

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

651 Bannan Street, Suite 400
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



July 9, 2024

Albert Lopez, Director
Planning Department
Community Development Agency
County of Alameda
224 West Winton Avenue, Room 111
Hayward, CA 94544

Dear Albert Lopez:

RE: County of Alameda's 6th Cycle (2023-2031) Revised Draft Housing Element

Thank you for submitting the County of Alameda's (County) revised draft housing element received for review on May 10, 2024 along with revisions received on July 5, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Alameda County Planning Commission Chair Marc Crawford, the Alameda County Planning Commission, GKW Architects, Lori Taylor, Evan Lyall, Mr. Harris and a coalition letter led by My Eden Voice pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

1. *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).)

Enforcement and Outreach: The element generally was not revised to address this requirement. The element should still address compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgments, or complaints. For example, in many cases, the element

includes a description of fair housing laws but does not describe how the County complies with fair housing laws.

Local Data and Knowledge: The element describes overlapping census tracts and provides a discussion of areas (e.g., Ashland, Cherryland) within the unincorporated County based on state and federal data. However, the element should also incorporate local data and knowledge into the discussion of areas to better understand fair housing issues. For example, the element should particularly utilize local data and knowledge to better understand any patterns or differences or lack of differences from neighborhood to neighborhood. For example, the element could utilize information from County or City officials (e.g., planners, code enforcement, civil engineers, local legislators), past surveys and assessments, data used for applications for funding, service providers, developers, school representatives, regional planners, service districts, neighborhood groups and advocacy organizations. Under separate cover, HCD will send a local data and knowledge guide to assist the County with this analysis.

Contributing Factors: Upon a complete analysis of affirmatively furthering fair housing (AFFH), the element should re-assess and prioritize contributing factors to fair housing issues, as appropriate.

Goals, Actions, Metrics, and Milestones: As noted above, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the County may need to add or revise programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement (housing choices and affordability across geographies), new housing choices and affordability in relatively higher opportunity or income areas, place-based strategies for community preservation and revitalization, and displacement protection.

In addition, as noted in HCD's prior review, the County should add programs, including, but not limited to, increasing tenant protections, enhancing place-based strategies for community revitalization and improving housing mobility through expanding housing choices in lower-density areas of the County, and providing new housing opportunities in relatively higher income or higher resourced communities. HCD will send sample programs under separate cover.

- 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... ..encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)

Progress in Meeting the Regional Housing Need Allocation (RHNA): The element now describes that affordability for 21855 Hathaway Avenue and 16490 E 14th St is based on a survey of available rentals. While the element may utilize a survey to demonstrate affordability, it should also account for building age, location and other relevant factors that might influence rental prices. For example, the element describes a significant range of available rental prices (e.g., \$2,795 to \$6,500 for four bedrooms) which may be influenced by the age, condition and location of the structure. Based on the outcomes of this analysis, the element should adjust affordability assumptions as appropriate.

Publicly-Owned Sites: The element must include additional discussion on each of the publicly-owned sites identified to accommodate the RHNA, including the BART Bay Fair site and excess state sites. The analysis should specifically address the anticipated schedule for development and any known conditions that preclude development in the planning period.

Suitability of Nonvacant Sites: The element notes three criteria (improvement-to-land value ratio of less than one, owner interest in development, and structure age 30 years or older) to justify the likelihood of redevelopment of nonvacant sites. However, as noted in the prior review, the element should consider additional factors (e.g., existing versus allowable floor area) and must support the validity of added factors based on trends and the County's experience in redevelopment.

In addition, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), the County must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory and submit an electronic version of the sites inventory. While the County has submitted an electronic version of the sites inventory, if changes occur, any future re-adopted versions of the element must also submit the electronic version of the sites inventory.

Programs: As noted above, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the County may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

In addition, Program 4.C (Transitional and Supportive Housing) commits to permit transitional and supportive housing up to six persons in some residential zones if the housing development complies with Government Code section 65651. The Program also commits to allow transitional and supportive housing in multifamily and mixed-use zones if the housing development complies with Government Code section 65651. However, permanent supportive housing pursuant to Government Code section 65651 is a unique type of supportive housing and in addition to broader provisions related to transitional and supportive housing. The Program should commit to permitting transitional and supportive housing in all zones allowing residential uses similar to other residential uses of the same type in the same zone and not subject to special requirements such as limits on the number of persons.

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).)*

Program 3.H (Housing Element Overlay Combining District): As noted on page C-23, Program 3.H should specifically commit to modify building height, lot coverage and open space standards to address identified constraints on housing.

4. *Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

As noted in HCD's January 4, 2024, review, the County's consideration of public comments must not be limited by HCD's findings in this review letter and demonstrate how public comment is incorporated into future versions of the housing elements. However, public comment received by HCD suggests that the County Planning Commission has not had an opportunity to review the full

housing element and will not have an opportunity to do so until HCD finds the draft meets statutory requirements. In addition, the County continues to receive many comments that are meaningful and reflective of the community's needs, however, the revisions in the element are not commensurate to the input received.

While HCD has sent further correspondence requesting a timeline for obtaining compliance with State Housing Element Law, this should not be construed in a manner to disregard the public input process. As such, HCD urges the County to schedule a hearing at the Planning Commission to solicit feedback from the community and Commissioners prior to re-submittal to HCD. HCD's future review will consider the extent to which the revised element documents how the County solicited, considered, and addressed public comments in the element.

The element will meet the statutory requirements of State Housing Element Law once it has been revised, adopted, submitted to, and reviewed by HCD to comply with the above requirements pursuant to Government Code section 65585.

As a reminder, the County's 6th cycle housing element was due January 31, 2023. As of today, the County has not completed the housing element process for the 6th cycle. The County's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the County to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government does not 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 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 this year has passed and applicable programs (e.g., Programs 1.A, 1.C, 1.G, 1.H, 1.J and 1.L) have not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the County 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.

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 grant, the Affordable Housing and Sustainable Communities program, 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 County will meet housing element requirements for these and other funding Communities sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County 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 hard work and dedication during the housing element update and review. We are committed to assisting the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact me at paul.mcdougall@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