

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

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May 17, 2021

Rudy Hernandez, Interim City Manager  
City of Orange Cove  
633 Sixth Street  
Orange Cove, CA 93646

**RE: City of Orange Cove – Notice of Housing Element Non-Compliance**

Dear Rudy Hernandez:

The California Department of Housing and Community Development (HCD) is responsible for administering State Housing Element Law (Article 10.6 of the Government Code), including the review of local housing elements for compliance pursuant to Government Code section 65585, subdivision (b). Additionally, under Government Code section 65585, subdivision (i)(1)(A), HCD must review any action or failure to act that is inconsistent with an adopted housing element or Government Code section 65583, including any failure to implement program actions included in the housing element. Further, HCD must issue written findings and provide a reasonable time for a city to respond to the findings before taking any other action authorized by Government Code section 65585, subdivisions (i) or (j).

On June 25, 2020, HCD found the housing element for the City of Orange Cove (City) to be in compliance with State Housing Element Law, conditioned upon implementation of Program B8:

“The finding of compliance is conditioned on Program B8 which commits to two annexations (Howard and Macias) and the rezoning of 10 acres into the R-3 zoning district, allowing a minimum density of 20 units per acre and permitting multifamily development without discretionary review when the project includes 20 percent or more units affordable to lower-income households. Implementation of Program B8 will provide sufficient sites and zoning to accommodate the City’s shortfall of 197 housing units affordable to lower-income households. The program additionally commits the City to seek tax credit housing developers for the sites, as well as revisiting the 80-acre annexation on the east site of Anchor Avenue that was initiated in 2009. For the element to remain in compliance after December 31, 2020, the City must fully implement Program B8 actions.”

As HCD's letter emphasized, these conditions had to be addressed by December 31, 2020, to remain in compliance with Housing Element Law. HCD has requested updates on the City's implementation of Program B8 multiple times since December 31, and while HCD acknowledges some progress has been made toward implementation, the City has not been responsive to requests for additional updates since April 13, 2021.

Prior to that time, the City had informed HCD that:

- The State Water Resources Control Board had expressed concerned that the City does not have adequate surface water storage capacity with the addition of the proposed annexation water customers.
- The City has completed upgrades to increase water storage capacity.
- The City feels water capacity is sufficient to accommodate the new water customers.
- The City has met with the State Water Resources Control Board to discuss the issue.

HCD understands the annexation process can be lengthy and challenging. However, those challenges do not absolve the City from their statutory obligation to correct the City's shortfall of adequate sites to accommodate 197 units affordable to lower-income households. In addition, HCD has advised the City that if the annexation is not moving forward, the City must provide an alternate strategy to accommodate the shortfall.

Given this, HCD finds the City has failed to implement Program B8 within the prescribed timeframe of its conditional compliance and, as such, finds the City's housing element no longer complies with State Housing Element Law. Under Government Code section 65585, subdivision (i), HCD must give the City a reasonable time, no longer than 30 days, to respond to these findings. HCD provides the City until June 12, 2021 to respond with how the City intends to take affirmative, definitive corrective action to bring its Housing Element into substantial compliance with Government Code Article 10.6.

If the City does not respond and demonstrate that the conditions have been satisfied by June 17, 2021, HCD will find the City's housing element out of compliance and revoke its finding of conditional compliance made on June 25, 2020. HCD looks forward to continuing to work with the City and receive timely documentation to resolve these matters. HCD is amenable to working with the City to develop a path to remain in compliance or, if necessary, expeditiously regain compliance with Housing Element Law. Failure to bring the housing element into compliance with applicable statutory requirements may result in further action authorized by Government Code section 65585, including revocation of housing element compliance, as noted above, and referral to the California Office of the Attorney General.

If you have any questions or would like to discuss the content of this letter, please contact Robin Huntley of our staff at [Robin.Huntley@hcd.ca.gov](mailto:Robin.Huntley@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Megan Kirkeby', with a small dot at the end.

Megan Kirkeby  
Deputy Director