

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

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November 14, 2022

Avalon Schultz, Principal Planner
Community Development Department
City of San Leandro
835 East 14th Street
San Leandro, CA 94577

Dear Avalon Schultz:

RE: City of San Leandro's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of San Leandro's (City) draft housing element received for review on August 16, 2022, along with revisions received on November 10, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from East Bay for Everyone, YIMBY Law and Greenbelt Alliance, TransForm and Campaign for Fair Housing Elements and YIMBY Law pursuant to Government Code section 65585, subdivision (c).

The draft element addresses most statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element. (Gov. Code, § 65583, subd. (c).)*

Beneficial Impact: To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs must have specific commitment and discrete timelines (e.g., at least annually or by January 2025). Specifically, programs should be revised, as follows:

- *Action 1.3 (Naturally Occurring Affordable Housing):* The program should commit to how often the City will seek funding.
- *Action 7.2 (Infrastructure Financing Tools):* The program should commit to subsequent actions and timing upon completion of a market feasibility report.

- *Action 9.3 (Displacement)*: The program should commit to subsequent actions and timing upon completion of a local displacement study.
 - *Action 9.6 (Tenant Relief)*: The program should commit to subsequent actions and timing upon completion of a needs assessment report.
 - *Action 10.1 (Non-profit Affordable Housing and Funding)*: The program should commit to how often (e.g., at least annually) the City will partner with affordable developers, including beyond 2026.
 - *Action 10.2 (Promote Available Sites)*: The program should commit to how often (e.g., at least annually) the City will promote available sites.
 - *Action 15.1 (Housing for Persons with Disabilities)*: The program should commit to how often the City will facilitate housing for persons with disabilities.
2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory... (Gov. Code, § 65583, subd. (c)(1).)

Zoning for a Variety of Housing Types (Emergency Shelters): While the element provides general information about zoning and acreage, it should discuss the potential capacity for emergency shelters under existing and proposed zoning, including parcel sizes, potential for reuse and redevelopment and any conditions unfit for human habitability (e.g., other allowable uses and environmental quality). In addition, the element should list and evaluate any development standards and add or modify programs as appropriate.

Water/Sewer Priority: Water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. Local governments are required to immediately deliver the housing element to water and sewer service providers. The element discusses how procedures are available for water service but should also discuss how procedures are available for sewer services and if not, add or modify programs to establish a procedure. In addition, the element should discuss how and when the City will deliver the housing element to water and sewer providers.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. While the City submitted the sites inventory in the appropriate form, any changes to the inventory should be reflected in the form and the form should be re-submitted as part of adoption. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Program 5 (Maintain Adequate Sites): In addition to monitoring sites, the program should monitor planned, approved and pending projects (Table 4.2) and commit to take appropriate action (e.g., rezone or identify additional sites) within a specified time (e.g., six months) if projects are not proceeding as anticipated.

Action 8.1 (Bay Fair): While the program commits to work closely with Bay Area Rapid Transit (BART), conduct various studies and enter into a memorandum of understanding, it should include additional steps and timing to facilitate development. Examples of steps include completing on- and off-site improvements and parking strategies, completion of requests for proposals or qualifications, facilitating entitlement and issuing permits and alternative actions with timing if steps are not completed as anticipated to facilitate development in the planning period.

3. *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... (Gov. Code, § 65583, subd. (c)(3).)*

Action 14.2 (Zoning and Alternative Housing Types): While the program commits to reducing spacing requirements and changing the decision-maker, it should specifically commit to allow group homes for seven or more persons in all residential zones with objective standards similar to other residential uses.

4. *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).)*

Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

Disproportionate Housing Needs: The element discusses the needs of persons experiencing homelessness, including disproportionate impacts on some

protected characteristics. However, the element should also discuss patterns within the City such as areas of higher need and proximity to services and transportation. The element may utilize local data and knowledge such as service providers to assist this analysis.

Programs: Based on the outcomes of a complete analysis, the element must add or modify programs. In addition, the element includes many meaningful actions to affirmatively further fair housing (AFFH). However, in many cases, actions describe a metric type or deliverable but should instead include a metric or numeric target in terms of housing outcomes for people or households. For example, instead of completing a study as a metric, a metric or numeric outcome could target the number of people assisted, proportion of spending in a targeted area, number of improvements or increase over a baseline.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted to comply with the above requirements.

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 should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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 (January 31, 2023), then any rezoning to make prior identified sites available or 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones 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.

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.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at:

<https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the responsiveness, dedication, and collaboration the City's housing element team provided during the review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Claire Sullivan-Halpern, of our staff, at Claire.Sullivan-Halpern@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager