eviction proceedings for African Americans.

J. Increase Affordable Housing for African American Californians

Throughout California's history, state and local governments displaced African American residents through various housing policies and prevented them from obtaining access to sufficient funds or credit to purchase a home.³⁷ As a result, Black Californians are more likely to rent than own their homes, and thus own less assets and cultivate less intergenerational wealth.³⁸ Building out affordable housing in areas of high poverty or high segregation can facilitate racial and economic residential integration.³⁹ It can also help bridge the racial wealth gap. The Task Force recommends the Legislature increase affordable housing for African Americans in California by requiring housing built pursuant to the Regional Housing Needs Allocation (RHNA) program to explicitly advance racial equity and address these housing needs.

The California Housing and Community Development Department (HCD) issues a Regional Housing Needs Determination to each regional council of governments (COGs) in the state that requires the region to meet the housing needs of everyone in the community.⁴⁰ The COGs then determine how much housing is needed in each city for each income category and develops the RHNA and a Regional Housing Needs Plan (RHNP).⁴¹ The RHNA establishes the total number of housing units that each city and county must plan for in an eight-year planning period.⁴² Cities and counties then update the housing elements of their general plans to account for how the city and/or county will grow and develop.⁴³ This involves zoning land to accommodate the region's housing needs, identifying sites suitable for housing development, and issuing the quantity of housing permits that match their respective RHNA.⁴⁴

The housing element of the city's general plan requires a fair housing assessment.⁴⁵ This analysis must include each of the fair housing issue areas: (1) segregation and integration; (2) racially and ethnically concentrated areas of poverty (R/ECAPs); (3) access to opportunity; and (4)

³⁶ California Assembly Bill No. 2383 (2022 Reg. Sess.).

³⁷ Chapter 5, Housing Segregation, *supra*, at pp. 162-204.

³⁸ Desilver, [As National Eviction Ban Expires, A Look at who Rents and who Owns in the U.S.](#) (August 2, 2021) Pew Research Center (as of Nov. 22, 2022).

³⁹ Menendian et al., [Racial Segregation in the San Francisco Bay Area, Part 5](#) (Aug. 11, 2020) Othering & Belonging Institute.

⁴⁰ California Department of Housing and Community Development, [Regional Housing Needs Allocation \(RHNA\)](#) (as of Apr. 11, 2023).

⁴¹ Casparis, [Sacramento County Housing Element Update Approved](#) (July 28, 2023) SacCounty News (as of Apr. 11, 2023).

⁴² [Association of Bay Area Governments, Frequently Asked Questions about RHNA \(as of Apr. 11, 2023\).](#)

⁴³ California Department of Housing and Community Development, [Building Blocks](#) (as of Apr. 11, 2023).

⁴⁴ *Ibid.*

⁴⁵ Gov. Code, § 65583, subd. (c)(10)(A).

disproportionate housing needs, including displacement.⁴⁶ Cities and counties have discretion to develop their own RHNA methodology that furthers the RHNA objectives, including affirmatively promoting fair housing.⁴⁷ COGs must affirmatively further fair housing by “taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”⁴⁸

The Task Force recommends the Legislature: (1) require the RHNA objectives to be implemented in a race-conscious way that includes tangible goals and realistic targets for compliance; (2) enforce RHNA objectives and withhold funding streams if racial equity goals/targets are not met; (3) incorporate “the housing needs of African American descendants of a Chattel enslaved person, or descendants of a free Black person living in the United States prior to the end of the 19th Century,” as a factor in RHNA methodology;⁴⁹ (4) redefine what qualifies as affordable housing by readjusting area median income limits for state subsidies, or for example, redefine based on federal poverty guidelines; and (5) ensure that the construction of affordable housing is accompanied by adequate renter protections to prevent gentrification and displacement by requiring regional councils of government to make funding for new development projects conditional upon protecting existing renters.

K. Provide Restitution for Racially Motivated Takings

The State of California and local governments targeted property owned by African Americans in urban renewal and development projects for unjust uses of eminent domain, often without providing just compensation.⁵⁰ As a result, the construction of public infrastructure disproportionately displaced and fractured African American communities.⁵¹ One example of many discriminatory eminent domain takings is the construction of the Century Freeway in Los Angeles, which dislocated 3,550 families, 117 businesses, and numerous parks, schools, and churches in 1968.⁵² Other examples of unjust takings include, but are not limited to, the Freeway 210 construction in Pasadena,⁵³ construction of the Freeway 10 in Santa Monica,⁵⁴ construction of Interstate 980 in Oakland,⁵⁵ construction of Interstate 5 in San Diego,⁵⁶ Burgess family land in Coloma that now comprises the Marshall Gold Discovery State Historic Park,⁵⁷ Bruce’s Beach in

⁴⁶ Gov. Code, § 65583, subd. (c)(10)(A)(II).

⁴⁷ Gov. Code, § 65584, subd. (d).

⁴⁸ Gov. Code, § 65584, subd. (d)(5)(e).

⁴⁹ Gov. Code, § 65584.04, subd. (e).

⁵⁰ Chapter 5, Housing Segregation, *supra*, at pp. 171-176.

⁵¹ Chapter 5, Housing Segregation, *supra*, at p. 171.

⁵² Mohl, *The Interstates and the Cities: Highways, Housing, and the Freeway Revolt* (2002) Poverty and Race Research Action Council, p. 25.

⁵³ *Ibid.*

⁵⁴ Chapter 5, Housing Segregation, *supra*, at pp. 171-176.

⁵⁵ *Id.* at p. 176.

⁵⁶ *Ibid.*

⁵⁷ California Task Force to Study and Develop Reparation Proposals for African Americans, [Testimony of Jon Burgess](#) (Sept. 23, 2021).

Manhattan Beach,⁵⁸ Russell City in Alameda County,⁵⁹ the Fillmore District/Western Addition in San Francisco,⁶⁰ Sugar Hill in Los Angeles,⁶¹ and Section 14 in Palm Springs.⁶²

The Task Force recommends the Legislature restore state property taken during race-based uses of eminent domain to its original owners or provide another effective remedy where appropriate, such as restitution or compensation. To effectuate this idea, the Legislature should create and fund a legislative agency, or utilize the California African American Freedman Affairs Agency proposed by the Task Force, to: (1) research and document California state properties acquired as a result of racially motivated eminent domain; (2) create a database of property ownership in the state; (3) review and investigate public complaints from people who claim their property was taken without just compensation; (4) distribute just compensation for the fair market value, adjusted for property price appreciation, of the property at the time of the taking; and (5) develop and implement a public education campaign regarding the cycle of gentrification, displacement and exclusion, the connection between redlining and gentrification, and the history of discriminatory urban planning in California.

The enactment of Senate Bill (SB) No. 796 in 2021 to transfer “Bruce’s Beach,” an African American-owned beach resort, back to its former owners is an example of this policy proposal in action. In 1924, the Manhattan Beach Board of Trustees voted to condemn Bruce’s Beach through the power of eminent domain with the intention of bringing an end to a successful African American business and to thwart other African Americans from settling in or developing businesses in Manhattan Beach.⁶³ The Bruce family was forcibly removed, preventing generational wealth accumulation. SB 796 amended the necessary deed provisions and tax code to facilitate the return of the public land to the Bruce family.

Regulation of the realty market can only be effective if the necessary information is publically available. Assembly Bill (AB) No. 889, which was introduced but did not pass in 2021, would have required beneficial owner transparency for rental properties that are owned by LLCs and thus evade disclosure requirements by not revealing the true owners on the deed.⁶⁴ Passing the disclosure requirements of AB 889 would help facilitate the identification of current property ownership to include in the database of state property ownership to be developed by this proposal.

⁵⁸ Xia, [Manhattan Beach Was Once Home to Black Beachgoers, but the City Ran Them Out. Now It Faces a Reckoning](#), L.A. Times (Aug. 2, 2020) (as of Jan. 10, 2023).

⁵⁹ Chapter 5, Housing Segregation, *supra*, at pp. 175-176.

⁶⁰ California Task Force to Study and Develop Reparation Proposals for African Americans, [Testimony of Helen H. Kang](#) (Oct. 12, 2021).

⁶¹ Chapter 5, Housing Segregation, *supra*, at p. 176.

⁶² Rode, [Palm Springs City Council Apologizes for Section 14, Moves to Remove Bogert Statue](#), Desert Sun (Sept. 30 2021) (as of Jan. 10, 2023).

⁶³ California Senate Bill No. 796 (2021 Reg. Sess.).

⁶⁴ California [Assembly Bill No. 889](#) (2021 Reg. Sess.).

L. Provide a Right to Return for Displaced African American Californians

Throughout the 1900s, California state and local government agencies targeted majority-African American communities for urban renewal projects.⁶⁵ Racially restrictive covenants simultaneously worked to segregate neighborhoods and prevent African American property ownership in white communities.⁶⁶ State-sanctioned violence and racial terror reinforced and exacerbated the exile of African American residents from their communities.⁶⁷ Redevelopment projects continue to displace African American residents in gentrifying neighborhoods today, perpetuating housing segregation harms.⁶⁸

In response to displacement caused by redevelopment, the California Legislature codified a right for low- and moderate-income families to return to low- and moderate-income housing units in the redeveloped project area as part of the Community Redevelopment Law (CRL) in 1951.⁶⁹ Cities have also developed their own eligibility programs for providing displaced persons and businesses preference in rental housing, home ownership, and business opportunities at the redeveloped sites.⁷⁰

The Task Force recommends the Legislature enact measures to support a right to return for those displaced by agency action, restrictive covenants, and racial terror that drove African Americans from their homes as described in Chapter 3. The right to return should give the victims of these purges and their descendants preference in renting or owning property in the area of redevelopment. The right to return should extend to all agency-assisted housing and business opportunities in the redevelopment project area.⁷¹

The Task Force also recommends the Legislature gives preference in rental housing, home ownership, and business opportunities for those who were displaced or excluded from renting or owning property in agency-assisted housing and business opportunities developed in or adjacent to communities formerly covered by restrictive covenants. This preference extends to all agency-assisted housing and business opportunities in the redevelopment project area formerly covered by a restrictive covenant. This preference should extend to the families and descendants of persons displaced by agency-assisted redevelopment.

⁶⁵ Chapter 5, Housing Segregation, *supra*,) at pp. 173-176.

⁶⁶ Reft, [How Prop 14 Shaped California's Racial Covenants](#) (Sept. 20, 2017), KCET (as of Feb. 8, 2023).

⁶⁷ Archer, *Reparations and the Right to Return* (2021) 45 N.Y.U. Rev. L. & Soc. Change 343, 356.

⁶⁸ Chapter 5, Housing Segregation, *supra*, at pp. 190-191.

⁶⁹ Health and Saf. Code, §§ 33411.3, 34178.8. Initially, the CRL authorized the establishment of redevelopment agencies in communities to conduct urban renewal projects, but the Legislature dissolved those redevelopment agencies in February 2012. Current law allows dissolved redevelopment agencies to create successor housing entities to perform certain specified functions. The right to return for low- and moderate-income residents remains the same. Health and Saf. Code, § 34178.8.

⁷⁰ See e.g., City and County of San Francisco, [Learn about the Certificate of Preference \(COP\)](#) (Dec. 21, 2022) (as of Feb. 8, 2023); City of Portland, Oregon, [Preference Policy](#), N/NE Neighborhood Housing Strategy (as of Feb. 8, 2023).

⁷¹ As used here, agency-assisted housing and business opportunities are created, controlled, operated, or at least partially funded through a local or state public entity's actions, subsidies, and/or abatements.