

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

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January 12, 2022

Erik Sund, City Manager
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

Dear Erik Sund:

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

Thank you for submitting the City of San Clemente's housing element adopted on October 5, 2021 and received for review on October 14, 2021. 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 Emergency Shelter Coalition, San Clemente Affordable Housing Coalition, Welcoming Neighbors Home Initiative, Public Law Center, Josh Albrektson, Bahram Esfahani, Kathy Esfahani, Deana Gullo, William (Bill) Kreutinger, Joan Thompson, Jacky Trani, Fran Turner, and Paula Wojtaszek pursuant to Government Code section 65585, subdivision (c).

The adopted element addresses many statutory requirements described in HCD's August 6, 2021 review; 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 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 this statutory deadline, 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 City 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 City will meet housing element requirements for these and other funding sources.

HCD appreciates the hard work, professionalism, and dedication of Cecilia Gallardo-Daly and Jennifer Savage during the review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Marisa Prasse, of our staff, at Marisa.Prasse@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SAN CLEMENTE

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).)*

Integration and Segregation: The adopted element includes additional data for segregation by race/ethnicity, disability status, familial status, and income at the regional level; however, the analysis must still incorporate local data and knowledge and other relevant factors. In addition, the element must analyze any unique attributes about the City related to fair housing issues such as coincidence across various components (e.g., segregation and integration and disproportionate housing needs) of the assessment of fair housing. This analysis should particularly address patterns and trends related to incomes. Local data and knowledge should complement federal, state, and regional data where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Other relevant factors should analyze historical land use, zoning, governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Furthermore, the summary of integration and segregation does not appear to reflect the data. For example, the data appears to show significant differences within the City and between the City and the region related to race/ethnicity, familial status, and income.

Concentrated Areas of Affluence: While the adopted element was revised to include an analysis of Racially Concentrated Areas of Affluence (RCAA) at the local level, it should incorporate local data and knowledge, other relevant factors, and evaluate coincidence across the components of the assessment of fair housing as described above.

Disparities in Access to Opportunity: The adopted element was revised to include data on spatial trends regarding access to opportunity metrics; however, the element should incorporate local data and knowledge, other relevant factors, and evaluate coincidence across the components of the assessment of fair housing as described above.

Disproportionate Housing Needs, Including Displacement: The adopted element includes additional information regarding spatial patterns in the city for overcrowding, substandard housing, cost burden and homelessness. However, the element should incorporate local data and knowledge, other relevant factors, and evaluate coincidence across the components of the assessment of fair housing as described above. In addition, the City should consider additional displacement data from the Urban Displacement Project. Please see <https://www.urbandisplacement.org/maps/los-angeles-gentrification-and-displacement/>.

Site Inventory: The adopted element includes additional data regarding sites and concentrations of socio-economic characteristics. However, the element should analyze the location and impact on the existing patterns to evaluate if the site inventory improves or exacerbates conditions, particularly related to patterns of income and concentrated areas of affluence. This analysis of identified sites should address any lack of housing opportunities for lower-income households in the portions of the city that are proportionally whiter and more affluent. Furthermore, the analyses in the element indicate that the site inventory exacerbates segregation by race/ethnicity, segregation by familial status, segregation by income, and access to opportunity in the City. The element should be accompanied by adequate programs to ameliorate these impacts. The element should expand the programs and list of sites to better formulate development opportunities, goals, actions, and metrics that will result in broader equitable quality of life throughout the community.

Contributing Factors to Fair Housing Issues: Some of the contributing factors listed in the adopted element appear detached from the Assessment of Fair Housing analyses, while other salient fair housing issues identified in the Assessment of Fair Housing are missing from the list of contributing factors (e.g., regional patterns of segregation by race/ethnicity and income, access to opportunity). Based on a complete analysis, the contributing factors should be reassessed, prioritized, and revised to reflect the most salient fair housing issues.

Goals, Priorities, Metrics, and Milestones: The element largely did not address this finding. The element must add, or revise programs based on a complete analysis, listing, and prioritization of contributing factors to fair housing issues. Goals and actions must significantly seek to overcome contributing factors to fair housing issues and include metrics and milestones to target meaningful fair housing results. Currently, the element identifies outreach-focused programs to encourage and promote affordable housing; however, most of these programs do not appear to facilitate meaningful change nor address affirmatively furthering fair housing (AFFH) requirements, including metrics or targeted numerical outcomes. Given that the city is significantly whiter and wealthier than the region, the element could focus on programs that enhance housing mobility and encourage development of more affordable housing choices in an inclusive

manner throughout the community. Furthermore, the element should include programs with substantial place-based investments and protection against displacement in areas of increased segregation and poverty.

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).)*

Small Sites: The element was not revised to address this requirement. Please see HCD's prior review.

Environmental and Other Constraints: While the element now notes some sites have environmental impacts and mitigation measures would result in less than significant impacts. As noted in the prior HCD review, several sites appear to have conditions that may impede or preclude development and the element should include analysis as appropriate. Please see HCD's prior review.

Suitability of Nonvacant Sites: The element was not revised to address this requirement. Please see HCD's prior review.

Electronic Site Inventory: As noted in the prior review, pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory and submit an electronic version of the sites inventory. As of today, HCD has not received an electronic version of the sites inventory and the form must be submitted. Any future re-adopted versions of the element must also submit the electronic version of the sites inventory.

Zoning for a Variety of Housing Types (Emergency Shelters): The element now includes some information about capacity within the identified zone for emergency shelters and a brief mention of unsuccessful past interest in the zone. However, the element generally does not address the findings from the prior review. Please see HCD's prior review.

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).)*

Land-Use Controls: The element was not revised to address this requirement. Please see HCD's prior review.

Local Processing and Permit Procedures: The element must describe and analyze its written procedures for compliance with SB35 to streamline ministerial approval for eligible

projects. For additional information, see the Updated Streamlined Ministerial Approval Process Government Code Section 65913.4 Guidelines at <https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf>.

Constraints on housing for Persons with Disabilities: The element now lists conditional use permit (CUP) findings for group homes for seven or more persons and states a reasonable accommodation request can be used to provide exception. However, the element should evaluate the findings as constraints and include programs to address the procedure as a constraint to objectively facilitate approval certainty for these housing types, without exception processes such as a reasonable accommodation procedure.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Developed Densities and Permit Times: The element now includes information on time between receiving approvals and building permits but must still analyze requests to develop housing at densities below those anticipated in the sites inventory.

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 A2, 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, Program 15 should be revised based on a complete analysis as described in Finding A2 and should be expanded as described in HCD's prior review.

2. *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(s) A3 and A4, the element requires a complete analysis of potential governmental and nongovernmental 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.

In addition, the element now includes actions in Program 14 (Zoning Ordinance Amendments) to address the CUP for multifamily uses in multifamily zones as a constraint. However, the action will only remove the CUP if a project meets certain conditions, potentially raising additional constraints and uncertainty. The Program should either specify these conditions to ensure no constraints on multifamily uses or remove the clause.

3. *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 must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs.

4. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

Program 17 (Preserve At-risk Housing) now includes information on other at-risk units but as noted in the prior review, it must still be revised to include tenant education and assistance and assistance with funding, such as supporting applications by nonprofits for funding to purchase at-risk units.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes new objectives for at-risk preservation, objectives should still be expanded as described in the prior review.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

The element adds more information on public participation such as workshops, discussions and the availability of the draft housing element but it must still demonstrate how public comments were considered and incorporated in the element.