

ATTACHMENT 5

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

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March 7, 2022

Debra D. Rose, City Manager
City of Lake Forest
100 Civic Center Dr.
Lake Forest, CA 92630

Dear Debra Rose:

RE: City of Lake Forest's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Lake Forest's (City) adopted housing element received for review on January 06, 2022. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on March 4, 2022 with Gayle Ackerman, Director, and Amanda Tropiano, Consultant. In addition, HCD considered comments from Welcoming Neighbors Home pursuant to Government Code section 65585, subdivision (c).

The adopted element addresses many statutory requirements described in HCD's November 22, 2021 review; 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.

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

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 (October 15, 2021), 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. In addition, HCD received comments with many meaningful suggestions. HCD encourages the City to consider these comments.

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 Mashal Ayobi, of our staff, at Mashal.Ayobi@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LAKE FOREST

The following changes are necessary to bring the Lake Forest 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).)*

Disproportionate Housing Needs: While the element includes some data on cost burdened, overcrowded, and substandard housing conditions, it must still analyze patterns and trends on a local (neighborhood to neighborhood comparison) and regional basis (city to region comparison) and discuss coincidence with other components of the assessment of fair housing (e.g., disparities in access to opportunity and segregation and integration).

Sites Inventory: As stated in the previous review, the element must examine whether sites improve or exacerbate fair housing conditions. Please see HCD's prior review and Affirmatively Furthering Fair Housing (AFFH) Guidebook (pp. 45-49) for more information.

Goals, Actions, and Metrics: While the element has identified fair housing issues and includes a table on pg. BR-190 linking contributing factors to fair housing issues, programs do not demonstrate how actions address a fair housing issue or do not include metrics that target fair housing concerns. The element must add metrics to target meaningful fair housing outcomes in the planning period.

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).)*

Suitability of Nonvacant Sites: While the element has provided information related to a variety of factors including market trends related to retail and the discontinuation of office uses, it must still support the analysis with development trends. The element could include a listing of recent projects that have been redeveloped and relate these examples to the sites identified in the inventory. In addition, the element adds analysis of factors

considered when determining sites suitable for development in each of the four focus areas (El Toro Rd, Lake Forest, Light Industrial, and Foothill Towne Center) and provide information on a site-specific basis for most sites in the inventory. However, sites 58 through 75 are not included in the Suitability of Nonvacant Sites table nor are they included in the street view because they are designated to meet the moderate and above moderate-income RHNA. To demonstrate the suitability of nonvacant sites to accommodate the RHNA, the nonvacant sites analysis is required for all sites regardless of regional housing need allocation (RHNA) income groups (e.g., lower, moderate and above-moderate income).

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).)*

Constraints on Housing for Persons with Disabilities:

- *Residential Care Facilities for Seven or More Persons:* As mentioned in HCD's prior review, 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 use permit in the A-1 zone. Zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. The element should also discuss any spacing requirements between group homes. The element should evaluate these requirements as constraints and include programs to address constraints.
- *Reasonable Accommodation:* While the element now includes the process for requesting reasonable accommodation, the element must analyze the process and findings for constraints on housing for persons with disabilities. For example, the process requires the requestor to "provide a letter specifying the request and an explanation of how the request will provide reasonable accommodation in the application of the City's zoning laws", and findings number #3 and #7 seem to be contrary to the latest federal and state guidance on reasonable accommodations. Housing providers must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the provider's preferred forms or procedures for making such requests. In addition, California Code of regulations section 12176 (c) provides that it is a discriminatory housing practice for any person to refuse to make reasonable accommodations unless providing the requested accommodation would constitute an undue financial and administrative burden or a fundamental alteration of its program, or if allowing an accommodation would constitute a direct threat to the health and safety of others (i.e. a significant risk of bodily harm) or would cause substantial physical damage to the property of others, as defined in subsection 12179(b) or 12185(d)(9)". The City must evaluate its reasonable accommodation procedure for compliance with fair housing laws, ensuring that the procedure does

not pose a constraint to the housing for persons with disabilities, and include programs to mitigate or remove constraints identified.

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:

Program 1 (Land Use Policy, Entitlements, and Development Capacity (Shortfall Program)): While the element now includes Program 1, which commits the City to completing rezoning of sites identified to accommodate the RHNA, it must clearly commit to meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, the element must specifically commit to require minimum density of 20 units per acre. In addition, the Program must commit to rezone at least 50 percent of the lower-income RHNA on sites designated for residential use only or if more than 50 percent of the lower-income need is to be accommodated on sites zoned for mixed uses, those sites allow 100 percent residential use and require residential use occupy 50 percent of the total floor area of a mixed-use project.

Program 8 (Accessory Dwelling Units (ADUs)): While the program amends the ADU ordinance and other activities, it still must also monitor ADU production and affordability throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. Additionally, the Program should list the types of incentives the City is considering to facilitate the production of ADUs.

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 A3 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).)*

Program 24 (Neighborhood Improvement Task Force): While the element has included a program to implement place-based strategies for census tracts in the Southwest area of the City, HCD has received comments that this program's actions – traffic, lighting, parking, noise, crime, homelessness, infrastructure repairs, property maintenance, disposal of bulky items, street sweeping, trash, beautification – may contribute to additional displacement risk and could be seen as fair housing issue itself. Per our conversation, the City indicated that they conducted a Neighborhood Improvement Needs Assessment. The element should discuss if this program was analyzed as part of this study. Additionally, the city could consider incorporating other recommendations from this study into this program.