

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

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December 21, 2023

Greg Chanis, Town Manager
Community Development Department
Town of Tiburon
1505 Tiburon Boulevard
Tiburon, CA 94920

Dear Greg Chanis:

RE: 6th Cycle Housing Element Update Rezone Requirements – Letter of Inquiry

The purpose of this letter is to inquire about the status of the Town of Tiburon's (Town) implementation of 6th Cycle Housing Element Program H-II (Rezone 4576 Paradise Drive) pursuant to Government Code section 65585, subdivision (i). As noted in the California Department of Housing and Community Development's (HCD) October 18, 2021 letter finding the Town's housing element substantially complied with State Housing Element Law (Gov. Code, § 65580 et seq), all rezoning actions in Program H-II must be completed no later than one year after the housing element's statutory due date. HCD requests that the Town provide an update on the status of the implementation of Program H-II by January 21, 2024.

Rezoning Requirements

Pursuant to government Code section 65588, subdivision (e)(4)(C) if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). As the Town did not adopt a compliant housing element within 120 days of the statutory deadline, Program H-II must be completed no later than one year from the statutory deadline.

Consequences of Failure to Implement Program H-II

Government Code section 65585, subdivision (i), grants HCD authority to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or State Housing Element Law. This includes failure to implement program actions included in the housing element. Failure to implement

rezone actions in Program H-II by the statutory deadline means the Town's housing element will no longer substantially comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance.

Various consequences may apply if the Town does not have a housing element in compliance with State Housing Element Law, including ineligibility or delay in receiving certain state funds, referral to the California Office of the Attorney General, court-imposed financial penalties, the loss of local land use authority to a court-appointed agent, and the application of the "builder's remedy." (Gov. Code, §§ 65585, subds. (j), (l)(1), (i), 65589.5, subd. (d)(5).)

Conclusion

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 ensure the town continues to meet the 6th cycle update requirements for a substantially compliant housing element, the Town must submit any adopted rezones and accompanying resolutions to HCD for review. (Gov. Code, § 65585.)

HCD will consider any written response before taking further action authorized by Government Code section 65585, subdivision (i), including issuance of written findings (Corrective Action Letter) and removal of HCD's finding of housing element compliance.

HCD looks forward to receiving your written response to this inquiry. If you have any questions or would like to discuss the contents of this letter, please contact Reid Miller of our staff at Reid.Miller@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Coy", with a long horizontal flourish extending to the right.

Melinda Coy
Proactive Housing Accountability Chief
Division of Housing Policy Development