

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



December 12, 2023

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) Revised Draft Housing Element

Thank you for submitting the City of Indian Wells' (City) revised draft housing element update received for review on November 15, 2023 along with revisions that were received on December 8, 2023. The revisions were posted and made available to the public for seven days prior to the California Department of Housing and Community Development (HCD) review. Pursuant to Government Code section 65585, HCD is reporting the results of its review.

HCD is pleased to find the revised draft housing element meets the statutory requirements described in its September 5, 2023 review. However, the housing element cannot be found in substantial compliance until the City has completed necessary rezones as described below. The housing element will substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq.) when the necessary rezones are complete and the element is adopted, submitted to, and approved by HCD, in accordance with Government Code section 65585.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that did not adopt a compliant housing element within one year from the statutory deadline (October 15, 2021) cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites are completed pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c). As the City did not adopt a compliant element by October 15, 2022 and the necessary rezones are not complete, HCD cannot find the element in compliance. The element can be found in compliance when Program 3 (Production of New Housing Units (Shortfall Program)) is complete. Upon completion of rezones, the City should submit appropriate documentation (e.g., resolution, ordinance) for HCD's review. 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 its rezoning strategy, 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 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.

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

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>.

Jon Berg, Director
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HCD appreciates the hard work and dedication the housing element team provided throughout the housing element review and update process. HCD looks forward to receiving the adopted element and documentation of completed rezoning as described above. If you have any questions or need additional technical assistance, please contact Anthony Errichetto of our staff, at Anthony.Errichetto@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