

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

651 Bannan Street, Suite 400, Sacramento, CA 95811

(916) 263-2911 / FAX (916) 263-7453

[www.hcd.ca.gov](http://www.hcd.ca.gov)

November 18, 2024

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

Dear Vincent Bertoni:

**RE: City of Los Angeles 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element**

Thank you for submitting the City of Los Angeles' (City) draft documentation related to rezoning to accommodate the regional housing need allocation (RHNA). Specifically, HCD received a copy of the City's electronic sites inventory (Table C) that included an inventory of sites on November 12, 2024 and revisions on November 15, 2024, mapping information received on October 31, 2024 and the Housing Element Sites and Minimum Density Ordinance received on July 10, 2024 and revisions on September 19, 2024. Further, HCD received the City's inquiry regarding program implementation on November 8, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD has considered comments from a coalition of housing organizations pursuant to Government Code section 65585, subdivision (c).

**Required Rezones**

On June 29, 2022, HCD found the City's adopted housing element in compliance with State Housing Element Law (Gov. Code, § 65580 et seq). This finding was based on, among other things, programs committing to accommodate the City's RHNA and actions to affirmatively further fair housing (AFFH).

Specifically, Programs 48 (Update Affordable Housing Incentive Programs), Program 65 (Plan For Housing and Place-Based Strategies in Community Plan Areas) and Program 121 (RHNA Re-zoning) committed to rezoning to accommodate a shortfall of 255,432 units, including 130,553 for lower-income households. These programs included various strategies to implement the City's required rezones, including updating various community plans, establishing citywide ordinances, and developing programs that incentivize a variety of housing choices and opportunities throughout the City, including in higher resource neighborhoods.

HCD finds that these draft ordinances and additional documentation align with the objectives and specific commitments of the housing element programs noted above, including the statutory requirements pursuant to Government Code sections 65583, subdivision (c)(1) and 65583.2, subdivisions (h) and (i). For example, the draft rezone, as proposed, would address the full shortfall, permit multifamily development with 20 percent affordability without discretionary action, and identify more than 50 percent of its lower-income RHNA shortfall in higher resource areas.

As part of this review, HCD understands Housing Element Sites and Minimum Density Ordinance will apply to at least all sites identified to address the shortfall of capacity to accommodate the lower-income RHNA, and other upzoning or rezoning will be concurrently implemented as part of a community plan update.

### **Changes to Program Implementation**

On November 8, 2024, the City requested assistance on whether certain potential changes to the City's ordinances being considered by the City Council would trigger any housing element compliance issues, including the need for amendments to the certified housing element. Specifically, the City inquired about the impact of potential changes to the implementation of programs related to the Citywide Housing Incentive Program (CHIP) Rezoning Ordinance, the Resident Protections Ordinance (RPO), and faith-based incentives.

Pursuant to Government Code section 65585, subdivision (i)(1), HCD "shall review any action or failure to act by [the City] that it determines is inconsistent with an adopted housing element..., including any failure to implement any program actions included in the housing element..." Further, if HCD finds that the action or failure to act does not substantially comply with the housing element, HCD may revoke its finding of substantial compliance.

Implementation of the housing element, including public participation and the local decision-making process, is integral to achieving the goals and objectives of the housing element and addressing the housing need of all segments of the population. Maintaining the spirit, integrity, and specifics of the housing element that was found in substantial compliance by HCD is also of the utmost importance. Any changes to the way in which housing element programs are implemented should be carefully evaluated for potential impacts on HCD's finding of substantial compliance. While potential changes that were anticipated as part of the finding of substantial compliance or changes that enhance program implementation may not ultimately impact HCD's finding of substantial compliance, any changes should be carefully evaluated to determine whether they may negatively impact HCD's finding of substantial compliance and therefore require an amendment to the housing element.

Changes to program implementation that may impact HCD's finding of substantial compliance include but are not limited to introducing potential constraints on development, omitting or altering the specifics in the housing element program, or switching provisions with new provisions that are inconsistent with the integrity and specifics of the housing element program. Examples include modifying labor provisions, affordability requirements, replacement provisions, incentives for housing mobility, or development standards and permit procedures, such that the changes have the effect of, among other issues, increasing housing costs, failing to AFFH, or decreasing the ability to promote approval certainty and achieve maximum densities.

HCD advises the City to implement programs as previously committed to in its certified housing element to maintain compliance. However, if the City does intend to make changes to program implementation and to thereby amend its housing element, HCD recommends first proposing amendments through the public process, submitting draft amendments to HCD for review, and ensuring HCD finds the amended draft housing element in substantial compliance – *before* re-adopting the element and implementing the programs. Doing so will prevent the risk of losing HCD's finding of substantial compliance while the changes are considered by the public, local decision makers, and HCD.

While the changes may or may not negatively impact HCD's finding of substantial compliance, the City should include complementary impact analysis with any proposed revisions. An amendment should be conducted in the same manner as a housing element update, including steps such as public participation and submittal of a draft and adopted housing element to HCD pursuant to Government Code section 65585.

If the City is contemplating changes to how housing element programs will be implemented, HCD offers the following points for consideration (not exhaustive) to assist the City in its decision-making process:

#### Changes to Housing Element Program Implementation that Do Not Trigger Amendment and HCD Review

- Changes that were anticipated as part of the housing element found in compliance, such as ranges of development standards or candidate sites for rezoning that are not necessary to meet programmatic commitments; or
- Incentives or enhancements that clearly advance the objectives, specific commitments, and spirit of programs, such as incentives to AFFH, increasing heights or modifying development standards to further encourage development, rezoning additional acreage, adding financial resources, or reducing fees.

Changes to Housing Element Program Implementation that Trigger Amendment and HCD Review

- Any substantive differences in the program that would alter the specific analysis and programmatic commitments or other portions of the housing element;
- Adding, subtracting, replacing, or altering programmatic commitments or other portions of the housing element, including objectives of the program;
- Adding potential constraints or more restrictive provisions that alter the specific analysis and programmatic commitments, including objectives of the program (e.g., labor provisions, replacement and affordability provisions, development standards and permit procedures, or fees and exactions);
- Removing incentives;
- Changes that impact the sites inventory and analysis that were not envisioned as part of the finding of substantial compliance and demonstrating adequate sites to accommodate the RHNA; and
- Any new provisions that exacerbate discrimination and inhibit fostering inclusive communities.

**Conclusion**

HCD recognizes the challenges and opportunities to implement the housing element and applauds the efforts of the City in addressing the housing needs of all segments of the community. HCD appreciates the opportunity to assist the City in its decision-making and looks forward to following the City's progress in implementation. If you have any questions or need additional technical assistance, please contact me at [paul.mcdougall@hcd.ca.gov](mailto:paul.mcdougall@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager