

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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September 3, 2021

Vincent Bertoni, Director
Department of City Planning
City of Los Angeles
Los Angeles City Hall
200 North Spring Street, Suite 525
Los Angeles, CA 90012

Dear Vincent Bertoni:

RE: Review of City of Los Angeles 6th Cycle (2021-2029) Draft Housing Element Update

Thank you for submitting the City of Los Angeles' (City) draft housing element received for review on July 7, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Abundant Housing LA and YIMBY Law pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes revisions needed to comply with State Housing Element Law.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing

element, the City will meet housing element requirements for these and other funding sources.

HCD appreciates the dedication and effort of the City's cross-departmental team including Blair Smith, Matthew Glesne, Cally Hardy, Jackie Cornejo, Maya Abood, Nancy Twum-Akwaboah and Ann Sewill. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Sohab Mehmood, of our staff, at Sohab.Mehmood@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" written in a larger, more prominent script than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF LOS ANGELES

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The element must include an analysis of the cumulative effectiveness of programs in addressing the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing (AFFH) in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

The element provides a general overview of AFFH including an analysis on the sites inventory related to fair housing topics (p. 4-27), outreach efforts to all segments of the community, and goals and actions to address fair housing issues. However, it generally does not address this requirement. The element, among other things, must include an assessment of fair housing, identification and prioritization of contributing factors, and goals and actions to address fair housing issues. For further guidance, please visit HCD's AFFH in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>. In addition:

- *Sites Inventory:* The element includes an analysis of whether the identified sites exacerbate or improve current fair housing conditions related to segregation and integration and access to economic, educational, and environmental opportunities (p. 4-27); however, the element should also analyze the sites relative to access to transportation opportunities. Additionally, the element must analyze sites related to Racially/Ethnically Concentrated Areas of Poverty

(R/ECAP) and affluence and disproportionate housing needs, including displacement risk. This analysis should also be revised to account for a complete assessment of fair housing and candidate sites for rezoning.

- *Goals, Actions, Metrics, and Milestones:* The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

2. *An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low-income households... (Gov. Code, § 65583, subd. (a)(1).)*

Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)

Extremely Low-Income Households (ELI): While the element identifies the projected number of ELI households, it must still analyze their existing housing needs. This is particularly important given the unique and disproportionate needs of ELI households. For example, the element could analyze tenure, cost burden, overcrowding and other household characteristics and then examine the availability of resources to determine the magnitude of gaps in housing needs. Policies and programs should be revised as appropriate based on the outcomes of this analysis. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

Overpayment: While the element identifies the total number of households overpaying for housing (p.1-41), it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Progress towards the Regional Housing Needs Allocation (RHNA): As you know, the City's RHNA may be reduced by the number of pending, approved, permitted and units built since July 1, 2021 by demonstrating availability in the planning period and

affordability based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). The element utilizes planned and approved projects (Development Pipeline) toward the RHNA but should include additional discussion and analysis, as follows:

- *Other Pipeline*: The element mentions (p. 4-19) the City examined and applied past completion rates to pipeline projects to estimate project completion in the planning period but should include additional discussion to demonstrate the availability of pipeline projects. For example, the element could include supporting information for past completion rates and identify the actual completion rate applied to pipeline project. In addition, the element must demonstrate the affordability of pipeline projects based on anticipated or actual sale prices, rent levels, or other mechanisms ensuring affordability (e.g., deed restrictions).
- *Publicly Owned Land*: HCD understands these units are part of pending or approved projects and are not counted as sites based on zoning and other statutory factors. The element should include supporting information such as anticipated schedules to demonstrate the availability of these sites in the planning period and demonstrate affordability as described above.
- *Warner Center 2035 Specific Plan*: The element identifies 10,491 units for above moderate-income households in the Warner Center Specific Plan as credit towards RHNA allocation (pp. 4-6 and 4-19). Additionally, the element assumes that based on current production trends in that specific plan area, it is likely that projects will be proposed and built during the planning period to meet part of the above-moderate income RHNA requirement. However, to credit this specific plan as progress towards meeting the RHNA allocation, the element must describe whether there are pending, approved, or permitted projects in the pipeline equating to 10,491 units. If the element cannot identify specific projects to qualify as credit towards RHNA, sites in the specific plan may be counted as part of the sites inventory.

Adequate Sites Alternative (Project Homekey Expansion): The element describes the significant opportunities through Project Homekey, and HCD is fully supportive of the City's efforts. However, to utilize this potential for converting existing space toward the RHNA, the element must demonstrate how these units will meet the requirements of Government Code section 65583.1, subdivision (c)(1), including but not limited to identifying sources of committed assistance and various other requirements. Alternatively, if existing spaces are nonresidential uses being converted to residential use and counted as a unit as part of annual reporting, the City may utilize a methodology similar to accessory dwelling units based on past permitted units, affordability and other relevant factors.

Public Lands Program: The element uses the Public Lands Program to meet 10,000 units of City's RHNA allocation (p. 4-25). While the Public Lands Program does not include any specific sites, the element assumes the program will produce 10,000 units based on the past success of the program building 7,000 units (p. 4-25). To utilize this

program toward the RHNA, the element must (1) demonstrate pending projects based on affordability and availability in the planning period as described above; (2) list parcels and analyze their suitability to meet all statutory requirements including zoning with appropriate densities; or (3) list parcels, analyze their suitability and include programs to rezone sites with appropriate zoning; and (4) Revise Program 15 (Public Land for Affordable Housing), as appropriate.

Accessory Dwelling Units (ADUs): The City is counting 45,340 ADUs towards accommodating the RHNA allocation during the planning period. This equates to an average of 5,667 ADUs per year (p. 4-22). However, the element is utilizing ADU building permit data from 2018-2020 that is inconsistent with HCD's records provided through annual progress reports. For example:

- 2018 – 4,079 ADUs (HCD records) versus 4,646 ADUs (element)
- 2019 – 4,792 ADUs (HCD records) versus 4,766 ADUs (element)
- 2020 – 3,425 ADUs (HCD records) versus 4,190 ADUs (element)

The element must be revised to reconcile these figures and adjust assumptions for the number of ADUs in the planning period as appropriate.

Candidate Sites for Rezoning: The element identifies a current shortfall in accommodating the 6th cycle RHNA. Specifically, the City has a shortfall of 103,409 units for lower-income households, 61,375 units for moderate-income households, and 25,212 units for above-moderate households. The element must identify and analyze the candidate sites that will be considered for rezoning and include an analysis of suitability and availability to address all components pursuant to Government Code section 65583.2.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. The element mentions a few projects on smaller sites (p. 4-11) but should include additional supporting information and relate this information to the sites inventory. For example, all the 100 percent affordable projects on smaller sites were at least 20 units in size. Assuming additional information supports this trend, the element could utilize a 20-unit threshold for sites to accommodate lower-income households.

Suitability of Nonvacant Sites: For your information, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. While the element includes adequate analysis to demonstrate additional development potential on sites with existing uses, the adopted housing element must be accompanied by findings (e.g., through resolution) based on substantial evidence that the use is likely to be discontinued during the planning period. (Gov. Code, § 65583.2, subd. (g)(2).)

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Water and Sewer Priority: Water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and if necessary, add or modify programs to establish a written procedure by a date early in the planning period. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element states that emergency shelters are allowed by-right in several zones and that performance standards require shelters to be located at least 600 feet from another shelter (App. 2.1-14). This standard may be inconsistent with spacing requirements pursuant to Government Code section 65583, subdivision (a)(4). The element should clarify if this standard applies to all zones permitting emergency shelters without discretion or if other zones are available in compliance with statutory requirements. Additionally, the element should clarify parking requirements for emergency shelters, determine whether parking requirements comply with AB 139 (Chapter 335, Statutes of 2019) which limits parking requirements to employee parking and add or modify programs as appropriate.
 - *Low Barrier Navigation Centers (LBNC):* Government Code section 65660 requires LBNC be a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses. The element should clarify consistency with this requirement or add or modify programs as appropriate.
 - *Housing for Farmworkers:* The element must demonstrate compliance with the Employee Housing Act, specifically Health and Safety Code sections 17021.5, 17021.6, and 17021.8. For example, section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions*

required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)

An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)

On and Off-Site Improvements: While the element includes a general discussion of the type of improvements required by a housing development (App. 2.1-58), it must identify actual site improvement standards and analyze it for any constraints to development.

Local Processing and Permit Procedures: The element states that a site plan review is required for most multifamily projects proposing 50 or more new residential units (App. 2.1-40). While the element describes some of the review process, it should also analyze approval findings and other requirements that may impact housing cost, supply, timing, and approval certainty and add or modify programs as appropriate.

Based on inquiries from developers, HCD is aware of circumstances where zoning densities are inconsistent with minimum allowable densities in the General Plan. To address this issue, the City is relying on a 1991 clarifying resolution from the City Council to address when these inconsistencies occur. The element should describe how the City is maintaining consistency between the General Plan and zoning ordinances pursuant to Government Code section 65860 and Senate Bill 1333 (Chapter 856, Statutes of 2018) and include programs and policies as appropriate.

Codes and Enforcement: The element states the City amended the California Building Code; however it must identify and analyze local amendments for impacts on the cost and supply of housing.

Constraints on Housing for Persons with Disabilities: The element should describe and analyze the reasonable accommodation procedures, particularly approval findings, for impacts on approval certainty.

Nongovernmental Constraints: The element should analyze nongovernmental constraints including the cost of land, requests to develop housing at densities below those anticipated in the inventory, and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis must address any hinderances to the construction of a locality's share of the regional housing need.

5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Households with Special Needs: The element includes some quantification but generally does not provide analysis such as trends, characteristics of needs such as tenure, existing resources to meet those needs and the magnitude of unmet needs. For example, the analysis should address persons with developmental disabilities and permanent and seasonal farmworkers (e.g., USDA county level data). For more information, see the Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with specific commitment and discrete timelines. For example, many programs “explore”, “review” and “evaluate”, which may be appropriate, but should also commit to completing an action that will have an actual impact on housing such as “amend”, “revise” or “establish”. In addition, many of the programs do not have discrete timelines or specified dates and should be revised. Finally, community plan updates are key to some central issues within the housing element, for example affirmatively furthering fair housing, and the element should add or modify programs with a schedule and priority for community plan updates.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, §*

65583, subd. (c)(1).)

As noted in Finding B3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding B4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the City will need to revise or add programs to affirmatively further fair housing.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

Program 27 (Preservation of Restricted Units At-risk of Converting to Market Rate) should be revised with specific commitment to comply with noticing requirements, coordinate with qualified entities to purchase properties and provide education and support to tenants.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes quantified objectives by income group for very low-, low-, moderate- and above-moderate income, it must also include objectives for the number of housing units that will be rehabilitated and conserved/preserved for extremely low-income households. In addition, the element identifies a quantified objective of 1,000 new units for moderate-income households during the planning period (p. 1-51). Quantified objectives represent a target goal for the jurisdiction based on needs and programs. The objectives may also consider anticipated nongovernmental actions. Given the RHNA for moderate-income households and the many actions in the element that could facilitate housing affordable to moderate income households, HCD encourages the City to consider increasing this quantified objective for moderate-income households.

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While the element includes a general summary of the public participation process (beginning on page 3-6 and Appendix E), it should also summarize public comments and describe how they were considered and will be considered and incorporated into the element. Further, the element could describe the language and culturally inclusive outreach program (p. 28) to demonstrate that the City engaged in meaningful outreach efforts to all segments of the community.

In addition, HCD understands the City made the housing element available to the public on July 1, 2021 without sufficient time for the public to comment prior to HCD submittal on July 7, 2021. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including revising the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.