

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

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September 5, 2023

Christopher Freeland, City Manager
City Manager's Office
City of Indian Wells
44-950 Eldorado Drive
Indian Wells, CA 92210

Dear Christopher Freeland:

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

Thank you for submitting the City of Indian Wells' (City) housing element adopted on July 6, 2023 and received for review on July 7, 2023, along with revision received on August 29, 2023 and August 30, 2023. 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 housing element addresses most statutory requirements described in HCD's August 12, 2022 review; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

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).)*

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).)

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element now identifies candidate sites for rezoning by geographic distribution and various fair housing factors. However, the element should also incorporate approved and entitled projects into this analysis. This is particularly important since these projects accommodate the entirety of the above moderate income regional housing needs allocation (RHNA) and a majority of the moderate-income RHNA and appear isolated from the sites identified to accommodate the lower-income RHNA.

Goals, Priorities, Metrics, and Milestones: As noted above, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. In addition, while the element includes meaningful actions, it should include additional housing mobility actions to promote housing choices and affordability in the southern and western portions of the City. These programs should not be limited to the RHNA and, instead, target meaningful change in terms of inclusive neighborhoods with housing choices and affordability. Examples of additional actions include creating more housing choices and affordability beyond complying with law (e.g., SB 9, accessory dwelling units), targeting funding, more than one junior accessory dwelling unit per single family structure, homesharing and enhancing capacity and increased densities. Finally, to better AFFH, programs should be revised, as follows:

- *Program 8 (Accessory Dwelling Units (ADU))*: The Program should consider geographic targeting beyond higher resources areas and target concentrated areas of affluence and relatively higher incomes.
 - *Program 3 (Production of New Housing Units)*: The Program should target concentrated areas of affluence and relatively higher incomes in addition to City-wide efforts. Further, the Program should specifically commit to how the City will promote affordable housing on religious lands and facilitate lot splits and other housing choices under SB 9.
 - *Program 5 (General Plan Update)*: The Program should consider numeric targets beyond the RHNA and target concentrated areas of affluence and relatively higher incomes in addition to City-wide efforts. Further, the Program could include additional land use strategies such as rezoning to higher densities (e.g., duplexes to four-plexes and multifamily) in the western and southern portions of the City.
 - *Programs 1 (Rehabilitation) and 2 (At-risk Preservation)*: Place-based strategies toward community revitalization could be expanded beyond rehabilitation and at-risk preservation. For example, strategies could include prioritizing investment in the eastern areas of the City for broader neighborhood and community development activities such as streetscapes, active transportation, accessibility modifications, parks, community facilities and recreational programs.
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).)*

Program 13 (Development Code Amendments): While the Program commits to amend zoning and permit procedures for group homes for seven or more persons, it should specifically commit to allow these uses in all residential zones.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted, if necessary, to substantially comply with the above requirements pursuant to Government Code section 65585.

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, if necessary, and submit to HCD to regain housing element compliance.

Pursuant to AB 1398, a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones pursuant to Government Code sections 65583, subdivision (c)(1) and 65583.2, subdivision (c) are completed including all the by right requirements. Once the City completes the program, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the City's housing element compliance.

In addition, please be aware, the recent California appellate decision in *Martinez v. City of Clovis* found that while overlays can be used in a rezone, when the base zone allows residential development, both the base zone and the overlay zone must comply with the minimum density requirements of Government Code section 65583.2, subdivision (h). The City may need to adjust Program 3 (Production of New Housing Units), if the underlying zoning for sites that will be rezoned allows minimum densities less than 20 dwelling units per acre. *Martinez v. City of Clovis (2023) 90 Cal.App.5th 193, 307 Cal.Rptr.3d 64*.

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. 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.

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

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element, the City will meet housing element requirements for these and other funding sources.

HCD appreciates the hard work and dedication the housing element team provided in preparation of the City's housing element. HCD is 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 Fidel Herrera, of our staff, at fidel.herrera@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager