

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

651 Bannon Street
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



October 9, 2024

Abel Avalos, City Manager
City of Artesia
18747 Clarkdale Avenue
Artesia, CA 90701

Dear Abel Avalos:

RE: City of Artesia Failure to Adopt a Compliant 6th Cycle Housing Element – Notice of Violation

The California Department of Housing and Community Development (HCD) has reviewed the City of Artesia's (City's) June 9, 2023, response to the Letter of Inquiry sent on May 19, 2023, which requested an update on the status of the City's 6th cycle housing element, due October 15, 2021. The City's most recent draft does not comply with requirements under Housing Element Law¹ and the City's proposed timeline for compliance is inconsistent. Therefore, the City is in violation of Housing Element Law.² Under Government Code section 65585, HCD must review any action or failure to act that it determines to be inconsistent with either an adopted housing element or Government Code section 65583. HCD must then issue written findings to the local government.³ Additionally, HCD must notify a local government when that local government takes actions that violate Government Code section 65583 and may refer such violations to the California Office of the Attorney General.⁴

6th Cycle Housing Element Submission and Review History

The 6th cycle planning period for the City is October 15, 2021, through October 15, 2029. The City failed to adopt a compliant housing element by its 6th cycle due date of October 15, 2021.⁵ HCD records are as follows:

¹ Article 10.6 (commencing with section 65580) of Chapter 3 of the Government Code.

² Gov. Code, § 65585.

³ Gov. Code, § 65585, subd. (i).

⁴ Gov. Code, § 65585, subds. (i)(1), (j).

⁵ Gov. Code, § 65588, subd. (e)(3).

- On November 3, 2021, the City submitted an initial draft housing element to HCD for review.
- On December 31, 2021, HCD issued a findings letter to the City noting multiple revisions necessary for the housing element to be compliant with Housing Element Law.
- On March 23, 2022, the City submitted an element adopted on March 14, 2022, to HCD for review.
- On May 20, 2022, HCD issued a second findings letter to the City noting revisions were still necessary for the housing element to be compliant with Housing Element Law.
- On May 19, 2023, HCD issued a Letter of Inquiry to the City requesting the City provide a specific timeline for (1) submitting an updated draft housing element and (2) obtaining compliance with Housing Element Law, no later than June 9, 2023.
- On June 9, 2023, the City responded to the Letter of Inquiry notifying HCD that staff changes and issues with the previous contract planner were delaying the process. City staff committed to meeting with HCD every three weeks until the process is complete.
- On August 29, 2023, the City submitted an informal draft element for review.
- On October 16, 2023, HCD reviewed the draft, noting that further revisions were necessary for the housing element to be compliant with Housing Element Law.
- On April 9, 2024, the City submitted a second informal draft element for review.
- On July 8, 2024, HCD reviewed the draft, noting that further revisions were necessary for the housing element to be compliant with Housing Element Law.
- Although several meetings with staff have resulted in progress, HCD has not received revisions to the draft housing element in the past few months.

Technical Assistance Offered

HCD has made resources and technical assistance available to assist local jurisdictions in creating comprehensive housing elements. As noted above, HCD issued two findings letters to the City noting necessary changes and provided reviews for two additional informal drafts. HCD has also held several technical assistance calls with the City regarding its housing element.

In addition, the HCD has made available \$123 million in planning grants for regions, cities, and counties to prepare, adopt, and implement plans that streamline housing approvals and accelerate housing production. Under that program, the City was eligible for, and received, an award of \$160,000 through SB 2. The City was also eligible for, and received, \$65,000 through the Local Early Action Planning Grant (LEAP) for local planning activities.

Consequences of Noncompliance

Various consequences may apply if the City does not have a housing element in compliance with Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant housing element as a prerequisite, including, but not limited to, the following:

- Permanent Local Housing Allocation Program
- Local Housing Trust Fund Program
- Infill Infrastructure Grant Program
- Senate Bill 1 Caltrans Sustainable Communities Grants
- Affordable Housing and Sustainable Communities Program

Second, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of Housing Element Law.⁶ Further, state law provides for court-imposed penalties for persistent noncompliance, including financial penalties. For example, Government Code section 65585, subdivision (I)(1), establishes a minimum fine of \$10,000 per month, up to \$100,000 per month. If a jurisdiction remains noncompliant, a court can multiply those penalties by a factor of six. Other potential ramifications could include the loss of local land use authority to a court-appointed agent.⁷

In addition to these legal remedies available in the courts, under the Housing Accountability Act, jurisdictions without a substantially compliant housing element cannot rely on inconsistency with the local zoning ordinance and general land use designation as a basis for denial of a housing project for very low-, low-, or moderate-income households.⁸

Finally, please note that a jurisdiction that fails to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until any rezones necessary to accommodate a shortfall of sites pursuant to Government Code sections 65583, subdivision (c)(1)(A), and 65583.2, subdivision (c), are completed.⁹

⁶ Gov. Code, § 65585, subd. (j).

⁷ Gov. Code, § 65585, subd. (l).

⁸ Gov. Code, § 65589.5, subd. (d)(5). For purposes of the Housing Accountability Act, housing for very low-, low-, or moderate-income households is defined as having at least 20 percent of units set aside for lower-income residents or 100 percent of units set aside for moderate- or middle-income residents (Gov. Code, § 65589.5, subd. (h)(3)).

⁹ Gov. Code, § 65588, subd. (e)(4)(C)(iii).

Findings and Conclusion

HCD finds that the City has failed to adopt a housing element that meets the requirements of Housing Element Law and is therefore in violation of those statutes. 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. Therefore, the City has until November 7, 2024, to provide a written response to this notice before HCD may take any of the actions authorized by section 65585, including, but not limited to, referral to the California Office of the Attorney General. In addition, pursuant to Government Code section 65585, subdivision (k), HCD would like to schedule two meetings in person or via telephone within the next 30 days to discuss the City's failure to adopt a compliant housing element.

Ultimately, state housing laws are effective only with the cooperation of local governments. HCD understands that local governments may encounter staffing and resource constraints in their efforts to gain compliance. However, housing elements are essential to developing a blueprint for growth and are a vital tool to address California's prolonged housing crisis. Accordingly, state law has established clear disincentives for local jurisdictions that fail to comply with Housing Element Law. To meet the 6th cycle update requirements for a substantially compliant housing element, the City must consider HCD's written findings from previous drafts, make a draft housing element available for public comment, adopt the housing element, and submit it to HCD for review and certification before it can be considered compliant.¹⁰

HCD will consider any written response before taking further action authorized by Government Code section 65585, subdivision (j).

If you have any questions or would like to discuss the contents of this letter, please contact Mary Milner of our staff at mary.milner@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

¹⁰ Gov. Code, § 65585, subds. (b)-(h).