

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

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December 15, 2023

Masa Alkire, City Planner  
Community Development Department  
City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, CA 90201

Dear Masa Alkire:

**RE: City of Beverly Hills' 6<sup>th</sup> Cycle (2021-2029) Revised Draft Housing Element**

Thank you for submitting the City of Beverly Hills' (City) revised draft housing element update received for review on October 18, 2023. In addition, HCD considered comments from Dale J. Goldsmith, Darian Bojeaux, Californians for Homeownership, Abundant Housing LA and YIMBY Law, pursuant to Government Code section 65585, subdivision (c). Pursuant to Government Code section 65585, subdivision (b), HCD is reporting the results of its review.

The revised draft housing element addresses many statutory requirements described in HCD's May 12, 2023 and November 28, 2022 reviews; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

1. *Affirmatively further[ing] fair housing (AFFH) 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).)*

Outreach and Enforcement: While the element includes a general statement that the City complies with fair housing laws, it should provide supporting information for this conclusion such as an explanation of *how* the City complies with various state fair housing related laws. For more information, please see page 29 of HCD's guidance at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Racially Concentrated Areas of Affluence (RCAA): The element now identifies a RCAA in the City but should also specifically analyze the area to better formulate appropriate policies and programs. For example, the element should incorporate local data and knowledge and other relevant factors such as land use and zoning and lack of public investment in affordable housing. The element should specifically add or modify programs based on a complete analysis.

Disproportionate Housing Needs, including Displacement Risk: The element still must analyze local and regional patterns related to disproportionate housing needs, including displacement risk. This analysis must address overpayment, overcrowding, housing conditions, persons experiencing homelessness and displacement risk. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): In response to HCD's prior review, the element now includes additional analysis on how identified sites are related to various fair housing categories (e.g., race, TCAC/HCD Opportunity Maps). However, an analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Goals, Actions, Metrics, and Milestones: As noted above, the element does not include a complete analysis of AFFH and should add or modify programs based on a complete analysis.

In addition, the element must include significant and meaningful actions to promote housing mobility (housing choices and affordability) throughout the City and in racially concentrated areas of affluence. Examples of housing mobility actions include promoting more housing choices and affordability in lower-density areas (e.g., missing middle or higher density housing types), targeted funding, religious institutional sites, city-owned sites, and enhancing accessory dwelling units (ADU), junior accessory dwelling units (JADU) or additional conversion of existing space, and home sharing strategies. Further, the element should include a mid-cycle review of these actions for promoting housing choices and commit to complete alternative actions by a specified date, if necessary.

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...  
...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).)*

Realistic Capacity: While the element now discusses built densities, it should still account for the likelihood of 100 percent non-residential uses. This is particularly important with the City's new strategy to utilize the potential for adaptive re-use of non-residential uses. For example, the element should specifically address the likelihood of existing non-residential uses converting to residential uses given past trends. Alternatively, the element could more conservatively rescale assumptions for adaptive re-use to residential uses. Please see HCD's prior reviews for additional information.

Suitability of Nonvacant Sites: While the element now identifies and removes sites based on various factors and development trends supporting those factors, it must still address the extent existing uses impede additional development in the planning period on identified sites such as existing leases or other conditions that perpetuate existing uses. This is particularly important given the shift in the adequate sites strategy to adaptive reuse that assumes many viable uses will discontinue in the planning period.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, 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: 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. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): 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. The housing element must address these new 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>.

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 City 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, the element should be revised, as follows:

- *Program 12.1 (Development Standards)*: The Program now includes various commitments, including amending zoning code if adaptive reuse projects are not proposed by 2027. However, given the reliance on this program and the lack of past trends, the Program should annually evaluate the approval of adaptive reuse projects relative to assumptions in the inventory and if production is not on pace with assumptions, specifically commit to rezone additional sites or take other action by a specified date or amend the element to demonstrate adequate sites to accommodate the regional housing need allocation.
  - *Program 10.4 (Accessory Dwelling Units (ADU))*: The Program commits to adopt additional incentives if twenty ADUs are not consistently permitted per year. This Program should also monitor affordability as assumed in the inventory and commit to additional actions beyond incentives (e.g., rezoning) and a specified date that alternative actions will be completed.
3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing... (Gov. Code, § 65583, subd. (c)(3).)*

Program 12.1 (Development Standards): The Program must specifically and clearly commit to amend development standards regardless of whether targets are met. In addition, as noted in prior reviews, the Program should specifically address noted constraints related to permit procedures, including approval findings for architectural review.

4. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program 9.7 (Monitoring Affordable Housing and Residential Displacement): The Program now commits to coordinate with service providers but should commit to specific actions to preserve units at-risk of conversion to market rate uses. Examples of actions include, monitoring at-risk units, contacting property owners, complying with noticing requirements, coordinating with qualified entities that can acquire and manage at-risk units, assisting with funding and supporting tenants through education and other resources.

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

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

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 must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while 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.

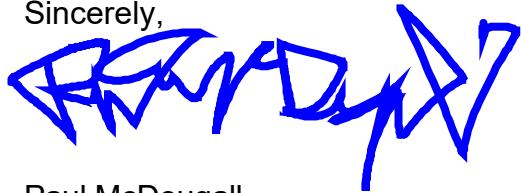
Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites pursuant 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.

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>.

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.

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 me at [paul.mcdougall@hcd.ca.gov](mailto:paul.mcdougall@hcd.ca.gov).

Sincerely,

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

Paul McDougall  
Senior Program Manager