

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

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November 5, 2021

Manuel Acosta, Director
Community Development Department
City of Bell
6330 Pine Ave.
Bell, CA 90201

Dear Manuel Acosta:

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

Thank you for submitting the City of Bell's (City) draft housing element received for review on September 8, 2021, along with revisions received on October 22, 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 12, 2021 with consultants Philip Burns and Margaret Muñoz of The Arroyo Group. In addition, HCD considered comments from Communities for a Better Environment and YIMBY Law pursuant to Government Code section 65585, subdivision (c).

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.

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 The Arroyo Group 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 Colin Cross, of our staff, at colin.cross@hcd.ca.gov.

Sincerely,



Paul McDougall

Enclosure

APPENDIX CITY OF BELL

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. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the review of programs in the past cycle, the element must provide a cumulative evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers and persons experiencing homelessness). The draft, including revisions, briefly mentions special needs programs but it still must evaluate the overall effectiveness of programs.

B. 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).)*

Regional Patterns and Trends: For all categories of analysis (segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, and disproportionate housing needs, including displacement), the element addresses some requirements to analyze local patterns and trends. However, the element must also analyze regional patterns and trends for each category and subcategory of analysis. A regional analysis should compare conditions at the local level to the rest of the region, for example at the level of the County or other subregional geography.

Segregation and Integration: The element analyzes segregation and integration on the basis of race at the local level. However, this component of the analysis should also

address segregation and integration by disability, familial status, and income. The analysis must also conclude with a summary of fair housing issues.

Racially and Ethnically Concentrated Areas of Poverty: The housing element must include an analysis of racially/ethnically concentrated areas of poverty. The element does not address this requirement. A full analysis should evaluate patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Access to Opportunity: The element addresses this requirement with respect to transportation, providing detailed quantitative and qualitative analysis at the local and regional level. It should also include analysis for access to educational, economic, and environmental opportunity.

Disproportionate Housing Needs, including Displacement: The housing element must assess disproportionate housing needs on people with protected characteristics and lower-income households. The element addresses displacement risk at the local level, but otherwise does not address this requirement. A full analysis should analyze cost burden, overcrowding, substandard housing, and homelessness at the local and regional levels.

Other Relevant Factors: The element discusses the City's redlining history and briefly mentions displacement concerns about the upcoming West Santa Ana Branch, a planned L.A. Metro light rail line. A full analysis should expand on these and other factors to evaluate patterns and trends, policies and practices, and other factors that inform fair housing conditions. Additional other relevant factors may include historical land use and investment practices, demographic trends, outreach and community engagement, and other information.

Site Inventory: The element does not address this requirement. The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. A full 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 affects 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).

Contributing Factors: The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals and Actions: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Current program actions are not adequate to satisfy the requirement for specific and meaningful actions. Program actions should be proactive, facilitate meaningful change, and respond directly to the contributing factors to fair housing that were identified. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. The element must add and revise programs based on a complete analysis and drawn from the identified and prioritized contributing factors to fair housing issues.

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).)*

Progress in Meeting the RHNA: The element indicates that 296 units, including 86 units affordable to lower-income households, have been proposed or are awaiting approval. The City's RHNA may be reduced by the number of new units built, approved or pending since June 30, 2021; however, the element must demonstrate their availability in the planning period. A full analysis should detail the status and anticipated completion of all pipeline units being credited towards the RHNA. In addition, the element should demonstrate the affordability of Site 3 (4357 Gage Avenue) based on anticipated sales prices, rents or other mechanisms ensuring affordability (e.g., deed restrictions).

Realistic Capacity: For sites where zoning allows 100 percent nonresidential uses, the analysis must adjust for the likelihood of nonresidential development. Sites 6 (4570 Gage Ave.) and 7 (4333 Florence Ave.) will be rezoned to allow multi-family by-right under the Atlantic Avenue Specific Plan. However, the element does not address the likelihood of nonresidential development taking place per the underlying C-3R zoning. The analysis should describe the underlying zoning, clarify whether 100 percent nonresidential development is allowed, describe relevant programs or policies that encourage residential development in nonresidential zones (e.g., Atlantic Avenue Specific Plan) and account for the likelihood of nonresidential development in the calculation of residential capacity.

Environmental Constraints: While the element generally describes a few environmental conditions, it must relate those conditions to identified sites and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period, including mitigation measures to allow development.

Accessory Dwelling Units (ADUs): The element assumes an average of 16 ADUs per year will be constructed during the planning period, for a total of 128 ADUs. The element's analysis and programs do not support this assumption. An analysis should utilize, at least as a starting point, permitted ADUs instead of applications. Further, based on HCD records (annual progress reports), the City permitted 10 ADUs in 2019

and has not reported ADUs for 2018 and 2020. To include a realistic estimate of the potential for ADUs, the element should reconcile the number of permitted units with HCD records, utilize permitted ADUs instead of applications and reduce the number of ADUs assumed per year if appropriate.

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. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Employee Housing Act:* The element must clarify the City's compliance with the Employee Housing Act (specifically, Health & Safety Code Sections 17021.5, 17021.6, and 17021.8). Revisions to the draft element profile the requirements of the Act, but do not clarify how the City complies with the Act. If necessary, the element should include a program to ensure compliance.
 - *Permanent Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and add or modify programs as appropriate.
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).)*

Local Processing and Permit Procedures: The element notes that the City requires Site Plan Review for all construction projects and that certain developments trigger Planning Commission review depending on the "size and scope" of the project (p. 109). The element should describe what triggers Planning Commission review, typical number of hearings, identify and analyze approval findings and add or modify programs as appropriate to address identified constraints.

Additionally, revisions to the draft element clarify that the City is subject to the SB 35 Streamlined Ministerial Approval Process. However, the element should indicate whether the City has a written procedure to comply with the SB 35 Streamlined Ministerial Approval Process or add or modify programs to establish a procedure by a specified date.

Finally, the element is required to address any locally adopted ordinances the City may have (e.g., inclusionary, short-term rental, etc.) that impact the cost and supply of housing. If applicable, the element should include analysis and programs as appropriate.

Housing for Persons with Disabilities: The element notes that residential care facilities serving seven or more persons require a CUP. The element should analyze this process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits these uses objectively with approval certainty.

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).)*

The element must include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address hinderances on the construction of a locality's share of the regional housing need and add or modify programs as appropriate.

C. 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 must be revised with specific and clear commitment to outcomes. Several programs still require clear, meaningful, and specific actions and objectives.

Programs containing unclear commitment (e.g., “Continue to facilitate”; “Explore”; “Consider”; “Encourage”; etc.) should be amended to include more specific and measurable actions. For example, Program 7 (Review and Removal of Governmental Constraints), commits to reviewing but not removing constraints. Program 14 (Mobile Home Program) should specifically commit to conservation efforts such as utilizing state funding. Program 18 (Housing Development on Public Land), commits to analysis but not implementation of a strategy. Other programs that require modified language include Programs 13 (Single Room Occupancy), 17 (Design Standards), 19 (First Time Homebuyers Initiative), 23 (Atlantic Avenue Specific Plan) and 24 (Tenant Rights).

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 B2, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning was 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:

- *City-owned Sites and Program 16 (Extremely Low and Lower-income Housing):* While this program commits to several actions to facilitate development on City-owned sites and other publicly owned sites, it should include a schedule for facilitating that development.
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- *Replacement Housing Requirements:* The housing element must include a program to provide replacement housing. Nonvacant sites identified in the sites inventory with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years, require a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

3. *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 Findings B3 and B4, 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.

In addition, as noted on page 100, the element should include specific commitment (beyond reviewing) to address identified constraints. Commitments should also address the number of parking spaces and garage requirements for multifamily development.

4. *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 B1, the element must include a complete Assessment of Fair Housing, and current programs do not satisfy the requirements for specific and meaningful program actions. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For additional guidance on program requirements to affirmatively further fair housing, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

Program 9 (Accessory Dwelling Units) commits the City to advertising its updated ADU ordinance and evaluating promotional policies for ADUs. The program must commit to actions that incentivize and promote ADUs, beyond simply evaluating such actions. Additionally, this Program should commit to monitoring ADU production and affordability, and to implementing additional actions if not meeting target numbers for

production and affordability levels anticipated in the housing element. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months).

D. Quantified Objectives

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).)

While the element includes quantified objectives for construction, rehabilitation and conservation, it must also address these objectives for extremely low-income households.

E. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The element must describe how internal consistency within the general plan was achieved as part of the housing element update and how internal consistency will be maintained throughout the planning period. To meet maintaining consistency, the City could consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.

F. 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).)

The element describes the City's outreach efforts and, with revisions, states that comments were incorporated into the element. However, the element must describe what comments were received and how they were incorporated. Particularly, HCD received many valuable comments related to the housing element review and encourages the City to re-evaluate these comments and incorporate revisions where appropriate.