

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

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October 26, 2021

Amy Bodek, Director of Regional Planning  
Department of Regional Planning  
County of Los Angeles  
320 W. Temple St, 13<sup>th</sup> Floor  
Los Angeles, CA 90012

Dear Amy Bodek:

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

Thank you for submitting the County of Los Angeles' (County) draft housing element received for review on August 27, 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, YIMBY Law, League of Women Votes of Los Angeles County, Eastside LEADS Coalition, Public Counsel, California Rural Legal Assistance Foundation, Public Interest Law Project, Western Center on Law and Poverty, Leadership Counsel for Justice and Accountability, California Consortium of Addiction Programs and Professionals, and individuals including Henry Fung and Josh Albrektson, 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.

As a reminder, the County's 6<sup>th</sup> cycle housing element was due October 15, 2021. As of today, the County has not completed the housing element process for the 6<sup>th</sup> cycle. The County's 5<sup>th</sup> cycle housing element no longer satisfies statutory requirements. HCD encourages the County to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of this statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local

government's housing element will no longer comply with State Housing Element Law and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the County should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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 County meets housing element requirements for these and other funding sources.

HCD appreciates the dedication and diligence of Connie Chung, Tina Fung, and Ayala Scott of County staff, along with the County's consultant, Veronica Tam, during the course of our review. We are committed to assist the County 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](mailto:Sohab.mehmood@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX COUNTY OF LOS ANGELES

The following changes are necessary to bring the County'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. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing 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 revised element included additional data to address the findings from HCD August 6, 2021 letter; however, additional analysis of that data is needed for a complete assessment of fair housing.

Outreach: The assessment of fair housing requires that jurisdictions describe meaningful, frequent, and ongoing public participation. The element could describe what methods the County utilized to reach a broad audience including promoting language access and accessibility for persons with disabilities and consulting with relevant organizations. The element could also discuss any targeted outreach efforts to specific neighborhoods that are disproportionately impacted by fair housing issues. Finally, the element should describe the results of this outreach specifically related to the affirmatively furthering fair housing (AFFH) analysis.

Local Trends and Patterns: While the element includes several of the required data across all fair housing issue areas (e.g., segregation and integration, racially and ethnically concentrated areas of poverty, access to opportunity, disproportionate housing needs), it must also analyze that data for patterns, trends, and characteristics, including differences in census tracts or neighborhoods as well as trends over time.

Local Data and Knowledge: The element should complement federal, state and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers.

Racial/Ethnic Areas of Concentration of Poverty and Affluence (R/ECAP and RCAA): The County has several census tracts that are considered either an R/ECAP or RCAA (p. 58-62). As a result, the County should analyze each R/ECAP and RCAA area with patterns and changes over time and discuss other relevant factors, such as public

participation, past governmental and private policies, practices, investments and demographic trends.

Sites Inventory: While the element included data on fair housing components relative to the location of sites, the analysis must be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The site inventory analysis should address how the sites are identified to improve fair housing conditions related to each component of the analysis (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

Programs, Actions, Metrics, and Milestones: For goals and actions to create meaningful impact and overcome contributing factors to fair housing issues, programs must include metrics and milestone, have specific implementation actions, and be implemented early in the planning period. Additionally, the County received public comments that include recommendations on how to strengthen or implement several of the programs mentioned below. HCD encourages the County to consider these public comments when revising the programs.

*Place-Based Strategies*: As mentioned above, the County has six census tracts that are considered RECAP communities across five different community plan areas (appendices – p. 58). The element includes Programs 2 and 8, which cover three of the six R/ECAP census tracts. While the element includes several important actions, related to land use, mobility, displacement, gentrification and economic enhancement, the Programs should describe how and when each action will be implemented. For example, the element stated the County will conduct a displacement and gentrification study as part of the Metro Area Plan to evaluate different community benefit tools, however the element should also include information on the start and completion dates as well as when the results of the study will be implemented. Additionally, the element still should include programs or actions that will cover the remaining R/ECAP communities including Lennox and Sawtelle VA Center. Programs that could be modified or revised with more focus on R/ECAP communities include Programs 18 and 34. Lastly, each program must include metrics that will be used to evaluate progress such as number of affordable units built, number of families housed, number of parks built, etc.

*Displacement Risk*: A significant portion of the County is vulnerable to displacement including all R/ECAP communities. As a result, the County must include strong programs and actions to mitigate the risk. The element included several programs that could address displacement risk if revised to be more targeted to communities at risk of displacement including but not limited to Programs 41, 42, and 45.

*Housing Choices in Areas of Opportunity*: Given that a small portion of lower-income sites have been identified in areas of high and highest opportunity census tracts, the element should include strong programs and actions to promote and develop affordable housing choices in areas of high opportunity. The element included several programs that could increase housing choices in areas of opportunity if they are

revised to be more targeted to high and highest areas of opportunity including but not limited to Programs 9, 20, 23, and 53.

2. *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).)*

Housing Stock Conditions: The element did not address this finding. While the element included additional information on habitability issues through a survey, it must still explicitly estimate the number of units in need of rehabilitation and replacement. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

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).)*

Realistic Capacity: The revised element included examples of past developments in similar zones that have been built to 80 percent of the maximum density. However, additional analysis is still needed to demonstrate realistic capacity on sites where the County applied an automatic 27.5 percent density bonus to sites that would be required to set aside affordable units (e.g., county inclusionary ordinance) within Coastal South Los Angeles, San Gabriel Valley, and Santa Clarita Valley. The analysis stated that projects setting aside affordable units per the County's inclusionary ordinance would automatically qualify for 27.5 percent density increase per the County density bonus ordinance. The analysis stated that 67 percent of eligible projects requested a density bonus (p.196). This analysis does not demonstrate trends that the density bonus program is utilized to a high enough level that supports automatic applicability to any eligible site. The element must include additional information to support the automatic application of a density increase or reduce the realistic capacity. Additionally, the element included an analysis of residential developing on nonresidential sites (e.g., mixed-use), stating that multifamily housing is allowed ministerially and provided information on market trends related to commercial uses (p.198). However, the element should clarify if the County has any performance standards, such as, minimum commercial or residential requirements to support the assumed capacity assumptions.

Suitability of Nonvacant Sites and Candidate Sites for Rezoning: The revised element included additional information on the likelihood of redevelopment on nonvacant sites such as case studies of previous projects developing as residential on sites with similar existing uses as those identified in the inventory (p.199-216). However, the element must include additional analysis to demonstrate existing uses will not constitute an impediment to additional residential development. For example, the element stated that a list of objective factors was used in choosing sites including existing land use, age of existing structure, land to improvement value, and ownership patterns. The element should list the actual values for each of the sites to better relate the overall analysis to the sites inventory. Additionally, the analysis should describe why and how

the factors demonstrate that these sites are suitable for development. For example, the analysis could include a list of projects that were built on sites with the same factors (building age, improvement to land value, existing uses, etc.). The element also stated that a weighting score method was utilized to prioritize sites for rezoning. The element should describe in greater detail how the score was determined and could include the score for each site in the actual inventory. Lastly, the element should include a program that incentivizes redevelopment such as increased incentives and marketing and outreaching with developers and owners about the opportunity for redevelopment on these sites.

As a reminder, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, as part of the resolution to adopt the housing element, the County must make findings based on substantial evidence that the use is likely to be discontinued pursuant to Government Code section 65583.2, subdivision (g)(2).

Specific Plans: The revised element included an analysis of several specific plans including distinguishing between sites and projects on each plan area, phasing requirements, affordability, necessary approvals and process, and any development agreements (p.190). However, the element should clarify whether the specific plans are being counted as sites in the current inventory or as progress towards RHNA. The element should clearly identify the number of units that are being counted as progress towards RHNA and the sites that are included in the current inventory.

County-owned Sites: The revised element clarifies the County is the permitting authority and will issue building permits for County-owned sites located in jurisdictional boundaries. The element also listed sites with pending, approved, or entitled projects along with the affordability on each project (p.194). However, the element must demonstrate how affordability was determined (e.g., affordability restrictions, financing, anticipated rents or sale prices, etc.).

Accessory Dwelling Unit (ADU): The County is counting an average of 500 ADUs per year for a total of 4,000 ADUs to accommodate its moderate and above moderate RHNA. HCD's records indicate that the County has permitted an average of 371 ADUs between 2018-2020 (2018 – 128, 2019 – 594, 2020 – 397). The County provided additional documentation stating that it has permitted 400 ADUs from January – September 2021. When considering ADU permits issued since September 2021, the County averages 405 ADUs a year. In addition, ADU permit data from 2018 – 2021 do not reflect an upward consistent trend that can be projected into the planning period. As a result, the element should be revised to reduce the number of ADUs to accommodate the County's RHNA.

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. The analysis shall*

*also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Constraints on housing for Persons with Disabilities: The element states that the County utilizes a local reasonable accommodation (RA) ordinance, and that the findings relate to the necessity and reasonableness of the request (p.163); however, the analysis must include a list of the actual approval findings required for RA requests and analyze these findings for constraints to housing for persons with disabilities.

## **B. Housing Programs**

1. *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 A3, 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 County may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Previously Identified Nonvacant and Vacant Sites: The element is relying on nonvacant sites used in prior adopted housing element and vacant sites identified in two or more consecutive planning periods. After consideration of third-party comments, HCD evaluated the analysis of zoning on sites carried over from the previous planning period (Page 206) and has determined that current analysis does not demonstrate that the County addresses statutory requirements pursuant to Government Code section 65583.2(c). To utilize sites previously identified in past housing element to accommodate the RHNA for lower-income households, the element must include a program to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower-income households. For your information, this also applies to sites that are being rezoned pursuant to Government Code Section 65583(c)). In establishing this program, the County is encouraged to consult with stakeholders on how best to meet this

requirement. For example, the County could commit to extending inclusionary housing provisions to these sites. In addition, the County should also consider establishing a program to monitor the development of these sites. If sites are developed with less affordable units than what was anticipated in the inventory, the County should commit to replacing that lost capacity within 180 day of approval of the project. That replacement capacity should also allow for residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households.

Program 21 – Adaptive Reuse Ordinance: The element includes a program to develop an adaptive reuse ordinance to facilitate the conversion of underutilized uses into residential including permanent affordable housing. Given the County’s high reliance on nonvacant sites that include existing commercial uses, the completion of this program should happen sooner within the planning period (e.g., 3 years).

Program 37 – County-owned Sites: As stated above, the element utilizes County-owned sites in incorporated jurisdictions to accommodate a portion of its RHNA. The element included a program to develop on these sites, however the program did not list any specific actions. Actions must include:

- Reporting units to Department of Finance as the County’s housing stock, not the City where the site is located.
- Commitment to facilitate approvals, entitlements, and building permits.
- Marketing sites including issuing annual RFPs, outreach with developers.
- Developing and providing incentives.

2. *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 A1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the County will need to revise or add programs to AFFH.