

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

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November 8, 2021

Gustavo Romo, Director
Community Development Department
City of Bell Gardens
7100 Garfield Avenue
Bell Gardens, CA 90201

Dear Gustavo Romo:

RE: City of Bell Garden's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Bell Garden's draft housing element received for review on September 9, 2021, along with revisions received on October 25, 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. Our review was facilitated by a conversation on October 20, 2021 with Adrian Flores, City Planner, Carmen Morales, City Planner, and Veronica Tam, Consultant.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes revisions needed to comply with State Housing Element Law.

The City's statutory deadline to adopt a housing element was October 15, 2021. 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, then any rezoning to accommodate the regional housing needs allocation (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. 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.

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:

http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and
http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD appreciates the dedication of Adrian Flores and Carmen Morales during the review. 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 Dulce Ochoa of our staff, at Dulce.Ochoa@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF BELL GARDENS

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

A. Housing Needs, Resources, and Constraints

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).)*

Outreach: The element must include information on how the City conducted meaningful outreach with key stakeholders and the public. The element currently states that the City conducted two workshops and invited a list of stakeholders and the public. The element could also discuss any other outreach efforts beyond public workshops or targeted outreach efforts to specific neighborhoods that are disproportionately impacted by fair housing issues. Finally, the element should describe the results of this outreach specifically related to the affirmatively furthering fair housing (AFFH) analysis.

Enforcement and Outreach Capacity: While the element included some information on fair housing enforcement and outreach capacity (p. D1), it must address any findings, lawsuits, enforcement actions, settlements, judgments related to fair housing or civil rights and compliance with existing fair housing laws and regulations. Lastly, the element should include a summary of fair housing issues related to enforcement and outreach capacity and relationship to other fair housing issue areas (e.g., segregation and integration, racially and ethnically concentrated areas of poverty, etc.).

Concentrated Areas of Poverty and Access to Opportunity: The element identifies and analyzes significant disparities in access to opportunity by economic, environment, and education at the local level (p. D23-28); however, a complete analysis must also examine regional disparities in access to opportunity. Additionally, while the City does not have any racially or ethnically concentrated areas of poverty, the element does identify three census tracts (p. D-22) that are considered high segregation and poverty. The element must include specific analysis such as trends, past and current efforts, including investment and their effectiveness, local data and knowledge, other relevant factors (as noted below), particularly relative to equitable quality of life, resources, and strategies to address any inequities in quality of life. The analysis should also consider any overlapping fair housing

issues with other components of the assessment of fair housing (e.g., access to opportunity and disproportionate housing needs, including displacement).

Disproportionate Housing Needs and Displacement Risk: While the element analyzed overcrowding, substandard housing conditions, and displacement risk at a local level (neighborhood to neighborhood), it must analyze these conditions at a regional level (city to region).

Sites Inventory: While the element included data on the location of RHNA sites relative to all fair housing components, the analysis should address how the sites improve fair housing conditions related to each component of the analysis (if sites exacerbate conditions, programs that can mitigate impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

Local Data and Knowledge: The element should complement federal, state and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates, public comments, and service providers.

Other Relevant Factors: The element includes some information on lending practices and housing choice vouchers, but it must still include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use, zoning and investment practices, presence of redlining, restrictive covenants, neighborhood investment or disinvestment, federal investment such as transportation infrastructure, demographic trends or any other information that supplements the reported data and assists in a complete analysis.

Contributing Factors to Fair Housing Issues: Upon a full analysis of the AFFH section, the element should re-evaluate contributing factors to fair housing issues. In addition, the element lists several contributing factors, but it should also prioritize those contributing factors.

Programs and Actions: Programs and actions must specifically respond to the factors that contributed to fair housing issues in the community. While the element included some programs to address fair housing (Programs 11, 12 and 13), these programs do not meaningfully overcome contributing factors and address fair housing issues. Additionally, programs must seek to, at minimum, increase housing mobility, promote new housing choices in areas of high opportunity, and implement place-based strategies for community preservation and revitalization and displacement protection. Given the City is generally low-resourced, and all census tracts are at risk of displacement, the City could focus on actions that establish and prioritize displacement and place-based strategies for community revitalization. Lastly, each fair housing program must include metrics and milestones that will be used to evaluate progress such as number of affordable units built, number of families housed, number of parks built.

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).)

Realistic Capacity: The element identifies sites with a mixed-use overlay zone which includes base zoning that allows 100 percent nonresidential uses. The element must analyze and account for the likelihood of residential development in zones that allow 100 percent nonresidential uses. The analysis should be based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Suitability of Nonvacant Sites: The element relies on nonvacant sites to accommodate majority of its RHNA for moderate and above moderate-income households. The element states that building age was considered when identifying sites ripe for development. However, the element should state the minimum building age considered to determine redevelopment potential. Additionally, the element considers sites with a floor area ratio (FAR) of less than 0.25; however, several sites in the inventory have an FAR between 0.27-1.00. The analysis must clarify and list out the factors used when identifying sites, support those factors or remove sites as appropriate, particularly for sites with higher FAR and accurately apply those factors to the sites in the inventory. Finally, the analysis should consider additional factors including the extent to which existing uses may constitute an impediment to additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

Water and Sewer Priority: For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element must demonstrate compliance with these requirements or add or modify programs as appropriate. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

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/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. For technical assistance, please contact HCD at sitesinventory@hcd.ca.gov.

3. *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).)

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to multifamily parking (number of spaces and garage requirement). The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: While the element included some information on permit procedures (pp. 70-72), it should also describe the procedures for a typical single-family and multifamily development. The analysis should address the approval body, the number of public hearings, if any, approval findings, and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty.

On/Off-Site Improvements: While the element provides some information about on and off-site improvements (p. 70), it should identify actual standards for typical developments such as street widths, sidewalks and curbs and analyze their impact as potential constraints on housing cost, supply and affordability.

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation:* The element briefly mentions the City adopting a reasonable accommodation ordinance (p. 64). The element should discuss the process for requesting a reasonable accommodation and list the actual approval findings and analyze these findings for potential constraints on housing for people with disabilities.
- *Residential Care Facilities for Seven or More Persons:* Residential care facilities or group homes for seven or more persons appears to be excluded from several zones allowing residential uses and subject to a conditional use permit. The element should evaluate these requirements as constraints and include programs as appropriate.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development.

SB 35 Streamlined Ministerial Approval Process: The element should clarify whether the City has procedures consistent with streamlining procedures pursuant to Government Code section 65913.4 and include programs as appropriate.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Land Costs: The element must analyze land costs for typical single-family and multifamily development.

Requests for Lower Density, Permit Times, and Efforts to Address Non-governmental Constraints: The element must analyze (1) requests to develop housing at densities below those identified in the inventory, (2) the length of time between receiving approval for a housing development and submittal of an application for building permits, and (3) any local efforts to address or mitigate nongovernmental constraints such as reduced fees, financing for affordable housing or expedited processes. The analysis should address any hinderances on the construction of a locality's share of the regional housing need and programs should be added or modified as appropriate.

5. *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).)*

Farmworkers: While the element includes some data on farmworkers, it should specifically quantify the number of permanent and seasonal farmworkers at the County level (i.e., USDA data) to better understand the broader and unique housing needs of farmworkers.

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, 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).)

As noted in Finding A2, 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:

- Programs 6 and 7 (Adequate Sites for RHNA): These Programs to address a shortfall of sites to accommodate the RHNA should commit to sufficient incentives (beyond State Density Bonus Law) to assure the intended residential uses and affordability.
 - City-owned Site: The element should consider additional actions and a schedule to facilitate development of City-owned site(s) (e.g., 5636 Shull Street). Additional actions include outreach with developers, incentives, fee waivers, priority processing and financial assistance.
 - Program 9 (Housing for Special Needs): As noted on pages 58 and 59, the element should commit to revise locational and spacing requirements regarding emergency shelters and proximity to other uses
 - Program 11 (Accessory Dwelling Units): While the element includes a program to monitor trends for ADUs production, the program should also commit to taking specific actions such as adjusting assumptions or rezoning within a specified timeframe (e.g., 6 months) if trends do not keep pace with the assumptions.
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. 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).)*

As noted in Finding(s) A3 and A4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

4. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

Program 2 (Preservation of Affordable Housing): This program should also commit to coordinate with qualified entities to preserve and maintain affordability of units at-risk of converting to market rate uses.

C. Public Participation

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)(8).)

While the element describes two workshops and the City's website, moving forward, the City should employ additional methods for public outreach efforts, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. In addition, the element should also summarize future public comments and describe how they were considered and incorporated into the element.