

Exhibit E
California Department of Housing and Community
Development Letter

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

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March 7, 2016

Ms. Jennifer K. Clark, Director
Development and Resource Management Department
City of Fresno
2600 Fresno St, Room 3065
Fresno, CA 93721

Dear Ms. Clark:

RE: Review of the City of Fresno's 5th Cycle (2015-2023) Draft Housing Element

Thank you for submitting the City of Fresno's draft housing element received for review on January 7, 2016. Pursuant to Government (GC) Code Section 65585(b), the Department is reporting the results of its review. The Department also received draft revisions on March 3, 2016. However, those revisions were unable to be fully considered in this review. In addition, the Department considered comments from Leadership Council for Justice and Accountability pursuant to GC Section 65585(c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (GC, Article 10.6). The enclosed Appendix describes revisions needed to comply with State housing element law.

To remain on an eight year planning cycle, pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) the City must adopt its housing element within 120 calendar days from the statutory due date of December 31, 2015 for Fresno COG localities. If adopted after this date, GC Section 65588(e)(4) requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit our website at: http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.

For your information, on January 6, 2016, HCD released a Notice of Funding Availability (NOFA) for the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRRP). This program replaces the former Mobilehome Park Resident Ownership Program (MPROP) and allows expanded uses of funds. The purposes of this new program are to loan funds to facilitate converting mobilehome park ownership to park residents or a qualified nonprofit corporation, and assist with repairs or accessibility upgrades meeting specified criteria. This program supports housing element goals

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such as encouraging a variety of housing types, preserving affordable housing, and assisting mobilehome owners, particularly those with lower-incomes. Applications are accepted over the counter beginning March 2, 2016 through March 1, 2017. Further information is available at: <http://www.hcd.ca.gov/financial-assistance/mobilehome-park-rehabilitation-resident-ownership-program/index.html>.

The Department appreciates the City's efforts to prepare a housing element update and recognizes many efforts to promote a variety of housing choices and infill development, particularly through the recent general plan and development code updates. We are committed to assisting Fresno in addressing all statutory requirements of housing element law. If you have any questions or need technical assistance, please contact Tom Brinkhuis, of our staff, at (916) 263-6651.

Sincerely,



Glen A. Campora
Assistant Deputy Director

Enclosure

APPENDIX CITY OF FRESNO

The following changes would bring the City of Fresno'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 the Department's website at www.hcd.ca.gov/hpd. Among other resources, the Housing Element section contains the Department's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at www.hcd.ca.gov/hpd/housing_element2/index.php and includes the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Unaccommodated Need from the Prior Planning Period: The City's fourth cycle element contained Program 2.1.6.a which was necessary to demonstrate compliance with the adequate sites requirement for all of the prior cycle housing need allocation. The current draft states that capacity exists in the sites listed in the prior element due to recent Development Code updates and that Program 2.6.a is no longer needed (p.5-6). However, the update of the code did not occur with sufficient time to facilitate development in the 4th cycle planning period. As a result, the element must include an analysis to address the unaccommodated need from the prior planning period pursuant to GC Section 65584.09, including whether recently rezoned sites address requirements pursuant to GC Section 65583.2(h) and (i).

The Department recognizes recent revisions received March 3, 2016 to address these requirements and acknowledges these revisions appropriately begin to address the requirements of GC 65584.09. However, the Department was unable to conduct a full review of the revisions, particularly given the complexity of the 4th cycle shortfall of adequate sites and the lack of opportunity for public comments on the revisions.

When it is determined that a local government failed to make adequate sites available to accommodate all of the regional housing need in the prior planning period, the locality is required to zone or rezone sites to accommodate any unaccommodated need within the first year of the 2014-2023 planning period (Section 65584.09). More information about requirement is provided at: http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf.

Small and Large Sites: Typical developments utilizing state and federal financing consist of 50 to 150 units. However, many sites appear too small or large to accommodate a development of this size. To demonstrate adequate sites to accommodate the regional housing need for lower-income households, the element must include analysis describing the feasibility of development on small and large sites and the ability of these sites to encourage development of housing affordable to lower-income households

Realistic Capacity: While the element notes a minimum density is utilized to calculate capacity on mixed-use sites (page 3-4), it should also include a discussion of the likelihood for 100 percent non-residential development occurring on such sites. For example, the element could analyze development trends for 100 percent non-residential uses on mixed-use sites; describe performance standards or general plan policies assuring residential development on mixed-use sites or policies; and programs to encourage residential uses. Refer to *Building Blocks* at: http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.

Suitability and Availability of Infrastructure: The element states water and sewer services are available. However, it must demonstrate there is sufficient existing or planned water and sewer capacity to accommodate the total regional housing need or include appropriate programs.

2. *Analyze 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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Land-Use Controls, Downtown Zoning: The element indicates pending zoning for downtown districts (page 3-10) and the potential for a unit cap in the area. Given the pending nature of downtown zoning, the element could include a program to ensure zoning will not act as a constraint or preclude the ability to accommodate the regional housing need. A program could also assist in meeting any unaccommodated need from the prior planning period as described in Finding A1.

On/Off-Site Improvements: The element must identify and analyze actual street widths, curb, gutter, and sidewalk requirements; water and sewer connections; landscaping and circulation improvement requirements; and any other on/off-site improvement required by the jurisdiction which could potentially be a constraint to development of housing. In addition, the element must describe any generally applicable level of service standards or mitigation thresholds. Based on the outcomes of this analysis, the element should include programs as appropriate.

C. 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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions (Section 65583(c)).*

Among other things, programs must have specificity, objectives and timelines for completion to have a beneficial impact in the planning period. Several programs have non-definitive timelines or lack the necessary commitment to have an impact on addressing housing needs and should be revised. For example:

Programs 3, 4, 5 and 7 (Assist in Development, Special Needs): Provide definitive timing (e.g., annually).

Program 11 – Agricultural Employees (Farmworker) Housing: The program commits Fresno to reviewing the Development Code by January 2017. The City should also commit to amend or revise the code as appropriate to comply with the Employee Housing Act.

Program 18 (At-risk Housing): The program could also commit to quick action when notice of conversion is received and monitoring units to ensure tenants receive proper notifications. For more information and a sample program, see *Building Blocks* at http://www.hcd.ca.gov/hpd/housing_element2/PRO_atrisk.php.

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A1, 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 any unaccommodated need or shortfall of sites.

3. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

As noted in Finding A2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs to remove or mitigate any identified constraints.

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 (Section 65583(c)(8)).

The element includes a general summary of the public participation process but should also describe how public comments were considered and incorporated into the element, including comments received. It appears Fresno did not make a draft of the housing element available to the public until after submittal to the Department. While the Department recognizes the importance of meeting statutory deadlines, by not making the draft available to the public the City denied the public an important opportunity for public input prior to Department submittal. During the period between this draft element and the adoption of the final housing element, the City must make diligent efforts to achieve public participation including from low and moderate income households and/or representative organizations by making information regularly available and considering and incorporating comments where appropriate.

E. Other

San Joaquin Valley Fair Housing and Equity Assessment: As noted in the Department's memo (at below link), the Department encourages Fresno to consider the San Joaquin Valley Fair Housing and Equity Assessment as part of the housing element update and utilize various resources available to the City, including mapping and GIS services. The Housing element is a tremendous opportunity to evaluate demographic patterns, housing needs, identification of sites and potential strategies to affirmatively further fair housing. For example, the element summarizes development capacity by areas of the City. The analysis could take an additional step and summarize or map development capacity using dissimilarity or opportunity indices. The Department welcomes working with the City to develop innovative approaches to meet its housing and community development needs. For more information, please contact the Department and see our website at <http://www.hcd.ca.gov/housing-policy-development/docs/san-joaquin-fair-housing020915.pdf>.

Other Elements of the General Plan: For your information, some other elements of the general plan must be updated on or before the next adoption of the housing element. The safety and conservation elements of the general plan must include analysis and policies regarding fire and flood hazard management (GC Section 65302(g)). Also, the land-use element must address disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long established "legacy" communities) based on available data, including, but not limited to, data and analysis applicable to spheres of influence areas pursuant to GC Section 56430. The Department urges the City to consider these 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: http://opr.ca.gov/docs/SB244_Technical_Advisory.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.