

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

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August 12, 2022

Jon Berg, Director
Community Development Department
City of Indian Wells
44-950 El Dorado Drive
Indian Wells, CA 92210

Dear Jon Berg:

RE: City of Indian Wells' 6th Cycle (2021-2029) Adopted Housing Element Update

Thank you for submitting the City of Indian Wells' housing element adopted on June 2, 2022 and received for review on June 13, 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.

The adopted 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.

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 Senate Bill 197 (Chapter 70, Statutes of 2022), as the City did not adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), as of this writing, any rezoning must be completed within one year of the statutory deadline (October 15, 2022). However, if the City's adopted element is found in compliance by October 15, 2022, the City may use a rezone deadline of October 2024 (Program 3). HCD encourages the City to adopt and submit its housing element by August 15, 2022 to ensure completion of the review of the housing element by the October 15, 2022. If the element is not found in compliance by October 15, 2022, HCD cannot find the element in compliance until the rezoning is complete.

As noted in the prior review, 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 and submit an electronic version of the sites inventory. While the City has submitted an electronic version of the sites inventory, if changes occur, any future re-adopted versions of the element must also submit the electronic version of the sites inventory.

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 the City's housing element team provided during the 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 Connor Finney, of our staff, at Connor.Finney@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF INDIAN WELLS

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: Outreach specifically related to affirmatively furthering fair housing (AFFH) is foundational to a complete analysis and formulating appropriate goals and actions to overcome patterns of segregation and foster more inclusive communities. Per our previous review, the City should summarize and relate its and other's outreach efforts to all components of the AFFH analysis and modify or add goals and actions as appropriate. For example, the element mentions outreach methods and some comments related to the overall housing element and generally describes the Regional Analysis of Impediments to Fair Housing Choice (AI) which has considerable outreach. However, a summary of that outreach should be tailored to the various components of the assessment of fair housing to better formulate appropriate programmatic response.

Enforcement: The element mentions additional details about enforcement capacity and compliance with state law, but it should also evaluate trends and characteristics related to fair housing complaints as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints. Based on the outcomes of this evaluation, the element should summarize issues, identify contributing factors, and formulate meaningful goals and actions.

Racially Concentrated Areas of Affluence (RCAA): The element should incorporate the latest RCAA data to inform analysis. The data is available on HCD's AFFH data viewer at <https://www.hcd.ca.gov/affirmatively-furthering-fair-housing>.

Disparities in Access to Opportunity: Per our last review, the element should address disparities in access to transportation opportunities. (e.g., elaborate on transit routes and access to neighborhoods)

Identified Sites and AFFH: The element now includes general conclusions that the location of identified sites does not exacerbate existing fair housing condition. However, the analysis should address the number of units by all income groups and location (e.g., neighborhood, planning area, census tract), discuss any isolation of the regional housing need allocation (RHNA) by income group and evaluate the magnitude of the impact on existing concentrations of socio-economic characteristics by area. The analysis should be supported by local data and knowledge and other relevant factors and address overlapping fair housing issues with other components of the assessment of fair housing (e.g., segregation and integration, concentrated areas of poverty, disparities in access to opportunity).

Local Data and Knowledge, and Other Relevant Factors: Per our previous review, the element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. For example, the element should discuss the history of zoning, disparities in public investment, impacts of master planning in the southern areas of the City, other patterns of development and their relation to the highway, demographic trends in race and housing unit occupancy, housing tenure of different groups, as well as how they compare to the rest of the region.

Contributing Factors to Fair Housing Issues: The element includes contributing factors to fair housing issues but should re-evaluate and prioritize these factors based on a complete analysis to better respond to the fair housing issues. Contributing factors should also reflect the analysis, including disparities between the jurisdiction and the rest of the region.

Goals, Actions, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Actions must have specific commitment, discrete timing, geographic targeting, and metrics. Further, the element should consider additional actions to address disparities between the City and region, including housing mobility and new opportunities in higher opportunity areas (beyond the RHNA).

2. *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).)*

An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..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... (Gov. Code, § 65583, subd. (a)(6).)

Land Use Controls: Although the element has provided some descriptions of land use controls, it must still analyze those land use controls as described in HCD's prior review. Based on the outcomes of this analysis, programs must be included to address these constraints, including unit size, height limits, parking (both numbers required and garaged) and allowable multifamily densities. These programs also essential to programs to AFFH, including promoting housing mobility and increasing new housing opportunities in higher resource areas.

Processing and Permit Procedures: The element notes that multifamily uses in multifamily zones are subject to a conditional use permit (CUP) process. Requiring a complex discretionary exception process for a use in its intended zone is a constraint that impacts approval certainty, timing, cost, and feasibility. As noted in the prior review, the element must include a program to address the constraint.

Fees and Exactions: Although the element lists some fees, it must list all fees including impact fees. In addition, the element should specifically analyze differences between multifamily and single family, including impacts on smaller unit sizes and the implication for AFFH.

Timing of Approval: The element must analyze the length of time between receiving approval for housing development and submittal of application for building permits. The analysis should include the length of time between approvals and the issuance of a building permit.

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... (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 commitment and discrete timelines, instead of “ongoing” or “annual monitoring and reporting”, for example, as follows:

- *Program 6 (Evaluate Alternative Funding)*: Commit to how often the city will apply for funding.
 - *Program 18 (Support for Persons with Developmental Disabilities)*: Commit to proactively reach out to non-profit developers at least bi-annually.
 - *City-Owned Sites*: The element still should include a program that commits to a schedule of actions to facilitate development on City-owned sites. Examples of actions include surplus land; coordination with developers; zoning; issuing requests for proposals; facilitating other entitlements and project completion. Additionally, the program should include a numerical objective such as the number of units and affordability.
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).)*

As noted in Findings A2, 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, while the element now includes Program 13 to define small residential care facilities as a residential use to be permitted in the NPR zone with a CUP, it must include specific commitment to allow group homes for seven or more persons in all residential zones (regardless of licensing) with procedures that promote objectivity and approval certainty (e.g., removing or modifying the CUP requirement).

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).)*

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

C. 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).)

Although amendments were made to include rehabilitation objectives for Program 1 (Rehabilitation), conservation objectives should not be limited to units at-risk of conversion to market rate uses and could include objectives for Programs 15 (Fair Housing Procedures) and 18 (Support for Persons with Developmental Disabilities).

D. 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)(9).)

Per our last review, Indian Wells must demonstrate diligent efforts to involve all economic segments of the community in the development of the housing element. In response, the element now notes the City made a “specific and intentional effort” to include all segments of the community and notes a discussion with one organization. The element should describe that specific and intentional effort such as who was contacted, how and the results and if necessary, employ additional methods as described in HCD’s prior review.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision 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.