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

September 29, 2022

Thomas Thomas, City Manager
City of Compton
205 S Willowbrook Ave
Compton, CA 90020

Dear Thomas Thomas:

RE: City of Compton 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 Compton's (City) response to our Letter of Inquiry sent April 22, 2022, requesting an update on the status of the City's 6th cycle housing element, which was due October 15, 2021. As of the date of this letter, HCD still has not received a draft housing element for review pursuant to Government Code section 65585, subdivision (b). HCD has found that the City's proposed timeline for compliance is inconsistent with Government Code section 65588, subdivision (e), and that the City continues to be out of compliance with State Housing Element Law.

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 locality. (Gov. Code, § 65585, subd. (i).) Additionally, HCD must notify a locality when that locality takes actions that violate Government Code sections 65589.5 and 65583 and may refer such violations to the California Office of the Attorney General. (Gov. Code, § 65585, subds. (i)(1), (j).)

Technical Assistance Offered

HCD has made resources and technical assistance available to assist jurisdictions in creating comprehensive housing elements. This includes $123 million in SB 2 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 grant funds for local planning activities and was awarded $310,000.

Jurisdictional Response to April 27, 2022, Letter of Inquiry

In a communication received July 15, 2022, the City indicated that it anticipates submitting a draft housing element in February 2023 and obtaining certification in December 2023. In addition, HCD and representatives from the City met on June 14, 2022, and September 21, 2022, to discuss the City's progress towards housing element compliance.

Consequences of Noncompliance

Please note, pursuant to Government Code section 65588, subdivision (e)(4)(C)(iii), 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 section 65583, subdivision (c)(1)(A), and Government Code section 65583.2, subdivision (c), are completed.

Various consequences may apply if the City does not have a housing element in compliance with State Housing Element Law. First, noncompliance will result 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
- SB 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 State Housing Element Law. Further, state law provides for court-imposed penalties for persistent noncompliance, including financial penalties. For example, Government Code section 65585, subdivision (l)(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.

In addition to these legal remedies available in the courts, under the Housing Accountability Act (Gov. Code, § 65589.5, subd. (d)), jurisdictions without a substantially compliant housing element cannot rely on inconsistency with zoning and general plan standards as a basis for denial of a housing project for very low-, low-, or moderate-income households.[1]

Finally, please note, pursuant to Government Code section 65588, subdivision (e)(4)(C)(iii), 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 section 65583, subdivision (c)(1)(A), and Government Code section 65583.2, subdivision (c), are completed.

Findings and Conclusion

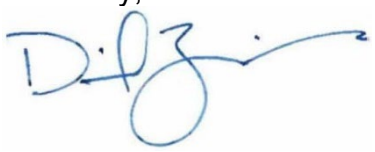
HCD finds that, by failing to submit a timely draft 6th Cycle Housing Element, the City is in violation of State Housing Element Law (Gov. Code, § 65585). Under Government Code section 65585, subdivision (i), HCD must give the City a reasonable time, no longer than 30 days, to respond to these findings. Therefore, the City has until October 29, 2022, to provide a written response to this finding before taking any of the actions authorized by section 65585, including, but not limited to, referral to the California Office of the Attorney General. In addition, in compliance with 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.

HCD recognizes that, ultimately, state housing laws are effective only with the cooperation of local governments and understands staffing and resource constraints that may hinder 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 State 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, adopt the housing element, and submit it to HCD for review and certification before it can be considered compliant. (Gov. Code, § 65585.)

[1] 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 low-income residents or 100 percent of units set aside for middle-income residents. (Gov. Code § 65589.5, subd. (h)(3).)

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 content of this letter, please contact Kevin Hefner of our staff at Kevin.Hefner@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

cc: Attorney General of California