

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

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November 24, 2021

So Kim, Assistant Director
Community Development Department
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

Dear So Kim:

RE: City of Laguna Beach 6th Cycle (2021-2029) Revised Draft Housing Element Update

Thank you for submitting the City of Laguna Beach's (City) revised draft housing element update received on September 28, 2021. 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 the Kennedy Commission pursuant to Government Code section 65585, subdivision (c).

The draft housing element addresses most statutory requirements described in HCD's June 18, 2021 letter; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code) as described below:

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).)

Local Data and Knowledge: The revised element did not address this requirement. The element should complement federal, state, and regional data with local and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers.

Other Relevant Factors: The revised element did not address this requirement. A discussion of other relevant factors is an important piece of evaluating patterns, trends, and policies that have contributed to certain fair housing conditions. This analysis must consider information that is unique to the City such as governmental and nongovernmental actions or lack thereof regarding zoning and land use regulations, information about past redlining/greenlining, restrictive covenants, practices such as disinvestment in policies that contribute to disproportionate housing needs and demographic trends.

Sites Inventory: Although the revised element included data on fair housing components relative to the proportion of the regional housing needs allocation (RHNA), the analysis should address the magnitude of the impact, location and whether sites improve or exacerbate conditions.

Contributing Factors: The revised element lists contributing factors to fair housing issues, but it should also prioritize those factors. Based on the outcomes of a complete analysis, the element should re-evaluate, identify and prioritize contributing factors.

Programs, Actions, Metrics, and Milestones: Although the revised element includes programs that address Affirmatively furthering fair housing (AFFH), they are not sufficient for the purposes of satisfying this requirement. For goals and actions to create meaningful impact and overcome contributing factors to fair housing issues, programs must include metrics and milestones and be implemented early in the planning period. In addition, programs should be connected to the analysis, summary of issues and prioritized contributing factors. The element must add and revise programs based on a complete analysis.

Housing Mobility: Although the element includes several important actions related to land use, displacement, gentrification, and economic enhancement, the element should include robust housing mobility programs. For example, the revised element indicated that several areas of the City are considered racially concentrated areas of affluence's (RCAAs), but it did not discuss the implications on housing mobility access to housing choices in the City. As a result, the element indicated individuals, primarily persons of color, commute to and from the City to work. Given limited public transit options are available to residents, the City should prioritize housing mobility, including choices and affordability into and throughout the community.

- 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... ..without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and 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).)

Suitability of Nonvacant Sites: The element references 340 St. Ann's Drive as a viable church site, but it does not include all associated parcels (i.e., a 0.35-acre parking lot) in its sites inventory despite requests to include to facilitate future affordable housing. To demonstrate the potential for additional development, the element should list and analyze the additional site and add a program to encourage development, including zoning, development standards and other related actions.

Programs: While the element includes revisions to several actions, programs should be revised as follows:

- *Program 5.2-1 (Adequate Sites and Monitoring for No Net Loss)*: The Program includes actions to “pursue” and “initiate”. These actions should also commit to complete actions by a specified date.
 - *Program 5.2-5 (d) (Accessory Dwelling Units (ADU))*: Actions should be revised with a timeframe for completion (e.g., within 6 months) of additional incentives if ADU production and affordability assumptions are not met. Further, the Program should consider alternative actions beyond incentives (e.g., rezone) if necessary and adjustments more than once in the planning period.
 - *Program 5.2-6 (Special Needs Housing)*: The Program currently commits to amend zoning by the end of 2022. For your information, as noted in HCD's prior review, the City does not have a zone to permit emergency shelters without discretionary action and HCD cannot find the element in compliance until the appropriate zoning is available.
3. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

The revised element did not address this requirement. As stated previously, the element references ACS data and notes that there are no farmworkers in the City. However, farmworkers from the broader area may have housing needs, including within the City. As a result, the element should at least acknowledge the housing needs of farmworkers at a county (e.g., USDA permanent and seasonal data) and regional level with supporting analysis and include programs as appropriate.

4. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate- income households. (Gov. Code, § 65583, subd. (c)(2).)*

The revised element did not address this requirement to include programs with proactive and specific efforts to assist in the development of housing for lower-income households, including extremely low-income and special needs households. Please see HCD's prior review for additional information.

5. *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. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

While the element now includes some analysis and programs, it must still be revised as follows:

- *Program 5.2-2 (Zoning Toolbox):* The Program has actions to “initiate” and “explore” options but it, instead, should include specific commitment to complete amendments to zoning, particularly reflecting the analysis of land use controls as described in HCD's prior review.
 - *Proposed Laguna Residents First Initiative:* HCD is aware a voter initiative is under consideration which would have significant impact on residential development for all income groups as well as obligations to affirmatively further fair housing. As such, the element should include a program with a commitment and firm timelines for monitoring and addressing any potential impacts on identified sites and housing supply, cost, timing and approval certainty.
6. *Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

While the element now includes quantified objectives by income level, conservation objectives are not limited to the preservation of at-risk units and could be expanded to reflect various other City efforts such as actions under Program 5.2-8 (Housing Preservation and Rehabilitation).

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.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City 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 fails to adopt a compliant housing element within 120 days of this statutory deadline (October 15, 2021), then any rezoning to accommodate the 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).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. In addition, as noted in HCD's prior review, the City must continue to proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including revising the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

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.

HCD appreciates the hard work and dedication of you and your team, including consultants: Nancy Bragado, Patty Anders, and Veronica Tam, provided in preparation of the City's housing element. 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 Chelsea Lee, of our staff, at chelsea.lee@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall". The signature is stylized and cursive.

Paul McDougall
Senior Program Manager