

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

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December 20, 2024

Gloria Molleda, Interim City Manager
City of Hidden Hills
6165 Spring Valley Road
Hidden Hills, CA 91302

Dear Gloria Molleda:

**RE: City of Hidden Hills 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 Hidden Hills' (City) March 14, 2024, response to the Letter of Inquiry sent on March 1, 2024, 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, reviewed by HCD on June 26, 2024, does not comply with requirements under Housing Element Law,¹ and the City has not proposed a new or extended timeline to achieve substantial compliance. 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 of Hidden Hills is October 15, 2021, through October 15, 2029. The City failed to adopt a substantially compliant housing element by its 6th cycle due date of October 15, 2021.⁵ HCD records are as follows:

- On November 23, 2021, the City submitted a draft housing element to HCD for review.

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)(1)(A).

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

⁵ Gov. Code, § 65588, subd. (e)(3).

- On January 21, 2022, HCD issued a findings letter to the City noting multiple revisions were necessary for the housing element to be substantially compliant with Housing Element Law.
- On July 12, 2022, the City submitted an element adopted on July 11, 2022, to HCD for review.
- On September 9, 2022, HCD issued a second findings letter to the City noting revisions were still necessary for the element to be substantially compliant with Housing Element Law.
- On May 2, 2023, the City submitted a revised, adopted element to HCD for review.
- On June 30, 2023, HCD issued a third findings letter to the City noting revisions were still necessary for the element to be substantially compliant with Housing Element Law.
- On February 27, 2024, the City met with HCD for technical assistance and received feedback on its revised draft element.
- On March 1, 2024, HCD issued a Letter of Inquiry to the City requesting a specific timeline for (1) submitting an updated draft housing element and (2) obtaining substantial compliance with Housing Element Law, no later than March 31, 2024.
- On March 29, 2024, the City responded to the Letter of Inquiry notifying HCD that its progress was slowed by the retirement of its previous consultant, and the City had recently contracted with a new consultant to complete its housing element. The City mentioned it was nearing completion of an updated public review draft that responded to HCD's previous findings.
- On April 29, 2024, the City submitted a subsequent draft element to HCD for review.
- On June 26, 2024, HCD issued a fourth findings letter to the City noting revisions were still necessary for the housing element to be substantially compliant with Housing Element Law.
- On July 23, 2024, the City met with HCD for a technical assistance call.
- On November 19, 2024, HCD emailed the City asking for an update on its housing element.
- As of the date of this letter, HCD has not yet received a response from the City to this email.

Technical Assistance Offered

HCD has made resources and technical assistance available to assist local jurisdictions in creating comprehensive housing elements. This includes \$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 an award of \$160,000 through SB 2 and received \$129,000. The City was also eligible for an award of \$65,000 through the Local Early Action Planning Grant (LEAP) for local planning activities but did not claim that award.

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 (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.⁷

In addition to these legal remedies available in the courts, under the Housing Accountability Act, a jurisdiction 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.⁸

Finally, please note 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

Conclusion

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 January 20, 2025 to

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).

provide a written response to this notice. HCD will consider the City's response before taking further action 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 substantially compliant.¹⁰

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,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

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