

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

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February 9, 2022

Scott Stiles, City Manager
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840

Dear Scott Stiles:

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

Thank you for submitting the City of Garden Grove's (City) housing element adopted on November 9, 2021 and received for review on November 12, 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 the Kennedy Commission pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses many statutory requirements described in HCD's September 10, 2021 review; however, revisions will be necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City 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 the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation, 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).

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 meets housing element requirements for these and other funding sources.

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 Mashal Ayobi, of our staff, at Mashal.Ayobi@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy
Senior Accountability Manager

Enclosure

APPENDIX CITY OF GARDEN GROVE

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. 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))*

Fair Housing Enforcement and Outreach: While the element was revised to incorporate information on fair housing complaints, it did not address the ability to provide enforcement and outreach capacity which can consist of actions such as ability to investigate complaints, obtain remedies, or the ability to engage in fair housing testing. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity. Furthermore, the element should address outreach related to affirmatively further fair housing (AFFH).

Regional Analysis: While the element generally describes local patterns and trends, it must also analyze Garden Grove relative to the rest of the region regarding Racially and Racially/Ethnicly Concentrated Areas of Poverty (R/ECAP) and Affluence, disparities in access to opportunity, and disproportionate housing needs and displacement risks.

Local Data and Knowledge, and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. 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. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. This can include, but is not limited to, changes and barriers in zoning and land use rules, information about redlining/greenlining, restrictive covenants and other discriminatory practices, presence and history of place-based investment, and mobility option patterns.

Access to Opportunity: The element provides information on the access to opportunity through the TCAC opportunity maps but must also provide a complete local and regional

analysis of patterns and trends for all components. A comprehensive analysis should include the local and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. It should also analyze persons with disabilities as well as access to transit. Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Garden Grove.

Disproportionate Housing Needs: The element is revised to include some information about cost burden, substandard housing, and overcrowding in the locality but the analysis is incomplete. A full analysis should identify local patterns and trends throughout the community. In addition, the element must include regional information and analysis for these categories. The element must also address homelessness and displacement risk. Currently, the draft includes maps of sensitive communities and describes various types of displacement risk, but does not describe or contextualize them, or analyze any findings specific to Garden Grove.

Contributing Factors: The element provides a general list of contributing factors (p. 83); however, the contributing factors identified are generally not responsive to the analysis presented in the AFFH analysis. The City's composition and location in the region presents unique fair housing challenges largely not captured by the contributing factors. As a result, the City should revise the AFFH section as noted above, re-evaluate contributing factors, and prioritize the contributing factors. As a reminder, the contributing factors should be foundational pieces for the AFFH programs.

Site Inventory and AFFH: The element was revised to provide some general analysis and generally states that the sites improve fair housing and equal opportunities conditions in Garden Grove (pp. 12-83). However, this is not sufficient to demonstrate whether sites identified to meet the regional housing needs allocation (RHNA) are distributed throughout the community in a manner that AFFH. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). In addition, as noted in the element sites are located in the moderate resourced areas followed by low resourced areas. The element should address this and discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to overcome patterns of segregation and promote inclusive communities, including actions beyond the RHNA. Depending on the results of a complete analysis, the element should add programs as appropriate.

Goals, Priorities, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Currently the element relies solely on programs which are not transformative, meaningful, or specific. Many of these actions simply involve coming into compliance with state law. Goals and actions must specifically respond to the analysis and 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. For example, as identified in third party comments, the AFFH analysis shows patterns of racial and economic segregation but does not include programs to adequately address these patterns nor address potential displacement risk.

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).)*

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov. HCD has not received a copy of the electronic inventory. Please note, the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. 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.

Realistic Capacity: The element now lists recent developments to support capacity assumptions and trends related to residential development in mixed-use zone; however, the analysis of realistic capacity should account for the likelihood of 100 percent nonresidential uses. Please see prior review.

Suitability of Nonvacant Sites: Specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. The housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2).) While the element contains some information relating to underutilization, age of structure, and building-to-land value ratio, it does not provide analysis demonstrating the uses are likely to discontinue in the planning period. For example, only a few sites include information related to existing leases and owner interest, but no information was provided related to whether the uses on other sites would impede residential development. For example, the element could describe if uses are operating or marginalized, information on interest in redevelopment and relate redevelopment and market trends to the identified sites. In particular, the element. In addition, the adopted resolution did not include necessary findings based on substantial evidence that the uses will likely discontinue in the planning period. Please see HCD's prior review for additional information.

Senate Bill 9 (Statutes of 2021) Projections: The element is now projecting 1,459 units that will be developed based on the passage of SB 9 (Statutes of 2021) to accommodate a

portion of its above moderate income RHNA. To utilize projections based on SB 9 legislation, the element must; 1) include a site-specific inventory of sites where SB 9 projections are being applied; 2) include a nonvacant sites analysis demonstrating the potential for redevelopment and that the existing use will not constitute as an impediment for additional residential use and; 3) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should also support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.

Accessory Dwelling Units (ADU): The ADU numbers have been reassessed in this element and the City acknowledges that the ADU counts in their annual progress reports (APRs) are undercounted and includes Program 9 to update the City's APR data. However, it is still unclear from both the element and the documentation provided with the review how many units have been permitted since 2018. The element states that an average of 242 units have been permitted per year and therefore 2,009 units are likely to be built in the planning period. However, this calculation seems to be inaccurate as five years of data was provided resulting in an average of 193 per year which equate to an eight-year projection of 1,544 units. Accompanying documentation shows an average of 237 which would equate to an eight-year projection of 1,896. The element must reconcile the factors used to project the number of ADU's expected to be built in the planning period and adjust the projection accordingly.

Zoning for a Variety of Housing Types:

Transitional and Supportive Housing: While the element was revised to include additional information related to how transitional housing is allowed, it does not provide information related to supportive housing. In addition, the information provided on pages 12-59 seems to distinguish between number of occupants living together. This is inconsistent with state law which states "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. (c)(3), emphasis added.) This means if transitional or supportive housing is located in a single-family home, for instance, the city cannot require a use permit for the transitional or supportive housing unless it also generally requires a use permit for all other single-family homes in the same zone. This rule applies regardless of the number of occupants. The City cannot, for instance, require a use permit for transitional and supportive housing with six or more occupants unless it requires such a use permit for single-family homes in the same zone generally. The element must include a program to update the zoning ordinance consistent with these standards.

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.*

Processing and Permitting Procedures: While the element indicates that no multi-family projects have been denied based on the approval finding and that the City must follow state law, it does not analyze the permit or the process as a potential constraint. A full analysis should assess the process impact on approval certainty, supply, affordability, timing, and other relevant factors and in particular analyze the subjective design standards noted in HCD's prior review.

Housing for Persons with Disabilities: While the element was revised to identify a reasonable accommodation procedure through the housing authority, it did not include the findings for approval of reasonable accommodation requests. In addition, the element did not address HCD's previous finding to analyze the conditional use process requirement for group homes of seven or more. Zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

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 A1, 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. In addition, the element should be revised as follows:

Sites Inventory: As stated in our prior review, if rezoning is not completed by October 15, 2021, the element must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).) The element should clarify when and if rezoning has occurred and amend zoning to be consistent with Government Code section 65583.2(h) and (i) as needed.

Nonvacant Sites Reliance to Accommodate RHNA: HCD's prior review found that the element relies upon nonvacant sites to accommodate the regional housing need for

lower-income households, so it should include a program(s) to promote residential development affordable to lower-income housing on these sites. The program could commit to provide financial assistance, regulatory concessions such as a streamlined permit processing, or incentives including the adoption of an affordable housing overlay pursuant to Program 22 to encourage and facilitate new, or more intense, residential development on the sites. In addition, the element could amend Program 12 to monitor development on sites in the mixed-use zone as it relates to the provision of housing affordable to lower-income households and commit provision of additional actions as necessary to facilitate development.

Program 4 (Affordable Housing Construction): HCD's prior review found the element must describe and analyze environmental constraints that may impede the development of housing within the planning period on these sites, specifically the provision of housing affordable to lower-income housing. The City added more information on environmental constraints related to industrial contamination in starting on pages 12-122 and program 4 has been revised to include City assistance, both technical and funding, where available, to sites that have been determined to be contaminated based on environmental site assessments. However, the City does not specify when these assessments will be complete. The element should add a program to ensure environmental constraints are addressed and include a timeline for conducting such assessments within a year of housing element adoption.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable extremely low-income (ELI) households. Programs must be revised or added to the element to assist in the development of housing for ELI households. For example, Program 13 in the element could describe what the City will do to encourage developers to include ELI units with wraparound services. In addition, the element states that the City is working with the owners of the Tamerlane Drive property (pp.12-63) to preserve at-risk units. Program 7 could be updated to reflect these efforts.

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 A2, the element requires a complete analysis of potential governmental 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 A1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the City may need to revise or add programs to AFFH.