

Leveraging California’s Hospitals for Housing Preservation: Progress and Opportunities

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As part of their role as anchor institutions rooted in place, hospitals have invested in communities for decades. While past efforts have been piecemeal, hospitals are now driving strategies to finance, build, and preserve affordable housing. This article looks at why and how hospitals have contributed to housing preservation strategies in order to highlight new opportunities to address California’s worsening housing crisis.

Introduction.....	957
I. Background on Housing Preservation	959
A. Defining Housing Preservation.....	959
B. The Case for Housing Preservation	960
C. Housing Preservation in California.....	962
II. Hospitals Enter the Housing Game	964
A. From Anchor Institutions to Community Investors	964
B. Hospitals as Investors in Affordable Housing Financial Mechanisms	967
C. Hospitals as Investors in CLTs	968
D. Hospitals as Investors and Strategic Partners in Neighborhood Revitalization	970
III. Looking Ahead	971

INTRODUCTION

California’s extreme housing affordability crisis is undeniably nearing a breaking point. Low-income communities and communities of color are under threat more than ever as the nation reels from the continued social, economic,

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and health-related impacts of COVID-19 and the persistence of racial injustices. Approximately 43 percent of California renters were already experiencing rental cost burdens before COVID-19.¹ Pandemic-related income losses are expected to further intensify housing burdens.² New affordable housing construction has slowed in part due to dwindling funds for subsidized housing, which have either been cut entirely or redirected to provide rent relief.³ Furthermore, this economic downturn may exacerbate already vast affordable housing shortages across the state. Since 2008, an average of 80,000 homes are built in California each year, but this rate of construction falls well below the 180,000 new homes per year needed to keep up with projected economic growth.⁴ Furthermore, nearly half of low-income renters⁵ in California were already severely rent burdened before the pandemic: These renters put more than 50 percent of their incomes toward rent.⁶

Where does this leave California housing policy? In 2019, statewide affordable housing advocates helped pass ten bills⁷ to address the state's severe housing crisis. These bills focused on the "3 P's": *protecting* tenants from unlawful evictions, *preserving* existing affordable homes, and *producing* more market-rate and subsidized affordable homes. In addition to recent legislative wins that strengthened tenant protections⁸ and removed barriers to new affordable housing construction,⁹ California is also home to community-level experiments in housing preservation. These experiments include programs that

1. Elizabeth Kneebone & Cecile Murray, *Estimating COVID-19's Near-Term Impact on Renters*, TERNER CTR. FOR HOUS. INNOVATION (Apr. 24, 2020), <https://turnercenter.berkeley.edu/blog/estimating-covid-19-impact-renters>.

2. *Id.*

3. Patrick Sisson, *Covid-19 Is Killing Affordable Housing, Just as It's Needed Most*, BLOOMBERG CITYLAB (July 30, 2020, 8:54 AM), <https://www.bloomberg.com/news/articles/2020-07-30/the-u-s-affordable-housing-gap-is-getting-worse>.

4. CAL. DEP'T OF HOUS. AND CMTY. DEV., CALIFORNIA'S HOUSING FUTURE: CHALLENGES AND OPPORTUNITIES 1 (2018) [hereinafter CALIFORNIA'S HOUSING FUTURE].

5. "Low-income renters" refers to households that earn 80 percent or less of the area median income (AMI). See generally NAT'L MULTIFAMILY HOUS. COUNCIL & NAT'L APARTMENT ASS'N, HOW SUBSIDIZED RENTS ARE SET: AREA MEDIAN INCOMES AND FAIR MARKET RENTS, <https://www.nmhc.org/contentassets/0a91e23b99324a55ace1fc9b0e92fcdanmh-naa-briefing-how-subsidized-rents-set.pdf> (last visited Dec. 20, 2020).

6. CALIFORNIA'S HOUSING FUTURE, *supra* note 4, at 1.

7. See, e.g., A.B. 68, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (land use: accessory dwelling units); A.B. 881, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (accessory dwelling units); Tenant Protection Act of 2019, A.B. 1482, 2019-2020 Leg., Reg. Sess. (Cal. 2019); A.B. 1483, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (housing data: collection and reporting); A.B. 1485, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (housing development: streamlining); A.B. 1486, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (surplus land); San Francisco Bay Area Regional Housing Finance Act, A.B. 1487, 2019-2020 Leg., Reg. Sess. (Cal. 2019); S.B. 6, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (residential development: available land); Keep Californians Housed Act, S.B. 18, 2019-2020 Leg., Reg. Sess. (Cal. 2019); Housing Crisis Act of 2019, S.B. 330, 2019-2020 Leg., Reg. Sess. (Cal. 2019).

8. See, e.g., Cal. A.B. 1482 (preventing rent gouging and discriminatory or retaliatory evictions).

9. See, e.g., Cal. A.B. 68; Cal. A.B. 881; Cal. A.B. 1485; Cal. A.B. 1486; Cal. S.B. 330.

facilitate community control of land, support affordable homeownership, and allocate funds to ensure future affordable housing investment.

Hospitals have been a part of these local experiments, both within California and beyond, as part of their role as anchor institutions: This involvement of hospitals reflects a growing national movement of hospital-driven housing investments. In order to highlight new ways to address California's worsening housing crisis, this Article looks at why and how hospitals have participated in housing preservation strategies.

The Article proceeds in three Parts. Part I defines housing preservation and describes why it is important in the California context. Part II discusses why and how hospitals have entered the housing game, drawing upon examples in California and beyond. Part III provides key considerations for future housing preservation efforts in light of COVID-19.

I. BACKGROUND ON HOUSING PRESERVATION

A. *Defining Housing Preservation*

This article defines housing preservation as a policy, program, or initiative designed to stop displacement of low- to moderate-income residents by maintaining the affordability and physical integrity of existing rental housing.¹⁰ Housing preservation encompasses a wide range of strategies including, but not limited to, the following:

- *Land acquisition strategies for future affordable housing.* Community Land Trusts (CLTs) are the most common shared equity nonprofit entities for housing preservation. CLTs acquire and maintain land for long-term affordable housing and are funded by private donors, anchor institutions, and philanthropic organizations.¹¹ Land banks are similar but are publicly funded entities that enable local governments to aggregate land at a larger scale for future sale or development.¹²
- *Affordable homeownership programs and policies.* Limited Equity Cooperatives are organizational models that enable residents to purchase a share in a development (rather than an individual unit) and the cooperatives commit to resale restrictions to maintain the affordability of the homes over time.¹³ Tenant Opportunity to

10. See KAREN CHAPPLE & ANASTASIA LOUKAITOU-SIDERIS, TRANSIT-ORIENTED DISPLACEMENT OR COMMUNITY DIVIDENDS? UNDERSTANDING THE EFFECTS OF SMARTER GROWTH ON COMMUNITIES 243–66 (2019); Anna Cash & Paige Dow, *Paving the Way for Preservation*, URBAN DISPLACEMENT PROJECT: BLOG (Mar. 14, 2017), <https://www.urbandisplacement.org/blog/paving-way-preservation>.

11. MICHELA ZONTA, CTR. FOR AM. PROGRESS, COMMUNITY LAND TRUSTS: A PROMISING TOOL FOR EXPANDING AND PROTECTING AFFORDABLE HOUSING 5–6 (2016).

12. See JARRID GREEN & THOMAS M. HANNA, DEMOCRACY COLLABORATIVE, COMMUNITY CONTROL OF LAND AND HOUSING: EXPLORING STRATEGIES FOR COMBATING DISPLACEMENT, EXPANDING OWNERSHIP, AND BUILDING COMMUNITY WEALTH 83–87 (2018).

13. See *id.* at 39–44.

Purchase policies are a type of restriction on condominium conversions that provide tenants living in multifamily buildings the first opportunity to collectively purchase the building in which they are renting if their landlord decides to sell.¹⁴

- *Financial mechanisms to support acquisition, rehabilitation, and new construction.* Housing Trust Funds are public funds typically created and allocated by city, county, or state governments to finance affordable housing.¹⁵ In order to establish long-term affordability and tenant cost-savings, federal- and city-administered acquisition and rehabilitation programs provide loans to nonprofit organizations. These nonprofits purchase and rehabilitate housing developments with energy-efficient upgrades and structural repairs.

Access to capital is an ongoing impediment to these housing preservation strategies. Dwindling federal subsidies for affordable housing combined with the prohibitive cost of land have impeded the scalability of CLTs,¹⁶ as well as local acquisition and rehabilitation programs.¹⁷ State and local housing trust funds often rely on fees and taxes generated from new development.¹⁸ Because these funding sources can ebb and flow over time, housing trust funds require new and diverse funding sources.¹⁹ Thus, new partnership structures and investment models play important roles in promoting housing preservation.

B. *The Case for Housing Preservation*

Housing preservation is critically important for California given the vast shortage of affordable housing stock, which is exacerbated by continued loss of both subsidized and unsubsidized rental units.²⁰ As of 2018, California had a shortage of 1.5 million rental homes affordable to extremely low-income²¹ and

14. Aaron O'Toole & Benita Jones, *Tenant Purchase Laws as a Tool for Affordable Housing Preservation: The D.C. Experience*, 18 J. AFFORDABLE HOU. & CMTY. DEV. L. 367, 367–88 (2009).

15. CHANGE LAB SOLUTIONS, PRESERVING, PROTECTING, AND EXPANDING AFFORDABLE HOUSING: A POLICY TOOLKIT FOR PUBLIC HEALTH 41 (2015).

16. ZONTA, *supra* note 11, at 11.

17. Mark Trekson & Sara McTarnaghan, *Anatomy of a Preservation Deal: Innovations in Preserving Affordable Housing from around the United States*, URBAN INST. (Aug. 25, 2016), <https://www.urban.org/research/publication/anatomy-preservation-deal-innovations-preserving-affordable-housing-around-united-states>.

18. See CHANGE LAB SOLUTIONS, *supra* note 15, at 16, 41.

19. *Id.* at 41.

20. *What Is Preservation?*, NAT'L HOUS. TRUST, <https://www.nationalhousingtrust.org/what-preservation> (last visited Dec. 20, 2020).

21. "Extremely low-income" refers to households earning 0-30 percent of Area Median Income (AMI). AMI refers to the midpoint of all incomes in a given metropolitan area or metropolitan county. Any household income at or below 80 percent of AMI is considered low-income. AMIs are calculated annually by the U.S. Department of Housing and Urban Development and are used to determine eligibility for affordable housing. See generally NAT'L MULTIFAMILY HOUS. COUNCIL & NAT'L APARTMENT ASS'N, *supra* note 5.

very low-income²² households.²³ Additionally, between 1997 and 2019, California lost 15,004 affordable rental homes receiving federal subsidies or tax credits due to landlord decisions to exit government subsidy programs or convert units to market rates.²⁴ Another 31,821 affordable rental units are at risk of market-rate conversion over the next decade.²⁵ While subsidized affordable housing units are essential for long-term housing stability, the vast majority of affordable housing renters live in unsubsidized²⁶ affordable housing units in older, privately owned multifamily housing stock.²⁷ Just 25 percent of income-eligible households receive federal housing aid.²⁸ As these federal subsidies expire, existing affordable housing increasingly comes under threat, which underscores the need for comprehensive housing preservation efforts.²⁹

Evidence of the economic and social benefits of housing preservation continues to grow. According to the U.S. Department of Housing and Urban Development, preservation of existing affordable housing costs one-half to two-thirds as much as new construction.³⁰ While housing preservation may not achieve the same numbers of affordable units as new construction, it can be a cost-effective interim strategy to stabilize existing housing while new affordable housing is built.³¹ Furthermore, housing preservation promotes long-term housing stability,³² which has been associated with improved health outcomes among certain populations³³ and cost-savings for hospitals due to fewer hospitalizations.³⁴

More research needs to be done on the benefits and limitations of specific housing preservation strategies. However, preliminary research shows promising results for low-income communities and communities of color. For example,

22. “Very low-income” refers to households earning 31-50 percent AMI. *See generally id.*

23. CALIFORNIA'S HOUSING FUTURE, *supra* note 4, at 29.

24. CAL. HOUS. P'SHIP, AFFORDABLE HOMES AT RISK 2 (Feb. 2020), <http://chpc.net/resources/affordable-homes-at-risk-2020-report-california/>.

25. *Id.* at 3.

26. As of 2018, 12 million unsubsidized affordable units exist across the country and 100,000 units are converted to high-end rentals annually. MAYA SARAF, 'NATURALLY OCCURRING AFFORDABLE HOUSING' IS DISAPPEARING (UCLA Affordable Housing Policy Brief, 2019).

27. *Preserving Affordable Rental Housing: A Snapshot of Growing Need, Current Threats, and Innovative Solutions*, U.S. DEP'T OF HOUS. & URBAN DEV.: EVIDENCE MATTERS (2013), <https://www.huduser.gov/portal/periodicals/em/summer13/highlight1.html> [hereinafter *Preserving Affordable Rental Housing*].

28. NAT'L HOUS. TRUST, *supra* note 20.

29. For example, under the federal Low-Income Housing Tax Credits program, owners agree to maintain affordable rents for thirty years in exchange for tax credits to build affordable housing.

30. *Preserving Affordable Rental Housing*, *supra* note 27.

31. CHAPPLE & LOUKAITOU-SIDERIS, *supra* note 10, at 243–66.

32. *Affordable Rental Housing Preservation: The Basics*, NAT'L HOUS. CONF., <https://nhc.org/policy-guide/affordable-rental-housing-preservation-the-basics/> (last visited Dec. 20, 2020).

33. Sungwoo Lim et al., *Impact of a New York City Supportive Housing Program on Housing Stability and Preventable Health Care among Homeless Families*, 53 HEALTH SERVS. RSCH. 3437, 3437–54 (2018).

34. *See generally* CORP. FOR SUPPORTIVE HOUS., HOUSING IS THE BEST MEDICINE: SUPPORTIVE HOUSING AND THE SOCIAL DETERMINANTS OF HEALTH (2014).

long-standing CLTs, such as the Dudley Street Neighborhood Initiative based in Roxbury, Massachusetts, have successfully preserved long-term housing affordability.³⁵ Additionally, an initial evaluation of San Francisco's Small Sites acquisition and rehabilitation program found that while it has successfully counteracted evictions among Latinx populations in the city's Mission District, its impacts on vulnerable Black and Asian populations are largely unknown.³⁶

Though more evaluation should be done, existing evidence suggests the clear role of housing preservation and new construction to address the lack of affordability at the core of California's housing crisis.

C. Housing Preservation in California

In California, housing preservation strategies must be evaluated within the context of the state's severe housing affordability problem. Present rates of new construction have failed to keep up with regional job growth, leading to a vast undersupply of housing across incomes.³⁷ This shortage contributes to high land costs and rising rents.³⁸ Since 2017, the state has had a backlog of 2.3 million housing units, with most cities falling short of meeting their regional housing needs targets.³⁹ Around 111,000 residential permits were issued in 2019, down 5.6 percent from 2018.⁴⁰ Otherwise affordable neighborhoods are already heavily developed, which often leaves little to no room for new housing production.⁴¹ Finally, California is one of the most expensive places to live in the United States. In 2013, average monthly rent in California was \$1,240, which is 50 percent higher than in the rest of the country.⁴² Over half of California residents are cost burdened, spending more than 30 percent of their total household income on housing, compared to 28 percent nationwide.⁴³

Housing preservation strategies have been part of the response to the housing crisis.⁴⁴ California has a long history of CLTs, land banks, and pilot

35. See generally May Louie, *Community Land Trusts: A Powerful Vehicle for Development without Displacement*, 23 TROTTER R., no. 1, 2016.

36. LAUREL ENGBRETSON, SAN FRANCISCO HOUSING ACCELERATOR FUND, THE IMPACT OF SMALL SITES ON DISPLACEMENT IN SAN FRANCISCO: AN IMPACT EVALUATION FRAMEWORK FOR THE SAN FRANCISCO HOUSING ACCELERATOR FUND, at iii (May 1, 2018).

37. BEACON ECONOMICS ET AL., CURRENT STATE OF THE CALIFORNIA HOUSING MARKET: A COMPARATIVE ANALYSIS (2019), <https://next10.org/sites/default/files/California-Housing.pdf>.

38. HANS JOHNSON ET AL., PUB. POL'Y INST. OF CAL., CALIFORNIA'S FUTURE: HOUSING (2020), <https://www.ppic.org/wp-content/uploads/californias-future-housing-january-2020.pdf>.

39. BEACON ECONOMICS ET AL., *supra* note 38.

40. *Construction Permits*, Cal. Dep't of Fin., http://www.dof.ca.gov/Forecasting/Economics/Indicators/Construction_Permits/ (last visited Dec. 20, 2020) (linking to state-created excel sheets containing permit statistics).

41. See CHAPPLE & LOUKAITOU-SIDERIS, *supra* note 10, at 243–66.

42. LEGISLATIVE ANALYST'S OFFICE, CALIFORNIA'S HIGH HOUSING COSTS: CAUSES AND CONSEQUENCES (2015), <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>.

43. JOHNSON ET AL., *supra* note 38.

44. Local and state policy makers have attempted to address the crisis for decades through inclusionary zoning, rent control, and Just Cause statutes, among other policies to promote housing affordability and stability. See *How to Stop Displacement: What Are Jurisdictions in the Bay Area Doing*

programs that support long-term affordable housing development. There are twenty-five organizations operating CLTs across the state (including some of the oldest in the nation), representing over \$220 million in community assets statewide.⁴⁵ The California Department of Housing and Community Development established among the first state Housing Trust Funds in 1985.⁴⁶ As of 2007, there were twenty-one city-administered Housing Trust Funds across the state.⁴⁷ Following the course of Washington D.C.,⁴⁸ Berkeley introduced a Tenant Opportunity to Purchase ordinance in 2020, which is expected to pass in mid-2021.⁴⁹

San Francisco and Oakland also followed the course of Washington, D.C.⁵⁰ by establishing one of the only city-administered acquisition and rehabilitation programs in the country. Created in 2014, San Francisco's Small Sites Program (SSP) provides loans for nonprofits to buy buildings in order to create permanently affordable housing and prevent evictions.⁵¹ Established in 2017 and modeled after the SSP, Oakland's sister program awards multifamily-housing developers up to \$500,000 to acquire and rehabilitate affordable housing with an emphasis on preserving unsubsidized units.⁵²

Housing preservation has not been prioritized as much as new housing construction in state legislation. However, local strategies are governed by several foundational laws. Enacted in 1987, the State Preservation Notice Law⁵³ gives tenants appropriate notice of potential rent increases and provides local governments and potential buyers with opportunities to preserve the long-term

to Address the Displacement of Low-Income Families?, URBAN DISPLACEMENT PROJECT, <https://www.urbandisplacement.org/policy-tools/bay-area> (last visited Dec. 20, 2020).

45. Home, CAL. CMTY. LAND TRUST, <https://www.cacltnetwork.org/> (last visited Dec 20, 2020).

46. MARY E. BROOKS, CTR. FOR CMTY. CHANGE, HOUSING TRUST FUND PROGRESS REPORT 2007 (2007), <http://housingtrustfundproject.org/wp-content/uploads/2011/10/2007-Housing-Trust-Fund-Progress-Report-2.pdf>.

47. *Id.* at 18.

48. Washington, D.C. passed the nation's first Tenant Opportunity to Purchase ordinance (the Tenant Opportunity to Purchase Act) in 1980. The ordinance gives tenants first right of refusal to purchase their buildings. See OFFICE OF THE TENANT ADVOCATE, TENANT OPPORTUNITY TO PURCHASE ACT (TOPA), <https://ota.dc.gov/page/tenant-opportunity-purchase-act-topa> (last visited Apr. 12, 2021).

49. See BERKELEY TENANT OPPORTUNITY TO PURCHASE ACT: UPDATE TO CITY COUNCIL LAND USE COMMITTEE (Mar. 18, 2021), https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/TOPA%20Committee%20Update%203-18-21.pdf; MAYOR JESSE ARREGUÍN, BERKELEY MAYOR INTRODUCES INNOVATIVE FIRST IN STATE HOUSING POLICY (Mar. 11, 2020), <https://www.jessearreguin.com/press-releases/2020/3/11/berkeley-mayor-introduces-innovative-first-in-state-housing-policy>.

50. *Small Building Program*, DEP'T OF HOUS. & CMTY. DEV., <https://dhcd.dc.gov/page/small-building-program> (last visited Dec. 20, 2020).

51. Engbretson, *supra* note 36, at 2.

52. CITY OF OAKLAND, GUIDELINES FOR SITE ACQUISITION, REHABILITATION AND NATURALLY OCCURRING AFFORDABLE HOUSING (NOAH) PRESERVATION PROGRAM 2 (2019), <https://www.oaklandca.gov/topics/affordable-housing-acquisition-rehabilitation-and-naturally-occurring-affordable-housing-noah-preservation-program>.

53. Cal. Gov't Code §§ 65863.10–65863.13 (West 2020).

affordability of their properties.⁵⁴ Enacted in 2017, Assembly Bill (A.B.) 1521 strengthened the State Preservation Notice Law by requiring additional notice of rental restriction expirations. This law also required that affordable rental property owners accept market-rate purchase offers from qualified preservation buyers that would maintain affordability restrictions.⁵⁵

In 2019, statewide housing coalitions helped steward a more aggressive state legislative approach by enabling the passage of ten bills aiming to address the “3 P’s” of housing policy: *protect* families from displacement, *preserve* existing affordable housing, and *produce* more affordable and market-rate housing.⁵⁶ Most of these legislative wins concerned strengthening tenant protections⁵⁷ and removing barriers to housing production,⁵⁸ with little emphasis on preservation, despite the “3 P” goals. None of these bills focused on housing preservation exclusively.⁵⁹ Enacted in 2019 (parallel to but not as part of the “3 P’s” legislative package), Senate Bill 196 aimed to make CLTs more financially feasible by extending the tax exemption status of CLT properties until affordable homes are constructed and sold.⁶⁰

Both within and beyond California, housing preservation strategies involve coordination across a wide range of players including policy makers, community-based nonprofits, government agencies, financial institutions, and, increasingly, hospitals. As described in Part II, California hospitals have entered the housing game to improve housing stability and, in turn, the health of their patients.

II. HOSPITALS ENTER THE HOUSING GAME

A. From Anchor Institutions to Community Investors

Historically, hospitals have invested little in revitalization efforts that serve low-income communities and communities of color.⁶¹ When hospitals have

54. Made permanent in 2011, the State Preservation Notice Law expanded opportunities for preservation transfers by extending affordability for an additional thirty to fifty-five years. *See id.*

55. *A.B. 1521 (Bloom & Chiu) Preserving California’s Existing Stock of Affordable Rental Homes*, CAL. HOUS. P’SHIP (2017), <https://1p08d91kd0c03rlxhmhtydp-rwpengine.netdna-ssl.com/wp-content/uploads/2017/04/AB-1521-Fact-Sheet.pdf>.

56. *See A Housing Plan for CA*, 3PS COALITION, <https://www.3pshousingplan.org> (last visited Nov. 13, 2020).

57. *See, e.g.*, Tenant Protection Act of 2019, A.B. 1482, 2019-2020 Leg., Reg. Sess. (Cal. 2019) (preventing rent gouging and discriminatory or retaliatory evictions).

58. *See, e.g.*, Land Use Accessory Dwellings, A.B. 881, 2019-2020 Leg., Reg. Sess. (Cal. 2019); The Planning and Zoning Law, A.B. 1485, 2019-2020 Leg., Reg. Sess. (Cal. 2019); Surplus Land Act, A.B. 1486, 2019-2020 Leg., Reg. Sess. (Cal. 2019); Housing Crisis Act of 2019, S.B. 330, 2019-2020 Leg., Reg. Sess. (Cal. 2019).

59. *See* 3PS COALITION, *supra* note 56.

60. CAL. REV. & TAX. CODE §§ 75.11, 402.1, 532 (West 2020).

61. *See* Leora I. Horwitz et al., *Quantifying Health Systems’ Investment in Social Determinants of Health by Sector, 2017–19*, 39 HEALTH AFF. 192, 192-93 (2020) (referencing investments that address social determinants of health, defined as “the conditions in which people are born, grow, work, live and

invested in communities as part of their role as “anchor institutions,”⁶² the primary mechanism has been through “community benefits.”⁶³ In order to maintain their federal tax-exempt status with the Internal Revenue Service (IRS), hospitals must demonstrate how they are serving their local communities.⁶⁴ Community benefits are broadly defined but have typically included free and discounted care to uninsured and low-income patients as well as one-time grants for medical research and training for healthcare workers.⁶⁵ The Affordable Care Act (ACA) established additional requirements for community benefit reporting, mandating that hospitals conduct comprehensive assessments of local needs⁶⁶ and develop a plan for addressing them.⁶⁷ These assessments provide a basis for targeted community benefit investments by including comprehensive data on the broader social, economic, and health conditions of hospitals’ surrounding neighborhoods.⁶⁸

IRS tax exemption requirements and growing evidence regarding the health benefits and medical cost-savings associated with improved housing stability have spurred a national movement of hospital-driven housing investments.⁶⁹

age, and the wider set of forces and systems shaping the conditions of daily life”); *see also* Jonathon P. Leider et al., *Establishing a Baseline: Community Benefit Spending by Not-for-Profit Hospitals Prior to Implementation of the Affordable Care Act*, 23 J. PUB. HEALTH MGMT. & PRAC. e1, e2 (2017) (citing financial assistance and “charity care” as the primary source of community benefit spending by hospitals prior to the Affordable Care Act).

62. Anchor institutions are typically large nonprofits that serve as the economic engines for historically disenfranchised communities. *See* CHRIS SCHILDT & VICTOR RUBIN, POLICYLINK, LEVERAGING ANCHOR INSTITUTIONS FOR ECONOMIC INCLUSION 2 (2015). The large majority of anchor institutions in the United States are universities and nonprofit hospitals, which employ 8 percent of the nation’s workforce and hold hundreds of billions of dollars of pensions, endowments, physical assets, and tax-exempt real estate. *Id.*

63. *See, e.g.*, Leider, *supra* note 61.

64. *Id.*

65. *See* SCHILDT, *supra* note 62. Recently, Community Health Needs Assessments (CHNAs) have broadly focused on the social determinants of health: in particular, housing instability, food security, and intergenerational poverty. *See Jargon Buster*, BUILD HEALTHY PLACES NETWORK, <https://www.buildhealthyplaces.org/jargon-buster/#> (click on “Community Health Needs Assessment (CHNA)”) (last visited Nov. 14, 2020).

66. These CHNAs must be conducted every three years to meet ACA requirements. Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 9007 (codified at 26 U.S.C. § 501(r)(3)(A) (2018)).

67. *Id.* These implementation plans are known as Community Health Improvement Plans (CHIPs). *Community Health Assessments & Health Improvement Plans*, CTR. FOR DISEASE CONTROL, <https://www.cdc.gov/publichealthgateway/cha/plan.html> (last visited Nov. 14, 2020).

68. Sara Rosenbaum & Ross Margules, *Tax-Exempt Hospitals and the Patient Protection and Affordable Care Act: Implications for Public Health Policy and Practice*, 126 PUB. HEALTH REP. 283, 284–85 (2011).

69. *See generally* KATHRYN REYNOLDS ET AL., URBAN INST., AFFORDABLE HOUSING INVESTMENT: A GUIDE FOR NONPROFIT HOSPITALS AND HEALTH SYSTEMS (2019) (describing the landscape of research supporting the relationship between housing investment and health outcomes and providing a guide for nonprofit hospitals for this type of investment); *see also* Robin Hacke & Alyia Gaskins, *Community Benefit—Making the Most of Community Benefit Dollars*, 99 HEALTH PROGRESS 73 (2018) (discussing the “unconventional ways” that health care organizations have recently been investing in communities to “improve the social, economic and environmental conditions that influence health”).

Between 2017 and 2019, more than 900 hospitals committed over \$2.5 billion collectively in nonmedical community investments.⁷⁰ Around \$1.6 billion of this total investment went toward the construction of supportive housing for the homeless and towards mortgage assistance programs, eviction prevention, and housing stabilization programs for low-income individuals.⁷¹ Hospitals are also collaborating across sectors to invest in community infrastructure, such as neighborhood clinics, grocery stores, and recreation centers.⁷²

Despite this progress, recent research suggests that the vast majority of hospitals in the United States are insufficiently leveraging their assets to support long-term investments such as affordable housing. In a national survey of forty-five hospitals, more than half reported addressing their patients' housing needs but only at modest levels; among hospitals that did fund affordable housing, one-third invested \$250,000 or less.⁷³ Surveyed hospitals perceived housing investments as risky and staff-intensive but were still interested in learning more about CLTs and real estate investment trusts.⁷⁴

Growing evidence supports the economic, political, and reputational benefits of hospital-driven investments in housing; this includes reduced employee turnover as well as stronger relationships between hospitals and communities.⁷⁵ Emerging shared-investment strategies—such as the Healthy Neighborhood Equity Fund—pool investments from hospitals, banks, foundations, and government agencies, thereby distributing risks and returns across multiple stakeholders. National networks are helping hospitals and healthcare systems implement new tactics for long-term investment in communities.⁷⁶

Hospitals are poised to deepen their investments in affordable housing because of their financial resources, access to land, and convening power as anchor institutions in communities.⁷⁷ The following Subpart describes three ways that hospitals—within and beyond California—have supported housing preservation strategies : (1) investing in affordable housing financial mechanisms, (2) investing in CLTs, and (3) serving as investors and strategic partners in neighborhood revitalization.

70. Horwitz, *supra* note 61, at 192.

71. *Id.* at 195.

72. See Hospitals Aligned for Healthy Communities, *Key Strategies*, DEMOCRACY COLLABORATIVE, <https://hospitaltoolkits.org/investment/> (last visited Nov. 14, 2020) (describing place-based investment strategies within a toolkit created to help hospitals and health systems build community wealth through inclusive hiring, investment, and purchasing).

73. REYNOLDS, *supra* note 69, at 5.

74. *Id.* at 4, 15.

75. ROBIN HACKE & KATIE GRACE DEANE, IMPROVING COMMUNITY HEALTH BY STRENGTHENING COMMUNITY INVESTMENT 14–15 (2017); see also TYLER NORRIS & TED HOWARD, DEMOCRACY COLLABORATIVE, CAN HOSPITALS HEAL AMERICA'S COMMUNITIES? 24–25 (2016).

76. See, e.g., *Accelerating Investments for Healthy Communities*, CTR. FOR CMTY. INV., <https://centerforcommunityinvestment.org/accelerating-investments-healthy-communities> (last visited Nov. 14, 2020); HEALTHCARE ANCHOR NETWORK, <https://healthcareanchor.network/> (last visited Nov. 14, 2020).

77. HACKE, *supra* note 75, at 5.

B. Hospitals as Investors in Affordable Housing Financial Mechanisms

Two of the largest hospital systems in the country, Dignity Health⁷⁸ and Kaiser Permanente (“Kaiser”),⁷⁹ leveraged their financial assets to serve as financial intermediaries to local nonprofits pursuing housing preservation strategies.

Established in 1990, Dignity Health’s Community Investment Program provides low-interest loans to nonprofits for the development of affordable housing, neighborhood health clinics, small businesses, and community facilities within its service areas across Arizona, California, and Nevada.⁸⁰ As part of this program, Dignity Health has also provided lines of credit to organizations specifically seeking to preserve affordable housing. For example, through a combination of loans and a \$700,000 line of credit from the program, a Stockton-based nonprofit renovated and resold 131 single-family homes and three multi-unit apartment buildings to serve low- to moderate-income families in San Joaquin County.⁸¹ In addition to the Community Investment Program, in 2017, Dignity Health donated \$1 million to help establish the Monterey Bay Housing Trust (MBHT), a financial mechanism designed to fund new affordable housing in Monterey, San Benito, and Santa Cruz counties.⁸² The MBHT pools funds from private and public partners and administers loans to nonprofit affordable housing developers that finance the acquisition, pre-development, or construction of affordable housing.⁸³

In 2018, Kaiser committed \$200 million toward remedying California’s homelessness and housing crisis through a series of new financial mechanisms.⁸⁴ The Housing for Health Fund is a joint-equity fund established with a nonprofit financial institution, Enterprise Community Partners, to fund future affordable housing in Oakland.⁸⁵ As part of this effort, Kaiser partnered with a local housing

78. Dignity Health is the fifth largest hospital system in the United States, operating hospitals in California, Nevada, and Arizona. NORRIS, *supra* note 75, at 7.

79. Kaiser Permanente is the largest integrated healthcare provider and insurer in the United States, operating thirty-nine hospitals in eight states: California, Colorado, Hawaii, Oregon, Maryland, Virginia, Washington, Georgia, and in the District of Columbia. *Id.* at 6; *Fast Facts*, KAISER PERMANENTE, <https://about.kaiserpermanente.org/who-we-are/fast-facts> (last visited Nov. 14, 2020).

80. *Dignity Health’s Community Investments*, TRUST FOR AMERICA’S HEALTH, <https://www.tfah.org/story/dignity-healths-community-health-investments/> (last visited Nov. 14, 2020).

81. *Dignity Health’s Community Investment Program Addresses the Social Determinants of Health*, U.S. DEP’T OF HOUS. & URBAN DEV., <https://www.huduser.gov/portal/casestudies/study-08222017.html> (last visited Nov. 14, 2020).

82. Press Release, Monterey Bay Economic Partnership, \$1 Million Loan from Dignity Health Supports Low-Income Housing in Santa Cruz County (Nov. 29, 2017), <https://mbep.biz/news/dignity-health-loan-pr/>.

83. *Housing Trust*, MONTEREY BAY ECONOMIC PARTNERSHIP, <https://mbep.biz/what-we-do/housing/housing-trust/> (last visited Nov. 14, 2020).

84. Press Release, Kaiser Permanente, 3 Initiatives to Tackle Housing Insecurity (Jan. 15, 2019), <https://about.kaiserpermanente.org/community-health/news/kaiser-permanente-announces-three-initiatives-to-improve-communi>.

85. *Id.*

developer to acquire and upgrade a forty-one-unit housing complex in East Oakland in order to preserve existing affordable housing in the area.⁸⁶ Kaiser and Enterprise Community Partners established a second \$100 million fund to preserve multi-family rental homes for low-income residents in Kaiser's service areas.⁸⁷

As California-based hospitals, Dignity Health and Kaiser are already part of efforts to address the statewide housing crisis and to provide important proofs of concept for new investment models. Though Dignity Health is not directly involved in the implementation of individual housing development projects, through its Community Investment Program, Dignity Health functions as a systemwide financial lender to nonprofits.⁸⁸ By contrast, the regional Kaiser hospitals participate in housing preservation at the project level, working in partnership with local nonprofits and financial institutions.⁸⁹ There are untapped opportunities to scale up similar approaches and expand housing preservation efforts in the state. Housing, finance, and healthcare system researchers should further investigate additional incentives that could encourage such approaches.

C. Hospitals as Investors in CLTs

In addition to investing directly in affordable housing, some hospitals invest in CLTs to ensure the development of future affordable housing for low- to moderate- income individuals. As part of its neighborhood strategy to improve housing stability and health, in 2016, Maryland health system Bon Secours' Richmond hospital branch donated \$140,000 of its community benefit dollars to help establish Maggie Walker CLT: Richmond's first CLT.⁹⁰ Following this initial investment, Bon Secours saw an opportunity to have a longer-term impact in its neighboring underserved areas by supporting affordable homeownership opportunities for low-income residents otherwise priced out of the market.⁹¹ Bon Secours committed \$250,000 per year to the Maggie Walker CLT, which helped the organization purchase, rehabilitate, and build homes serving local residents that earn less than 80 percent the area's median income.⁹² By 2018, Maggie Walker CLT helped eleven low-income households purchase their homes and

86. *Id.*

87. *Id.*

88. Dignity Health, *Increasing Capital for Underserved Communities*, DIGNITY HEALTH, <https://www.dignityhealth.org/about-us/community-health/increasing-capital-for-underserved-communities> (last visited March 30, 2021).

89. Kaiser Permanente, *Our Impact*, KAISER PERMANENTE, <https://about.kaiserpermanente.org/community-health/communities-we-serve/northwest-community/our-impact> (last visited March 30, 2021).

90. GREEN & HANNA, *supra* note 12, at 103.

91. Nancy Frazier O'Brien, *Bon Secours Richmond Promotes Affordable Neighborhoods, 'One House at a Time'*, CATHOLIC HEALTH ASS'N (Jan. 15, 2019), <https://www.chausa.org/publications/catholic-health-world/archives/issues/january-15-2019/bon-secours-richmond-promotes-affordable-neighborhoods-%27one-house-at-a-time%27>.

92. *Id.*

either constructed or developed plans for over thirty homes.⁹³ In 2018, the City of Richmond authorized the Maggie Walker CLT to also act as a municipal land bank for vacant and tax-delinquent properties in Richmond, making it the first combined CLT/land bank in the nation.⁹⁴ In addition to its role as an ongoing investor, Bon Secours staff have previously served on the CLT board.⁹⁵

Amidst a housing affordability crisis in the early 2000s, a local community foundation approached the Rochester, Minnesota-based Mayo Clinic to create a plan for establishing starter homes for working families.⁹⁶ In response, the Mayo Clinic Foundation committed \$7 million over several years to establish First Homes, a nonprofit that acquires land and builds long-term affordable housing serving low- to moderate- income local residents in and around Rochester.⁹⁷ As a parallel venture, First Homes established a CLT to preserve the long-term affordability of its new housing units.⁹⁸ By 2007, First Homes had built 875 affordable housing units—500 single family homes and 375 rental units.⁹⁹ Two hundred of these units are held by its CLT, making it Minnesota's largest community-based housing program.¹⁰⁰ Since its initial investment, Mayo Clinic has not been directly involved in First Homes, but several of its employees continue to serve on the board of the organization.¹⁰¹

Both Bon Secours and Mayo Clinic provided seed funds to help establish CLTs. However, the partnerships that actualized these respective CLTs vary. Bon Secours is an ongoing investor, partner, and stakeholder of the Maggie Walker CLT and plays an important role in guiding the strategic vision of the organization.¹⁰² In contrast, Mayo Clinic acted primarily as a sponsor of First Homes and provided the necessary financial support for the organization to grow and adapt to local needs. Bon Secours' annual investment in Maggie Walker CLT was small compared to that of Mayo Clinic and yet impactful in bolstering affordable homeownership. Meanwhile, Mayo Clinic's multi-million-dollar

93. *Impact Report: 2018*, MAGGIE WALKER CMty. LAND TR., <https://maggiewalkerclt.org/impact-report/> (last visited Nov. 14, 2020).

94. *Richmond's CLT/Land Bank: First in the Nation*, MAGGIE WALKER CMty. LAND TR. (March 13, 2018), <https://maggiewalkerclt.org/richmonds-cltland-bank-first-in-the-nation/> (last visited Nov. 14, 2020) (Maggie Walker CLT's land bank program is formally known as the Richmond Land Bank).

95. Church Hill People's News, *Groundbreaking Today for First House in the Maggie Walker Community Land Trust*, (June 1, 2017), <https://chpn.net/2017/06/01/groundbreaking-today-for-first-house-in-the-maggie-walker-community-land-trust/>.

96. GREEN & HANNA, *supra* note 12, at 106.

97. Deborah Booth Summers, *First Homes Broadens Homeownership Opportunities in Rochester*, FEDERAL RES. BANK MINNEAPOLIS (Nov. 1, 2008), <https://www.minneapolisfed.org:443/article/2008/first-homes-broadens-homeownership-opportunities-in-rochester>.

98. DAVID ZUCKERMAN, *Rochester, Minnesota: Mayo Clinic*, in HOSPITALS BUILDING HEALTHIER COMMUNITIES 62 (2014), <https://community-wealth.org/sites/clone.community-wealth.org/files/downloads/Zuckerman-HBHC-2013.pdf>.

99. *Id.* at 63.

100. *Id.*

101. *Id.* at 64.

102. See Carey L. Biron, "Good Neighbors"? U.S. Hospitals Invest in Housing to Treat Crisis, THOMAS REUTERS FOUND. NEWS (Nov. 21, 2019), <https://news.trust.org/item/20191121093055-shr3m/>.

investment enabled First Homes to build on a greater scale, supporting both low-income homeowners and renters alike.

Given California's extensive network of CLTs, there are untapped opportunities for hospitals to more directly support housing preservation by participating in CLTs either as investors, strategic partners, or both. As such, hospitals can play an important role in establishing the community infrastructure to preserve long-term affordability.

*D. Hospitals as Investors and Strategic Partners in
Neighborhood Revitalization*

Nationwide Children's Hospital ("Nationwide") brings together elements of the previous examples as an investor and strategic partner in comprehensive neighborhood revitalization. Its efforts involve land and property acquisition, affordable homeownership, financial mechanisms to support housing rehabilitation, and resident services.

In 2008, Nationwide partnered with a local faith-based community developer to establish the Healthy Neighborhoods, Healthy Families Initiative (HNHF). HNHF is a nonprofit that builds and rehabilitates affordable housing in its surrounding neighborhood, Southern Orchards in Columbus, Ohio. Initially, HNHF used city neighborhood stabilization funds to acquire properties from the local land banks, with the goal of preserving affordable housing and mitigating speculation in its surrounding areas.¹⁰³ Over the past decade, HNHF expanded its efforts into home repair, home ownership, and workforce development training.¹⁰⁴ Additionally, HNHF purchased, renovated, and sold vacant homes in Southern Orchards with incentives for low-wage Nationwide employees who were otherwise priced out of homeownership opportunities.¹⁰⁵ Overall, at the time of writing, HNHF invested in \$32 million worth of upgrades for 375 homes in Southern Orchards.¹⁰⁶

By establishing HNHF as an independent nonprofit entity with dedicated staff separate from the hospital, Nationwide gained the capacity to maintain a dual role as an investor and ongoing strategic partner in neighborhood revitalization efforts. HNHF underscores the importance of investing both in the projects that preserve long-term affordability and the organizations that bring them to fruition. Furthermore, this example highlights how California hospitals have the potential to more deeply invest in and leverage the state's robust

103. Kelly Kelleher et al., *The Healthy Neighborhood, Healthy Families Initiative*, 142 PEDIATRICS 1, 4 (2018).

104. *Id.*

105. *Id.* at 5.

106. *Impact*, HEALTHY HOMES, <https://healthyhomesco.org/impact/> (last visited Nov. 20, 2020); see also Office of Policy Development & Research, *Nationwide Children's Hospital and Partners Focus on Columbus's South Side*, DEP'T HOUS. & URBAN DEV., <https://www.huduser.gov/portal/casestudies/study-12012017.html> (last visited Nov. 20, 2020).

network of affordable housing coalitions and nonprofit housing developers to coordinate different types of preservation strategies.

III. LOOKING AHEAD

The previous examples highlight the new ways in which California hospital systems can deepen their investments in housing preservation. Dignity Health and Kaiser both demonstrate how hospitals can diversify their housing investments across different financial mechanisms, including housing trusts, dedicated joint equity funds, and loan programs. Bon Secours and Mayo Clinic both illustrate hospitals' role in seed funding CLTs and the opportunities for scaling up. Finally, Nationwide shows how hospitals can leverage community partnerships to serve as both investors and strategic partners in housing preservation efforts.

These hospital-driven housing preservation efforts were initiated well before COVID-19 but are particularly relevant in California's current economic context. A continued downward trending market could result in lower housing asset prices, which would present opportunities for housing developers to purchase existing low-cost units and thereby add to the supply of long-term affordable housing.¹⁰⁷ Additionally, healthcare providers are shifting more of their services to telemedicine, which does not require in-person visits to doctors' offices.¹⁰⁸ Due to reduced need for facilities during the pandemic, hospitals are selling off their properties on an unprecedented scale.¹⁰⁹ Thus, it may be an ideal time for hospitals to donate or sell buildings for conversion into affordable housing.¹¹⁰ For example, months prior to the pandemic, Colorado regional healthcare system Denver Health sold an underutilized ten-story office building on its medical campus to the local housing authority and granted a ninety-nine-year lease on the land for a minimal fee. In 2021, the building will be fully converted into affordable senior housing, with fifteen apartments set aside to help homeless patients transition out of the hospital.¹¹¹

107. INGRID GOULD ELLEN ET AL., METRO. POLICY PROGRAM, USING A DOWN MARKET TO LAUNCH AFFORDABLE HOUSING ACQUISITION STRATEGIES 4 (2020), <https://www.brookings.edu/research/using-a-down-market-to-launch-affordable-housing-acquisition-strategies/>.

108. See Vaibhav Gujral et al., *Commercial Real Estate Must Do More Than Merely Adapt to the Coronavirus*, MCKINSEY & COMPANY (April 9, 2020), <https://www.mckinsey.com/industries/private-equity-and-principal-investors/our-insights/commercial-real-estate-must-do-more-than-merely-adapt-to-coronavirus> (discussing the draw of continuing telehealth, and thereby capturing the accompanying convenience, even after the COVID-19 pandemic has ended).

109. See *id.* (comparing the selling-off of facilities relying most on human occupancy, including "healthcare facilities, regional malls, lodging, and student housing" as being hit harder than large industrial facilities, such as self-storage).

110. See KELLY J. KELLEHER ET AL., CTR FOR CMTY INV., COVID-19 AND COMMUNITY DEVELOPMENT: CONSIDERATIONS FOR AFFORDABLE HOUSING AND HEALTHCARE PARTNERSHIPS (Jul. 6, 2020), <https://centerforcommunityinvestment.org/blog/covid-19-housing-and-community-health>.

111. Markian Hawryluk, *Why Hospitals Are Getting Into The Housing Business*, KAISER HEALTH NEWS (Oct. 4, 2019), <https://khn.org/news/why-hospitals-are-getting-into-the-housing-business/>.

Hospital systems are facing numerous operational and financial challenges that may raise questions about the feasibility of prioritizing housing preservation during a time of crisis. Despite the \$54.6 billion in funds that was distributed to hospitals in June 2020 through the Coronavirus Aid, Relief, and Economic Security (CARES) Act,¹¹² the American Hospital Association anticipates that hospitals will encounter at least \$323.1 billion in financial losses in 2020. These expected losses will come from the costs of avoided or postponed medical care as well as the purchasing of personal protective equipment and other supplies to manage COVID-19.¹¹³ That said, hospitals still have billions of dollars in cash reserves stemming from a combination of private donations, income from investments with hedge funds and private equity firms, and profits from treating patients.¹¹⁴ Although it is not widely practiced, some hospitals have used their cash reserves to invest in affordable housing, which furthers their missions, despite the lower returns when compared to other investments.¹¹⁵ Furthermore, hospital investments in housing and in their surrounding neighborhoods reap nonmonetary benefits that are ultimately beneficial to the hospital's business, including reputational benefits and a greater ability to attract and retain staff and patients.¹¹⁶ Thus, California hospital systems are uniquely positioned to capitalize on this rare moment. If they so choose, hospitals can bring renewed attention to the role of housing preservation in supporting more equitable development.

112. AM. HOSP. ASS'N, HOSPITALS AND HEALTH SYSTEMS CONTINUE TO FACE UNPRECEDENTED FINANCIAL CHALLENGES DUE TO COVID-19 6 (2020).

113. *Id.* at 5.

114. Jesse Drucker et al., *Wealthiest Hospitals Got Billions in Bailout for Struggling Health Providers*, N.Y. TIMES (May 25, 2020), <https://www.nytimes.com/2020/05/25/business/coronavirus-hospitals-bailout.html>.

115. REYNOLDS, *supra* note 69, at 2.

116. CTR. FOR CMTY. INV., UPSTREAM ALL THE WAY: WHY PIONEERING HEALTH INSTITUTIONS ARE INVESTING UPSTREAM TO IMPROVE COMMUNITY HEALTH 3 (2019), <https://centerforcommunityinvestment.org/sites/default/files/2019-07/CCI-%20Hospital%20Motivations%20Paper.pdf>.

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