

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

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April 12, 2022

*****Corrected*****

James Makshanoff, City Manager
City of Pomona
505 South Garey Avenue, Second Floor
Pomona, CA 91766

Dear James Makshanoff:

RE: City of Pomona's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Pomona's (City) housing element adopted February 7, 2022 and received for review on February 11, 2022. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from the San Gabriel Valley Tenants' Alliance pursuant to Government Code section 65585, subdivision (c).

The adopted element addresses most statutory requirements described in HCD's January 10, 2022 review; however, revisions are necessary to fully comply with State Housing Element Law. The revisions needed are as follows:

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).)*

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... (Gov. Code, § 65583, subd. (c)(5).)

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): While the revised element includes additional analysis on R/ECAP providing comparison in household demographics, it should also, as noted in the prior review, analyze the R/ECAP, such as conditions of the neighborhood relative to quality of life (e.g., housing conditions, infrastructure, parks, community amenities, safe routes to school, environmental health) and effectiveness or absence of past strategies related to equitable quality of life. The element must add or modify programs based on the outcomes of this analysis.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): While the revised element includes analysis on the site strategy, it should analyze the impact on existing patterns geographically (e.g., neighborhood, census tract, area) by units and income group for all components (integration and segregation, RECAP, disparities to access to opportunity, disproportionate including displacement). The analysis should also evaluate if there is any isolation of regional housing needs allocation (RHNA) for each component.

Goals, Actions, 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. Action should also explicitly affirmatively furthering fair housing (AFFH) by, for example, targeting geographic areas of higher need or lower-income or housing opportunities in higher opportunity areas. Finally, actions must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization (including emphasis on concentrated areas of poverty) and displacement protection. Please see HCD's prior review for additional information.

2. *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).)*

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... (Gov. Code, § 65583, subd. (c)(1).)

Suitability of Nonvacant Sites: While Table C-5 (pp. C-11 through C-18) adds general information regarding the existing uses on candidate sites to meet the lower income RHNA, the information generally does not analyze the suitability of nonvacant sites for residential development. Specifically, the element must detail whether each site met all six conditions outlined on page C-10, demonstrate the existing uses are not an impediment to additional residential development and will likely discontinue during the planning period, and explain whether existing uses would remain or need to discontinue in order to redevelop. In addition, as

noted in the prior review, the element should discuss development trends to support listed factors (e.g., maximum buildout through floor area ratio (FAR) and density and percentage of maximum buildout opportunity in use).

In addition, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. Please be aware absent findings (e.g., adoption resolution) based on substantial evidence that uses are likely to discontinue within the planning period, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA. Based on a review of Resolution 2022-26, the City did not appear to make the appropriate finding. Any future re-adoption of the housing element must include the appropriate finding as part of the adoption resolution. HCD will send samples under separate cover.

City-Owned Sites: While the element adds some information regarding City-owned sites, it generally was not revised to address this requirement. For example, the element must still address whether existing uses impeded additional development, any known conditions that preclude development in the planning period, the potential schedule for development and necessary actions to facilitate development (e.g., consolidation) as intended in the sites inventory. In addition, the housing element must include a description of whether there are any plans to dispose of the properties during the planning period, how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Government Code section 54220). Based on the outcomes of this analysis, the element should modify Program 2.4C (Housing Development on City-Owned Parcels), including a schedule of actions (e.g., zoning, requests for proposals, developer selection, expedited permit processing and funding) to facilitate development, numerical objectives commensurate with assumptions in the element, compliance with the Surplus Land Act and any other relevant actions.

Infrastructure: The element includes Program 1.1C (Water and Sewer Service Purveyors) to coordinate with providers. However, since the City is the provider, the element should either clarify the City has a written procedure to grant priority to developments with units affordable to lower-income households or revise Program 1.1.C to establish a written procedure early in the planning period (e.g., by 2023).

Accessory Dwelling Units (ADU): As noted in the prior review, the City's ADU figures are inconsistent with HCD's records. HCD's records from Annual Progress Reports (APR) show 17 ADUs in 2018, 71 in 2019 and 56 in 2020. The City must reconcile its records with the APRs. Further, the analysis must be based on permitted units. While the element may utilize applications and conversion to permit rates as supplemental information, the analysis cannot

solely be based on these figures. As noted in the prior review, the City must reduce its ADU projections and establish a realistic target for the planning period and should modify the analysis as described above.

In addition, while Program 3.1A (Express Permitting for Additional Units) includes commitment to monitor ADU creation and affordability and take alternative actions if ADUs are not meeting assumptions, alternative actions should also include potential rezoning if actual production and affordability is far different than assumptions.

Electronic Sites Inventory: As noted in the prior review, 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. To date, HCD has not received the City's electronic sites inventory and this form must be submitted as part of any future adoption submittal or the element will not be found in compliance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element now indicates the City imposes parking requirements of one space per ten beds on emergency shelters. This standard is inconsistent with Government Code section 65583, subdivision (a)(4)(A) which generally only allows imposing parking requirements sufficient for staff. The element should include a program as appropriate to revise development standards consistent with statutory requirement.

Programs: As noted above, 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. 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).)*

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... (Gov. Code, § 65583, subd. (c)(3).)

Land Use Controls: The element concludes development standards do not constraint development, but it must still include analysis as noted in the prior review. This analysis should address all development standards, including parking requirements (particularly for one bedroom and bachelor units) and evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. Based on the outcomes of this analysis, the element must add or modify programs to address identified constraints.

Processing and Permit Procedures: The element now describes processing steps and approval bodies for ministerial and discretionary actions. In addition, as noted in the prior review, the analysis should address the typical number of public hearings, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing and approval certainty. Based on the outcomes of this analysis, the element must add or modify programs to address identified constraints.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the above requirements.

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 the 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).

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), Program 5 (General Plan and Development Code Update) to rezone 3,392 units to accommodate the RHNA must 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).

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.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD appreciates the hard work and dedication the City's housing element team provided throughout the housing element review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager