Public Advocates Responds to the COVID-19 Crisis

The COVID-19 pandemic has laid bare the structural inequities in our current housing, transportation, and healthcare systems. And it has made clear that no matter what we look like, where we live, or what's in our wallets, our health and security depend on the health and security of our neighbors. Tens of millions of Americans now find themselves struggling to balance caring for themselves, their families, and their communities while keeping a roof over their heads — or finding one. We need to pull together, as we have in past crises, to weather this storm. Over the past few weeks, Public Advocates’ Metropolitan Equity Team has quickly pivoted to lift up solutions emerging from low-income communities of color to protect vulnerable residents in California and nationally, fighting for basic protections for struggling renters, homeowners, and the unhoused.

● As millions of workers lose their jobs or need to take time off to care for family members, low-income families and people of color across the state are at imminent risk of being evicted by their landlords or foreclosed upon by banks because they cannot pay rent or make mortgage payments. With our partners in the HousingNow! coalition we sent a letter to Governor Newsom on March 20, signed by more than 140 organizations calling for:
  – No rent increases, evictions, foreclosures or sheriffs’ lockouts statewide,
  – A moratorium on encampment sweeps,
  – Rental and mortgage assistance,
  – Suspension of rents and mortgage payments, and
  – A prohibition on utility shut-offs and rate increases.

We put out a call for emails to the Governor in support of these priorities. Coverage of this advocacy, quoting Policy Advocate Michelle Pariset, appeared in the San Francisco Business Times.
• We also worked with HousingNow! on a letter from more than 90 groups to Speaker Pelosi and the California Congressional delegation on March 21 requesting $70 billion from the federal stimulus package for deeply affordable housing and immediate shelter, including funding for the 3Ps — tenant protections, housing preservation through purchase and community ownership, and housing production for lower-income households who are struggling the most.

• With 45 legal services and housing advocacy groups we called on the Chief Justice of the California Supreme Court to suspend eviction proceedings statewide, including the cancellation of scheduled hearings for unlawful detainer cases, and followed this with a letter on April 5 urging the Judicial Council to adopt proposed rules on this topic. On April 6, the Council took strong action — effectively ceasing most eviction and foreclosure actions until 90 days after the current state of emergency concludes. Nonetheless, more work is needed (such as cancellation of back rent) to ensure that renters are not hit by a tidal wave of evictions once the moratorium ends, but this important action will keep families from being thrown into the streets amidst a stay-at-home order.

• As ridership plummets, our public transportation systems are struggling to maintain basic levels of service to ensure people can safely get to grocery stores, pharmacies, and hospitals. This could endanger the fiscal well-being of public transportation agencies well beyond the acute phase of the COVID-19 crisis. On March 18, we joined transit agencies and workers, equity advocates, and rider unions from across the country in a letter to Congress calling for immediate financial assistance to ensure the continuation of safe and reliable transit service, which low-income people, communities of color, the disabled, seniors, and youth depend on, now and in the aftermath of the immediate crisis. In response, Congress appropriated $25 billion for emergency transit needs, including safety measures, in the CARES Act. This funding, for the first time since Public Advocates began pressing for federal operating support for transit in 2009, is prioritized and 100% eligible for operating needs. (See Managing Attorney Richard Marcantonio’s 2014 blog “Reframing the Debate: Making the Case to Fund Transit Service.”)

• We joined our transit equity allies in calling on Governor Newsom and the Legislature to subsidize fare-free service, which a growing number of transit systems are implementing as an emergency measure to ensure passengers and drivers can practice social distancing (fareboxes are often at the front of the bus, and boarding is now taking place only at the rear). This also ensures that frontline workers who rely on public transit to get to work, as well as unemployed transit riders, can meet their essential mobility needs.
We have collaborated on a series of fact sheets on legal options for renters and to support efforts to secure eviction moratoriums in cities (we have omitted links to materials that are now being updated due to the fast-changing legal landscape):

We have supported local renter groups in Concord, including co-signing a letter to city council asking for an eviction moratorium and providing legal analysis of proposed city action to our community partners.

In the past few weeks, the Alliance for Housing Justice (AHJ), a collaboration of Public Advocates, Lawyer’s Committee for Civil Rights Under Law, Poverty & Race Research Action Council, Right to the City Alliance, and PolicyLink, has undertaken a range of rapid response actions, including:

- Issuing a statement endorsed by 25 grassroots organizations and networks throughout the US calling for immediate action to protect the 500,000 Americans who sleep in the streets on any given night;
- Sending a sign-on letter to all members of Congress calling for a moratorium on evictions; a national mortgage and rent holiday for the duration of the crisis; a $200 billion Housing Security Fund; and a just, green post-crisis transition. (The letter is mentioned in coverage at Axios.); and
- Hosting a webinar with Movement Law Lab and the National Housing Law Project where more than 80 organizers and lawyers assessed the immediate legal needs around housing.

Victory in San José Surplus Land Case

In 2016, the City of San José enacted a policy to spur development of mostly high-rise luxury housing or office space on public land that failed to comply with the Surplus Land Act (SLA), contending that as a charter city it was exempt from the law. There are 121 charter cities in California representing nearly half of the state’s population. If left unchallenged, San José’s actions would have severely undermined development of affordable housing throughout the state. We joined Bay Area Legal Aid, the Public Interest Law Project, and Weil, Gotshal & Manges LLP in a lawsuit challenging the city’s action. Last November a three-judge panel of the Sixth District Court of Appeal agreed with our arguments and ruled against the city.

On March 11, the California Supreme Court denied San José’s request for review, letting stand the Court of Appeal ruling — and ensuring that California’s charter cities comply with the SLA. As Managing Attorney Sam Tepperman-Gelfant notes, “The justices recognized that ‘public land for public good’ isn't just a slogan — it's the law of the land in California.
Every city can and must prioritize its surplus land for homes affordable to lower-income families.”

See the San Diego Union Tribune editorial on the broad impact of the case and coverage at SFGate, Courthouse News Service, Bisnow, and CBS Bay Area.

The Legislature and COVID-19

As of this writing, the California Legislature is recessed until May 4, with future activity uncertain. If bills move forward, they will be severely limited in number. Although it is constitutionally required for the budget to pass by June 15, it is unclear how the Legislature plans to convene to accomplish it.

In a letter sent on March 30, Assembly Budget Chair Ting told members that they should lower their expectations for the 2020 budget as state revenues will be drastically reduced, and what funds the state does have will be prioritized for COVID response and rebuilding California once the crisis has passed.

Michelle was recently quoted in a Washington Post article on the continued construction of luxury housing in the midst of the COVID-19 pandemic and by San Francisco Public Press on the uncertainties facing both tenants and small landlords and the limitations of Governor Newsom’s eviction moratorium.

Alliance for Housing Justice Fights HUD’s Latest Attack on Fair Housing

Even before the current COVID-19 pandemic, the nation was experiencing an affordable housing crisis. But rather than attack the causes of segregation, displacement, and profiteering, HUD seems determined to reinforce them.

In January, HUD published another proposed rule that would, if adopted, dramatically roll back rule the Affirmatively Further Fair Housing (AFFH) rule, which requires certain local jurisdictions to identify obstacles to fair housing choice and take meaningful actions to address them, while also attacking regulations that keep housing affordable and keep our communities and families safe. As Sam told the Herald Tribune, “The proposal would further an already devastating affordable housing crisis caused by policies that put the profits of developers, speculators and billionaires over our right to have a place to call home.”

In the led up to the 60-day comment period, AHJ produced two animated videos to educate and move to action — “Opposite Land: Let’s Not Live There—Leave AFFH Alone”
and “Understanding Affirmatively Furthering Fair Housing” — which were posted on dozens of websites and platforms and viewed more than a million times during the campaign. We also developed a landing page with an automated commenting portal in English and Spanish; bilingual fact sheets and blogs; social media and ad content; graphics; and an aggressive communications and advertising campaign across multiple platforms. Our campaign generated more than 1,700 individual comments submitted on the rule, and over 1.7 million impressions on social media for all of our materials.

This work built on the mobilizing and communications efforts of AHJ last summer to oppose the Trump administration’s proposal to dismantle the Disparate Impact Standard, one of the most powerful legal tools we have for enforcing the Fair Housing Act. We produced a video explainer that was shared and re-posted by dozens of allies. The video directly connected viewers to the impact of HUD’s harmful proposal and was instrumental in our campaign to oppose it, which generated 5,000 comments submitted to the Federal Register from all 50 states and the District of Columbia, of which nearly a third were generated by the Alliance for Housing Justice.

Alliance for Housing Justice Releases National Housing Justice Platform

In early March, the Alliance for Housing Justice (AHJ) hosted a national convening in Washington, DC, bringing together more than 80 grassroots renter leaders and organizers from twenty states to strengthen relationships, share tactics and strategies, build alignment, and strategize for the future. The unity generated at the convening has fueled AHJ’s rapid response to COVID-19 developments outlined above.

During the convening, AHJ released the Housing Justice National Platform at a rally at HUD headquarters. The Platform is the result of extensive dialogue and consensus-building among grassroots networks and affiliates convened by AHJ. It is a synthesis of values, principles, and demands generated from directly impacted low-income people. The Platform calls for affordable, community-controlled social housing; protection for renters and mortgage holders from displacement; reparations for racist housing and land policies and seizures; strengthening and enforcing fair housing law; decommodification of housing and regulation of Wall Street landlords; and investments to ensure that homes and neighborhoods are healthy and safe. It has already been endorsed by more than 100 national, state, and local groups. The Platform will be used to recruit more tenants and community members to the housing justice movement, evaluate legislative and policy proposals in the next election cycle, and foster alignment among local, state, and national campaigns to address the nation’s housing and health equity crisis.
As Project Director Liz Ryan Murray told Bisnow, “What’s unique about this platform is not even the boldness of the solutions — and they are bold solutions — it’s that they come directly from the people that are most impacted by this crisis.” A recent Mercury News article also quotes Liz on Democratic presidential candidates’ housing plans.

Enforcing the Surplus Land Act—Updates from the Frontlines

The Anderson v. San José case is just one of the ways Public Advocates is upholding the Surplus Land Act (SLA). In Oakland, Staff Attorney Ruby Acevedo has been supporting the Citywide Anti-Displacement Network in advancing a community-centered public land policy that exceeds the baseline requirements of the SLA. Meanwhile, Oakland is developing a Public Land Vision Plan with plans for 13 specific public parcels. We are working closely with the City and serving as a liaison to the Anti-Displacement Network to ensure that the city prioritizes affordable housing at all sites and follows the requirements of the SLA.

In Concord, Ruby and Law Fellow Shajuti Hossain have drafted four letters (in November and December, February, and March) in collaboration with PolicyLink Legal, on behalf of the Community Coalition for a Sustainable Concord and East Bay Housing Organizations, opposing the city’s attempts to circumvent the SLA and demanding greater transparency and community engagement. In December, we led two strategy sessions with PolicyLink, East Bay Housing Organizations, and our community partner, Monument Impact, where we provided an overview of legal and political advocacy opportunities to advance community priorities in the development of two major parcels of public land. On March 3, we joined our partners in demanding that the city comply with the SLA at a Concord City Council meeting.

On a related front, Public Advocates is continuing our longstanding work with the Community Coalition for a Sustainable Concord, convened by East Bay Housing Organizations. The Community Coalition is in negotiations with the City of Concord and the developer over plans for the Concord Naval Weapons Station site. The Coalition’s previous advocacy, in which Public Advocates played a central role, resulted in a 2012 commitment to 25% lower-income housing in this massive 12,000-unit development. We are now working to protect and implement that victory, and to expand on it by adding workforce provisions to the build-out of the site and ensuring the city complies with the Surplus Land Act. In March, the city upheld the master plan’s affordable housing requirements. Unfortunately, due to labor disputes, the master developer for the project appears to have pulled out, leaving the near-term future of the project uncertain.
Coverage of the ongoing negotiations has appeared in the San Francisco Business Times and the Mercury News.

### They Want Home Runs, We Want More Homes

Public Advocates is providing legal and strategic support to the Oakland United Coalition, which is seeking a community benefits agreement with developers proposing to build a $500 million ballpark complex (along with luxury housing, hotels, and restaurants) on public land in West Oakland and planning to redevelop the existing Oakland Alameda Coliseum Complex in East Oakland. The Coalition’s goal is to ensure that any project that comes into Oakland includes an equitable position of affordable housing, displacement protections for current residents, and living wage jobs, as well as community oversight and enforcement.

In February, after the city of Oakland released a notice of availability for two large public land parcels at the old Coliseum site, Ruby helped our partner, East Bay Housing Organizations, and affordable housing developers submit a letter of interest to the City of Oakland requesting it enter into good faith negotiations for the development of affordable housing on the parcels. This began the conversation about affordable housing with the city as they considered offers from large developers who want to build commercial offices and luxury housing.

### Preserving Affordable Housing with Tenant Opportunity to Purchase

Public Advocates is supporting a campaign in Oakland to preserve affordable housing by giving renters the first opportunity to purchase their home if their landlord decides to sell the property. The Moms 4 Housing Tenant Opportunity to Purchase and Community Ownership Act (TOPA), which will be introduced on April 25, 2020, would also allow renters to partner with nonprofit organizations and land trusts to buy their homes and preserve affordability. TOPA provides a powerful tool to fight back against the commodification of housing and landlord profiteering at the expense of vulnerable renters, and it is a vital step in stopping the displacement of Black families in Oakland. The Tenant Opportunity to Purchase Act is supported by Oakland’s Moms 4 Housing, Public Advocates, the Alliance of Californians for Community Empowerment, Asian Pacific Environmental Network, Causa Justa::Just Cause, Oakland Community Land Trust, Oakland Renters Union, and Urban Habitat working together as the Oakland Opportunity Coalition.
Regional Solutions for a Regional Crisis

The passage of AB 1487 last year authorized the creation of a Bay Area Housing Finance Authority (BAHFA), a new regional agency with the power to raise, administer, and allocate funding for affordable housing in the San Francisco Bay Area. BAHFA will also provide technical assistance for the development of tenant protections, affordable housing preservation, and affordable housing production policies — the “3Ps” framework that Public Advocates and our partners in the 6 Wins Network have advocated for.

After the passage of AB 1487, the bill’s co-sponsors, Enterprise Community Partners and Non-Profit Housing Association of Northern California (NPH), invited Richard and Shajuti to participate in their Technical Working Group, along with our partners, Urban Habitat and Western Center on Law and Poverty, as well as affordable housing developers, business interests, and staff of local government agencies.

Enterprise and NPH have also created an Outreach Working Group to coordinate with local elected officials on the potential measure. 6 Wins members on the Technical and Outreach Working Groups are advancing this work with an equity lens. Shajuti and Richard, along with other 6 Wins members and allies, have pushed the Technical Working Group to ensure that a commitment is in place to develop regional sources of funding for tenant protections in the coming year.

We will continue to press for that commitment, while also supporting a bond measure for the November 2020 ballot in order to ensure that public funding for affordable housing production and preservation is available as the economic crisis makes it less costly to acquire land and housing.

Voices for Public Transportation Campaign Builds Momentum

Our campaign to win a transformative Green New Deal for Public Transportation in the Bay Area continues to build momentum. On November 13, we held a second large meeting of our coalition, Voices for Public Transportation (VPT). More than 50 participants from dozens of community and labor organizations refined the campaign’s goals for a potential $50–100 billion regional transportation funding measure. We met again in February to develop priorities, which included a large share of funds earmarked for operating expanded service, and for reducing fares.

In December, Richard and other coalition leaders took the campaign’s priorities to Senator Jim Beall, chair of the Senate Transportation Committee. Senator Beall, who is sponsoring
the bill to authorize the regional ballot measure, expressed strong agreement with key VPT goals and priorities.

The authorizing legislation passed off of the Senate floor in late January but included only shell language. Plans to write substantive provisions in the Assembly have stalled as a result of the COVID-19 pandemic. The Voices core team, which Public Advocates helps lead, is pivoting to other important advocacy relating to transit, including watchdogging the unprecedented $25 billion in emergency transit operating and safety funding in the CARES Act, of which $1.3 billion will come to the Bay Area. Meanwhile, our latest coalition endorsement comes from the executive board of the Alameda Labor Council, and we presented to the Contra Costa Central Labor Council, which is considering joining the coalition, as well. In March we helped launch Mobilize the Bay, an online campaign to gather endorsements for the Visions and Principles developed by Voices for Public Transportation.

**Breaking Down Barriers to Housing Opportunity**

Over the next two years the Association of Bay Area Governments (ABAG) will be undertaking a little known but critically important planning process to determine how and where the Bay Area plans for housing growth over the next decade. The Regional Housing Needs Allocation (RHNA) process identifies projected housing needs at different income levels on a regional basis and assigns a share of those needs to each city and county in the region. In 2018 we won new fair housing requirements for the RHNA with the passage of AB 1771, which we helped draft. It requires the RHNA to Affirmatively Further Fair Housing by increasing access for people of color and immigrants to high opportunity areas. Shajuti has been coordinating a RHNA Equity Working Group, which includes 6 Wins members and allies, to ensure that high-resource suburbs take on a fair share of growth and welcome affordable housing. The Working Group is developing strategies to advance equity through ABAG’s Housing Methodology Committee, proposing metrics to ensure that the RHNA affirmatively furthers fair housing, and engaging with ABAG staff.

The RHNA process will lead to every city and county in the region updating its General Plan Housing Element. A bill we sponsored, AB 686, now requires all Housing Elements to Affirmatively Further Fair Housing.
Advancing Fair Housing in California

While HUD is in the process of gutting the federal Affirmatively Further Fair Housing rule (see above), we’re pressing forward on the implementation of AB 686, a bill we co-sponsored that embeds — and strengthens — the AFFH rule in California law.

In January, Managing Attorney Sam Tepperman-Gelfant, who helped draft the bill, spoke at a conference at the Federal Reserve Bank of San Francisco hosted by the Bay Area Regional Health Inequities Initiative and Public Advocates. As Sam told the audience of government officials, legal experts, and community advocates, “Just failing to discriminate more is not enough.” AB 686 requires every city and county in California to take meaningful steps to ensure fair housing opportunities for all Californians, create affordable housing in every community, and make equitable investments in communities of color. It requires the same of every state agency, board, and commission in California that administers any program or activity relating to housing or community development. It explicitly addresses displacement as a fair housing issue. And it creates obligations that, under certain circumstances, can be enforced in court.

See coverage of the event by the Mercury News (which quotes Sam), Northern California Public Media, and SF Public Press.

Building Coalition Power & Advancing Equitable Housing Production Policies

On October 1, Public Advocates co-convened a second statewide meeting of community-based advocates on equitable housing production. More than 40 participants from 27 organizations around the state strengthened and developed our work advancing a state-level strategy for promoting housing production that benefits, and does not harm, low-income communities of color.

Public Advocates has been fostering collaboration and collective power building among equity groups around housing production for a number of years, and we are excited to see this work growing. One major product of this effort is AB 1279 (Bloom), a bill that Public Advocates is co-sponsoring to promote more mixed-income and affordable housing development in areas with wealth and other resources where low-income people have been denied an opportunity to live for generations. AB 1279 bill passed the Assembly last year and is currently before the Senate Housing Committee.

Our network of equity groups also engaged in the debate over SB 50, the measure introduced last year by Senator Scott Weiner to foster high density development on residential land near transit stops. Based on the idea that unleashing market forces will
solve the housing crisis, SB 50 raised serious concerns with dozens of our allies about the lack of adequate affordable housing requirements, lack of protections for vulnerable communities where the bill could spur gentrification and displacement, and other issues. Despite our efforts to engage in good-faith negotiations with the bill’s author over a 15 month period, our concerns were not addressed. In January, we joined 28 community-based and statewide organizations in taking an “opposed unless amended” position on the bill. At the end of January, the bill failed to pass out of the Appropriations Committee.

Following the committee vote, Public Advocates joined the Alliance for Community Transit-Los Angeles (ACT-LA), PolicyLink, Western Center on Law and Poverty, and the California Rural Legal Assistance Foundation in issuing a statement calling on elected officials to move beyond the false choice between protecting exclusionary zoning and embracing a trickle-down market-based model for dealing with the affordable housing crisis.

**California Green New Deal Coalition Moves Forward**

Last year, Public Advocates began working with the office of Assemblymember Rob Bonta in developing a roadmap for a Green New Deal in California. Following the excitement built at a convening in Oakland last September, where Richard presented, a platform working group was created, co-led by Richard and our long-time partner, Asian Pacific Environmental Network. The working group has developed a bold vision for a California Green New Deal intended to serve as a springboard for building a powerful statewide coalition of community and labor organizations. Richard has also helped anchor the Labor working group with support from the California Nurses Association, SEIU State Council, the California Federation of Teachers, and Unite Here, among others. Michelle has served on the Legislative working group and both she and Richard serve on the overall steering committee.

On January 6, the California Green New Deal Act (AB 1839) was introduced by Assemblymember Rob Bonta. See the press release issued by Assemblymember Bonta here, which quotes Richard. For media coverage see the articles at California Globe and East County Today, both of which quote Richard.

The coalition has discussed the relevance of the Green New Deal since the pandemic arose, and believes it is more important than ever, both as a source of immediate public actions to protect communities and workers from the virus and as a framework for the post-pandemic economic rebuilding that lies ahead.
Staff Updates

- We are proud to announce that Sam Tepperman-Gelfant, a 13-year veteran of Public Advocates, has been promoted to Managing Attorney. Sam will be spearheading Public Advocates’ housing, renters’ rights, and displacement work, partnering with grassroots groups local and across the state to build community power and advance economic and racial justice.

- Micah Clatterbaugh has joined Public Advocates as a staff attorney focusing on affirmative litigation to enforce renter rights. After several years of community organizing, professional culinary work, and legal advocacy for day laborers, Micah applied himself to becoming a “lawyer without law school.” In 2017, he completed a legal apprenticeship under the California State Bar’s Law Office Study Program while working full-time as a civil rights paralegal. He recently joined the board of directors for Esq. Apprentice, an Oakland-based nonprofit dedicated to supporting low-income women of color completing legal apprenticeships.

- We are excited to have extended Shajuti Hossain’s law fellowship through mid-2021. Since joining Public Advocates in September 2018, Shajuti has assumed leadership of key local and regional campaigns, including the implementation of new regional fair housing requirements and public land enforcement in Concord.

Metropolitan Equity Team Publications

- The 2018 report we co-authored with ACCE and Americans for Financial Reform, Wall Street Landlords Turn American Dream into a Nightmare, was cited in an article posted on TruthOut on New York Governor Andrew Cuomo’s appointment of a senior advisory director from the private equity giant Blackstone Group to oversee the rebuilding of the state’s economy in the wake of the COVID-19 epidemic. Our report called out Blackstone for rent-gouging, predatory fees, and aggressive eviction practices.

Metropolitan Equity Team Presentations

- On October 18, Sam presented on a panel with Sen. Scott Wiener at the California Lawyers Association Environmental Law Conference, where he discussed state preemption in housing policy and the importance of centering the voices and needs of low-income communities of color.

- On October 24, Sam assisted leaders from Genesis, the Bay Area affiliate of the Gamaliel Network, in developing a strategy to advocate for more affordable housing in the East
Bay suburbs and fight for stronger in lieu fees, which can be an important local funding source to build affordable housing.

- On November 4, **Public Advocates President & CEO Guillermo Mayer** spoke at a forum at the Commonwealth Club with Assemblymember David Chiu, Denise Pinkston, Gina Dalma from the Silicon Valley Community Foundation, and moderator Fred Blackwell, CEO of the San Francisco Foundation, where he discussed tenant rights, displacement, affordable housing, and homelessness prevention. The forum, which attracted a standing-room only crowd, can be viewed [here](#). It was broadcast on KQED Radio on February 26.

- On November 21, **Sam** presented on the Tenant Protection Act (AB 1482) to the Policy Working Group of the Partnership for the Bay’s Future, an influential body of business, development, nonprofit, and philanthropic leaders.

- On December 18, **Michelle** moderated a panel on 2019 housing and land use legislation at the Sacramento Housing Alliance Regional Housing Summit.

- On February 4, **Richard** spoke at a large Bay Area event organized as part of Transit Equity Day, a national collaborative effort to promote public transit as a civil right and combat climate change, about the Voices for Public Transportation campaign.

- On February 13, **Shajuti** gave a presentation on the federal Affirmatively Furthering Fair Housing rule at the Fair Housing for our Future conference in San Diego.

- On February 20, **Ruby** presented at the TOPA (Tenant Opportunity to Purchase Act) Forum put on by the Oakland Opportunity Coalition on the emerging Moms 4 Housing TOPA.

- On February 21, **Guillermo** received an award from the UC Hastings Public Interest Law Foundation at the Foundation’s gala.

- On March 11, **Shajuti** gave a training webinar for HousingNow! on the Bay Area Housing Finance Authority.