

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

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June 3, 2022

Sharon Gong, Senior Planner
City of Berkeley
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Dear Sharon Gong:

RE: Berkeley – Letter of Technical Assistance

The purpose of this letter is to provide technical assistance to the City of Berkeley (City). The California Department of Housing and Community Development (HCD) has become aware of potential conflicts between the practices of the City's Zoning Adjustments Board (ZAB) concerning determinations for projects determined to be exempt from the California Environmental Quality Act (CEQA) and timelines pursuant to Public Resources Code section 21080.1, subdivision (a), and Public Resources Code section 21080.2. HCD is concerned that these actions may act as a governmental constraint on housing development and requests the City review the CEQA determination process in Berkeley's 6th Cycle Housing Element and include programs to mitigate or remove constraints as necessary.

Obligations Under Public Resources Code sections 21080.1 & 21080.2

HCD has been made aware of at least five development applications where the final ZAB determination was made more than 30 days after the relevant permit was determined to be complete. As the City is aware, under the Public Resources Code, a lead agency must make a determination under CEQA for projects exempt from environmental review within 30 days of a project application being deemed complete. These provisions are critical to meeting the Permit Streamlining Act requirement set in Government Code section 65950, subdivision (a) (5), and generally facilitate the processing of housing developments.

6th Cycle Housing Element

As Berkeley is updating its 6th Cycle Housing Element, the City must describe and analyze the permit process from application to approvals, including a discussion on timeframes for each step in the process, impediments, and how it addresses the

application of state law on application processing pursuant to Government Code section 65583, subdivision (a)(5). In addition, the element must also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and include program actions to remove or mitigate identified constraints pursuant to Government Code section 65583, subdivision (c)(3). Excessive CEQA review timeframes can delay project approval and pose a constraint to the development of housing and should be reviewed as part of the City's housing element update.

Conclusion

HCD understands that the City is currently reviewing its compliance with these provisions and is looking at strategies to transparently document the process to ensure timely approval of CEQA determinations and provide additional transparency. HCD supports these efforts and encourages the City to take meaningful steps to ensure that its processes comply with provisions of state housing law.

If you have questions or need additional information, please contact Kevin Hefner at Kevin.Hefner@hcd.ca.gov

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief