

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

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May 12, 2023

Nancy Hunt-Coffey, City Manager
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Dear Nancy Hunt-Coffey:

RE: City of Beverly Hills' 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Beverly Hills' (City) adopted housing element received for review on April 3, 2023. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review:

The City, in adopting the element, also made findings pursuant to Government Code section 65585. These findings appear intended to explain the City's reasoning for why the element substantially complies with State Housing Element Law (Gov. Code, § 65580 et seq.), despite HCD's findings in the prior review. Notably, the findings cite prior HCD correspondence that explained additional revisions are necessary to "fully" comply with State Housing Element Law. In this context, "fully" means addressing HCD's findings from the prior review and should be considered synonymous with "substantial." By no means was the City's prior submittal in substantial compliance with State Housing Element Law. This should be well illustrated by the five pages of findings in the Appendix, including several findings that explain the adopted element simply was not revised to address HCD's findings.

Further, HCD finds that the adopted element received for review on April 3, 2023, does not substantially comply with State Housing Element Law, and the City's findings as part of the adoption are inadequate to demonstrate substantial compliance with statutory requirements; therefore, revisions to the element continue to be necessary to substantially comply with State Housing Element Law. In addition:

- **Local Findings of Substantial Compliance:** In its transmittal letter to HCD, the City asserted that its initial draft, adopted October 15, 2021, substantially complied with State Housing Element Law. However, the City's findings provide minimal content, reasoning, or response to HCD's findings that the prior submittal substantially complies with State Housing Element Law. For example, HCD's prior reviews found that the City's definition of "family" and its development standards for group homes serving

seven or more persons are constraints on housing for persons with disabilities. As another example, HCD's prior reviews contained several findings related to appropriate policies and programs to affirmatively further fair housing (AFFH). The City's findings do not address this essential statutory requirement. Similar issues persist throughout the City's findings where statutory requirements are not addressed in a meaningful way or where broad statements of statutory requirements are made but little to no content, reasoning, or response is provided regarding these statutory requirements or HCD's prior findings.

The City's findings only appear to make an attempt at meeting statutory requirements related to calculations of realistic residential capacity, suitability of sites, and potential for redevelopment on nonvacant sites – narrow issues among many statutory requirements. However, these findings do not address the extent of statutory requirements and HCD's prior findings.

Regarding the calculation of realistic residential capacity, suitability of sites, and redevelopment potential on nonvacant sites in the planning period, the City's findings essentially reaffirm the City's Mixed-Use Overlay Zone as its core strategy for addressing the Regional Housing Needs Allocation (RHNA) and reiterates that the overlay will significantly contribute to the intensification of residential uses along the City's major commercial corridors. Given the emphasis placed on the overlay as an integral component of the City's strategy to accommodate its RHNA, HCD's prior reviews noted that the City should implement significant program actions and policies that incentivize the use of the overlay and adopt secondary measures, including rezoning of additional sites, should an evaluation of the overlay reveal ineffectiveness. In addition, during its review, HCD received public comments from local stakeholder groups that highlighted the present limitations of the overlay's effectiveness (e.g., three story height constraints in select areas, incentives limited to developer outreach and consultation, and the presence of many existing and viable non-residential uses along these corridors).

For these and several other reasons, the City's findings do not adequately explain the reasoning as to how the element substantially complies with State Housing Element Law despite HCD's findings in the prior review.

- *Adopted Housing Element and HCD's Findings:* The City's adopted element contains some revisions to address HCD's prior findings. For example, the adopted element contains some revisions to its sites analysis, in addition to minor revisions to its programs, but otherwise provides minimal content to address HCD's November 28, 2022 review. As an example, many of the City's AFFH programs are still largely limited to conducting outreach and continue to include vague program commitments such as "study," "consider," and "continue" that do not facilitate meaningful outcomes to AFFH and are insufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access

to opportunity. Please see HCD's prior review and the enclosed Appendix for revisions needed to substantially comply with State Housing Element Law.

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, adopt, and submit to HCD to regain housing element compliance.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or 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. As this year has passed, if rezoning is necessary, the housing element will remain out of compliance until rezonings have been completed.

Please be aware that AB 2339, codified in Government Code section 65583 adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

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 a link to the revisions must be emailed 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 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>.

We are committed to assist 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", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF BEVERLY HILLS

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing Needs, Resources, and Constraints

1. *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).)*

Realistic Capacity: In response to HCD's prior review, the element now includes minor revisions on pages C-12-14, but these revisions are limited only to a general discussion of the factors utilized for determining sites in the inventory. The element must still include an estimate of the number of units that can be accommodated on each site in the inventory based on land use controls, site improvements, typical densities of existing/approved residential developments at a similar affordability level, and the current/planned availability of utilities. Please see HCD's prior review for additional information.

Suitability of Nonvacant Sites: In response to HCD's prior review, the element now includes additional information that highlights active developer interest and several proposed projects in the Mixed-Use Overlay Zone. However, additional information is required to fully address this finding. Specifically, HCD received public comment that indicates there are limitations in the application of the overlay that would hinder or preclude residential development in these areas. Additional public comment received by HCD emphasized the need to examine additional and more viable opportunities for sites inclusion, including vacant sites in the T-1 zone. The element must be revised to address public comments received on the sites inventory and modify policies and programs as necessary.

Accessory Dwelling Units (ADUs): The element was not revised to address this finding. Please see HCD's prior review for additional information.

2. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. (Gov. Code, § 65583, subd. (a)(5).)*

Constraints on Housing for Persons with Disabilities:

- *Family Definition:* The element continues to not address this finding. Please see HCD's prior review for additional information.
- *Group Homes:* The element continues to not address this finding. Please see HCD's prior review for additional information.

B. Housing Programs

1. *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 completed pursuant to paragraph (3) of subdivision (a) without rezoning... (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A1, 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 City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

2. *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).)*

As noted in Finding A2, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to add programs and address and remove or mitigate any identified constraints.

3. *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).)

In response to HCD's prior review, the element now includes minor revisions to its affirmatively furthering fair housing (AFFH) programs (pp. A47-51). However, these revisions do not otherwise address HCD's findings. As noted in HCD's cover letter, many of the City's AFFH programs are still largely limited to conducting outreach and continue to include vague program commitments such as "study," "consider," and "continue" that do not facilitate meaningful outcomes to affirmatively furthering fair housing. Moreover, such actions alone are insufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity and the element must be revised to include robust program actions and commitments. Please see HCD's prior review for additional information.