Beyond Recovery
Policy Recommendations to Prevent Evictions and Promote Housing Security in Santa Fe

August 2021
This is the third and final report in a series on evictions in the Covid-19 era in Santa Fe, New Mexico.
Acknowledgments

This report is a collaboration between PolicyLink; Chainbreaker Collective; and Homes For All, a project of Right To The City Alliance. It is the third in a series on evictions in the Covid-19 era; the previous two reports were written as collaborations between Human Impact Partners and Chainbreaker Collective. We thank the following individuals and their organizations for contributions that made this report possible. Serge Martinez and Elizabeth Elia from the University of New Mexico School of Law, Kyra Ochoa and Alexandra Ladd from the City of Santa Fe, Marcela Díaz from Somos Un Pueblo Unido, and Brie Sillery from the New Mexico Coalition to End Homelessness reviewed and commented on this report. Tyrone Dion from the Washington State Tenants Union and Gabby Garcia at Building and Strengthening Tenant Action (BASTA) were interviewed for the case studies about Washington State and Austin, Texas, respectively. Human Impact Partners analyzed the data provided the charts on page 12. Primary report contributors were Chris Schildt from PolicyLink and Cathy Garcia and Tomás Rivera from Chainbreaker Collective. The sample ordinances composing the appendixes were written by Serge Martinez and clinical law student Andrea Romero from the University of New Mexico School of Law. Any errors or omissions are the authors’ own.

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Cover photo: courtesy of Chainbreaker Collective.

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1.0 Introduction

Below: Chainbreaker Collective members and staff canvassing training. (Chainbreaker Collective)
This report is the third and final in a series examining the health impacts of the escalating eviction crisis in Santa Fe, New Mexico. The first two reports, co-authored by Human Impact Partners and Chainbreaker Collective, describe Santa Fe’s housing insecurity before Covid-19, the experiences of residents during the pandemic, and the extent to which evictions and the eviction moratoria impacted Santa Fe renter households in 2020. These previous reports—Evictions in the Covid-19 Era: A Threat to Family and Community Health in Santa Fe and Evictions in the Covid-19 Era: Successes and Limitations of Moratoria to Keep People Housed and Healthy in Santa Fe—are available at humanimpact.org/hipprojects/santa-fe-evictions/.

Highlights from the previously published briefs include the following:

- While evictions were cut in half in 2020 compared to 280 in 2020—even with eviction moratoria in place, a large number of residents still face evictions moving forward, particularly those in low-income, predominantly Latinx neighborhoods of Santa Fe.
- People already struggling with housing insecurity were hit Hopewell/Mann neighborhood, the Midtown Campus area, and the Airport Road corridor.
- As many as 5,700 Santa Fe renter households could be evicted when the city, state, and federal moratoria expire. 
- The health impacts of Covid-19 will be felt long after the threat of the virus subsides for people facing evictions. Both the threat and experience of eviction negatively impact physical and mental health and cause additional negative social and behavioral outcomes.
- Financial support for rent, utilities, and other needs is helpful. 

This report presents solutions to keep Santa Fe families housed through the duration of the Covid-19 crisis. It also describes 15 actions the city can take to create a more equitable housing system for all residents. It charts the immediate steps necessary to stop current evictions and prevent a flood of evictions as local, state, and federal eviction moratoria lift; to codify tenant protections for the long term; and to invest in a long-term equitable recovery that addresses the structural roots of our housing crisis. These recommendations align with and support the City of Santa Fe Resident’s Bill of Rights resolution, which was passed unanimously by the City Council in 2015 and ultimately can be used to build a transformative housing system for all Santa Feans.

### Pathway to Recovery and Beyond

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- **Stop evictions during the pandemic**
- **Codify tenant protections for long-term stability**
- **Build toward a transformative housing system**
2.0 Pandemic-Related Evictions in Santa Fe
Santiago works in construction and lives with his wife and two children in an apartment in Santa Fe, New Mexico. As a result of the booming housing market in the local area, his hours and salary have increased over the last year. Despite this added income, Santiago still struggles to make ends meet. In addition to covering his family’s living expenses in Santa Fe, he also sends money regularly to extended family members in Mexico. At the onset of the coronavirus pandemic, his wife lost her job and contracted Covid-19. The loss of one household income coupled with unexpected and high medical bills led to an accumulation of back rent of nearly $8,500 and repeated threats of eviction. When his landlord presented him with written notices of eviction, he called Chainbreaker’s Eviction Protection Hotline and learned that New Mexico’s moratoria on evictions likely protected him. Despite this, he decided to keep Santiago housed during the pandemic, regardless of the outcome of the court hearing, but once they lift, Santiago and his family will be faced with back rent and eviction.

Santiago’s story is not unique in Santa Fe. According to the National Equity Atlas Rent Debt in America Dashboard, as of early June 2021, Santa Fe County had the highest estimated rent debt per household in New Mexico, with an average of about $3,400 per household. This debt is experienced disproportionately by low-income families, people who have lost their jobs or income during the Covid-19 pandemic, and people of color. Using data on rent arrears from the US Census Household Pulse Survey, the Atlas analysis estimates that as of June 2021, 15 months into the Covid-19 pandemic, more than 2,800 households in Santa Fe County owed a combined total of $9.5 million in rent debt. Given the challenges of reaching vulnerable communities through national surveys (the very communities hardest hit by the pandemic and rent debt), the reality could be that many more Santa Fe households face rent debt and are at risk of eviction. This accumulation of rent debt and risk of eviction poses a grave threat to all Santa Feans, leading to increases in people who are unhoused, forced into unsafe or unstable housing situations, or pushed out of the area altogether.

**The impact of local, state, and federal eviction moratoria on Santa Fe renters**

In March 2020, the New Mexico Supreme Court issued two moratoria, one affecting all residential tenants and another affecting all mobile home trailers, which protected them against evictions based on nonpayment of rent. These orders interrupt evictions in court, and judges can still issue judgments, law enforcement cannot remove a tenant from a residence until the state Supreme Court lifts its orders. These orders remain in effect until amended or withdrawn by the court. As of publication, the court has not indicated when that might be.

Residents of the City of Santa Fe have an additional layer of protection. Under the moratorium issued by the Mayor of Santa Fe, landlords and managers cannot even threaten eviction, orally or in writing. However, because the mayoral moratorium is an emergency proclamation, enforcement requires a tenant to report an eviction threat to the local police department. Should a tenant decide to make a report, law enforcement then initiates contact with the landlord and explains the emergency law.

Analysis of the data for the reports in this series was made all the more challenging by a lack of robust quantitative and demographic data on landlords and tenants. Chainbreaker’s valuable qualitative data. The recommendations in this report are intended primarily for local decision makers and stakeholders, while recognizing that systemic changes at the state and federal levels are equally and urgently needed.
Despite the challenge in data collection, it is clear that Santa Fe’s current housing crisis would have been much worse without the crucial interventions of local government in partnership with community-based organizations. An analysis of court eviction data revealed that eviction rates in Santa Fe were cut in half in 2020 compared to the prior three years, OLNHO\GXHWRRUJDQLJLQDJQGHGXFDWLQRQHARUWVDQGWKHorFD0 state, and federal eviction moratoria.  

Emergency cash assistance to cover rent and other essentials, such as utilities, food, and transportation costs, has provided temporary relief to thousands of Santa Fe families. However, that assistance is nowhere near enough to fully help tenants facing eviction and prevent a looming mass eviction event. 6DQWDFHOHFWHGRDFLDOVDQGVWDAQHHGWRDFWEROG0\DQG swiftly to keep renters in their homes and set Santa Fe in a new direction toward equitable recovery.
3.0 Policy Solutions from Pandemic Relief to a Transformative Housing System

Below: Chainbreaker members at a neighborhood gathering for the Residents’ Bill of Rights. (Chainbreaker Collective)
Stop evictions during the pandemic

Mass evictions would be a public health emergency even after the threat of Covid-19 subsides. While current protections and emergency assistance have successfully reduced evictions, hundreds of families are still being evicted during the Covid-19 pandemic, according to court records.

Several challenges are leading to evictions right now:

• **Eviction moratoria are set to expire without a transition plan.** After the eviction moratorium directive from the Centers for Disease Control and Prevention (CDC) expired on July 31, 2021, the CDC extended the moratorium until October 3, 2021, in counties experiencing substantial and high levels of community transmission of the coronavirus. However, court challenges to this moratorium threaten its continuation. The Santa Fe and New Mexico eviction moratoria are both dependent on court orders. How or when these local moratoria may be lifted is unclear, creating further uncertainty for renters, service providers, and policymakers.

• **Existing moratoria allow landlords to continue to evict.** As detailed in the second report in this series, intentional design choices in the local, state, and federal eviction moratoria have allowed landlords to still pursue some types of evictions during the pandemic, including nonrenewal of leases and evictions for reasons other than nonpayment of rent.

• **Some landlords are still trying to evict tenants by evading or violating the moratoria.** Many tenants are still facing eviction from their landlords, even if they are protected by the moratoria. Tenants may be unaware of the emergency moratoria or be afraid to enforce their rights through criminal proceedings. Evidence via the Chainbreaker Eviction Prevention Hotline indicates that some landlords are engaging in self-help evictions and locking tenants out of their buildings. Alarmingly, tenants are also reporting that landlords are delaying necessary repairs in an effort to force tenants out of their residences.

• **Good policy and planning is inhibited by lack of data on housing challenges and evictions.** Timely data and information are essential during times of crisis to understand trends in evictions, outdated and incomplete data can give an inaccurate picture of trends and challenges.

In response to these challenges, the city of Santa Fe can take immediate steps outlined below to stop evictions during and after the coronavirus pandemic.

Continue and adapt the emergency order and moratoria on evictions to protect public health

Continuing the moratoria on evictions for as long as possible will save lives, keep people housed, and allow time for deliberate and thoughtful transitions to recovery and beyond, including distribution of rental assistance. In the face of the July 31, 2021, expiration of the federal eviction moratorium, California, Seattle, and San Francisco extended their moratoria at least through September 30, 2021.

The Biden Administration has indicated that the reason for extending the CDC moratorium to July 31, 2021, was to allow for distribution of the nearly $47 billion allocated by the US Congress for emergency rental assistance, very little of which has been distributed. In New Mexico, the governor’s office has allocated $284 million toward rental and utility assistance, but the state has faced distribution and logistical challenges to disbursing the funds. The emergency orders and moratoria at the state and local levels must be maintained at least until all federal and state money has been distributed.

Adaptation of the moratorium could allow for a phased lifting based on data directly related to not only Covid-19, such as infection and vaccination rates, but also risk of eviction, demographic information, and social determinants of health, such as economic insecurity and housing cost burden. Data should be disaggregated to the census tract level to keep protections in place for as long as possible for high-risk areas and transitions for low-risk census tracts. Some census tracts in Santa Fe, including the Hopewell/Mann neighborhood and portions of the Airport Road corridor, have continued to see high eviction rates in 2020 even with the moratoria in place. These neighborhoods are disproportionately populated by Latinx residents and have been some of the areas hardest hit by Covid-19. The city should adapt the eviction moratoria to keep emergency protections in these places for as long as possible and should pass a tenant protection ordinance to make some of these protections permanent, as described below.
Strengthen the existing Santa Fe eviction moratorium

In addition to extending the eviction moratorium, Santa Fe should strengthen it to protect more families. Like the federal moratorium, the state and local moratoria only protected against evictions for failure to pay rent. Eviction for causes other than failure to pay rent continued under the moratoria.

New Mexico allows a “no-fault” eviction process, and this type of filing—known as “landlord tenant restitution”—increased sevenfold during the pandemic compared to previous years. Moreover, tenants could still be evicted for failing to pay for services other than rent, even with moratoria on evictions for inability to pay in rent. Similar to past years, in 2020, the single most common reason for eviction was failure to pay rent, even with moratoria on evictions for inability to pay in rent.

The city’s moratorium can and should be expanded to cover no-fault evictions; lease nonrenewals; informal rental agreements; failure to pay for services; and some violations of lease agreements that do not threaten personal life or safety, such as violations of occupancy or pet agreements or nuisance complaints that do not pose a health or safety risk.

Although the annual number of evictions was cut in half in 2020 compared to the average for previous years, nonpayment of rent was still the most common cause for evictions in 2020, despite the moratoria in place.

**Major causes of eviction filings, 2017–2019 (average)**
- Nonpayment of rent: 84.2%
- Breach of contract: 7%
- Debt and money due: 3.7%
- Landlord tenant (resident): 2.2%
- Landlord tenant restitution: 2.9%

**Major causes of eviction filings, 2020**
- Nonpayment of rent: 63.2%
- Breach of contract: 3.6%
- Debt and money due: 10.4%
- Landlord tenant (resident): 0.4%
- Landlord tenant restitution: 21.8%

Source: Human Impact Partners’ analysis based on data provided by the New Mexico Administrative Office of the Courts.
Shift to civil enforcement for the existing eviction moratorium

The current city moratorium is an emergency mayoral order and must be enforced by local law enforcement. Many tenants do not know their rights under the moratorium or do not want to involve the police out of concern for their personal health and safety and that of their families and neighbors. The city should create a permanent civil enforcement mechanism that shifts the enforcement burden from police onto more appropriate city staff, such as building and health inspectors. These positions should be resourced through current budget allocations. This change should include protections for renters against retaliation for reporting violations of moratoria. For this shift to occur, action is needed by the governing body via an ordinance or resolution. See Appendix 1 for a sample ordinance to prohibit owner retaliation.

Fund eviction prevention/tenants’ rights hotline and outreach

The need for ongoing outreach and organizing around renters’ rights and eviction prevention will last long after the Covid-19 emergency subsides. The mayor and city council took a critical step this year in approving $75,000 for an eviction hotline and mediation services for tenants and an additional $75,000 for Spanish-language translation services in the recently approved budget. These allocations should become regular items in future budgets and be expanded further. Funding for outreach should include funding for community-based organizations to conduct direct community engagement with the people most vulnerable to eviction.

Provide regularly updated court eviction data

Current information on when, where, and why evictions are still proceeding during this pandemic is essential for targeting evictions. Under the city moratorium, landlords were prohibited from threatening eviction, orally or in writing. Thus, any filing in state court by a Santa Fe landlord is a violation of the city order. The city should formalize and strengthen its communication with state courts to ensure local landlords abide by local requirements.

Additionally, the city should collaborate with state courts to create an eviction data portal to provide up-to-date information about local evictions. Many evictions occur even before a formal eviction record is created with the court, making it important to also conduct community-based and participatory research.

Anti-Eviction Mapping Project

The Anti-Eviction Mapping Project provides eviction data in the San Francisco Bay Area and throughout California based on court filings, legal aid records, oral histories, and more.
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Prevent a flood of evictions when the moratoria lift

While the road to full post-Covid recovery is still long, the local, state, and federal eviction moratoria inevitably will be lifted. Preventing a flood of evictions when the moratoria are eventually lifted.

Forgive city water utility debt

The city-owned water utility can and should forgive water debt and reduce rates for low-income households using new federal funding sources. The US Congress has approved nearly $50 billion in emergency rental assistance, to pay for both back and forward rent and utility payments; furthermore, it approved $1.1 billion for a new Low-Income Household Water Assistance Program, modeled off of the Low-Income Household Energy Assistance Program, to help low-income residents with their water and wastewater bills. The program provides grants to states, territories, and eligible Native American tribes, which then provide funds to public water utilities to reduce debt and rates for low-income households. This is an emergency program and is not permanently authorized; the funds must be spent by the end of 2023.

The City of Santa Fe should ensure that the state engages with community-based organizations to develop an implementation plan targeting these funds for communities that have the highest water debt and have been most impacted by Covid-19. In particular, the funds must be made available to all low-income residents, regardless of immigration status or enrollment in other programs.

Address the accumulation of back rent and fees

As of June 2021, Santa Fe County residents owe an average of $3,400 in back rent due to Covid-19, according to the National Equity Atlas estimates based on US Census Household Pulse Data. This debt is greater than any other county in New Mexico. Nationally, renters, who are predominantly people of color, hold $20 billion in debt. In contrast, homeowners, who are predominantly White, saw a $1.9 trillion increase in their home equity between the first quarter of 2020 and the first quarter of 2021. In New Mexico, the average homeowner gained $26,000 in home equity in the last year.

Before the eviction moratoria lift, the city should plan to address back rent and fees. First, any unpaid rent and fees should be converted permanently to consumer debt so that it cannot be the cause for eviction; California has done this for all rent debt accrued between March and August 2020 and for 75 percent of the rent debt accrued from September 2020 through September 2021 (the other 25 percent of the rent must be paid to avoid eviction). A payback period of at least 12 months should also be implemented to allow tenants to apply for and receive rental assistance or otherwise pay rent debt. Any rental assistance provided to the landlord should be conditioned on not allowing the landlord to evict the tenant for a minimum of 12 months after receiving funds. Philadelphia requires landlords to apply for rental assistance before issuing an eviction notice; Santa Fe should pass a similar requirement.

Philadelphia Water Utilities Tiered Assistance Program

Santa Fe can look to other cities such as Philadelphia, which created a permanent tiered assistance program in 2017 that caps monthly water bills at a fixed percentage of monthly household income for low-income households. All debt is forgiven after 24 complete monthly payments, even if the payer falls behind for a period or cannot pay the full amount. Roughly 22,000 low-income Philadelphians have enrolled in the program as of 2020. Philadelphia also extended a moratorium on water shutoffs for nonpayment of water bills. Like the city’s eviction moratorium, the water utility shutoff moratorium has no clear end, and residents continue accumulating debt. The city should pass a similar requirement.
New York State Emergency Rental Assistance Program

In April 2021, New York State approved a budget with $2.4 billion dedicated to its Covid-19 Emergency Rental Assistance Program, using both federal and state sources. The funds can be used to pay for up to 12 months of rent arrears plus up to three months of future rent for rent-burdened tenants who earn up to 80 percent of the area median income. Undocumented people are eligible, and landlords cannot begin an eviction until the tenant’s eligibility for the program has been determined. If the tenant is eligible, rent payments are made directly to the landlord, who must waive late fees, freeze the landlord does not accept the payment within 12 months, the rent debt is considered waived and the funds are reallocated.

Extend emergency rental support with direct cash assistance and fund community partnerships

In contrast to state rental assistance programs, the City of Santa Fe’s Direct Cash Assistance program reduced the amount of paperwork needed to prove eligibility for rental or utilities support and paid funds directly to impacted tenants who applied. Through a close partnership between the city and community-based organizations, the first round of city eviction prevention and economic relief funds helped thousands of families pay their rent and utilities. However, renters are still in need of more assistance. The city should provide additional funding to distribute as cash transfers to renters at risk of eviction.

New Mexico’s Department of Finance and Administration is responsible for distributing $284 million in state rental assistance through the RentHelpNM.org application portal. Many undocumented immigrants and renters with criminal records or low credit scores have informal rental agreements and cannot provide the necessary documentation to qualify. Additionally, the requirement that the application process onerous for the tenant, but also state rental assistance is paid directly to landlords, who must complete the application to receive funds.

New Mexico’s Department of Finance and Administration

These additional hurdles have resulted in slow distribution of rental assistance funds. The City of Santa Fe has proved it can be more responsive to the needs of tenants through the distribution of direct cash assistance. The city should not only expand these programs during the Covid-19 recovery period but also make tenant funding support permanent.

Cash transfer programs have received increased attention recently because of the rise of guaranteed basic income pilot programs around the country as a means of improving social, health, and educational outcomes for low-income families with no strings attached. The City of Santa Fe, along with the Santa Fe Community College, recently launched its own guaranteed basic income program for low-income students. This program should be expanded and adapted as a method for protecting anti-displacement strategy.

Improve existing mediation programs to avert evictions

Mediation programs help avoid evictions by resolving a dispute through a mediator rather than going to court or filing for eviction. These programs are available through New Mexico courts, but these voluntary programs are available only for complaints of money owed and only if a legal filing has already taken place. The City of Santa Fe could institute a similar program in its courts and can be looked at as models. The City of Philadelphia created an eviction diversion program amid the Covid-19 lockdown in which 91 percent of participants were able to reach an agreement and avoid eviction.

Improved state eviction policies could increase the likelihood of successful local mediation programs. In 2021, the state legislature considered House Bill 111, which would lengthen the timeline for eviction proceedings, and thereby give mediators more time to resolve disputes. City leaders should urge state lawmakers to push forward the tenant protections proposed in HB 111.
Codify tenant protections for long-term stability

Even before the Covid-19 pandemic, more than half of all renters in Santa Fe were paying more than they could afford on rent. In 2019, 57 percent of Latinx women in New Mexico were paying too much for rent, and the situation has only gotten worse.

The pandemic has clarified the importance of having strong renter protections like just cause eviction protections, right to counsel, rental registries, and more. However, many tenant and community groups, as well as local policymakers, have been overwhelmed with meeting urgent needs to stop evictions and provide immediate relief. As the City of Santa Fe transitions from emergency response to a recovery framework, long-term tenant protections are emerging as a top priority to address many of the structural problems in the housing market.

Create a landlord licensing and rental registry program for better data, outreach, and enforcement

Rental registries and landlord licensing programs can help cities collect better data, conduct outreach, and enforce regulations. The City of Santa Fe currently lacks information on rental properties in the city, making it difficult to assess needs, share information with landlords and tenants, and enforce health and safety standards. Rental registries collect landlord contact information and basic information about the rental units. The primary purpose is to collect contact information for landlords, inform landlords of their legal requirements and obligations, and collect data to inform policymaking. Cities with rental registries are able to better track challenges renters face during crises and target outreach and assistance efforts. Landlord licensing programs combine the data from registries with inspection and enforcement. Licensing often requires regular inspections of the health and safety conditions of rental housing and can be used to ensure landlord compliance with city and state laws.

While larger cities have established rental registry and licensing programs, a growing number of mid-size and smaller cities are also doing so, including Concord, California; Boulder, Colorado; and Ithaca, New York. Santa Fe should establish a rental registry and create a licensure program for landlords to close data gaps, target outreach and program interventions, and open the door to longer term solutions that can incentivize helpful practices and disincentivize bad actors. The cost to establish and manage this program can be revenue-neutral through ongoing, low-cost fees.

The Need for Long-Term Tenant Protection in Santa Fe

Daniel, a tenant in Santa Fe, knows all too well how challenging it can be to access supports to help weather economic hardships from Covid-19. In the early months of the pandemic, Daniel contracted Covid-19 and, although he did lose income during his recuperation, he was eventually able to pay past-due rent by using his savings. At the start of 2021, however, he was still struggling to recuperate from his condition and has not been able to return to work. The new landlord filed an eviction action against Daniel in court, and Daniel was able to stay in his home as a result of the state moratorium. Daniel's Covid-19-positive status is what allowed the moratorium to protect him. Without such proof, it is possible that the emergency protections would not have applied to his situation, as the moratoria are a direct response to the Covid-19 public health emergency.
Expand access to legal counsel during eviction proceedings

For low-income renters facing eviction, access to legal counsel can mean the difference between staying in their homes and being forced out. Nationally, roughly 90 percent of tenants do not have legal representation in eviction court, while up to 90 percent of landlords do. Tenants who have access to a lawyer are twice as likely to be able to stay in their homes compared with tenants without legal representation. Importantly, legal aid providers face restrictions on their ability to use federal funding to provide services to undocumented people, making city funding essential to expand legal representation for undocumented tenants facing eviction. In accordance with the 1999 city council resolution for nondiscrimination of noncitizens, the city should create a right to counsel program that ensures representation for all tenants regardless of immigration status.

Several cities, including New York, Philadelphia, and San Francisco, have created a right to counsel for low-income tenants facing eviction, and more than three dozen cities, counties, and states have used Covid-19 emergency funds to expand tenant representation. See Appendix 2 for a sample ordinance regarding provision of legal counsel during eviction proceedings.

Below: Chainbreaker members preparing for a Development Without Displacement rally. (Chainbreaker Collective)

Just Cause and Right to Counsel in Washington State

In spring 2021, the Tenant Union of Washington State (TUWS) along with a broad community coalition won two critical pieces of legislation at the state level to protect tenants from being fast-tracked through the eviction process: just cause, which ensures that tenants are protected from wrongful evictions, and the right to counsel, which ensures that low-income tenants have legal counsel if their evictions go to court.

TUWS organizes tenants through a hotline they run a few days a week. From their hotline, they aggregated data on issues that tenants faced. They found that more than half the tenants they spoke to were evicted without the eviction even getting to a court process, most of the time landlords were using a variety of tactics to force renters to move, and tenants had a hard time accessing legal aid. The conditions of the pandemic only made things worse. Fearing a massive wave of evictions, TUWS took action alongside its allies to develop and fight for Washington’s just cause for evictions and right to counsel legislation.

In Washington State, it can take as little as 14 days to be evicted, and being evicted at the landlord’s discretion has been a huge issue long before the pandemic. The coalition wanted to prevent a mass eviction wave, and knew how critical it was to both ensure that tenants would have a fair eviction process and have access to legal counsel if their evictions went to court. As a result, they advocated for laws that made it harder for landlords to evict tenants.

The goals of their campaign were to 1) create a barrier to prevent landlords from quickly evicting; 2) show landlords that people are watching; 3) end the unjust ways tenants are treated; and 4) give tenants some relief, knowing that multiple policies and procedures are in place for them. Often, tenants, especially tenants from Black and Indigenous communities and communities of color, are afraid to go to court. The organizers at TUWS hope that the policies they fought for will create a safety net for these tenants, especially in situations where the landlord attempts informal evictions.
Pass permanent tenant protections

As explored in the first report in this series, tenants in Santa Fe were facing an affordability crisis even prior to the onset of the public health emergency. The recovery has accelerated the crisis, and solutions are more urgently needed than ever before. Additionally, tenants face myriad forms of discrimination when searching for a home to rent, during the application and leasing process, and during their tenure. A set of tenant protections can help tenants secure a home and protect them from landlord harassment or evictions. Portland, Oregon, and Minneapolis, Minnesota, recently passed ordinances that protect tenants in the rental market.

Many tenant protections were recently discussed at the state level in New Mexico. In the 2021 legislative session, House Bill 111 would have changed state law on housing discrimination. Unfortunately, this bill was amended heavily in one committee before dying in another. In the meantime, the City of Santa Fe can protect Santa Fe renters by taking the following actions now.

• **Just cause eviction:** Prevent arbitrary, retaliatory, or discriminatory evictions by establishing a specific set of reasons (just cause evictions) that limits landlords’ reasons for eviction. Santa Fe can act now to create just cause protections at the local level. The Mobile Home Park Act, which has just cause requirements, can serve as a model and be expanded. See Appendix 3 for a sample just cause eviction ordinance.

• **Source of income nondiscrimination:** Prohibit discrimination against renters based on the source of income, Housing voucher, or another form of payment. Source of income nondiscrimination laws can improve voucher holders’ expungement process that extends beyond the health emergency timeframe.

• **Affordable security deposits:** The city can limit all security deposits to no more than one month’s rent to help reduce move-in costs for tenants and create flexible installment payments so that renters can pay security deposits over time. Proposed amendments to state law in House Bill 111 would have eliminated the burden on tenants to prove bad faith by the landlord when retaining deposits; this could be adopted through local ordinances.

• **Expunging records for Covid-19-related evictions and unpaid debt:** The state and local moratoria prevent only evictions for nonpayment of rent. Still, it is unclear how judgments issued by state courts during the pandemic will impact the credit histories and rental records of tenants. Additionally, nonrent debt is not protected by the moratoria, result of Covid-19 has a clear timeframe, the impacts of the health emergency will continue well into the future. Ensuring that evictions undertaken during the pandemic will not expunge tenure that extends beyond the health emergency timeframe.

• **Tenant relocation assistance:** If a landlord evicts tenants or forces them to move by raising rents, the landlord should pay relocation fees to cover the costs of moving and hardship. Portland, Oregon, and Berkeley, California, have mandatory relocation assistance programs for certain types of evictions, such as a rent increase of 10 percent or more over a 12-month period. Payments range from roughly $3,000 in Portland for a studio to upward of $16,000 in Berkeley if the unit is removed from the rental market.
Build toward a transformative housing system

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Community land trusts are a common form of tenant ownership strategies take vitally important, less expensive housing units out of the speculative real estate market and put them into the hands of tenants or community-based organizations. These strategies help cities preserve their existing unsubsidized low-cost housing stock, which may be vulnerable to being sold to speculative investors who may drive up prices and displace low-income people. Community-ownership strategies can also address blight and disinvestment by targeting negligent landlords and enabling investment in quality maintenance and management without threatening the stability of existing tenants.

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Achieve community ownership

Successful community-ownership strategies require developing three types of tools: capacity-building, policy, and funding tools.

• **Capacity-building tools**: Purchasing buildings and converting them to community ownership and permanent advocacy and mobilization to pass policies and secure dedicated funding sources; tenant organizing and leadership development to undergo the oftentimes risky and contentious process of purchasing a building and becoming ultimately own, manage, and maintain the buildings over the long term.

• **Policy tools**: homes on the open market compete at a disadvantage compared to investors with ready access to capital to purchase buildings quickly and at scale. Policies such as tenant or community opportunity to purchase give tenants and similarly, anti-speculator policies such as anti-flipping taxes, vacancy taxes, and land-value taxes can help level the playing field by reducing the potential profits of outside speculators. In particular, Santa Fe’s housing market is impacted by outside investors and speculators and driven by a strong tourism industry, which makes these anti-speculator policies important tools to protect the local housing market.

• **Funding tools**: While ultimately federal funding will be necessary to reach scale, local agencies can develop federal funds from the American Rescue Plan can be used to create permanently affordable, community-controlled housing. Specifically, the City of Santa Fe is receiving $15 million in Covid-19 relief dollars, and Santa Fe County is receiving an additional $29 million. The city could apply for part of the state’s $19 million in HOME funds to create housing for people at risk of or experiencing homelessness, people facing domestic violence, and veterans.
Additional proposals currently in Congress would allocate as much as $45 billion for the national Housing Trust Fund, increase funding for vouchers, and provide other housing-related funding that the city could access to create community-controlled permanently affordable housing.

Santa Fe can take the following steps today to promote community ownership:
1. Dedicate 20 percent of Covid-19 federal relief and recovery dollars to support housing acquisition and community-ownership models.
2. Explore passing a tenant opportunity to purchase policy.
3. Generate long-term revenue to fund community ownership by collecting short-term rental fees and dedicating them to tenant acquisition strategies and explore passing anti-flipping and vacancy taxes.

In the longer term, the city should also explore community-ownership models at the Midtown Campus and the creation of a development without displacement (DWOD) overlay district. When taken together, these two strategies protect underinvested neighborhoods that are ripe for speculation while also expanding a human right to housing by designating publicly owned lands for community ownership.

Community Ownership of a Mobile Home Park in Austin, Texas

In May 2020, residents of the North Lamar Mobile Home Park celebrated purchasing their mobile home park after a year campaign to collectively own their homes.

The North Lamar Mobile Home Park sits in the heart of the City of Austin. The park has 69 lots and is home to immigrant, monolingual, Spanish-speaking families who are mostly construction and domestic workers. Over the last decade, the home owners are being displaced by high rents and wrongful evictions.

In 2015, North Lamar Mobile Home Park owners Frank Rolfe and Dave Reynolds were planning to raise rents and evict families from the park. Rolfe and Reynolds are the sixth-largest mobile home park owners in the nation, and they share their business model with other mobile home park owners in a program called Mobile Home University.

A central part of Rolfe's and Reynolds's earning strategy shared through their program is based on the analogy of owning a restaurant. They have been quoted as saying that owning a mobile home park is like having someone chained to the booth, so they can't leave. In many mobile home parks, the mobile homes are too old to move, so they are no longer “mobile.” Families with older mobile homes are unable to move their homes to another place, so they are stuck. Landlords like Rolfe and Reynolds take advantage of this situation, inflate rents, and threaten evictions. The model they encourage is to buy mom-and-pop mobile home parks and raise the rents without making any improvements to the space. That was what they had planned for the residents of North Lamar.

Residents at North Lamar came together to organize against the rent hikes and evictions. Residents organized as the Asociación de Residentes de North Lamar (ARNL), enacted a successful campaign, avoided the proposed evictions, and put a hold on rent increases. After this win, ARNL spent the next five years of neglect at the park. At the same time, they worked toward their dream of purchasing the mobile home park as a cooperative.

BASTA, a Texas Rio Grande Legal Aid project, supported the resident association and worked alongside a local city council...
Beyond Recovery

member, Greg Casar, and ROC (Resident-Owned Community) USA to obtain a $7.15 million loan to purchase the property. Of that $7.15 million, a little more than $2 million came directly from the City of Austin. The partnership with the City of Austin was crucial for this victory. ROC worked with a local organization, Community Housing Expansion of Austin, to act as the technical assistant for ARNL to set up the cooperative.

BASTA hopes that ARNL’s story will inspire other residents of mobile home parks to cooperatively purchase and own their own land. More than 15 tenant resident associations are DFWLYHDURVVSXVLQ%HQBWVRIFROOHFWLYHRZOHUVLSDQGSDWHG from the ROC website) are the following:

- Control monthly lot rent
- Control maintenance, repairs, and improvements
- Provide lifetime protection against displacement
- Create a strong sense of community

This summer marks the one-year anniversary of cooperative ownership for the residents at the North Lamar Mobile Park. Residents are learning and making decisions together about their homes. And while they have increased responsibilities and challenging decisions to make, it’s worth it for the more than 60 families who are now protected from displacement.

Create a model of community ownership with the Midtown Campus project

The development of the city-owned Midtown Campus presents a once-in-a-lifetime opportunity to change the trajectory of Santa Fe’s inequitable housing system and contribute to community health and stability. The 64-acre campus was home to the Santa Fe University of Art and Design, which closed in 2018, and is located adjacent to neighborhoods such as Hopewell/Mann that face high rates of housing insecurity, underinvestment in parks and infrastructure, and high rates of eviction even with the eviction moratoria in place.

The City of Santa Fe entered an exclusive negotiating agreement with a master developer in 2020, but the developer ended it in early 2021, citing uncertainty due to the pandemic and the high cost of infrastructure investments and repairs needed. The city has taken important steps to start again on the right track with a community-engagement process and more local approaches to development planning. Now the city has an opportunity to create a national model of equitable development at the campus, using a phased approach to meet immediate housing needs while working with low-income communities and communities of color on a long-term vision for community ownership.

For thousands of Santa Fe renters who have been unable to keep up with rent payments during the Covid-19 pandemic, the eventual end of the local, state, and federal eviction moratoria ZLOOSXVKWHPRYLHDDQYLFWLRQFOLAKWDZWLOOOLNHQ greater housing instability, doubling up with friends and family, or homelessness. The Midtown Campus can and should be used FWKHFLWWRFUHWDHQHAMDEOHKRXVVLQJRUSHRSOH currently facing housing instability. New federal Covid-19 relief dollars, including HOME grants, community development block grants, Covid-19 relief funds, and emergency vouchers, can be used to build or convert and rehabilitate buildings on the site to create permanent supportive housing and prioritize rehousing of evicted renters. The city should extend the local eviction moratorium until this new housing is created to avoid mass evictions.

Long-term planning for the Midtown Campus should consider models of community stewardship, equitable development, and climate resiliency. Examples such as the Sawmill Community Land Trust in Albuquerque, Market Creek Plaza in San Diego, New Communities Land Trust in Albany, Georgia, and Thunder Valley Regenerative Community Development on the Pine Ridge Reservation in South Dakota can provide direction and inspiration for what a transformed Midtown Campus could become. Ultimately, the process of how to develop the Midtown Campus should be led by low-income people and communities of color who have been most harmed by the city’s policies and actions.
Create a development without displacement overlay district

Low-income communities of color in Santa Fe face the twin housing costs and living in severely underinvested neighborhoods. Neighborhoods such as Hopewell/Mann and the Airport Road corridor are where many Latinx renter families live. Yet, for decades the city has underinvested in parks and other infrastructure in these communities. At the same time, many to move to areas with underfunded transit services, increasing their families’ transportation costs. Neighborhoods with good investments in parks, roads, and infrastructure are high cost and out of reach for most people who are not wealthy. Investments in climate-friendly transportation, such as electric scooters, car charging stations, and improved bike and pedestrian infrastructure, can help improve health and address

displacement of low-income residents by wealthier residents and tourists. Overlay districting tied to demographics as opposed to geography solves this displacement by ensuring

The city should create DWOD districts that prioritize city resources to neighborhoods that have faced a history of disinvestment while also protecting the people from being displaced. DWOD districts create special boundaries within the city in which special protections and regulations apply. DWOD districts receive priority for city spending and have district boards composed of residents to help direct policies within the districts and inform how resources are spent within the district. These district boards are critical to ensuring that investments

Unlike traditional overlay districts, DWOD district boundaries are set by demographics and can shift as demographics change. For instance, the boundaries can be established based on where a higher proportion of people live below the median income or are housing cost-burdened, or where tenants experience high eviction rates. Overlay districts can shift with them, similar to voter districts. Similar types of overlay districts have been proposed in Los Angeles and Boston, though both efforts have faced delays due to the Covid-19 pandemic. Following this model allows protections and support to be directed to people who need it the most and avoids long-term unintended consequences as circumstances improve and demographics shift.
4.0 Conclusion

Below: Chainbreaker members conducting outreach.
(Chainbreaker Collective)
As Santa Fe looks ahead to recovery from the Covid-19 pandemic and beyond, policymakers should keep a few key things in mind. First, different communities need different responses. As the first two reports in this series show, some communities face high eviction risks even during this period covered by the emergency order and need targeted responses and resources. Second, real solutions do not simply return us to the pre-pandemic status quo, but instead create a housing future that truly works for all of Santa Fe's diverse households. Communities that were already facing housing instability before the pandemic need not only protections during this public health emergency but also long-term solutions to transform the housing market. Third, to confront the magnitude of the current challenge, the city needs to deploy all of its resources and powers—this includes budgetary decisions, regulatory and executive powers, and leveraging publicly owned lands such as the Midtown Campus for long-term housing solutions and stability. Finally, any successful response and recovery depend on close partnerships with and leadership from community organizations directly connected to the people most impacted. Grassroots organizations can and should serve as trusted connectors to ensure city policies and programs are informed by local residents and to maximize impact in these communities.
Appendix 1: Prohibition of owner retaliation

A. An owner may not retaliate against a resident who is in compliance with the rental agreement by:
1. increasing rent;
2. decreasing services;
3. commencing or threatening to commence an action for possession;
4. refusing to renew a lease or rental agreement; or
5. terminating a lease or rental agreement; because the resident has within the previous six months engaged in any of the acts described in NMSA 47-8-39(A) (1-7)* or otherwise exercised or attempted to exercise the resident’s rights as a tenant under state or federal law.


Appendix 2: Provision of legal counsel during eviction proceedings

A. Definitions
1. Covered individual. A tenant of a rental dwelling unit located in the [Jurisdiction], including any tenant in a unit operated by the [local housing authority], who is a respondent in a covered proceeding.
2. Covered proceeding. Any proceeding in a magistrate court, metropolitan court, or district court to evict a covered individual, including a proceeding to seek possession for the nonpayment of rent or a holdover.
3. Designated organization. A not-for-profit organization or association that has the capacity to provide legal services.

4. Full legal representation. Ongoing legal representation provided by a designated organization to an income-eligible individual and all legal advice, advocacy, and assistance associated with such representation. Full legal representation includes, but is not limited to, the BOLQJRIDQRWLFHRIDSSHUDQFHRQEHKDOIRIWKHLQFR eligible individual in a covered proceeding.

5. Income-eligible individual. A covered individual whose annual gross household income is not in excess of [income guidelines, if any].

6. Legal services. The term “legal services” means brief legal assistance or full legal representation.

B. Provision of Counsel
1. There is hereby established a program to provide access to all covered individuals in covered proceedings in a magistrate court, metropolitan court, and district court.
2. No later than [January 1, 2022]:
   a. All covered individuals shall receive access to brief appearance in a covered proceeding in housing court, or as soon thereafter as is practicable; and
   b. All income-eligible individuals shall receive access to scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable.
Appendix 3: Just cause eviction

A. No owner shall remove or attempt to remove a resident from any housing accommodation except upon a court order entered in an appropriate proceeding in which the owner has established one of the following grounds as good cause for removal or eviction:
   a. The resident has failed to pay rent due and owing as described in NMSA 47-8-33(D)*; provided that the rent due and owing is not the result of a rent increase that is unreasonable or imposed for the purpose of circumventing the intent of this section;
   b. There is material noncompliance with the rental agreement as described in NMSA 47-8-33(B)*;
   c. The resident has committed a substantial violation as described in NMSA 47-8-33(I)*;
   d. The resident has unreasonably refused the owner access to the dwelling for the purpose of making necessary repairs or improvements required by law;
   e. The owner seeks in good faith to convert the dwelling unit to personally occupy the unit as the owners’ personal residence.

B. The provisions of this Section shall apply notwithstanding that the resident has no written lease or that an existing lease or rental agreement has expired or otherwise terminated.

C. Any agreement by a resident waiving or modifying the resident’s rights under this Section shall be void as contrary to public policy.


Appendix 4: Source of income nondiscrimination

A. It shall be an unlawful discriminatory practice for any person to refuse to sell, rent, lease, assignment, or sublease any housing accommodation or real property to any person or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any housing accommodation or real property to any person based on source of income.

B. “Source of income” means any lawful source of money paid directly, indirectly, or on behalf of a renter or buyer of housing including but not limited to:
   1. Income derived from any lawful profession or occupation;
   2. Income or rental payments derived from any government or private assistance, grant, or loan program.

C. The prohibitions in this section against discrimination based on source of income shall not limit the ability of any person to consider the sufficiency or sustainability of income of a renter or buyer, so long as sufficiency or sustainability of income are applied in a commercially reasonable manner and without regard to source of income.

D. The prohibitions in this section against discrimination based on source of income shall not limit the ability of any housing authority or related agency having oversight over the provision of housing assistance from prohibiting such authority’s employees or agents from renting housing to persons who receive such assistance, where such prohibition is intended to prevent conflicts of interest or the appearance of impropriety, nor shall this chapter prohibit such agents and employees from complying with any such prohibition on renting housing to persons receiving such assistance.

E. The prohibitions in this section against discrimination based on source of income shall not limit the ability of a landlord participating in any government-sponsored rental assistance program to reserve rental units for tenants who qualify for such governmental program.
6.0 Notes


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33  (AHWFLY H,HQHVHGD)0DUFK&LWRI6OQWD)ZHESDJH0DFK 18, 2020, https://www.santafenm.gov/news/detail/mayor_DQXQVFHBBGDFWHVBRBPJH0QBF5SURFDOPDWRQBBH.


23  National Equity Atlas, “Rent Debt in America.”


25  “Homeowner Equity Insights,” CoreLogic.


31  Chacón, “New Mexico rent assistance program’s marketing budget surpasses aid so far”.


33  Data provided by the National Equity Atlas (nationalequityatlas.org), which analyzed 2019 5-Year American Community Survey Integrated Public Use Microdata Series.


45  Housing Discrimination Changes, HB 111, New Mexico Legislature.


50 Housing Discrimination Changes, HB 111, New Mexico Legislature.


