

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

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February 2, 2023

William Gilchrist, Director  
Community Development Department  
City of Oakland  
250 Frank H. Ogawa Plaza  
Oakland, CA 94612

Dear William Gilchrist:

**RE: City of Oakland's 6<sup>th</sup> Cycle (2023-2031) Revised Draft Housing Element**

Thank you for submitting the City of Oakland's (City) revised draft housing element update received for review on December 7, 2022 along with draft revisions on December 15, 2022, January 12, 2023 and January 23, 2023. 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 several stakeholders and members of the community, pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's September 28, 2022 review; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

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).)*

*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).)*

Suitability of Nonvacant Sites: The element was revised to describe the existing uses of some nonvacant opportunity sites, but it should demonstrate the potential for redevelopment on identified sites, as follows:

- *Redevelopment Factors*: The element currently utilizes two factors to describe the potential for redevelopment: Assess Value Ratio (AV) and Floor Area Ratio (FAR). However, the element should include additional factors such as age of structure, property owner interest in redevelopment in the planning period, vacancy or abandoned structures and lack of investment. Additionally, the FAR should consider existing versus allowable FAR to better demonstrate the potential for redevelopment.
- *Trends and Recent Experience*: As noted in the prior review, the element must support the validity of the redevelopment factors using trends and recent experience. While the element includes some data from recent non-residential conversions to residential uses, it should expand the data to other recent experience and analyze how those trends relate to the utilized redevelopment factors. For example, the element could utilize pipeline projects (Table C-5a) to assist with this analysis.
- *Extent Existing Uses Impede Additional Development*: As noted in the prior review, the element should account for the extent existing uses impede additional residential development including market demand for the existing use and existing leases or contracts that would perpetuate the existing use or prevent additional residential development. The element could utilize representative typologies of existing uses from the sites inventory (e.g., aging commercial corridors, single story light industrial, parking lots) and their redevelopment potential to assist with this analysis. Please see HCD's prior review for additional information.

While the element demonstrates the City does not rely on nonvacant sites to accommodate more than 50 percent of the Regional Housing Needs Allocation (RHNA) for lower-income households, if this conclusion changes, 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).) For your information, absent findings in the resolution as part of adoption 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.

City-Owned Sites: The element was revised to describe its strategy for disposing City-Owned sites and issuing Notices of Availability and Requests for Proposals. However, the element should modify Action 3.3.1 with additional steps and timing to facilitate development in the planning period. Please see HCD's prior review for additional information.

Alternative Adequate Sites: The element was revised to describe two existing developments toward the RHNA. However, the element must demonstrate compliance with all relevant requirements pursuant to Government Code 65583.1 and should utilize the HCD Alternate Adequate Sites checklist available at <https://www.hcd.ca.gov/adequate-sites-alternative>. Finally, the element should add policies and programs to ensure compliance with Government Code 65583.1. HCD will send a sample program under a separate cover.

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.

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.

In addition, as noted in the prior review, while the element was revised to further describe the status of projects credited in the City's pipeline, it should also add or modify programs to evaluate pipeline projects at the midterm of the planning period and, if necessary, make adjustments to accommodate the RHNA. Please see HCD's prior review for additional information.

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).)*

Action 3.7.8 (Expand Areas Where Residential Facilities Are Permitted): The Program should clarify zoning and procedures will permit group homes for seven or more persons (licensed and unlicensed) in all zones allowing residential uses similar to other residential uses of the same form in the zone.

3. *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).)*

Goals, Priorities, Metrics, Actions & Milestones: While the element includes many meaningful policies and actions to affirmatively further fair housing (AFFH), these

actions should be modified with geographic targeting and metrics or numerical targets. In addition, while the element includes several place-based strategies for neighborhood improvements, it should include additional actions beyond housing improvements such as infrastructure, streetscapes, active transportation, community amenities, parks, and other community improvements. These actions should be significant and meaningful to promote equitable communities and geographically targeted, particularly toward concentrated areas of poverty or relatively lower income areas, with numerical targets or metrics for the planning period.

4. *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).)*

The element was revised with quantified objectives for conservation by income group, it should consider additional quantified objectives beyond at-risk preservation and down payment assistance to better reflect the City's targets to conserve and improve the affordable housing stock, particularly for lower-income households, including extremely low-income households. For example, these quantified objectives could consider the many actions intended to mitigate displacement risk.

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

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.

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 RHNA, including for lower-income households, shall be completed no later than one year from the statutory deadline. 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 all necessary rezones 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 hard work and dedication you; Lakshmi Rajagopalan, Principal Planner, Audrey Lieberworth, Acting Planner III, Michael Branson, Deputy City Attorney Laura Kaminski, Principal Planner; and your consultants, Alison Moore and Rajeev Bhatia provided in preparation of the City's housing element and looks forward to receiving the City's adopted housing element. If you have any questions or need additional technical assistance, please contact Shawn Danino, of our staff, at [shawn.danino@hcd.ca.gov](mailto:shawn.danino@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager