

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

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August 13, 2021

Gordon Gaste, Director  
Development Services Department  
City of Brawley  
205 S. Imperial Avenue  
Brawley, CA 92227

Dear Gordon Gaste:

**RE: Review of the City of Brawley's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of Brawley's (City) draft housing element received for review on June 15, 2021, along with revisions received on July 30, 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 telephone conversation on July 19, 2021 with you and the City's consultants Ralph Castaneda and Christney Bonilla.

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 the revisions needed to comply with State Housing Element Law.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: [http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375\\_final100413.pdf](http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf).

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](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

HCD appreciates the hard work and dedication you, Ralph Castaneda and Christney Bonilla provided during our review. 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 Jose Ayala, of our staff, at [Jose.Ayala@hcd.ca.gov](mailto:Jose.Ayala@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" being more prominent than the last name "West".

Shannan West  
Land Use & Planning Unit Chief

Enclosure

## APPENDIX CITY OF BRAWLEY

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 (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).)*

The element includes some data and information regarding AFFH but must still add data and analysis to address this statutory requirement, as follows:

Segregation and Integration: The element includes some broad discussion around dissimilarity indices but should also address the patterns and trends within the City for disability, familial status, and income, and provide similar data and analysis at the regional level.

Access to Opportunity: The element provides information regarding access to opportunity factors such as education, economic opportunity, transportation, and environmental health, but it should also analyze how these factors affect access to opportunity including patterns and trends within the jurisdiction.

Disproportionate Housing Need: The element must provide data and analysis regarding the patterns and trends of disproportionate housing need within the jurisdiction. For instance, the element provides city-wide data for cost burden and overcrowding but does not evaluate patterns and trends within the City. Additionally, the element must incorporate analysis regarding substandard housing and displacement risk.

Sites Inventory: The element must analyze how the sites listed in the inventory AFFH. Currently, the analysis relies on a general statement regarding lower-income sites located in moderate- or high-resource neighborhoods, but it should discuss all sites, including moderate- and above moderate-income, analyze sites across all AFFH topics (e.g., segregation and integration, disproportionate housing need) and evaluate whether the identification of sites improves or exacerbates patterns and concentrations of socioeconomics.

Other Relevant Factors and Local Data and Knowledge: The element should incorporate local data and knowledge of the jurisdiction into the AFFH section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Goals and Actions: Based on this analysis, the element must include programs that (1) enhance housing mobility strategies, (2) encourage development of new affordable housing in areas of opportunity, (3) improve place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and (4) protect existing residents from displacement.

HCD encourages the City to utilize HCD's guidance and AFFH Data Viewer at <https://affh-data-resources-cahcd.hub.arcgis.com/>.

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).)*

To demonstrate the adequacy of sites and strategies to accommodate the City's RHNA, the element must address:

Progress in Meeting the RHNA: The element indicates (page C-5) that 458 units affordable to very low-income and low-income household have been built or are under construction or approved but provides no information documenting how affordability of the units was determined. The element appears to utilize densities as a proxy for demonstrating affordability; however, for approved projects, the element should demonstrate affordability based on actual or anticipated sales prices, rents or other mechanisms ensuring affordability such as deed-restrictions. Depending on the outcomes of this analysis, the element may need to address other statutory requirements pursuant to Government Code section 65583.2, including but not limited to, a listing of parcels, calculation of residential capacity, zoning appropriate to accommodate housing for lower-income households and other analysis of suitability and availability.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. 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. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for

technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov).

Emergency Shelters: The element describes the zones in which emergency shelters are allowed but must include analysis of that zone. The analysis must clarify whether emergency shelters are permitted without discretionary action and describe capacity for shelters, proximity to transportation and services, environmental habitability and development standards including parking requirements. Based on the outcomes of this analysis, the element may need to include policies and programs.

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).)*

The element must include additional analysis of potential and actual governmental constraints on housing, as follows:

Processing and Permit Procedures: The element describes decision-making standards for site plan review such as "...compatible with other land uses and structures in the immediate area." In addition, the element should evaluate these standards for impacts on approval certainty and objectivity.

Constraints on Housing for Persons with Disabilities: The element acknowledges that group homes for seven or more persons are subject to a conditional use permit (CUP) requirement, but it should also analyze this procedure and findings as a constraint. Particularly, the analysis should address approval findings and impacts on certainty and objectivity.

Building Codes and Enforcement: The element must clarify if the current building code (2019) is utilized, describe any local amendments to the building code, and analyze their impact as potential constraints on housing supply and affordability.

4. *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 element includes information on farmworkers based on employment by industry data and then concludes this data is likely over-estimating needs due to the inclusion of other industries such as forestry and fishing. However, the element should include additional data, especially regarding permanent and seasonal workers, to better acknowledge the need of farmworkers in the region and formulate appropriate policies

and programs. HCD will send data from the United States Department of Agriculture (USDA) under separate cover.

5. *Analyze the opportunities for energy conservation with respect to residential development. (Gov. Code, § 65583(a)(8).)*

The element does not address this requirement. The element must provide an analysis of opportunities for energy conservation in residential development. The analysis should facilitate the adoption of housing element policies and programs. For example, programs could provide incentives to promote higher density housing along transit, encourage green building techniques and materials in new construction and remodels, promote energy audits and participation in utility conservation programs, and facilitate energy conserving retrofits upon resale of homes.

## **B. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and address the goals of the housing element, programs to be revised, especially regarding timelines and completion dates, include the following: 2.2 (First Time Homebuyer), 2.3 (Section 502 Direct Loan), 2.6 (ADU Incentive Plan), 2.8 (Developmental Disability).

2. *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.

3. *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 element must include programs to assist in the development of housing for lower- and moderate-income households, including special needs households. Specifically, programs should be added or modified to address the needs of farmworkers and persons experiencing homelessness. For example, for farmworkers, the element could commit to proactive actions to coordinate with non-profit developers, employers, and other related organizations, to explore funding and incentives and to identify specific development opportunities.

4. *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 A3, the element requires a complete analysis of potential governmental 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.

5. *Promote AFFH 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 requires a complete analysis of the AFFH section. Based on the outcomes of a complete analysis, the element must include programs as appropriate.

## **E. 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 how public input was incorporated into the element, it must also discuss when and how the draft housing element was made available to demonstrate diligent efforts to include all segments of the community. For your information, providing an opportunity for the public to review and comment on a draft of the element in advance of submission to HCD is essential to the participation process. For example, the lack of availability reduces HCD's ability to consider public comments in its review. If the housing element was not made available to the public prior to HCD submittal, the City must 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 making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents were circulated and 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.