

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

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



April 6, 2022

Joel Rojas, Director  
Development Services Department  
City of San Juan Capistrano  
32400 Paseo Adelanto  
San Juan Capistrano, CA 92675

**RE: City of San Juan Capistrano's 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element**

Dear Joel Rojas:

Thank you for submitting the City of San Juan Capistrano's (City) housing element adopted on February 1, 2022 and received for review on February 9, 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 Kennedy Commission and Friends of Harbors, Beaches and Parks; pursuant to Government Code section 65585, subdivision (c).

The adopted element addresses many statutory requirements described in HCD's November 19, 2021 review; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), 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).)*

Goals, Actions, Metrics, and Milestones: While the element includes various programs related to affirmatively furthering fair housing, generally most of these actions must include metrics to target significant and meaningful affirmatively furthering fair housing (AFFH) outcomes. Further, the actions should explicitly AFFH such as targeting geographic areas or neighborhoods, areas of higher need and areas throughout the community. Without these components, whether the element is targeting meaningful outcomes is unclear. For example, Program 16 (Residential Rehabilitation) could prioritize areas of higher need, including the Community of Focus, and add metrics or numerical targets for the planning period. Other examples include Programs 3 (Facilitate accessory dwelling unit (ADU) Production), 5 (Housing Choice Vouchers), 7 (Affordable Housing Funding), 8 (Owner Occupied Rehabilitation), 10 (Mobile Home Park Rent

Control), 17 (Displacement Prevention), 19 (Education, Training and Resources) and 20 (Increase Accessibility of Fair Housing Services). HCD will send samples under separate cover.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

*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).)*

Extremely Low-Income (ELI) Households: While the element now includes some data on ELI households cost burdens, overcrowding and other housing situations, it should discuss resources available to address the need; effectiveness of past efforts and gaps or magnitude of the housing needs, then add or modify program actions based on the outcomes of a complete analysis.

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... (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. 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).)*

Reasonable Accommodation: HCD's prior review found the element should describe and evaluate the reasonable accommodation process, including approval findings. In response, the element now explains that a request for accommodation must use a "Finding of Hardship" and there appears no parameters on how that finding is considered. The lack of clear procedures is a constraint. Further, a reasonable accommodation is a unique exception process in zoning and land use and should have clear decision-making standards such as whether the request is a fundamental alteration to zoning and land use. As a result, the element must include a program to establish a written procedure early in the planning period (e.g., within one year). HCD will send examples of written procedures under separate cover.

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.

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 (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 must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while 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 and dedication of you and Laura Stokes (Housing Supervisor/Associate Planner) during the housing element update. 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 Irvin Saldana, of our staff, at [Irvin.Saldana@hcd.ca.gov](mailto:Irvin.Saldana@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager