

Regular Council Meeting

RECEIVED

July 20, 2023

2023 JUL 18 P 3:01

FRESNO CITY COUNCIL



Supplement Packet

ITEM(S)

3-A (ID 23-1103)

Presentation on the Fresno County Multi-Jurisdictional Housing Element

Contents of Supplement: Public Comment

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.



October 3rd, 2022

Board of Supervisors, Fresno County
City Councils, Cities of Fresno County
Deputy Director Kristine Cai, Fresno Council of Governments

Re: Fresno COG Multi-Jurisdictional Housing Element Update 2023-2031

Dear Supervisors, Councilmembers, and Kristine Cai:

The undersigned organizations write to you to advocate for a Housing Element process and update that is equitable, inclusive, and responsive to disadvantaged communities' needs. We are a group of community-based organizations working hand-in-hand with community partners and leaders throughout the City and County of Fresno. The following recommendations are based on our experience to push for transformative community-led and identified solutions to elevate and advance their priorities for safe, affordable housing options and fair housing choices. We thank you for taking the time to read the following memo and welcome the opportunity to discuss our letter in further detail. As the Housing Element process begins, it is important and necessary to start the process correctly and with strong community engagement. The Housing Element is an important piece of planning our communities and solving our housing crisis together. Further, the State of California has recently strengthened the laws governing the Housing Element. The Fresno Council of Governments (FCOG), jurisdictions participating in this multi-jurisdictional housing element, and city leaders must apply these laws conscientiously and diligently. With laws such as AB 686 and AB 1397, we expect this Housing Element to be robust, meaningful, and indicative of solving our housing crisis. As always, we are willing to partner and work alongside you all to ensure that these requirements are fulfilled and even exceeded in order to create the change we want to see in the Valley.



We look forward to working alongside the Fresno COG, city leaders, and staff in the multijurisdiction Housing Element update (collectively referred to herein as “Fresno jurisdictions” or “jurisdictions”) and solving our housing crisis together.

I. Jurisdictions Must Meaningfully Engage the Public in their Housing Element Updates Practices, Including Lower-Income Residents and Protected Classes

As Fresno jurisdiction begins the 6th Cycle Multi-Jurisdictional Housing Element Update, the jurisdictions must meaningfully engage the public, including in particular lower-income residents, members of protected classes under civil rights statutes, residents of disadvantaged communities, and racially and ethnically concentrated areas of poverty (“R/ECAPs”), and community-based organizations that work closely with these groups over the course of the housing element update. Gov. Code Sec. 65583(c)(9); HCD Affirmatively Furthering Fair Housing Guidance (“AFFH Guidance”), p.21.

The jurisdictions must engage the public throughout the housing element update process, and engagement must support “meaningful, frequent, and ongoing community participation, consultation, and coordination.”¹ HCD, Building Blocks, Public Participation. Pursuant to HCD’s AFFH Guidance, public participation efforts should be proactively and broadly conducted through various methods to ensure access and participation. Key stakeholders that jurisdictions seek to engage directly must include community-based organizations and advocacy groups which work directly with lower-income households and protected classes; lower-income and extremely-low income households; persons and households with special housing needs, including but not limited to farmworkers, seniors, single-parent households, and persons with disabilities; tenants, including residents of publicly-subsidized housing; members of protected classes, residents of disadvantaged communities and R/ECAPs; and fair housing agencies.² Outreach plans should include “in-person meetings in various locations to ensure residents from

¹ HCD AFFH Guidance, p. 10; Gov. Code §8899.50(a),(b),(c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 4253-42360 (July 16, 2015)

² HCD AFFH Guidance, p. 21



across the jurisdiction have the opportunity to participate.”³ As the process begins, we ask that jurisdictions plan in-person workshops in all parts of the jurisdictions, especially in rural areas where internet access is scarce, and virtual options are impractical.

To satisfy Government Code § 65583(c)(9) and its duties to Affirmatively Further Fair Housing, some specific public outreach efforts that we recommend that jurisdictions undertake to achieve the above-referenced objectives include but are not limited to the following:

- holding interactive housing element workshops in at least three disadvantaged unincorporated communities (DUCs) in areas across the jurisdictions, including fringe and island communities located adjacent to or near participating cities and legacy communities as defined by Government Code § 65302.10. Residents living in DUCs, as well as other lower-income communities and neighborhoods, are most likely to attend workshops held in their own communities because many low-income residents in these communities lack personal vehicles and many DUCs are not served by efficient or reliable public transportation. The jurisdictions should partner with community residents and/or community-based organizations with ties to the community to plan and perform effective outreach for the workshops;
- conducting targeted outreach to and stakeholder interviews with members of special needs populations and protected classes, including but not limited to farm workers, the elderly, members of large families and single-headed households, people of color, and non-English speakers;
- soliciting completion of the community survey performed by the jurisdictions by low income and special needs residents, including by the jurisdictions’ housing division and other city and County staff during their interaction with residents in the course of performance of their duties.
- advertising opportunities to participate in and provide feedback on the housing element update in non-English language print media, radio, and television, including media in Spanish, Hmong, and other languages spoken by Fresno County residents. Examples of non-English media outlets include Univision, Radio Bilingue, Hmong TV, and the Vida en el Valle publication among others. Many of these media outlets offer free advertising

³ HCD AFFH Guidance, p. 10



space for public service announcements. The housing element should document these additional efforts to achieve public participation by all economic segments of the community and explain how input received through those efforts is incorporated therein.

Leadership Counsel is willing to support the jurisdictions in planning these additional public outreach efforts.

In addition, and importantly, the Draft Amendments must meaningfully **incorporate** public input provided on the housing element update, prioritizing input provided by lower-income residents, residents with special housing needs, protected classes, and residents of lower-income and disadvantaged communities. The housing needs analysis sites inventory analysis, assessment of fair housing, including discussion of fair housing issues in R/ECAPs and impacting protected classes, displacement risks, disparities in access to opportunity impacting protected classes, meaningful actions, and programs must all incorporate, reflect, and respond to resident input and priorities. The Multi-Jurisdictional Housing Element must incorporate input from residents from all participating jurisdictions to tailor the analysis, sites inventories, actions, and programs applicable to specific jurisdictions accordingly.⁴

The jurisdictions, cities, and the Fresno COG can start to gain public trust if steps to proactively engage the public, including on an ongoing basis, in the multi-jurisdictional housing element update and incorporate and significantly reflect public input provided. Jurisdictions must ensure that strong public engagement efforts are maintained following jurisdictions' adoption of the element, including, for example, through the incorporation into the housing element of actions committing to the establishment and facilitation of a housing element oversight advisory committee to assist the jurisdictions in obtaining community feedback on housing element implementation from lower-income residents and protected classes.

II. The Multi-Jurisdictional Housing Element Update Must Comply with Cities' and the County's duties under AB 686

⁴ HCD AFFH Guidance, p. 21



To avoid the continuation of past and current discriminatory practices and to overcome their legacy, the State of California enacted AB 686 (2018). AB 686 requires the state, cities, counties, and other public agencies to affirmatively further fair housing (“AFFH”) in all programs and activities relating to housing and community development. AFFH means taking meaningful actions, in addition to combating discrimination, that overcomes patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. It means taking meaningful actions that, taken together, addresses significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. AB 686 also amended the Housing Element Law to require that housing elements include an assessment of fair housing (“AFH”) and identify sites *throughout* the jurisdiction to satisfy its regional housing needs allocation. We recommend that jurisdictions and FCOG carefully review HCD’s AFFH Guidance which contains a detailed discussion of AB 686’s requirements, including the requirements for a complete AFH. The AFH Some of these requirements include:

- **Summary of Fair Housing Issues.**⁵ The Housing Element must analyze and address patterns of integration and segregation; racially or ethnically concentrated areas of poverty; racially concentrated areas of affluence, disparities in access to opportunity for lower-income residents and protected classes,; and disproportionate housing needs impacting lower-income residents and protected classes, including displacement risk. The analysis of disparities in access to opportunity must include disparities in access to educational, employment, transportation, and environmental opportunity and cover the specific topics identified in HCD’s AFFH guidance for each opportunity category. HCD’s AFFH Guidance, pp. 35-36. The disproportionate housing needs analysis must consider disparities in housing cost burdens, overcrowding, substandard housing, homelessness, and other issues and must evaluate displacement risks holistically, considering the impacts of rising rents, infrastructure and service deficiencies,

⁵ https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf, pg.11



climate change, and other displacement risks that may disproportionately impact lower-income households and protected classes. The analysis must incorporate local data and knowledge, including the input of lower-income households and protected classes, and discuss the fair housing issues specific to distinct jurisdictions, R/ECAPs, and lower-income communities.

- **Identification and Prioritization of Contributing Factors.** The AFH must analyze and prioritize factors that contribute to identified fair housing issues and prioritize factors that limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights.
- **Sites Inventory AFFH Analysis.**⁶ The housing element must not only demonstrate site capacity to accommodate each jurisdiction’s RHNA, but also that the identified sites are consistent with the duty to AFFH, serving the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.⁷ This evaluation must include the specific components described in the AFFH Guidance, including how sites better integrate the community considering historical patterns and trends; the extent to which sites may exacerbate existing patterns of segregation; whether the RHNA by income group is concentrated in areas of the community; and local data, knowledge, and community input. Based on the outcome of the analysis, the site inventory must be modified, and/or actions must be included to overcome patterns of segregation and barriers to opportunity in relation to the sites contained in the inventory.
- **Meaningful Goals and Actions.** Existing Housing Element Law requires programs with a schedule of actions with timelines and specific commitment to have a “beneficial impact” within the planning period to achieve the goals and objectives of the housing element. As stated in the AFH guidelines “actions implement goals and consist of *concrete steps, timelines, and measurable outcomes.*”

⁶ https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf, pg.12

⁷ 24 Gov. Code, § 8890.50. subd. (b).



As the draft Housing Element is produced, we will be looking for these components and compliance with jurisdictions' duties under AB 686 to ensure that drafts reflect residents' input and priorities. Further, suppose barriers are identified that impede the application and implementation of programs, policies, and production of housing. In that case, the City should analyze also analyze these barrierstempt to make a good-faith effort to find alternative solutions.

III. The Housing Element Must Analyze and Incorporate Programs and Policies That Adequately Respond to our Housing Crisis

As discussed above, the housing element must include programs and actions prioritized by lower-income residents, protected classes, and residents of lower-income communities and R/ECAPs during the housing element update to solve our housing crisis. Below are community-identified programs and policies which residents from South Fresno neighborhoods and disadvantaged unincorporated communities across the jurisdictions have repeatedly identified as priorities to solve our housing crisis and AFFH which we ask jurisdictions consider:

- a. County of Fresno
 - o Create or support expansion of **local funding opportunities for farmworker housing**. Farmworker housing should be accessible for migrant farmworkers and affordable.
- b. City of Fresno and County of Fresno:
 - o Adopt a **local rent stabilization ordinance**, to protect tenants from continuously rising rents, including a rent stabilization board to hear and approve rental increases submitted by landlords. This would apply to the City of Fresno and Fresno County.
 - o Adoption of **tenant protections to reduce displacement risks**, including just cause eviction that address gaps in protections afforded under the 2019 Tenant Protection Act and a right to counsel guaranteeing access to affordable legal counsel for low-income tenants in housing matters;
 - o Establish a **permanent emergency rental assistance program** to assist residents at risk of homelessness due to rent increases and changed circumstances and ability to pay. Identification of a permanent local source of funding will ensure



TENANTS TOGETHER
California's Statewide Organization
for Renters' Rights
www.tenants-together.org



**FRESNO
BARRIOS
UNIDOS**
Advocacy • Education • Wellness



continuous funding and that the program can be used to prevent displacement. *The City of Fresno can leverage the Local Housing Trust Fund dollars and the State is continuing to grant monies for rental assistance programs*

- Establish a **permanent first-time homeownership assistance program** to help tenants become first-time homeowners. Closing costs and downpayment assistance for low-income, first-time homebuyers can help close the housing gap. Residents with ITIN numbers should be eligible for this program.
- Investments in **improvements to mobile home parks** to address the needs, including needs from the mobile park assessment study. Further, it should address weatherization and climate resiliency needs, to improve indoor and outdoor air quality, and to expand access to green space.
- Pursue an **Inclusionary Zoning ordinance** in the County of Fresno and the City of Fresno once a General Plan Update has occurred.
- **Extreme heat and weatherization programs** to address climate change. This includes funding for weatherization upgrades to homes and rental units, specifically in census tracts that rank the highest on CalEnviroScreen for pollution and poor health outcomes and are most vulnerable to climate change.
- **Establish an acquisition and rehabilitation fund** to purchase older, blighted, and/or abandoned homes/buildings. The County and the City of Fresno can establish a revolving fund to insure that rehabilitated homes are sold back to the community at a low cost.
- Grants for residents who want to develop **affordable accessory dwelling units** on their land in both the City and County of Fresno. Some residents are willing to sell parcels of land to the County to develop affordable housing and increase housing supply.
- **Urban Greening is used** as buffer zones when residential is placed or already placed near existing polluting land uses to mitigate health impacts.
- **Citing industrial uses** cannot be sited next to Housing Element sites and compliance with placing housing sites away from heavy, light industrial uses or phasing out light/heavy industrial zones



- **Suitable Vacant Land** should be prioritized for affordable housing in order to bring Very Low Income and Low Income RHNA allocations into compliance
 - **Impact fees should be placed into a community benefit fund** when polluting land uses and practices are placed near housing. The community benefit fund will be managed by the community directly impacted to dictate to who these funds should be allocated.
- c. All Jurisdictions:
- **Establish local hire provisions** requiring that a certain percentage of workers reside within 10 miles or less of a Project Site. This can reduce the length of trips, reduce greenhouse gas emissions and provide localized economic benefits
 - **Developing Public Health Impact Reports** for new development in order to understand existing public health disparities and the potential of those conditions worsening as a result of development. Public health agencies should be resourced to support this analysis. The findings of these reports should be available publicly and be included in permit approval processes and other key decision-making milestones.
 - **Establish a Cargo/Freight Prohibition and Revenue Tax** to directly fund community-based housing and projects in the neighborhoods most negatively impacted by years of environmental toxicity caused by freight.
 - **Incorporate Complete Streets principles** into all transportation projects at all phases of development, including planning and land use decisions, scoping, design, implementation, maintenance, and performance monitoring.
 - **Establish a Housing Element Implementation Committee** to oversee the timelines and implementation of each program and policy. The committee should be comprised primarily by tenants, low-income homeowners, and at-risk populations to ensure implementation meets the needs of most at-risk communities.

IV. The Sites Inventory Must Comply with New Housing Element Law Requirements, Including Requirements for Access to Infrastructure and Services Under AB 1397



As aforementioned, the State of California has added further requirements and specificity to the obligation of the Housing Element to identify adequate sites for further development of affordable housing.

Under AB 1397, for all sites in the inventory, the jurisdiction must determine the number of units “that can be realistically accommodated.”⁸ These requirements do not include “current or planned availability and accessibility of sufficient water, sewer and dry utilities.”⁹ In other words, sites that are served by water, sewer, and other dry utilities available and accessible within three years of the beginning of the planning period will be considered suitable for residential development. In addition, jurisdictions may not reuse on-vacant sites identified in a prior housing element or vacant sites identified in the last two housing element updates to meet lower-income RHNA requirements.

Finally, we recommend FCOG and the jurisdictions ensure that sites chosen conform to HCD’s site inventory guidance. Following HCD’s guidance would increase planning efficiency for local agencies, while ensuring compliance with housing element requirements. We look forward to seeing local compliance.

* * * * *

Thank you for taking our comments into consideration. We look forward to continuing to work with the Fresno jurisdictions on developing a compliant Housing Element that responds to the needs of participating Fresno Jurisdiction Residents and ensures access to safe and affordable housing for all.

⁸ Cal Gov Code 65583.2(c)

⁹ Cal Gov Code 65583.2(c)(2)



Sincerely,
Karla Martinez, Policy Advocate
Leadership Counsel for Justice and Accountability

Alexandra Alvarado, Community Organizer
Faith in the Valley

Marisa Moraza, Senior Campaign Strategist
PowerCA Action

Shar Thompson, CV Regional Coordinator
Tenants Together

Josefa Vega, Central Valley Regional Organizer
ACLU Northern California

Ruben Espinoza, Policy Advocate
Fresno Barrios Unidos

Guadalupe Ramos, Project Specialist
Fresno Building Healthy Communities