

October 13, 2022

To: Bay Area Local Planning Directors

**RE: Proposed Update Process for Bay Area Housing Elements to Achieve Meaningful Public Participation**

Dear Bay Area Planning Directors,

We, the Bay Area Housing Element Working Group, are writing to urge you to prioritize community input to develop strong housing policy in the final stages of the 2023-2031 Housing Element Planning process. The Bay Area Housing Element Working Group is convened by the 6 Wins for Social Equity Network, a regional equity coalition founded in 2010. The Housing Element Working Group consists of housing law and policy experts working together to ensure the region is one where everyone can find a home. We believe that strong housing policy and planning is an essential step towards that vision.

Deep community engagement is at the heart of the Housing Element process in California. True community engagement requires more than just extensive outreach to the community. It must be designed to facilitate the meaningful dialogue and co-planning with your residents necessary to realize the potential of the Bay Area as a vibrant, diverse, and healthy community. After months of work, the Bay Area jurisdictions have largely submitted first drafts of your 2023-2031 Housing Elements to the California Department of Housing and Community Development (HCD), and have recently received or are awaiting a letter from HCD reviewing your draft and recommending changes. In this next stage it is important not only to respond to HCD's comments, but to do so in a way that meaningfully involves the community in that response. This requires that you give community members an adequate opportunity to read, analyze, and comment on the updates, and then transparently incorporate that feedback into your final Housing Element before submitting a final version to HCD.

State law requires local governments to **make “a diligent effort...to achieve public participation of *all economic segments of the community in the development of the housing element.*”** (Gov. Code 65583(c)(9) (emphasis added)). “A diligent effort means going beyond simply giving the public an opportunity to provide input and should be **proactively and broadly conducted through a variety of methods to assure access and participation.**” (Department of Housing and Community Development (HCD), [Affirmatively Furthering Fair Housing \(AFFH\) Guidance](#) Memo, April 2021, p. 21).

In order to ensure that your communities continue to have the opportunity to understand and influence your decisions, we recommend you take the following steps:

- 1. Publish the review letter you receive from HCD on your Housing Element website *as soon as you receive it.*** This will ensure that community members have as much time as possible to understand HCD's opinions and concerns, so that they can best participate in updating your Housing Element and ensure it prioritizes equity and fairness.

2. **Hold one or more community meetings, work sessions, and/or public hearings to take comments on the HCD review findings and how best to address them before the next draft is prepared.** Incorporate as much community input as possible, including expertise from local community based organizations, about housing needs and solutions. Consider all proposed analyses and recommendations. A diverse range of methods for soliciting comments from the community will facilitate the input of residents with disabilities and language access needs. This input is necessary to your ability to fully consider the housing needs of disabled residents and English Language Learners in your jurisdiction, as the State Housing Element law requires.
3. **Once the revised draft is finalized, post it on your Housing Element website in both a clean version and a version with visible redlines against the initial public review draft.** This will allow community members to more easily review the changes you have made, which will in turn: enable the community to help ensure compliance with state law; clarify the reasons behind the jurisdiction's decisions regarding revisions and community input; and help build trust. Ensuring transparency and accountability in the process will yield the strongest possible final Housing Element.
4. **Publish a summary of comments received and a list of changes made to the original draft identifying which comments or policy suggestions were accepted, which were not, and why.** This, again, enables the community ease in reviewing and understanding the changes the jurisdiction has made. It is similar to the federal Administrative Procedure Act standards for public input in decision-making processes, and provides a best practice towards developing trust between governments and their constituents. That trust is even more important at the local level.
5. **While state law only requires a 7-day comment period, you should provide a 30-day public comment period after releasing revised drafts.** Allowing the necessary time for community members to review the Housing Element will improve the quality of the public input received by the city. Cities that use higher-quality public input to inform their Housing Elements will increase the likelihood of certification by HCD, as their Housing Elements will better address the needs of the community. Providing a 30-day public comment period additionally furthers the spirit of the legal requirements under California Housing Element law, and will allow for better policy outcomes.

The Housing Element Working Group remains committed to working in partnership with Bay Area jurisdictions to ensure that, from start to finish, the Housing Element update process is inclusive, laying out a roadmap to effectively and equitably address the affordable housing crisis. All Bay Area residents deserve a safe, accessible, and affordable place to call home, with a range of choices free of barriers to fair housing. The Housing Element update process provides the tools to do just that. We look forward to continuing this work with you.

Regards,

Bay Area Housing Element Working Group