

Exhibit D
Public Comments

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Summary: 42 comments from 29 commenters



November 19, 2024

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room Fresno, CA 93721

RE: City of Fresno Draft 6th Cycle Housing Element Errata

Sent via email: housingelement@fresno.gov

Dear Mayor Dyer, Councilmember, and Ms. Zumwalt:

Leadership Counsel for Justice and Accountability (“LCJA”) and Public Interest Law Project (“PILP”) submit this comment letter in response to the City of Fresno’s Housing Element Draft Errata (“Errata”) released on November 12, 2024. Thank you for taking the time to meet and discuss our concerns regarding the programs and their lack of affirmative furthering fair housing. We hope that this conversation, along with California’s Department of Housing and Community Development (HCD) findings letter released on October 7, 2024, leads to amendments of strong policies and programs identified by R/ECAP communities. The Errata does not adequately respond to HCD’s findings and fails to incorporate programs with meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

I. Releasing “Erratas” Without Meaningful Opportunities for Input Fails to Demonstrate Diligent Effort to Include Public Participation from R/ECAP Communities.

Every City of Fresno resident deserves the opportunity to engage in the Housing Element process and voice their concerns with revised drafts and elevate their housing needs. The City of Fresno released a revised Housing Element Draft on July 31, 2024. Since then the City has been releasing “Erratas” every month with only seven calendar days for comments: September 23, 2024, October 21, 2024, November 12, 2024. Such a quick turnaround does not allow the City to properly engage with residents and communities; therefore, the City is not taking the time to truly revise the housing element draft to reflect community needs, but most importantly the needs of R/ECAPs.

II. The Assessment of Fair Housing Fails to Adequately Analyze Racially/Ethnically Concentrated Areas of Poverty (R/ECAP).

As part of the comprehensive statutory duty to affirmatively further fair housing (“AFFH”), the housing needs assessment of a locality’s housing element must comply with the requirements of Gov. Code Section 65583(c)(10) by including an “assessment of fair housing” (“AFH”), in addition to an analysis of the locality’s household characteristics and housing conditions. (HCD Guidance, p.22; *see also* Gov. Code 8899.50.) The AFH must analyze how relevant factors in the locality “cause, increase, contribute to, maintain, or perpetuate” fair housing issues (HCD Guidance, p.24; *see also* Gov. Code, §§ 65583, subds. (c)(10)(A), (c)(10)(B), 8899.50, subds. (a), (b), (c).) Factors to be analyzed include spatial and temporal patterns and trends, local data and knowledge, as well as policies and practices or other information relevant to fair housing conditions. (HCD Guidance, p.25.)

Racially or Ethnically Concentrated Areas of Poverty

One mandatory portion of the AFH is an analysis of Racially or Ethnically Concentrated Areas of Poverty (“R/ECAPs”) which discusses the incidence of concentrated areas of poverty and segregation within the locality, as well as within the region. (HCD Guidance, p.32; *see also* Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c).) Both the local and regional description are crucial, because any “difference between the locality and the region is an essential part” of evaluating policies based on the priority of fair housing issues. (HCD Guidance, p.33.) The AFH should similarly analyze Racially Concentrated Areas of Affluence (RCAAs) according to the same temporal and spatial dimensions (HCD Guidance, p.33.)

In the October 7 findings letter released in response to the September errata, HCD identified several failings in the draft AFH. According to the findings, to meet the minimum level of analysis to satisfy the City’s statutory obligations, the AFH must “expand the discussion of characteristics of [RECAPs] and changes over time.” (HCD Findings, p.2.) One approach suggested by HCD would be to “consider a specific and individual description of each of the R/ECAPs including past and current neighborhood conditions, disparities in access to opportunity, effectiveness of past policies and investments and unique opportunities to promote equitable quality of life.” (HCD Findings, pp.2-3.) In addition, HCD’s findings stated that the expanded analysis “should incorporate public participation and targeted outreach to better examine needs and formulate appropriate policies and programs.” (HCD Findings, p.3).

In response to these findings, the October 21, 2024 errata released by the City included expanded descriptions of 11 R/ECAPs, identified by neighborhood. (October 21 Errata, p.1E-3-31 - p.1E-3-45.) This section appears not to have been amended since the release of the October 21, as it is not included in the November 12 Errata. However, while the edits to this section did introduce a greater level of detail compared to that included in the previous draft, the

expanded descriptions fall short of what is necessary for the City to meet its duty to AFFH. In general, in spite of the HCD findings, the descriptions of area development over time are inconsistently detailed, with some R/ECAPs discussed in greater depth than others. Also, there is a general lack of analysis connecting the description of development history to the contemporary fair housing issues, and explaining how the identified programs offer opportunities to address the particular issues present in each neighborhood. Until it includes the appropriate degree of analysis, the City's AFH fails to conform to the requirements laid out in Government Code Section 65583 as articulated by HCD Guidance, and does not meet the standards set out in the HCD findings regarding the September errata. Because compliance with the requirements of Section 65583 is essential to meet the AFFH duty under Section 8899.50, this violation is inconsistent with the AB 686 goals of addressing fair housing issues and replacing segregated living patterns with integrated ones. (HCD Guidance, p.15.)

Specific shortcomings include:

- Downtown
 - While the description of the Downtown neighborhood identifies factors including redlining and the negative consequences of suburban-style development in the 1960s,¹ there is a lack of analysis connecting this historical information to the current neighborhood conditions. For instance, the section identifies “the amount of impervious surfaces results in higher levels of extreme heat” as well as “a high concentration of individuals experiencing homelessness and individuals with disabilities in the Downtown area.” (October 21 Errata, p.1E-3-33.) However, these unique characteristics are not analyzed in connection with any historical trends or patterns. This discussion should be expanded to include an analysis of how policy and investment decisions made following the 1960s period of suburbanization informed the area's current character, with particular attention to the development of the identified urban-heat issue and the increase in the population of individuals experiencing homelessness as compared to the wider region. Without a discussion of the policies and practices relevant to this area during the past 50-60 years, it is not possible for this description to assist in the formulation of appropriate policies and programs to AFFH in this area.
- Jane Addams Neighborhood
 - The description of this area notes that because “the area was mostly developed while in the County, the roads did not meet City standards, lacking curb, gutter, sidewalks, and street trees.” (October 21 Errata, p.1E-3-37.) However, the section lacks any meaningful analysis of this development pattern, explaining only that “[p]ast policies (or lack thereof) related to freeway construction and City-County coordination of growth and development resulted in negative impacts to this neighborhood.” (*Id.*) Without any degree of analysis of the particular policies and practices, or their

¹ October 21 Errata, p.1E-3-33.

negative impacts, this description does not offer guidance for efforts to promote equitable quality of life in the neighborhood. The description should be expanded to include details of the policy gaps related to freeway construction and City-County development, and the negative impacts that have resulted from them. This would inform a better understanding of the unique opportunities to address these issues.

- Southwest Neighborhood
 - The description of this neighborhood states that it developed as a “patchwork of agricultural, residential, and industrial uses, with some commercial sprinkled throughout, resulting in land use incompatibilities” and notes that at present it suffers from “high pollution burden due to ... legacy land uses” and is at “risk for extreme heat due to low tree canopy of 8%, compared to the citywide average of 15%.” (October 21 Errata, 1E-3-38.) In addition, the description of the Southwest Neighborhood also refers to a local “transition pursuant to the adoption of the Southwest Fresno Specific Plan in 2017, which sought to enhance the plan area by incentivizing housing and commercial development, prioritizing parks and public facilities, and rezoning industrial land to other uses.” (October 21 Errata, p.1E-3-38.) However, this description fails to analyze the recent shift back toward industrial uses in this area; and, although it identifies Program 28: Equitable Community Investments as an opportunity to remedy the results of the inequitable historical development, that program includes language which contemplates land use changes away from those specified in the Southwest Fresno Specific Plan, potentially opening the door for re-entrenchment of industrial uses in Southwest Fresno. Because this inconsistency between the issues identified in the R/ECAP analysis and the programs identified to address them means that the planned-for transition away from industrial activities might be halted or rolled back, threatening the feasibility of future residential development due to land use incompatibility, this conflict represents a failure to AFFH.

Racially Concentrated Areas of Affluence

The October 21 errata includes only the following discussion of RCAs:

“There are 18 RCAA tracts within the city limits. Several of the RCAA tracts overlap with areas that are not incorporated into Fresno city limits as of 2022. Within Fresno City, RCAs are generally found in the North and Northeast Fresno neighborhoods, often characterized by high property values, excellent schools, and well-maintained infrastructure. Neighborhoods deemed as RCAs include portions of the Woodward Park, Bullard, McLane, and Roosevelt community areas.” (October 21 Errata, p.1E-3-45.)

Although there are more identified RCAAs within the city than R/ECAPs, the draft does not individually identify or analyze these areas. This failure is inconsistent with the requirement that an AFH consider RCAAs to “better evaluate trends, patterns, policies, and practices and to guide meaningful goals and actions to address fair housing issues.” (HCD Guidance, p.33.) The AFH should be amended to include an expanded discussion of RCAAs within the city, with the necessary analysis of how factors including public participation, past policies, practices, investments, and demographic trends have resulted in the pattern of development that has resulted in the identified RCAAs.

The AFH Does Not Meet the Minimum Requirements to AFFH

As described above, there is a critical lack of analysis in the draft AFH that should have been amended in the most recent errata. Until the City expands the descriptions of identified R/ECAPs to explain the relationship between historical practices and patterns and current fair housing issues, it will not meet the requirements of Housing Element law. In addition, without this analysis, the AFH cannot support the implementation of programs to address the identified fair housing issues, and the City will fail to uphold the duty to AFFH.

III. Failure to Incorporate Community Identified Programs that will Result in a Beneficial Impact during the Planning Period and AFFH.

HCD’s October 7, 2024, findings letter identified deficiencies the City needs to address in order to comply with state law: “the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the City may need to add or revise programs. Goals and actions must be significant and meaningful enough to overcome identified patterns and trends.”² As stated in section II of this letter, the City failed to complete an adequate assessment of fair housing in the Errata, and without a complete assessment the City is unable to adequately revise the programs in the Errata. Additionally, HCD’s findings letter directs the City to revise its programs to include geographic targeting and metrics, and targeting high resource areas, specific metrics, specific commitments, timing, and specificity regarding Specific Plans. We appreciate that the City included language in some of the programs that target RCAAs as well as additional timelines and specificity in this recent Errata, but additional changes are needed to fully comply with HCD’s findings. Additionally, our previous comments have detailed community-identified programs that are needed to respond to critical housing needs. These programs would AFFH and replace segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.

² Department of Housing and Community Development. (2024, October 7). HCD’s Findings Letter to the City of Fresno on their 6th Cycle (2023-2031) Revised Draft Housing Element.

Program 1 - Maintain Adequate Sites. We appreciate that the City has added in this Errata a commitment to evaluate progress toward completion of pipeline projects annually, and to adjust its inventory relative to that progress. The city should commit to deadlines for those annual reviews to ensure that they occur—e.g., annually by July 1 or annually by the anniversary of the City Council’s adoption of the Housing Element.

Program 2 – Variety of Housing Opportunities in High Resource Areas. This program’s goal is to increase high density housing in high-resource areas. The City acknowledges that high density housing is placed in R/ECAPs and low-density housing like single family homes are built in new growth areas like North Fresno and other RCAAs. In order to create “mobility” the City “will present potential sites or rezoning options for land in high and relatively higher resource and income areas, including RCAAs, **for Council consideration** to provide opportunities for higher density development in all areas of the city and reduce concentrations of poverty.” Only presenting potential sites or rezoning options in high resource areas for council consideration does not guarantee that they will be approved. As discussed at length in our prior comments, NIMBYism is a barrier to rezoning high density housing in high resource areas; deferring upzoning of sites in RCAAs and other high-resource areas to future discretionary Council action is a recipe for failure.

The City should be identifying sites “throughout the community,” including in RCAAs and other high-resource areas, in its Housing Element. (Gov. Code 65583.2(a).) Where rezoning sites in those areas is necessary to accommodate affordable housing, the Housing Element should include a program to do so. In order to provide adequate capacity for multifamily and affordable housing in high-resource areas, the City must identify those sites in the Housing Element now, not after adoption. But, rather than ensuring a streamlined, ministerial process for housing approvals in high-resource areas, the City’s current plan is to defer to a future discretionary process where City Council will have the opportunity to reject any proposed rezoning. A firm commitment now will also prevent challenges from NIMBY groups. Incorporating this action will truly develop housing opportunities for low income households in high resource areas and AFFH.

Program 2 continues to state that it will “include developing zoning standards to permit residential conversions in the Office Zone District, housing as a permitted use on parcels zoned Office, allow ministerial approval of office-to-residential conversions...” But there is no specificity around whether office zoned parcels in RCAAs will be prioritized over those in R/ECAPs. The goal of this program is “to increase housing mobility opportunities for lower-income households and encourage racially and socially inclusive neighborhoods.” Most of the actions are vague such as “the City will identify and pursue opportunities to promote the development of affordable housing” in RCAAs but it does not specify how this will be done.

The last action is also vague: “the City will incorporate Affirmatively Further Fair Housing analysis into decisions affecting funding and land use approvals for housing projects that require consideration by Planning Commission, City Council, or other boards and commissions as appropriate.” As noted in our prior comments, the City already has such an obligation pursuant to Government Code section 8899.50. Program 2 should commit to specific actions the City will take to ensure that it fulfills that obligation.

In order to ensure this program affirmatively further fair housing and increases housing mobility for R/ECAPs, it must:

- Identify sites RCAAs to allow multifamily residential developments in which at least 20 percent of the units are affordable to lower-income households by right, to rezoning the sites accordingly within one year of adoption.
- The City Council should adopt a policy requiring staff memos to the Council and relevant commissions to include an affirmatively furthering fair housing analysis that analyzes the fair housing impacts of any proposed decisions related to housing, as well as any applicable project alternatives. The policy should include affirmative outreach to affected communities, especially for projects in R/ECAPs.

Program 14 – Partnerships with Affordable Housing Developers. The goal of this program is “to continue to strengthen partnerships and relationships with affordable housing developers.” It continues to list vague actions such as “supporting,” “pursuing,” “encouraging.” In order to create strong relationships with affordable housing developers, the City should have addressed their concerns in the engagement process of the Housing Element and incorporated them into the Draft. Affordable housing developers need consistency, transparency, and long term commitment from the City. Building affordable housing projects takes time and funding from various avenues, therefore a streamlined process is necessary to build trust among the very few affordable housing developers that exist in the Central Valley. In addition to the existing program commitments, City should incorporate the following:

- Annually publish to the public an inventory of the City’s affordable housing project pipeline that includes housing developments in various stages of development, including pre-development, planning, permitting, and near-construction. This inventory could be published in conjunction with the City’s Housing Element Annual Progress Report. This will create a transparent process for both the affordable housing developers and the public.
- Make commitments to continue financing the project up to three years. Revisit the project and ensure the applicant has everything to move forward with the project.

Program 19 – Home Buyer Assistance. We appreciate the City including commitments to offer technical and financial assistance as well as reinforcing the timeframe for the project. However in order for this program to AFFH, the program must be accessible to residents who utilize an Individual Taxpayer Identification Number (ITIN). ITIN holders are part of special needs groups and among the most vulnerable to displacement and unlawful evictions. Creating opportunities to be able to own a home will give them access to opportunity and create fair housing opportunities for them.

Program 20 – Housing Choice Voucher Incentive Program. Under State law, it is illegal for landlords to discriminate against someone due to their source of income such as a voucher recipient solely on the basis of their having a voucher. The source of income discrimination is rampant throughout California.³ The City must include meaningful actions to ensure that voucher recipients have housing choice throughout the City of Fresno but most importantly in high resource areas and RCAAs. Currently, the Errata has vague language that does not contain meaningful actions that will allow voucher recipients to have greater access to RCAAs. In order to ensure that this program affirmatively further fair housing, integrates communities, and allows for fair housing choice the city must go beyond workshops and trainings. This program should incorporate the following additions and amendments:

- Create a rent registry to keep a list of landlords throughout the City of Fresno, and to allow the City to track complaints against landlords who reject voucher tenants, by December 2025, and ensure that every tenant has access to the Rent Registry in multiple languages.
- Identify and commit to specific actions that the City will take to enforce source-of-income protections.

Program 22 – Housing Rehabilitation. We appreciate the language added to this program, we strongly urge additional actions that ensure this program truly targets residents in R/ECAPs.

- Include provisions that will allow residents with ITINs to apply to this program.
- Include temporary housing assistance, such as emergency housing vouchers, during extreme renovations. This will allow extremely low-income residents the opportunity to secure housing without accumulating additional financial burdens.
- The City must include the HOME program as a source of funding as well as setting aside five percent of its annual general fund revenue to ensure the program remains funded throughout the planning period.
- Release semi-annual reports with data on how many residents apply to the program, how many people are being funded, and whether they live in R/ECAPs.

³ Khouri, A. (2024, Oct. 8). Housing nonprofit alleges widespread discrimination against Section 8 tenants in California. The LA Times. Retrieved from <https://www.latimes.com/california/story/2024-10-08/section-8-discrimination>

- Release an annual survey on how well the program is serving communities and reevaluate the program if it is not addressing the needs of the most vulnerable.

These amendments will ensure that the program is affirmatively furthering fair housing and creating place-based strategies.

Program 27 – Environmental Justice. This Errata does not include strong actions that will create healthy neighborhoods with access to opportunity such as a healthy environment (air, water, safe neighborhood, safety from environmental hazards, social services, and cultural institutions) particularly for R/ECAP communities. The Errata must include place-based strategies in R/ECAP as Environmental Justice actions that could then be reinforced in the Environmental Justice Element. The program should include the following actions to improve the quality of life in R/ECAPs, specifically in the communities residing in South Fresno:

- Implement land use changes to rezone industrial use and prohibit future industrial uses near sensitive receptors.
- Prohibit the siting of polluting uses near impacted communities and impose impact fees on polluters operating near homes. The funds generated will go towards a community benefit fund managed by the impacted community and utilized to transform R/ECAPs into areas of opportunity.
- Establish a moratorium on warehouses in or near R/ECAPs.

These recommended changes will help ensure that the program improves the quality of life in R/ECAPs and affirmatively further fair housing.⁴

Program 33 - Mobile Home Parks. In order to discourage mobile home park conversions, which both displace mobile home residents and reduce the City's supply of affordable housing, this program should include (1) a commitment to apply mobile home park zoning to existing mobile home parks, and (2) addition of relocation requirements and other protections for mobile home park residents that go beyond the requirements of Government Code sections 65863.7 and 66427.4. The latter could be included in the regulations that the program is already contemplating with respect to replacement units.

Program 34 - Eviction Protection Program. As we discussed in our meeting today, tenants need legal representation, professional mediation, and guidance in navigating the eviction process as well as landlord/tenant law to avoid displacement. The Eviction Protection Program is a critical anti-displacement tool. The Housing Element should commit to ongoing funding of the program, and to codify it in the City's municipal code by June 2025.

⁴ California Department of Housing and Community Development. (2021). Affirmatively Furthering Fair Housing: Guidance for All Public Entities and For Housing Elements. p.54.

IV. Community-identified Programs that will Affirmatively Further Fair Housing.

Once again, we appreciate the City taking the time to meet with us to discuss resident-identified priorities. Per our discussion, we encourage the City to consider and ultimately incorporate the following programs that R/ECAP communities identified as anti-displacement measures which will substantially improve their quality of life and affirmatively further fair housing.

A. Rent Stabilization and Just Cause Protection Ordinance.

Objective: A Rent Stabilization and Just Cause Protection ordinance will protect existing residents from displacement. It comprises strategies that protect residents in areas of lower or moderate opportunity and concentrated poverty and preserves housing choices and affordability. Based on the data analysis from the City's Displacement Avoidance Plan, rent stabilization is critical in ensuring vulnerable tenants stay housed. Such an ordinance will also decrease the amount of evictions, thus lessen the monetary need for the Eviction Protection Program.

Actions and Timelines:

- The City will adopt a Rent Stabilization and Just Cause Protection Ordinance to protect tenants from unreasonable rent increases and unjust evictions by December 2025.
- The City will develop the ordinance collaboratively with Fresno tenants, landlords, and community based organizations.
- The City will make a diligent effort to engage Fresno tenants through outreach including but not limited to, canvassing apartment complexes. The city will host interactive convenings and workshops.
- All material, information, and verbal public education, including outreach initiatives, will be provided in a variety of languages representative of Fresno including, but not limited to, Spanish, Hmong, and Punjabi.
- The City will establish a community workgroup to develop a rent stabilization and just cause ordinance draft by March 2025. The working group will meet on a monthly basis.
- The City will release a draft ordinance for public review and announce the publication of the draft by August 2025.
- The City will adopt the ordinance no later than December 31, 2025.

Funding: Local Funds.

Responsibility: Office of the City Attorney and Office of Community Affairs.

If the City cannot commit to adopting and implementing a Rent Stabilization and Just Cause Protection Ordinance in the Housing Element, then we recommend that the City evaluate the feasibility of adopting measures to protect residents from displacement. Example strategies the City will evaluate include:

- Adopting community benefit zoning and/or other land value recapture strategy.
- Adopting an ordinance to provide for extended notice, expanded relocation benefits, and right to return when an owner evicts tenants for “no fault” causes, such as in order to remove the property from the rental market.
- Adopting a just cause eviction ordinance that expands the Tenant Protection Act’s eviction protections to tenants who are not currently protected by state law—e.g., tenants in their first year of tenancy.

The City will partner with three community organizations to conduct community workshops. The City will incorporate the results of community outreach into a feasibility analysis to be released publicly and presented to the City Council in a public study session. Based on Council direction, City staff will develop a workplan to adopt the Council’s recommendations.

B. Inclusionary Zoning Ordinance.

Objective: Currently, the mobility strategies in the Programs section of the Housing Element are insufficient to affirmatively further fair housing, or to create housing choice for residents living in R/ECAPs. An inclusionary housing ordinance would both increase the supply of deed-restricted affordable housing in the City and also ensure that new units are integrated into market-rate buildings and higher-opportunity neighborhoods. Racial and economic segregation in Fresno is deeply entrenched, and concrete policies are needed to ensure integration and access to opportunity. Inclusionary housing is one of the most effective policy tools local jurisdictions have to affirmatively further fair housing, and the City should use it.

Actions and Timelines:

- The ordinance will be developed in accordance with the following guidelines
 - Apply to projects of 5 or more units
 - All new housing developments will set aside 20% of its units as affordable for households with an AMI of 50% or less in perpetuity.
 - As a compliance alternative, developers may pay an in-lieu fee that will then be used towards the development of affordable housing.
- The City will draft an Inclusionary Zoning Ordinance and adopt the Ordinance by November 2025.

- The City will implement the ordinance and require Inclusionary Zoning for all new housing developments and inform developers of compliance requirements by December 2025.

Funding: Local Funds

Responsibility: Planning and Development Department

If the City cannot commit to adopting and implementing an Inclusionary Zoning Ordinance then the alternative solution is to implement a feasibility study in the Housing Element. Preparing a feasibility study in support of an inclusionary requirement helps ensure that the requirement is right-sized for local conditions. The feasibility study would analyze local market conditions and the economics and tradeoffs of various policy options – affordability percentages and levels, incentives – to make sure the ordinance delivers the number and type of affordable units that a community needs. It also provides a data-driven foundation for the requirement, which can help overcome opposition by showing that it can be implemented without impeding the developers’ ability to earn a profit.⁵ We recommend the following:

- The City will hire a consultant to work on the feasibility study by June 2025.
- The City will present options to the City Council by October 2025.
- The City will adopt an inclusionary zoning ordinance by December 2025.

C. Rental Assistance Program.

As we discussed on our call, the creation of a permanent program to provide emergency rental assistance to lower-income households that are unable to pay rent or have past due payments, regardless of immigration status, would help to prevent displacement, strengthen the existing Eviction Protection Program, and affirmatively further fair housing. In light of the expiration of ERAP, the City should commit to creating and funding such a program. Funding sources could include the General Fund and Local Housing Trust Fund, as well as other sources like ESG and HOPWA. The City could time the program to correspond with the adoption of its Consolidated Plan in 2025 to ensure consistency. This would provide rental assistance to households that may not have stable income, including but not limited to field-workers, the elderly, disabled persons, etc.

V. Conclusion.

⁵ Western Center on Law and Poverty. *Meeting California’s Housing Needs: Best Practices for Inclusionary Housing*. Retrieved from https://wclp.org/wp-content/uploads/2018/12/inclusionary-factsheet_v2.pdf.

Michelle Zumwalt

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Thank you for considering and incorporating several of our comments. Once again, we appreciate the City taking the time to meet with us to listen to our concerns. We hope that our recommendations will be incorporated in the Housing Element Draft, this will ensure a compliant housing element and will fulfill its duty to AFFH. Additionally, we strongly urge the City not to adopt the Housing Element before being found compliant with State law. Public participation and transparency is critical to this process. The undersigned organizations welcome the opportunity to continue collaborating on the City of Fresno's Housing Element update to ensure the City is committed to meeting the housing needs of all residents, complies with state law, and provides equitable public participation opportunities throughout the revision process.

Sincerely,

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From: Brandi Nuse-Villegas

Date: November 19, 2024

I would like to add comment on needs for Goal 7 and for the housing element at large

1. We need to commit to and implement a robust system of accountability for all programs, service providers, and the city itself. We need third party oversight with the power to address and hold all those providing services and making decisions accountable.

The issue we have seen over the past years is that there have been services implemented, but issues within the programs that aren't being addressed. For instance, due to problems in the shelters, Fresno Housing Authority worked with their service provider, Turning Point, to implement a grievance system, showing that this was needed, and something that many have brought to the city to address. However, there continues to be concerns and reports of unjust exits from the shelters, with no opportunity for the occupant to reach out and seek help addressing this.

In Program 36:

2. The city of Fresno needs to have a robust asset based community development approach, especially regarding those who are unhoused, including, but not limited to implementing a lived experience board of those who have been unsheltered/unhoused. We cannot be successful unless those whose needs we are addressing are at the table in a meaningful way.

The city needs to identify barriers to community engagement within this group, including the need to go out to those who are unhoused to listen not only for ideas but to assess existing projects.

3. The City of Fresno needs to commit in its housing element to a Housing First approach, with the recognition that getting people into permanent housing, and then supplying needed services to ensure that people are able to address any issues that are impediment to long-term permanent housing placement has been shown in research and practice to be much more successful. One of the challenges we face is that people are going into shelter only to be exited out without housing back onto the streets, when they are housing ready, when they are still in the process, even after getting treatment. It is easier to gain and maintain a job or go through the process of getting on disability and other challenges within permanent housing.

4. As well, the city needs a policy to ensure that people are not exited from shelters until they are placed in permanent housing without a just process with oversight and assistance of unhoused advocates or other advocacy if there is a reason stated to be exited otherwise and remove the 90 day limit.

5. HART is not a viable program in the effort to address housing needs. While the outreach portion, HOPE Team currently, is helping with navigation and other services, all of those who are unsheltered in Fresno, from the experience of unhoused advocates, and publicly reported at city hall public comments, video documentation, and such show that the law enforcement arm has been throwing away needed belongings of those who are unhoused, including paperwork, ID cards, and such, in violation of the city municipal codes and constitutional rights. This has impeded the victims from the process of getting housing and has resulted in victims losing secured housing in multiple occasions. As well, losing living essentials causes those who are unhoused to redirect their energy from the process of getting housing to simply replacing survival supplies. This item also highlights the first point regarding accountability.

Regarding Program 34:

6. It may help to have easy to access hotline/website in which to report landlords that fail to meet requirements such as accepting vouchers in addition to violations of living conditions and illegal evictions.

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Department of Housing and Community

Development Division of Housing Policy Development

RE: City of Fresno's 6th Cycle (2023-2031)

DRAFT Housing Element.

pg 1: 2

APPENDIX City of Fresno

pg's 2, 4, 5,

Housing programs

pg's 7, 8.

pg 9 public participation

City of Planning Board
Commission

From: H.E.A.T job

Southwest Fresno
Community

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OCT 31 2024

Planning & Development Department
City of Fresno

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
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www.hcd.ca.gov



February 1, 2024

Michelle Zumwalt, Architect
Planning and Development Department
City of Fresno
2600 Fresno Street
Fresno, CA 93721

Dear Michelle Zumwalt:

RE: City of Fresno's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Fresno's (City) draft housing element received for review on November 3, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 20, 2023 with the City's housing element team. In addition, HCD considered comments from Leadership Counsel, Public Interest Law Project, and California Consortium of Addiction Programs and Professionals pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due December 31, 2023. 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, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government does not adopt a compliant housing element within 120 days of the statutory deadline (December 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government

Code section 65585, subdivision (i). Please be aware, if the City does not adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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 Affordable Housing and Sustainable Communities program, 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>.

HCD appreciates the hard work and dedication the City's housing element team provided during the housing element update. We are 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 Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF FRESNO

The following changes are necessary to bring the City'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 HCD's website at <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the evaluation of programs in the past cycle, the element must also describe the cumulative effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness). While the element provides an overview of outcomes supporting special needs populations, the element should evaluate the cumulative effectiveness of programs in addressing the objectives of the programs and programs should be revised as appropriate to reflect the results of this evaluation.

B. Housing Needs, Resources, and Constraints

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).)*

Enforcement and Outreach: While the element discusses the City's referral process for fair housing complaints, it should discuss the effectiveness of that process, including outreach. Further, the element should also discuss how the City complies with fair housing laws and any other fair housing legal matters such as consent decrees. For more information on fair housing laws, please see HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance (starting on page 29) at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Concentrated Areas of Poverty: The element includes information relative to areas of High Segregation and Poverty but should evaluate the characteristics of these areas,

changes over time, comparisons to other neighborhoods in terms of equitable quality of life and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends. The analysis should utilize local data and knowledge and other relevant factors to complement the data and analysis. Given most of the Southern portion of the City is an area of High Segregation and Poverty, and based on a complete analysis, the element should have significant and beneficial actions, including place-based strategies toward community revitalization, that are targeted towards these areas.

Racially Concentrated Areas of Affluence (RCAA): While the element briefly mentions the presence of RCAAs, it should also include a specific analysis of patterns and trends for RCAAs within the City. The analysis should at least address trends, conditions, comparisons to other neighborhoods, effectiveness or absence of past strategies, local data and knowledge and other relevant factors related to equitable quality of life. The element must add or modify meaningful programs based on the outcomes of this analysis, including actions to improve housing mobility within the City.

Disproportionate Housing Needs, Including Displacement Risk: The element includes some general information on persons experiencing homelessness but should also evaluate that information. Specifically, the element should examine disproportionate impacts on people with protected characteristics and services available and patterns of need or areas with higher concentrations of persons experiencing homelessness, including access to transportation and services. The element should utilize local data and knowledge such as service providers to assist this analysis.

In addition, to better evaluate displacement risks, the element could utilize new data available for displacement risk on HCD's AFFH Data Viewer available at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Identified Sites and AFFH: The element analyzed the identified sites by income group for various fair housing components including race, income, access to opportunity, and disproportionate housing needs. However, the element should also evaluate whether the location of sites improves or exacerbates current fair housing conditions. The analysis should utilize local data and knowledge and other relevant factors to complement the data. The analysis indicates the City is primarily high- and higher-resource in the Northern portion of the City, while the Southern portion of the City is low-resource and has areas of High Segregation and Poverty. However, the analysis provided is limited to the West Area Neighborhood Specific Plan (WANSP) and the West Shaw Avenue Town Center, with no analysis describing the developed core of the City. The element must include analysis and reasoning about the location of sites and their impact on current fair housing conditions. As noted below, upon a complete analysis the City must add or modify goals and actions, specifically increasing housing mobility options and housing opportunities in high-opportunity areas.

Contributing Factors to Fair Housing Issues: The element identifies many contributing factors to fair housing issues. In addition, the element should re-assess the contributing

factors to fair housing issues and consider prioritizing these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)

Extremely Low-Income (ELI) Households: While the element quantifies existing ELI housing needs, it must still analyze their housing needs – beyond quantification. The analysis of ELI housing needs should analyze the disproportionate housing needs of ELI households, resources, the effectiveness of strategies and the magnitude of needs. For additional information, please see HCD's Building Blocks.

Special Housing Needs: While the element generally quantifies special housing needs, it should also analyze those needs. The analysis should include, but is not limited to, factors such as household income, tenure, housing types, zoning, and available resources. Local officials, special needs service providers, or City/County social and health service providers may be able to assist with information to complete the analysis.

In addition, while the element includes data on farmworkers, it should analyze their housing needs to better formulate policies and programs. The analysis should address trends, characteristics, disproportionate needs, the effectiveness of resources and strategies, the magnitude of the housing need, including disproportionate housing need and the effectiveness of past policies, programs, and funding to help address those gaps. The analysis may utilize past farmworker housing studies and other studies generally applicable to their special housing needs. For example, the element could utilize a recent study conducted by University California at Merced that is available at https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs_report_2.2_2383.pdf. Based on the outcomes of the analysis, the element should add or modify programs to address this special housing need in the region.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Progress in Meeting the Regional Housing Needs Allocation (RHNA): The element may utilize constructed, approved, and pending development (pipeline) toward the RHNA. However, the element must demonstrate the affordability and availability of these developments in the planning period, as follows:

- **Availability:** The element lists developments by status and anticipated number of units, but should also discuss any phasing, anticipated build-out horizons beyond the planning period, and any known barriers to development in the planning period. Additionally, the element includes sites that have been submitted for review, but have not received entitlements, approvals, or been constructed.
- **Monitoring and Alternative Actions:** Given the degree of reliance on pipeline projects to accommodate the RHNA, the element should include a program that commits to (1) facilitating development in the planning period (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals) and (2) monitoring development progress toward completion and, if necessary, by a specified date (e.g., December 31, 2027), take alternative action such as rezoning or identification of additional sites by a specified date.

In addition, while the element relies on the monthly rent levels of previously-built developments, the element must also, to the extent feasible, base the affordability of approved and pending developments on the actual or projected sales, prices, rent levels, or other mechanisms establishing affordability in the planning period. This analysis should particularly address whether it is appropriate to assume new development will be affordable to moderate-income households, as noted in the element. For additional information, please see the HCD Housing Element Sites Inventory Guidebook at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.

Realistic Capacity: The element notes in place of a density standard, it relies on an analysis of development standards in the respective zones and then applies a factor using projects from 2018 to 2020 to establish a capacity assumption for the planning period. However, the capacity assumptions for the planning period should go beyond this sample size and incorporate more recent projects, such as those listed in Table 1E-2.3, to establish more appropriate capacity assumptions for the planning period.

In addition, the element should account for the likelihood of 100 percent nonresidential development in zones that allow 100 percent nonresidential development. The element notes recent development activity reflect a high demand for residential development and appears to use a conservative assumption for residential development, however, the element should support these assumptions. The element should clearly describe which zones allow 100 percent nonresidential use. The element should discuss the trends in these zones for all development and how often development includes a residential component to support the residential assumption or make adjustments to account for the likelihood of residential in the calculation of capacity.

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. The element identifies several large sites and briefly describes anticipated developable areas were identified but should also discuss recent developments of equivalent size and affordability or provide other evidence for assuming the development of housing for lower-income households. For example, the element could discuss the timing for the

West Area Neighborhood Specific Plan and West Shaw Avenue Town Center process, parceling, site planning, or other methods and how the City can facilitate appropriately sized lot sizes. Absent sufficient evidence that sites of equivalent size with affordability were successfully developed during the prior planning period or other evidence that demonstrates the suitability of these sites, the large sites are deemed inadequate to accommodate housing for lower-income households. Based on the outcomes of this analysis, the element must add or modify programs.

Suitability of Nonvacant Sites: The element describes several categories of nonvacant sites (e.g., agricultural uses planned for residential, largely vacant, parking lots) that are assumed to have redevelopment potential in the planning period and lists a few examples of sites. However, the element should support these assumptions with an analysis of additional representative sites from the sites inventory and analyze recent development trends to support assuming these categories will redevelop in the planning period. An analysis of representative sites should evaluate the extent existing uses impede additional development, past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts or other conditions that would perpetuate the existing use or prevent additional residential development.

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it should also describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period. Examples of other known conditions include shape, access, contamination, property conditions, easements, Williamson Act contracts, conservation easements, overlays and airport and military compatibility. Specifically, the element should describe any process delays within the Military Training Flight Route and provide a schedule for when sites subject to the Airport Land Use Commission (ALUC) will be updated per the amended Airport Influence Area (AIA) decision.

In addition, based on public comments received, the element must also evaluate the suitability of sites for residential development, particularly sites located in South Fresno adjacent to industrial and agricultural uses.

Publicly-Owned Sites: If the element is utilizing publicly-owned sites to accommodate a portion of the RHNA, it should include analysis to demonstrate their suitability and availability in the planning period. For example, the element should discuss the status, remaining steps to be available for development and any known barriers to development in the planning period including leases for existing uses or relocation of existing uses. Based on the outcome of this analysis, the element should add or modify Program 17 (Surplus Public Lands), if applicable, target numerical objectives consistent with the inventory and commit to a schedule of actions to facilitate development, including alternative actions, if necessary, by a specified date.

Electronic Sites Inventory: For your information, 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. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

4. *An analysis of 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... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should address any impacts on cost, supply (number of units) and ability to achieve maximum allowable densities and include programs to address identified constraints. The analysis could seek input from development community.

Local Processing and Permit Procedures: The element generally concludes that processing and permit procedures do not unduly constrain housing development. However, the element must still provide analysis to support this conclusion. An analysis should identify and analyze the permit procedure (e.g., Development Permit) for a typical development conforming to zoning, including decision-making body, number of public hearings and approval findings. The analysis should address potential impacts on housing cost, supply (number of units) and approval findings. The analysis could seek input from the development community.

On/Off-Site Improvements: The element generally describes typical on- and off-site improvements such as street widths, street lighting and rights of way. However, the element should analyze the cost impacts on a typical development, including specifically addressing public comments and add or modify programs if necessary.

Constraints on Housing for Persons with Disabilities:

- *Residential Care Facilities (Seven or More Persons):* While the element includes a program to permit large residential care facilities in all zones where other residential uses are permitted, the element should clarify whether this use will be permitted in a similar manner to other residential uses, or subject to a Conditional Use Permit (CUP). The element must also analyze the CUP approval findings for the impacts on approval certainty relative to the approval of large residential care facilities.
- *Land Use Controls:* The element should analyze parking requirements for residential care facilities for impacts on housing cost and feasibility. Based on the outcomes of this analysis, the element should add or modify programs to address the constraints on housing for persons with disabilities.
- *Reasonable Accommodation Appeals:* While the element provides information regarding the reasonable accommodation process, the element should further clarify the appeals process for reasonable accommodations. Specifically, the element should describe whether a third-party can contest a reasonable

accommodation approval and the applicant's appeal process for a denial of a reasonable accommodation request.

C. Housing Programs

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, 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 a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

- *Program 5 (Large and Small Lot Development):* Given the City's reliance on large sites to accommodate the RHNA, the Program should include additional and proactive actions to facilitate affordable development on lots larger than ten acres. Examples include establishing incentives or other strategies to promote affordability, priority processing, assisting with funding and fee waivers.
- *Program 25 (Development Code Amendments):* While the Program commits to revising emergency shelter standards, it should also commit to amending the definition of emergency shelters in compliance with new statutory requirements (AB 2339).

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

Farmworkers: While the element briefly mentions farmworkers in a few programs, it must have specific efforts based on the outcomes of a complete analysis. For example, the element could commit to proactive actions to coordinate with nonprofit developers, employers, and other related organizations, to explore funding and incentives, annually identify specific development opportunities, pursuing strategies to integrate affordable housing and targeting rehabilitation and conservation and improvement programs toward farmworkers.

3. *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. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)

As noted in Finding B4, 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 and address and remove or mitigate any identified constraints.

- 4. 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).)*

As noted in Finding B1, 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, goals and actions must specifically respond to the analysis and the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics or numeric targets, geographic targeting, and milestones and must address, as appropriate, housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization, and displacement protection.

- 5. The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

While Program 34 (At-Risk Housing) commits to various actions to preserve at-risk units, actions, particularly noticing, appear dependent on the event that the units are not preserved. These actions should occur regardless and before the conversion of at-risk properties. In addition, the Program should commit to provide support and education to tenants early in the process.

- 6. Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

While Program 3 (Encourage and Facilitate Accessory Dwelling Units) includes various actions to incentivize accessory dwelling units (ADUs.), it should also monitor permitted ADUs and affordability every other year and take appropriate actions such as adjusting assumptions or rezoning within a specified time (e.g., six months).

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element includes these objectives by income group for very low-, low-, moderate- and above-moderate income, and folds objectives for ELI households into the very low-income category, the element must separate out objectives for ELI households to accurately measure the success of programs.

E. 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. (Gov. Code, § 65583, subd.(c)(9).)

While the element provides an overview of public comments recently received, it must also describe how prior comments are incorporated into the housing element. In addition, the discussion of public participation should not be limited to comments received on the City's housing element and should incorporate comments received on the Multi-Jurisdictional Housing Element. Further, Self Help Enterprises has provided helpful comments to other Cities in the region that have meaningful application County-Wide. HCD encourages the City to consider these comments and will send the comments under separate cover.

Finally, public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision 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.



October 28, 2024

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room 3065
Fresno, CA 93721

Sent via email: housingelement@fresno.gov

RE: October 2024 Errata to the Revised HCD Draft Housing Element

Dear Mayor Dyer, Councilmembers, and Ms. Zumwalt:

Leadership Counsel for Justice and Accountability (“LCJA”) writes in collaboration with the Public Interest Law Project (“PILP”) and the other undersigned organizations to provide comments on the Errata to the Revised HCD Draft Housing Element 2023-2031. LCJA and the undersigned organizations work alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. As addressed in our previous letters, we advocate for vital policy and practice changes to meet the housing needs of all residents in the City of Fresno, especially low-income communities individuals with special housing needs, and BIPOC communities to overcome fair housing disparities.

I. Inadequate Community Engagement

Following the release of HCD’s October findings, which instructed the City to “incorporate public participation and targeted outreach to better examine needs and formulate appropriate policies and programs” in R/ECAPs; to “continue to employ a variety of methods to gather input from all segments of the community, beyond making the document available as part of future revisions and submittals”; and to “specifically target individuals and organizations that represent lower-income households, including residents or representatives of R/ECAPs,” we anticipated additional community engagement efforts from the City to solicit community input

prior to the release of additional revisions. Although we appreciate that the City incorporated relevant feedback collected from the Climate Adaptation Plan and Environmental Justice Element workshops and “Discussions with Affordable Housing Partners,” we would have liked the opportunity to meet with City staff to discuss community concerns before the Errata was released, unfortunately the City released it less within a month of the previous Errata leaving very little opportunity to engage community members.

Lastly, we advocate for additional workshops, meetings, and targeted outreach in Racially and Ethnically Concentrated Areas of Poverty to inform, and complete, the Housing Element’s Assessment of Fair Housing and subsequent revisions to Policies and Programs in the Action Plan.

II. Failure to Include Community-Identified Programs That Will Result in A Beneficial Impact During the Planning Period and AFFH.

Although we appreciate the City’s incorporation of many of the suggestions from our most recent comment letter, including recommendations regarding community-identified programs; several of the programs still have deficiencies or could otherwise be improved to address housing needs identified by community members.

Program 1–Maintain Adequate Sites

The Errata adds language regarding project-by-project evaluation of progress toward accommodating the RHNA. However, the City should also commit to a mid-cycle review of pipeline projects, development on identified sites, and development trends, generally, to determine whether identification of additional sites or other actions are necessary to ensure that adequate sites to accommodate the RHNA—especially the lower-income RHNA—are available throughout the planning period.¹

Program 2–Variety of Housing Opportunities in High Resource Areas

This program now commits to “[i]ncorporate AFFH into land use and funding decisions beginning in January of 2025.”² The City is already obligated by Government Code section 8899.50 to affirmatively further fair housing in all land use and funding decisions and cannot

¹ See Letter from Paul McDougall to Jennifer Clark re: City of Fresno’s 6th Cycle (2023-2031) Revised Draft Housing Element (Oct. 7, 2024) (“HCD 10/7/2024 Findings”), p. 3 (“[T]his Program should commit to monitor progress toward completion in the planning period and take appropriate action if projects are not anticipated to be completed in the planning period.”)

² City of Fresno. (2024). ERRATA FOR THE CITY OF FRESNO REVISED HCD REVIEW DRAFT HOUSING ELEMENT OCTOBER 21, 2024, p.1E-1-11.

defer compliance with the law until 2025.³ Further, the City needs to commit to concrete actions that it will take to ensure that it follows through on its commitment to incorporate AFFH into future decisions. The City Council should adopt a policy requiring staff memos to the Council and relevant commissions to include an affirmatively furthering fair housing analysis that analyzes the fair housing impacts of any proposed decisions related to housing, as well as any applicable project alternatives. Such a policy would be especially valuable in Fresno, where neighborhood opposition to affordable housing functions as a major constraint to the funding, siting, and development of affordable housing and housing for homeless individuals and families.⁴ Active consideration of whether a particular project will promote integration and opportunity, and of its impacts on members of groups protected by fair housing laws, will help the City to ensure that it is not allowing animus against low-income people, people with disabilities, and other protected groups to cause it to violate its duty to affirmatively further fair housing.

Program 3 – Encourage and Facilitate Accessory Dwelling Units and Small Homes

Although the City revised the program objective to include the suggested language provided in HCD’s October 7th Findings letter, the City must also include extremely-low and very-low-income households in the 30 percent of ADU development that will take place in relatively higher resource and income areas and RCAAs; as well as throughout the City, in order to AFFH and promote integration. Additionally, this program should be further revised to ensure the development of ADUs is affordable to low-income households in R/ECAPs and effectively serve as a place-based strategy that affirmatively furthers fair housing. Furthermore, the City’s revisions should include a clear definition for “small homes” and the difference from ADUs. Please refer to our prior comment letter for further information.

Program – 14 Partnership with Affordable Housing Developers

We appreciate that the program was revised in the September Errata to include some of the language provided in our August 7th comment letter; however, this program can be further improved with revisions that include strategies to combat NIMBYism for projects in high-resourced areas and a commitment to utilize the quarterly convening to provide stakeholders with a detailed report outlining the success of the program. Furthermore, we restate that the project's timeframe should be revised to commit to bi-annual reporting throughout the planning period, bi-annual review and assessment of potential funding opportunities, and quarterly convening with stakeholders.

³ See Gov. Code 8899.50(b)(1): “A public agency shall administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.”

⁴ See, e.g., Zisser, D. (Aug. 7, 2024). *Letter from David Zisser to Georgeanne White re: Fresno City Council’s Denial of Fresno Quality Inn Homekey Project – Letter of Technical Assistance*

Program 17 – Surplus Public Lands

We appreciate that the City revised the program to be in line with the Surplus Land Act requirement to include a “minimum of 15 percent affordable units” and for adding additional strategies to rezone sites for affordable housing. However, this program still fails to outline the additional steps the City will take to ensure the development on sites located in higher opportunity areas.

Program 19 – Home Buyer Assistance

First and foremost, thank you for including commitments to offer technical and financial assistance to prospective homebuyers, ensuring that residents are guided throughout the program will greatly increase the success of the program. However, in regard to financial assistance, residents insisted that in Fresno’s housing market, offering up to \$200,000 in assistance, as opposed to the October Errata’s revision of \$100,000, will result in the greatest beneficial impact. Additionally, the program should be made available to residents who utilize an Individual Taxpayer Identification Number (ITIN).

Program 20 – Housing Choice Voucher

Although the program was revised in the October Errata in response to HCD’s October findings letter, by adding a commitment “to conduct outreach to developments in high and relatively higher resource and income areas” the revision should have included RCAA and targeted outreach and advertisement in low-resourced areas as well. In doing so, the program will promote housing mobility to all City residents and in turn AFFH. Furthermore, the program still lacks meaningful actions with specific timelines and measurable outcomes that work towards “a beneficial impact.” We reaffirm that this program must include actions that ensure voucher holders do not face any discrimination; for example, committing to finance a billboard displaying the protections against HCV discrimination and providing landlords with informational material on HCV and the consequences of source-of-income discrimination; the City should also establish and fund a program within the City to actively pursue enforcement against discrimination against voucher-holders and/or funding the Eviction Protection Program, which guarantees access to legal counsel to low-income tenants on housing matters.

Program 22 – Housing Rehabilitation

Thank you for including commitments to offer technical and financial assistance; as well as reinforcing the timeframe for the project. However, this program requires additional revisions to ensure homes are preserved and well maintained. Residents stress the importance of adding

weatherization and heat resilience policies that commit to offering services that include, insulation and cooling systems, such as heat pumps. It is a necessity and will serve as a preventative measure to rehabilitation services. Additionally, residents identified the need for educational workshops and assistance prior to receiving a fine; therefore, the City's code enforcement division should serve as a secondary outreach team that refers would-be offenders to the Housing Rehabilitation program. Furthermore, this program must be accessible to residents with ITIN's. Lastly, offering Temporary Housing assistance, such as emergency housing vouchers, during extreme renovations will allow disadvantaged residents the opportunity to secure housing for themselves and their families without accumulating additional financial burdens. The City must reconsider including our suggested place-based policy to "set aside 5% of its annual general fund revenue" to ensure the program remains funded throughout the planning period.

Program 23 – Comprehensive Code Enforcement

The revisions made to Program 23's Objective in response to HCD's October findings should be more explicit. The revisions state that the City will "Conduct focused outreach and programming in older and disadvantaged neighborhoods in central and south Fresno, including Downtown Fresno. Determine any additional neighborhoods that should be identified for outreach and programming." However, the Assessment of Fair Housing Descriptions of R/ECAP Areas states that Program 23 would be applicable to the Lowell/Jefferson Neighborhood, the Edison Neighborhood, the Southeast neighborhood, the Southwest Neighborhood, Central Southeast Neighborhoods, the Mclane Neighborhood, Fresno High-Roeding Neighborhood, the El Dorado Park neighborhood, and the Shaw/Marks Neighborhood; therefore, the objective should explicitly include these communities and the timeframe should be further revised to reflect when and how often outreach will occur during the planning period. Furthermore, this program still lacks actions that would hold landlords legally accountable for retaliation, harassment, and evictions of tenants who filed code enforcement complaints. Once again, we recommend that the City analyze its code enforcement procedures, incorporate tenant feedback, and commit to adopting a tenant anti-harassment ordinance.

Program 26 – Fair Housing Services

Program 26 was revised in the September Errata, to include an action for geographic coverage and outreach and states that it "should be targeted to the most vulnerable populations as depicted in Figure 1E-3.3 – Racial Segregation by Census Tract, Figure 1E-3.7-Distribution of Poverty, and Figure 1E-3.10 – Percentage of Population with a Disability." Yet the revisions made to the AFH Description of R/ECAPs in the October Errata state that this program would "promote equitable quality of life" in Southeast and Central Southeast neighborhoods. Therefore, this action should have been further revised to explicitly include these neighborhoods and state

that this action “will target the most vulnerable populations.” Additionally, this program still fails to establish timelines and concrete steps toward successfully reaching its objective to “mitigate impediments to fair housing opportunities throughout the city, with an emphasis on supporting the needs of populations and neighborhoods most impacted by fair housing issues.” Furthermore, as addressed in our August comment letter, and further reinforced in HCD’s October findings, the City should utilize additional public participation and targeted outreach to ensure input from Fresno residents directly impacted by discrimination, especially in R/ECAPs, so that the City understands and addresses the needs of R/ECAP residents. We still recommend the inclusion of additional legal representation, landlord education on fair housing law, and enforcement mechanisms against bad landlords.

Program 27 – Environmental Justice

The revisions made to the Environmental Justice Program in the September Errata better align the program with the requirements of the Environmental Justice Element. However, the September and October Errata should have also included place-based strategies in R/ECAP as Environmental Justice actions that could then be reinforced in the Environmental Justice Element. The program should include the following actions to improve the quality of life in R/ECAPs, specifically in the communities residing in South Fresno:

- Implement land use changes to rezone industrial use, and prohibit future industrial uses near sensitive receptors
- Prohibit the siting of polluting uses near impacted communities and impose impact fees on polluters operating near homes. The funds generated will go towards a community benefit fund managed by the impacted community and utilized to transform R/ECAPs into areas of opportunity.
- Establish a moratorium on warehouses in or near R/ECAPs and a cargo/freight Prohibition and revenue tax that directly funds community-based housing and development in communities affected by the negative environmental impacts caused by freight.
- Develop Public health impact reports to understand how industrial development may exacerbate existing public health disparities, especially in R/ECAPs; seek the support of public health agencies to complete this analysis; include these impact reports in the permit approval process and in decision making; and make these reports publicly accessible.

Additionally, the program was revised in the September Errata to state: “The City will monitor the impact of the EJ Element policies in the General Plan by developing a data tracking program to assess program outcomes in disadvantaged communities. Every five years, the City

will collect data to assess its performance against a minimum of five of the following types of measures using 2024 as the base year.” This action should be revised from collecting data every five years to “annually,” and to assess performance “against all of the following types of measures, and make the data publicly available through annual reporting.” These recommended changes will help to ensure that the program improves the quality of life in R/ECAPs and affirmatively furthers fair housing.⁵

Program 28 – Equitable Community Investments

Although Program 28 was revised in the September Errata to include ongoing investments in West Fresno, Downtown, and Southwest Fresno, potential funding sources, and further revised in the October Errata to include commitments towards implementing and monitoring the Southwest Specific plan and Downtown Neighborhoods community plan, this program still comes short of authentic equitable community investments. The AFH Description of R/ECAP Areas identifies Program 28 as an opportunity “to promote equitable quality of life” in Downtown, Edison Neighborhood, Southeast Neighborhood, Jane Addams Neighborhood, Southwest Neighborhoods, Central Southeast Neighborhoods, McLane Neighborhood, Fresno High-Roeding Neighborhood, El Dorado Park Neighborhood, and Shaw/Marks Neighborhood, yet fails to include actions towards place-based revitalization in these communities other than the ones mentioned above. For example, the City could commit to incorporating complete street principles as an action that is applied into all transportation projects at all phases of development, including planning and land use decisions as well as implementation. The program must be further revised to explicitly describe planned revitalization strategies in all identified R/ECAPs and prioritize the South Fresno communities that have continuously advocated for additional investments that support healthy housing, infrastructure, amenities, and services. Unfortunately, in the October Errata, the language added to this program timeframe will not promote a future of equitable quality of life goals. To state that, “If land use is changed from an adopted use in a specific plan, the City will evaluate impacts and create new targets to better balance for residential industrial compatibility” demonstrates that the City is willing to create an opportunity that allows the poor land use decisions of placing unhealthy industrial zones near residential communities to reoccur. This program will not AFFH until it is revised to include clear actions and commitments for all R/ECAPs.

Program 29 – Equitable Community Engagement

Despite stating that this program will “promote equitable quality of life” for Southeast and Central Southeast neighborhoods in the October Errata’s AFH description of R/ECAP, the

⁵ California Department of Housing and Community Development. (2021). *Affirmatively Furthering Fair Housing: Guidance for All Public Entities and For Housing Elements*. p.54.

program fails to explicitly address the committed actions and measurable outcomes towards ensuring equitable community engagement of these communities.

Additionally, we recommended that this program be revised to include the establishment of a Housing Element Implementation Committee. As stated in our August comment letter, the Committee should be composed primarily of tenants, low-income homeowners, and at-risk populations. The goal of this committee will be to ensure that implementation meets the needs of at-risk communities and to inform potential revisions throughout the planning period.

Program 30 – Workforce Development

As stated in our August comments, we encourage the City to include additional actions that target services for the unhoused community in the workforce development program. The City should include commitments to support unhoused individuals transitioning from shelters into communities. Providing voluntary job training specifically to assist unhoused individuals apply for jobs, retain employment, and develop skills is strongly recommended. Additionally, this program still fails to integrate R/ECAP and R/ECAA.

Program 33 – Mobile Home Parks

Thank you for addressing the need for rent control policies and policies that discourage rezoning. We encourage greater specificity regarding removal of the requirement that residents must form a committee to oppose rent increases using the mobile home rent control program process, as well as adding commitments to hold Mobile Home Park owners accountable through fines for code violations and harassment of tenants. Additionally, the October Errata was revised to include “Establish regulations to protect affordable housing on property currently occupied by mobile home parks. If the property is proposed for conversion from a mobile home park, it will be required to redevelop with a number of covenanted affordable units equal to the number of mobile home units lost in the conversion, or 10 percent of new units, whichever is higher.” We recommend that the City should further reinforce this policy by committing to apply mobile home park zoning to existing mobile home parks.

More should be done for the rehabilitation and preservation of mobile homes; the city must reconsider adding commitments to weatherization services and prioritizing homes in major need of repair or at risk of having damage exacerbated by the effects of climate change. Residents have stressed the inability of their outdated and underserved homes to withstand heat waves during the summer and floods during winter months. The dangers of extreme heat became a reality to the residents of Three Palms Mobile Home Park after a community member was found unresponsive in their home after disappearing for two weeks following an extreme heat wave. Now as residents prepare for the winter, they share that they will have to resort to the use

of multiple space heaters and the kitchen stove to keep their families warm. Similar to Program 22, residents stress the importance of making mobile home rehabilitation funds and services available to residents who utilize an ITIN, offering temporary housing assistance, utilizing the code enforcement division as an additional method for referrals and outreach, and committing a percentage of the General fund to the funding of this program.

Program 34 – Eviction Protection Program

We must reiterate the importance of securing a permanent source of funding to ensure the Eviction Protection Program remains effective throughout the planning period; therefore, the EPP should be codified in the City’s municipal code and revised to state that “The City will invest in this program with money from the general fund. We strongly encourage the City to include HUD’s Eviction Protection Grant Program as a source of funding and revise the program to include commitments to allocating additional funding from the City’s General fund.

Additionally, the City should include a commitment to adopt a rent stabilization and just cause eviction ordinance, developed from community input, as an additional measure that guards tenants against displacement. These policies would make the eviction protection program more effective in achieving its stated purpose.

Program 35–Replacement Housing

We appreciate the City’s adding a reference to the Housing Crisis Act to this program. Please note that the full citation for the Housing Crisis Act is Government Code sections 66300 to 66301, and the replacement housing requirements are found in section 66300.6. Additionally, the program should identify specific actions that the City will take to ensure that it complies with applicable replacement housing requirements—e.g., adopting a replacement housing ordinance that complies with state law—as well as actions to implement the Housing Crisis Act’s other requirements for new development that demolishes existing: notice, right to return, relocation benefits, etc.

Program 36 – Homelessness Assistance

Although we appreciate the addition of actions that commit to providing “outreach to link unhoused residents with mental health and substance treatment services,” “ mobile home showers and restrooms for unhoused individuals through the Homeless Services Division,” and “ crisis intervention training to City staff that work with the unhoused community” in the September Errata, this program will not lead to a beneficial impact as written given the City’s recent decision to criminalize unsheltered homelessness. The program should be further revised to include commitments towards preventative measures that ensure residents residing in shelters

remain on a path towards permanent housing, including applying for additional funding to ensure shelters have sufficient beds. Furthermore, the City should include the recommendations outlined in our August comment letter to demonstrate a clear commitment towards homelessness assistance.

III. The Assessment of Fair Housing Fails to Comply with Section 65583(c)(10)

The Housing Element fails to include an assessment of fair housing (“AFH”) that meets the requirements of State law, and it also fails to include adequate programs to affirmatively further fair housing (“AFFH”).⁶ HCD’s findings released on October 7, 2024, ask the City to “expand the discussion of characteristics of [each of the R/ECAPs] and changes over time” including “past and current neighborhood conditions, disparities in access to opportunity” and the “effectiveness of past policies and investments and unique opportunities to promote equitable quality of life.”⁷ The findings also state that the Draft should incorporate public participation and targeted outreach to better examine needs and formulate appropriate policies and programs; such an effort will help complete the assessment of fair housing and clarify the need for the City to add or revise programs.⁸ Furthermore, the new and revised goals and actions “must be significant and meaningful enough to overcome identified patterns and trends.”⁹

We appreciate the edits to the Local Assessment of Fair Housing Section to include a *Description of R/ECAP Areas*, that lists the different R/ECAPs, describes them, and reports data that outlines the lack of access to opportunity. Unfortunately, though, the assessment is incomplete. The Errata did not incorporate past local knowledge from residents. It also excludes prominent policies and programs recommended and created by residents from the Here to Stay Report,¹⁰ which we incorporated in Section II of this letter. Although the *Description of R/ECAP Areas* lists the programs that are intended to create opportunities to promote equitable quality of life, the programs themselves fail to include specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation in order for them to have a “beneficial impact” during the planning period (please refer to the Section II of this letter).

A. Incomplete Analysis of Displacement Risks

The Errata did not include additional analysis of displacement risks. It fails to consider relevant information such as COVID-19 related rent increases and evictions and its impact

⁶ Gov. Code §§ 65583(c)(5),(10); 8899.50; 65583.2(a).

⁷ HCD 10/7/2024 Findings, p.1.

⁸ *Id.* p.2

⁹ *Ibid.*

¹⁰ Thrivance Group. (2021). *Here to Stay: A Policy Based Blueprint for Displacement Avoidance in Fresno*. <https://www.transformfresno.com/wp-content/uploads/2021/06/transform-fresno-here-to-stay-report-english.pdf>

relating to existing and potential housing cost pressures confronting low-income residents, residents of color, and other protected classes, as well as significant displacement risks associated with tenant protection limitations, City land use policies and practices, environmental hazards, and climate change. A complete displacement risk analysis must consider these and other relevant factors.¹¹ The AFH's Displacement Risk section should be revised to consider displacement risks associated with environmental hazards, environmental disasters, and climate change, pursuant to HCD's AFFH Guidance.¹²

It is important to note that the City must continue to fully analyze the displacement risks to R/ECAPs and the impacts associated with housing cost pressures. We reiterate that, although data for 2019 has been included, this time period does not capture the sharp and sustained escalation in housing costs (both rental and ownership) that occurred during the COVID-19 pandemic between 2019 and 2022.¹³ Between 2017 and 2021, Fresno experienced the greatest rent increases of all large U.S. cities, with rental prices increasing nearly 39% during that time.²⁸ The City failed to include this vital analysis and therefore the AFH's displacement risk analysis must be supplemented with and revised based on more recent data in order to adequately fulfill this requirement.¹⁴

A complete analysis of displacement risks considers not only displacement risks associated with housing cost pressures, but also other factors which result in housing instability, including factors relating to the adequacy of tenant protections, disinvestment, local land use policies and practices, environmental hazards, and risks associated with natural disasters and climate change. Although the Errata acknowledges that extreme heat impacts R/ECAPs, it failed to analyze those impacts. Based on our direct work with tenants and low-income residents and residents of color, these risk categories represent real and significant risk factors for Fresno residents. Once again, we ask that the City incorporate the following analysis and assessment to the Displacement risk section:

- Address the adequacy of policies and resources to protect tenants from displacement as a result of eviction, harassment, and substandard housing and include additional and stronger policies and programs to protect tenants, including in particular more comprehensive and stringent rent control standards than those established by the state, just cause requirements for eviction, and right to return home for displaced residents.
- Analyze the success and effectiveness of the City's code enforcement programs.

¹¹ See California Department of Housing and Community Development. (2021). *Affirmatively Furthering Fair Housing: Guidance for All Public Entities and For Housing Elements* (p.40-43).

¹² *Id.* at p.42.

¹³ CalMatters, Real estate prices soar during the pandemic, climbing 25% in parts of California, Dec. 5, 2020, available at <https://calmatters.org/california-divide/2020/12/real-estate-climb-pandemic/>

¹⁴ Gov. Code §65583(c)(10)(A)(ii); See also California Department of Housing and Community Development. (2021). *Affirmatively Furthering Fair Housing: Guidance for All Public Entities and For Housing Elements*. pp.39.

- Consider the extent to which public and private disinvestment and unequal investment continues to impact low-income neighborhoods, neighborhoods of color, and neighborhoods with a high proportion of tenants and how disinvestment perpetuates and/or increases displacement risk in these areas.
- Consider the City’s land use and permitting decisions which have directed and continue to allow for and promote the concentration of industrial and waste management facilities in and around neighborhoods in Jane Addams, Southwest Fresno, South Central Fresno (referred to by the Draft Housing Element as the “South Industrial Area”), and Southeast Fresno.
- Consider displacement risks associated with environmental hazards, environmental disasters, and climate change, pursuant to HCD’s AFFH Guidance.¹⁵

B. Incomplete analysis of the City’s response to homelessness.

As noted in prior comments, the City is aggressively criminalizing unsheltered homelessness while, at the same time, preventing the siting of supportive housing that would serve its unhoused population. These actions cause disproportionate harm to the City’s Black and disabled residents, but the City has failed to engage in a thorough analysis of their discriminatory effects; nor has the identified adequate program actions to address those effects, as discussed above. The Errata adds Figure 1E-3.33 illustrating unsheltered camping locations throughout the City and their proximity to services,¹⁶ but it does not acknowledge that the City absolutely bans unsheltered camping and is actively displacing—including through arrest—people attempting to live unsheltered near services and facilities. According to one report, Fresno police arrested 30 people under the City’s new anti-camping ordinance between its September 24, 2024, effective date and October 11, 2024.¹⁷ But, other than acknowledging that the local independent living center expressed concerns regarding the City’s criminalization of unsheltered homelessness and its impacts on people with disabilities, the Errata does not discuss the ordinance at all.¹⁸ Without an analysis of the City’s criminalization of homelessness, the Assessment of Fair Housing remains incomplete.

¹⁵ California Department of Housing and Community Development. (2021). *Affirmatively Furthering Fair Housing: Guidance for All Public Entities and For Housing Elements*, p.42.

¹⁶ See City of Fresno. (2024). ERRATA FOR THE CITY OF FRESNO REVISED HCD REVIEW DRAFT HOUSING ELEMENT OCTOBER 21, 2024, pp. 1E-3-90 to 1E-3-91.

¹⁷ Thaddeus Miller, What’s new anti-camping law impact on Fresno homeless? Way more arrests than treatment, Fresno Bee (Oct. 11, 2024), available at <https://www.fresnobee.com/news/local/crime/article293730944.html#storylink=cpy>.

¹⁸ See, e.g., City of Fresno. (2024). ERRATA FOR THE CITY OF FRESNO REVISED HCD REVIEW DRAFT HOUSING ELEMENT OCTOBER 21, 2024, pp. 1E-6-26 (“The representative expressed concern about laws in the City of Fresno that prevent homeless community members from camping or living in their cars. . . .”)

Similarly, the City also has not added analysis regarding the factors that caused its denial of the Quality Inn Homekey project in December 2023.¹⁹ Such analysis is necessary to ensure that the single program identified to prevent future denials—Program 2—will be effective.

IV. Failure to Adequately Analyze Housing Constraints

A. Governmental Constraints

In response to the initial draft released by the City, we raised concerns that the City did not adequately analyze constraints as required by Government Code section 65583(a)(5), and did not provide sufficient support for the conclusions reached by the City. Further, we have continually advocated for the inclusion of various meaningful suggestions from residents as to actions which would remove barriers to development and further the accessibility of affordable housing in the city in the analysis of governmental constraints.

Further, throughout the drafting process, the analysis of governmental constraints has failed to adequately consider the actual constraints to the development of affordable housing posed by the zoning districts implemented by the development code. In the Local Assessment of Fair Housing of the Draft Housing Element, the City acknowledges the incompatibility of widespread single-family detached only zoning (zoning districts RE, RS-1, RS-2, and RS-3) that prohibits zero lot line dwellings, townhomes, rowhomes, duplexes, and triplexes with the objective of expanded affordable housing.²⁰ At the same time, the zoning code allows single-family detached development by-right in many of the zones identified for increased high-density development: RM-1, NMX, CMX, RMX, CMS, CR, DTN, DTG. As part of the City's existing land use policies, the zoning districts should be analyzed as potential constraints on the development of multifamily affordable housing.

In addition, as neither the September errata nor the October errata to the July 2024 draft amended the analysis of at-risk housing, we want to restate that the Housing Element's analysis of at-risk housing is inadequate. A total of 695 units were identified in the September 2024 errata as being at risk of conversion from low-income residential uses to other uses within 10 years from the housing element adoption deadline.²¹ However, this draft failed to meaningfully address the extent of the risks to publicly assisted affordable housing or to propose actions to meaningfully address these risks. As the October 2024 errata was released without Section 1E-4:

¹⁹ See Errata, p. 1E-3-137.

²⁰ "Affordable housing development typically requires high-density zones to support construction and financing; therefore, zones limited to single dwelling units on each lot do not support affordable development." City of Fresno. (2024). ERRATA FOR THE CITY OF FRESNO REVISED HCD REVIEW DRAFT HOUSING ELEMENT OCTOBER 21, 2024, p.1E-3-113

²¹ City of Fresno. (2024). ERRATA FOR THE CITY OF FRESNO REVISED HCD REVIEW DRAFT HOUSING ELEMENT, SEPTEMBER 23, 2024, p.1E-4-62.

Constraints, these errors remain uncorrected. The lack of any expansion of this analysis in the most recently released errata demonstrates that the City has failed to appropriately discuss which action would be most appropriate for the City and whether there would be any constraints posed to the action, as required under Government Code section 65583(a)(5).

Throughout the drafting process, we have uplifted ways this section should be improved to achieve consistency with Housing Element law, to better effectuate the goal of improving access to affordable housing within the City of Fresno, and to reflect the concerns and suggestions of residents. We again urge the City to analyze the lack of tenant protections (e.g. source of income discrimination outreach and education, rent stabilization, and just cause protections) and how they may facilitate the displacement of lower-income renters. Because of the potential for displacement, the lack of these protections should be analyzed as a constraint on the maintenance of housing under Government Code section 65583(a)(5).

B. Non - Governmental Constraints

Although we have made previous comments on the importance of analyzing non-governmental constraints,²² unfortunately the Errata continues to exclude such an analysis even though public comments have been submitted in response to this specific issue. The Draft failed to consider the effect of NIMBY opposition and environmental concerns.

1. NIMBY Opposition

Once again, we reiterate that the Draft must include an analysis of NIMBY opposition to affordable housing development. As a largely sprawling suburban City, Fresno is prone to local opposition to increased density from existing single-family homeowners who have preconceived ideas of the impacts of increased density on their neighborhoods. NIMBY opposition is all too common and a pervasive issue when building multi-family projects in high-resourced areas. We recommend that the City include an analysis and incorporate programs that will address this, such as an inclusionary housing ordinance.

2. Environmental Concerns

The Errata failed to include additional amendments and analyses on environmental constraints.²³ Environmental constraints may include limitations to water supply, nearby pollution, or infrastructure development. Per our previous comment letters, we have noted that the City of Fresno relies heavily on groundwater and surface water.²⁴ As climate change makes

²² See Gov. Code § 65583(a)(6).

²³ *Id.*

²⁴ See Leadership Counsel for Justice & Accountability. City of Fresno Draft 6th Cycle Housing Element Comment Letter, August 16, 2023.

water availability less predictable the City must analyze how an increased population and land use will affect water availability and whether water availability will eventually constrain growth. Additionally, the City must consider the infrastructure requirements of delivering water to a denser population. For example, the City estimates that downtown Fresno, where a large portion of new housing development is projected, currently requires significant water and wastewater infrastructure upgrades. Although Program 28 - Equitable Community Investments is amended to acknowledge the need, it fails to include concrete steps to achieve this; it simply says they “will continue to prioritize investment in underserved neighborhoods” or “water, sewer, stormwater, and other infrastructure improvements to accelerate mixed-income infill housing development by 2031.” The program must have concrete steps, objectives, and metrics on how the City plans to improve infrastructure.

The Errata also failed to consider industrial and polluting industries’ effects on future housing development. As we mentioned in our previous comment letters, the City must also analyze as a constraint the proliferation of warehouses and other industrial uses in and around the City, particularly in South Fresno. These industrial and warehouse projects come with an enormous increase in vehicle traffic and worsen already very poor air quality. They also result in light, sound, and vibration pollution. Many of these projects are being approved next to residential development with no buffer, driving down housing value, and worsening housing conditions. The City must consider warehouse and industrial use proliferation as a constraint, and identify impacts to residents. The City must then commit to adopting strong programs and policies with enforceable timelines to address the constraint.

Additionally, the City of Fresno has evolved as a car-dependent City surrounded by heavy industry and highways. Therefore, future housing development will need to carefully consider placement and mitigation measures to avoid perpetuating environmental inequity.

V. Conclusion

Thank you for considering and incorporating several of our comments. The undersigned organizations welcome the opportunity to continue collaborating on the City of Fresno’s Housing Element update to ensure the City is committed to meeting the housing needs of all residents, complies with state law, and provides equitable public participation opportunities throughout the revision process. We look forward to meeting with the City to further discuss community priorities in detail and learn how the City will commit to its duty to Affirmatively Further Fair Housing.

Respectfully,

Michelle Zumwalt

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Paul, McDougall, California Department of Housing and Community Development,

paul.mcdougall@hcd.ca.gov



Mayor Jerry Dyer
City of Fresno
Planning and Development Department
2600 Fresno Street, Rm 3043
Fresno, CA 93721

Date:

Dear Mayor Dyer:

4991 E. McKinley Suite 123
Fresno CA 93727

P: 559.237.4102
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www.habitatfresno.org

HFHGFA Board of Directors

Jim Tienken, Chair
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Sabrina Brown
Patrick Prince
Jose Platas
Zak Johnson

CEO

Ashley Hedemann

The purpose of this letter is to express our support for the latest draft of the City of Fresno Housing Element, including the Errata dated October 21, 2024. As you are aware Habitat for Humanity Greater Fresno Area (HFHGFA) has worked closely with the City of Fresno on bringing affordable homeownership opportunities to residents of this community for the last 39 years. Most recently, HFHGFA has taken part in the Multijurisdictional Housing Element process since it began in 2022, participating in outreach events and commenting on previous drafts. We are pleased with the efforts the City of Fresno is undertaking to address community needs related to housing availability, affordability and accessibility in this Housing Element cycle.

Most recently we have collaborated with City staff on refining Housing Element programs to further remove barriers to the development of affordable housing in the latest draft. Specifically, we worked with staff to modify the Action Plan in Chapter 1 as follows:

Program 4: Streamline Development Review Process

- Added a provision to ensure that both the building permitting and entitlement processes were covered for future streamlining efforts

Program 14: Partnerships with Affordable Housing Developers

- Added a provision to work with affordable housing developers to structure annual funding commitments to support multiple rounds of tax credit applications
- Added a provision to identify opportunities to align entitlement and permit approvals for affordable housing projects with funding deadlines (e.g., HOME), including post-entitlement processes like encroachment permits
- Added a provision to participate in joint advocacy for CEQA streamlining of single-unit affordable housing

Program 15: Land Bank

- Added a provision to work to remove blight from any banked properties

Program 16: Community Land Trust

- Added a provision to collaborate on maintaining vacant sites once acquired, and to provide support for staff, stakeholder and community education on land trust models

We look forward to continuing our work in partnership with the City of Fresno and doing our part to implement the 6th Cycle Housing Element through creating additional homeownership opportunities.

Building Together,

A handwritten signature in black ink, appearing to read "Ashley Keden", with a horizontal line extending to the right.

CEO Habitat Greater Fresno Area

California Department of Transportation

DISTRICT 6 OFFICE
1352 WEST OLIVE AVENUE | P.O. BOX 12616 | FRESNO, CA 93778-2616
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October 28, 2024

FRE-41-22.50
CITY OF FRESNO
HOUSING ELEMENT
GTS #: [FRE-2024-02096](#)

SENT VIA EMAIL

Ms. Sophia Pagoulatos
Planning Manager
City of Fresno – Planning and Development Department
2600 Fresno Street, Room 3043
Fresno, CA 93721

Dear Ms. Pagoulatos:

Thank you for the opportunity to review of the Errata for the City of Fresno's, Revised HCD Review of the Draft Housing Element dated October 21, 2024, which includes revisions to extracted chapters from the revised HCD Review Draft Housing Element.

The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. Caltrans fully supports Goal 6 and Program 31, which aligns with essential steps toward energy conservation and sustainable development in our community. Reducing or waiving fees for Vehicle Miles Traveled (VMT), especially for projects near high-quality transit corridors or those with a significant proportion of affordable housing, reflects a forward-thinking approach. This exemption not only aligns with California Environmental Quality Act (CEQA) requirements but also incentivizes the creation of affordable housing and bolsters active transportation solutions, like walking and cycling infrastructure, which are key for reducing overall vehicle dependency.
2. By setting clear timelines to establish affordable housing thresholds and a VMT mitigation fee by 2026, the City of Fresno is creating a structured pathway to lessen both the costs and the processing times associated with VMT analysis in new developments. These measures will likely increase project feasibility, promote eco-friendly transit options, and make the community more accessible. Additionally, dedicating funds for active transportation capital improvements will lead to

Ms. Sophia Pagoulatos – City of Fresno Housing Element

October 28, 2024

Page 2

tangible environmental benefits, creating a cityscape that encourages sustainable travel while improving residents' quality of life.

3. This Goal and Program is a commendable move that balances the need for growth with sustainability, and Caltrans is optimistic about the positive impact it will have on the City of Fresno's infrastructure and environmental footprint.

If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 981-1041.

Sincerely,



Mr. Dave Padilla, Branch Chief, Transportation Planning

Copy:

City of Fresno, Planning@fresno.gov.

1331 Fulton Street
Fresno, California 93721
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TTY (800) 735-2929
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October 25, 2024
Mayor Jerry Dyer
City of Fresno
Planning and Development Department
2600 Fresno Street, Rm 3043
Fresno, CA 93721

RE: City of Fresno Housing Element 2024

Dear Mayor Dyer:

The purpose of this letter is to express our support for the latest draft of the City of Fresno Housing Element, including the Errata dated October 21, 2024. Our organization, Fresno Housing Authority has taken part in the Multijurisdictional Housing Element process since it began in 2022, participating in outreach events and commenting on previous drafts. We are pleased with the efforts the City of Fresno is undertaking to address community needs related to housing availability, affordability and accessibility in this Housing Element cycle.

Most recently we have collaborated with City staff on refining Housing Element programs to further remove barriers to the development of affordable housing in the latest draft. Specifically, we worked with staff to modify the Action Plan in Chapter 1 as follows:

Program 4: Streamline Development Review Process

- Added a commitment to continue providing navigation and concierge services to assist applicants with entitlement and permit processing for affordable housing projects
- Added a provision to ensure that both the building permitting and entitlement processes were covered for future streamlining efforts

Program 11: Incentives for Housing Development

- Added a provision to provide flexibility in meeting off-site infrastructure requirements for affordable housing projects

Program 14: Partnerships with Affordable Housing Developers

- Added a provision to work with affordable housing developers to structure annual funding commitments to support multiple rounds of tax credit applications

- Added a provision to identify opportunities to align entitlement and permit approvals for affordable housing projects with funding deadlines (e.g., HOME), including post-entitlement processes like encroachment permits

We look forward to continuing our work in partnership with the City of Fresno and doing our part to implement the 6th Cycle Housing Element.

Best Regards,



Tyrone Roderick Williams
Chief Executive Office



A Nonprofit Housing and Community Development Organization

October 23, 2024

Sophia Pagoulatos
Planning Manager
Long Range Planning, Planning & Development
City of Fresno
2600 Fresno Street
Fresno, CA 93721

Re: Housing Element Participation

Dear Ms. Pagoulatos,

This letter serves to confirm Self-Help Enterprises (SHE) involvement in the development of the City of Fresno draft Housing Element (2023-2031). SHE has engaged in several ways through the development of the Housing Element (HE) as follows:

- SHE provided specific written feedback on the prioritization of by-right permitting, which has been incorporated in the HE draft.
- SHE staff participated in group stakeholder meetings.
- The City of Fresno engaged SHE for one-on-one discussion and reviewed specific programs that relate to SHE's work and comments, and the City absorbed and incorporated that feedback in the draft.

Should you have any questions about SHE's participation, please contact me at (559) 802-1653 or betsyg@selfhelpenterprises.org.

Sincerely,

A handwritten signature in blue ink that reads "Betsy McGovern-Garcia".

Betsy McGovern-Garcia
Vice President





September 30, 2024

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room 3065
Fresno, CA 93721

Sent via email: housingelement@fresno.gov

RE: Errata to the Revised HCD Draft Housing Element

Dear Mayor Dyer, Councilmembers, and Ms. Zumwalt:

Leadership Counsel for Justice and Accountability (“LCJA”) writes in collaboration with the Public Interest Law Project (“PILP”) to provide comments on the Errata to the Revised HCD Draft Housing Element 2023-2031. LCJA works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. As addressed in our previous letters, we advocate for vital policy and practice changes to meet the housing needs of all residents in the City of Fresno, especially low-income communities individuals with special housing needs, and BIPOC communities to overcome fair housing disparities.

I. Lack of Community Engagement

The Errata, released near the end of HCD’s review of the City’s July 2024 Draft Housing Element with only seven days for public feedback, continues the City’s failure to demonstrate a diligent effort to engage the community throughout the revision process. The City failed to:

- Host additional public engagement opportunities to solicit feedback from the community, particularly R/ECAP communities, to incorporate that feedback into the Errata;
- Communicate to stakeholders about the development of substantial revisions during the HCD review process; and
- Provide sufficient time to ensure that community members, in particular visually impaired residents, are able to review and comment on the Errata.

- LCJA, its coalition partners, and community members want to participate in the development of the Housing Element to ensure that its analysis and programs reflect the community's needs, but, the City's process has made that participation very difficult.

II. The Errata Amendments fail to contribute to a compliant Assessment of Fair Housing

Although the Errata amends the draft Housing Element on page 1E-3-26, to include an analysis of past actions that led to R/ECAPs in Downtown neighborhoods, South Fresno, the neighborhoods in the Bullard, Shaw/Blackstone area, and the Hoover community of North Fresno, the analysis still fails to contribute to a compliant assessment:

- The amendments fail to evaluate public participation and demographic trends or contributing factors that led to the concentration of South Asians, Hispanics/Latinos, and/or African Americans living in R/ECAP and RCAAs. § 65583(c)(10)(A)(iii); AFFH Guidance, p. 33. The City has local information at its disposal that should be incorporated into this evaluation to adequately inform policies and programs in the Action Plan.¹
- The City briefly addresses actions leading to R/ECAPs in South Fresno and it claims that “the City is investing in these neighborhoods as well, with several specific planning efforts complete or underway, including ...the South Central Specific Plan (SCSP).” However, this fails to address current practices given the fact that the SCSP will only benefit industrial development. Please refer to our previous comment letter addressing the SCSP (see Attachment A).

HCD's February 1, 2024 findings addressed the need to compare R/ECAP and RCAA's “in terms of equitable quality of life.” On page 1E-3-29, the Errata includes a section on the impacts the “built environment” has on the quality of life and goes on to list “physical activity, good housing conditions, and access to healthy food and healthcare” as positive impacts of a built environment that are then used as metrics to interpret data from studies comparing access to opportunity in R/ECAPs and RCAAs.² However, this comparison falls short of an adequate quality of life comparison of the R/ECAP neighborhoods in South Fresno and the RCAA neighborhoods in North Fresno:

- The amendment fails to provide “comparisons to other neighborhoods in terms of equitable quality of life” and only inconsistently identifies the locations of R/ECAP and RCAA within the city when evaluating their proximity to infrastructure and facilities.

¹ Brown, B., Heer, N., Love, N., Pollard, K., Thomas, D. (2021, June 9). Here To Stay: A Policy-Based Blueprint For Displacement Avoidance in Fresno. *Thrivance Group*.
<https://www.transformfresno.com/wp-content/uploads/2021/06/transform-fresno-here-to-stay-report-english.pdf>

² HCD 2/1/2024 Findings, p. 2.

- The quality of life comparison acknowledges the disparities in infrastructure between R/ECAPs and RCAAs, but it fails to identify policies, programs, and future investments to address these disparities.
 - For example, the Errata includes “Park Access” amendments acknowledging that RCAAs have more access to green spaces that are in “fair to good condition,” as opposed to the parks in R/ECAPs, which were determined to be in poor to fair condition, and it adds that the Fresno PARCS Department identified 21 high needs neighborhoods that should receive 50% of Measure P funds; yet the Errata fails to identify a solution that would improve access to green spaces in R/ECAP. Furthermore, community engagement in R/ECAP communities would reveal that residents in Southwest Fresno want additional recreational equipment at Maxie Park, including a completely paved track; Southeast residents near Winchell Elementary want a family-oriented neighborhood park with ample shade trees; and Jane Addams residents have stated that Basin XX park does not meet their families needs.

The amendments on pages 1E-3-137-138 regarding Southwest Fresno fail to acknowledge and analyze the City’s current efforts to promote industrial development in Southwest Fresno, contrary to the Southwest Fresno Specific Plan and input from local residents. Therefore, these amendments fail to incorporate the full context of changes over time and current practices in the AFH. AFFH Guidance, p. 33.:

- On page 1E-3-138, the City states that the 2017 SWSP “reimagines this area as transitioning from industrial to a series of small, complete neighborhoods” and “the City recognizes that there are land use incompatibilities that could have negative impacts.”³ However, in recent years, the City has worked relentlessly with developers to rezone Elm Ave from Neighborhood Mixed use zoning back to Light Industrial, and, earlier this year, the City council approved the development of a Warehouse in Southwest Fresno.⁴
- The City’s amendment on page 1E-137 states, “given the proximity to industrial uses, the City reviewed sites in the inventory adjacent to existing industrial uses, specifically near State Route 41, and removed those sites which would be most impacted during the timeframe of this Housing Element.” Simply removing these sites from the inventory is not enough to address the impact of industrial uses on existing and future housing in Southwest Fresno and the City should make stronger commitments to prevent the rezoning of this area to light industrial given that the community spent over two years

³ HCD 2/1/2024 Findings, p. 2.

⁴ Weaver, G. (2023, Nov 7). ‘I want industrial gone.’ Frustrated residents slam southwest Fresno rezone plans. *Fresnoland*. <https://fresnoland.org/2023/11/07/southwest-fresno-rezone/>, Morano, J. (2024, Feb 22). \$100 million warehouse headed for southwest Fresno despite unanswered pollution questions. *Fresnoland*. <https://fresnoland.org/2024/02/22/new-fresno-warehouse/>

creating the SWSP to remove industrial sites away from sensitive receptors of their homes and schools. The City must commit to removing improper land uses near Community.

The Errata failed to include a proper analysis and subsequently a compliant AFH; therefore, the current programs fail to create integrated healthy communities in R/ECAP.

III. Homelessness

The Errata acknowledges a technical assistance letter dated August 7, 2024, from HCD's Housing Accountability Unit regarding the City's December 2023 rejection of Homekey 3 funds for a project that would have provided 58 permanent supportive housing units for people experiencing homelessness in a moderate-resource area.⁵ However, the Errata does not add any analysis regarding the impacts of the denial nor the factors that caused it. As HCD noted: "The City's decision to return its Homekey award rendered the Project infeasible, thereby worsening access to affordable homes for the unhoused population in areas outside of R/ECAPs and to affordable housing in general. This decision raises concerns about whether it was 'materially inconsistent' with the City's obligation to AFFH."⁶ But the Errata's only response to these serious fair housing concerns is the addition of the following language to Program 2: "The City will include in project approval documentation a statement of the City's obligation to Affirmatively Further Fair Housing and an accompanying analysis of project consistency with the law."⁷ Notably, such a policy would not have had even a nominal impact on the December 2023 Homekey project denial because (1) it only applies to project approvals, not denials; and (2) it does not apply to funding decisions. Further, an after-the-fact recitation of existing law and analysis of how an approved project complies with the duty to AFFH is not adequate to prevent discrimination against projects that serve unhoused individuals and people with disabilities. The Housing Element should commit to a robust AFFH analysis in advance of all discretionary decisions affecting housing siting and funding, including analysis of project impacts and alternatives and discussion of the project's relationship to Fresno's long-standing patterns of racial and economic segregation,⁸ to ensure that future approvals and denials are consistent with the City's duty to affirmatively further fair housing.

The Housing Element must also analyze the City's recent policy choices and the City Council's demonstrated animus against the City's unhoused residents as constraints to meeting the needs of unhoused individuals and families, and to affirmatively furthering fair housing

⁵ Errata, p. 1E-3-123; *see also* Letter from David Zisser to Georgeanne White re: Fresno City Council's Denial of Fresno Quality Inn Homekey Project – Letter of Technical Assistance (Aug. 7, 2024), available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/fresno-hau-806-ta-080724.pdf> (8/7/2024 HAU Letter)..

⁶ 8/7/2024 HAU Letter, pp. 3-4.

⁷ Errata, p. 1E-1-11.

⁸ *See* 8/7/2024 HAU Letter, p. 3.

people with disabilities and people of color. HCD’s technical assistance letter also noted that “the City Council’s discussion of assumptions and stereotypes regarding homeless individuals raises further fair housing concerns.”⁹ And the City recently passed one of the most draconian anti-camping ordinances in the state, amending a prior version of the ordinance to remove language about making shelter and housing available to unsheltered individuals.¹⁰ Punitive and carceral approaches to homelessness make it harder for unhoused people to access housing and services and are counter to the City’s duty to affirmatively further fair housing.¹¹ However, the Errata does not analyze the camping ordinance, the anticipated impacts of the recent amendments, or actions the City can take to mitigate the discriminatory impacts of such policies on people with disabilities and people of color. The Housing Element should acknowledge that its current approach to homelessness—both in denying permanent supportive housing and in criminalizing unsheltered homelessness—disproportionately burdens and denies housing choice to people with disabilities and people of color and is, in turn, inconsistent with its duty to affirmatively further fair housing. It must also commit to programs that will result in meaningful policy change to reverse its discriminatory practices.

IV. Sites to Accommodate the RHNA

While the Errata includes amendments and additional information regarding pipeline projects and sites identified to accommodate the RHNA, multiple deficiencies remain, including:

- Program 17 (Surplus Public Land) remains inconsistent with the Surplus Land Act; e.g., it requires only 10% affordable units.¹²
- More and better information is needed to justify the City’s projections regarding pipeline projects.
 - Lack of info re committed assistance for hotel/motel conversions. Such information is especially important given the City’s recent rejection of Homekey funds for a project that would have converted a hotel into permanent supportive housing.
 - Ambiguous or conflicting info, e.g. re funding and affordability for Village at West Creek North.
- The Errata does not analyze the impact of restrictions on ground-floor residential uses on capacity projections in commercial and mixed use zones.¹³

⁹ 8/7/2024 HAU Letter, p. 4.

¹⁰ Ord. 2024-025.

¹¹ See HCD AFFH Guidance, pp. 68-70; see also *Statement by UCSF Benioff Homelessness and Housing Initiative Director Dr. Margot Kushel on the Supreme Court’s Decision in City of Grants Pass v. Johnson* (June 28, 2024), available at <https://homelessness.ucsf.edu/resources/press-release/BHHI-grants-pass-statement>.

¹² Errata, p. 1E-1-23; see also 8/7/2024 Comment Letter, pp. 19-20.

¹³ See 8/7/2024 Comment Letter, p. 8.

- The Errata does not add any analysis of existing residential, agricultural, and commercial uses on sites identified to accommodate the RHNA.¹⁴ Notably, it relies on many sites—including for the development of lower-income housing—on sites with existing commercial uses along the Blackstone corridor, the City’s main commercial corridor, without adequate information about the existing uses or analysis to support the City’s assumption that the site will redevelop as housing.
- The Errata adds some information and analysis regarding large sites, but it still fails to comply with Government Code section 65583.2(c)(2)(B). While it includes examples of past projects developed on large sites, it lacks information about when those projects were developed, and about the development timelines and phasing for the entire site (as opposed to just the housing portion).¹⁵
- The Errata removes some publicly owned sites from the inventory but continues to rely on publicly owned sites with either (1) a lack of information to support the assumption that they will redevelop within the planning period or (2) information that indicates the sites will not be available during the planning period. For example, Table 1E-2-9 indicates that the City plans to use site 287 for tiny homes, “micro homes,” and other uses during the planning period, which means it will not be available for permanent housing units.¹⁶ (The description of the proposed project also raises questions about the City’s plans to site interim housing for homeless individuals and/or disaster survivors on an identified brownfield.) It also continues to list sites owned by other government agencies without adequate information about those agencies’ plans for the sites, existing uses, etc.
- The Errata continues to identify sites inconsistent with its duty to AFFH without adequate programs to combat the likelihood that development as projected on identified sites will further entrench existing patterns of racial and economic segregation.¹⁷

V. Relocation and Replacement Housing

Program 35 (Replacement Units) references replacement units for density bonus projects and on sites identified in sites inventory.¹⁸ However, the City also needs to require replacement units *and* relocation benefits to displaced households consistent with SB 330/AB 1218. The Errata’s description of its compliance with SB 330 does not include any discussion of that law’s replacement and relocation requirements, nor any reference to AB 1218 (2023), which expanded SB 330’s relocation and replacement housing requirements to nonresidential projects.¹⁹ The Housing Element should describe the ways in which the City is (or is not) implementing these requirements currently and amend its programs accordingly. In addition to amending Program

¹⁴ See 8/7/2024 Comment Letter, p. 9; HCD 2/1/2024 Findings, p. 5.

¹⁵ See also 8/7/2024 Comment Letter, p. 13.

¹⁶ Errata, p. 1E-2-47.

¹⁷ See 8/7/2024 Comment Letter, p. 11.

¹⁸ Errata, p. 1E-1-45.

¹⁹ Errata, pp. 1E-3-115, 1E-4-43.

35, the City should amend Program 4 (Streamline Development Review Process) to include a commitment to incorporating replacement and relocation requirements into its application processes to ensure that it is not approving projects without the legally mandated relocation benefits and replacement units.

VI. Mobile Home Parks

As the Errata notes, mobile home parks represent an important source of affordable housing in Fresno. However, many mobile home residents are at risk of displacement due to rent increases and/or mobile home park closures. The City should strengthen Program 33 (Mobile Home Parks), including by committing to apply mobile home park zoning to existing mobile home parks to discourage mobile home park conversions and improvements to the City's mobile home rent control process to make it more accessible to residents—e.g., removal of the requirement that residents form a committee before opposing a rent increase.

VII. Community-identified programs that should be incorporated into the Housing Element

Through our collaboration with low-income residents, community members have identified the following programs and drafted examples that the City should incorporate into the Draft Housing Element:

- **Rent Stabilization and Just Cause Protection Ordinance**
 - **Objective**
 - Ensure the preservation of available affordable housing, and housing choices, and prevent the displacement of low-income residents and residents belonging to a protected class in R/ECAPs through the implementation of a Rent Stabilization and Just Cause Protection Ordinance
 - **Actions**
 - All material, information, and verbal public education, including outreach initiatives, will be provided in a variety of languages representative of Fresno including, but not limited to, Spanish, Hmong, and Punjabi.
 - By December 2025, the City will adopt a Rent Stabilization and Just Cause Protection Ordinance to protect tenants from unreasonable rent increases and unjust evictions. It will establish a rental registry that will be published no later than June 2025.
 - The City will develop the ordinance collaboratively with Fresno tenants, landlords, and community based organizations.

- The City will make a diligent effort to engage Fresno tenants through outreach including but not limited to, canvassing apartment complexes. The city will host interactive convenings and workshops.
- **Timelines**
 - By March 2025, The City will establish a community workgroup to develop a rent stabilization and just cause ordinance draft. The working group will meet on a monthly basis.
 - By August 2025, the City will release a draft ordinance for public review and announce the publication of the draft.
 - The City will adopt the ordinance no later than December 31, 2025.
- **Funding**
 - Local Funds
- **Responsibility**
 - Office of the City Attorney and Office of Community Affairs
- **Inclusionary Zoning Ordinance**
 - **Objective**
 - In line with its duty to AFFH, the city will secure affordable housing options for low-income and very low-income residents through the adoption and implementation of an Inclusionary Zoning Ordinance by December 2025. Once adopted, the City will promote the ordinance through multilingual educational material and community workshops.
 - **Actions**
 - The ordinance will be developed in accordance with the following guidelines
 - Apply to projects of 5 or more units
 - All new housing developments will set aside 20% of its units as affordable for households with an AMI of 50% or less in perpetuity.
 - As a compliance alternative, developers may pay an in-lieu fee that will then be used towards the development of affordable housing.
 - Following the adoption of the ordinance, the City will host annual workshops to inform developers of compliance requirements.
 - **Timelines**
 - Beginning in January 2025, the City will draft an Inclusionary Zoning Ordinance and adopt the Ordinance by November 2025.

- By December 2025, the City will implement the ordinance and require Inclusionary Zoning for all new housing developments and inform developers of compliance requirements.
- Beginning January 2026, the City will host annual workshops to inform the community of the program and initiate its monthly reports.
- **Funding**
 - Local Funds
- **Responsibility**
 - Planning and Development Department
- **Program 19 - Homebuyer Assistance**
 - **Objective**
 - In order to expand housing opportunities across Fresno, the City will commit to offering financial and technical assistance, as well as counseling services to assist low-income residents in purchasing a home.
 - **Actions**
 - The program will be promoted through City media outlets, community outreach, informative workshops, partnerships with local media outlets, neighborhood/homeowners associations, realtors' associations, homebuilders, lenders, Rotary, and Community Based Organizations. Targeted outreach and promotional efforts will occur in R/ECAP and extremely low and low-income households.
 - This program will be accessible to residents regardless of immigration status. This program will prioritize individuals and households with special needs.
 - The City's Housing and Community Development Division will offer the following support and assistance in the variety of languages representative of Fresno including, but not limited to, Spanish Hmong, and Punjabi:
 - **Technical assistance** - Guide applicants through the application process, offer technical support throughout the length of the program
 - **Financial assistance** - Offer up to \$200,000 in loans, cover down payments and closing costs, zero interest fees, loan fees, or monthly payment fees, loan forgiveness after 15 years, and flexible payment plans calculated according to income at the time of application and adjusted based on changes in grantees income.
 - **Financial counseling services** - Intended to increase the beneficial impact of the program by preparing applicants to become strong financial candidates and offer support as grantees to help them adapt to the financial challenges of becoming homeowners.

- The City will apply to the state’s CalHome Program and the Jose Serna, Jr. Farmworker Housing Grant to secure funding for the home buyer assistance program on an annual basis.
- The City will provide quarterly reports every year describing how many applicants were assisted, and a description of outreach efforts and the location of where grantees were able to find housing.
- The City will establish an oversight committee consisting of low-income residents to address residents' needs and ensure funding is secured for its intended purpose.
- **Timelines**
 - Beginning January 2025, the City will host two informative workshops every quarter and emphasize accessibility to extremely low-income and very low-income residents.
 - Beginning in January 2025, The City will perform strong community outreach to notify residents of the availability of the program targeting extremely low-income and very low-income residents.
 - Beginning January 2025, the City will begin accepting applications for the program.
 - Beginning June 2025, the City will release its first quarterly report.
- **Funding**
 - CalHome Program, Jose Serna, Jr. Farmworking Grant, Permanent Local Housing Allocation (PLHA), NAHREP (National Association of Hispanic Real Estate Professionals) Fresno, Federal Home Loan Bank (FHLBank) of San Francisco, Self-Help Enterprises, and Union Bank
 - Community Development Block Grant Program, HOME Investment Partnership Act Funds, Cal HFA, and California Self-Help Housing Program
- **Responsibility**
 - Planning and Development Office of Community Affairs, and nonprofit community development corporations.
- **Program 22 - Housing Rehabilitation**
 - **Objective**
 - With the goal of conserving affordable housing, preventing displacement, and cultivating thriving communities, the City of Fresno will assist households who on average have below-moderate incomes by connecting them to resources and services specialized in the rehabilitation and weatherization of their homes regardless of immigration status.

○ **Actions**

- The City will set aside 5% of its annual general fund revenue for home rehabilitation and weatherization grants and for the rehabilitation grants.
- The program will be promoted through City media outlets, community outreach, informative workshops, and partnerships with local media outlets, neighborhood associations, and community benefit organizations.
- Outreach and promotional efforts will occur in R/ECAP, targeting households who on average have extremely low to very low income, households of undocumented residents, homes with substandard living conditions, and households with special needs. All material will be made available in a variety of languages representative of Fresno including, but not limited to, Spanish Hmong, and Punjabi.
- The City's Code Enforcement division will immediately refer moderate and below moderate-income homeowners in violation of the City's Housing code to the program and homeowners who do not seek out services will be listed as a priority for outreach efforts.
- This program will prioritize rehabilitation for households with special needs, homes with damages that pose a serious health risk, and homes with damages that are likely to be exacerbated by weather and climate change.
- To prevent future deterioration of substandard homes, the City will provide home weatherization services, including insulation and heat pumps as well as other cooling mechanisms, and prioritize these services for households with special needs such as the elderly, and individuals with disabilities or chronic health issues.
- The City's Housing and Community Development Division will offer the following assistance to homeowners in a variety of languages representative of Fresno:
 - **Technical assistance** - Guide applicants through the application process and offer technical support throughout the length of the program.
 - **Referral assistance** - Connect applicants to resources and services based on the level of repair needed.
 - **Financial assistance** - Offer rehabilitation grants to homeowners with no fees on interest.
 - **Temporary Housing** - The City will provide Emergency Housing Vouchers for rehabilitation efforts that require the residents to vacate their homes.
- The City will employ local licensed general and paint contractors and prioritize partnerships with contractors who predominantly employ or will

employ local residents including part-time jobs for youth for the duration of their participation in the program.

- The City will provide annual and quarterly reports describing how many homeowners were assisted with revitalization, how many local residents were employed, a description of outreach efforts including the location where they took place, and the amount of funding allocated from the general fund.

- **Timeline**

- By March 2025, the City will notify the community via city media outlets, notify community benefit organizations, and update its website to promote the development of the Program.
- Beginning in January 2025, the City will host two quarterly informative workshops. Half of the workshops will occur in an area accessible to residents residing in R/ECAP.
- The City will begin outreach onemonth before every informative workshop by notifying Community Based Organizations, posting on social media, and canvassing R/ECAP.
- By August 2025, the City will begin offering rehabilitation and weatherization services.
- By February 2026, the City will release its first annual/quarterly report.

- **Funding**

- General Fund revenue, CDBG program funds.

- **Implementation**

- Planning and Development Department, Housing and Community Development Division, Office of Community Affairs, Code Enforcement Division

- **Program 33 Mobile Home Parks**

- **Objective**

- The City will prevent excessive rent increases for mobile home park residents, offer rehabilitation and weatherization services to homeowners regardless of immigration status, and assist in the revitalization and weatherization of mobile home parks, including, urban greening and secure pedestrian and public transportation routes. The City will preserve mobile home parks as a source of affordable housing and hold Mobile Home Park owners accountable for repeated code violations through fines that will fund mobile home park rehabilitation efforts.

- **Actions**

- The City will finalize its 5th Cycle assessment of housing-related needs in mobile home parks, release it for public review and comment, and use this information to direct rehabilitation and weatherization efforts.
- Continue to support the Mobile Home Rent Review & Stabilization Commission. The City will evaluate potential changes to the rent review process to remove unnecessary barriers to mobile home park residents' participation in the process, including through the possible removal of the requirement that residents form a committee prior to participation.
- Provide annual notification to park owners about rent increase applications. Hold meetings at mobile home parks to explain the enforcement process.
- Maintain a list and map of mobile home parks in Fresno.
- Provide relevant information to interested mobile home park residents, owners, and non-profit organizations.
- Compile a list of resources and provide technical assistance to mobile home residents and park owners to facilitate the maintenance and preservation of mobile home parks.
- The City will enforce the California Mobile Home Park Act throughout the City.
- The City will set aside 2% of its annual general fund revenue for Mobile home rehabilitation and weatherization grants and for the rehabilitation of Mobile Home Parks.
- Funding generated from fines imposed on mobile home park owners for code violations will be prioritized for mobile homeowners whose homes are older than the maximum year requirement criteria of the City's Mobile Home Repair program and toward the revitalization and weatherization of Mobile Home parks.
- The City will apply to HCD's Manufactured Housing Opportunity & Revitalization Program (MORE).
- The City will assist with the replacement of mobile homes deemed irreparable.
- The program will be promoted through City media outlets, community outreach, place-based informative workshops, and partnerships with local media outlets, and community benefit organizations.
- Upon request by the homeowner, the City's Community Revitalization Division will assess the safety and integrity of the home and refer the homeowner to the program if deemed necessary.
- The City's Code Enforcement Division will immediately refer mobile homeowners in violation of the City's Housing Code to the program.

Homeowners who do not seek out services will be listed as a priority for outreach efforts.

- This program will prioritize rehabilitation for households with special needs, homes with damages that pose a serious health risk, and homes with damages that are likely to be exacerbated by weather and climate change.
- To prevent the future deterioration of outdated mobile homes, the city will provide mobile home weatherization services, including insulation and non-evaporative cooling systems, and prioritize these services for households with special needs such as the elderly, and individuals with disabilities or chronic health issues.
- The City will offer the following assistance to homeowners in a variety of languages representative of Fresno including, but not limited to, Spanish Hmong, and Punjabi:
 - **Technical assistance** - Guide home-owner and landlord applicants through the application process and offer technical support throughout the length of the program.
 - **Referral assistance** - Connect homeowners and landlords to resources and services based on level of repair needed.
 - **Financial assistance** - Offer rehabilitation grants to homeowners with no fees on interest.
 - **Temporary Housing** - The City will provide Emergency Housing Vouchers for rehabilitation efforts that require the family to vacate the home.
- The City will employ local licensed general contractors and prioritize partnerships with contractors who predominantly employ or will employ local residents including part-time jobs for youth for the duration of their participation in the program.
- The City will provide annual and quarterly reports describing how many homeowners were assisted, the types of revitalization and weatherization services provided for homeowners and mobile home parks, how many local residents were employed, a description of outreach efforts including the location where they took place, and a breakdown of funding generated from fines imposed on landlords, and the amount of funding allocated from the general fund.
- Evaluate policy changes and funding sources to discourage mobile home park closures and mitigate the impacts of such closures on residents and the community. Possible policy changes include applying mobile home park zoning to existing mobile home parks to discourage redevelopment of those parks for other uses.

- **Timeline**
 - Beginning January 2025, the City will notify the community via City media outlets, notify community benefit organizations, and update its website to promote the development of the Program.
 - By March 2025, the City will begin the process of completing its 5th Cycle assessment of housing-related needs in mobile home parks.
 - Beginning in March 2025, the City will host informative workshops at each mobile home park twice a year.
 - The City will begin outreach one month before every informative workshop by notifying community benefit organizations, posting on social media, and canvassing R/ECAP.
 - By September 2025, the City will begin offering rehabilitation and weatherization services.
 - By January 2026, the City will release its first annual/quarterly report.
 - By March 2026, the City will release its 5th Cycle assessment of housing-related needs in mobile home parks.
 - By January 2026, the City will have rehabilitated 25% of owner-occupied mobile homes and Mobile Home parks.
 - By a date certain within the planning period, present ordinance options to the City Council for preserving mobile home parks.
 - By a date certain within the planning period, evaluate and recommend changes to improve mobile home park residents' ability to access the rent review process.
- **Funding**
 - General Fund revenue, rehabilitated home sale revenue, CDBG program funds, Manufactured Housing Opportunity & Revitalization Program (MORE).
- **Responsibility**
 - Planning and Development Department, Housing and Community Development Division, Office of Community Affairs, Community Revitalization Division, Code Enforcement Division

VIII. Conclusion

Thank you for considering our comments. We welcome the opportunity to continue collaborating on the City of Fresno's Housing Element update to ensure the City complies with state law and is committed to meeting the housing needs of all residents. The City of Fresno is

Michelle Zumwalt

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not exempt from the State's ongoing housing crisis and must abide by its duty to Affirmatively Further Fair housing and remain committed to securing safe and affordable housing.

Respectfully,

/s/

Emmanuel Agraz-Torres, Policy Advocate
Leadership Counsel for Justice and Accountability

/s/

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Rebecca Pope

From: Brooke Frost <brookefrost@live.com>
Sent: Thursday, August 8, 2024 9:34 AM
To: HousingElement
Subject: Comment on Fresno Housing Element

External Email: Use caution with links and attachments

Hello,

Below are some comments on the housing element. I am a resident in southeast Fresno who is not a housing expert.

Program 21 - Advocate for Repeal of Article 34 - this references a ballot measure that occurred in March 2024, shouldn't the result status be included and the effect of whether the City will place its own measure on the ballot in a subsequent election? I realize this was first prepared before the vote, but since it is being resubmitted in August 2024, shouldn't it be updated?

Vacancy rate math adds up to more than 100%. You say 95.5% are occupied and 5.5% are vacant. Shouldn't it be 4.5% vacant?

Overpayment seems to not include any reference to increases after 2020. There have been significant housing cost increases since COVID and that is not reflected in this section. How can it be included? It seems the same is true for sub-standard housing. What seems to be happening is eviction to improve substandard conditions. But there is nowhere to go that is affordable. How is this to be reflected in the housing element?

In general, I don't see any reference to encouraging outreach for developers to use middle housing (duplexes, cottages/courtyards, 4 plexes) for infill in residential areas that are affordable and fit in better in residential areas. Everything doesn't need to be 3 or 4 story apartments.

Thank you.

Brooke Frost
559-288-4082



August 7, 2024

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room 3065
Fresno, CA 93721

Sent via email: housingelement@fresno.gov

RE: City of Fresno Draft 6th Cycle Housing Element

Dear Mayor Dyer, Councilmembers, and Ms. Zumwalt:

Leadership Counsel for Justice and Accountability (“LCJA”) and Public Interest Law Project (“PILP”) write in collaboration with local community residents and the undersigned organizations to submit this comment letter on the City of Fresno’s second Housing Element Draft 2023-2031. LCJA and the undersigned organizations work alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. We advocate for policy and practice changes to meet the housing needs of all residents in the City of Fresno, especially low-income residents and those with special housing needs, and to overcome fair housing disparities that impact low-income communities. Residents with whom we partner experience high rates of cost burden, escalating housing costs, reside in unsafe and unsanitary rental housing units, experience displacement risks, and are impacted by disparities in access to opportunity, including a lack of access to a healthy environment and public and private investment in critical infrastructure, services, and amenities.

Founded in 1996, PILP provides crucial litigation and advocacy support to local legal services and public interest programs throughout California. For more than two decades, PILP has fought for affordable and fair housing, access to public benefits, homelessness prevention,

and civil rights in partnership with low income communities, communities of color and legal services organizations throughout California. In the context of the Housing Element Law, PILP has been instrumental in the passage of legislation to strengthen that law, which has included the review and comment upon thousands of housing elements throughout the state to ensure access to affordable housing opportunities for California's residents who reside in lower-income communities.

The City of Fresno's 6th Cycle Housing Element Update presents a critical opportunity for the City to identify and address long-standing, wide-ranging, and severe housing needs and fair housing disparities that impact residents, disadvantaged unincorporated communities, and racially and ethnically concentrated areas of poverty ("R/ECAPs"), in particular, the Southwest, South Central and Southeast areas. Unfortunately, the Draft has failed to adequately address these disparities; therefore, we are providing the following comments that highlight further steps and actions the City must take to meet State Housing Element Law requirements. (Gov. Code § 65583 *et. seq.*).¹ We recognize the City made improvements in the second Draft, but we believe further revisions are necessary to substantially comply with Housing Element law. In particular, the City needs to continue to and further engage communities that have been historically left out of previous Housing Element Cycles, adopt and implement enforceable policies and programs with discrete timelines to meet the housing needs of all residents, and abide by its duty to affirmatively further fair housing ("AFFH"). (Gov. Code § 8899.50).

I. Failure to Demonstrate A Diligent Effort to Solicit and Incorporate Input from All Economic Segments of the Community and Protected Classes

As stated in our previous letters, and further reinforced by HCD in their February 1, 2024 letter under section E. Public Participation of their findings, the City must make a diligent effort to engage the community during the housing element revision process, including the organizations that represent low-income and special needs households, and describe how it incorporated community feedback into its Draft. Lastly, the City must make information readily available, during the development of the Housing Element. This includes the revision process.

Between February and July 2024, we attempted to communicate with the City to understand how and when it would engage community residents in their Draft revision process. Despite our multiple efforts, the City demonstrated an unwillingness to offer information. This greatly inhibited residents' ability to contribute to the development of the Draft; including two visually-impaired residents who requested large-font hard copies of the revised Draft to review and provide comments within the anticipated 7 day review period. Furthermore, the City did inform LCJA that the revised Draft had been posted to its website and was available for public comment and review until 5:00 pm on August 7, 2024; however, they neglected to include the

¹ Hereafter all Code sections refer to the California Government Code, unless otherwise noted.

deadline on the Housing Element webpage, thereby, failing to disclose limited review period to the public. By neglecting to make information readily available, and their lack of making a diligent effort to engage the community, or explain where it incorporated, or did not incorporate community feedback and public comments into the revised Draft, the City demonstrates that it fails to substantially comply with State law.

II. Failure to Adequately Analyze Housing Constraints

A. Governmental Constraints to Housing Development

While the City did address some of the concerns related to their analysis of governmental constraints, there still remains an incomplete analysis. As a reminder the City is required to have

“[a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, . . . and for persons with disabilities. . . including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need. . . and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.” (Gov. Code § 65583(A)(5)).

In our previous comment letters, we uplifted the need to identify constraints to the development of housing affordable to households at different income levels, as well as possible constraints to the development and maintenance of a variety of types of housing, unfortunately this recent Draft continues to fail in adequately analyzing these constraints.

1. Development Standards

“The housing element must identify all relevant land-use controls, discuss impacts on the cost and supply of housing, and evaluate the cumulative impacts of standards, including whether development standards impede the ability to achieve maximum allowable densities.”² The City added a Table 1E-4.6 which analyzes multi-family zone requirements for prototype site development and helps identify the ability to achieve maximum densities in the City’s multi-family zones. Unfortunately, this analysis is insufficient and does not address our previous concerns regarding constraints associated with the widespread availability of single family

² HCD, Building Blocks, Land Use Controls, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/land-use-controls>.

zoning and the limited availability of high density zoned sites. The city continues to allow by-right single-family units more than multi-family affordable housing developments. Additionally, the City still permits single family uses by-right in many of the zones identified for increased high-density development: RM-1, NMX, CMX, RMX, CMS, CR, DTN, DTG. But multi-family units are not allowed in RS-1, RS-2, or RS-3 areas, despite the large majority of the City being zoned one of these zones, and where many high resource areas have developed. Duplexes are similarly constrained, they are excluded from RS-1, RS-2, RS-3, RS-4, and only allowed through conditional use permit in R-5.

2. Single Room Occupancy (SRO) Units, Emergency Shelters, Supportive Housing

Although we appreciate the City's amendment to the Single Room Occupancy (SRO) section to remove the "current limit of 15 guests in SRO units, as well as changing SRO to permitted use in RM-1, RM-2, RM-3, NMX, CMX, and RMX, and evaluating objective design standards for SROs to ensure that units are maintained and safe for all residents long term;" additional analysis must be done for emergency shelters and supportive housing. The City has a significant homeless population and a serious dearth of housing and shelter options to serve that population; it must analyze the constraints to building additional shelters to ensure that the unhoused population has access to housing. Little is said in response to supportive housing and whether it is allowed in any zone where multi-unit or mixed use development is permitted.

3. Parking

The Draft had previously amended the Development Code to remove parking minimums within a half mile of public transit, consistent with AB 2097. In the revised Draft the City added an action to reduce the parking standard for Residential Care, General. But once again failed to analyze whether its parking requirements act as a constraint on housing development, especially in downtown and along transit corridors. Parking requirements increase the cost of housing.³ The Draft states it "determines the required number of parking spaces based on the type and size of the residential unit and has found the required parking spaces to be necessary to accommodate the number of vehicles typically associated with each residence."⁴ The analysis ignores principles of induced demand and downstream effects of entrenching car-centric land use. The Draft implicitly acknowledges that parking increases costs and may not be critical as it allows waivers for parking requirements in affordable housing developments and other transit-friendly areas.⁵ The ad hoc basis of reduced parking requirements introduces uncertainty which can increase the overall cost and time delays in housing development. Once again, the City failed to

³ Green Trip. *Parking Database*: <http://database.greentrip.org/>.

⁴ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-10

⁵ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-10

include a program that would identify steps to remove this constraint, particularly in the development of affordable housing.

4. Risk Analysis and Distribution of Affordable Housing

Additionally, we want to reiterate the Draft's analysis of at-risk housing is incomplete and under-analyzes the risks to publicly assisted affordable housing and its distribution. The Draft identified 695 units at risk of conversion to uses other than low-income residential within 10 years from the housing element adoption deadline. Although the City considered the cost of replacing the at-risk units as required under §65583(a)(8), it failed to examine which pathway would be most appropriate for the City and what constraints, if any, would be associated with the pathway chosen.

Once again, we urge the City to analyze the lack of tenant protections, such as source of income discrimination outreach and education, rent stabilization, and just cause protections, and how they may operate as a constraint on the maintenance of housing available to lower income people and facilitate the displacement of lower income renters. The lack of these protections should be analyzed as a constraint on the maintenance of housing under Government Code section 65583(a)(5).

5. Accela

In Table 1E-2.3, the Draft identifies Accela, the City's land management software, as a barrier to the timely completion of multiple projects on which it is relying to accommodate its RHNA.⁶ The Draft should describe how Accela is creating barriers to the completion of new housing development—especially affordable development—analyze these barriers as constraints, and, if appropriate, add program language to reduce or mitigate any constraints caused by the system.

B. Non-Governmental Constraints to Housing Development

In addition to analyzing governmental constraints, the Draft must also analyze the potential and actual non-governmental constraints upon the maintenance, improvement, or development of housing for all income levels. Gov't Code § 65583(a)(6). Unfortunately, the second Draft continues to exclude such an analysis even though public comments have been submitted in response to this specific issue. The Draft failed to consider the effect of market forces, availability of financing, environmental concerns, and NIMBY opposition.

⁶ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-2-10 to 1E-2-11.

1. NIMBY Opposition

The Draft must include an analysis of NIMBY opposition to housing development. As a largely sprawling suburban City, Fresno is prone to local opposition to increased density from existing single-family homeowners that have preconceived ideas of the impacts of increased density on their neighborhoods. Further, the zoning code requires conditional use permits for duplexes and multi-family housing in some areas, making them especially susceptible to opposition and defeat from NIMBY residents.

NIMBY opposition is all too common and a pervasive issue when building multi-family projects in high resourced areas. The latest example: on July 25, 2024, the City Council voted (4-3) to uphold the Planning Commission's vote to reject the development permit application for a market-rate housing complex at the northeast corner of West Herndon and North Prospect Avenues (North of the City of Fresno). Even though this project is market-rate without any subsidy for people who cannot afford rent, comments were made that perpetuate stereotypes that have been mostly disproven— such as decreasing property value, increased crime rates and worsening traffic.⁷ This is just one example of how pervasive NIMBY-ism is in the City of Fresno and thus a significant reason to complete a full analysis of this constraint.

2. Environmental Concerns

Once again, the Draft failed to consider environmental constraints as part of its analysis under Gov't Code § 65583(a)(6). Environmental constraints may include limitations to water supply, nearby pollution, or infrastructure development. Per our previous comment letters, we have noted that the City of Fresno relies heavily on groundwater and surface water. As climate change makes water availability less predictable the City must analyze how an increased population and land use will affect water availability and whether water availability will eventually constrain growth. Additionally, the City must consider the infrastructure requirements of delivering water to a denser population. For example, the City estimates that downtown Fresno, where a large portion of new housing development is projected, currently requires significant water and wastewater infrastructure upgrades.

Again, we must reiterate the fact that the Draft failed to consider industrial and polluting industries' effect on future housing development. The City must also analyze as a constraint the proliferation of warehouses and other industrial uses in and around the City, particularly in South Fresno. These industrial and warehouse projects come with an enormous increase in vehicle traffic and worsen already very poor air quality. They also result in light, sound, and vibration pollution. Many of these projects are being approved next to residential development with no buffer, driving down housing value, and worsening housing conditions. The City must consider

⁷ Parsons, R. (2024, May 19). A Big Housing Project Gets Rejected. *Fresnoland*. <https://fresnoland.org/newsletter/a-big-housing-project-gets-rejected/>

warehouse and industrial use proliferation as a constraint, and identify impacts to residents. The City must then commit to adopting strong programs and policies with enforceable timelines to address the constraint.

Additionally, the City of Fresno has evolved as a car dependent City surrounded by heavy industry and highways. Therefore, future housing development will need to carefully consider placement and mitigation measures to avoid perpetuating environmental inequity.

III. Further Revisions and Analysis are needed to determine if the City’s Draft Includes Adequate Sites

1. Entitled and Permitted Units

The Draft adds information about the entitled and permitted units that the City seeks to credit against its RHNA obligation, but the information provided for multiple projects still remains inadequate to comply with the requirements of Housing Element Law.

Hotel/Motel Conversions—the Draft relies on four hotel/motel conversions to accommodate 211 units of its lower-income RHNA. However, the Draft is missing the requisite information and program language to claim credit for these units.⁸ Government Code 65583.1(c)(2)(D) allows credit for such units, but they must be converted with committed assistance from the City and be made available to people experiencing homelessness, and the Housing Element must include a program for the conversion(s). Table 1E.2-3 should be amended to specify the committed assistance *from the City* for each of these projects and to clarify whether each of them will be made available to people experiencing homelessness. Additionally, the City should add concrete program language to **Program 36 (Homeless Assistance)** to specify the committed assistance and other actions on the part of the City to facilitate hotel conversions and to ensure that the converted units remain safe and habitable over time. Additionally, for project P-23 (San Joaquin Hotel), Table 1E.23 does not describe the status of entitlement review for the 59 units on which the Draft relies; nor does it provide any information about build-out, phasing, or projected rents.

City-Caused Barriers to Completion—The City relies on project P-12, Fresno Rescue Mission RTC 2, to accommodate 49 units of its low-income RHNA. However, the Draft acknowledges that there is no phasing plan for the project and no expected completion date—there is no indication that this project can be completed during the planning period. Additionally, the Draft identifies “having difficulties with affordable housing contracts with the City” as a barrier to completion.⁹ The Draft should describe the “difficulties” and analyze the

⁸ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-2-5, 1E-2-9 to 1E-2-11

⁹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-2-8.

City’s role in creating or ameliorating project delays. Such analysis should inform program language to expedite the funding and development of affordable units.

Unsupported Affordability Assumptions for Moderate-Income Units—the Draft still lacks adequate information and analysis to support its assumptions regarding the affordability of market-rate units. Table 1E-2.2 does not include any information about the unit type, number, or density of rental units in projects it lists as examples. Table 1E-2.3 does not include information about the expected tenure of many of the projects, so it is unclear whether the units will be rental or for-sale; the draft does not provide any indication that new market-rate for-sale units will be sold at prices affordable to moderate-income households. By way of example, Table 1E-2.3 acknowledges that the City is “not sure of rents” for project P-8, a market-rate *gated* duplex community but nonetheless has switched its affordability projection since the prior draft from above-moderate to moderate-income without any justification. The City should provide additional information and analysis to ensure that its assumptions regarding the affordability of market-rate units are supported.

Ambiguous Entries—Several entries in Table 1E-2.3 include ambiguous or conflicting information about project timelines and projected affordability. For example, for project P-1, the Village at West Creek North, the Table identifies funding sources but then indicates that the “challenge is getting funded” and that the affordability levels “will be dictated by funding source.” It’s also unclear if the project is one development or multiple developments. This lack of clarity makes it difficult to assess whether the planned units will be available at the projected affordability levels during the planning period.

The City should provide additional information and analysis regarding recent and pending developments that it seeks to credit against its RHNA. Where there is not adequate information to support projections that a project will develop at a particular affordability level during the planning period, that project should be removed from the list, and the site inventory should be adjusted accordingly.

2. *Unsupported Capacity Projections*

The Draft adds information about sites in zones that allow nonresidential development—including 100% nonresidential development—but it still lacks adequate information and analysis to support its capacity projections, especially with respect to affordable development. For example, while the Draft notes that the City recently removed the absolute prohibition of ground-floor residential development in mixed use zones to facilitate the development of lower-income housing, it notes that “all five [commercial and mixed use] zones have some level of restrictions on ground floor residential uses in order to activate the sidewalk.”¹⁰ All of the pipeline projects listed in Table 1E.2-3 that have ground-floor

¹⁰ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-2-18.

nonresidential uses are market-rate projects. But the Draft does not indicate whether or not the sites identified in commercial or mixed use zones prohibit residential uses on the ground floor, nor does it analyze ground-floor restrictions as a potential constraint to affordable development.

Similarly, the Draft adds information about which commercial and mixed-use zones allow 100 percent non-residential development, but it does not describe whether the sites identified to accommodate the RHNA allow 100 percent non-residential development, nor does it break down past mixed-use development trends by zone. Draft, 1E-2.18 to 1E-2.19. While the summary table of “Project Examples” has been amended to cover 2018-2023 instead of 2018-2020, the Draft does not provide information about the projects themselves. It is therefore impossible to assess whether the capacity projections are supported by past and current development trends.

3. Non-Vacant Sites

The City continues to rely on non-vacant sites with a variety of uses—including residential, agricultural, parking lots, commercial buildings, and at least one “trucking” use--to accommodate its RHNA without the requisite analysis. The Draft adds examples of past development on sites with similar prior uses, but it does not include “an analysis of additional representative sites from the sites inventory” or “analyze recent development trends.”¹¹ It does not include any site-specific information to support its assumptions that existing uses will discontinue or that owners are interested in redevelopment. It also does not analyze any potentially negative impacts of replacing existing uses with new housing, including potential displacement of lower-income households caused by the demolition of existing, unspecified “residential” uses; the health and environmental justice impacts of housing development on sites with current or recent commercial, industrial, or “trucking” uses (e.g., site 823); or the loss of apparently active agricultural uses (e.g., site 2434, agricultural and farm stand).

4. Publicly Owned Sites

The City continues to rely on government-owned sites to accommodate a significant portion of its RHNA. Some of these are owned by the City and its Redevelopment Successor Agency, while others are owned by other government entities. The Draft does not describe any communications with the other government entities to gauge their interest in or ability to redevelop the sites—many of which have existing uses—with housing. It does not “discuss the status, remaining steps to be available for development and any known barriers to development in the planning period including leases for existing uses or relocation of existing uses.”¹² More information and analysis is needed to support the City’s assumptions regarding these sites.

¹¹ HCD 2/1/2024 Findings, p. 5.

¹² HCD 2/1/2024 Findings, p. 5.

With respect to City-owned properties, the City should strengthen **Program 17 (Surplus Public Lands)** to describe, not only how it will comply with the Surplus Land Act, but also proactive steps it will take to solicit and support 100 percent affordable projects on City and Successor Agency sites during the planning period.

5. *Large Sites*

The Draft adds further discussion of large sites but still fails to adequately support its projections for sites over 10 acres.¹³ The Draft provides examples of prior developments on large sites, but it is lacking information critical to understanding whether these examples support the City's assumptions regarding large site development. For example, it does not describe additional uses included in the project, timeline and phasing, or the percentage of the total site area that developed as residential v. commercial. Accordingly, the 60% residential assumption applied to large sites is not supported, nor is the assumption that units could be built within the planning period. Further, just comparing overall residential densities projected for identified large sites to overall residential densities for the large site examples indicates that the City is projecting generally higher densities for the sites than were realized in past projects, without explanation or justification.¹⁴ The City should provide additional information and analysis to support its projections, or it should revise its projections downward. Because the Draft relies so heavily on large sites to accommodate its lower-income RHNA, the City should revise **Program 5 (Large and Small Sites)** to adopt incentives for affordable development on large sites, rather than deferring the consideration of such incentives to a later date.

6. *Environmental Constraints*

Both community groups and HCD commented on the prior Draft's lack of analysis regarding environmental constraints to development of identified sites. The current Draft removes sites within Zones 1-4 of the new Airport Influence Area for Fresno-Chandler Executive Airport and indicates which sites are within the 100-year FEMA floodplain but does not provide any additional site-specific information regarding "shape, access, contamination, property conditions, easements, Williamson Act contracts, conservation easements, overlays and airport and military compatibility."¹⁵ It does not discuss the impact of adjacent freeways, industrial uses, or agriculture on site conditions, even though many identified sites have existing agricultural or commercial uses, and at least one has a highway on/off ramp.¹⁶ The Draft acknowledges the disproportionately severe environmental health conditions in the Southwest Fresno Specific Plan and Downtown areas, where the Draft identifies the bulk of sites for new housing, lower-income housing in particular.¹⁷ However, this recognition did not prompt a reevaluation of sites nor commitments to

¹³ See Gov. Code § 65583.2(c)(2)(B).

¹⁴ See Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-2-54 to 1E-2-61.

¹⁵ HCD 2/1/2024 Findings, p. 5.

¹⁶ See Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-7-47.

¹⁷ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-3-131.

place-based strategies to mitigate environmental hazard on or near identified sites. The City should review the site inventory, informed by community input, and revise as necessary to address environmental justice concerns with site identification. It should also commit to concrete actions to address environmental hazards in neighborhoods with existing and planned lower-income housing.

7. *Site Concentration and AFFH*

The housing element must identify sites “throughout the community,” consistent with the duty to affirmatively further fair housing.¹⁸ The Draft does not do so, instead acknowledging: “The distribution of sites across the city displays a concentration of lower-income housing in areas like Downtown and the West Area, while other areas like McLane and Woodward Park have a higher proportion of moderate and above moderate income housing, reflecting an unequal distribution of housing capacity across the city. This has the potential to exacerbate fair housing issues in Fresno by providing more capacity for lower-income housing in disproportionately impacted communities.”¹⁹ In other words, the Draft admits that the City’s selection of sites for new development during the planning period is inconsistent with its duty to affirmatively further fair housing.²⁰ In making this admission, the Draft references, in general terms, policies and actions elsewhere in the document, but it does not identify any specific program that will mitigate the acknowledged segregative impacts of the City’s chosen site distribution.²¹ HCD’s February 1, 2024, findings instructed the City to “add or modify goals and actions, specifically increasing housing mobility options and housing opportunities in high-opportunity areas.”²² However, the Draft’s programs to address these and other fair housing issues remain inadequate, as discussed in greater detail below. We strongly encourage the City to amend the Draft to include programs that will identify different sites, and directly invest in infrastructure in low-income neighborhoods.²³

8. *Electronic Sites Inventory*

As noted in HCD’s February 1, 2024, findings, the City must utilize HCD’s electronic sites inventory, but the current Draft does not. We encourage the City to create an electronic site inventory as soon as possible for ease of review by both HCD and community members.

IV. The Assessment of Fair Housing Fails to Comply with Section 65583(c)(10)

¹⁸ Gov. Code § 65583.2(a).

¹⁹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-3-127.

²⁰ See Gov. Code § 8899.50(b)(1) (“A public agency shall administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.”)

²¹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-3-127.

²² HCD 2/1/2024 Findings, p. 3.

²³ <https://www.transformfresno.com/wp-content/uploads/2021/06/transform-fresno-here-to-stay-report-english.pdf>

Government Code section 65583(c)(10)(A) requires that the Housing Element include an analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends; as well as Racially or Ethnically Concentrated Areas of Poverty (R/ECAP) and Racially or Ethnically Concentrated Areas of Affluence (R/ECAA). A complete assessment must identify key issues and prioritize contributing factors to fair housing issues; it must also point to the clearest fair housing issue trends and patterns within the jurisdiction as well as be detailed and comprehensive enough to develop strong actions and programs that will overcome and undo the identified fair housing issues. See AFFH Guidance, pp. 25.

Although we appreciate the City adding data, some historical context, and descriptions of the policies that have contributed to the formation of Racially and Ethnically Concentrated Areas of Poverty (R/ECAPs) and Racially or Ethnically Concentrated Areas of Affluence (RCAAs), the Assessment of Fair Housing (AFH) continues to fall short. It lacks an in depth analysis of and fails to incorporate public input as necessary to address the requirements set forth in Section 65583(c)(10) and does not achieve the requirement to ensure that the City AFFHs through its housing element.

A. Integration and Segregation and R/ECAP and Concentrated Area of Affluence Analyses Lack Required Detail

In our previous comment letters, we outline the gaps that render the AFH analysis incomplete (please see attachment A) such as failure to provide any data or analyze integration and segregation patterns for racial groups other than Hispanic/Latinos; failure to accurately or thoroughly analyze distribution of low- and high-income households across Fresno; the AFH's analysis of R/ECAPs and RCAAs fails to address "public participation, past policies, practices, [and] investments" as required. HCD Guidance, p. 33. Although the current Draft was amended on page 1E-3-27 to include bullet points outlining the policies and historical background that contributed to the creation of R/ECAPs it did not include an evaluation or analysis on why certain ethnicities or races live in certain areas or which past policies or practices led South Fresno to have a higher concentration of low-income households or households that are predominantly Hispanic/Latino and/or African American. Reports have shown that "the cultural evolution of resident identities and land-use purposes in Fresno includes a series of hostile land acquisitions imposed on Indigenous Americans, forced labor exploitation of Black farmers, unjust labor practices toward Brown migrants, and the socio-economic alienation of Hmong residents."²⁴

Similarly, the RCAAs section which is on page 1E-3-31 was only amended to include additional areas that are considered affluent such as North and Northeast Fresno neighborhoods

²⁴ Brown, B., Heer, N., Love, N., Pollard, K., Thomas, D. (2021, June 9). Here To Stay: A Policy-Based Blueprint For Displacement Avoidance in Fresno. *Thrivance Group*.
<https://www.transformfresno.com/wp-content/uploads/2021/06/transform-fresno-here-to-stay-report-english.pdf>

and McLane community area. Once again it fails to include an in-depth analysis of how and why these areas are high-resourced and more affluent, as well as the policies and programs that have led to creating and building opportunities. It goes on to include a list of characteristics and a list of programs that will promote inclusivity, affordability, and diversity in RCAAs. But without an adequate analysis of RCAAs and R/ECAPs, these programs will continue to fall short and therefore fail to comply with Government Code section 65583(c)(10)(A)(ii).

B. Incomplete Analysis of Disproportionate Housing Needs Based on Race, Ethnicity, Familial Status, Disability, and Income

The analysis of disproportionate housing needs must analyze needs relating to cost burden, overcrowding, substandard housing, homelessness and other factors for protected characteristics, including at least race and ethnicity, familial status, persons with disabilities, and income. § 65583(c)(10)(A)(ii); AFFH Guidance, p. 39. The requirement to analyze disproportionate housing needs is fundamental to achieving the purpose of the AFH to ensure that the housing element affirmatively further fair housing by identifying disparities impacting protected classes which have been subject to historic discrimination, describes the factors contributing to those disparities, and adopts meaningful actions that overcome patterns of segregation and address disparities in housing needs and opportunity for protected classes. Unfortunately, this recent Draft failed to satisfy this requirement once again.

In our previous letters (see attachment A), we made recommendations to include any information about the separate occurrence of overcrowding, cost burden, and substandard housing conditions based on race or ethnicity and provide any information at all about how these factors disproportionately impact Fresno residents based on familial status and disability. We also recommended that the Draft include information relating to familial status. We strongly urge the City to include information that reflects “local knowledge” or public input, which would strengthen the analysis with details about specific housing needs within the categories identified above and the scale of those needs in relation to others. Again, the City must supplement its disproportionate needs analysis to include the required demographic information and revise the AFH further to ensure its contributing factors and meaningful actions reflect that information.

The Draft acknowledges that homelessness in Fresno disproportionately impacts people of color—in particular Black residents of the City—and people with disabilities. However, it does not analyze the City’s role in causing the segregation and forced displacement of its unhoused residents. The City is in the process of amending sections 10-1703(a), 10-1707, 10-2101, 10-2204, 10-2205 of the Fresno Municipal Code, Relating to the Prohibition of Encampments in

Public Places, with a second reading of the ordinance scheduled for August 15, 2024.²⁵ The purpose of the ordinance is the increased criminalization of unsheltered homelessness within the City, and it explicitly removes any requirement that the City ensure that shelter is available before citing, arresting, or displacing unsheltered individuals from public space. Such criminalization makes it harder for unhoused people to access housing, shelter, employment, medical care, and other services. The Housing Element must analyze these practices, including the disproportionate impact of these practices on people with disabilities and people of color, and it must include programs to ensure that its law enforcement and policing practices are not creating or perpetuating “disparities in access to opportunity.” HCD AFFH Guidance, 69.

C. Incomplete Analysis of Displacement Risks

Although we appreciate the amendments in the Draft identifying tracts that are assigned the different levels of displacement, on page 1E-3-82, and a note stating that concentrated areas of poverty, lower medium income neighborhoods with greater populations of color and larger proportion of renter households are most sensitive to displacement, the Draft has once again failed to evaluate and analyze the impact displacement has on R/ECAP and protected classes and therefore has failed to incorporate meaningful policies and programs that will protect residents. The AFH’s displacement risk analysis falls short by failing to consider other relevant information relating to existing and potential housing cost pressures confronting low-income residents, residents of color, and other protected classes, as well as significant displacement risks associated with tenant protection limitations, City land use policies and practices, environmental hazards, and climate change. A complete displacement risk analysis must consider these and other relevant factors. See AFFH Guidance, pp. 40-43.

Additionally, we are extremely concerned that the Draft has removed the displacement risk assessment regarding climate disaster.

The risk of climate disaster can also put pressure on lower income communities. South Fresno neighborhoods have been impacted by a series of fires at warehouse, recycling, and other industrial facilities that have occurred during the increasing number of high and extreme-heat days over the past five years. Potentially toxic smoke from these fires has at times densely concentrated in South Fresno neighborhoods, which can make breathing difficult and unsafe for residents even within their homes with windows closed. pg. 1E-3-82.

As mentioned in our previous comment letters (see attachment A), the AFH’s Displacement Risk section should be revised to consider displacement risks associated with environmental hazards,

²⁵ MCC § 10-1703(a). Retrieved from:

<https://fresno.legistar.com/View.ashx?M=F&ID=13187124&GUID=01FAFD3D-FA86-4812-9928-3F4ECF7AECB4>

environmental disasters, and climate change, pursuant to HCD's AFFH Guidance. AFFH Guidance, p. 42. By removing this analysis the Draft fails to adhere to its AFFH duty. We urge the City to reinsert this section and build on this analysis to ensure implementation of strong programs that address the needs of communities impacted the most by climate disaster.

We must reiterate²⁶ that using The Urban Displacement Project's criteria alone is not sufficient to accurately describe displacement risks impacting residents associated with housing cost pressures. Although data for 2019 has been included, this time period does not capture the sharp and sustained escalation in housing costs (both rental and ownership) that occurred during the COVID-19 pandemic between 2019 and 2022.²⁷ Between 2017 and 2021, Fresno experienced the greatest rent increases of all large U.S. cities, with rental prices increasing nearly 39% during that time.²⁸ The City failed to include this vital analysis and therefore the AFH's displacement risk analysis must be supplemented with and revised based on more recent data in order to adequately fulfill this requirement. §65583(c)(10)(A)(ii); AFFH Guidance, pp. 39.

As previously stated, the "Displacement Avoidance Efforts" do not remedy the need for a complete analysis addressing the displacement risk factors above, including relevant City policies and practices, and the adoption of meaningful actions to address those risks. And although it mentions the City's Displacement Avoidance Plan (DAP) and the Here to Stay Report²⁹, we must once again ask that the AFH incorporate and consider relevant information and policy recommendations contained in that report.

1. Tenant Protection, Land Use, Environmental, and Climate-Related Displacement Risks Not Considered in the AFH Displacement Risk Analysis

A complete analysis of displacement risks considers not only displacement risks associated with housing cost pressures, but also other factors which result in housing instability, including factors relating to the adequacy of tenant protections, disinvestment, local land use policies and practices, environmental hazards, and risks associated with natural disasters and climate change. The Draft Housing Element considers none of these risk categories, yet, based on our direct work with tenants and low-income residents and residents of color, they represent real and significant risk factors for Fresno residents.

²⁶ See attachment A, previous comment letters from LCJA.

²⁷ CalMatters, Real estate prices soar during the pandemic, climbing 25% in parts of California, Dec. 5, 2020, available at <https://calmatters.org/california-divide/2020/12/real-estate-climb-pandemic/>

²⁸ Los Angeles Times, The Nation's Hottest Housing Market? Surprise – it's Fresno, Mar. 31, 2021, available at <https://www.latimes.com/homeless-housing/story/2021-03-31/fresno-rent-spike-taps-into-california-covid-housing-trends>

²⁹ Brown, B., Heer, N., Love, N., Pollard, K., Thomas, D. (2021, June 9). Here To Stay: A Policy-Based Blueprint For Displacement Avoidance in Fresno. *Thrivance Group*. <https://www.transformfresno.com/wp-content/uploads/2021/06/transform-fresno-here-to-stay-report-english.pdf>

Once again, we ask that the City incorporate the following analysis and assessment to the Displacement risk section:

- Address the adequacy of policies and resources to protect tenants from displacement as a result of eviction, harassment, and substandard housing and include additional and stronger policies and programs to protect tenants, including in particular more comprehensive and stringent rent control standards than those established by the state, just cause requirements for eviction, and right to return home for displaced residents.
- Analyze the success and effectiveness of the City's code enforcement programs.
- Consider the extent to which public and private disinvestment and unequal investment continues to impact low-income neighborhoods, neighborhoods of color, and neighborhoods with a high proportion of tenants and how disinvestment perpetuates and/or increases displacement risk in these areas.
- Consider the City's land use and permitting decisions which have directed and continue to allow for and promote the concentration of industrial and waste management facilities in and around neighborhoods in Jane Addams, Southwest Fresno, South Central Fresno (referred to by the Draft Housing Element as the "South Industrial Area"), and Southeast Fresno.
- Consider displacement risks associated with environmental hazards, environmental disasters, and climate change, pursuant to HCD's AFFH Guidance. AFFH Guidance, p. 42.

The City must revise the AFH to include a complete and accurate Displacement Risk analysis as described above and modify other sections of the Housing Element, including the AFHs contributing factors and meaningful actions to overcome disparities relating to access to a healthy environment associated with these land use patterns.

V. The AFH Fails to Consider Significant Disparities in Access to Opportunity to Multi-Modal Transportation Options, a Healthy Environment, and Quality Education

As a reminder, the AFH must include an analysis of disparities in access to opportunity. § 65583(c)(10)(A)(ii). Access to opportunity broadly encompasses the place-based characteristics which are linked to critical life outcomes, including "education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, recreation, food, and a healthy environment (air, water, safety from environmental hazards, social services, and cultural institutions). (AFFH Guidance, p. 34).

Although the previous Draft was amended to include some of the barriers to transit, unfortunately, the analysis continues to fail in comparing access to transportation opportunities based on protected characteristics; assess any disproportionate transportation needs for members of protected classes; provide important information about the adequacy of public transportation service in different areas of the City, protected classes, and low-income households; and entirely fails to consider access to other forms of transportation, including walking and bicycling.³⁰ The Draft states that, in order to “address these issues, the Housing Element includes a program to direct investments to address infrastructure and public service deficiencies in high-need areas including areas classified as high segregation and poverty, low resource, and moderate resource.” But without a comprehensive analysis, the City cannot create programs that will address the needs of communities living in R/ECAP.

As discussed in our previous letter, a complete analysis of access to a healthy environment should consider any impacts on access to a healthy environment associated with the zoning, siting and operation of polluting or toxic land uses in disadvantaged communities and with climate change. *Id.* at pp. 16, 73. It must also be informed by public input, which is especially important in Fresno given the high concentration of communities in low-income South Fresno neighborhoods of color that rank among the most burdened by multiple sources of pollution in the state. Once again, the current Draft failed to incorporate this analysis. City policies and practices have intentionally concentrated polluting and noxious industrial and waste management land uses in South Fresno neighborhoods and policies and practices remain in place that all promote the exacerbation of these patterns to the detriment of housing opportunities and quality of life for South Fresno residents. The City must fulfill a robust analysis to inform better policies and programs such as impact fees for a community benefit fund, public health impact reports, and cargo/freight prohibition and revenue tax.

The current Draft failed to include any additional analysis for educational opportunities. Per our previous comment letter, we urge the City to consider how policies, practices, and investments or disinvestments relating to access to green space, tree canopy, and climate resiliency (including adequate cooling and wildfire smoke protection) impact educational opportunities at schools, especially in low-income neighborhoods. The City must revise its analysis of educational opportunities to address these and other issues not addressed in the Draft Element and revise and add to its actions accordingly.

VI. Failure to Adopt Community-Identified Programs That Will Result in A Beneficial Impact During the Planning Period and AFFH

Program 1—Maintain Adequate Sites. HCD’s February 1, 2024, findings instructed the City to include program language to facilitate development of pipeline projects during the planning

³⁰ See our past comment letters, attachment A.

period, to monitor the progress of those projects, and to take alternative actions if the projects are not on track to be available before the end of the Sixth Cycle. The City has amended Program 1 to indicate that the City will “work with applicants of pipeline projects,” to “monitor the progress made on these sites,” and to reevaluate pipeline sites if their entitlements expire. However, this program needs more specific language about the concrete actions the City will take to facilitate the timely development of pipeline projects—especially affordable pipeline projects—and timelines for reevaluating sites when pipeline projects are abandoned or modified, as well as for when entitlements expire.

Additionally, prior comments stressed the importance of community outreach and transparency in site identification, including in future site identification to address changes in pipeline projections and/or no-net-loss issues. The City should add commitments to this program to ensure that it is seeking, receiving, and acting on community input regarding the identification of new sites. Local knowledge and input regarding proposed sites can help ensure that the City is identifying sites in a way that encourages affordable development, avoids environmental harms, and promotes racial and economic integration.

Program 2 – Variety of Housing Opportunities in High Resource Areas. The City must go beyond their revision to “encourage racially and socially inclusive neighborhoods” and provide a detailed explanation on how it will promote the development of affordable units to lower income households. Furthermore, the program still lacks a clear commitment to zone sites for multi-family development in areas of high resource, a commitment to ensure that units are affordable to all income levels, and a commitment to match funding opportunities with the identification of available sites to facilitate their development. Although the Timeframe was revised to increase the number of units for high density-multifamily development in high resource areas from 750 to 1250, specifically by adding 500 additional units by December 2031, the timeline should still be shortened to ensure the City is making a clear effort to promote housing mobility and Affirmatively Furthering Fair Housing.

Program 3 – Encourage and Facilitate Accessory Dwelling Units and Small Homes. The revisions made to program 3 should have outlined the City’s intention to make the development of ADUs affordable to low-income families, specifically as a place-based revitalization strategy in order to AFFH. The City must also provide a definition for “small homes” that clearly explains how they differ from ADU’s. Furthermore, the City should do more than “subsidize” ADU inspection fees and keep the original language to “waive” these fees. Lastly, the revisions made to the objective should not exclude the development of ADUs for extremely-low and lower-income families and maintain its original goal to facilitate the development of 50 ADUs for these households while also keeping the revised goal to make 50 small homes available for lower-income households.

Program 9–Use of Sites in Previous Housing Elements. Government Code section 65583.2(c) requires that non-vacant sites identified in at least one prior housing element and vacant sites identified in at least two prior housing elements must be rezoned “to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households.” Because the City failed to adopt a housing element that substantially complies with Housing Element Law by April 29, 2024 (120 days from the City’s statutory deadline to adopt), it must complete that rezoning within one year of the City’s statutory deadline to adopt. Gov. Code 65583.2(c). Accordingly, the timeframe for this Program must be amended to ensure that rezoning will be complete by December 31, 2024.

Program 11 – Incentives for Housing Development. Although the program to incentivize housing development was revised to include access to resources “for lower-income residents, and promote racially and socially inclusive neighborhoods,” when working with multifamily and affordable housing project developers it still lacks a clear commitment towards actions taken to complete the program. Furthermore, the City should do more than “consider additional incentives” and provide additional incentives as well as list all available incentives on a publicly accessible database. Lastly, in order to promote housing mobility and AFFH, the city must do more than “Consider incorporating the location of affordable housing in High Resourced Areas” and ensure the placement of affordable housing in these areas.

Program 14 – Partnerships with Affordable Housing Developers. Program 14 should be further revised to state that the City will “identify site opportunities for affordable housing in higher-resourced areas and areas with higher median incomes to reduce concentrations of poverty and improve access to resources.” Furthermore, when convening stakeholders to identify ongoing regulatory and funding barriers to affordable and mixed-income development, the City should include lower income households, special needs households and individuals in protected classes. (HCD AFFH Guidance pg. 20). The program should be amended to include strategies to combat NIMBYism, which has stalled and terminated several affordable housing projects in high resourced areas. The quarterly convenings should also be used to provide stakeholders with a report on the success of the program. Additionally, the time frame should be changed to bi-annual reporting throughout the planning period, bi-annual reporting review and assessment of potential funding opportunities, and quarterly convenings with stakeholders. In order to truly integrate communities this program must be amended. (HCD AFFH Guidance pg. 12).

Program 17–Surplus Public Lands. The City should review and revise Program 17 to ensure that it complies with the Surplus Land Act. HCD’s just-released [Updated Surplus Land Act Guidelines \(Aug. 1, 2024\)](#) can be a helpful resource. For example, the current Draft replaced 15 percent with 10 percent in describing the minimum percentage of affordable units in developments built on surplus land, but the Act requires 15 percent affordable units in projects of 10 or more units. *See* HCD SLA Guidelines, p. 28. Additionally, the reference to evaluating

surplus sites for “other community-serving uses” prior to disposition under the SLA is ambiguous but could be read to indicate that the City plans to attempt to use surplus City-owned sites for commercial or other uses in violation of the SLA.

Additionally, because the City has identified so many City-owned sites in its site inventory, this program should include proactive steps, beyond the base requirements of the SLA, to facilitate affordable housing development on those sites, especially sites in higher-opportunity areas. The list of potential sites, disposition and disposal strategy, and rezoning of city-owned sites are good first steps. *See* Draft 1E-1-23. Since land acquisition is one of the biggest challenges for affordable developers, these sites represent a rare and valuable opportunity for the City to facilitate the development of much-needed affordable housing.

Program 19 – Home Buyer Assistance. This action commits the City to “strive to support a total of 40 low- and moderate-income households with home purchases during the planning period.” These commitments lack specificity and do not ensure a beneficial outcome within the planning period. Without a complete and comprehensive AFH, it is impossible to create a meaningful and impactful Home Buyer Assistance program since they failed to analyze constraints, access to opportunity, past programs etc. We reiterate that this program must include additional commitments to ensure that low-income residents, undocumented residents, residents who speak languages other than English, and residents in racially and /ethnically-concentrated areas of poverty (R/ECAPs) have the opportunity to benefit from these funds. If the City had done their due diligence in engaging the community, they would have heard from residents that during the 5th Cycle planning period, residents without social security numbers or who faced language access barriers were unable to apply for the City’s homebuyer assistance program.

The City must amend this program, possible solutions include: ensuring that low-income residents are knowledgeable about the programs, undocumented residents are able to successfully apply for this program, including closing costs as part of funding packages. In order to ensure that residents living in R/ECAPs are targeted, we recommend the City create annual reports listing how many applicants were assisted, outreach efforts made and whether they live in R/ECAPs. Due to the concerns outlined above, the program as currently implemented and drafted fails to adhere to HCD’s AFFH Guidance that “actions must be specific with timelines, discrete steps and measurable outcomes to have a ‘beneficial impact’ during the planning period.”

Program 20 – Housing Choice Voucher Incentive Program. The revisions made to Program 20, Housing Choice Voucher Incentive program, did not incorporate meaningful actions with specific timelines and measurable outcomes that would result in a “beneficial impact.” The City should take steps to ensure that voucher holders face no discrimination or limitations. The City should do more than conduct HCV outreach to developments in high resourced areas and revise

this program to incorporate targeted community outreach and HCV advertisement in low-resourced to promote Housing Mobility throughout the City. Please refer to our previous letter, **Attachment A** for further recommendations regarding how to limit HCV discrimination.

Program 22 – Housing Rehabilitation. The current program fails to meet its AFFH duty. It does not address the needs of extremely low income residents and vulnerable populations such as undocumented residents. This program fails to address equity concerns, disparities, and neglects the needs of marginalized communities particularly in R/ECAP; and it fails to incorporate strong actions and concrete steps. The Draft states that it will aim to connect at least 80-120 lower-income households with rehabilitation resources during the planning period and complete a third of these in areas of concentrated poverty.” This is not enough. Proper AFH analysis would have shown that the most impacted are extremely low income households and therefore these should be prioritized with at least half or more than half. Additionally, once again we ask that this include rehabilitation in response to the negative effects of climate change such as weatherization, cooling mechanisms, like heat pumps, air conditioning, insulation and other cooling assets to increase resilience to extreme heat as part of the rehabilitation program.

Program 23 – Comprehensive Code Enforcement. Unfortunately, this program as written continues to fail to address critical housing issues since the last housing element cycle. The program should be revised to include actions around legally holding landlords accountable for retaliation, unlawful evictions, and harassment towards tenants who file code enforcement complaints such as a commitment to adopt a tenant anti-harassment ordinance. As stated, we recommend that the City adequately analyze code enforcement’s procedures and incorporate tenant feedback for a comprehensive code enforcement program.

Program 26 – Fair Housing Services. This program is vague. Although it states that the goal is to “mitigate impediments to fair housing opportunities throughout the city, with an emphasis on supporting the needs of populations and neighborhoods most impacted by fair housing issues,” it fails to establish timelines and concrete steps on how the City will achieve this. A full AFH analysis would have helped identify the needs of R/ECAP as well as strong milestones, objectives and timelines. Housing discrimination has been a pervasive issue in the City of Fresno and only those who have been impacted can inform this program, for example additional legal representation, landlord education on fair housing law, enforcement mechanism against bad landlords etc.

Program 27 – Environmental Justice. The City is already required to work on their Environmental Justice Element. In order to transform R/ECAP into areas of opportunity (AFFH Guidance, p.15), this program should focus on place-based strategies in R/ECAP areas such as Southwest, South Central and Southeast Fresno. Such actions must include land use changes to rezone industrial uses away from sensitive receptors, prohibit siting of polluting uses in

communities identified as R/ECAP and adding a moratorium on warehouses in these areas. As written, this current program and its actions fail to affirmatively further fair housing. (AFFH Guidance, p.54).

Program 28 – Equitable Community Investments. This program states that the City has “initiated multiple efforts to incentivize investment in established areas rather than in new growth areas,” they will focus on areas in the General Plan Figure IM-1 which have been identified as areas of priority for incentives and that they closely align with census tracts designated as areas of greatest need (high segregation & poverty, low resource, and moderate resource).” Unfortunately, the map only highlights areas, there is no analysis beyond the map. We strongly recommend that the City amend this program to prioritize South Fresno neighborhoods explicitly. South Fresno is identified as a R/ECAP, residents have continuously called for and advocated for increased investment for decades to support healthy housing, infrastructure, amenities and services. The program must include actionable items and strong commitments in order to comply with its duty to affirmatively further fair housing.

Program 29 – Equitable Engagement. The goal of this program is to “expand outreach and public education strategies to increase engagement amongst historically underrepresented populations and residents with the greatest need.” This action contains non-specific commitment and fails to identify measurable outcomes with respect to equitable engagement. This program is identified as one that will improve the quality of life and access to opportunities in R/ECAPs but fails to identify how exactly it will accomplish this.

Program 30 – Workforce Development. Although we appreciate changes to this program, we strongly encourage the City to include a program that targets the unhoused community. Residents have identified a systemic issue within the unhoused community when they receive keys to their new unit, where once they transition out of the shelter they are sent back out into communities, expected to get a job and maintain it without proper training on how to apply for a job, keep it and budget for their expenses. As written this program fails to integrate R/ECAP and R/ECAA.

Program 33 – Mobile Home Parks. Although we appreciate language that acknowledges the additional need of this specific group, it still falls short in fulfilling AFFH requirements. Once again, we request that the Draft address the need for heat resiliency such as weatherization and insulation especially to older mobile home parks by funding a mobile home park renovation fund for all mobile homes. This fund will help low income families with issues that they need to address due to inspection violations or other habitability concerns. The Draft must also include HCD’s Manufactured Housing Opportunity & Revitalization Program (MORE) as an additional funding source. These funds can be used for the acquisition, conversion to resident organization ownership, rehabilitation, reconstruction and replacement of mobilehome parks, as well the

remediation of health and safety items of both parks and individual mobile homes.³¹

Additionally, this program should include a commitment to penalize and fine mobile home park owners who are not providing adequate and safe conditions for their tenants. The 5th Cycle Housing Element included Program 10A, a similar program, that directed the City to “Conduct and publish an assessment of housing-related needs in mobile home parks through communications with residents and owners, identifying city, state, federal, and private resources available to address those needs.” The City must include an action in this program that finalizes this report, releases it for public input and implements MHP resident needs. The City must amend this program to fulfill their responsibility to AFFH, support quality of life and access to opportunity improvements for all mobilehome parks in Fresno.

Program 34 – Eviction Protection Program. In 2021, the City created their Eviction Protection Program (EPP) in response to communities’ advocacy for a comprehensive Right to Counsel Program. Despite heavy resident support, the City opted to establish a less comprehensive program which failed to address specific community needs. During this year’s budget hearing, the City shared data going back to 2021 showing the total number of tenants the City has supported - a total of 2,199 since the inception of the program; and a majority of them live in District 3, which is primarily a R/ECAP area. The data shows that the program has done the following:

- 364 people by preventing unlawful detainers filed,
- 597 People had their move-out time extended
- 107 people had the money owed to a landlord reduced
- 18 families helped with the Cash for Keys program
- 267 tenants remain in the home
- 293 Settlement with the landlord
- 580 Unlawful Detainers were prevented on the tenant's record
- 25 families had unlawful detainers removed from the record
- 18 Families, stopped lock-outs
- 186 people's unlawful detainers were successfully dismissed

Currently the City has allocated \$2 million to continue the program. Unfortunately, this is an inadequate response to vulnerable communities’ needs. The Draft’s revisions soften the commitment to this program by striking “implement” and replacing it with “seek funding” and notes that funding will end in 2025. We strongly recommend that the City improve the EPP by

³¹ California Department of Housing and Community Development. (2024). Manufactured Housing Opportunity & Revitalization Program (MORE). <https://www.hcd.ca.gov/grants-and-funding/programs-active/manufactured-housing-opportunity-and-revitalization-program>

adopting and implementing a comprehensive Right to Counsel program,³² create a permanent source of funding, and increase the annual funding for this program. The City can also include HUD's Eviction Protection Grant Program (EPGP) as an additional source of funding. This grant will fund nonprofit organizations and government entities to provide no cost legal assistance to low-income tenants at risk of or subject to eviction.³³ This City must improve this program in order to comply with AFFH law.

Program 36 – Homeless Assistance. Although we appreciate the Draft's amendment to establish a pilot program funded by Encampment Resolution Funding (ERF) to resolve the experience of unsheltered homelessness for people residing in encampments, we strongly urge the City to host additional workshops to engage directly with the unhoused community to include much needed programs such as:

- Providing mental health outreach by doing home visits, trainings on how to deal with family members who have severe mental illnesses, as well as offering educational tools such as pamphlets and other services
- Helping newly housed individuals who show symptoms of hoarding issues, continued care is essential for a recently housed individual in order for them to continue living in their unit and not face eviction
- Currently, the City provides stationary showers in locations where few unhoused individuals live. We recommend adding mobile bus showers, along with an outreach team to assist the unhoused community throughout the City
- Mental health services provided longer than 60 days. The City can collaborate with the County to create such a program
- Open detox centers that allow an individual to stay 24 hours a day, 7 days a week without a 10 day limit in order for them to seek assistance anytime of the day or night
- Create an advisory board or an oversight committee with diverse stakeholders that include a majority of individuals that work directly with the unhoused community for accountability and transparency regarding the decision making process for all homelessness funds
- Trainings for City staff that work primarily with the unhoused community that have mental health and substance abuse illnesses
- Create free sober living with job training and housing navigation for a year
- Use of emergency funds to support the outreach and care for unhoused children/youth with a response of 24 hours.

³² The Fresno Right to Counsel Coalition. (2020) Right to Counsel Proposal. Retrieved from: <https://leadershipcounsel.org/wp-content/uploads/2021/01/Fresno-Right-to-Counsel-Coalition-Community-Proposal.pdf>.

³³ Office of Policy Development and Research. (2024). Eviction Protection Grant Program. Retrieved from: <https://www.huduser.gov/portal/eviction-protection-grant.html>

- Development and implementation of shelter standards for all City-supported shelters to provide due process for shelter residents facing “exits” from shelters and to ensure that shelters are providing reasonable accommodations to individuals with disabilities.

Additionally, the Draft element lacks policies and programs that have been uplifted by community residents for decades, also identified in LCJA’s August 2023 comment letter (see attachment A). We strongly urge the City to incorporate community-identified programs listed below into the Draft before submitting to HCD.

- **Reinstate the Emergency Rental Assistance Program and Incorporate a Rent Stabilization and Just Cause Protection Ordinance.** Once again we must reiterate that the data from Figure 1E-3.31: Percent of Renters Overpaying, Fresno, 2014-2019 fails to capture data from the housing crisis that ensued after the pandemic. According to the U.S. Census Bureau’s 2021 American Community Survey data, 52% of all Fresno tenants renting are cost burdened and 92% of the 18,259 households that earn less than \$20,000 annually are rent-burdened.³⁴ The need for an Emergency Rental Assistance was created to respond to the needs of all residents but particularly those living in R/ECAP communities. This program was removed entirely from the July Draft to the November Draft and remains excluded in this revised Draft, even after continuous advocacy from residents. More than 19% of all households are cost burdened and more than 20% of all households are severely cost burdened. Additionally, the increase in rents are only exacerbating the housing crisis. This program would help R/ECAP communities as a placed based strategy.

Additionally, we recommend the inclusion of a Rent Stabilization and Just Cause Protection Ordinance, which will protect existing residents from displacement and preserve housing choice and affordability. (HCD AFFH Guidance pg. 74). We recommend the following:

- The City will implement a Rent Stabilization and Just Cause ordinance by December 2025 to protect tenants from unreasonable rent increases and unjust evictions, and develop a rental registry.
 - The City will establish a community workgroup to develop a rent stabilization and just cause ordinance draft by Winter 2025.
 - The City will conduct at least one community workshop to inform the development of the ordinance by Spring 2025.
 - The City will release a draft ordinance for public review by Summer 2025.
 - The City will adopt the ordinance by December 2025.

³⁴ Montalvo, M. (2024). Fresno Family Spends Over 30% of Its Income on Housing. Would Rent Control Change That? *The Fresno Bee*. Retrieved from: <https://www.fresnobee.com/news/local/article276839841.html>.

- **Inclusionary Zoning Ordinance.** In order to replace segregated living patterns with truly integrated and balanced living patterns and comply with local fair housing laws, the City must add stronger programs to their Draft. (HCD AFFH Guidance pg. 30). We strongly recommend that the City create and implement an Inclusionary Zoning Ordinance. Per our analysis on governmental and non-governmental constraints and AFH, the City's inadequate assessment does not provide sufficient information to create strong programs. Based on decades of experience, residents understand and want the City to adopt an Inclusionary Zoning program that would help the City reach its VLI and LI household units for this planning period. NIMBYism is a top constraint to build housing in Fresno, for example the *Martinez v. City of Clovis* case highlighted this issue. Advocates were instrumental in winning this case where the court required sites to be rezoned to accommodate the RHNA for lower income housing or for the RHNA carried over from the prior planning period must be made available at minimum densities as well as being available for development by-right...the Court decided that the City's failure to zone for multi-family housing also violated the City's AFFH duty.³⁵
- **Establish a safe maximum indoor air temperature for residential dwellings.** The Draft failed to complete an adequate AFH, site inventory analysis and a disaster-driven displacement risk analysis that assessed the impact of climate change on vulnerable communities particularly R/ECAP. As climate change exacerbates the intensity and longevity of heat waves, the City must take swift action to ensure the health and safety of all residents, but particularly at-risk populations such as children, senior citizens, people with disabilities, people with section 8, and people with autoimmune diseases. Therefore, we recommend the City include a program to establish a safe maximum indoor air temperature threshold for residential dwellings and a program to help facilitate the provision of cooling systems, such as heat pumps.
- **Urban Greening.** We strongly recommend the Draft include a program that addresses urban greening in order to transform R/ECAP into areas of opportunity. Urban greening should be used to create buffer zones for residential dwellings that are surrounded by polluting land uses to mitigate health impacts.
- **Citing Industrial Uses.** In order for the City to fulfill their AFFH duty, they must incorporate place-based strategies to encourage community conservation and revitalization. (AFFH Guidance, pg. 73). We recommend that the City include a program that limits placing housing projects away from heavy, light industrial uses or phasing out light/heavy industrial zones near R/ECAP. This will address the negative environmental, neighborhood, housing and health impacts associated with siting and operation of land

³⁵ Insert link to case.

uses such as industrial, agricultural, waste storage, freeways, energy production, etc. in disadvantaged communities. (AFFH Guidance, pg. 73).

- **Impact Fees.** We urge the City to include a program that places impact fees into a community benefit fund when polluting land uses and practices are placed near housing. The community benefit fund will create revenue and should be managed by the community directly impacted to dictate where funds will be allocated in order to transform R/ECAP and fulfill the City's AFFH duty.
- **Developing Public Health Impact Reports** for new industrial development in order to understand existing public health disparities and the potential of those conditions worsening as a result of industrial development, particularly in R/ECAP. 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 composed primarily by tenants, low-income homeowners, and at-risk populations to ensure implementation meets the needs of most at-risk communities.

Including the program recommendations listed above will ensure the City reaches state law compliance on their Housing Element and ensure programs and policies have clear timelines, metrics and Affirmatively Further Fair Housing. We reemphasize the need for the City to identify funding sources for all programs to ensure they will effectively be implemented in the upcoming years.

VII. Conclusion

The undersigned organizations welcome the opportunity to continue collaborating on the City of Fresno Housing Element Update to ensure the housing needs of all residents in the City are met in the upcoming years. Housing is an essential component of everyday life and tenants

Michelle Zumwalt

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who live in fear of losing their homes suffer tremendously, not just economically, but mentally and physically as well. California is currently facing a devastating housing crisis and the City of Fresno has a responsibility to ensure residents throughout the City live in safe, equitable and healthy housing.

Respectfully,

/s/

Jovana Morales Tilgren, Housing Policy Coordinator,
Leadership Counsel for Justice and Accountability

/s/

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Julian Mosley, Chair
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City of Fresno Community Residents

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August 7th, 2024

Michelle Zumwalt
Planning and Development Department, City of Fresno,
2600 Fresno Street, Room 3065, Fresno, CA 93721

On behalf of the California Apartment Association (CAA), I reiterate CAA's support for the Fresno County Multi-Jurisdictional Housing Element Update as currently written and as a follow-on to our letter from August 2023. The Housing Element update's core goals and proposed policies reflect the importance and urgency of developing housing across Fresno County that is affordable and available to families of all income levels. CAA looks forward to working with all jurisdictions in successfully implementing this plan's goals.

CAA appreciates the work Fresno County, the incorporated cities of Fresno County, and the Council of Governments have done on this Housing Element update. CAA looks forward to working with all stakeholders in the passage and implementation of the Multi-Jurisdictional Housing Element in its current iteration.

Sincerely,

Greg Terzakis
Senior Vice President



April 12, 2024

Michelle Zumwalt, Architect
Planning and Development Department, City of Fresno
2600 Fresno Street, Room 3065
Fresno, CA 93721

Sent via Email

RE: State Noncompliance Findings for the City of Fresno's Revised Public Review Draft 2023–2031 Housing Element

Dear Ms. Zumwalt:

Leadership Counsel for Justice and Accountability (LCJA) works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. We submitted letters in October 2022, August 2023, and December 2023 (attached in same email) to comment on the November 2023 Revised Draft Housing Element submitted to the California Department of Housing and Community Development (HCD) on November 3, 2023 (the Draft). We appreciate the City of Fresno taking the time to read and respond to our comments. There are, however, substantial revisions needed before the second draft is released, including addressing community concerns and

priorities and adhering to the requirements in HCD's Noncompliance Findings Letter from February 1, 2024.¹

I. The City Must Engage the Community Throughout the Housing Element Draft Revision Process

The City must meaningfully engage all economic segments of the community in varied ways that consider the diverse and unique needs of community members. Gov't Code § 65583(c)(9). As stated in our previous letters, the Draft was not informed by adequate engagement. HCD's Noncompliance Findings require the City to adequately engage community residents in disadvantaged communities—specifically, the residents in Southwest, South Central, and Southeast Fresno, the mobile home park communities of Three Palm and Jane Addams, and the community-based organizations that represent them—as the City revises its Draft. HCD Appendix at 9. LCJA has not been made aware of any effort by the City to conduct community engagement or inform residents of its statutorily mandated Housing Element revisions to date.

We recommend the City engage the community in the following ways: (1) conduct workshops in impacted communities² at various times, including outside of the typical working hours of 5 AM – 6 PM; (2) provide multilingual materials and translation services (e.g., Spanish, Hmong, Punjabi); (3) provide helpful services to facilitate more inclusive engagement (e.g., child care services, meals, transportation); (4) supply a mix of in-person and virtual engagement opportunities; and (5) conduct varied, targeted, and multilingual outreach considering the unique needs of individual communities (e.g., mailers, local neighborhood newsletters, leaving materials in community spaces, bilingual radio ads). *See* AFFH Guidance at 11. Without this engagement, the City will not be able to adopt a compliant Final 6th Cycle Housing Element.

II. The City Must Complete an Analysis of Fair Housing and Constraints

A.B. 686 (Cal. 2018) addresses discriminatory land use and housing policies and practices by imposing an independent state mandate expanding the duty of all California's public agencies to

¹ Letter from the Department of Housing and Community Development to Michelle Zumwalt, Architect, Planning and Development Department of the City of Fresno (Feb. 1, 2024), <https://fresnomjhe.com/wp-content/uploads/2024/02/fre-fresno-draft-out-020124.pdf> [hereinafter HCD Letter]; Letter from the Department of Housing and Community Development to Michelle Zumwalt, Architect, Planning and Development Department of the City of Fresno app. (Feb. 1, 2024), <https://fresnomjhe.com/wp-content/uploads/2024/02/fre-fresno-draft-out-020124.pdf> [hereinafter HCD Appendix].

² *E.g.*, Southwest, South Central, and Southeast Fresno and the mobile home parks of Three Palms and Jane Addams..

AFFH and also ensures local jurisdictions comply with new housing element requirements. Gov't Code § 8899.50; *see* AFFH Guidance at 7. In order to ameliorate past actions that led to inequity, decisionmakers must create land-use and funding policies to increase affordable housing in high resource neighborhoods and bring additional resources to traditionally under-resourced neighborhoods. AFFH Guidance at 6. HCD has stipulated certain inadequacies with the City's AFFH duty and housing element requirements which require revision for the City to be found in compliance for its 6th Cycle Housing Element. *See* HCD Appendix at 1–3, 8.

The November Draft and the City's plans and discussions to date regarding the 6th Cycle Housing Element and its implementation do not AFFH and are *materially inconsistent* with this duty. Gov't Code § 8899.50; *see* AFFH Memo at 1; AFFH Guidance at 8–9. For example, please see the discussion regarding the exclusion of resident priorities in the City's creation of its programs *infra* Section I. In addition, the City has recently engaged in problematic rhetoric around the 2023 Annual Progress Report on its 5th Cycle Housing Element, its RHNA, and the 6th Cycle Housing Element drafting: The City has reiterated it is not prioritizing affordable housing production; it is *not willing to create the necessary conditions* to facilitate its development; and it is subjecting itself to the consequences³ of a noncompliant housing element, including shorter rezoning deadlines, possible legal enforcement, and *forfeiture of millions of dollars* in development funding.⁴ Through these actions, the City has violated its broad AFFH Duty. HCD's Findings, which the City has not prioritized or taken seriously,⁵ compel the City to discuss how it complies with fair housing laws, including the City's broad duty to AFFH. HCD Appendix at 1; *see* Gov't Code § 8899.50. The City must critically examine its past and current policies and practices (including City staff's rhetoric, characterization, and actions regarding state housing and civil rights laws) and ensure its 6th Cycle Housing Element, in accordance with HCD's Findings, fulfills its duty to AFFH.

³ HCD Letter at 1–2.

⁴ *See* Hearing to Receive Public Comment on the 2023 Housing Element and General Plan Annual Progress Reports, City Council Meeting, City of Fresno (Mar. 21, 2024), https://fresno.granicus.com/player/clip/1603?view_id=1&redirect=true [hereinafter 3/21 CC Meeting]. During this meeting, the City presented its 2023 Housing Element Annual Progress Report (APR). Sophia Pagoulatos, the Senior Manager of Long Range Planning (LRP) for the City's Planning and Development Department gave a presentation covering an overview of the APR, including discussing what the housing element is, the five main objectives of the City's housing element, the City's Regional Housing Needs Allocation (RHNA) data, housing applications processed, affordable housing in the pipeline, highlights about programs, and outreach. This presentation was followed by public comment and council members' response to the public comment.

⁵ *See* 3/21 CC Meeting *supra* note 4. The City delayed in notifying City Council and the public that it was out of compliance with its 6th Cycle Housing Element, showing they are not serious with complying with state housing and civil rights laws.

A. The City must adopt programs that address disproportionate housing needs, result in a beneficial impact, and affirmatively further fair housing.

HCD finds that the City fails to evaluate the characteristics of Racially and Ethnically Concentrated Areas of Poverty(R/ECAP), their “changes over time, comparisons to other neighborhoods in terms of equitable quality of life and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.” HCD continues to state that most of the Southern portion of the City is an area of High Segregation and Poverty that was not properly analyzed and therefore the City failed to include significant and beneficial actions, including place-based strategies toward community revitalization that are targeted towards these areas.

In order to Affirmatively Further Fair Housing(AFFH), the City must engage communities and incorporate policies and programs that address their needs, but specifically decrease the trajectory of continual concentrated areas of poverty. Outlined below is a list of community-based priorities we submitted on October 3, 2022 that the City should include in the second draft.

- 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
- 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
- Inclusionary Zoning Ordinance
- Industrial Zoning Moratorium for heavily burdened low income residential areas
- Future Industrial Zoning siting prohibited near underserved communities - placing housing sites away from heavy, light industrial uses or phasing out light/heavy industrial zones
- 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 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, including weatherization and climate resiliency needs, to improve indoor and outdoor air quality, and to expand access to green space
- Establish a safe maximum indoor air temperature for residential dwellings
- 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
- 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.

HCD notes that the element must reevaluate the patterns and trends of Racially Concentrated Areas of Affluence (RCAA) in the City and, depending on the outcome of the analysis, implement or modify meaningful programs that take action to promote housing mobility in the city such as:

- Anti Discrimination and Harassment Renter Protections
- Development of more affordable housing rental units in High Opportunity Zones of Affluence

- Prioritize Suitable vacant land for development of affordable purchasable housing builders ie: Habitat for Humanity or Self Help Enterprises

Additionally, section C-2 in HCD's findings state that, "based on the outcomes of a complete analysis" the element must make specific efforts towards programs that include the housing needs of Farmworkers. Community members highlighted the benefit of a program that informs Farmworkers of their rights in a way that is accessible to them. A program such as this would involve:

- Employing a bilingual/multilingual outreach team that reasonably operates outside of the typical working hours of a Farmworker.
- Implementing Outreach Methods that meet Farmworkers where they are without fear of hostility or inquiry of legal status in spaces frequented by Farmworkers (i.e Fresno Cherry Auction, Resource Fairs that take place in heavily impacted communities.)

B. Governmental Constraints

The City must also identify constraints to the sites identified for potential housing as required by Gov. Code § 65583(a)(5), and abide by its duty to Affirmatively Further Fair Housing ("AFFH") by "not only [conducting] an analysis of site capacity to accommodate the RHNA, but identif[ying] sites [that] serve 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." HCD AFFH Guidance, p. 12, Gov. Code § 8890.50. subd. (b).

Depending on a complete analysis of potential Government constraints, the city may have the opportunity to revise or add programs and potentially "address and remove or mitigate any identified constraints". Section B4 of HCD's Findings list Land use controls, Local processing and permit procedures, and on/off site improvements, and Constraints on Housing for Persons with disabilities (Residential Care Facilities, land use controls, and Reasonable accommodations appeals). In our previous housing Element Community meeting, residents identified the following priorities that could be developed into programs that meaningfully address governmental constraints.

- Allowing higher-density units in high resourced areas
- Supporting multi-family developers who are in competition with single family developers for the same sites
- Reduced permitting timelines for multi-family developments

- The City should commit not only to removing the limit on the number of units that can be contained in an SRO but also add it as a permitted use in the following zones: RM-MH, RM-2, and downtown while removing conditional use permit requirements from RM-2, RM-3, NMX, CMX, and RMX.
- Changes to the Muni Code section 15-2729, which will remove constraints on the development of emergency shelters
- Programs to support at-risk housing

III. Conclusion

We urge the City to address the issues outlined in this letter and previous letters submitted by LCJA and HCD. We look forward to discussing them with you and continuing to work with the City to ensure that it adopts a Housing Element that fully complies with the law and addresses the serious housing needs and disparities that impact City of Fresno residents.

Sincerely,

Emmanuel Agraz-Torres
Housing Policy Advocate, City of Fresno
Leadership Counsel for Justice & Accountability



Jasmine Robinson
Legal Advocate/Legal Fellow Sponsored by Weil, Gotshal & Manges LLP
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Housing and Community Development

Jose Ayala, Housing Policy Specialist, California Department of Housing and
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Robert Swanson, Deputy Attorney General, Department of Justice—California Attorney
General's Bureau of Environmental Justice

Lucas Williams, Partner, Lexington Law Group



December 12, 2023

Michelle Zumwalt, Architect
Planning and Development Department, City of Fresno
2600 Fresno Street, Room 3065
Fresno, CA 93721

Sent via Email

RE: City of Fresno's Revised Public Review Draft 2023–2031 Housing Element

Dear Ms. Zumwalt:

Leadership Counsel for Justice and Accountability (LCJA) writes this comment letter in collaboration with the Public Interest Law Project (PILP) and residents of South Fresno neighborhoods impacted by the severe lack of decent quality, affordable, and permanent housing options, gaping disparities in access to opportunity in Fresno, and continued refusal of the City of Fresno (the City) to meaningfully engage with residents, especially those in disadvantaged communities, and incorporate their priorities into city planning and policies. This comment letter addresses the November 2023 Revised Draft Appendix 1-E: City of Fresno in the Fresno Multi-Jurisdictional 2023–2031 Housing Element (November Draft).

LCJA works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. Through community organizing, research, communications, legal representation, and policy advocacy, LCJA influences land use and transportation planning, shifts public investment priorities, guides environmental policy, and promotes the provision of basic infrastructure and services. PILP works statewide to support local legal programs that address issues involving housing, land use, public benefits and homelessness. PILP has been providing substantive training, litigation support, and technical assistance in these areas for over twenty-five years.

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. 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. With laws such as A.B. 686 (Santiago, 2018) and A.B. 1397 (Low, 2017), 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 the City to ensure that these requirements are fulfilled and even exceeded in order to create the change we want to see in the San Joaquin Valley.

Our comments below highlight further steps and actions the City must take to meet state Housing Element Law, Affirmatively Furthering Fair Housing (AFFH) law, and state and federal civil rights law requirements. We have also attached previous comment letters that we have collaboratively written with other community-based organizations (CBOs) regarding the City's 6th Cycle Housing Element (2023–2031) identified as Attachments A,¹ B,² and C.³ While the November Draft does include some revisions that address certain comments in our previous letters, many issues we and community members previously raised remain unaddressed. In short, the November Draft fails to meet Fresno's housing needs and relevant state statutory requirements in several different ways and the City must undertake the following:

- **Meaningful Public Participation**

- Conduct meaningful and varied community engagement, targeted outreach and consideration of the unique communities and populations served, especially communities with protected characteristics, before the final adoption of the Housing Element. *See* Gov't Code § 65583(c)(9); AFFIRMATIVELY FURTHERING FAIR HOUSING: GUIDANCE FOR ALL PUB. ENTITIES & FOR HOUSING ELEMENTS, CAL. DEP'T OF HOUSING & CMTY. DEV'T 18 (2021) [hereinafter HCD AFFH Guidance].
- Provide for meaningful ongoing public participation and incorporation of community priorities to facilitate implementation of housing-related policies throughout the 6th Cycle planning period. *See* Gov't Code § 65583(c)(9); HCD AFFH Guidance at 18.

- **Adequate Incorporation of Public Comments**

- Summarize all comments received—this includes information gathered in stakeholder consultations, study sessions, community workshops, the community survey, any public comments and comment letters received during city council meetings and received via email. *See* HCD AFFH Guidance at 22.
- Discuss the process the City used to prioritize the housing issues raised across all comments. *See id.*

¹ Comment Letter from Leadership Couns. for Just. & Accountability et al. to the Fresno Cnty. Bd. of Supervisors, the Cities of Fresno Cnty. City Councils, & Deputy Dir. Kristine Cai of the Fresno Council of Gov'ts (Oct. 3, 2022) (on file with author) [hereinafter Attachment A].

² Comment Letter from Leadership Couns. for Just. & Accountability et al. to Mayor Jerry Dyer, Fresno City Councilmembers, & Michelle Zumwalt (Aug. 16, 2023) (on file with author) [hereinafter Attachment B].

³ Comment Letter from Pub. Int. L. Project & Leadership Couns. for Just. & Accountability to Mayor Jerry Dyer, Fresno City Councilmembers, & Michelle Zumwalt (Aug. 16, 2023) (on file with author) [hereinafter Attachment C].

- Explain how the prioritized housing issues were incorporated into the Housing Element and acknowledge the housing issues raised in public comments that were not incorporated into the Housing Element and why. *See id.*
- **Analyze and Prioritize Constraints and Contributing Factors to Fair Housing Issues**
 - Analyze and prioritize governmental constraints on developing affordable housing. *See Gov't Code § 65583(c)(3); HCD AFFH Guidance at 52.* Ultimately, an analysis should be thought of as a detailed and critical questioning of anything complex in order to understand its nature, determine its features, and assess its progress or fitness. *See* discussion on the definition of the word analysis *infra* note 9. Specific analyses include, but are not limited to:
 - Impacts of current and planned zoning regulations.
 - Risks to publicly assisted affordable housing and distribution.
 - Impacts of the lack of tenant protections on the maintenance of housing.
 - Impacts of the implementation and enforcement of the building code.
 - Delays or restrictions in development resulting from required onsite/offsite improvement standards.
 - Analyze, *see* discussion on the definition of analysis *infra* note 9, and prioritize nongovernmental constraints that delay developing affordable housing. *See Gov't Code § 65583(c)(3).* Specific analyses include, but are not limited to:
 - Impacts of NIMBYs.
 - Risks of climate change, extreme weather, pollution, water instability, infrastructure development and other environmental constraints.
 - Effects of market forces and availability of financing.
 - Significance of land and construction costs.
 - Analyze, identify, and prioritize all fair housing issues and contributing factors—considering community input, the Local Assessment of Fair Housing (AFH), and the sites inventory—especially considering the addition of data in the November Draft providing evidence of more housing issues but a failure to identify any new contributing factors. *See HCD AFFH Guidance at 25.*
 - Justify the implementation programs with meeting the needs addressing the contributing factors to fair housing issues—this means linking the contributing factors to policy and meaningful actions. *Gov't Code § 65583(c)(10)(A)(iv); see HCD AFFH Guidance at 12.*
 - Analyze how 5th Cycle Housing Element programs have continued segregation and not adequately facilitated integration, healthy communities, and access to opportunity. *Gov't Code § 65583(c)(10)(A)(iii); see HCD AFFH Guidance at 46.*
- **Adequate Sites and AFFH Compliance**
 - Analyze the viability of non-vacant sites and large sites. *See Gov't Code §§ 65583(c)(1); 65583.2; HCD AFFH Guidance at 12.*
 - Provide evidence of approval during the projection period credited against the Regional Housing Needs Assessment (RHNA). *See Gov't Code § 65583(c)(1).*

- Analyze environmental constraints on the overall availability of inventory sites. *See* Gov't Code § 65583(5).
- **Adequate Implementation Programs**
 - Add needed implementation programs that are reflective of community priorities—this includes priorities from a recent LCJA Community Meeting on December 5, 2023, previous comment letters, and public hearings and workshops. *See* Gov't Code, § 8890.50(a)(1), (b), (d); Gov't Code § 65583(c).
 - Revise implementation programs which are noncompliant with the Housing Element and AFFH laws regarding specific, concrete, enforceable actions with measurable outcomes, milestones, and timelines. *See* Gov't Code, § 8890.50(a)(1), (b), (d); Gov't Code § 65583(c).
 - Strengthen implementation programs to better constitute meaningful actions. *See* Gov't Code, § 8890.50(a)(1), (b), (d); Gov't Code § 65583(c).

I. The City Fails to Facilitate Meaningful Public Participation Infrastructure in Its Housing Element Practices to Promote Sustainable Community Involvement.

The preparation, adoption, and implementation of a housing element requires a diligent effort to include all economic segments of the community. Gov't Code § 65583(c)(9). The element must describe meaningful, frequent, and ongoing community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process for the overall housing element. Gov't Code § 65583(c)(9)–(10); Gov't Code § 8899.50(a)–(c). The City must proactively reach out to individuals and organizations that represent lower income households, people in protected classes, and households with special needs to develop open and mutual communication. HCD AFFH Guidance at 18. The City's November Draft does not demonstrate compliance with the statutory public participation requirements. A short outline of these issues includes:

- A failure to demonstrate meaningful and varied community engagement and effective meetings.
- A lack of effective targeted outreach and consideration of the unique communities and populations served.
- A lack of regard for ongoing public participation and consideration of residents' housing issue priorities.

As the CBO October 2022 Comment Letter highlighted, the City's public participation efforts should proactively and broadly be conducted through various methods⁴ to ensure access and

⁴ The California Housing and Community Development Department (HCD) provides guidance on approaches to public participation, including the following:

- Be proactive in reaching out to the community. Visit neighborhoods and participate in local events.
- Establish an ongoing housing-element update and implementation committee Use direct mail,

participation (e.g., holding workshops in disadvantaged communities and conducting effective outreach for them; conducting targeted outreach to special needs populations/protected classes; 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 residents). See Attachment A at 2–4. Successful public participation is important because a diverse cross section of the population can be engaged in defining the housing problem and in crafting solutions that work for everyone in the community.⁵

A. The Housing Element is Not Informed by Meaningful or Varied Engagement

The City lacks the ability to “maintain integrity” with the community by failing to “conduct effective meetings and establish rapport early” and by treating public participation requirements as an opportunity to “rubber stamp’ a predetermined objective or policy.”⁶ While the City did conduct a series of community workshops⁷ after its release of the July Draft, there is no evidence that this public engagement was meaningful for the community or provided an avenue to translate any of their priorities into concrete actions. The City did collect a lot of information, noting that these workshops provided almost two hundred comments,⁸ but there seems to be no analysis (defined by Merriam-Webster’s Dictionary as “a detailed examination of anything complex in order to understand its nature or to determine its essential features : a thorough study”),⁹ discussion, or even

radio ads, and local print or electronic media (such as neighborhood newsletters) to communicate opportunities to engage in the housing-element process. Always consider the composition of your target audience and use communication tools that are language-appropriate, culturally sensitive, and grade-level readability. Use creative methods to communicate the importance of all stages of the housing-element process. Use attractive direct-mail brochures and surveys to capture information. Consider mobile resources . . . Consider having barbeques or set up information displays at community events to enhance interaction with the public. *Public Participation*, CAL. DEP’T OF HOUSING & CMTY. DEV.: BLDG. BLOCKS: A COMPREHENSIVE HOUSING-ELEMENT GUIDE, <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation> (last visited on Dec. 7, 2023).

⁵ *Public Participation*, *supra* note 4; see also Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42272, 42293–94 (July 16, 2015) [hereinafter HUD’s AFFH Rule] (describing how all localities “shall ensure that all aspects of community participation are conducted in accordance with fair housing and civil rights laws” and that “community participation processes must consider the populations served, and where they are located, and they must choose public participation approaches that will reach the populations served”).

⁶ *Public Participation*, *supra* note 4.

⁷ The City conducted six community workshops between July 20 and August 9, 2023. See November Draft at 1E-i, 1E-6-2, 1E-6-3.

⁸ *Id.* at 1E-6-14.

⁹ It is important to note that an analysis is not a mere summary or description. It involves questioning a topic in more detail. Ultimately, an analysis should be thought of as a detailed and critical questioning of anything complex in order to understand its nature, determine its features, and assess its progress or fitness. Merriam-Webster’s Dictionary definition of analysis is: “a detailed examination of anything complex in order to understand its nature or to determine its essential features : a thorough study.” *Analysis*, MERRIAM-WEBSTER: MERRIAM-WEBSTER.COM DICTIONARY, <https://www.merriam->

acknowledgment of the importance of this feedback, following up with residents, or any effort to show that the City took the comments seriously and incorporated them into the November Draft.¹⁰ Community participation “means a solicitation of views and recommendations from members of the community and other interested parties, a consideration of the views and recommendations received, and a process for incorporating such views and recommendations into decisions and outcomes.” HCD AFFH Guidance at 64. Not communicating with the community about what happened to their feedback, where you are in the process and what final decisions are made can easily break the trust you are working to build through a robust community engagement process.¹¹

Additionally, the City provided limited direct engagement methods: community workshops and sending out a community survey.¹² The main source of direct engagement with residents was workshops and this does not constitute varied or creative methods to engage the community.¹³ Community members need to be engaged through a variety of forms so that residents who have less capacity to attend traditional meetings or are not as civic-minded have a chance to make their voices heard.¹⁴ We recommend focusing on building rapport and trust in the community, providing other forms of engagement outside of community meetings (e.g., guided tours of housing developments/sites, mobile sources, and attending community events), following up with residents after this engagement, and creating safe and accommodating spaces for community-focused public meetings.

The City should engage in more public engagement before its January 31, 2024 deadline for its adopted 6th Cycle Housing Element in order to be compliant with the statutory mandates under Government Code section 8890.50(a)(1), (b) and (d) and Government Code section 65583(c)(9). This engagement must be varied and meaningful. We recommend focusing on building rapport and trust in the community, providing other forms of engagement outside of community meetings (e.g.,

webster.com/dictionary/analysis (last visited Dec. 10, 2023). For further clarification, the word examine is defined as: “to inspect closely . . . to test by questioning in order to determine progress, fitness, or knowledge.” *Examine*, MERRIAM-WEBSTER: MERRIAM-WEBSTER.COM DICTIONARY, <https://www.merriam-webster.com/dictionary/examine> (last visited Dec. 10, 2023). And finally, the word inspect is defined as: “to view closely in critical appraisal : look over.” *Inspect*, MERRIAM-WEBSTER: MERRIAM-WEBSTER.COM DICTIONARY, <https://www.merriam-webster.com/dictionary/inspect> (last visited Dec. 10, 2023).

¹⁰ See *Public Participation*, *supra* note 4 (describing how localities should “[f]ollow up after each event. After holding a public forum or activity, establish a procedure to follow up with concrete action to address the community’s concerns. Be sure that all information relevant to the process is made available, either at regular meetings or by posting to a website. This will help to establish and maintain the jurisdiction’s credibility”).

¹¹ *Id.* provides helpful links to additional public participation resources; for one helpful resource, see *Pillar 3: Engage*, INST. FOR LOC. GOV’T: HOUSING & PUB. ENGAGEMENT TOOLKIT, <https://housingtoolkit.ca-ilg.org/post/pillar-3-engage> (last visited December 7, 2023).

¹² November Draft at 1E-6-1.

¹³ See *Public Participation*, *supra* note 4 (giving examples of creative engagement methods such as: mobile resources, barbeques, information displays at community events, guided tours of market-rate and affordable developments and sites being considered for housing development, training and education workshops, and computer simulations).

¹⁴ *Pillar 3: Engage*, *supra* note 10.

guided tours of housing developments/sites, mobile sources, and attending community events), following up with residents after this engagement, and creating safe and accommodating spaces for community-focused public meetings. We also recommend maximizing the efficiency of meetings by having the Housing Division promote involvement of all appropriate local departments to ensure interdepartmental issues are addressed in a comprehensive and efficient manner.¹⁵

B. The City Failed to Facilitate Targeted and Inclusive Outreach and Meetings.

Government Code section 65583(c)(9) requires that the local government 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 program shall describe this effort.” In addition, the Federal Department of Housing and Urban Development’s (HUD) AFFH 2015 Final Rule—which was “essentially preserve[d]” by the passage of California’s A.B. 686, HCD AFFH Guidance at 13—states the importance of localities outreach efforts, saying they should “tailor outreach efforts to ensure effectiveness given the populations in their areas . . . that will provide for meaningful actions . . . [Localities] should employ communications methods that are designed to reach the broadest audience, and that are conducted in accordance with fair housing and civil rights laws, including Title VI of the Civil Rights Act of 1964.” HCD AFFH Guidance at 16; 80 Fed. Reg. at 42295.

The City has failed to demonstrate adequate outreach and meetings inclusive of all sectors of the population. For the July/August community meetings, the City states its only outreach conducted was that city staff sent out four citywide email blasts and four social media posts. November Draft at 1E-6-13. The City provides no information on the adequacy of the outreach to all sectors of the community, providing no explanation regarding the demographics of their followers and subscribers or explanation what languages the information was presented in. This is problematic considering the demographic statistics: 28.3 percent of people, approximately 245,209 individuals, in Fresno County have limited-English speaking proficiency¹⁶ and 15.9 percent of households, approximately 28,000 households, lack access to internet in the City of Fresno,¹⁷ with these realities disproportionately affecting low-income neighborhoods and communities of color.

Furthermore, the City appears to not have offered translation services at the July/August meetings and did not indicate having provided materials at the meetings in multiple languages. November Draft at 1E-6-13 to 1E-6-16. These same issues—lack of adequate outreach, translation services at

¹⁵ *Public Participation*, *supra* note 4 (“For example, the public works department may be able to provide information about infrastructure issues, and the codes department may have information about the condition of the housing stock.”).

¹⁶ FRESNO CNTY. RURAL TRANSIT AGENCY, FRESNO CNTY. RURAL TRANSIT AGENCY’S TITLE VI PROGRAM: UPDATE 2023–2026, at 29 (2023),

<https://www.ruraltransit.org/wp-content/uploads/2023/07/FCRTA-Title-VI-2023-Final.pdf>.

¹⁷ Annalisa Perea, *Fresno Councilmember Seeks to Close the Digital Divide With More Internet Access | Opinion*, FRESNO BEE (July 25, 2023, 11:02 AM), <https://www.fresnobee.com/article277638528.html#storylink=cpy>.

meetings, and multilingual presentation materials—seemed absent at the City’s Events #2-10: Community and Stakeholder Meetings (October/November 2022) and Events #11-15: Community Workshops (February/March 2023) as well: The City provided no information or discussion on the availability of these facets in relation to these meetings. *See* November Draft at 1E-6-8 to 1E-6-13. This all stands in stark contrast to the detailed information regarding outreach and language accessibility related to Event #1: Community Workshop (August 31, 2022),¹⁸ in which outreach was described as varied, targeted, and multilingual, the meeting provided translation services and multilingual materials, and the meeting had refreshments and activities for kids. *See* November Draft at 1E-6-3. Thus, the Housing Element indicates that the City engaged in targeted, varied, multilingual outreach for Event #1 and nothing else for the remaining fourteen events. Such meaningful outreach efforts must be continuous throughout the Housing Element process: One meeting reflective of appropriate community engagement standards at the outset of the Housing Element’s development is inadequate and constitutes noncompliance with state law.

The City should engage in more public engagement before its January 31, 2024 deadline for its adopted 6th Cycle Housing Element in order to be compliant with the statutory mandates under Government Code section 8890.50(a)(1), (b) and (d) and Government Code section 65583(c)(9). The engagement must reflect that the City was diligent in its efforts to conduct outreach.¹⁹ We recommend utilizing more methods that will reach disadvantaged communities such as direct mail, radio ads, and local print or electronic media (such as neighborhood newsletters) to communicate opportunities to engage in the housing-element process.²⁰ Another strategy is to specifically target disadvantaged and special needs groups,²¹ many of which are identified in our previous comments. *See* Attachment A at 2–3. The City must always consider the composition of its target audience and

¹⁸ The City notified the community of this meeting with flyers distributed in English, Spanish, Hmong and Punjabi through the Fresno Council of Governments (FCOG) listserv of regional stakeholders and community-based organizations (CBOs), and through the Fresno Housing Authority. November Draft at 1E-6-3. Linguistic interpreters were available for Spanish, Hmong, and Punjabi monolingual speakers. *Id.* Materials in Spanish, Hmong and Punjabi were available in-person at the workshop and online at the project website, accessible via QR code. *Id.* An Eventbrite registration page and Facebook event was created advertising that Spanish, Hmong, and Punjabi language interpretation would be provided, along with refreshments, and activities for kids. *Id.* Flyers were sent out through the Fresno Housing Authority to affordable housing residents. *Id.* City staff distributed the event to the email lists that they maintain for General Plan updates and the Anti-Displacement Task Force. *Id.* Fresno City Community Affairs Representatives distributed the event to Hmong and Punjabi speaking communities. *Id.*

¹⁹ *See* HCD AFFH Guidance at 22 (“Outreach activities intended to reach a broad audience, such as utilizing a variety of methods, broad and proactive marketing, including targeted areas and needs, promoting language access and accessibility for persons with disabilities (which can include effective communication, reasonable accommodations, and remote participation opportunities), and consulting with relevant organizations.”).

²⁰ *Public Participation*, *supra* note 4.

²¹ *Id.* (listing the following as special needs and disadvantaged groups: “tenants in units at risk of conversion to market-rate, health- and human-service providers, homeless-shelter and mental-health service providers, places of worship, seniors, farmworkers, and non- and for-profit affordable housing developers”).

use communication tools that are language-appropriate, culturally sensitive, and grade-level readability.²²

The City must also revise the outreach section of its November Draft to “clearly describe efforts to engage the community throughout the housing element process (e.g., types of outreach, meetings)” related to its outreach methods and adequacy of translation and multilingual services for Community Meetings #2–15.²³ The November Draft must describe who was invited to participate, how they were invited to participate, which groups actually participated, and how the engagement provided an inclusive and accommodating environment for all sectors of the community to participate.²⁴ Finally, the City should anticipate all logistical concerns and address them, including: language barriers, transportation, meeting times, and child care.²⁵

Additionally, the City must revise the November Draft to include an explanation of why there was a lack of participation, particularly from disadvantaged groups, in its public participation process. The HCD AFFH Guidance states: “The element must describe . . . [a] [s]ummary of issues that contributed to lack of participation in the housing element process by all economic segments, particularly people with protected characteristics, if that proves to be the case.” HCD AFFH Guidance at 22. We recommend the City acknowledge its lack of inclusive, varied, and targeted outreach and engagement for its Community Meetings #2–15 to be in compliance with the guidance. Because the Housing Element “was developed without the required community participation or the required consultation,” HCD must find the City of Fresno’s Housing Element is “substantially incomplete.” *See* 80 Fed. Reg. at 42358.

II. The City Fails to Summarize Public Comments Received and How Those Comments Were Considered and Incorporated Into the Housing Element.

The Housing Element must “describe and incorporate meaningful engagement that represents all segments of the community into the development of the housing element, including goals and actions.” HCD AFFH Guidance at 21, 62. The City’s obligations to diligently engage all economic segments of the community and to AFFH through the housing element require more than just seeking input about the contents of the housing element. Gov’t Code § 65583(c)(9); Gov’t Code § 8899.50(a)(1), (b), (d). As discussed in our previous comment letters, inviting residents to provide input but failing to incorporate that input into the housing element undermines the purpose of resident participation in the housing element update, fosters distrust, and fails to constitute “engagement” as required by Government Code section 65583(c)(9) of the Housing Element Law. Attachment A at 4, 6; Attachment B at 1; Attachment C at 2–3, 13. In short, the City must:

²² *Id.*

²³ *Public Participation, supra* note 4.

²⁴ *Id.*

²⁵ *Id.*

- Summarize all comments received—this includes information gathered in stakeholder consultations and focus groups, study sessions with planning commissions, city councils, and the County Board of Supervisors, community workshops, the community survey, any public comments received during city council meetings related to the Housing Element, and all comments and comment letters received via email.
- Discuss the process the City used to prioritize the housing issues raised across all comments.
- Explain how the prioritized housing issues were incorporated into the Housing Element.
- Acknowledge the housing issues raised in public comments that were not incorporated into the Housing Element and why.

The HCD AFFH Guidance explains how housing elements must describe “a summary of [public] comments and how the comments are considered and incorporated (including comments that were not incorporated), particularly with changes to the housing element.” HCD AFFH Guidance at 22; *see* 80 Fed. Reg. at 42315, 42356, 42361–62, 42364. The November Draft fails to comply with the statutory and regulatory requirements regarding the summary of comments and reasons they were or were not incorporated. As happened with the July Draft, the November Draft provides some description of public input provided, its summary of public comments generally lacks sufficient detail for the reader to understand the nature of the issue raised or the solution proposed. *See* Attachment C at 2–3. The City fails to explain how it prioritized the housing issues raised in comments during the workshops, public comments received via email, and comment letters submitted by CBOs, including LCJA and PILP’s multiple comment letters. In addition, the November Draft, like the July Draft, fails to demonstrate the City’s incorporation of input provided and to identify input the City chose not to incorporate as required. *See* Attachment C at 2–3.

Thus, the City’s summary of comments—including comments from workshops, the survey, focus groups, comment letters, and comments received via email—explanation for prioritization of housing issues, explanation of how the comments were incorporated into the November Draft,²⁶ and “summary of any comments, views, or recommendations not accepted by the [City] and the reasons for nonacceptance” is grossly inadequate and must be revised. HCD AFFH Guidance at 22; *see* 80 Fed. Reg. at 42356. We recommend the City adhere to the statutory and regulatory requirements regarding the full summary of all comments received and explanation of incorporation (and lack of incorporation) of those comments.

²⁶ The City is expected to “[d]escribe the dates that the housing element and subsequent revisions were made available for public comment and how those comments were incorporated.” *Public Participation*, *supra* note 4.

III. The City Fails to Analyze and Prioritize Constraints and Contributing Factors—Including Ways the City’s 5th Cycle Housing Element’s Implementation Programs Fell Short—That Limit or Deny Fair Housing Choice/Access to Opportunity and Negatively Impact Civil Rights.

A. The City Fails to Analyze Governmental and Nongovernmental Constraints

Housing Element law requires an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels including land-use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.” Gov’t Code § 65583(a)(5)–(6); *see* HCD AFFH Guidance at 55; 80 Fed. Reg. at 42275, 42279. While the City did address our previous comment letter’s concerns regarding the parking requirements constraint analysis, Attachment C at 6–7, the November Draft fails to address the remaining constraints analysis issues from our comment letter and remains substantially out of compliance with the statutory and regulatory requirements regarding constraints analysis, justification, and creation of a program to remove those constraints. Gov’t Code § 65583(a), (a)(5)–(6), (c)(3); HCD AFFH Guidance at 52; *see also* discussion on the requirement for a program to remove constraints *infra* Section V.

The November Draft only made nine changes to the entirety of the constraints analysis. While the constraints section does adequately list laws, ordinances, and conditions, it lacks sufficient analysis (*see* discussion on the definition of the word analysis *supra* note 9) how these components could delay, prevent, or negatively affect the maintenance, improvement, or development of housing for all income levels. Any analysis given concludes that the constraints are limited or nonexistent. Listing constraints without analysis, however, will not result in meaningful action. The following references our previous comments that went unaddressed by the City in the November Draft:

- The Housing Element under analyzes the impacts of current and planned zoning regulations²⁷ on housing development. Attachment C at 4–5; *see* *Martinez v. City of Clovis*, 90 Cal.App.5th 193, 271 (2023); HCD AFFH Guidance at 55; 80 Fed. Reg. at 42310.

²⁷ It should be noted that courts have found civil rights violations regarding zoning ordinances with discriminatory effects. *Martinez v. City of Clovis*, 90 Cal.App.5th 193, 271 (2023) (holding a City defendant’s zoning ordinance violated the FEHA and the FHA by having a discriminatory effect—which includes a disparate impact and a segregative effect on protected classes—when housing opportunities were made unavailable for protected classes); *see* 80 Fed. Reg. at 42310 (“Zoning and land use laws that are barriers to fair housing choice and access to opportunity can be quite varied and often depend on the factual circumstances in specific cases, including zoning and land use laws that were intended to limit affordable housing in certain areas in order to restrict access by low-income minorities or persons with disabilities.”).

- The constraint analysis must examine what constraints exist to the development of: supportive housing, transitional housing, single-room occupancy units, and emergency shelters. Attachment C at 5–6; *see* Gov’t Code § 65583(c)(1).
- The Draft’s analysis of at-risk housing is incomplete and under-analyzes the risks to publicly assisted affordable housing and its distribution. Attachment C at 7.
- The City’s lack of tenant protections should be analyzed as a constraint on the maintenance of housing under Government Code section 65583(a)(5). Attachment C at 7.
- The City lacks analysis on nongovernmental constraints:
 - The Draft must include an analysis of Not-In-My-Backyard (NIMBY)²⁸ and other local opposition to affordable housing and housing development. Attachment C at 8; *see* HCD AFFH Guidance at 55.
 - The Draft did not consider environmental constraints as part of its analysis under Government Code section 65583(a)(6). Environmental constraints may include limitations to water supply, nearby pollution, or infrastructure development. Attachment C at 8–9.
 - The Draft failed to include an explanation of the effects of market forces and availability of financing.²⁹ Attachment C at 9.

Upon further review, we find additional places in the constraints analysis that are missing the requisite and required components as put forth by HCD:

- Describe how the building code is implemented and whether the process optimizes predictability for developers.³⁰
- Identify and analyze any local amendments to the state housing law or building code.³¹
- Discuss the type and degree of building code enforcement.³²
- Describe any efforts to link code enforcement activities to housing rehabilitation programs.³³

²⁸ Just this month, in December 2023, “[e]ven at the threatened loss of future state money, the Fresno City Council . . . sided with neighbors who said a hotel conversion near Fresno and Bullard avenues is the wrong place for affordable housing. Edward Smith, *Fresno Council Votes Down Affordable Housing Project in North Fresno*, GV WIRE (Dec. 8, 2023), <https://gvwire.com/2023/12/08/fresno-council-votes-down-affordable-housing-project-in-north-fresno/>. “Opposing councilmembers cited cost concerns and the view that affordable housing would bring blight to the area . . . Advocates for the project, however, accused the detractors of NIMBYism (not-in-my-backyard).” *Id.*

²⁹ *See* HCD AFFH Guidance at 53; 80 Fed. Reg. at 42346 (“A basic tenet of planning and performance management is recognition of ‘external factors’ and other barriers to achieving goals, and which are beyond an organization to control . . . Included in such considerations is the identification of funding dependencies and contingencies.”).

³⁰ *Codes and Enforcement of Onsite/Offsite Improvement Standards*, CAL. DEP’T OF HOUSING & CMTY. DEV.: BLDG. BLOCKS: A COMPREHENSIVE HOUSING-ELEMENT GUIDE, <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/codes-and-enforcement-and-onsite-offsite-improvement-standards> (last visited Dec. 10, 2023) [hereinafter *Improvement Standards*].

³¹ *Id.*

³² *Id.*

³³ *Id.*

- Identify and analyze improvements to street widths, curbs, gutters, sidewalks, water and sewer connections, landscaping, circulation improvement, and any other onsite/offsite improvement required by the jurisdiction that could potentially be a constraint to development of housing. In addition, the housing element must describe any generally applicable level of service standards or mitigation thresholds.³⁴
- Discuss the following nongovernmental constraints:³⁵
 - Land costs — Estimate the average cost or the range of costs per acre for single-family and multifamily-zoned developable parcels.
 - Construction costs — Generally estimate typical total construction costs, including materials and labor.
 - Availability of financing — Consider whether housing financing, including private financing and government assistance programs, is generally available in the community. This analysis could indicate whether mortgage deficient areas or underserved groups exist in the community. The financing analysis may also identify the availability of financing from private foundations (including bank foundations) corporate sponsors, community foundations, community banks, insurance companies, pension funds, and/or local housing trust funds.

Thus, the City is still under-analyzing or omitting required governmental and nongovernmental constraints analyses under Government Code section 65583(a)(5)–(6). Therefore, we recommend the City revise all subsections of its governmental constraints analysis in the November Draft as well as add the entirely missing nongovernmental constraints subsections of analysis.

B. The Housing Element Lacks Adequate Analysis, Prioritization, and Justification of Its Identified Contributing Factors and Evidence of Correlation to the Implementation Programs.

A.B. 686 both creates a broad duty to AFFH in policies and practices, Gov't Code § 8899.50(a)(1), (b), as well as advances a Housing Element framework of AFFH which requires linking fair housing issues analysis with policy and action formulation. Gov't Code § 65583(c)(10)(a)(iii). As we mentioned in our previous comment letter, the City is required to identify and prioritize contributing factors to fair housing issues based on all the previously required analysis (outreach, fair housing assessment, site inventory). Attachment A at 6; Gov't Code § 65583(c)(10)(a)(iii); *see* HCD AFFH Guidance at 12; 80 Fed. Reg. at 42279–80. This identification and prioritization must give highest priority to factors that limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights. HCD AFFH Guidance at 12. The November Draft is not in compliance with Government Code sections 8899.50(a)(1), (b) and 65583(c)(10)(a)(iii)

³⁴ *Improvement Standards*, *supra* note 30.

³⁵ *Non-Governmental Constraints*, CAL. DEP'T OF HOUSING & CMTY. DEV.: BLDG. BLOCKS: A COMPREHENSIVE HOUSING-ELEMENT GUIDE, <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/non-governmental-constraints> (last visited Dec. 10, 2023).

related to AFFH as its contributing factors are under-analyzed, not prioritized according to community priorities and local knowledge,³⁶ and not described in any way to show justification for linking the contributing factors to the implementation programs.³⁷

HCD has made clear the requirements regarding identification, prioritization, and justification of contributing factors as they relate to implementation programs:

Contributing factors should be based on all the prior efforts and analyses: outreach, assessment of fair housing, and site inventory. Contributing factors must also be prioritized in terms of needed impact on fair housing choice and strongly connect to goals and actions. The identification and evaluation of contributing factors must: Identify fair housing issues and significant contributing factors; [p]rioritize contributing factors, including any local information and knowledge, giving highest priority to those factors that most limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights compliance; and [d]iscuss strategic approaches to inform and strongly connect to goals and actions. HCD AFFH Guidance at 49.

While the City's November Draft has myriad revisions regarding data, statistics, maps, tables, and diagrams within its AFH,³⁸ it has failed to comply with its required statutory and regulatory requirements involving contributing factors. The following shows the components of the AFH and

³⁶ The Housing Element is informed by communities and residents of these communities will have the opportunity to weigh in on whether jurisdictions have accurately identified contributing factors and have established programs appropriate for identified contributing factors and related fair housing issues. *See* HCD AFFH Guidance at 49; 80 Fed. Reg. at 42288.

³⁷ The Housing Element must create programs for overcoming the effect of contributing factors as prioritized. *See* HCD AFFH Guidance at 49; 80 Fed. Reg. at 42288. For each program, the City must identify one or more contributing factors that the program is designed to address, describe how the program relates to overcoming the identified contributing factor(s) and related fair housing issue(s), and identify metrics and milestones for determining what fair housing results will be achieved. *See* HCD AFFH Guidance at 49; 80 Fed. Reg. at 42288.

³⁸ We acknowledge, specifically, that the City responded to our previous comment letters and added the following to its November Draft: (1) a short description related to development trends across income levels in its contributing factors to segregation section, November Draft at 1E-3-30; *see* Attachment C at 9; (2) data related to integration and segregation patterns for racial groups other than Hispanic/Latinos, November Draft at 1E-3-9 to 1E-3-13; *see* Attachment C at 13; (3) description regarding the distribution of low- and high-income households across Fresno, November Draft at 1E-3-14 to 1E-3-18; *see* Attachment C at 13; (4) information about the separate occurrence of overcrowding and cost burden based on race or ethnicity and information about how these factors disproportionately impact Fresno residents based on familial status, November Draft at 1E-3-62, 1E-3-63; *see* Attachment C at 14-15; (5) information relating to familial status of unhoused residents, November Draft at 1E-3-70; *see* Attachment C at 15; (6) consideration of the extent to which public and private disinvestment and unequal investment continue to impact low-income neighborhoods, neighborhoods of color, and neighborhoods with a high proportion of tenants and how disinvestment perpetuates or increases displacement risk in these areas, November Draft at 1E-3-85, 1E-3-86; *see* Attachment C at 18-19.

its determination and analysis of contributing factors—some identified in our previous comment letters and incorporated by reference herein—that need to be revised in the November Draft:

- **Integration and Segregation**
 - The AFH’s analysis of R/ECAPs and RCAAs fails to address “public participation, past policies, practices, [and] investments” as required. HCD AFFH Guidance at 31; *see* Attachment C at 14.
- **Disproportionate Housing Needs**
 - The AFH does not include any analysis, or even acknowledgement of, housing needs of undocumented immigrants. *See* Attachment C at 3.
 - The November Draft, while noting a difference between communities of color and predominantly white communities as it relates to overcrowding and cost burden, fails to identify the separate occurrence based on individual race or ethnicity. *See* Attachment C at 14–15.
 - The November Draft includes no information about the occurrence of substandard housing conditions based on race or ethnicity. *See* Attachment C at 14–15.
 - The November Draft fails to provide sufficient information about how overcrowding, overpayment, and substandard housing conditions disproportionately impact Fresno residents based on familial status³⁹ and disability. *See* Attachment C at 14–15.
 - The analysis does not adequately reflect local knowledge or public input. *See* Attachment A at 6.
- **Displacement Risk**
 - The AFH’s displacement risk analysis must be supplemented with and revised based on more recent data—the data used is from 2012–2017; the City should use data at least from 2019 and later, with preference for more recent data. *See* Attachment C at 16.
 - Must identify and evaluate the expiration of affordability covenants attached to Low-Income Housing Tax Credit financed properties during the Planning Period. *See* Attachment C at 16.
 - Must identify and evaluate the major federal, state, and local investments in public works infrastructure projects in South Fresno neighborhoods. *See* Attachment C at 17.
 - Consider the impact of speculation associated with High Speed Rail on housing availability, prices, and displacement risk. *See* Attachment C at 17.
 - Analyze the conversion of housing units to short-term rentals and their impact on housing cost pressures and displacement risk. *See* Attachment C at 17.

³⁹ There was one sentence added regarding familial status as it relates to overcrowding: “In addition, there is a greater presence of single-parent households and low levels of labor market engagement.” November Draft at 1E-3-62.

- Given the significant stakeholder engagement conducted for the development of the *Here to Stay Report*⁴⁰ the AFH should incorporate and consider relevant information and policy recommendations contained in that report. *See* Attachment C at 18.
- Address the adequacy of policies and resources to protect tenants from displacement as a result of eviction, harassment, and substandard housing. *See* Attachment A at 7; Attachment C at 17.
- **Disparities in Access to Opportunity**
 - Analyze inadequate or absent infrastructure to facilitate safe and efficient active transportation.⁴¹ *See* Attachment A at 5, 9–10; Attachment C at 8, 17, 24, 26, 28.
 - Analyze inadequate or absent protection from extreme weather, including climate-related weather events that impact walking, biking, and public transportation use. *See* Attachment A at 8; Attachment C at 24, 26, 35.
 - Analyze the presence of high volumes of traffic, including heavy-duty truck traffic, on roadways used by pedestrians or bicyclists, including in and near areas zoned for industrial land uses and along designated truck routes. *See* Attachment C at 23, 26–28.
 - Analyze and describe policies, practices, and investments that impact access to a healthy environment for protected groups. While the November Draft adds some data related to this, it lacks sufficient analysis (*see* discussion on the definition of the word analysis *supra* note 9). *See* Attachment C at 24–28.
 - Secondly, the November Draft mentions that an Environmental Justice (EJ) Element will be completed by the City. This statement, however, is not sufficient to find compliance with this requirement; the City would need to have the EJ Element already completed and be able to use specific citations to the compliant EJ Element to show the City has adequately considered EJ and access to a healthy environment for disadvantaged communities. *See* HCD AFFH Guidance at 11.
 - Consider impacts on access to a healthy environment regarding zoning, siting and operation of noxious land uses in disadvantaged communities, and climate change. *See* Attachment A at 8–9; Attachment C at 26–27.
 - Analyze the basis for pollution disparities impacting the City of Fresno itself, including West Fresno, Jane Addams, and South East Fresno. *See* Attachment C at 27.
 - Consider how policies, practices, and investments or disinvestments relating to access to green space, tree canopy, and climate resiliency (including adequate cooling

⁴⁰ THRIVANCE GROUP, *HERE TO STAY: A POLICY-BASED BLUEPRINT FOR DISPLACEMENT AVOIDANCE IN FRESNO* (2021), <https://www.transformfresno.com/wp-content/uploads/2021/06/transform-fresno-here-to-stay-report-english.pdf>.

⁴¹ The November Draft does mention this as a concern for students traveling to school but does not analyze this for the public as a whole. November Draft at 1E-3-33.

and wildfire smoke protection) impact educational opportunities at schools, especially in low-income neighborhoods. *See* Attachment C at 27.

- **Other Relevant Factors and Local Knowledge**

- Consider current, planned and past developments, investments, policies, practices, demographic trends, public comments, and other factors to inform the Local Knowledge section—the November Draft added a couple statements related to this, but they are not sufficient. *See* HCD AFFH Guidance at 45.
- Consider any other factors impacting socio-economic patterns and segregation relating to accommodating the RHNA—this can include pending or approved plans, other elements of the general plan, relevant portions of the housing element and site inventory analysis (e.g., effectiveness of past programs, suitability of sites, existing uses and impacts of additional development potential, including potential for displacement of residents, businesses and other community amenities and infrastructure capacity). HCD AFFH Guidance at 46.

- **Site Compliance with AFFH Duty**

- Consider the impacts of integration and segregation on the distribution of Hispanic/Latino households more thoroughly; and consider the impact on relative integration and segregation of other races—as the November Draft does not consider other racial/ethnic communities. November Draft at 1E-3-101 to 1E-3-104; *see* Attachment C at 28.
- Acknowledge how the lack of lower-income sites identified in high-resource areas, will perpetuate patterns of RCAs and R/ECAPs. *See* Attachment C at 28.
- Analyze the impact of site locations on access to specific forms of access to opportunity. *See* Attachment C at 28.
- Analyze the impacts on access to a healthy environment of siting housing in low-income neighborhoods with poor environmental health indicators, industrial zoning near homes, heavy traffic, and major highways. *See* Attachment C at 28.
- Analyze how absent or incomplete infrastructure, services, and amenities impact access to opportunity on sites included in the inventory. *See* Attachment C at 28.
- Include discussion of local knowledge and community input, pending development, development potential and other relevant factors. *See* Attachment C at 29.

The AFH is designed to analyze inequities related to fair housing, identify contributing factors to these inequities, prioritize those factors based on public comment and highest need, and create programs that are justified by those prioritized factors. The City is grossly out of compliance with the legal requirements of the AFH due to the following:

- A failure in both the July Draft and the November Draft to adequately complete the analyses of fair housing issues in the City of Fresno.

- A failure in identifying all contributing factors⁴² to the fair housing issues in the City of Fresno—in fact, the City continues to egregiously fail in this regard with the addition of data and information in the November Draft that provides evidence of more housing issues but a failure to identify any new contributing factors.
- A failure to prioritize, and explain its prioritization process, contributing factors based on community input, the AFH, and the sites inventory.
- A failure to adequately justify—linking the contributing factors to policy and meaningful actions—the implementation programs with meeting the needs addressing the contributing factors to fair housing issues.

We recommend substantial revisions to the AFH if the City wishes HCD to find its Housing Element compliant with state law. HCD will not accept an AFH if it finds that the AFH or a portion of the AFH is inconsistent with fair housing or civil rights requirements or is substantially incomplete. For example, an AFH will be found inconsistent with fair housing and civil rights requirements if it does not identify policies or practices as fair housing contributing factors,⁴³ even though they result in the exclusion of a protected class from areas of opportunity. Compliance with Housing Element law is listing contributing factors *with* robust analysis so jurisdictions can create programs with meaningful actions. HCD AFFH Guidance at 51.

Thus, the November Draft's noncompliance with the above-mentioned components of the AFH results in the City being in violation of the Housing Element Law, Gov't Code § 65583 et seq., the Duty to AFFH statute, Gov't Code § 8899.50, California's nondiscrimination statute, Gov't Code § 11135, the Fair Employment and Housing Act, Gov't Code § 12940 et seq., the Federal Housing Act, 42 U.S.C. § 3601 et seq., and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) et seq. Therefore, we recommend the City properly analyze all fair housing issues, identify and prioritize contributing factors to those fair housing issues, and justify the programs as addressing the contributing factors and adequately overcoming patterns and practices of segregation and creating areas of opportunity for R/ECAPs.

⁴² See e.g., HCD AFFH Guidance at 68–70 (listing Contributing Factors examples).

⁴³ Contributing factors are not limited to public actions. *Id.* at 51. Private actions can also contribute to patterns of segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs. *Id.* at 51. While public agencies do not directly control private actions or contributing factors beyond a locality's boundaries, the actions of public agencies can influence private action and have impacts beyond local boundaries. *Id.* at 51. As a result, regardless of whether contributing factors are public or private or local, region, state or federal, the housing element must recognize a broader social and legal obligation to affirmatively further fair housing and still identify and prioritize those contributing factors to commit to commensurate goals and actions. *Id.* at 51.

C. The Housing Element's Analysis of Past Accomplishments and Programs Is Inadequate.

The Housing Element requires a review of the previous housing element for progress in implementation, effectiveness of programs in meeting goals, and appropriateness of modifying programs for the current planning period. Localities should make a specific effort to gather input from all segments of the community on the effectiveness of these programs and how to make adjustments moving forward. HCD AFFH Guidance at 22; *see* 80 Fed. Reg. at 42356.

The City fails to properly look at its past actions and programs both in the Housing Element Past Accomplishments section as a whole as well as specific analyses in the AFH that require addressing past programs; those specific analyses include failing to address “public participation, past policies, practices, [and] investments” as required in its R/ECAPs and RCAAs AFH analysis. HCD AFFH Guidance at 33; *see* Attachment C at 14. It also fails to inspect the “effectiveness of past programs in achieving the goals of the housing element” as a factor influencing the impacts of the identification of sites to accommodate the RHNA on socioeconomic patterns and segregation. HCD AFFH Guidance at 33; *see* Attachment C at 14. We recommend the City adequately analyze why its past programs have continued segregation and not adequately facilitated integration, healthy communities, and access to opportunity.

IV. The City Fails to Demonstrate Site Capacity to Accommodate Its RHNA and Show Its Sites Inventory is Consistent With the Duty to AFFH.

While the AFH is robust and the revised draft adds a lot of good information, data, and analysis, it applies very little of it to actions. Programs fail to address the need, sites are inadequate, and constraints aren't properly removed.

Government Code section 65583(a)(3) requires an assessment of the available land that is suitable and available to accommodate the RHNA. Additional information is required for the City's Revised Draft Element to comply with the statute. In brief, the following is still required:

- Analysis demonstrating the viability of non-vacant sites.
- Evidence of approval during the projection period credited against the RHNA.
- The viability of large sites, especially in light of the concentration of these sites in one area of the City.
- The impact of environmental constraints on inventory sites (and proximity to incompatible uses) on the overall availability of inventory sites.

Several of these issues were raised in our comment letter regarding the publicly available draft circulated in July 2023 and the November Draft fails to provide the additional necessary analysis highlighted in our comment letter.

For instance, the City's projection period began on June 30, 2023, but numerous projects that we highlighted on page 10 of our August 2023 that have not received approvals since the beginning of the project period and yet are still included in Table 1E-2.3. *See e.g.*, San Joaquin Hotel—submitted entitlement review in December 2022, review not completed; Los Pueblos Apartments—project submission deemed incomplete in 2022, waiting for resubmittal; *see also* Attachment C at 10. None of the projects we highlighted were removed from Table 1E-2.3 despite the fact that they have not received approvals during the projection period. *See* HCD's Housing Element Sites Inventory Guidebook, available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf.

Because many of the zoning designations do not have a minimum density the City provides an alternate method to estimate capacity on sites by looking at projects during a very limited time frame—2018 to 2020. An alternate calculation is permitted but it should evaluate the average capacity for each zone based on a more expansive time period to make sure the calculation accurately reflects the development patterns that a two -year time frame cannot do. *See* Attachment C at 10.

Also noted in our August 2023 letter remains the City's incomplete analysis of non-vacant sites, which relies primarily on describing the existing use and does not consider the other required factors included in Government Code section 65583.2(g). *See* Attachment C at 11.

The City also relies on several large sites that are in close proximity to each other to accommodate its RHNA for lower income households. Not only are there obstacle to obtaining the highly competitive funding for affordable housing to build projects of more than two hundred units, as a large site would necessitate, but including so many large sites in close proximity triggers another constraint to receiving funding and certainly creates an impediment to further fair housing if so many units intended to accommodate the lower income housing need are in one concentrated area. *See* Attachment C at 12.

Although the City did revise its original draft element to include one example of development on a large site Fancher Creek Town Center. But this does not address the comment we previously raised regarding the concentration of large sites in one area of the City and the resulting concentration of sites to accommodate the lower income RHNA in one section of the City and the inconsistency with the City's duty to affirmatively further fair housing.

The November Draft describes one half of one large parcel as being occupied by two existing retail establishments, yet the Draft then goes on to determine that 60 percent of the site is available for infill housing even though existing uses occupy 50 percent of the site. November Draft at 1E-2-21.

The November Draft includes information about sites in close proximity to the airports and the accompanying restrictions on residential density in these zones. The Draft indicates sites will need to be removed from the inventory of available sites based on the Airport Land Use Compatibility Plan (ALUCP) but does not indicate how many sites and the capacity of those sites and whether it will result in a shortfall for any income category. This information is necessary before a final determination about the adequacy of the site inventory can be made.

HCD advises that the impact from a wide variety of environmental factors be considered when evaluating the suitability of sites in the land inventory. The November Draft considers sites in the floodplain, near airports, and infrastructure availability but HCD's Sites Inventory Guidebook requires more: "Other characteristics to consider when evaluating the appropriateness of sites include physical features (e.g., size and shape of the site, improvements currently on the site, slope, instability or erosion, or environmental and pollution considerations), location . . ." HCD's Housing Element Sites Inventory Guidebook at 3. According to Figure 1E-2.2 Sites Inventory, Fresno 2023, there are many higher density and mobile home sites that are proximate to existing heavy industrial uses in South Fresno. To comply with the City's duty to affirmatively further fair housing sites for lower income households should not be identified close to known pollution sources since lower income families and individuals in South Fresno already face higher exposures to air pollution.⁴⁴

V. The City Fails to Include Programs—With Definitive Timelines—That Remove Identified Constraints on Affordable Housing Production.

Existing federal law requires departments and agencies to administer programs relating to housing in a way that affirmatively furthers fair housing.⁴⁵ These obligations extend to state and local governments that receive funds or contract with the federal government. A.B. 686 extends the obligation to affirmatively further fair housing to all public agencies in the State of California. This affirmative duty is not limited to those agencies with relationships with the federal government and is to be broadly applied throughout agencies at the state and local level. Gov't Code § 8899.50(a)(2). Now, all public agencies must both (1) administer programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing, and (2) take no action inconsistent with this obligation. Affirmatively furthering fair housing means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities." Gov't Code § 8899.50(a)(1). These new statutory obligations charge all public agencies with broadly examining their existing and future policies, plans, programs, rules, practices, and related activities and make proactive changes to promote more inclusive communities. Gov't Code § 8899.50(a)(1)–(2), (b), (c), (d); *see* HCD AFFH Guidance at 9.

⁴⁴ *CalEnviroScreen 4.0*, CAL. OFF. OF ENV'T HEALTH HAZARD ASSESSMENT (May 1, 2023), <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>.

⁴⁵ See Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing. January 17, 1994.

In addition, the A.B. 686 updated the Housing Element law to specifically require the creation of programs to promote fair housing. Specifically, Government Code section 65583(c) states that:

The [Housing] Element shall contain A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that 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

Goals and policies must be created with the intention to have a significant impact, well beyond a continuation of past actions, and to provide direction and guidance for meaningful action. HCD AFFH Guidance at 52. The Housing Element's implementation program must AFFH in accordance with Government Code section 8899.50 and include a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element. Gov't Code § 65583(c)(9), (10)(A). Programs must address various statutorily mandated areas, such as identification of adequate sites, zoning for a variety of types, assisting development for lower and moderate income households, addressing governmental and non-governmental constraints, conserving the existing housing stock, preserving at-risk units, and promoting housing opportunities for all people. HCD AFFH Guidance at 10. Finally, the Housing Element requires identification of metrics or quantified objectives and milestones for determining what fair housing results will be achieved through these programs. HCD AFFH Guidance at 13.

Despite previous comment letters and specific identification by the public of prioritized fair housing issues, the November Draft remains noncompliant regarding its adequacy of meaningful actions and adherence to the requirements in creating the implementation programs. We have separated our recommendations into two subsections: (1) Programs that need to be added based on revision of the AFH and adequate identification of fair housing issues, *see* discussion *supra* Section III, identified and prioritized contributing factors to the fair housing issues, and direct justification of programs from the identified contributing factors; and (2) Programs included in the November Draft that can be improved.

A. The City Must Add Needed Implementation Programs to Adequately Address Prioritized Contributing Factors Informed by the Public.

The Housing Element requires an identification of priorities and goals based on identified contributing factors that limit or deny fair housing choice or access to opportunity, or that negatively impact fair housing or civil rights compliance. HCD AFFH Guidance at 12. The November Draft, like the July Draft, is grossly inadequate in fulfilling the requirements under

Government Code sections 8899.50 and 65583. The following includes the programs best suited to address contributing factors and prioritized community fair housing issues:

- **Most Up-To-Date Priorities Identified by City of Fresno Residents at LCJA’s December 5, 2023 Community Meeting:**
 - Holistic Tenant Protections
 - Adopt a local rent stabilization ordinance, including a rent stabilization board to hear and approve rental increases submitted by landlords.
 - Adoption of just cause eviction
 - A right to counsel guaranteeing access to affordable legal counsel for low-income tenants in housing matters.
 - Establish a permanent emergency rental assistance program.
 - Know-Your-Rights education and enforcement for discrimination against pet ownership in rental properties. Currently, California law says: “Landlords are not allowed to outright refuse to rent to tenants based solely on their ownership of pets. However, landlords may impose reasonable restrictions and conditions for pet ownership, such as size or breed restrictions allowing pets, with some exceptions for service animals or emotional support animals.”⁴⁶
 - More enforcement against landlords and property management companies who discriminate against or harass tenants; including a focus on harassing surveillance of tenants and privacy issues.
 - Add back in July Draft’s Program 30: Emergency Rental Assistance Program.
 - Homelessness
 - Providing housing to unhoused veterans
 - Build Tiny Home Villages.
 - Housing Stock
 - Increase the supply of rental properties that allow pets.
 - Consider creating tax incentive programs or reward/relief programs for landlords and management companies who allow pets.
 - Build the housing stock with the majority age demographic, 25 to 44 years (November Draft at 1E-0-1), in mind; build less single-family homes and build more duplexes and triplexes.
- **Community Priorities as Referenced in Previous Comment Letters**
 - Reducing barriers for undocumented immigrants to rent. *See* Attachment C at 3.
 - Pursue an Inclusionary Zoning ordinance. *See* Attachment A at 8.
 - Extreme heat and weatherization programs to address climate change. *See* Attachment A at 8; Attachment C at 24, 26, 35.

⁴⁶ *See e.g.*, HCD AFFH Guidance at 72–74 (listing Housing Action Examples).

- Establish an acquisition and rehabilitation fund to purchase older, blighted, or abandoned homes/buildings. *See* Attachment A at 8.
- Grants for residents who want to develop affordable accessory dwelling units on their land. *See* Attachment A at 8.
- Urban Greening as buffer zones for residences zoned near polluting land uses. *See* Attachment A at 8.
- Prohibit siting industrial uses next to Housing Element sites used to accommodate the RHNA. *See* Attachment A at 8.
- Suitable Vacant Land should be prioritized for affordable housing in order to bring Very Low Income and Low Income RHNA allocations into compliance. *See* Attachment A at 9.
- Impact fees should be placed into a community benefit fund when polluting land uses and practices are placed near housing. *See* Attachment A at 9.
- Developing Public Health Impact Reports for new development. *See* Attachment A at 9.
- Establish a Cargo/Freight Prohibition and Revenue Tax. *See* Attachment A at 9.
- Incorporate Complete Streets principles into all transportation projects at all phases of development. *See* Attachment A at 9.
- Establish a Housing Element Implementation Committee to oversee⁴⁷ 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. *See* Attachment A at 9.

B. The November Draft Must Revise Implementation Programs Which Are Noncompliant and Should Strengthen Programs Which Could Better AFFH.

The November Draft, like the July Draft, is noncompliant under Government Code sections 8899.50 and 65583 regarding some of its implementation programs. We also wanted to identify programs that could be strengthened to better accomplish residents' priorities and better move toward overcoming segregation and creating areas of opportunity for R/ECAPs. We do not have any new recommendations for the November Draft's Programs 2, 17, 19, 22, 23, 27, 29, and 32 beyond the recommendations in our previous comment letters; please reference Attachment B and Attachment C for those comments as well as additional comments on the Programs we do address below. The following includes the programs with the recommended changes to policy, goals, and

⁴⁷ The plan must describe the standards and procedures that the jurisdiction will use to monitor activities carried out in furtherance of the plan, including strategies and actions that address the fair housing issues and goals identified in the AFH, and that the jurisdiction will use to ensure long-term compliance with requirements of the programs involved, including civil rights related program requirements, minority business outreach, and the comprehensive planning requirements. *See* 80 Fed. Reg. at 42365.

concrete steps best suited to address compliance, contributing factors, and prioritized community fair housing issues:

- **Missing Required Programs**
 - **Addressing Governmental and Nongovernmental Constraints**
 - As the AFH did not fully identify and analyze governmental and nongovernmental constraints and concluded that the few identified constraints were either not significant or were being addressed, the Action Plan did not include a program(s) to remove them. The November Draft does not adequately meet the requirements of Government Code section 65583(c)(3) to address and remove constraints.
 - Program 25 provides some limited development code amendments to remove barriers to housing development, but these are a far cry from addressing and removing the myriad constraints to affordable housing development.
 - Consider adding a program(s) relating to the identified governmental and nongovernmental constraints identified in Section III.A. *supra*.
 - **Emergency Rental Assistance Program**
 - This program was removed entirely from the July Draft to the November Draft. This program should be included in the next Housing Element draft as tenant protections is an identified community priority.
- **Program 1 – Maintain Adequate Sites**
 - Create a strategy to work with unwilling developers when rezoning.
 - Create a strategy for responding to YIMBY's when conducting comprehensive outreach.
 - Define who the City is reaching out to during comprehensive outreach.
 - Define what the City is seeking input on during the outreach.
 - Develop a robust outreach strategy to ensure varied and inclusive outreach as required by law, ensuring a diligent effort is made by the City to seek input from communities with protected characteristics and fulfilling its duty to AFFH. Gov't Code § 65583(c)(9)–(10).
- **Program 3 – Encourage and Facilitate Accessory Dwelling Units**
 - Specify targeted areas to promote public outreach for the educational program around the opportunity for ADUs; this is a reasonable and measurable outcome, while promoting to all parts of the city is vague and hard to enforce.
 - Match funds with Housing Choice Vouchers for ADU units in high resource areas for landlords that make ADUs deed restricted affordable for low- or very-low-income households, in addition to waiving inspection fees.
 - Advance the City's free ADU standard plans for farmworker dwelling units and cottage communities by adding a section describing these structures, showing

pictures, and including the plans on the City’s ADU Programs website (i.e., making this a more concrete commitment than simply “encourag[ing]” the use of the plans).

- Define what a farmworker dwelling unit is.
- Create additional incentives for landlords who accept Housing Choice Vouchers to make it more feasible for low-income households.
- Institute an advertising plan so all communities, especially R/ECAPs, are aware of the ADU resources on the City’s website, ADU hotline, and ADU email to answer questions.
- Waive inspection fees for landlords of low-income properties immediately upon adoption of the Housing Element (i.e., removing the unnecessary waiting of the timeline to start waiving fees in July 2024).
- Provide financial support to farmworkers in poverty status who want to build ADUs—who otherwise would not have the downpayment to build ADUs.
- **Program 5 – Large and Small Lot Development**
 - Revise objective (of 600 units) to build 800–1,000 lower-income units.
 - Create enforceable outcomes in the timeframe section—e.g., create a permanent fund for assisting nonprofit developers by January 1, 2025; build 200 units by December 31, 2025; build 400 units by December 31, 2027, etc.
- **Program 8 – List of Local Labor Unions and Apprenticeship Programs**
 - Host in-person and virtual webinars highlighting the benefits of hiring local labor and best practices for establishing these programs and working with labor unions (i.e., making this a more concrete commitment than simply “encourag[ing]” the hiring of local labor).
 - Define what “hire local labor” means (e.g., state whether there is a connection to labor unions and apprenticeship programs).
- **Program 9 – Use of Sites in Previous Housing Elements**
 - Edit the second paragraph to be compliant with Government Code section 65583.2(c). It should read (important components bolded for emphasis):
 - The City will implement a zoning amendment to **permit developments by right** where 20 percent or more of the units are affordable to lower-income households on any **vacant sites** identified in the lower-income inventory of the **4th and 5th RHNA cycles** and **non-vacant sites** identified in the lower-income inventory of the **5th RHNA cycle** as part of the Housing Element.
- **Program 10 – Annual Reporting Program**
 - Develop a robust outreach strategy to ensure varied and inclusive outreach as required by law, ensuring a diligent effort is made by the City to seek input from communities with protected characteristics and fulfilling its duty to AFFH. Gov’t Code § 65583(c)(9)–(10); HCD AFFH Guidance at 18.
 - Evaluate, modify, and revise Housing Element implementation programs based on input received from the public. HCD AFFH Guidance at 51.

- The Housing Element Does Not Currently Provide for Adequate Public Participation Regarding the Implementation Programs from 2023–2031.
- **Program 11 – Incentives for Housing Development**
 - Host in-person and virtual webinars highlighting the incentives for housing development and best practices for utilizing these and where to access additional resources on the City’s website (i.e., making this a more concrete commitment than simply “post[ing] and maintain[ing]” a list).
- **Program 12 – Local Housing Trust Fund**
 - Revise objective (of 320 units total) to build 300–400 extremely low-, 400–500 very low-, and 400–500 low-income housing units.
- **Program 14 – Partnerships with Affordable Housing Developers**
 - Revise objective (of 1750 units) to build 1900–2000 very low-income units.
- **Program 20 – Housing Choice Voucher Incentive Program**
 - Revise objective section: It should be clear that the City, itself, will enforce source of income laws and the City will work with the Fresno Housing Authority on outreach and educational opportunities regarding HCVs.
- **Program 24 – Special Needs Housing**
 - The November Draft’s insertions are vague, unenforceable, and have unclear outcomes. Words needing more specificity, defining, or measurable outcomes are bolded.
 - The City will **support** and **work actively** to identify the housing needs of farmworkers in Fresno and will **cooperate** with public and private agencies to seek funding to **identify and implement strategies** leading to the provision of housing for farmworkers.
 - The Mayor’s Office of Community Affairs **will assist in engaging** all residents of the community including youth, Black, Indigenous, People of Color (BIPOC), Latino, Asian/Pacific Islander, Indian, and LGBTQ on their housing needs.
- **Program 30 – Mobile Home Parks**
 - Define specific aspects of the rehabilitation resources and repair program—e.g., heat resiliency, weatherization, insulation, repairs for inspection violations or other habitability concerns.
 - Establish a Mobile Home Park Improvement Program focused on community resources such as green space, parks, transit access, infrastructure and other resource improvements.
- **Program 33 – Homeless Assistance**
 - Establish a safe parking program (i.e., provides an enforceable and measurable outcome as opposed to merely “explor[ing] the feasibility” of a program).
 - Define what services would be provided during the safe parking program to help individuals find permanent housing.

- Provide a timeline for conducting and completing the assessment for youth at risk of homelessness.

* * * * *

Thank you for your consideration of our comments. We look forward to discussing them with you and continuing to work with the state and the City to ensure that the City adopts a Housing Element that fully complies with the law and addresses the serious housing needs and disparities that impact the City of Fresno's residents.

Sincerely,



Jasmine Robinson
Legal Advocate/Legal Fellow Sponsored by Weil, Gotshal & Manges LLP
Leadership Counsel for Justice & Accountability



Valerie Feldman
Staff Attorney
Public Interest Law Project

City of Fresno Community Residents

Yonas Paulos, Southwest Fresno
Lisa Flores, Southwest Fresno
Estela Ortega, Ann Leavenworth
Ilda Villa, Southeast Fresno

CC: Ashley Werner, Directing Attorney, Leadership Counsel for Justice & Accountability
Ivanka Saunders, Regional Policy Manager (City and County of Fresno), Leadership Counsel for Justice & Accountability
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Robert Swanson, Deputy Attorney General, Department of Justice—California Attorney
General's Bureau of Environmental Justice

Lucas Williams, Partner, Lexington Law Group

Attachment A

Comment Letter from Leadership Couns. for Just. & Accountability et al. to the Fresno Cnty. Bd. of Supervisors, the Cities of Fresno Cnty. City Councils, & Deputy Dir. Kristine Cai of the Fresno Council of Gov'ts (Oct. 3, 2022) (on file with author).



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



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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

Attachment B

Comment Letter from Leadership Couns. for Just. & Accountability et al. to Mayor Jerry Dyer, Fresno City Councilmembers, & Michelle Zumwalt (Aug. 16, 2023) (on file with author).



August 16, 2023

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room Fresno, CA 93721

RE: City of Fresno Draft 6th Cycle Housing Element

Dear Councilmembers, Mayor Dyer, and Ms. Zumwalt,

The undersigned organizations write to you to advocate for a Housing Element that is equitable, inclusive, and responsive to disadvantaged communities' needs. We are a group of community-based organizations working alongside community partners and leaders throughout the City of Fresno. Housing Element Law requires that cities and counties make a diligent effort to 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.

Goals, policies and actions must be aggressively set to overcome those contributing factors to meet the "meaningful impact" requirement in statute and to avoid actions that are materially inconsistent with the obligation to affirmatively further fair housing. Goals and policies must be created with the intention to have a significant impact, well beyond a continuation of past actions, and to provide direction and guidance for meaningful action. AFFH Guidance, p. 52. The draft element's Housing Action Plan contains numerous actions that lack concrete steps and measurable outcomes and will not necessarily result in a beneficial impact during the planning period in violation of the Housing Element Law's standards. The following programs are inadequate and include our recommendations to improve them.

- **Program 1 - Maintain Adequate Sites.** Program 1 states that the City shall continue to maintain a current inventory of Housing Element sites to ensure that it can adequately accommodate the 2023-2031 RHNA. Given the impact of rezoning to the availability of and location of sites suitable for housing, the City should take additional steps to ensure transparency in decision-making related to proposed rezones and take diligent steps to provide notice of the proposed rezone along with an assessment of the potential impacts of the rezone on housing opportunity prior to a decision on the proposal. This includes but is not limited to public hearings and door to door canvassing to facilitate effective



notice. Further, the city must conduct a racial equity analysis which would include the benefits and disadvantages of the proposed rezone and whether it would result in displacement of protected racial/ethnic groups, reduce housing opportunities for protected groups, and how it would impact patterns of segregation. Finally, the program should explicitly prohibit the rezoning of sites suitable for lower income households to industrial land use classifications which would bring industrial uses next to or near neighborhoods that include or are planned for housing affordable to lower income residents. This is critical to ensure that the City is compliant with its duty to affirmatively further fair housing.

- **Program 2- Variety of Housing Opportunities in High Resource Areas (*identified in the AFH as a Meaningful Action*).**

The program states that the City “will identify and pursue opportunities” with affordable housing developers to promote the development of affordable units in high resource areas. Unfortunately, it does not provide any details on how they will in fact promote the development of affordable units for lower income households in high opportunity areas. There is no clear commitment to zone sites for multi-family development in areas of high opportunity or a commitment to ensure that such units are affordable to all income levels. Further, there is no commitment to match funding opportunities with the identification of available sites to facilitate their development. Notably, the City will not conform with its duty to AFFH if it does not ensure adequate sites for affordable housing for lower income residents in high resource areas. Without clear and enforceable commitments and timelines, this program will not provide a beneficial impact or further fair housing. Furthermore, in order to expeditiously address the lack of housing opportunities accessible to lower-income residents in high resource areas, the timeline of this program should be shortened.

Accordingly, a specific objectives of this program should be changed to (a) assess the number of sites that must be rezoned in high resource areas (as identified in TCAC/ HCD’s Opportunity Maps) to effectively AFFH , and (b) rezone the adequate number of sites pursuant to that analysis by December of 2025.

- **Program 3 - Encourage and Facilitate Accessory Dwelling Units (ADUs) (*identified in the AFH as a Meaningful Action*).** While we support and encourage the development of ADUs, the program does not outline clear commitments that will yield identifiable beneficial outcomes. The program states “a primary objective of this program is to increase the supply of affordable units throughout the city” but fails to identify any



specific commitments to take any action on how this objective will be reached. Additionally, building ADUs is generally not an accessible housing option to low income households who cannot afford predevelopment costs associated with ADUs. We recommend additional measures in this program to make ADUs accessible to lower income households such as targeted outreach to low-income homeowners, incentives for landlords to make ADUs affordable, no interest loans for ADU development and waivers for inspection fees. Additionally, a dedicated liaison in the Office of Community Affairs should be available for all questions regarding ADUs.

- **Program 8 - Use of Sites in Previous Housing Elements..** Program 8 should be updated to clarify that streamlined approval will be available to both vacant and non-vacant sites through a zoning amendment. As written it appears that the zoning amendment will only apply to vacant sites included in the 4th and 5th cycle housing elements.
- **Program 9 - Annual Reporting Program.** While we appreciate the sentiment that the City will “engage all members of the Fresno community,” and the specific commitment to use multilingual notices and media, the City should revise this program and avoid using vague language with no commitments. To make the public engagement associated with this program meaningful, we recommend that the program include a commitment and associated timeframe for the City to implement input received through its various outreach efforts such as workshops and surveys in addition to the annual public hearing. The annual report should include specific actions the City will take to overcome identified constraints and barriers to complying with Housing Element programs.
- **Program 10 - Incentives for Housing Development (*identified in the AFH as a Meaningful Action*).** This program does not present a commitment to address housing production for low-income units or actions that will be taken to complete the program. To facilitate and promote the use of available incentives, the city should make a list of incentives, including density bonus incentives and impact fee waivers, available to the public through an accessible database.

Additionally, the program’s current language that it will “identify site opportunities in higher resource areas and ...improve access to resources” suffers from the same issues that program 2 does insofar as it fails to identify clear and enforceable commitments and steps that it will take to ensure the availability of sites for lower income households in high opportunity areas. It is critical for this program’s success and the City’s role in AFFH that the housing element includes clear, timebound, and enforceable actions to



ensure availability of sites for lower income households in high resource areas, as outlined above.

Finally, the City should include enforceable commitments to avoid displacement and gentrification in the Downtown Planning Area, and assess the role that priority processing in the area has on the City's duty to AFFH.

- **Program 11 - Local Housing Trust Fund (*identified in the AFH as a Meaningful Action*)**. The Local Housing Trust Fund is a great tool to alleviate the housing crisis and we are glad to see the City's commitment to leverage State matching funds. We recommend adding the creation of a Community Advisory Board as an action to ensure that projects are driven by a community process and benefit the most impacted residents. Housing advocates have met previously with City staff to develop an equitable Community Advisory Board made up of a diverse group of residents most impacted by housing barriers, legal experts, and small landlords.
- **Program 16 - Surplus Public Lands**. The commitment to release surplus sites appears to simply be a commitment to comply with its existing duties under the Surplus Lands Act. The language is ambiguous, non-committal and must be revised. In addition, the program states the City will "consider depositing a portion of up to 100 percent [of sale proceeds] to the LHTF" We recommend instead that the City commit to depositing 100 percent of sale proceeds into the LHTF.
- **Program 18 – Home Buyer Assistance (*identified in the AFH as a Meaningful Action*)**. While a critical program for many Fresnans, this Program should include additional commitments to ensure that low-income residents, undocumented residents, residents who speak languages other than English, and residents in racially and /ethnically-concentrated areas of poverty (R/ECAPs) have the opportunity to benefit from these funds. During the 5th Cycle planning period, many residents without social security numbers or who faced language access barriers were unable to apply for the City's homebuyer assistance program. While the City was able to assist nine families with this program, this program must incorporate mechanisms that will allow more families to apply during the next 8-year cycle by addressing barriers and pursuing state funds every year. This program has other deficiencies that must be addressed such as lack of public outreach and lack of interpretation for applicants applying by phone. Solutions include: ensuring that low-income residents are knowledgeable about the programs, undocumented residents are able to successfully apply for this program, including closing



costs as part of funding packages. In order to ensure that residents living in R/ECAPs are targeted, we recommend the City create annual reports listing how many applicants were assisted, outreach efforts made and whether they live in R/ECAPs. Due to the concerns outlined above, the program as currently implemented and drafted fails to adhere to HCD's AFFH Guidance that "actions must be specific with timelines, discrete steps and measurable outcomes to have a 'beneficial impact' during the planning period."

- **Program 19 – Housing Choice Voucher Incentive Program (HCV) (*identified in the AFH as a Meaningful Action*)**. This action fails to include meaningful actions with specific timelines, and measurable outcomes to have a “beneficial impact” during the planning period. The program should develop and implement a proactive enforcement program housed within that legal department to ensure HCV . The City should revise this program action to include a timeline of one workshop a month (twelve workshops throughout the year) to ensure residents and landlords are able to access housing quickly and better assist residents/landlords going through any issues that prevent them from using/accepting HCV. Additionally, collaborating with and funding CBOs and fair housing organizations to provide information to voucher holders and landlords on California’s source of income discrimination prohibitions. The program should also commit the City of Fresno to finance billboard ads about protections against HCV discrimination and send informational materials to all landlords in Fresno registered in the rental registry regarding HCV. Finally, the program should be revised to include a commitment to actively pursue enforcement against discrimination against voucher-holders and supplementing vouchers with additional subsidies to support voucher use in higher-cost markets in high resource areas. Northeast Fresno has very limited HCV use, with only four census tracts north of Herndon Avenue containing any HCVs, and of those four tracts, no tract exceeds 5 percent HCV use. By revising the program to include the above recommendations would help address fair housing needs in Fresno.
- **Program 21 – Housing Rehabilitation (*identified in the AFH as a Meaningful Action*)**. Government Code section 8899.50 requires ““meaningful actions” well beyond combating discrimination to overcome patterns of segregation and foster inclusive communities. These actions, as a whole, must address significant disparities in housing needs and in access to opportunity.” The current program has failed to address the needs of extremely low income residents and vulnerable populations such as undocumented residents. As we continue to see the negative effects of Climate Change across the world, it is imperative that the City include weatherization such as cooling mechanisms, like



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heat pumps, air conditioning, insulation and other cooling assets to increase resilience to extreme heat as part of the rehabilitation program. It is a critical and urgent need given that extreme heat kills thousands per year and impacts disadvantaged communities the most. Additionally, the City must establish an acquisition and rehabilitation fund to purchase older, blighted, and/or abandoned homes/buildings. The City of Fresno can establish a revolving fund to insure that rehabilitated homes are sold back to the community at a low cost. Finally, for the program to have a beneficial impact the timeframe section should include 15 rehabilitation grants annually, and 5 distressed property grants using PLHA and CDBG funding for extremely low and low income residents.

- **Program 22 – Comprehensive Code Enforcement.** While we appreciate Code Enforcement’s response and the City’s diligence to keep increasing staff, there are still additional actions that should be taken to create a comprehensive code enforcement. HCD’s AFFH Guidance recommends that “to overcome contributing factors to fair housing and affirmatively further fair housing, actions must consider a wide range of actions across all action areas. The number and scale of actions will depend on the severity of the needs but regardless of need, a cohesive and effective program will consider multiple action areas.” This program as written continues to fail to address critical housing issues since the last housing element cycle. The program should be revised to include actions around legally holding landlords accountable for retaliation, unlawful evictions, and harassment towards tenants who file code enforcement complaints such as a commitment to adopt a tenant anti-harassment ordinance. As stated, we recommend that the City adequately analyze code enforcement’s procedures and incorporate tenant feedback for a comprehensive code enforcement program.
- **Program 23 - Special Needs Housing (*identified in the AFH as a Meaningful Action*).** Much of the language in this program is vague, noncommittal, and does not provide adequate actions in order to provide a beneficial outcome. This program states the City “shall advocate for provision of special needs,” “partner with and encourage local and state non profits,” and “provide/encourage.” These actions are not concrete or specific and provide no assurance of a beneficial impact on persons’ with disabilities access to housing. This should be revised to include review and enforcement of compliance with legal requirements for accessibility of multi-family and affordable housing, including in permitting processes, not just “encourage[ing]” accessibility features. Additionally, we recommend that the program add specific actions to remove barriers to housing by special needs groups such as allowing undocumented residents to apply for and receive



housing assistance, vouchers and other subsidies unless otherwise required by federal law.

- **Program 26 - Equitable Community Investments (*identified in the AFH as a Meaningful Action*)**. Program 26 states it will “seek funding,” “continue to actively seek resources,” and “continue implementing the written policies.” These commitments are vague and non-committal. There are no actions on how these will be completed and is ambiguous and as a result provides no indication that a beneficial outcome will result from the program and further fair housing. The programs continue not to commit the City to take a lead role in planning, funding, and/or constructing projects or indeed any role beyond identifying issues and needs and seeking funding on an annual basis. Additionally, it should not rely on the General Plan’s identification of Priority Areas for Development Incentives in Chapter 12 and should instead use the Urban Displacement Project data to guide investments.
- **Program 28 – Opportunity To Purchase Act (OPA) (*identified in the AFH as a Meaningful Action*)**. Although we appreciate the City’s action to initiate research on a local Opportunity to Purchase Act, we strongly recommend that the City implements robust outreach and engagement, in partnership with CBOs that work closely with low-income communities in racially/ethnically-concentrated. Additionally, the program states it “shall research” and “consider establishing an OPA.” These are not commitments and fail to implement any specific, firm, or enforceable commitment such that no beneficial outcome of the action is indicated.
- **Program 29 – Mobile Home Parks (*identified in the AFH as a Meaningful Action*)**. Program 29 contains no commitments, actions, or enforceable language that will ensure a beneficial impact throughout the planning period. Additionally, this program repeats verbatim language included in Program 10A of the 2015-2023 without explaining how or why reliance on the same program action will have better results during the next planning period. With residents like Three Palms and Trails End Mobile Home Park experiencing the negative impacts of slumlords, it is crucial that the City make significant improvements to the program actions. Furthermore, the program must address the need for heat resiliency such as weatherization and insulation especially to older mobile home parks by funding a mobile home park renovation fund for all mobile homes. This fund will help low income families with issues that they need to address due to inspection violations or other habitability concerns. Additionally, this program should include a commitment to penalize and fine mobile home park owners who are not providing



adequate and safe conditions for their tenants. For example, Three Palms Mobile Home Park had not had safe drinking water for quite some time and the owner was never made responsible for this clear human rights violation. Finally, consistent with the City's responsibility to AFFH, the program should support quality of life and access to opportunity improvements for all mobilehome parks in Fresno by taking meaningful actions to increase green space, transit, and resources near mobile home parks.

- **Program 30 – Emergency Rental Assistance Program (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City adding this program, it states that the City will “seek additional funding” and fails to commit ongoing funding that can come from the Local Housing Trust Fund, the General Fund, or its own permanent funding source to ensure a beneficial impact during the planning period. Identification and commitment of a permanent local source of funding by 2024 will highlight a commitment to prevent displacement and protect tenants.

- **Program 31 - Eviction Protection Program (EPP) (*identified in the AFH as a Meaningful Action*).** The Eviction Protection Program is a critical anti-displacement and anti-homeless tool. However, the program's current language to “seek additional funding to support the “EPP” is not a strong commitment and does not provide indication that a beneficial outcome will occur if funding is not replenished. We strongly recommend that the City commit to staffing 5 full-time staff for screening so tenants are able to receive help as soon as possible. We also recommend program expansion to include:
 - Wide-reaching outreach and education campaigns
 - Direct legal representation and assistance for low-income tenants encountering legal issues. This includes but is not limited to being served with a notice from their landlord (e.g. 3-day notice, notice of rent increase, etc.)
 - Evaluation of the Eviction Protection Program to ensure it is effective and address issues to improve the program.

- **Program 33 – Homeless Assistance (*identified in the AFH as a Meaningful Action*).** Program 33 does not commit the City to any concrete action. The program states it will “identify partnership opportunities,” “leverage the homeless assistance response team” and “support the Voucher Incentive Program” none of which commit to any enforceable and actionable items. The city must commit to completing an adequate analysis of needs of unhoused City residents. This should include the completion of an AFH analysis of disproportionate needs.



- **Program 34 - At-Risk Housing.** Program 34 includes actions without a clear commitment to take steps that will lessen the severity or impact of the issue in any timeframe. Again, the language is non-committal, vague, and ambiguous in how the program will reach its objective. Additionally, stronger tenant protections should be included as an objective and completed no later than June 2024 for residents facing displacement and an affordable housing resource map for tenants so they have the option to relocate.

Additionally, the draft element lacks policies and programs identified in Leadership Counsel’s February 2023 letter, attached hereto. We incorporate the policies and programs recommended in that letter here by reference. In addition to the policies and programs highlighted in Leadership Counsel’s February 2023 letter, the draft element should also be revised to include the following programs:

- A. Rent Control and Just Cause Protection Ordinance. The Housing Element draft mentions tenant protection “strategies” but in no way does the draft commit to tangible solutions. City of Fresno tenants, along with advocates, have been demanding rent control and just cause ordinance since 2021. The Here To Stay Report lists this as the communities’ top priorities. Tenants have attended City Council meetings for the past two years asking for this; they have met with every city council member; and have lifted this as a priority in the City’s Housing Element workshops. Yet, the City refuses to acknowledge residents’ need. We strongly recommend that the City incorporate this into the Housing Element.
- B. Inclusionary Zoning Ordinance. The City should adopt a program to develop and adopt an inclusionary zoning ordinance by a date certain that is no more than three years into the planning period in order to allow the ordinance to result in the production of lower-income units during the planning period. To ensure that the ordinance AFFH and maximizes the production of affordable units, the ordinance should apply to single-family and multi-family housing and require a minimum share of affordable units (approx. 25-30%) and affordability levels of those units, including affordability for very-low and extremely-low income households. The City should develop this ordinance in partnership with lower-income residents and CBOs.
- C. Urban Greening is used as buffer zones when residential is placed or already placed near existing polluting land uses to mitigate health impacts.
- D. Citing industrial uses. Programs should explicitly prohibit the rezoning of sites suitable for lower income households to industrial land use classifications which would bring industrial uses next to or near neighborhoods that include or are



planned for housing affordable to lower income residents. This is critical to ensure that the City is compliant with its duty to affirmatively further fair housing.

- E. 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.
- F. 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
- G. 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.
- H. 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.
- I. 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.
- J. Establish a Housing Element Implementation Committee to oversee the timelines and implementation of each program and policy. The committee should be composed primarily by tenants, low-income homeowners, and at-risk populations to ensure implementation meets the needs of most at-risk communities.

As discussed previously, each program must contain clear action steps, deadlines, and measurable outcomes that will be achieved within the planning period and address housing and fair housing needs prioritized during the public process.

* * * * *

Thank you for your consideration of our comments. Please contact us if you would like to find a time to discuss them. We look forward to working together to advance access to safe, affordable housing for all City of Fresno residents.



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

Edith Rico, Project Director
Building Healthy Communities

Shar Thompson, Central Valley Regional Coordinator
Tenants Together

Marisa Moraza, Campaign Director
Power California

Attachment C

Comment Letter from Pub. Int. L. Project & Leadership Couns. for Just. & Accountability to Mayor Jerry Dyer, Fresno City Councilmembers, & Michelle Zumwalt (Aug. 16, 2023) (on file with author).



August 16, 2023

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room Fresno, CA 93721

RE: City of Fresno Draft 6th Cycle Housing Element

Dear Mayor Dyer, Councilmember, and Ms. Zumwalt:

Leadership Counsel for Justice and Accountability write in collaboration with the Public Interest Law Project (“PILP”) and residents of South Fresno neighborhoods impacted by the severe lack of decent quality, affordable, and permanent housing options and gaping disparities in access to opportunity in Fresno to provide comments on the July 2023 Draft Appendix 1-E: City of Fresno of the Fresno Multi-Jurisdictional 2023-2031 Housing Element (“City of Fresno Draft Housing Element” or “Draft Element”).

Leadership Counsel works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. Leadership Counsel advocates for policy and practice changes to meet the housing needs of all residents in Fresno, especially low-income and residents with special housing needs, and to overcome fair housing disparities that impact low-income communities of color. Residents with whom we partner experience high rates of cost burden and escalating housing costs, reside in unsafe and unsanitary rental housing conditions, and ever-present and magnifying displacement risks and are simultaneously impacted by striking disparities in access to opportunity compared to more affluent Fresno neighborhoods, including a lack of access to a healthy environment and public and private investment in critical infrastructure, services, and amenities.

The Public Interest Law Project (PILP) works statewide to support local legal programs that address issues involving housing, land use, public benefits and homelessness. PILP has been providing substantive training, litigation support, and technical assistance in these areas for over 25 years.

The City of Fresno’s 6th cycle housing element update presents a critical opportunity for the City to identify and address long-standing, wide-ranging, and severe housing needs and fair housing disparities that impact the City’s residents, disadvantaged communities, and racially and

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ethnically concentrated areas of poverty (“R/ECAPs”), in particular, the Southwest, South Central and Southeast areas. The City must ensure that it does not miss this opportunity to develop and adopt a housing element that complies with the State Housing Element Law and civil rights laws and that meaningfully incorporates the input of lower-income residents and protected classes and the community-based organizations that work alongside them.

Our comments below highlight further steps and actions the City must take to meet State Housing Element Law requirements. In short, the Draft Element must be revised in order to meet Fresno’s housing needs and relevant statutory requirements in several different ways, including:

- Incorporate input regarding key housing issues and disparities and actions needed to address those issues provided to the City by community members as required by HCD’s AFFH Guidance;
- Revise the constraint analysis to address non-governmental constraints, as well as constraints on supportive housing and the maintenance of the housing stock.
- Revise the AFH analysis to consider all of the required displacement factors, barriers in access to opportunity, and fair housing issues associated with the Draft Sites Inventory;
- Revise programs to include specific actions and deadlines and add programs that will result in a beneficial impact on Fresno housing needs and disparities during the planning period and overcome patterns of segregation and foster inclusive communities, including but not limited programs 14, 15, 19, 23, 29, and 33;
- Revise the site inventory analysis to exclude projects that have not been approved during the projection period, include a realistic capacity calculation based on development throughout the 5th cycle, and determine the adequacy of the non-vacant site

I. The City Has Not Diligently Engaged the Public As Required, Because the Draft Element Fails to Adequately Reflect Public Input

The City’s obligations to diligently engage all economic segments of the community and to affirmatively further fair housing through the housing element require more than just seeking input about the contents of the housing element. Government Code sections 65583(c)(8), 65583(10)(a) & 8899.50. Inviting residents to provide input but failing to incorporate that input into the housing element undermines the purpose of resident participation in the housing element update, fosters distrust, and fails to constitute “engagement” as required by section 65583(c)(8) of the Housing Element Law. HCD’s Affirmatively Furthering Fair Housing (“AFFH”) Guidance

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states that housing elements must describe “a summary of [public] comments and how the comments are considered and incorporated (including comments that were not incorporated), particularly with changes to the housing element. HCD, Affirmatively Furthering Fair Housing: Guidance for all Public Entities and for Housing Element (“AFFH Guidance”), 2021, p. 22.¹ While the Draft Element provides some description of public input provided, its summary of public comments generally lacks sufficient detail for the reader to understand the nature of the issue raised or the solution proposed. In addition, the Draft Element fails to demonstrate the City’s incorporation of input provided and to identify input the City chose not to incorporate as required. For example, at the March 1, 2023 community workshop on the housing element update held at Helm Home, residents identified the establishment of rent control, tenant assistance and protections, and reducing barriers to undocumented residents as among their top suggestions and solutions. The Draft Element fails to demonstrate how this solution will be incorporated into the final draft and to even to study the housing needs of undocumented residents.

The Draft Element also fails to acknowledge, discuss, or incorporate recommendations contained in the letter submitted to the City by Leadership Counsel and several other community-based organizations in February 2023 relating to the development of this Draft. *Attachment 1, Leadership Counsel February 2023 Letter*. The letter identifies policies and programs which the signatory organizations believe should be prioritized in the housing element update, based on our direct and daily work with low-income residents of color, farmworkers, residents of disadvantaged unincorporated communities, and other residents with special housing needs and members of protected classes. The City must revise the draft element to acknowledge this letter, summarize its contents, and revise goals, policies, and programs to incorporate its recommendations, in addition to other input it receives. The City must also revise the element to indicate what public input it chose not to incorporate, which the element currently fails to do.

II. The Housing Element Fails to Adequately Analyze and Remove Governmental Constraints to Housing Development

To fully comply with Housing Element law, the City of Fresno must identify constraints to the development of housing affordable to households at different income levels, as well as possible constraints to the development and maintenance of a variety of types of housing, including supportive housing, single room occupancy units, emergency shelters, and transitional housing. *See Gov’t Code* §65583(a)(5) and (c)(1). This analysis includes potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all

¹ All references to code sections hereafter refer to the Government Code unless stated otherwise.

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income levels. Gov't Code § 65583(a)(5). Following a close analysis, the City must include a description of efforts to remove constraints and a program to remove those constraints. Gov't Code §65583(c)(3).

A. Land Use Controls Are Under-Analyzed as a Constraint

The Housing Element under analyzes the impacts of current and planned zoning regulations on housing development. A jurisdiction must include an analysis of potential and actual governmental constraints, including land use controls that directly impact the cost and supply of residential development. Gov't Code § 65583(a)(5). The constraints analysis fails to demonstrate the direct connection between its currently proposed zoning on cost and supply of housing.

The City has not adequately analyzed the effects of constraints associated with wide-spread availability of single family zoning and the limited availability of high density zoned sites. For example, the HE acknowledges “growth in the City of Fresno over the past few decades has traditionally been low density suburban development, which has resulted in conditions of sprawl in various areas of the city.² Despite the acknowledgement, the City continues to allow by right single-family units in. Despite the historical preference for single family development, the abundance of available single family homes in Fresno, and the underproduction of affordable housing, the the City still permits single family uses by-right in many of the zones identified for increased high-density development: RM-1, NMX, CMX, RMX, CMS, CR, DTN, DTG.

Further, although single family development is allowed in almost every zone that permits residential development, higher-density units are not allowed in certain areas in the City. For example, multi-family units are not allowed in RS-1, RS-2, or RS-3 areas, despite the large majority of the City being zoned one of these zones, and where many high resource areas have developed.³ Duplexes are similarly constrained, they are excluded from RS-1, RS-2, RS-3, RS-4, and only allowed through conditional use permit in R-5.

Because both single-family and multi-family development is permitted in most residential zones, it puts multi-family developers in competition with single family developers for the same sites.

Single family units also benefit from reduced permitting timelines. For single--family developments it typically takes up to 30 days for developers to pull building permits after its

² Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-1.

³ City of Fresno, 2023. Data downloaded from HCD AFFH Data and Mapping Tool in 2021, based on ACS data.
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entitlements are approved.⁴ In contrast, based on recent projects, it can take three months to a year for multifamily developers to receive building permits after entitlements.⁵ Although the Draft concluded that higher permit processing schedules for multi-family units compared to single family units are not a constraint, the increased complexity and expected timeline does appear to act as a constraint on multi-family development based on the very low production number of multi-family housing in the 5th cycle. ⁶

B. Land Use Controls' Effect on Types of Housing

A complete constraint analysis does not only focus on housing by income levels but must also consider constraints to the different types of housing.. As noted above, the Draft constraint analysis must examine what constraints exist to the development of : supportive housing, transitional housing, single room occupancy units, and emergency shelters. Gov't Code 65583(c)(1)

1. Single Room Occupancy (SRO) Units

The City's constraint analysis regarding SRO's should examine more than the limit on the number of units but also where SRO's are permitted to develop. SRO's are a crucial source of affordable housing for many people and can augment the deed restricted affordable housing available to lower income people. The City should commit not only to removing the limit on the number of units that can be contained in an SRO but also add it as a permitted use in the following zones:

RM-MH, RM-2, and downtown while removing conditional use permit requirements from RM-2, RM-3, NMX, CMX, and RMX.

2. Emergency Shelters

The Draft must consider whether its development standards act as a constraint on the development of emergency shelters. Although the City seems to determine that its requirements do not act as a constraint to the development of shelters it also states it may consider making further amendments to the development code to remove any possible constraints. If further amendments are necessary, especially any needed to comply with Government Code section 65583(a)(4)(A), the City should commit to making those changes immediately. For instance, the City's current requirement for the number of toilets per person in a shelter (Muni Code section

⁴ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-35

⁵ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-35

⁶ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-38

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15-2729), if it exceeds the building code requirement is a likely constraint on the development of shelters because of the additional cost it adds to this type of development.

3. Supportive Housing

The Draft is silent as to whether the development oecd complies with Government Code section 65583(c)(3) that allows supportive housing in any zone where multi-unit or mixed use development is permitted. If the City’s code does not reflect this requirement that is a constraint on housing for people with disabilities and a program to revise the development code to comply with the statute is required.

4. The HE Under-Analyzes Parking Requirement Effects on Housing Construction

The Draft fails to fully analyze whether its parking requirements act as a constraint on housing development, especially in the downtown and along transit corridors. Parking requirements increase the cost of housing.⁷ The Draft states it “determines the required number of parking spaces based on the type and size of the residential unit and has found the required parking spaces to be necessary to accommodate the number of vehicles typically associated with each residence.”⁸ The analysis ignores principles of induced demand and downstream effects of entrenching car-centric land use. The Draft implicitly acknowledges that parking increases costs and may not be critical as it allows waivers for parking requirements in affordable housing developments and other transit-friendly areas.⁹ The ad hoc basis of reduced parking requirements introduces uncertainty which can increase the overall cost and time delays in housing development.

Recently, the City has made clear how much of an impediment parking really is. In negotiations with the state to receive a large grant to support increased housing in downtown Fresno, the City earmarked about \$70 million of a possible \$250 million grant for two new parking structures in the downtown area. Mayor Jerry Dyer stated [the cost of parking structures] “is always a big challenge for us when we try to bring in developers to build housing... Taking that off the table allows for these projects not only to occur faster, but it allows the developers to be more incentivized to build in our downtown area.”¹⁰

⁷ <http://database.greentrip.org/>

⁸ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-10

⁹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-10

¹⁰ <https://www.fresnobee.com/news/local/article275363746.html>

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Although parking has been identified as a constraint to increased housing development, the City has not put forward a program to identify steps to remove the constraint. The City asserts “[p]arking standards are one area where many communities are seeking to decrease housing costs.”¹¹ Yet, minimum parking requirements are squarely within the control of the jurisdiction and could be reduced if the City so decided. The direct link on parking’s costs in relation to housing development in Fresno must be further analyzed, and a reduction in parking requirements is likely required.

C. Risk Analysis and Distribution of Affordable Housing

The Draft’s analysis of at-risk housing is incomplete. under-analyzes the risks to publicly assisted affordable housing and its distribution. There are more than 8,500 publicly assisted affordable housing units in the City of Fresno.¹² The Draft identified 695 units at risk of conversion to uses other than low-income residential within 10 years from the housing element adoption deadline.¹³ Although the City of Fresno considered the cost of replacing the at-risk units as required under §65583(a)(8), it failed to examine which pathway would be most appropriate for the City and what constraints, if any, would be associated with the pathway chosen.

The City’s lack of tenant protections, such as source of income discrimination outreach and education, rent control, just cause protections may operate as a constraint on the maintenance of housing available to lower income people and facilitate the displacement of lower income renters. The lack of these protections should be analyzed as a constraint on the maintenance of housing under Government Code section 65583(a)(5).

III. The Housing Element Fails to Adequately Analyze and Remove Non-Governmental Constraints to Housing Development

In addition to analyzing governmental constraints, the HE must also analyze the potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels. Gov’t Code § 65583(a)(6). To that end, the Draft failed to consider the effect of market forces, availability of financing, environmental concerns, and NIMBY opposition.

¹¹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-14

¹² Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-55

¹³ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-55

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A. NIMBY Opposition

The Draft must include an analysis of NIMBY opposition to housing development. As a largely sprawling suburban City, Fresno is prone to local opposition to increased density from existing single-family homeowners that have preconceived ideas of the impacts of increased density on their neighborhoods. Further, the zoning code requires conditional use permits for duplexes and multi-family housing in some areas, making them especially susceptible to opposition and defeat from NIMBY residents.

The chilling effect of NIMBY opposition to housing development is not a foreign concept to jurisdictions in Fresno County. For example, in the adjacent City of Clovis, the Clovis City Council recently voted to shut down a proposed 40-unit development near Old Town Clovis because neighbors expressed concerns about traffic congestion, overflow parking and the “monolithic” height of the planned apartment building.¹⁴ NIMBY opposition to housing development is a widespread phenomenon across California but is especially prevalent in areas that have historically been primarily low-density developments. The Draft’s failure to analyze NIMBY opposition as a constraint must be addressed in the City’s next Housing Element draft, and the City should include a program to reduce this type of opposition by ensuring that more than single family developments are permitted by-right and reducing the discretionary review of multi-family housing.

B. Environmental Concerns

The Draft did not consider environmental constraints as part of its analysis under 65583(a)(6). Environmental constraints may include limitations to water supply, nearby pollution, or infrastructure development.

The City of Fresno relies heavily on groundwater and surface water. As climate change makes water availability less predictable the City must analyze how an increased population and land use will affect water availability and whether water availability will eventually constrain growth.

Further, separate from water availability, the City must consider the infrastructure requirements of delivering water to a denser population. For example, the City estimates that downtown Fresno, where a large portion of new housing development is projected, currently requires significant water and wastewater infrastructure upgrades. Broke Broche, the City’s director of public utilities, estimated that downtown Fresno would require between \$160-\$180

¹⁴ <https://www.fresnobee.com/fresnoland/article255749376.html>

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million in water and wastewater upgrades to support planned housing development.¹⁵ The Draft should analyze the cost of these needed improvements as a possible constraint on development.

Finally, the Draft failed to consider industrial and polluting industries' effect on future housing development. The City of Fresno has evolved as a car dependent City surrounded by heavy industry and highways. Therefore, future housing development will need to carefully consider placement and mitigation measures to avoid perpetuating environmental inequity.

C. Market Forces and Availability of Financing

The Draft failed to include an explanation of current housing development trends and applications across all income levels. Market forces are relevant to the types of housing that are likely to develop in the future. Once this analysis is done it might make it clear what actions the City must take, such as further financing for programs. Using the example mentioned above, requiring private investment to implement required infrastructure in downtown Fresno would likely make housing development in the area infeasible. Similarly, lower margins or a lack of developer interest in serving lower income portions of the market may require the City to provide incentives to spur greater housing development in the segment. Without a proper analysis such a conclusion is impossible and falls short of the requirements listed in Government Code § 65583(a)(6).

For example, Fresno had some of the highest rental price increases in the country, with a 28% increase in one-bedroom rent prices between January 2021 and January 2022.¹⁶ The spike in rent prices disproportionately affects low-income individuals who are often on fixed incomes or receive low wages that have not kept up with the rapid rise in rents. Further, existing conditions in many rental units in Fresno have failed to keep up with required maintenance and would fail habitability requirements.¹⁷ The combination of unmaintained housing in Fresno alongside rising rents was not analyzed as a constraint. As a result, the condition of housing stock available to low-income populations must be analyzed and the City must take steps to redress those constraints identified.

¹⁵ <https://www.fresnobee.com/news/local/article275363746.html>

¹⁶ <https://www.fresnobee.com/fresnoland/article258073823.html>

¹⁷ <https://www.fresnobee.com/fresnoland/article251600613.html>

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IV. Further Revisions and Analysis are needed to determine if the City's Draft Includes Adequate Sites

A. Regional Housing Need Allocation (RHNA)

The City's calculation of the RHNA it must accommodate must be revised to exclude units that have not been approved during the projection period. State law permits cities to reduce the number of units they must accommodate in their inventory of adequate sites, by income level, by the number of units approved or permitted since the beginning of the planning period:

Projects that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development. For these projects, affordability is based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project. See HCD's Housing Element Sites Inventory Guidebook, p. 5, available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf

The City's Draft Element appears to take credit for units that are still under review and have not yet been approved or permitted. The Draft Element cannot claim credit, meaning reduce the RHNA, with the following projects because project approvals have not been obtained for these units: Villa Baraca Apartments (P-1); DADA Lofts (p-13)(indicates the application is still being reviewed); Lincoln Park Apartments (P-16); Starling Townhomes (P-17); Latitudes at Armstrong (P-18); Helm Tower Office and Lofts (P-19); Elm Avenue Living (P-21); Majestic Palm Apartments (P-22); and, Los Pueblos Apartments (P-23).

The Number of sites needed to accommodate the RHNA should reflect the removal of the above-described projects.

B. Capacity calculation

If a site does not have a required minimum density then the City must analyze the development capacity based on the patterns of typical development patterns in the same zone. The City uses a very narrow time frame to assess the development capacity of projects in the City – 2018-2020, it is unclear why the City has chosen such a narrow time frame but in order to assess if the Draft's capacity calculations truly reflect realistic development patterns the City should use a broader time frame to establish the types of developments and capacity typically achieved.

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Also, the Draft should explain why the capacity calculation for the RM-1 zone was rounded down from 85 percent to 80 percent, while the same calculation was rounded up from 77 percent to 80 percent in the RM-3 zone.

The City has chosen not to rely on the minimum density to calculate capacity on some mixed-use zone site (NMX, CMX, RMX) and because there are no maximum densities imposed, the City instead creates a formula that determines what is likely “reasonable density” density that could develop on these sites and then divides that “reasonable density” in half to determine the Capacity for the site. This formula is flawed because it relies on very few submitted projects (that may not be approved) to determine what reasonable density might be during this planning period. It is crucial that the capacity calculation accurately reflects patterns of development especially where the City intends to accommodate a significant portion of the lower income RHNA (72 percent) on mixed-use sites. Two examples are not sufficient to establish a pattern of development.

Although the City relies less on the Downtown sites to accommodate the lower income RHNA, a correct calculation of capacity is still crucial in the DTC, DTG, and DTN zones and the DTN-AH overlay. And again, the City relies on very few projects during a very limited time period (2018-2020) to support its calculation for realistic capacity on downtown sites.

C. Non-vacant Sites

Non-vacant sites must demonstrate through the City’s methodology that they are feasible for residential development during the planning period. Government Code section 65583.2(g)(1). The methodology is required to consider certain factors. *Id.* The July Draft Element includes a description of the current use of the sites but the analysis must be revised to apply the required factors¹⁸ in order to assess the availability and feasibility of these sites for residential development during the planning period beginning in December 2023, including the City’s past experience converting existing uses to higher density residential development.

¹⁸ The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city’s or county’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. Gov. Code section 65583.2(g)(1).

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D. Large Sites and Concentrated Sites

The July Draft requires revisions to provide examples of whether “sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site...” Gov. Code section 65583.2(c)(2)(B). The Draft must also be revised to specifically identify what portions of the large parcels will accommodate the lower income housing needs in the City. The City is correct to assume that 100 percent of large sites, a site that is over 10 acres, will not likely develop for affordable housing. This is due, in part, to the limitation of available funding mechanisms for projects of over 200 units. But, identifying so many large parcels to accommodate housing for the lower income RHNA in close proximity to each other also acts as a constraint on development as affordable housing due to the same funding limitations. To be clear, identifying a large percentage of the sites to accommodate the lower income RHNA in close proximity to each other is a constraint on obtaining funding for affordable housing, funding which is critical to developing affordable housing, and it will create an obstacle to the development of these sites as affordable housing.

In addition, many of these sites are also concentrated in one area of the City and that also prevents the City from meeting its duties to remove patterns of segregation and comply with its duty to affirmatively further fair housing. [As mentioned in the AFFH section above, the over concentration of sites intended to accommodate the lower income housing need in specific areas of the City is inconsistent with the City’s duty to Affirmatively Further Fair Housing.]

As noted above the City’s inventory of available sites will need revisions and further analysis in order to determine whether the City has identified adequate sites to accommodate its RHNA for this planning period.

V. The Assessment of Fair Housing Fails to Comply with Section 65583(c)(10)

For generations, local mayors and council members have described Fresno as a “tail of two cities”, an illusion to Charles Dickens’ tragic 1859 novel of pre-revolution France, in acknowledgement of the outstanding disparities in quality of life and access to opportunity that exists between neighborhoods in the Northern and Southern portions of the City and the striking racial and economic differences that underlie them. Studies and data have repeatedly confirmed not only that South Fresno neighborhoods and people of color in Fresno are impacted by a severe lack of access to housing choice and access to opportunity across many indicators compared to North Fresno neighborhoods and White residents, but that the disparities impacting South Fresno, people of color and other protected classes stand out as among the most significant in the state and the country. The City’s duty to AFFH through the Housing Element and to complete an

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Assessment of Fair Housing in order to do so presents the City with a crucial new opportunity to address the intergenerational disparities and barriers to opportunity that persist in Fresno. Unfortunately, as discussed further below, the AFH lacks information and analysis and fails to incorporate public input as necessary to address the requirements set forth in Section 65583(c)(10) and does not achieve the requirement to ensure that the City AFFHs through its housing element.

A. Integration and Segregation and R/ECAP and Concentrated Area of Affluence Analyses Lack Required Detail

The AFH's analyses of patterns of integration and segregation and R/ECAPs and Racially Concentrated Areas of Affluence ("RCAAs") fail to address important factors which must be considered as part of a complete analysis pursuant to section 65583(c)(10)(A)(ii) and HCD's AFFH Guidelines. *See* AFFH Guidelines, pp. 30-34. These gaps render the AFH analysis incomplete and include but are not limited to the following:

- Failure to provide any data or analyze integration and segregation patterns for racial groups other than Hispanic/Latinos. Table 1:E-3.1, "Population by Race and Hispanic Origin, Fresno, 2000-2020," provides data about the share of the population of different racial groups in Fresno in 2000, 2010, and 2020, but no data is included that addresses the spatial composition and segregation or integration status of Black, AAPI, Native American, and other racial and ethnic groups. Similarly, the analysis fails to identify groups experiencing the highest levels of segregation as required. AFFH Guidelines, p. 31.
- Failure to accurately or thoroughly analyze distribution of low- and high-income households across Fresno. The Figure 1E-3.4, Median Household Income, Fresno, 2019 indicates median income levels across the City and depicts median incomes of \$100,000 or over in some areas West of State Route 99, Northwest Fresno, Northeast Fresno, and in the Sunnyside neighborhood of South Fresno. Yet the AFH's analysis of the data depicted by the map fails to acknowledge these high-income neighborhoods throughout the City, stating only that "Northwest neighborhoods of the city...have the highest median incomes. Otherwise, most of the remaining census block groups in the city have household incomes that fall below the statewide median indicating high poverty levels." This analysis washes out important information about relative income levels across Fresno, including concentrations of high-income households and low-income households in specific neighborhoods, which should be used to inform and geographically-target programs and the location of sites included in the inventory to AFFH. *See* HCD

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Guidelines, p. 32. For neighborhoods like West Fresno, which experience particularly acute barriers to opportunity linked to policies and practices that created and enforced segregation, an accurate and complete analysis and programs that respond to that analysis are essential.

- The AFH’s analysis of R/ECAPs and RCAAs fails to address “public participation, past policies, practices, [and] investments” as required. HCD Guidance, p. 33. The R/ECAP analysis provides only the generic statement that “R/ECAPs generally have less private investment from financial institutions, grocery stores, and other retail outlets,” but does not provide any analysis specific to Fresno City or regional policies, practices, and investments that contributed to the creation and/or perpetuation of R/ECAPs. The RCAA analysis only identifies that 18 RCAAs exist in Fresno, with no analysis at all of the factors giving rise to those RCAAs or their persistence or variation over time nor does it consider any public input on this topic.

As a result of these and other deficiencies, the AFH’s analysis of integration and segregation and R/ECAPs and RCAAs is incomplete. The analysis and the Draft Element’s contributing factors, goals and actions must be revised accordingly.

B. Incomplete Analysis of Disproportionate Housing Needs Based on Race, Ethnicity, Familial Status, Disability, and Income

The analysis of disproportionate housing needs must analyze needs relating to cost burden, overcrowding, substandard housing, homelessness and other factors for protected characteristics, including at least race and ethnicity, familial status, persons with disabilities, and income. § 65583(c)(10)(A)(ii); AFFH Guidance, p. 39. Disproportionate housing needs “generally refers to a condition in which there are significant disparities in the proportion of members of a protected class experiencing a category of housing need” compared to the proportion of members of other relevant groups or the total population HCD’s guidance emphasizes that local data and knowledge are particularly important to this analysis. *Id.* The requirement to analyze disproportionate housing needs is fundamental to achieving the purpose of the AFH to ensure that the housing element affirmatively further fair housing by identifying disparities impacting protected classes which have been subject to historic discrimination, describes the factors contributing to those disparities, and adopts meaningful actions that overcome patterns of segregation and address disparities in housing needs and opportunity for protected classes. Yet, the AFH fails to satisfy this requirement. While it provides the percentage of households experiencing any one of four specified housing problems - lack of complete kitchen facilities, lack of complete plumbing facilities, overcrowding, cost burden – by race and ethnicity, the analysis of overcrowding, cost burden, and substandard conditions only addresses

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the prevalence of those housing issues based on housing tenure (renter or owner) and census tract. The analysis fails to include any information about the separate occurrence of overcrowding, cost burden, and substandard housing conditions based on race or ethnicity and fails to provide any information at all about how these factors disproportionately impact Fresno residents based on familial status and disability. While the AFH includes some data relating to the race, gender, and mental disability of unhoused residents, it fails to include information relating to familial status. Further, the analysis includes no information that reflects “local knowledge” or public input, depriving the analysis of details about specific housing needs within the categories identified above and the scale of those needs in relation to others.

The City must supplement its disproportionate needs analysis to include the required demographic information and revise the AFH further to ensure its contributing factors and meaningful actions reflect that information.

C. Displacement Risk Analysis Fails to Consider Relevant Housing Cost, Tenant Protection, Land Use, and Environmental Risks

The AFH evaluation of displacement risk consists of the identification of census tracts which qualify as “sensitive communities” that may be vulnerable to displacement as a result of rising housing costs and market-based displacement pressures based on demographic, tenure, rent burden, and rent change criteria developed by The Urban Displacement Project of UC Berkeley and the University of Toronto. Figure 1E-3.31, Communities Sensitive to Displacement in Fresno, provides useful information indicating that large swaths of the City, including most South Fresno and Central Fresno neighborhoods, as well as the Blackstone Avenue Corridor are vulnerable to displacement, the AFH’s displacement risk analysis falls short by failing to consider other relevant information relating to existing and potential housing cost pressures confronting low-income residents, residents of color, and other protected classes, as well as significant displacement risks associated with tenant protection limitations, City land use policies and practices, environmental hazards, and climate change. A complete displacement risk analysis must consider these and other relevant factors. *See* AFFH Guidance, pp. 40-43.

1. Displacements Risks Associated with Housing Cost Pressures

As mentioned above, the AFH’s identification of sensitive communities using The Urban Displacement Project’s criteria provides a helpful high-level view of the displacement pressures impacting most of the City of Fresno, and almost all South Fresno and Central Fresno neighborhoods. That mapping alone however is not sufficient to accurately describe displacement risks impacting residents associated with housing cost pressures.

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First, the criteria used in the analysis rely on data from 2017 and earlier, including data relating to the change in rent between 2012 and 2017. This time period does not capture the sharp and sustained escalation in housing costs (both rental and ownership) that occurred during the COVID-19 pandemic between 2019 and 2022.¹⁹ Between 2017 and 2021, Fresno experienced the greatest rent increases of all large U.S. cities, with rental prices increasing nearly 39% during that time.²⁰ Pandemic-era and ongoing housing price increases disproportionately impact the housing stability of renters, people of color, and other populations that have less disposable income and assets on average and are impacted by discrimina and sustained nature of the housing cost increases which have occurred in Fresno since 2017, the AFH’s displacement risk analysis must be supplemented with and revised based on more recent data.

Second, while the AFH’s displacement risk section provides a snapshot of neighborhoods vulnerable to increased housing costs that occurred between 2012 and 2017, the section does not actually discuss housing cost trends over time or analyze the factors driving increased housing costs across the City and certain neighborhoods. The use of census tract level data alone to determine whether an area qualifies as a “sensitive community” or not, without further discussion, also washes out unique vulnerabilities experienced by particular neighborhoods which comprise only a portion of a census tract. The City must supplement the displacement risk section to include this additional information and analysis, using available data and local knowledge, in order to meaningfully identify displacement risks associated with housing cost pressures and on particular neighborhoods and protected classes.

Several factors are likely or definitely associated with rising housing costs in Fresno which the AFH does not but must identify and evaluate for their impact on displacement risk. These include but are not limited to the following:

- The expiration of affordability covenants attached to Low-Income Housing Tax Credit financed properties during the Planning Period. According to the Draft Housing Element’s At Risk Analysis, three properties consisting of 115 affordable units in the next four to eight years. The expiration of the affordability covenants on these properties creates a direct displacement risk to residents who are unable to pay market-rate rents.

¹⁹ CalMatters, Real estate prices soar during the pandemic, climbing 25% in parts of California, Dec. 5, 2020, available at <https://calmatters.org/california-divide/2020/12/real-estate-climb-pandemic/>

²⁰ Los Angeles Times, The Nation’s Hottest Housing Market? Surprise – it’s Fresno, Mar. 31, 2021, available at <https://www.latimes.com/homeless-housing/story/2021-03-31/fresno-rent-spike-taps-into-california-covid-housing-trends>

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- Major federal, state, and local investments in public works infrastructure projects in South Fresno neighborhoods, including a \$250 million phased budget commitment for downtown revitalization in the 2023/2024 California State Budget²¹; the June 2023 Federal Railroad Administration and State High Speed Rail Authority \$20 million award for the Fresno High-Speed Rail Station Historic Depot Renovation and Plaza Activation Project; and an \$80 million July 2023 award from the State's Transit and Intercity Rail Program²² for grade separation and intersection improvements in Central Fresno at McKinley Avenue and Blackstone Avenue. None of these historic awards have requirements attached to them to reduce the risk of displacement as a result of rising rents associated with neighborhood improvements.
- The development of the California High Speed Rail project, with a depot in Fresno, which the draft Housing Element recognizes is expected to increase housing demand in Fresno by enabling commuting between Fresno, Coastal California, and/or Sacramento. Draft Housing Element, p. 3-79. The analysis should also consider the impact of speculation associated with HSR on housing availability, prices, and displacement risk.
- The conversion of housing units to short-term rentals and their impact on housing cost pressures and displacement risk. The Draft Housing Element indicates that 7% of vacant units in the city are seasonal, short-term rentals, or "other" housing accommodations, but does not state what percentage of total units are seasonal housing or short-term rentals. The Draft states that stakeholders with Llaves De Tu Casa (an initiative involving real estate professionals, banks, the City of Fresno, and affordable housing developers) expressed concern about investors displacing community members to establish short-term rentals. Draft Housing Element, p. 1E-6-15. According to a recent news story, 811 homes were available as short-term rentals in Fresno and Clovis in June 2023, which represents a 27% increase in available rentals since 2020 and almost twice the number of homes listed for sale at that time.²³

²¹ YourCentralValley, City of Fresno announced \$250 million for downtown, June 28, 2023, available at <https://www.yourcentralvalley.com/news/local-news/city-of-fresno-announces-250-million-for-downtown/>

²² See Fresno Bee, State will help Fresno rebuild a major railroad crossing. Where is it, and what will it cost?, Jul. 6, 2023, available at <https://www.fresnobee.com/news/local/article277074553.html>

²³ GVWire, Is an Airbnb Crisis Looming in Fresno as Demand Plummetts?, June 29, 2023, available at <https://gvwire.com/2023/06/29/is-an-airbnb-crisis-looming-in-fresno-as-demand-plummetts/>

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The AFH's discussion of City "Displacement Avoidance Efforts" does not remedy the need for a complete analysis addressing the displacement risk factors above, including relevant City policies and practices, and the adoption of meaningful actions to address those risks. That section describes certain planning efforts the City undertook to evaluate displacement risks from rising housing prices and consider, but it does not actually provide any information about the findings of that policy recommendations and the policies that the City did or did not adopt. Given the significant stakeholder engagement conducted for the development of the "Here to Stay Report," the AFH should incorporate and consider relevant information and policy recommendations contained in that report.

2. *Tenant Protection, Land Use, Environmental, and Climate-Related Displacement Risks Not Considered in the AFH Displacement Risk Analysis*

A complete analysis of displacement risks considers not only displacement risks associated with housing cost pressures, but also other factors which result in housing instability, including factors relating to the adequacy of tenant protections, disinvestment, local land use policies and practices, environmental hazards, and risks associated with natural disasters and climate change. The Draft Housing Element considers none of these risk categories, yet based on our direct work with tenants and low-income residents and residents of color, they represent real and significant risk factors for Fresno residents.

First, the Displacement Risk section does not address the adequacy of policies and resources to protect tenants from displacement as a result of eviction, harassment, and substandard housing. A coalition of residents and community-based organizations have called to the City's attention the need for and have repeatedly asked the City to adopt additional and stronger policies and programs to protect tenants, including in particular more comprehensive and stringent rent control standards than those established by the state, just cause requirements for eviction, and right to return home for displaced residents. And while the AFH mentions the City's code enforcement programs, it does not analyze how successful these programs have been in preventing tenant displacement and ensuring residents have a habitable space in which to live. Draft Housing Element, p. 3-79.

Second, while the Draft Housing Element recognizes the occurrence of historic disinvestment and describes recent initiatives to increase investment in South Fresno neighborhoods, the AFH does not but should consider the extent to which public and private disinvestment and unequal investment continues to impact low-income neighborhoods, neighborhoods of color, and neighborhoods with a high proportion of tenants and how

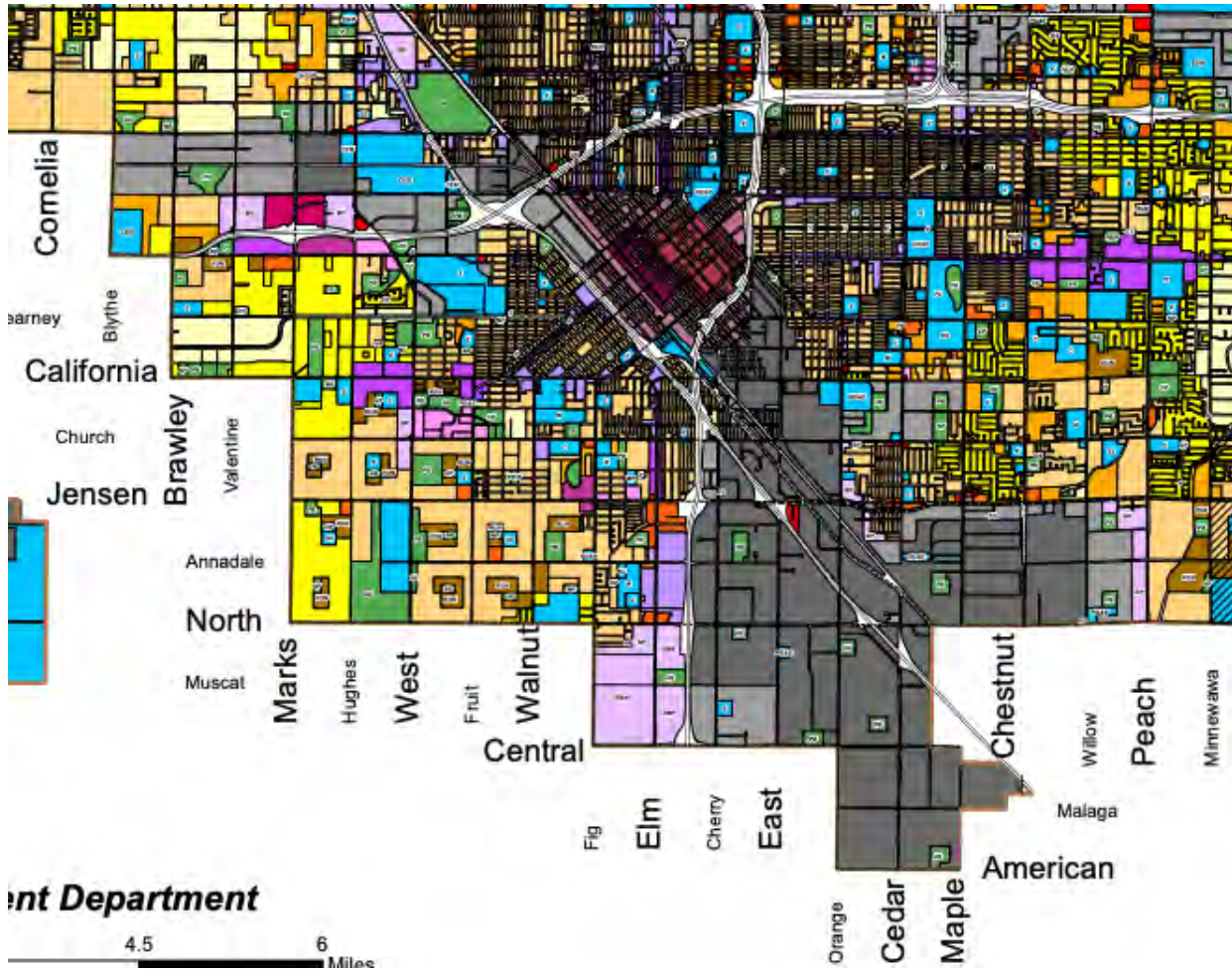


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disinvestment perpetuates and/or increases displacement risk in these areas. *See* AFFH Guidance, p. 40. Yet even today, many South Fresno neighborhoods lack sidewalks, streetlights, park space, grocery stores and other public and private investments that contribute to neighborhood and housing-stability.

Third, the Draft Housing Element fails to consider the displacement risks associated with the City’s land use and permitting decisions which have directed and continue to allow for and promote the concentration of industrial and waste management facilities in and around neighborhoods in Jane Addams, Southwest Fresno, South Central Fresno (referred to by the Draft Housing Element as the “South Industrial Area”), and Southeast Fresno. The City’s General Plan land use map designates thousands of acres of land in these neighborhoods for industrial and business park uses, which encompass warehouse distribution facilities, agricultural processing operations (e.g., slaughterhouses, meat rendering facilities), chemical storage, landfills, waste transfer stations, biomass facilities, and more. Draft Housing Element, p. 1E-3-77. These designations are applied to land adjacent to land designated for and/or developed with residential neighborhoods as well land currently developed with housing. Several General Plan policies direct the City to expedite development on sites designated for industrial land uses by streamlining permitting and making sites “shovel ready” for new development through the installation of infrastructure and connection to services. City of Fresno General Plan, ED-1-d, ED-1-e, ED-1-j. ***The General Plan therefore envisions and plans for the conversion of existing housing and neighborhoods to industry*** and the continued proliferation of industrial land uses surrounding housing and other sensitive uses, both within existing City limits and within the City’s Sphere of Influence.

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City of Fresno Official General Plan Land Use and Circulation Map (Excerpt)²⁴

²⁴Portion of City of Fresno Official General Plan Land Use and Circulation Map, available at https://www.fresno.gov/wp-content/uploads/2023/03/Official-General-Plan-Land-Use_20220411-1.pdf
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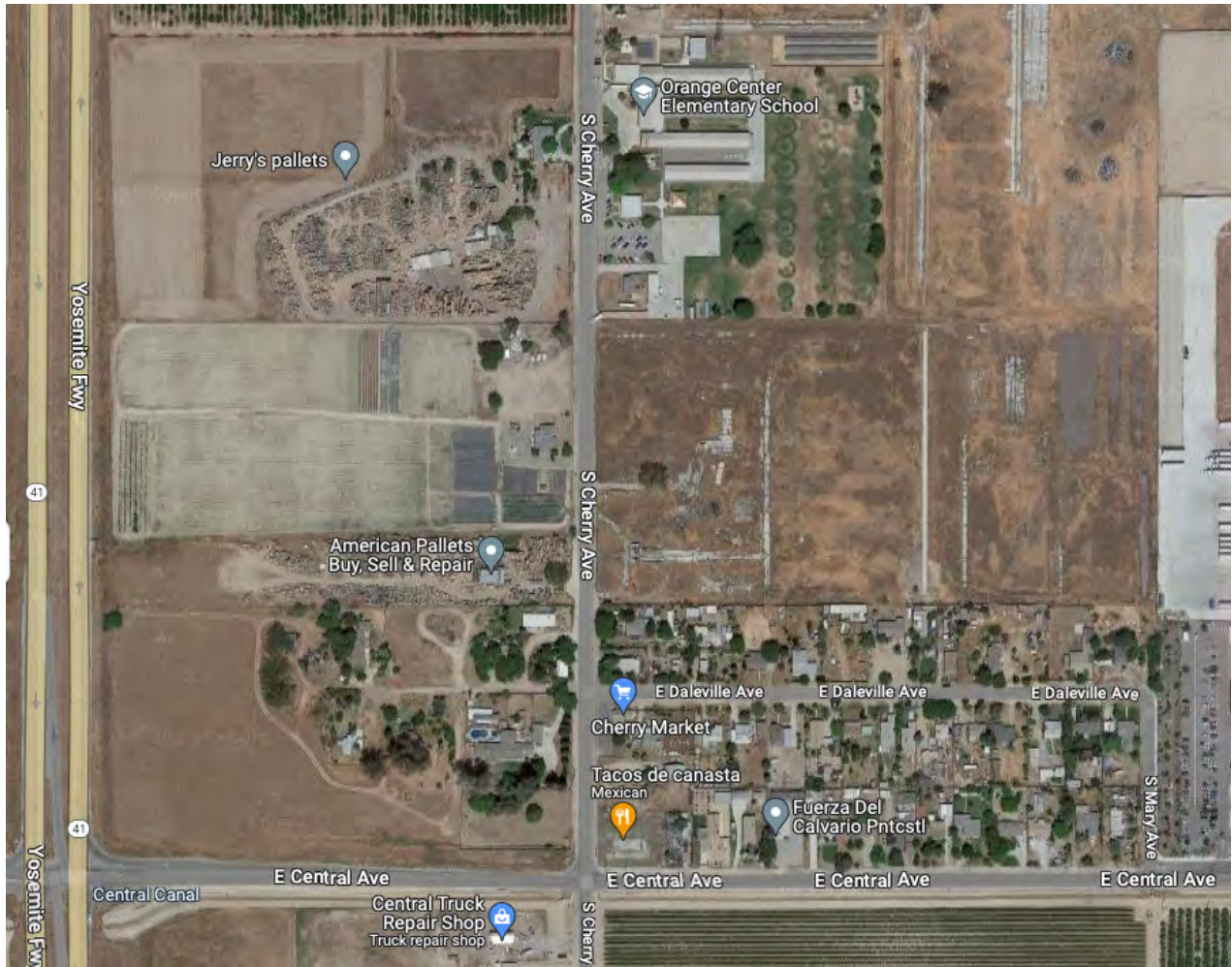
Google Earth Image Depicting S Rose Ave. & E. Kaviland Ave Neighborhood, Zoned Industrial on General Plan Land Use Map, and Adjacent West Fresno

(captured 08/16/2023)

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Google Earth Image of Unincorporated Daleville Neighborhood, Zoned Industrial on the General Plan Land Use Map, & Orange Center Elementary School

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San Joaquin Estates Mobile Home Park (“MHP”), Villa Fresno MHP, and Fresno MHP, Adjacent to and/or Surrounded by Industrial Zoning on the General Plan Land Use Map
(captured 08/16/2023)

These new warehouse facilities, in combination with existing industrial facilities clustered in South Fresno neighborhoods, have severe negative and destabilizing impacts on nearby housing. Warehouse distribution facilities, such as the Amazon and Ulta Beauty warehouses in South Central Fresno, attract thousands of truck trips that travel on roads shared with homes, schools, and parks every day. This truck traffic creates toxic diesel air emissions, dust, vibration, noise, and light glare which negatively impacts residents in their homes, including their health and well-being, the longevity and potential future occupancy of their housing. The construction and operation of facilities themselves often creates excessive dust, noise, light glare, heat, odors, and other effects which have similar impacts on residents and housing quality and stability. We have attached to this comment letter a declaration from a South Central Fresno resident describing impacts she has experienced due to the proliferation of

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industrial facilities in her neighborhood. Attachment A, Declaration of Katie Taylor.²⁵ The City must revise the AFH's Displacement Risk analysis to include a full evaluation of the impacts of its policies and practices relating to industrial development on displacement risks, including based on protected class status and income and reflecting the local knowledge of residents impacted by this issue, and incorporate meaningful actions to address those risks.

Fourth, the AFH's Displacement Risk section does not and should be revised to consider displacement risks associated with environmental hazards, environmental disasters, and climate change, pursuant to HCD's AFFH Guidance. AFFH Guidance, p. 42. For instance, South Fresno neighborhoods have been impacted by a series of fires at warehouse, recycling, and other industrial facilities that have occurred during the increasing number of high and extreme-heat days over the past five years.²⁶ Potentially toxic smoke from these fires has at times densely concentrated in South Fresno neighborhoods, which can make breathing difficult and unsafe for residents even within their homes with windows closed. In addition, residents who live in neighborhoods with incomplete sidewalks, stormwater drainage and other infrastructure and in housing without adequate cooling are at greater risk of displacement than other residents from climate-related weather events, including extreme heat and flooding. In Fresno, which recorded temperatures of 100 degrees Fahrenheit or higher on 23 days and a high temperature of 109 degrees in July 2023, extreme heat poses a serious threat of displacement for residents who lack adequate cooling in and/or cannot afford the cost of cooling their homes.

The City must revise the AFH to include a complete and accurate Displacement Risk analysis as described above and modify other sections of the Housing Element, including the AFHs contributing factors and meaningful actions to overcome disparities relating to access to a healthy environment associated with these land use patterns.

VI. The AFH Fails to Consider Significant Disparities in Access to Opportunity to Multi-Modal Transportation Options, a Healthy Environment, and Quality Education

²⁵ While the resident, Ms. Katie Taylor lives immediately outside of City of Fresno city limits, she resides within the City's Sphere of Influence and her experiences of the impacts of industrial development mirror those of many South Fresno residents who reside within the City of Fresno.

²⁶ See for example, ABC30, Crews Battling Large Fire at Southwest Fresno Recycling Center, June 18, 2021, available at <https://abc30.com/fresno-fire-recycling-center-recycling-timely/10807838/>; KSEE24, Massive fire burns industrial building in Fresno. What made the battle difficult for firefighters, June 26, 2021, available at <https://www.yourcentralvalley.com/news/local-news/massive-fire-breaks-out-at-warehouse-near-downtown-fresno/>; ABC30, Flames break out at warehouse in Southeast Fresno with homes and businesses nearby," Apr. 3, 2023, available at <https://abc30.com/warehouse-fire-southeast-fresno-east-and-florence-homeless-activity/13077246/>

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The AFH must include an analysis of disparities in access to opportunity. § 65583(c)(10)(A)(ii). Access to opportunity broadly encompasses the place-based characteristics which are linked to critical life outcomes, including “education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, recreation, food, and a healthy environment (air, water, safety from environmental hazards, social services, and cultural institutions). AFFH Guidance, p. 34. The AFH fails to consider disparities relating to several key components of access to opportunity, including in particular disparities in access to multi-modal transportation opportunities, a healthy environment, and neighborhood investments – issues which residents and CBOs have long raised with the City.

A. Disparities in Access to Multi-Modal Transportation Opportunities

An analysis of access to transportation opportunities must, at minimum, compare concentrations of protected groups with access to transportation options; assess any disproportionate transportation needs for members of protected classes; and analyze combined housing and transportation cost impacts on protected groups. *Id.* at p. 35. Transportation options include personal vehicles and public transportation, as well as options for pedestrians and bicyclists and other forms of group or shared transportation. *See Id.* at 48, 69, 73.

The AFH’s Transit Mobility analysis, as indicated by its title, focuses exclusively on the availability of public transit, including the FAX bus system and Handy Ride, through a brief discussion of available routes and programs and policies in place to reduce fares for certain populations. This analysis fails to compare access to transportation opportunities based on protected characteristics; assess any disproportionate transportation needs for members of protected classes; provide important information about the adequacy of public transportation service in different areas of the City, protected classes, and low-income households; and entirely fails to consider access to other forms of transportation, including walking and bicycling.

The City must revise the Draft Housing Element to include and analyze this missing information. In addition to the categories identified in the paragraph above, specific issues which must be considered include but are not limited to:

- Barriers to access to public transportation based on route limitations, especially for neighborhoods located on the fringes of the City. This includes both disadvantaged neighborhoods which are more strongly reliant on public transportation, such as Jane Addams and areas of West Fresno and South Central Fresno, and high resource neighborhoods in Northeast and Northwest Fresno, which Figure 1E-3.18, Fresno Area Express (FAX) indicates have significant less route access than South Fresno. The housing element must consider how route

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limitations in these areas impact mobility of residents of disadvantaged communities and their access to various forms of opportunity as well mobility and housing opportunities for low-income residents in North Fresno, considering affordable housing subsidy scoring criteria which often prioritizes public transit accessibility.

- Barriers to mobility resulting from lengthy travel times for residents' using public transportation due to bus wait times, lack of direct routes, and route limitations requiring residents to use other forms of transportation to reach their first and last stop, especially for residents in fringe neighborhoods.
- Inadequate and/or absent infrastructure to facilitate safe and efficient active transportation, including but not limited to sidewalks, curbs, stormwater drainage, streetlights, crosswalks, and protected bike lanes.
- Inadequate and/or absent protection from extreme weather, including climate-related weather events, such as extreme heat and flooding, that impact walking, biking, and public transportation use. This includes but is not limited to the availability of shade (e.g., trees, structures), shelter, sidewalks, and stormwater drainage.
- The presence of high volumes of traffic, including heavy-duty truck traffic, on roadways used by pedestrians or bicyclists, including in and near areas zoned for industrial land uses and along designated truck routes.

B. Disparities in Access to a Healthy Environment

An analysis of access to a healthy environment must describe any disparities in access to environmentally healthy neighborhoods by protected groups, consider available statewide data such as CalEnviroScreen, evaluate consistency with the environmental justice element (if relevant), and discuss policies, practices, and investments that impact access to environmentally healthy neighborhoods. AFFH Guidance, p. 35. A complete analysis should consider any impacts on access to a healthy environment associated with the zoning, siting and operation of polluting or toxic land uses in disadvantaged communities and with climate change. *Id.* at pp. 16, 73. A robust analysis of disparities in access to a healthy environment, informed by public input, is especially important in Fresno given the high concentration of communities in low-income South Fresno neighborhoods of color that rank among the most burdened by multiple sources of pollution in the state and the relatively low-pollution burdens on many indicators born by comparatively affluent and Whiter North Fresno neighborhoods and RCAAs.

The AFH's Healthy Environment analysis includes data demonstrating cumulative pollution burdens impacting Fresno neighborhoods by census tract and provides some

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information about industrial and waste processing facilities in South Fresno. However, it fails to include *any* discussion of City policies and practices underlying the stark environmental health disparities between South Fresno and North Fresno neighborhoods reflected in the data or any information or analysis about what policies, practices, and investment underlie those disparities. The analysis points to agricultural industry practices as a basis for high pollution indicator scores in Western Fresno County but does not discuss the bases for pollution disparities impacting the City of Fresno itself, including West Fresno, Jane Addams, South East Fresno neighborhoods with high cumulative pollution scores.

As discussed above, City policies and practices have intentionally concentrated polluting and noxious industrial and waste management land uses in South Fresno neighborhoods and policies and practices remain in place that all promote the exacerbation of these patterns to the detriment of housing opportunities and quality of life for South Fresno residents. These policies and practices include but are not limited to impact fees for a community benefit fund, public health impact reports, and cargo/freight prohibition and revenue tax.

C. Disparities in Access to Educational Opportunity

The AFH’s analysis of educational opportunities must include an evaluation of the presence or lack of policies, practices, and investment to promote proficient schools or that contribute to a disparity in access to opportunity,” among other factors. HCD’s AFFH Guidance, p. 35. Disparities in access to transportation opportunities and environmental health, including those discussed above, significantly impact access to educational opportunity. For instance, a lack of or incomplete sidewalks, stormwater drainage, and streetlights in R/ECAPs; inefficient public transportation options; and the use of local roads by heavy-duty truck traffic may prevent students from traveling to and from school safely and on time, which may in turn have a series of impacts on students’ access to educational opportunity. Likewise, the presence of heavy industrial facilities near and surrounding schools and ongoing construction for the development of new warehouse distribution centers may disrupt learning by exposing students to air, noise and light pollution and increasing temperatures and thereby also undermining opportunities for outdoor recreation during school hours. The City should also consider how policies, practices, and investments or disinvestments relating to access to green space, tree canopy, and climate resiliency (including adequate cooling and wildfire smoke protection) impact educational opportunities at schools, especially in low-income neighborhoods. The City must revise its analysis of educational opportunities to address these and other issues not addressed in the Draft Element and revise and add to its actions accordingly.

VII. Incomplete Analysis of Housing Element Sites’ Compliance with AFFH Duty

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Housing Element Law requires that jurisdictions' sites inventory "identify sites throughout the community" consistent with its duty to AFFH. § 65583.2; 8899.50; HCD AFFH Guidance, p. 45. The AFH must evaluate sites "relative to the full scope of the assessment of fair housing" and provide detailed instructions describing the required components of this evaluation. AFFH Guidance, p. 45.

Here, the AFH fails to evaluate important components of whether the distribution of sites in the inventory AFFH and to summarize conclusions and identify specific programs to address fair housing issues associated with the locations of those sites. Deficiencies of the evaluation include but are not limited to the following:

- The AFH's analysis of the sites inventory's impact on segregation and integration trends, like other sections of the AFH, only briefly considers impacts on the distribution of Hispanic/Latino households and does not consider at all the impact on relative integration and segregation of other races. Critically, it fails to acknowledge how the lack of lower-income sites identified in high-resource areas, including for example Northeast Fresno, will perpetuate patterns of RCAs and R/ECAPs. *See* AFFH Guidance, p. 45.
- The AFH lacks analysis of the impact of its sites locations on access to specific forms of access to opportunity and therefore fails to identify any programs to address fair housing barriers to which its site selection gives rise. The sites inventory includes a large share of sites in low-income neighborhoods of color impacted by poor environmental health indicators, industrial zoning and concentrations of industrial and waste management facilities. The inventory also includes sites located near State Routes 99, 41, and 180 as well as many sites on Blackstone Avenue, a heavily trafficked thoroughfare. The City must analyze these and other impacts on access to a healthy environment implicated in its choice of sites. In addition, the AFH lacks analysis of how absent or incomplete infrastructure, services, and amenities impact access to opportunity on sites included in the inventory and fails to identify programs to address these barriers. The Draft Element includes a significant share of sites in areas West of State Route 99 which are not yet developed and which lack basic infrastructure, services, and amenities, such as sidewalks, streetlights, public transportation, park space, and grocery stores as well as City water and sewer connections. Many of the lower-income sites identified in low-income South Fresno neighborhoods also experience disparities in access to critical infrastructure and services which must be considered in an analysis.
- Only 23% of sites included in the inventory to meet the lower-income RHNA are in high and highest resource areas, which the AFH states is due to the predominance of single-family zoning north of Shaw Avenue. 1E-3-109. "Where the analysis of the

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inventory indicates that the community has insufficient sites appropriately zoned and located to accommodate its lower-income RHNA in a manner that affirmatively further fair housing, the housing element must include a program to address this inconsistency, such as making additional sites available to accommodate its lower-income RHNA in a manner that affirmatively further fair housing.” AFFH Guidance, p. 45. Despite its recognition of the limited number of lower-income inventory sites in high resource areas, the AFH fails to describe a program included in the Draft Element to adequately address this fair housing issue. As further discussed in this letter below, while the AFH points to Program 2 as the Draft Element’s action to address this fair housing issue, the program fails to ensure that it will actually add sites to the inventory to meet the lower-income RHNA in high-resource areas or that it will facilitate development of lower-income housing in high-resource areas at all. The program commits only to “present potential sites or rezoning options for land in high resource areas for Council consideration for higher density development.” p. 1E-18. While the time frame section indicates that City will rezone sites in high resource areas by 2027, the language in the body of the program does not make commit the City to actually rezoning sites or to include additional sites located in high-resource areas to the housing element and therefore renders the commitment that the Program is making ambiguous. The Program also makes no commitment to ensure that sites that may or may not be rezoned or impacted by this Program are “suitable” for development pursuant to the Housing Element Law’s standards, including that increased capacity is created on vacant and/or underutilized sites. Further, the City provides no analysis justifying its selection of 750 units of additional capacity as its target or if that quantity is sufficient; if changes to permitting and zoning standards of sites located in the Office District will create sites near amenities and resources and with relatively low environmental burdens within high-resource census tracts; why rezoning of sites within low-density, higher income neighborhoods which are still under development is not proposed and that impact of the failure to include such sites on addressing patterns of segregation and exclusion. The Program also fails to address barriers to housing opportunity for lower-income residents who reside in housing developed in high resource areas, including inadequate public transportation options, affordable fresh food, and cultural and linguistic resources.

- The AFH sites inventory analysis includes no discussion of local knowledge and community input, pending development, development potential and other relevant factors which must be discussed in a complete analysis. AFFH Guidance, p. 45-46.

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The City must address these deficiencies in the AFH's sites inventory analysis and include additional meaningful actions, with deadlines and clear outcomes, to overcome the fair housing issues associated with the Draft Element's inventory.

VIII. Failure to Fully Analyze Contributing Factors and Lack of Meaningful Actions to Affirmatively Further Fair Housing Render the Draft Housing Element Noncompliant.

The City has failed to complete an adequate analysis of factors that have contributed to patterns of segregation and as discussed above the program actions included in the draft housing element do not and will not effectively AFFH as required by law. Unless and until the City fully analyzes factors that have contributed to patterns of segregation, identifies which factors it will address along with the programs and policies it will rely on to do so and metrics that demonstrate success, the housing Element will be out of compliance with state mandates. (See Government Code section 65583(c)(10))

IX. Failure to Adopt Community Identified Programs That Will Result in A Beneficial Impact During the Planning Period and AFFH

Housing Element Law requires that housing elements include programs with a schedule of actions with timelines and specific commitments that will have a "beneficial impact" within the planning period to achieve the housing element's goals and objectives. As stated in the AFFH guidance "actions implement goals and consist of *concrete steps, timelines, and measurable outcomes.*" Pursuant to the requirement that housing elements AFFH, housing elements must also include actions to implement priorities and goals identified in an Assessment of Fair Housing (AFH). Those actions must be "meaningful" and go beyond combatting discrimination to "overcome patterns of segregation and foster inclusive, affordable and stable communities." AFFH Guidance, p. 46; See Government Code §§ 65583(c)(5)&(10), 8899.50(a)&(b).

The draft element's Housing Action Plan contains numerous actions that lack concrete steps and measurable outcomes and will not necessarily result in a beneficial impact during the planning period in violation of the Housing Element Law's standards. Certain programs fail to identify concrete steps, specific actions the city will take to complete each program, use of vague language, and do not provide adequate timelines. Finally, the action plan fails to include community identified programs and solutions collected from public hearings and workshops. Examples of inadequate programs, and some of our recommendations to improve them, include the following:

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- **Program 1 - Maintain Adequate Sites.** Program 1 states that the City shall continue to maintain a current inventory of Housing Element sites to ensure that it can adequately accommodate the 2023-2031 RHNA” Given the impact of rezoning to the availability of and location of sites suitable for housing, the City should take additional steps to ensure transparency in decision-making related to proposed rezones and take diligent steps to provide notice of the proposed rezone along with an assessment of the potential impacts of the rezone on housing opportunity prior to a decision on the proposal. This includes but is not limited to public hearings and door to door canvassing to facilitate effective notice. Further, the city must conduct a racial equity analysis which would include the benefits and disadvantages of the proposed rezone and whether it would result in displacement of protected racial/ethnic groups, reduce housing opportunities for protected groups, and how it would impact patterns of segregation. Finally, the program should explicitly prohibit the rezoning of sites suitable for lower income households to industrial land use classifications which would bring industrial uses next to or near neighborhoods that include or are planned for housing affordable to lower income residents. This is critical to ensure that the City is compliant with its duty to affirmatively further fair housing.
- **Program 2- Variety of Housing Opportunities in High Resource Areas (*identified in the AFH as a Meaningful Action*).**

The program states that the City “will identify and pursue opportunities” with affordable housing developers to promote the development of affordable units in high resource areas. Unfortunately, it does not provide any details on how they will in fact promote the development of affordable units for lower income households in high opportunity areas. There is no clear commitment to zone sites for multi-family development in areas of high opportunity or a commitment to ensure that such units are affordable to all income levels. Further, there is no commitment to match funding opportunities with the identification of available sites to facilitate their development. Notably, the City will not conform with its duty to AFFH if it does not ensure adequate sites for affordable housing for lower income residents in high resource areas. Without clear and enforceable commitments and timelines, this program will not provide a beneficial impact or further fair housing. Furthermore, in order to expeditiously address the lack of housing opportunities accessible to lower-income residents in high resource areas, the timeline of this program should be shortened.

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Accordingly, a specific objectives of this program should be changed to (a) assess the number of sites that must be rezoned in high resource areas (as identified in TCAC/HCD's Opportunity Maps) to effectively AFFH , and (b) rezone the adequate number of sites pursuant to that analysis by December of 2025.

- **Program 3 - Encourage and Facilitate Accessory Dwelling Units (ADUs) (*identified in the AFH as a Meaningful Action*).** While we support and encourage the development of ADUs, the program does not outline clear commitments that will yield identifiable beneficial outcomes. The program states “a primary objective of this program is to increase the supply of affordable units throughout the city” but fails to identify any specific commitments to take any action on how this objective will be reached. Additionally, building ADUs is generally not an accessible housing option to low income households who cannot afford predevelopment costs associated with ADUs. We recommend additional measures in this program to make ADUs accessible to lower income households such as targeted outreach to low-income homeowners, incentives for landlords to make ADUs affordable, no interest loans for ADU development and waivers for inspection fees. Additionally, a dedicated liaison in the Office of Community Affairs should be available for all questions regarding ADUs.
- **Program 8 - Use of Sites in Previous Housing Elements.** Program 8 should be updated to clarify that streamlined approval will be available to both vacant and non-vacant sites through a zoning amendment. As written it appears that the zoning amendment will only apply to vacant sites included in the 4th and 5th cycle housing elements.
- **Program 9 - Annual Reporting Program.** While we appreciate the sentiment that the City will “engage all members of the Fresno community,” and the specific commitment to use multilingual notices and media, the City should revise this program and avoid using vague language with no commitments. To make the public engagement associated with this program meaningful, we recommend that the program include a commitment and associated timeframe for the City to implement input received through its various outreach efforts such as workshops and surveys in addition to the annual public hearing. The annual report should include specific actions the City will take to overcome identified constraints and barriers to complying with Housing Element programs.
- **Program 10 - Incentives for Housing Development (*identified in the AFH as a Meaningful Action*).** This program does not present a commitment to address housing

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production for low-income units or actions that will be taken to complete the program. To facilitate and promote the use of available incentives, the city should make a list of incentives, including density bonus incentives and impact fee waivers, available to the public through an accessible database.

Additionally, the program's current language that it will "identify site opportunities in higher resource areas and ...improve access to resources" suffers from the same issues that program 2 does insofar as it fails to identify clear and enforceable commitments and steps that it will take to ensure the availability of sites for lower income households in high opportunity areas. It is critical for this program's success and the City's role in AFFH that the housing element includes clear, timebound, and enforceable actions to ensure availability of sites for lower income households in high resource areas, as outlined above.

Finally, the City should include enforceable commitments to avoid displacement and gentrification in the Downtown Planning Area, and assess the role that priority processing in the area has on the City's duty to AFFH.

- **Program 11 - Local Housing Trust Fund (*identified in the AFH as a Meaningful Action*).** The Local Housing Trust Fund is a great tool to alleviate the housing crisis and we are glad to see the City's commitment to leverage State matching funds. We recommend adding the creation of a Community Advisory Board as an action to ensure that projects are driven by a community process and benefit the most impacted residents. Housing advocates have met previously with City staff to develop an equitable Community Advisory Board made up of a diverse group of residents most impacted by housing barriers, legal experts, and small landlords.
- **Program 16 - Surplus Public Lands.** The commitment to release surplus sites appears to simply be a commitment to comply with its existing duties under the Surplus Lands Act. The language is ambiguous, non-committal and must be revised. In addition, the program states the City will "consider depositing a portion of up to 100 percent [of sale proceeds] to the LHTF" We recommend instead that the City commit to depositing 100 percent of sale proceeds into the LHTF.
- **Program 18 – Home Buyer Assistance (*identified in the AFH as a Meaningful Action*).** While a critical program for many Fresnoans, this Program should include

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additional commitments to ensure that low-income residents, undocumented residents, residents who speak languages other than English, and residents in racially and /ethnically-concentrated areas of poverty (R/ECAPs) have the opportunity to benefit from these funds. During the 5th Cycle planning period, many residents without social security numbers or who faced language access barriers were unable to apply for the City’s homebuyer assistance program. While the City was able to assist nine families with this program, this program must incorporate mechanisms that will allow more families to apply during the next 8-year cycle by addressing barriers and pursuing state funds every year. This program has other deficiencies that must be addressed such as lack of public outreach and lack of interpretation for applicants applying by phone. Solutions include: ensuring that low-income residents are knowledgeable about the programs, undocumented residents are able to successfully apply for this program, including closing costs as part of funding packages. In order to ensure that residents living in R/ECAPs are targeted, we recommend the City create annual reports listing how many applicants were assisted, outreach efforts made and whether they live in R/ECAPs. Due to the concerns outlined above, the program as currently implemented and drafted fails to adhere to HCD’s AFFH Guidance that “actions must be specific with timelines, discrete steps and measurable outcomes to have a ‘beneficial impact’ during the planning period.”

- **Program 19 – Housing Choice Voucher Incentive Program (HCV) (*identified in the AFH as a Meaningful Action*)**. This action fails to include meaningful actions with specific timelines, and measurable outcomes to have a “beneficial impact” during the planning period. The program should develop and implement a proactive enforcement program housed within that legal department to ensure HCV . The City should revise this program action to include a timeline of one workshop a month (twelve workshops throughout the year) to ensure residents and landlords are able to access housing quickly and better assist residents/landlords going through any issues that prevent them from using/accepting HCV. Additionally, collaborating with and funding CBOs and fair housing organizations to provide information to voucher holders and landlords on California’s source of income discrimination prohibitions. The program should also commit the City of Fresno to finance billboard ads about protections against HCV discrimination and send informational materials to all landlords in Fresno registered in the rental registry regarding HCV. Finally, the program should be revised to include a commitment to actively pursue enforcement against discrimination against voucher-holders and supplementing vouchers with additional subsidies to support voucher use in higher-cost markets in high resource areas. Northeast Fresno has very

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limited HCV use, with only four census tracts north of Herndon Avenue containing any HCVs, and of those four tracts, no tract exceeds 5 percent HCV use. By revising the program to include the above recommendations would help address fair housing needs in Fresno.

- **Program 21 – Housing Rehabilitation (*identified in the AFH as a Meaningful Action*).** Government Code section 8899.50 requires ““meaningful actions” well beyond combating discrimination to overcome patterns of segregation and foster inclusive communities. These actions, as a whole, must address significant disparities in housing needs and in access to opportunity.” The current program has failed to address the needs of extremely low income residents and vulnerable populations such as undocumented residents. As we continue to see the negative effects of Climate Change across the world, it is imperative that the City include weatherization such as cooling mechanisms, like heat pumps, air conditioning, insulation and other cooling assets to increase resilience to extreme heat as part of the rehabilitation program. It is a critical and urgent need given that extreme heat kills thousands per year and impacts disadvantaged communities the most. Additionally, the City must establish an acquisition and rehabilitation fund to purchase older, blighted, and/or abandoned homes/buildings. The City of Fresno can establish a revolving fund to insure that rehabilitated homes are sold back to the community at a low cost. Finally, for the program to have a beneficial impact the timeframe section should include 15 rehabilitation grants annually, and 5 distressed property grants using PLHA and CDBG funding for extremely low and low income residents.
- **Program 22 – Comprehensive Code Enforcement.** While we appreciate Code Enforcement’s response and the City’s diligence to keep increasing staff, there are still additional actions that should be taken to create a comprehensive code enforcement. HCD’s AFFH Guidance recommends that “to overcome contributing factors to fair housing and affirmatively further fair housing, actions must consider a wide range of actions across all action areas. The number and scale of actions will depend on the severity of the needs but regardless of need, a cohesive and effective program will consider multiple action areas.” This program as written continues to fail to address critical housing issues since the last housing element cycle. The program should be revised to include actions around legally holding landlords accountable for retaliation, unlawful evictions, and harassment towards tenants who file code enforcement complaints such as a commitment to adopt a tenant anti-harassment ordinance. As stated,

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we recommend that the City adequately analyze code enforcement's procedures and incorporate tenant feedback for a comprehensive code enforcement program.

- **Program 23 - Special Needs Housing (*identified in the AFH as a Meaningful Action*).** Much of the language in this program is vague, noncommittal, and does not provide adequate actions in order to provide a beneficial outcome. This program states the City “shall advocate for provision of special needs,” “partner with and encourage local and state non profits,” and “provide/encourage.” These actions are not concrete or specific and provide no assurance of a beneficial impact on persons’ with disabilities access to housing. This should be revised to include review and enforcement of compliance with legal requirements for accessibility of multi-family and affordable housing, including in permitting processes, not just “encourage[ing]” accessibility features. Additionally, we recommend that the program add specific actions to remove barriers to housing by special needs groups such as allowing undocumented residents to apply for and receive housing assistance, vouchers and other subsidies unless otherwise required by federal law.
- **Program 26 - Equitable Community Investments (*identified in the AFH as a Meaningful Action*).** Program 26 states it will “seek funding,” “continue to actively seek resources,” and “continue implementing the written policies.” These commitments are vague and non-committal. There are no actions on how these will be completed and is ambiguous and as a result provides no indication that a beneficial outcome will result from the program and further fair housing. The programs continue not to commit the City to take a lead role in planning, funding, and/or constructing projects or indeed any role beyond identifying issues and needs and seeking funding on an annual basis. Additionally, it should not rely on the General Plan’s identification of Priority Areas for Development Incentives in Chapter 12 and should instead use the Urban Displacement Project data to guide investments.
- **Program 28 – Opportunity To Purchase Act (OPA) (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City’s action to initiate research on a local Opportunity to Purchase Act, we strongly recommend that the City implements robust outreach and engagement, in partnership with CBOs that work closely with low-income communities in racially/ethnically-concentrated. Additionally, the program states it “shall research” and “consider establishing an OPA.” These are not commitments

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and fail to implement any specific, firm, or enforceable commitment such that no beneficial outcome of the action is indicated.

- **Program 29 – Mobile Home Parks (*identified in the AFH as a Meaningful Action*).** Program 29 contains no commitments, actions, or enforceable language that will ensure a beneficial impact throughout the planning period. Additionally, this program repeats verbatim language included in Program 10A of the 2015-2023 without explaining how or why reliance on the same program action will have better results during the next planning period. With residents like Three Palms and Trails End Mobile Home Park experiencing the negative impacts of slumlords, it is crucial that the City make significant improvements to the program actions. Furthermore, the program must address the need for heat resiliency such as weatherization and insulation especially to older mobile home parks by funding a mobile home park renovation fund for all mobile homes. This fund will help low income families with issues that they need to address due to inspection violations or other habitability concerns. Additionally, this program should include a commitment to penalize and fine mobile home park owners who are not providing adequate and safe conditions for their tenants. For example, Three Palms Mobile Home Park had not had safe drinking water for quite some time and the owner was never made responsible for this clear human rights violation. Finally, consistent with the City’s responsibility to AFFH, the program should support quality of life and access to opportunity improvements for all mobilehome parks in Fresno by taking meaningful actions to increase green space, transit, and resources near mobile home parks.
- **Program 30 – Emergency Rental Assistance Program (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City adding this program, it states that the City will “seek additional funding” and fails to commit ongoing funding that can come from the Local Housing Trust Fund, the General Fund, or its own permanent funding source to ensure a beneficial impact during the planning period. Identification and commitment of a permanent local source of funding by 2024 will highlight a commitment to prevent displacement and protect tenants.
- **Program 31 - Eviction Protection Program (EPP) (*identified in the AFH as a Meaningful Action*).** The Eviction Protection Program is a critical anti-displacement and anti-homeless tool. However, the program's current language to “seek additional funding to support the “EPP” is not a strong commitment and does not provide indication that a beneficial outcome will occur if funding is not replenished. We strongly recommend that

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the City commit to staffing 5 full-time staff for screening so tenants are able to receive help as soon as possible. We also recommend program expansion to include:

- Wide-reaching outreach and education campaigns
 - Direct legal representation and assistance for low-income tenants encountering legal issues. This includes but is not limited to being served with a notice from their landlord (e.g. 3-day notice, notice of rent increase, etc.)
 - Evaluation of the Eviction Protection Program to ensure it is effective and address issues to improve the program.
-
- **Program 33 – Homeless Assistance (*identified in the AFH as a Meaningful Action*).** Program 33 does not commit the City to any concrete action. The program states it will “identify partnership opportunities,” “leverage the homeless assistance response team” and “support the Voucher Incentive Program” none of which commit to any enforceable and actionable items. The city must commit to completing an adequate analysis of needs of unhoused City residents. This should include the completion of an AFH analysis of disproportionate needs.
 - **Program 34 - At-Risk Housing.** Program 34 includes actions without a clear commitment to take steps that will lessen the severity or impact of the issue in any timeframe. Again, the language is non-committal, vague, and ambiguous in how the program will reach its objective. Additionally, stronger tenant protections should be included as an objective and completed no later than June 2024 for residents facing displacement and an affordable housing resource map for tenants so they have the option to relocate.

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Thank you for your consideration of our comments. We look forward to discussing them with you and continuing to work with the state and the City to ensure that the City adopts a Housing Element that fully complies with the law and addresses the serious housing needs and disparities that impact Fresno City residents.

Sincerely,

Valerie Feldman
Staff Attorney
PILP

Karla Martinez
Policy Advocate
LCJA

CC: Hillary Prasad, Housing Policy Specialist, California Department of Housing and
Community Development
Jose Ayala, Housing Policy Specialist, California Department of Housing and
Community Development
Scott Lichtig, Deputy Attorney General, Bureau of Environmental Justice, Department of
Justice
Robert Swanson, Deputy Attorney General, Bureau of Environmental Justice,
Department of Justice

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**Attachment A:
Resident Katie Taylor's Declaration of Industrial Impacts**



**DECLARATION OF KATIE TAYLOR IN SUPPORT OF
SOUTH FRESNO COMMUNITY ALLIANCE'S COMMENTS ON THE CITY OF
FRESNO'S GENERAL PLAN FINAL PROGRAMMATIC
ENVIRONMENTAL IMPACT REPORT (SCH #2109050005)**

I, Ms. Katie Taylor, declare:

1. I am a resident of Fresno, California. For over fifty years, I have lived on Central Avenue near its intersection with Orange Avenue in unincorporated Fresno County, just South of Fresno City limits.

2. The Amazon Fulfillment Center was constructed across the street from my house in 2017. The Ulta Beauty distribution center was built less than half a mile from my house in 2017 as well. There are other large facilities near my house, including the FedEx terminal, that attract traffic. Several other truck terminals and truck stops have been built around my neighborhood in the last few years as well. It seems like there are always new facilities being built nearby.

3. I was never notified that large warehouses were going to be built so close to me. When I saw the orchard trees being plowed down across the street, I did not know why. I thought the property owners were just going to plant more fruit trees. My neighbors thought the same thing. The next thing we knew there were big buildings being constructed. We were not given an opportunity to provide input on whether these projects went forward, the types of impacts they might have on the community, and what types of mitigation to avoid and reduce the projects' impacts might be appropriate. We were not given the opportunity for our voices to be heard.

4. I am not aware of the City ever contacting me or my family to inform us of the City's development of its current General Plan ("2014 General Plan"), the 2014 General Plan Master Environmental Impact Report, the Programmatic Environmental Impact Report for the 2014 General Plan, the Roosevelt Community Plan, or other action to zone or pre-zone land in my neighborhood for industrial land uses.

5. Three of my family members have passed away from cancer. My husband, daughter, and son all died of cancer. Some of my neighbors have died of cancer too. I have a heart condition and thyroid problems. I have allergies as well. My allergies have gotten worse since the warehouses were built. Some of my neighbors' children have asthma, which they say has gotten worse.

6. The construction of the Amazon facility had major impacts on me and my neighborhood. While construction was ongoing for months, the Amazon construction covered my house with dust. The construction occurred at night as well. The nighttime construction was loud and they used very bright lights. The truck traffic during the construction was also extremely loud,

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and I could hear the noise from within my home with the windows shut. The construction caused vibrations that were so strong that my house shook on some occasions.

7. Since the Amazon and Ulta facilities began operating, the car and truck traffic in my neighborhood has increased significantly. People who come visit my house are shocked by how much traffic there is now. There is traffic traveling to the facilities 24 hours a day, seven days week. A loud rumbling from the trucks passing can be heard all hours of the day and night. The vibration from the trucks shakes my house. The trucks are so loud sometimes that it sounds like someone is knocking at my door, and it can sometimes be hard to hear visitors talking in my house when trucks pass by.

8. The trucks going to and from the facilities create a lot of dust and fumes, which covers my house and car constantly. I have to clean the dust off the windows of my house and car almost every day. The dust also seeps into my house through cracks in my doors and windows. My neighbors complain about the dust getting inside their houses too.

9. Traffic lights were put up at the intersection of Central and Orange when the Amazon warehouse was constructed. The lights are very bright and blink continuously. They shine into my windows, which disrupts my sleep. My daughter has Down syndrome and autism. The constant flashing of the traffic lights is very disturbing for her because of her condition.

10. I have noticed that my neighborhood has become hotter since the warehouses were constructed, including during the night. I am forced to use my air conditioning more, which increases my energy bill. My neighbors have also noticed that it is hotter, that the neighborhood does not seem to cool down as much in the evening as it used to, and that they have to use their air conditioners more.

11. I have noticed that the traffic from the warehouses affects pedestrians. People I know that walk around the neighborhood have to be very careful because of the traffic. Some of the Amazon employees drive recklessly. I have noticed more accidents because of the traffic from the warehouses. There is frequently congestion from employee vehicles backed onto Orange Avenue near my house.

12. The water pressure at my house has dropped in the last four or five years. I have to pay for a water tank that comes every two weeks. My water is contaminated. One of my family members tested the water and found that it was not safe to drink. A person from UC Davis came and tested my water too and told me not to drink it because of the contamination.

13. I am worried that the value of my house has gone down because of the warehouses and other facilities. I believe that the value of my neighbors' houses has gone down too. This really hurts us because we do not have very much money, my home is my main source of wealth, and we are trying to pass our homes down to our kids to help support them economically.

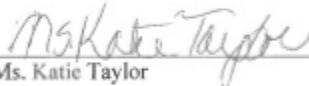
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14. Since about 2017, my neighbors and I have made many efforts to seek that the City stop approving new warehouses and industrial facilities in my neighborhood, that they notify us before studying and approving any new projects and allow us an opportunity to provide input, and that industrial developers and land owners respect these requests. When I and my neighbors have talked to the City and the developers, we tell them about the noise, dust, traffic, health problems, lowered property values, and other impacts from the warehouses and other projects. But they ignore us and keep building projects here without even notifying us first. It feels like we are not being heard. It feels like they are bullying us—like we are being targeted because of our race and because we do not have a lot of money.

15. The traffic, noise, dust, health, and other impacts from the facilities have caused me to suffer from a significant amount of stress and anxiety. For example, the abrupt loud noises and flashing lights are very unnerving and stressful. The heavy traffic from cars and trucks makes me constantly worry about my family's safety. My daughter has also said that she worries about the traffic, noise, and other impacts from the facilities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on September 13, 2021, in Fresno, California.


Ms. Katie Taylor



A Nonprofit Housing and Community Development Organization

October 20, 2023

Re: Comment Letter - 6th Cycle 2023-2031 Housing Element Update (HEU)

Dear Partner:

Self-Help Enterprises (SHE) appreciates the opportunity to comment on your 6th Cycle Housing Element Update. We believe it is essential we all work together to identify meaningful opportunities to create affordable housing opportunities in the San Joaquin valley. Our service territory includes San Joaquin, Stanislaus, Mariposa, Merced, Madera, Fresno, Tulare, Kings, and Kern counties. Incorporated as a nonprofit in 1965, SHE has built, acquired, or substantially rehabilitated nearly 16,000 units of home ownership and rental housing exclusively for low-income households in this footprint. Our general comments are outlined below:

- 1. Affirmatively Furthering Fair Housing:** It is imperative that cities and counties include as many high or highest resource sites as possible in their Housing Element site inventory. The ratio of these sites to other lower resource sites should be 1:1. The City/County should overlay the high opportunity zones on the housing inventory map to determine sufficient high opportunity sites are included and/or identify additional high opportunity sites to be included in the site inventory. This should be done in accordance with the 2023 California Tax Credit Allocation Committee and the Department of Housing and Community Development Opportunity Mapping Methodology to promote access to opportunities.
- 2. Surplus sites:** We encourage City/County partners to adopt a program to review all surplus property within one year of adoption of the Housing Element and make those sites available for the development of affordable housing. There are provisions in the Surplus Land Act (SLA) which allow for an expedited process for sites that qualify as “exempt surplus land” which is land determined by a local agency and verified by HCD and allows for streamlining the process for disposing of land for affordable housing. There are currently scoring incentives for funding affordable housing on surplus sites and it is imperative these sites be identified quickly and made available for the development of affordable housing.
- 3. Entitlement Processes:** Increasingly, we have found it expedient to utilize “by right” pathways to project approvals through density bonus law, SB 35 permit streamlining, and the Housing Accountability Act. Frivolous and NIMBY-driven CEQA challenges have been “discovered” in valley communities to delay and sometimes kill projects. It is imperative that cities and counties ensure their ordinances and local practices do not conflict with such streamlined processes. Requirements for Conditional Use Permits in otherwise compatible zoning is to be discouraged wherever possible.



4. **Suitable Sites:** Many jurisdictions in past Housing Element cycles have come up with what may initially look like impressive inventories of available sites, when in fact most have no feasibility for development. Suitable sites must include:
- a. Sewer, water, and dry utilities proximate to the site in question, without a need for upsizing or significant offsite development.
 - b. A significant portion of the available acreage in the adequate sites inventory (at least 50%) should have minimum parcel sizes of 2.5 to 3 acres (and larger if onsite storm drainage is required.)
 - c. Reasonable densities. In most valley communities' reasonable densities are 20-50 units per acre, and projects below 50 units are generally not feasible in today's funding environment.
 - d. Access to quality transit. The City/County should adopt a program to evaluate the site inventory in relation to the transit system and ensure 75% of the inventory sites available for high density multifamily development are within 0.5 miles of a transit stop.

5. **Manufactured Homes**

The City/County should consider adding a program to revise its zoning ordinance to add Manufactured Home on a Permanent Foundation to be allowed in all zones that allow single-family residences. The City/County should allow this in the identified zones without requiring a discretionary approval process.

6. **Fee Waivers or Deferral**

The City/County should consider a fee waiver program for projects that include 100% affordable housing serving households below 80% of area median income. If the City/County is unable to waive fees, we strongly encourage deferral for a period not to exceed 30 years with the deferral recorded as a form of deferred note and secured by the property for affordable single-family housing development and 55 years for affordable multi-family housing development. The note would be due and payable if the property were sold, refinanced, or the rent is no longer affordable (with multifamily properties), or is no longer occupied by the owner (single-family home).

Thank you for the opportunity to comment on your Housing Element. Self-Help Enterprises is available to serve as an affordable housing resource and we encourage you to reach out if you ever have questions on how to promote and support affordable housing development in your community. If you are interested in consultation, please contact me at betsyg@selfhelpenterprises.org or at (559) 802-1653.

Sincerely,



Betsy McGovern-Garcia
Vice President

EMAIL TO: housingelement@fresno.gov BY AUGUST 15TH!
SUBJECT: MJHE Plan 2 and PLAN 3

The following are my reasons for opposing Plans 2 and 3:

1- Your MJHE Plan is a Plan which takes a law passed in Sacramento to address the issues of homelessness and housing shortages and arrives at "A SACRAMENTO SOLUTION".

Homelessness & housing shortages are conditions that WE IN THIS NEIGHBORHOOD did NOT create!

2. **ADU's (Plan 2)**- Most of us chose this neighborhood BECAUSE it is zoned "Single-Family Residential". AARP cites that "ADUs change the character of a neighborhood and cause problems for a community that was NOT BUILT for higher density". We SAVED to buy our homes in this lower density neighborhood!

3. Your "Masterpiece Plan" presents a VERY ONE-SIDED VIEW of ADUs. It emphasizes "Make an income/extra money. House extra family or caregivers." **Shame on you** for not providing FULL DISCLOSURE of the downside to ADUs to any and all interested parties!

4. In reviewing professional, expert opinions, we are advised "DO NOT COUNT ON ADU INCOME TO LIVE ON... due to the frequent jurisdictional changes [for rentals] that occur". (Think Covid-property owners were unable to evict for non-payment, unable to collect rent owed, owners are limited to a "Sacramento-fixed" percentage of raising rent depending on how many rentals they owned- just to identify a few issues.)

5. Your Plan states placing ADUs in single-family neighborhoods with higher median incomes is to "facilitate housing mobility opportunities for lower-income households..." (Pg 1E-4-17).

This is nothing more than a "Calif Social Experiment"!

Your Plan has no mention of:

6. ... the costs and responsibilities involved in rental units that eat into passive rent income. Yet you highlight income...

7. ... how extra POLICE or FIRE PROTECTION will be provided at a time when our Mayor and Chiefs of Police & Fire are desperate for recruits to fill CURRENT vacancies. Then there are CITY RENTAL INSPECTIONS!

8. ... details like parked cars crowding our streets, about how adding mailboxes or garbage cans will be determined, the disruption to the privacy of neighbors and those in the main home w/ADU renters coming or going.

9. ... about a home that is already a rental. Can the property owner simply ADD an ADU if the current renter objects?

10. Low-Income Housing (Plan 3)- Fresno's low-income housing is poorly kept. I OBJECT to what becomes eyesores in my neighborhood!

11. Building low-income, multi-family units in our neighborhood- in your "Infill Opportunity Zones" or ANY "rezoned" property- again brings up the issue of A LACK OF police and fire personnel.

12. In the *Wall Street Journal*, 8/8/23, front page HEADLINES- "Apartment Landlords Face Peril As Their Debt Costs Skyrocket". Talk about housing that will be falling apart, will be unattended, and become OUR NEIGHBORHOOD'S PROBLEM...

13. Incorporating your Plans 2 & 3 into NEW areas of building homes- NOT IN EXISTING SINGLE-FAMILY, LOW-DENSITY NEIGHBORHOODS- is where these plans need to be enacted. Home buyers will KNOW what they're getting, they'll KNOW what the residential components will be/are, and these buyers will have 100% awareness of the decision they make to buy in such a neighborhood. It is CRUEL to inflict these misguided plans on our neighborhoods!

14. HERE'S TWO IDEAS-

A- CONTINUE the outstanding efforts to remodel and repurpose the motels and inns that have fallen into disrepair or been abandoned and use these for low-income/homeless opportunities.

B- Bring in the "NECESSARY RESOURCES" to these sites.

Thank you,

ALLAN + BRENDA WONG

8/12/2023

Allan + Brenda Wong

From: Susan B. <[REDACTED]>
Sent: Wednesday, August 16, 2023 2:13 PM
To: HousingElement <HousingElement@fresno.gov>
Subject: Comments on Fresno City Planning

External Email: Use caution with links and attachments

To whom it may concern

I attended the meeting at Nelson Elementary with the planning group. It is clear that expanding affordable housing is and will be a pervasive issue especially in California.

As a local homeowner I object to the proposal to mix our established single family neighborhood with any version of higher density building. I am also concerned about the various financial incentives to the land owner/developer and the city; that puts their interests counter to mine as any high density housing will lower my property values.

Thank you for your consideration of my concerns.

Best - Susan Barrows

To Whom it may Concern,

This housing plan is so flawed it is hard to know where to begin to critique it first. I suppose a good start is the attempt to hide the plan from the public by holding the public comment meeting during the month of August, a month when many of the potential citizens at risk from this plan would be on vacation and otherwise unavailable for comment.

The basic premise of the plan is that it is only "equitable" for the majority of the rezoning for low income housing to occur in "high resource" areas, which is another way of stating high income neighborhoods. This is egregiously unfair to current homeowners in these neighborhoods, who chose to buy their homes when existing zoning laws stipulated that these neighborhoods were ONLY for single family homes of a specified lot size. If the rules of the game are to be changed, it is only fair that commingling of low and high income housing only occur in new areas of property development, where potential home owners know from the beginning that they are buying into a mixed ownership neighborhood. Purchasing a home is one of the largest investments most people make during their lifetime. Allowing low income housing in high income neighborhoods will destroy the property values in those areas where people have chosen to invest their life savings in their homes. Not only is this manifestly unfair, it represents an untested socialist belief that "seeding" these neighborhoods with the poor will somehow improve their lot in life. What it will achieve instead is the degradation of once stable communities and an erosion of the property values of these communities.

I strenuously object to almost all elements of this plan and would urge that more meetings, well announced to the public in advance, be conducted to review any potential plans before their implementation. Furthermore, in the interest of transparency, all financial incentives for developers, current property owners, and municipalities need to be explicitly delineated for the public to understand potential conflicts of interest.

Sincerely yours,
Stephen P. Yeagle


Fresno, CA 93711

From: Michael O'Banion <[REDACTED]>
Sent: Wednesday, August 16, 2023 7:29 PM
To: HousingElement <HousingElement@fresno.gov>
Subject: Fresno Multi-Jurisdictional Housing Element

External Email: Use caution with links and attachments

Hello,

I am a long time resident of northwest Fresno at address:

[REDACTED]

I am concerned about the Fresno Multi-Jurisdictional Housing Element program disrupting the neighborhood that I have called home for years. When my neighborhood was developed, it was zoned for single family dwellings and not multi-family residences and whatnot. We feel this program is unfair to the long-time property owners in this area who purchased and built homes with the understanding the single family zoning laws would be upheld and honored - not have the rules changed at a later date.

Thanks,

Mike O'Banion



August 16, 2023

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room Fresno, CA 93721

RE: City of Fresno Draft 6th Cycle Housing Element

Dear Mayor Dyer, Councilmember, and Ms. Zumwalt:

Leadership Counsel for Justice and Accountability write in collaboration with the Public Interest Law Project (“PILP”) and residents of South Fresno neighborhoods impacted by the severe lack of decent quality, affordable, and permanent housing options and gaping disparities in access to opportunity in Fresno to provide comments on the July 2023 Draft Appendix 1-E: City of Fresno of the Fresno Multi-Jurisdictional 2023-2031 Housing Element (“City of Fresno Draft Housing Element” or “Draft Element”).

Leadership Counsel works alongside the most impacted communities to advocate for sound policy and eradicate injustice to secure equal access to opportunity regardless of wealth, race, income, and place. Leadership Counsel advocates for policy and practice changes to meet the housing needs of all residents in Fresno, especially low-income and residents with special housing needs, and to overcome fair housing disparities that impact low-income communities of color. Residents with whom we partner experience high rates of cost burden and escalating housing costs, reside in unsafe and unsanitary rental housing conditions, and ever-present and magnifying displacement risks and are simultaneously impacted by striking disparities in access to opportunity compared to more affluent Fresno neighborhoods, including a lack of access to a healthy environment and public and private investment in critical infrastructure, services, and amenities.

The Public Interest Law Project (PILP) works statewide to support local legal programs that address issues involving housing, land use, public benefits and homelessness. PILP has been providing substantive training, litigation support, and technical assistance in these areas for over 25 years.

The City of Fresno’s 6th cycle housing element update presents a critical opportunity for the City to identify and address long-standing, wide-ranging, and severe housing needs and fair housing disparities that impact the City’s residents, disadvantaged communities, and racially and

2210 San Joaquin Street, Fresno, California 93721

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Michelle Zumwalt

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ethnically concentrated areas of poverty (“R/ECAPs”), in particular, the Southwest, South Central and Southeast areas. The City must ensure that it does not miss this opportunity to develop and adopt a housing element that complies with the State Housing Element Law and civil rights laws and that meaningfully incorporates the input of lower-income residents and protected classes and the community-based organizations that work alongside them.

Our comments below highlight further steps and actions the City must take to meet State Housing Element Law requirements. In short, the Draft Element must be revised in order to meet Fresno’s housing needs and relevant statutory requirements in several different ways, including:

- Incorporate input regarding key housing issues and disparities and actions needed to address those issues provided to the City by community members as required by HCD’s AFFH Guidance;
- Revise the constraint analysis to address non-governmental constraints, as well as constraints on supportive housing and the maintenance of the housing stock.
- Revise the AFH analysis to consider all of the required displacement factors, barriers in access to opportunity, and fair housing issues associated with the Draft Sites Inventory;
- Revise programs to include specific actions and deadlines and add programs that will result in a beneficial impact on Fresno housing needs and disparities during the planning period and overcome patterns of segregation and foster inclusive communities, including but not limited to programs 14, 15, 19, 23, 29, and 33;
- Revise the site inventory analysis to exclude projects that have not been approved during the projection period, include a realistic capacity calculation based on development throughout the 5th cycle, and determine the adequacy of the non-vacant site

I. The City Has Not Diligently Engaged the Public As Required, Because the Draft Element Fails to Adequately Reflect Public Input

The City’s obligations to diligently engage all economic segments of the community and to affirmatively further fair housing through the housing element require more than just seeking input about the contents of the housing element. Government Code sections 65583(c)(8), 65583(10)(a) & 8899.50. Inviting residents to provide input but failing to incorporate that input into the housing element undermines the purpose of resident participation in the housing element update, fosters distrust, and fails to constitute “engagement” as required by section 65583(c)(8) of the Housing Element Law. HCD’s Affirmatively Furthering Fair Housing (“AFFH”) Guidance

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states that housing elements must describe “a summary of [public] comments and how the comments are considered and incorporated (including comments that were not incorporated), particularly with changes to the housing element. HCD, *Affirmatively Furthering Fair Housing: Guidance for all Public Entities and for Housing Element* (“AFFH Guidance”), 2021, p. 22.¹ While the Draft Element provides some description of public input provided, its summary of public comments generally lacks sufficient detail for the reader to understand the nature of the issue raised or the solution proposed. In addition, the Draft Element fails to demonstrate the City’s incorporation of input provided and to identify input the City chose not to incorporate as required. For example, at the March 1, 2023 community workshop on the housing element update held at Helm Home, residents identified the establishment of rent control, tenant assistance and protections, and reducing barriers to undocumented residents as among their top suggestions and solutions. The Draft Element fails to demonstrate how this solution will be incorporated into the final draft and to even to study the housing needs of undocumented residents.

The Draft Element also fails to acknowledge, discuss, or incorporate recommendations contained in the letter submitted to the City by Leadership Counsel and several other community-based organizations in February 2023 relating to the development of this Draft. *Attachment 1, Leadership Counsel February 2023 Letter*. The letter identifies policies and programs which the signatory organizations believe should be prioritized in the housing element update, based on our direct and daily work with low-income residents of color, farmworkers, residents of disadvantaged unincorporated communities, and other residents with special housing needs and members of protected classes. The City must revise the draft element to acknowledge this letter, summarize its contents, and revise goals, policies, and programs to incorporate its recommendations, in addition to other input it receives. The City must also revise the element to indicate what public input it chose not to incorporate, which the element currently fails to do.

II. The Housing Element Fails to Adequately Analyze and Remove Governmental Constraints to Housing Development

To fully comply with Housing Element law, the City of Fresno must identify constraints to the development of housing affordable to households at different income levels, as well as possible constraints to the development and maintenance of a variety of types of housing, including supportive housing, single room occupancy units, emergency shelters, and transitional housing. *See Gov’t Code* §65583(a)(5) and (c)(1). This analysis includes potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all

¹ All references to code sections hereafter refer to the Government Code unless stated otherwise.

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income levels. Gov't Code § 65583(a)(5). Following a close analysis, the City must include a description of efforts to remove constraints and a program to remove those constraints. Gov't Code §65583(c)(3).

A. Land Use Controls Are Under-Analyzed as a Constraint

The Housing Element under analyzes the impacts of current and planned zoning regulations on housing development. A jurisdiction must include an analysis of potential and actual governmental constraints, including land use controls that directly impact the cost and supply of residential development. Gov't Code § 65583(a)(5). The constraints analysis fails to demonstrate the direct connection between its currently proposed zoning on cost and supply of housing.

The City has not adequately analyzed the effects of constraints associated with wide-spread availability of single family zoning and the limited availability of high density zoned sites. For example, the HE acknowledges “growth in the City of Fresno over the past few decades has traditionally been low density suburban development, which has resulted in conditions of sprawl in various areas of the city.² Despite the acknowledgement, the City continues to allow by right single-family units in. Despite the historical preference for single family development, the abundance of available single family homes in Fresno, and the underproduction of affordable housing, the the City still permits single family uses by-right in many of the zones identified for increased high-density development: RM-1, NMX, CMX, RMX, CMS, CR, DTN, DTG.

Further, although single family development is allowed in almost every zone that permits residential development, higher-density units are not allowed in certain areas in the City. For example, multi-family units are not allowed in RS-1, RS-2, or RS-3 areas, despite the large majority of the City being zoned one of these zones, and where many high resource areas have developed.³ Duplexes are similarly constrained, they are excluded from RS-1, RS-2, RS-3, RS-4, and only allowed through conditional use permit in R-5.

Because both single-family and multi-family development is permitted in most residential zones, it puts multi-family developers in competition with single family developers for the same sites.

Single family units also benefit from reduced permitting timelines. For single--family developments it typically takes up to 30 days for developers to pull building permits after its

² Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-1.

³ City of Fresno, 2023. Data downloaded from HCD AFFH Data and Mapping Tool in 2021, based on ACS data.

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entitlements are approved.⁴ In contrast, based on recent projects, it can take three months to a year for multifamily developers to receive building permits after entitlements.⁵ Although the Draft concluded that higher permit processing schedules for multi-family units compared to single family units are not a constraint, the increased complexity and expected timeline does appear to act as a constraint on multi-family development based on the very low production number of multi-family housing in the 5th cycle.⁶

B. Land Use Controls' Effect on Types of Housing

A complete constraint analysis does not only focus on housing by income levels but must also consider constraints to the different types of housing.. As noted above, the Draft constraint analysis must examine what constraints exist to the development of : supportive housing, transitional housing, single room occupancy units, and emergency shelters. Gov't Code 65583(c)(1)

1. Single Room Occupancy (SRO) Units

The City's constraint analysis regarding SRO's should examine more than the limit on the number of units but also where SRO's are permitted to develop. SRO's are a crucial source of affordable housing for many people and can augment the deed restricted affordable housing available to lower income people. The City should commit not only to removing the limit on the number of units that can be contained in an SRO but also add it as a permitted use in the following zones:

RM-MH, RM-2, and downtown while removing conditional use permit requirements from RM-2, RM-3, NMX, CMX, and RMX.

2. Emergency Shelters

The Draft must consider whether its development standards act as a constraint on the development of emergency shelters. Although the City seems to determine that its requirements do not act as a constraint to the development of shelters it also states it may consider making further amendments to the development code to remove any possible constraints. If further amendments are necessary, especially any needed to comply with Government Code section 65583(a)(4)(A), the City should commit to making those changes immediately. For instance, the City's current requirement for the number of toilets per person in a shelter (Muni Code section

⁴ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-35

⁵ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-35

⁶ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-38

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15-2729), if it exceeds the building code requirement is a likely constraint on the development of shelters because of the additional cost it adds to this type of development.

3. Supportive Housing

The Draft is silent as to whether the development oecd complies with Government Code section 65583(c)(3) that allows supportive housing in any zone where multi-unit or mixed use development is permitted. If the City’s code does not reflect this requirement that is a constraint on housing for people with disabilities and a program to revise the development code to comply with the statute is required.

4. The HE Under-Analyzes Parking Requirement Effects on Housing Construction

The Draft fails to fully analyze whether its parking requirements act as a constraint on housing development, especially in the downtown and along transit corridors. Parking requirements increase the cost of housing.⁷ The Draft states it “determines the required number of parking spaces based on the type and size of the residential unit and has found the required parking spaces to be necessary to accommodate the number of vehicles typically associated with each residence.”⁸ The analysis ignores principles of induced demand and downstream effects of entrenching car-centric land use. The Draft implicitly acknowledges that parking increases costs and may not be critical as it allows waivers for parking requirements in affordable housing developments and other transit-friendly areas.⁹ The ad hoc basis of reduced parking requirements introduces uncertainty which can increase the overall cost and time delays in housing development.

Recently, the City has made clear how much of an impediment parking really is. In negotiations with the state to receive a large grant to support increased housing in downtown Fresno, the City earmarked about \$70 million of a possible \$250 million grant for two new parking structures in the downtown area. Mayor Jerry Dyer stated [the cost of parking structures] “is always a big challenge for us when we try to bring in developers to build housing... Taking that off the table allows for these projects not only to occur faster, but it allows the developers to be more incentivized to build in our downtown area.”¹⁰

⁷ <http://database.greentrip.org/>

⁸ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-10

⁹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-10

¹⁰ <https://www.fresnobee.com/news/local/article275363746.html>

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Although parking has been identified as a constraint to increased housing development, the City has not put forward a program to identify steps to remove the constraint. The City asserts “[p]arking standards are one area where many communities are seeking to decrease housing costs.”¹¹ Yet, minimum parking requirements are squarely within the control of the jurisdiction and could be reduced if the City so decided. The direct link on parking’s costs in relation to housing development in Fresno must be further analyzed, and a reduction in parking requirements is likely required.

C. Risk Analysis and Distribution of Affordable Housing

The Draft’s analysis of at-risk housing is incomplete. under-analyzes the risks to publicly assisted affordable housing and its distribution. There are more than 8,500 publicly assisted affordable housing units in the City of Fresno.¹² The Draft identified 695 units at risk of conversion to uses other than low-income residential within 10 years from the housing element adoption deadline.¹³ Although the City of Fresno considered the cost of replacing the at-risk units as required under §65583(a)(8), it failed to examine which pathway would be most appropriate for the City and what constraints, if any, would be associated with the pathway chosen.

The City’s lack of tenant protections, such as source of income discrimination outreach and education, rent control, just cause protections may operate as a constraint on the maintenance of housing available to lower income people and facilitate the displacement of lower income renters. The lack of these protections should be analyzed as a constraint on the maintenance of housing under Government Code section 65583(a)(5).

III. The Housing Element Fails to Adequately Analyze and Remove Non-Governmental Constraints to Housing Development

In addition to analyzing governmental constraints, the HE must also analyze the potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels. Gov’t Code § 65583(a)(6). To that end, the Draft failed to consider the effect of market forces, availability of financing, environmental concerns, and NIMBY opposition.

¹¹ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-14

¹² Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-55

¹³ Fresno Multi-Jurisdictional Housing Element July 2023, Appendix 1E: City of Fresno, 1E-4-55

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A. NIMBY Opposition

The Draft must include an analysis of NIMBY opposition to housing development. As a largely sprawling suburban City, Fresno is prone to local opposition to increased density from existing single-family homeowners that have preconceived ideas of the impacts of increased density on their neighborhoods. Further, the zoning code requires conditional use permits for duplexes and multi-family housing in some areas, making them especially susceptible to opposition and defeat from NIMBY residents.

The chilling effect of NIMBY opposition to housing development is not a foreign concept to jurisdictions in Fresno County. For example, in the adjacent City of Clovis, the Clovis City Council recently voted to shut down a proposed 40-unit development near Old Town Clovis because neighbors expressed concerns about traffic congestion, overflow parking and the “monolithic” height of the planned apartment building.¹⁴ NIMBY opposition to housing development is a widespread phenomenon across California but is especially prevalent in areas that have historically been primarily low-density developments. The Draft’s failure to analyze NIMBY opposition as a constraint must be addressed in the City’s next Housing Element draft, and the City should include a program to reduce this type of opposition by ensuring that more than single family developments are permitted by-right and reducing the discretionary review of multi-family housing.

B. Environmental Concerns

The Draft did not consider environmental constraints as part of its analysis under 65583(a)(6). Environmental constraints may include limitations to water supply, nearby pollution, or infrastructure development.

The City of Fresno relies heavily on groundwater and surface water. As climate change makes water availability less predictable the City must analyze how an increased population and land use will affect water availability and whether water availability will eventually constrain growth.

Further, separate from water availability, the City must consider the infrastructure requirements of delivering water to a denser population. For example, the City estimates that downtown Fresno, where a large portion of new housing development is projected, currently requires significant water and wastewater infrastructure upgrades. Broke Broche, the City’s director of public utilities, estimated that downtown Fresno would require between \$160-\$180

¹⁴ <https://www.fresnobee.com/fresnoland/article255749376.html>

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million in water and wastewater upgrades to support planned housing development.¹⁵ The Draft should analyze the cost of these needed improvements as a possible constraint on development.

Finally, the Draft failed to consider industrial and polluting industries' effect on future housing development. The City of Fresno has evolved as a car dependent City surrounded by heavy industry and highways. Therefore, future housing development will need to carefully consider placement and mitigation measures to avoid perpetuating environmental inequity.

C. Market Forces and Availability of Financing

The Draft failed to include an explanation of current housing development trends and applications across all income levels. Market forces are relevant to the types of housing that are likely to develop in the future. Once this analysis is done it might make it clear what actions the City must take, such as further financing for programs.. Using the example mentioned above, requiring private investment to implement required infrastructure in downtown Fresno would likely make housing development in the area infeasible. Similarly, lower margins or a lack of developer interest in serving lower income portions of the market may require the City to provide incentives to spur greater housing development in the segment. Without a proper analysis such a conclusion is impossible and falls short of the requirements listed in Government Code § 65583(a)(6).

For example, Fresno had some of the highest rental price increases in the country, with a 28% increase in one-bedroom rent prices between January 2021 and January 2022.¹⁶ The spike in rent prices disproportionately affects low-income individuals who are often on fixed incomes or receive low wages that have not kept up with the rapid rise in rents. Further, existing conditions in many rental units in Fresno have failed to keep up with required maintenance and would fail habitability requirements.¹⁷ The combination of unmaintained housing in Fresno alongside rising rents was not analyzed as a constraint. As a result, the condition of housing stock available to low-income populations must be analyzed and the City must take steps to redress those constraints identified.

¹⁵ <https://www.fresnobee.com/news/local/article275363746.html>

¹⁶ <https://www.fresnobee.com/fresnoland/article258073823.html>

¹⁷ <https://www.fresnobee.com/fresnoland/article251600613.html>

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IV. Further Revisions and Analysis are needed to determine if the City's Draft Includes Adequate Sites

A. Regional Housing Need Allocation (RHNA)

The City's calculation of the RHNA it must accommodate must be revised to exclude units that have not been approved during the projection period. State law permits cities to reduce the number of units they must accommodate in their inventory of adequate sites, by income level, by the number of units approved or permitted since the beginning of the planning period:

Projects that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development. For these projects, affordability is based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project. See HCD's Housing Element Sites Inventory Guidebook, p. 5, available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf

The City's Draft Element appears to take credit for units that are still under review and have not yet been approved or permitted. The Draft Element cannot claim credit, meaning reduce the RHNA, with the following projects because project approvals have not been obtained for these units: Villa Baraca Apartments (P-1); DADA Lofts (p-13)(indicates the application is still being reviewed); Lincoln Park Apartments (P-16); Starling Townhomes (P-17); Latitudes at Armstrong (P-18); Helm Tower Office and Lofts (P-19); Elm Avenue Living (P-21); Majestic Palm Apartments (P-22); and, Los Pueblos Apartments (P-23).

The Number of sites needed to accommodate the RHNA should reflect the removal of the above-described projects.

B. Capacity calculation

If a site does not have a required minimum density then the City must analyze the development capacity based on the patterns of typical development patterns in the same zone. The City uses a very narrow time frame to assess the development capacity of projects in the City – 2018-2020, it is unclear why the City has chosen such a narrow time frame but in order to assess if the Draft's capacity calculations truly reflect realistic development patterns the City should use a broader time frame to establish the types of developments and capacity typically achieved.

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Also, the Draft should explain why the capacity calculation for the RM-1 zone was rounded down from 85 percent to 80 percent, while the same calculation was rounded up from 77 percent to 80 percent in the RM-3 zone.

The City has chosen not to rely on the minimum density to calculate capacity on some mixed-use zone site (NMX, CMX, RMX) and because there are no maximum densities imposed, the City instead creates a formula that determines what is likely “reasonable density” density that could develop on these sites and then divides that “reasonable density” in half to determine the Capacity for the site. This formula is flawed because it relies on very few submitted projects (that may not be approved) to determine what reasonable density might be during this planning period. It is crucial that the capacity calculation accurately reflects patterns of development especially where the City intends to accommodate a significant portion of the lower income RHNA (72 percent) on mixed-use sites. Two examples are not sufficient to establish a pattern of development.

Although the City relies less on the Downtown sites to accommodate the lower income RHNA, a correct calculation of capacity is still crucial in the DTC, DTG, and DTN zones and the DTN-AH overlay. And again, the City relies on very few projects during a very limited time period (2018-2020) to support its calculation for realistic capacity on downtown sites.

C. Non-vacant Sites

Non-vacant sites must demonstrate through the City’s methodology that they are feasible for residential development during the planning period. Government Code section 65583.2(g)(1). The methodology is required to consider certain factors. *Id.* The July Draft Element includes a description of the current use of the sites but the analysis must be revised to apply the required factors¹⁸ in order to assess the availability and feasibility of these sites for residential development during the planning period beginning in December 2023, including the City’s past experience converting existing uses to higher density residential development.

¹⁸ The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city’s or county’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. Gov. Code section 65583.2(g)(1).

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D. Large Sites and Concentrated Sites

The July Draft requires revisions to provide examples of whether “sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site...” Gov. Code section 65583.2(c)(2)(B). The Draft must also be revised to specifically identify what portions of the large parcels will accommodate the lower income housing needs in the City. The City is correct to assume that 100 percent of large sites, a site that is over 10 acres, will not likely develop for affordable housing. This is due, in part, to the limitation of available funding mechanisms for projects of over 200 units. But, identifying so many large parcels to accommodate housing for the lower income RHNA in close proximity to each other also acts as a constraint on development as affordable housing due to the same funding limitations. To be clear, identifying a large percentage of the sites to accommodate the lower income RHNA in close proximity to each other is a constraint on obtaining funding for affordable housing, funding which is critical to developing affordable housing, and it will create an obstacle to the development of these sites as affordable housing.

In addition, many of these sites are also concentrated in one area of the City and that also prevents the City from meeting its duties to remove patterns of segregation and comply with its duty to affirmatively further fair housing. [As mentioned in the AFFH section above, the over concentration of sites intended to accommodate the lower income housing need in specific areas of the City is inconsistent with the City’s duty to Affirmatively Further Fair Housing.]

As noted above the City’s inventory of available sites will need revisions and further analysis in order to determine whether the City has identified adequate sites to accommodate its RHNA for this planning period.

V. The Assessment of Fair Housing Fails to Comply with Section 65583(c)(10)

For generations, local mayors and council members have described Fresno as a “tail of two cities”, an illusion to Charles Dickens’ tragic 1859 novel of pre-revolution France, in acknowledgement of the outstanding disparities in quality of life and access to opportunity that exists between neighborhoods in the Northern and Southern portions of the City and the striking racial and economic differences that underlie them. Studies and data have repeatedly confirmed not only that South Fresno neighborhoods and people of color in Fresno are impacted by a severe lack of access to housing choice and access to opportunity across many indicators compared to North Fresno neighborhoods and White residents, but that the disparities impacting South Fresno, people of color and other protected classes stand out as among the most significant in the state and the country. The City’s duty to AFFH through the Housing Element and to complete an

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Assessment of Fair Housing in order to do so presents the City with a crucial new opportunity to address the intergenerational disparities and barriers to opportunity that persist in Fresno. Unfortunately, as discussed further below, the AFH lacks information and analysis and fails to incorporate public input as necessary to address the requirements set forth in Section 65583(c)(10) and does not achieve the requirement to ensure that the City AFFHs through its housing element.

A. Integration and Segregation and R/ECAP and Concentrated Area of Affluence Analyses Lack Required Detail

The AFH's analyses of patterns of integration and segregation and R/ECAPs and Racially Concentrated Areas of Affluence ("RCAAs") fail to address important factors which must be considered as part of a complete analysis pursuant to section 65583(c)(10)(A)(ii) and HCD's AFFH Guidelines. *See* AFFH Guidelines, pp. 30-34. These gaps render the AFH analysis incomplete and include but are not limited to the following:

- Failure to provide any data or analyze integration and segregation patterns for racial groups other than Hispanic/Latinos. Table 1:E-3.1, "Population by Race and Hispanic Origin, Fresno, 2000-2020," provides data about the share of the population of different racial groups in Fresno in 2000, 2010, and 2020, but no data is included that addresses the spatial composition and segregation or integration status of Black, AAPI, Native American, and other racial and ethnic groups. Similarly, the analysis fails to identify groups experiencing the highest levels of segregation as required. AFFH Guidelines, p. 31.
- Failure to accurately or thoroughly analyze distribution of low- and high-income households across Fresno. The Figure 1E-3.4, Median Household Income, Fresno, 2019 indicates median income levels across the City and depicts median incomes of \$100,000 or over in some areas West of State Route 99, Northwest Fresno, Northeast Fresno, and in the Sunnyside neighborhood of South Fresno. Yet the AFH's analysis of the data depicted by the map fails to acknowledge these high-income neighborhoods throughout the City, stating only that "Northwest neighborhoods of the city...have the highest median incomes. Otherwise, most of the remaining census block groups in the city have household incomes that fall below the statewide median indicating high poverty levels." This analysis washes out important information about relative income levels across Fresno, including concentrations of high-income households and low-income households in specific neighborhoods, which should be used to inform and geographically-target programs and the location of sites included in the inventory to AFFH. *See* HCD

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Guidelines, p. 32. For neighborhoods like West Fresno, which experience particularly acute barriers to opportunity linked to policies and practices that created and enforced segregation, an accurate and complete analysis and programs that respond to that analysis are essential.

- The AFH’s analysis of R/ECAPs and RCAAs fails to address “public participation, past policies, practices, [and] investments” as required. HCD Guidance, p. 33. The R/ECAP analysis provides only the generic statement that “R/ECAPs generally have less private investment from financial institutions, grocery stores, and other retail outlets,” but does not provide any analysis specific to Fresno City or regional policies, practices, and investments that contributed to the creation and/or perpetuation of R/ECAPs. The RCAA analysis only identifies that 18 RCAAs exist in Fresno, with no analysis at all of the factors giving rise to those RCAAs or their persistence or variation over time nor does it consider any public input on this topic.

As a result of these and other deficiencies, the AFH’s analysis of integration and segregation and R/ECAPs and RCAAs is incomplete. The analysis and the Draft Element’s contributing factors, goals and actions must be revised accordingly.

B. Incomplete Analysis of Disproportionate Housing Needs Based on Race, Ethnicity, Familial Status, Disability, and Income

The analysis of disproportionate housing needs must analyze needs relating to cost burden, overcrowding, substandard housing, homelessness and other factors for protected characteristics, including at least race and ethnicity, familial status, persons with disabilities, and income. § 65583(c)(10)(A)(ii); AFFH Guidance, p. 39. Disproportionate housing needs “generally refers to a condition in which there are significant disparities in the proportion of members of a protected class experiencing a category of housing need” compared to the proportion of members of other relevant groups or the total population HCD’s guidance emphasizes that local data and knowledge are particularly important to this analysis. *Id.* The requirement to analyze disproportionate housing needs is fundamental to achieving the purpose of the AFH to ensure that the housing element affirmatively further fair housing by identifying disparities impacting protected classes which have been subject to historic discrimination, describes the factors contributing to those disparities, and adopts meaningful actions that overcome patterns of segregation and address disparities in housing needs and opportunity for protected classes. Yet, the AFH fails to satisfy this requirement. While it provides the percentage of households experiencing any one of four specified housing problems - lack of complete kitchen facilities, lack of complete plumbing facilities, overcrowding, cost burden – by race and ethnicity, the analysis of overcrowding, cost burden, and substandard conditions only addresses

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the prevalence of those housing issues based on housing tenure (renter or owner) and census tract. The analysis fails to include any information about the separate occurrence of overcrowding, cost burden, and substandard housing conditions based on race or ethnicity and fails to provide any information at all about how these factors disproportionately impact Fresno residents based on familial status and disability. While the AFH includes some data relating to the race, gender, and mental disability of unhoused residents, it fails to include information relating to familial status. Further, the analysis includes no information that reflects “local knowledge” or public input, depriving the analysis of details about specific housing needs within the categories identified above and the scale of those needs in relation to others.

The City must supplement its disproportionate needs analysis to include the required demographic information and revise the AFH further to ensure its contributing factors and meaningful actions reflect that information.

C. Displacement Risk Analysis Fails to Consider Relevant Housing Cost, Tenant Protection, Land Use, and Environmental Risks

The AFH evaluation of displacement risk consists of the identification of census tracts which qualify as “sensitive communities” that may be vulnerable to displacement as a result of rising housing costs and market-based displacement pressures based on demographic, tenure, rent burden, and rent change criteria developed by The Urban Displacement Project of UC Berkeley and the University of Toronto. Figure 1E-3.31, Communities Sensitive to Displacement in Fresno, provides useful information indicating that large swaths of the City, including most South Fresno and Central Fresno neighborhoods, as well as the Blackstone Avenue Corridor are vulnerable to displacement, the AFH’s displacement risk analysis falls short by failing to consider other relevant information relating to existing and potential housing cost pressures confronting low-income residents, residents of color, and other protected classes, as well as significant displacement risks associated with tenant protection limitations, City land use policies and practices, environmental hazards, and climate change. A complete displacement risk analysis must consider these and other relevant factors. *See* AFFH Guidance, pp. 40-43.

1. Displacements Risks Associated with Housing Cost Pressures

As mentioned above, the AFH’s identification of sensitive communities using The Urban Displacement Project’s criteria provides a helpful high-level view of the displacement pressures impacting most of the City of Fresno, and almost all South Fresno and Central Fresno neighborhoods. That mapping alone however is not sufficient to accurately describe displacement risks impacting residents associated with housing cost pressures.

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First, the criteria used in the analysis rely on data from 2017 and earlier, including data relating to the change in rent between 2012 and 2017. This time period does not capture the sharp and sustained escalation in housing costs (both rental and ownership) that occurred during the COVID-19 pandemic between 2019 and 2022.¹⁹ Between 2017 and 2021, Fresno experienced the greatest rent increases of all large U.S. cities, with rental prices increasing nearly 39% during that time.²⁰ Pandemic-era and ongoing housing price increases disproportionately impact the housing stability of renters, people of color, and other populations that have less disposable income and assets on average and are impacted by discrimina and sustained nature of the housing cost increases which have occurred in Fresno since 2017, the AFH’s displacement risk analysis must be supplemented with and revised based on more recent data.

Second, while the AFH’s displacement risk section provides a snapshot of neighborhoods vulnerable to increased housing costs that occurred between 2012 and 2017, the section does not actually discuss housing cost trends over time or analyze the factors driving increased housing costs across the City and certain neighborhoods. The use of census tract level data alone to determine whether an area qualifies as a “sensitive community” or not, without further discussion, also washes out unique vulnerabilities experienced by particular neighborhoods which comprise only a portion of a census tract. The City must supplement the displacement risk section to include this additional information and analysis, using available data and local knowledge, in order to meaningfully identify displacement risks associated with housing cost pressures and on particular neighborhoods and protected classes.

Several factors are likely or definitely associated with rising housing costs in Fresno which the AFH does not but must identify and evaluate for their impact on displacement risk. These include but are not limited to the following:

- The expiration of affordability covenants attached to Low-Income Housing Tax Credit financed properties during the Planning Period. According to the Draft Housing Element’s At Risk Analysis, three properties consisting of 115 affordable units in the next four to eight years. The expiration of the affordability covenants on these properties creates a direct displacement risk to residents who are unable to pay market-rate rents.

¹⁹ CalMatters, Real estate prices soar during the pandemic, climbing 25% in parts of California, Dec. 5, 2020, available at <https://calmatters.org/california-divide/2020/12/real-estate-climb-pandemic/>

²⁰ Los Angeles Times, The Nation’s Hottest Housing Market? Surprise – it’s Fresno, Mar. 31, 2021, available at <https://www.latimes.com/homeless-housing/story/2021-03-31/fresno-rent-spike-taps-into-california-covid-housing-trends>

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- Major federal, state, and local investments in public works infrastructure projects in South Fresno neighborhoods, including a \$250 million phased budget commitment for downtown revitalization in the 2023/2024 California State Budget²¹; the June 2023 Federal Railroad Administration and State High Speed Rail Authority \$20 million award for the Fresno High-Speed Rail Station Historic Depot Renovation and Plaza Activation Project; and an \$80 million July 2023 award from the State's Transit and Intercity Rail Program²² for grade separation and intersection improvements in Central Fresno at McKinley Avenue and Blackstone Avenue. None of these historic awards have requirements attached to them to reduce the risk of displacement as a result of rising rents associated with neighborhood improvements.
- The development of the California High Speed Rail project, with a depot in Fresno, which the draft Housing Element recognizes is expected to increase housing demand in Fresno by enabling commuting between Fresno, Coastal California, and/or Sacramento. Draft Housing Element, p. 3-79. The analysis should also consider the impact of speculation associated with HSR on housing availability, prices, and displacement risk.
- The conversion of housing units to short-term rentals and their impact on housing cost pressures and displacement risk. The Draft Housing Element indicates that 7% of vacant units in the city are seasonal, short-term rentals, or "other" housing accommodations, but does not state what percentage of total units are seasonal housing or short-term rentals. The Draft states that stakeholders with Llaves De Tu Casa (an initiative involving real estate professionals, banks, the City of Fresno, and affordable housing developers) expressed concern about investors displacing community members to establish short-term rentals. Draft Housing Element, p. 1E-6-15. According to a recent news story, 811 homes were available as short-term rentals in Fresno and Clovis in June 2023, which represents a 27% increase in available rentals since 2020 and almost twice the number of homes listed for sale at that time.²³

²¹ YourCentralValley, City of Fresno announced \$250 million for downtown, June 28, 2023, available at <https://www.yourcentralvalley.com/news/local-news/city-of-fresno-announces-250-million-for-downtown/>

²² See Fresno Bee, State will help Fresno rebuild a major railroad crossing. Where is it, and what will it cost?, Jul. 6, 2023, available at <https://www.fresnobee.com/news/local/article277074553.html>

²³ GVWire, Is an Airbnb Crisis Looming in Fresno as Demand Plummetts?, June 29, 2023, available at <https://gvwire.com/2023/06/29/is-an-airbnb-crisis-looming-in-fresno-as-demand-plummetts/>

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The AFH's discussion of City "Displacement Avoidance Efforts" does not remedy the need for a complete analysis addressing the displacement risk factors above, including relevant City policies and practices, and the adoption of meaningful actions to address those risks. That section describes certain planning efforts the City undertook to evaluate displacement risks from rising housing prices and consider, but it does not actually provide any information about the findings of that policy recommendations and the policies that the City did or did not adopt. Given the significant stakeholder engagement conducted for the development of the "Here to Stay Report," the AFH should incorporate and consider relevant information and policy recommendations contained in that report.

2. *Tenant Protection, Land Use, Environmental, and Climate-Related Displacement Risks Not Considered in the AFH Displacement Risk Analysis*

A complete analysis of displacement risks considers not only displacement risks associated with housing cost pressures, but also other factors which result in housing instability, including factors relating to the adequacy of tenant protections, disinvestment, local land use policies and practices, environmental hazards, and risks associated with natural disasters and climate change. The Draft Housing Element considers none of these risk categories, yet based on our direct work with tenants and low-income residents and residents of color, they represent real and significant risk factors for Fresno residents.

First, the Displacement Risk section does not address the adequacy of policies and resources to protect tenants from displacement as a result of eviction, harassment, and substandard housing. A coalition of residents and community-based organizations have called to the City's attention the need for and have repeatedly asked the City to adopt additional and stronger policies and programs to protect tenants, including in particular more comprehensive and stringent rent control standards than those established by the state, just cause requirements for eviction, and right to return home for displaced residents. And while the AFH mentions the City's code enforcement programs, it does not analyze how successful these programs have been in preventing tenant displacement and ensuring residents have a habitable space in which to live. Draft Housing Element, p. 3-79.

Second, while the Draft Housing Element recognizes the occurrence of historic disinvestment and describes recent initiatives to increase investment in South Fresno neighborhoods, the AFH does not but should consider the extent to which public and private disinvestment and unequal investment continues to impact low-income neighborhoods, neighborhoods of color, and neighborhoods with a high proportion of tenants and how

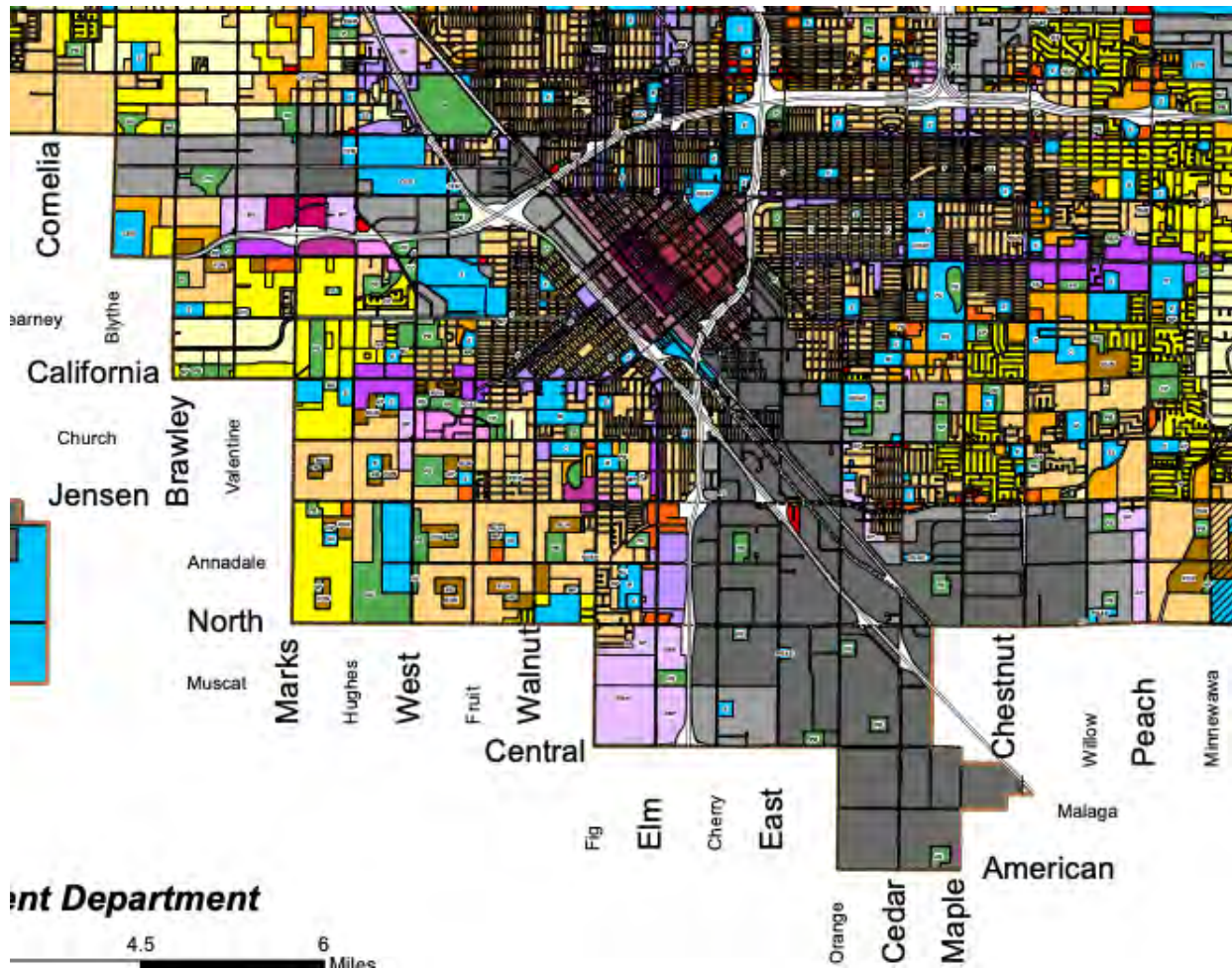


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disinvestment perpetuates and/or increases displacement risk in these areas. *See* AFFH Guidance, p. 40. Yet even today, many South Fresno neighborhoods lack sidewalks, streetlights, park space, grocery stores and other public and private investments that contribute to neighborhood and housing-stability.

Third, the Draft Housing Element fails to consider the displacement risks associated with the City's land use and permitting decisions which have directed and continue to allow for and promote the concentration of industrial and waste management facilities in and around neighborhoods in Jane Addams, Southwest Fresno, South Central Fresno (referred to by the Draft Housing Element as the "South Industrial Area"), and Southeast Fresno. The City's General Plan land use map designates thousands of acres of land in these neighborhoods for industrial and business park uses, which encompass warehouse distribution facilities, agricultural processing operations (e.g., slaughterhouses, meat rendering facilities), chemical storage, landfills, waste transfer stations, biomass facilities, and more. Draft Housing Element, p. 1E-3-77. These designations are applied to land adjacent to land designated for and/or developed with residential neighborhoods as well land currently developed with housing. Several General Plan policies direct the City to expedite development on sites designated for industrial land uses by streamlining permitting and making sites "shovel ready" for new development through the installation of infrastructure and connection to services. City of Fresno General Plan, ED-1-d, ED-1-e, ED-1-j. ***The General Plan therefore envisions and plans for the conversion of existing housing and neighborhoods to industry*** and the continued proliferation of industrial land uses surrounding housing and other sensitive uses, both within existing City limits and within the City's Sphere of Influence.

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City of Fresno Official General Plan Land Use and Circulation Map (Excerpt)²⁴

²⁴Portion of City of Fresno Official General Plan Land Use and Circulation Map, available at https://www.fresno.gov/wp-content/uploads/2023/03/Official-General-Plan-Land-Use_20220411-1.pdf
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Google Earth Image Depicting S Rose Ave. & E. Kaviland Ave Neighborhood, Zoned Industrial on General Plan Land Use Map, and Adjacent West Fresno

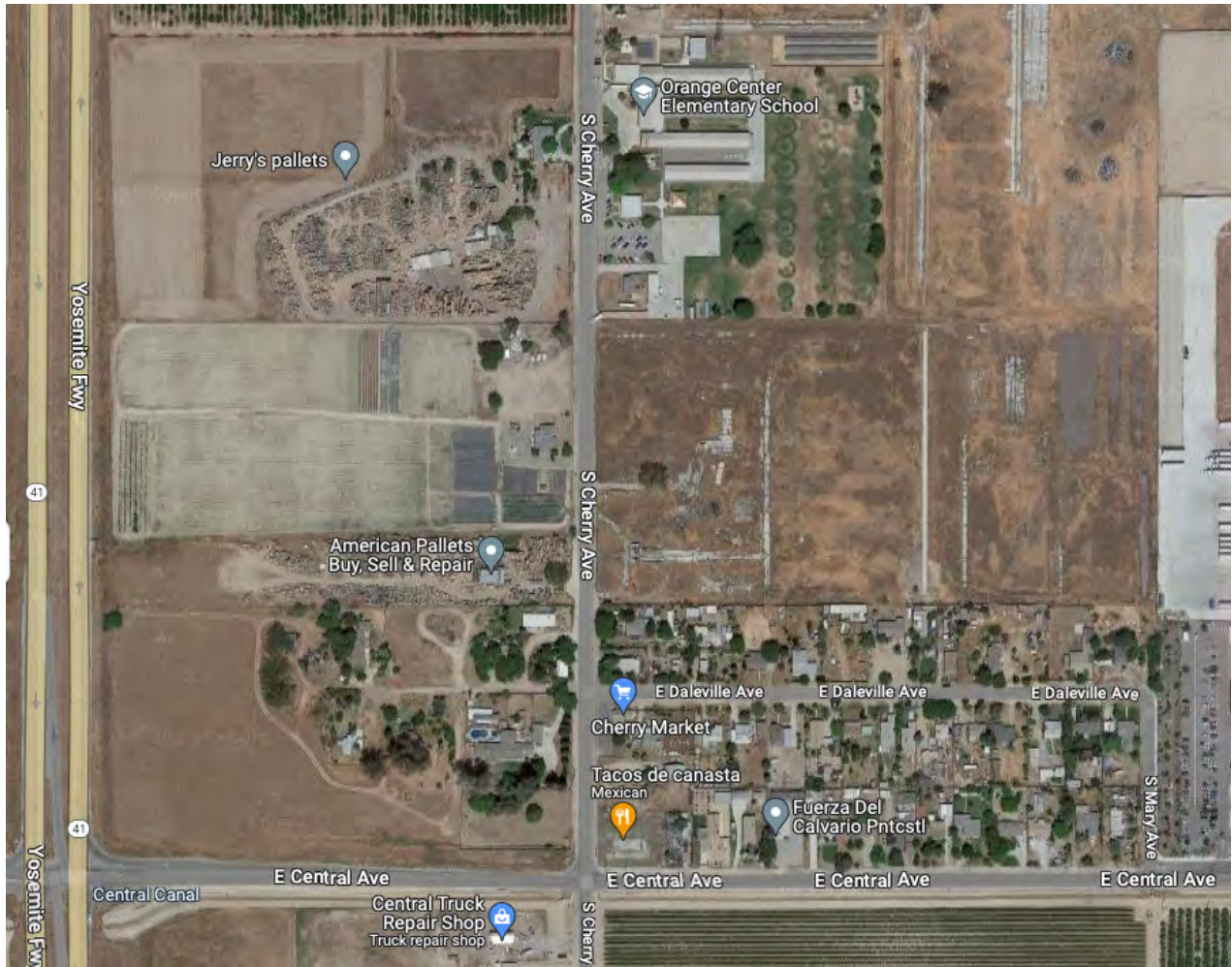
(captured 08/16/2023)

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Google Earth Image of Unincorporated Daleville Neighborhood, Zoned Industrial on the General Plan Land Use Map, & Orange Center Elementary School

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San Joaquin Estates Mobile Home Park (“MHP”), Villa Fresno MHP, and Fresno MHP, Adjacent to and/or Surrounded by Industrial Zoning on the General Plan Land Use Map
(captured 08/16/2023)

These new warehouse facilities, in combination with existing industrial facilities clustered in South Fresno neighborhoods, have severe negative and destabilizing impacts on nearby housing. Warehouse distribution facilities, such as the Amazon and Ulta Beauty warehouses in South Central Fresno, attract thousands of truck trips that travel on roads shared with homes, schools, and parks every day. This truck traffic creates toxic diesel air emissions, dust, vibration, noise, and light glare which negatively impacts residents in their homes, including their health and well-being, the longevity and potential future occupancy of their housing. The construction and operation of facilities themselves often creates excessive dust, noise, light glare, heat, odors, and other effects which have similar impacts on residents and housing quality and stability. We have attached to this comment letter a declaration from a South Central Fresno resident describing impacts she has experienced due to the proliferation of

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industrial facilities in her neighborhood. Attachment A, Declaration of Katie Taylor.²⁵ The City must revise the AFH's Displacement Risk analysis to include a full evaluation of the impacts of its policies and practices relating to industrial development on displacement risks, including based on protected class status and income and reflecting the local knowledge of residents impacted by this issue, and incorporate meaningful actions to address those risks.

Fourth, the AFH's Displacement Risk section does not and should be revised to consider displacement risks associated with environmental hazards, environmental disasters, and climate change, pursuant to HCD's AFFH Guidance. AFFH Guidance, p. 42. For instance, South Fresno neighborhoods have been impacted by a series of fires at warehouse, recycling, and other industrial facilities that have occurred during the increasing number of high and extreme-heat days over the past five years.²⁶ Potentially toxic smoke from these fires has at times densely concentrated in South Fresno neighborhoods, which can make breathing difficult and unsafe for residents even within their homes with windows closed. In addition, residents who live in neighborhoods with incomplete sidewalks, stormwater drainage and other infrastructure and in housing without adequate cooling are at greater risk of displacement than other residents from climate-related weather events, including extreme heat and flooding. In Fresno, which recorded temperatures of 100 degrees Fahrenheit or higher on 23 days and a high temperature of 109 degrees in July 2023, extreme heat poses a serious threat of displacement for residents who lack adequate cooling in and/or cannot afford the cost of cooling their homes.

The City must revise the AFH to include a complete and accurate Displacement Risk analysis as described above and modify other sections of the Housing Element, including the AFHs contributing factors and meaningful actions to overcome disparities relating to access to a healthy environment associated with these land use patterns.

VI. The AFH Fails to Consider Significant Disparities in Access to Opportunity to Multi-Modal Transportation Options, a Healthy Environment, and Quality Education

²⁵ While the resident, Ms. Katie Taylor lives immediately outside of City of Fresno city limits, she resides within the City's Sphere of Influence and her experiences of the impacts of industrial development mirror those of many South Fresno residents who reside within the City of Fresno.

²⁶ See for example, ABC30, Crews Battling Large Fire at Southwest Fresno Recycling Center, June 18, 2021, available at <https://abc30.com/fresno-fire-recycling-center-recycling-timely/10807838/>; KSEE24, Massive fire burns industrial building in Fresno. What made the battle difficult for firefighters, June 26, 2021, available at <https://www.yourcentralvalley.com/news/local-news/massive-fire-breaks-out-at-warehouse-near-downtown-fresno/>; ABC30, Flames break out at warehouse in Southeast Fresno with homes and businesses nearby," Apr. 3, 2023, available at <https://abc30.com/warehouse-fire-southeast-fresno-east-and-florence-homeless-activity/13077246/>

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The AFH must include an analysis of disparities in access to opportunity. § 65583(c)(10)(A)(ii). Access to opportunity broadly encompasses the place-based characteristics which are linked to critical life outcomes, including “education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, recreation, food, and a healthy environment (air, water, safety from environmental hazards, social services, and cultural institutions). AFFH Guidance, p. 34. The AFH fails to consider disparities relating to several key components of access to opportunity, including in particular disparities in access to multi-modal transportation opportunities, a healthy environment, and neighborhood investments – issues which residents and CBOs have long raised with the City.

A. Disparities in Access to Multi-Modal Transportation Opportunities

An analysis of access to transportation opportunities must, at minimum, compare concentrations of protected groups with access to transportation options; assess any disproportionate transportation needs for members of protected classes; and analyze combined housing and transportation cost impacts on protected groups. *Id.* at p. 35. Transportation options include personal vehicles and public transportation, as well as options for pedestrians and bicyclists and other forms of group or shared transportation. *See Id.* at 48, 69, 73.

The AFH’s Transit Mobility analysis, as indicated by its title, focuses exclusively on the availability of public transit, including the FAX bus system and Handy Ride, through a brief discussion of available routes and programs and policies in place to reduce fares for certain populations. This analysis fails to compare access to transportation opportunities based on protected characteristics; assess any disproportionate transportation needs for members of protected classes; provide important information about the adequacy of public transportation service in different areas of the City, protected classes, and low-income households; and entirely fails to consider access to other forms of transportation, including walking and bicycling.

The City must revise the Draft Housing Element to include and analyze this missing information. In addition to the categories identified in the paragraph above, specific issues which must be considered include but are not limited to:

- Barriers to access to public transportation based on route limitations, especially for neighborhoods located on the fringes of the City. This includes both disadvantaged neighborhoods which are more strongly reliant on public transportation, such as Jane Addams and areas of West Fresno and South Central Fresno, and high resource neighborhoods in Northeast and Northwest Fresno, which Figure 1E-3.18, Fresno Area Express (FAX) indicates have significant less route access than South Fresno. The housing element must consider how route

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limitations in these areas impact mobility of residents of disadvantaged communities and their access to various forms of opportunity as well mobility and housing opportunities for low-income residents in North Fresno, considering affordable housing subsidy scoring criteria which often prioritizes public transit accessibility.

- Barriers to mobility resulting from lengthy travel times for residents' using public transportation due to bus wait times, lack of direct routes, and route limitations requiring residents to use other forms of transportation to reach their first and last stop, especially for residents in fringe neighborhoods.
- Inadequate and/or absent infrastructure to facilitate safe and efficient active transportation, including but not limited to sidewalks, curbs, stormwater drainage, streetlights, crosswalks, and protected bike lanes.
- Inadequate and/or absent protection from extreme weather, including climate-related weather events, such as extreme heat and flooding, that impact walking, biking, and public transportation use. This includes but is not limited to the availability of shade (e.g., trees, structures), shelter, sidewalks, and stormwater drainage.
- The presence of high volumes of traffic, including heavy-duty truck traffic, on roadways used by pedestrians or bicyclists, including in and near areas zoned for industrial land uses and along designated truck routes.

B. Disparities in Access to a Healthy Environment

An analysis of access to a healthy environment must describe any disparities in access to environmentally healthy neighborhoods by protected groups, consider available statewide data such as CalEnviroScreen, evaluate consistency with the environmental justice element (if relevant), and discuss policies, practices, and investments that impact access to environmentally healthy neighborhoods. AFFH Guidance, p. 35. A complete analysis should consider any impacts on access to a healthy environment associated with the zoning, siting and operation of polluting or toxic land uses in disadvantaged communities and with climate change. *Id.* at pp. 16, 73. A robust analysis of disparities in access to a healthy environment, informed by public input, is especially important in Fresno given the high concentration of communities in low-income South Fresno neighborhoods of color that rank among the most burdened by multiple sources of pollution in the state and the relatively low-pollution burdens on many indicators born by comparatively affluent and Whiter North Fresno neighborhoods and RCAAs.

The AFH's Healthy Environment analysis includes data demonstrating cumulative pollution burdens impacting Fresno neighborhoods by census tract and provides some

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information about industrial and waste processing facilities in South Fresno. However, it fails to include *any* discussion of City policies and practices underlying the stark environmental health disparities between South Fresno and North Fresno neighborhoods reflected in the data or any information or analysis about what policies, practices, and investment underlie those disparities. The analysis points to agricultural industry practices as a basis for high pollution indicator scores in Western Fresno County but does not discuss the bases for pollution disparities impacting the City of Fresno itself, including West Fresno, Jane Addams, South East Fresno neighborhoods with high cumulative pollution scores.

As discussed above, City policies and practices have intentionally concentrated polluting and noxious industrial and waste management land uses in South Fresno neighborhoods and policies and practices remain in place that all promote the exacerbation of these patterns to the detriment of housing opportunities and quality of life for South Fresno residents. These policies and practices include but are not limited to impact fees for a community benefit fund, public health impact reports, and cargo/freight prohibition and revenue tax.

C. Disparities in Access to Educational Opportunity

The AFH’s analysis of educational opportunities must include an evaluation of the presence or lack of policies, practices, and investment to promote proficient schools or that contribute to a disparity in access to opportunity,” among other factors. HCD’s AFFH Guidance, p. 35. Disparities in access to transportation opportunities and environmental health, including those discussed above, significantly impact access to educational opportunity. For instance, a lack of or incomplete sidewalks, stormwater drainage, and streetlights in R/ECAPs; inefficient public transportation options; and the use of local roads by heavy-duty truck traffic may prevent students from traveling to and from school safely and on time, which may in turn have a series of impacts on students’ access to educational opportunity. Likewise, the presence of heavy industrial facilities near and surrounding schools and ongoing construction for the development of new warehouse distribution centers may disrupt learning by exposing students to air, noise and light pollution and increasing temperatures and thereby also undermining opportunities for outdoor recreation during school hours. The City should also consider how policies, practices, and investments or disinvestments relating to access to green space, tree canopy, and climate resiliency (including adequate cooling and wildfire smoke protection) impact educational opportunities at schools, especially in low-income neighborhoods. The City must revise its analysis of educational opportunities to address these and other issues not addressed in the Draft Element and revise and add to its actions accordingly.

VII. Incomplete Analysis of Housing Element Sites’ Compliance with AFFH Duty

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Housing Element Law requires that jurisdictions' sites inventory "identify sites throughout the community" consistent with its duty to AFFH. § 65583.2; 8899.50; HCD AFFH Guidance, p. 45. The AFH must evaluate sites "relative to the full scope of the assessment of fair housing" and provide detailed instructions describing the required components of this evaluation. AFFH Guidance, p. 45.

Here, the AFH fails to evaluate important components of whether the distribution of sites in the inventory AFFH and to summarize conclusions and identify specific programs to address fair housing issues associated with the locations of those sites. Deficiencies of the evaluation include but are not limited to the following:

- The AFH's analysis of the sites inventory's impact on segregation and integration trends, like other sections of the AFH, only briefly considers impacts on the distribution of Hispanic/Latino households and does not consider at all the impact on relative integration and segregation of other races. Critically, it fails to acknowledge how the lack of lower-income sites identified in high-resource areas, including for example Northeast Fresno, will perpetuate patterns of RCAAs and R/ECAPs. *See* AFFH Guidance, p. 45.
- The AFH lacks analysis of the impact of its sites locations on access to specific forms of access to opportunity and therefore fails to identify any programs to address fair housing barriers to which its site selection gives rise. The sites inventory includes a large share of sites in low-income neighborhoods of color impacted by poor environmental health indicators, industrial zoning and concentrations of industrial and waste management facilities. The inventory also includes sites located near State Routes 99, 41, and 180 as well as many sites on Blackstone Avenue, a heavily trafficked thoroughfare. The City must analyze these and other impacts on access to a healthy environment implicated in its choice of sites. In addition, the AFH lacks analysis of how absent or incomplete infrastructure, services, and amenities impact access to opportunity on sites included in the inventory and fails to identify programs to address these barriers. The Draft Element includes a significant share of sites in areas West of State Route 99 which are not yet developed and which lack basic infrastructure, services, and amenities, such as sidewalks, streetlights, public transportation, park space, and grocery stores as well as City water and sewer connections. Many of the lower-income sites identified in low-income South Fresno neighborhoods also experience disparities in access to critical infrastructure and services which must be considered in an analysis.
- Only 23% of sites included in the inventory to meet the lower-income RHNA are in high and highest resource areas, which the AFH states is due to the predominance of single-family zoning north of Shaw Avenue. 1E-3-109. "Where the analysis of the

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inventory indicates that the community has insufficient sites appropriately zoned and located to accommodate its lower-income RHNA in a manner that affirmatively further fair housing, the housing element must include a program to address this inconsistency, such as making additional sites available to accommodate its lower-income RHNA in a manner that affirmatively further fair housing.” AFFH Guidance, p. 45. Despite its recognition of the limited number of lower-income inventory sites in high resource areas, the AFH fails to describe a program included in the Draft Element to adequately address this fair housing issue. As further discussed in this letter below, while the AFH points to Program 2 as the Draft Element’s action to address this fair housing issue, the program fails to ensure that it will actually add sites to the inventory to meet the lower-income RHNA in high-resource areas or that it will facilitate development of lower-income housing in high-resource areas at all. The program commits only to “present potential sites or rezoning options for land in high resource areas for Council consideration for higher density development.” p. 1E-18. While the time frame section indicates that City will rezone sites in high resource areas by 2027, the language in the body of the program does not make commit the City to actually rezoning sites or to include additional sites located in high-resource areas to the housing element and therefore renders the commitment that the Program is making ambiguous. The Program also makes no commitment to ensure that sites that may or may not be rezoned or impacted by this Program are “suitable” for development pursuant to the Housing Element Law’s standards, including that increased capacity is created on vacant and/or underutilized sites. Further, the City provides no analysis justifying its selection of 750 units of additional capacity as its target or if that quantity is sufficient; if changes to permitting and zoning standards of sites located in the Office District will create sites near amenities and resources and with relatively low environmental burdens within high-resource census tracts; why rezoning of sites within low-density, higher income neighborhoods which are still under development is not proposed and that impact of the failure to include such sites on addressing patterns of segregation and exclusion. The Program also fails to address barriers to housing opportunity for lower-income residents who reside in housing developed in high resource areas, including inadequate public transportation options, affordable fresh food, and cultural and linguistic resources.

- The AFH sites inventory analysis includes no discussion of local knowledge and community input, pending development, development potential and other relevant factors which must be discussed in a complete analysis. AFFH Guidance, p. 45-46.

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The City must address these deficiencies in the AFH's sites inventory analysis and include additional meaningful actions, with deadlines and clear outcomes, to overcome the fair housing issues associated with the Draft Element's inventory.

VIII. Failure to Fully Analyze Contributing Factors and Lack of Meaningful Actions to Affirmatively Further Fair Housing Render the Draft Housing Element Noncompliant.

The City has failed to complete an adequate analysis of factors that have contributed to patterns of segregation and as discussed above the program actions included in the draft housing element do not and will not effectively AFFH as required by law. Unless and until the City fully analyzes factors that have contributed to patterns of segregation, identifies which factors it will address along with the programs and policies it will rely on to do so and metrics that demonstrate success, the housing Element will be out of compliance with state mandates. (See Government Code section 65583(c)(10))

IX. Failure to Adopt Community Identified Programs That Will Result in A Beneficial Impact During the Planning Period and AFFH

Housing Element Law requires that housing elements include programs with a schedule of actions with timelines and specific commitments that will have a "beneficial impact" within the planning period to achieve the housing element's goals and objectives. As stated in the AFFH guidance "actions implement goals and consist of *concrete steps, timelines, and measurable outcomes.*" Pursuant to the requirement that housing elements AFFH, housing elements must also include actions to implement priorities and goals identified in an Assessment of Fair Housing (AFH). Those actions must be "meaningful" and go beyond combatting discrimination to "overcome patterns of segregation and foster inclusive, affordable and stable communities." AFFH Guidance, p. 46; See Government Code §§ 65583(c)(5)&(10), 8899.50(a)&(b).

The draft element's Housing Action Plan contains numerous actions that lack concrete steps and measurable outcomes and will not necessarily result in a beneficial impact during the planning period in violation of the Housing Element Law's standards. Certain programs fail to identify concrete steps, specific actions the city will take to complete each program, use of vague language, and do not provide adequate timelines. Finally, the action plan fails to include community identified programs and solutions collected from public hearings and workshops. Examples of inadequate programs, and some of our recommendations to improve them, include the following:

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- **Program 1 - Maintain Adequate Sites.** Program 1 states that the City shall continue to maintain a current inventory of Housing Element sites to ensure that it can adequately accommodate the 2023-2031 RHNA” Given the impact of rezoning to the availability of and location of sites suitable for housing, the City should take additional steps to ensure transparency in decision-making related to proposed rezones and take diligent steps to provide notice of the proposed rezone along with an assessment of the potential impacts of the rezone on housing opportunity prior to a decision on the proposal. This includes but is not limited to public hearings and door to door canvassing to facilitate effective notice. Further, the city must conduct a racial equity analysis which would include the benefits and disadvantages of the proposed rezone and whether it would result in displacement of protected racial/ethnic groups, reduce housing opportunities for protected groups, and how it would impact patterns of segregation. Finally, the program should explicitly prohibit the rezoning of sites suitable for lower income households to industrial land use classifications which would bring industrial uses next to or near neighborhoods that include or are planned for housing affordable to lower income residents. This is critical to ensure that the City is compliant with its duty to affirmatively further fair housing.
- **Program 2- Variety of Housing Opportunities in High Resource Areas (*identified in the AFH as a Meaningful Action*).**

The program states that the City “will identify and pursue opportunities” with affordable housing developers to promote the development of affordable units in high resource areas. Unfortunately, it does not provide any details on how they will in fact promote the development of affordable units for lower income households in high opportunity areas. There is no clear commitment to zone sites for multi-family development in areas of high opportunity or a commitment to ensure that such units are affordable to all income levels. Further, there is no commitment to match funding opportunities with the identification of available sites to facilitate their development. Notably, the City will not conform with its duty to AFFH if it does not ensure adequate sites for affordable housing for lower income residents in high resource areas. Without clear and enforceable commitments and timelines, this program will not provide a beneficial impact or further fair housing. Furthermore, in order to expeditiously address the lack of housing opportunities accessible to lower-income residents in high resource areas, the timeline of this program should be shortened.

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Accordingly, a specific objectives of this program should be changed to (a) assess the number of sites that must be rezoned in high resource areas (as identified in TCAC/HCD's Opportunity Maps) to effectively AFFH , and (b) rezone the adequate number of sites pursuant to that analysis by December of 2025.

- **Program 3 - Encourage and Facilitate Accessory Dwelling Units (ADUs) (*identified in the AFH as a Meaningful Action*).** While we support and encourage the development of ADUs, the program does not outline clear commitments that will yield identifiable beneficial outcomes. The program states “a primary objective of this program is to increase the supply of affordable units throughout the city” but fails to identify any specific commitments to take any action on how this objective will be reached. Additionally, building ADUs is generally not an accessible housing option to low income households who cannot afford predevelopment costs associated with ADUs. We recommend additional measures in this program to make ADUs accessible to lower income households such as targeted outreach to low-income homeowners, incentives for landlords to make ADUs affordable, no interest loans for ADU development and waivers for inspection fees. Additionally, a dedicated liaison in the Office of Community Affairs should be available for all questions regarding ADUs.
- **Program 8 - Use of Sites in Previous Housing Elements.** Program 8 should be updated to clarify that streamlined approval will be available to both vacant and non-vacant sites through a zoning amendment. As written it appears that the zoning amendment will only apply to vacant sites included in the 4th and 5th cycle housing elements.
- **Program 9 - Annual Reporting Program.** While we appreciate the sentiment that the City will “engage all members of the Fresno community,” and the specific commitment to use multilingual notices and media, the City should revise this program and avoid using vague language with no commitments. To make the public engagement associated with this program meaningful, we recommend that the program include a commitment and associated timeframe for the City to implement input received through its various outreach efforts such as workshops and surveys in addition to the annual public hearing. The annual report should include specific actions the City will take to overcome identified constraints and barriers to complying with Housing Element programs.
- **Program 10 - Incentives for Housing Development (*identified in the AFH as a Meaningful Action*).** This program does not present a commitment to address housing

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production for low-income units or actions that will be taken to complete the program. To facilitate and promote the use of available incentives, the city should make a list of incentives, including density bonus incentives and impact fee waivers, available to the public through an accessible database.

Additionally, the program's current language that it will "identify site opportunities in higher resource areas and ...improve access to resources" suffers from the same issues that program 2 does insofar as it fails to identify clear and enforceable commitments and steps that it will take to ensure the availability of sites for lower income households in high opportunity areas. It is critical for this program's success and the City's role in AFFH that the housing element includes clear, timebound, and enforceable actions to ensure availability of sites for lower income households in high resource areas, as outlined above.

Finally, the City should include enforceable commitments to avoid displacement and gentrification in the Downtown Planning Area, and assess the role that priority processing in the area has on the City's duty to AFFH.

- **Program 11 - Local Housing Trust Fund (*identified in the AFH as a Meaningful Action*).** The Local Housing Trust Fund is a great tool to alleviate the housing crisis and we are glad to see the City's commitment to leverage State matching funds. We recommend adding the creation of a Community Advisory Board as an action to ensure that projects are driven by a community process and benefit the most impacted residents. Housing advocates have met previously with City staff to develop an equitable Community Advisory Board made up of a diverse group of residents most impacted by housing barriers, legal experts, and small landlords.
- **Program 16 - Surplus Public Lands.** The commitment to release surplus sites appears to simply be a commitment to comply with its existing duties under the Surplus Lands Act. The language is ambiguous, non-committal and must be revised. In addition, the program states the City will "consider depositing a portion of up to 100 percent [of sale proceeds] to the LHTF" We recommend instead that the City commit to depositing 100 percent of sale proceeds into the LHTF.
- **Program 18 – Home Buyer Assistance (*identified in the AFH as a Meaningful Action*).** While a critical program for many Fresnoans, this Program should include

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additional commitments to ensure that low-income residents, undocumented residents, residents who speak languages other than English, and residents in racially and /ethnically-concentrated areas of poverty (R/ECAPs) have the opportunity to benefit from these funds. During the 5th Cycle planning period, many residents without social security numbers or who faced language access barriers were unable to apply for the City's homebuyer assistance program. While the City was able to assist nine families with this program, this program must incorporate mechanisms that will allow more families to apply during the next 8-year cycle by addressing barriers and pursuing state funds every year. This program has other deficiencies that must be addressed such as lack of public outreach and lack of interpretation for applicants applying by phone. Solutions include: ensuring that low-income residents are knowledgeable about the programs, undocumented residents are able to successfully apply for this program, including closing costs as part of funding packages. In order to ensure that residents living in R/ECAPs are targeted, we recommend the City create annual reports listing how many applicants were assisted, outreach efforts made and whether they live in R/ECAPs. Due to the concerns outlined above, the program as currently implemented and drafted fails to adhere to HCD's AFFH Guidance that "actions must be specific with timelines, discrete steps and measurable outcomes to have a 'beneficial impact' during the planning period."

- **Program 19 – Housing Choice Voucher Incentive Program (HCV) (*identified in the AFH as a Meaningful Action*)**. This action fails to include meaningful actions with specific timelines, and measurable outcomes to have a "beneficial impact" during the planning period. The program should develop and implement a proactive enforcement program housed within that legal department to ensure HCV . The City should revise this program action to include a timeline of one workshop a month (twelve workshops throughout the year) to ensure residents and landlords are able to access housing quickly and better assist residents/landlords going through any issues that prevent them from using/accepting HCV. Additionally, collaborating with and funding CBOs and fair housing organizations to provide information to voucher holders and landlords on California's source of income discrimination prohibitions. The program should also commit the City of Fresno to finance billboard ads about protections against HCV discrimination and send informational materials to all landlords in Fresno registered in the rental registry regarding HCV. Finally, the program should be revised to include a commitment to actively pursue enforcement against discrimination against voucher-holders and supplementing vouchers with additional subsidies to support voucher use in higher-cost markets in high resource areas. Northeast Fresno has very

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limited HCV use, with only four census tracts north of Herndon Avenue containing any HCVs, and of those four tracts, no tract exceeds 5 percent HCV use. By revising the program to include the above recommendations would help address fair housing needs in Fresno.

- **Program 21 – Housing Rehabilitation (*identified in the AFH as a Meaningful Action*).** Government Code section 8899.50 requires ““meaningful actions” well beyond combating discrimination to overcome patterns of segregation and foster inclusive communities. These actions, as a whole, must address significant disparities in housing needs and in access to opportunity.” The current program has failed to address the needs of extremely low income residents and vulnerable populations such as undocumented residents. As we continue to see the negative effects of Climate Change across the world, it is imperative that the City include weatherization such as cooling mechanisms, like heat pumps, air conditioning, insulation and other cooling assets to increase resilience to extreme heat as part of the rehabilitation program. It is a critical and urgent need given that extreme heat kills thousands per year and impacts disadvantaged communities the most. Additionally, the City must establish an acquisition and rehabilitation fund to purchase older, blighted, and/or abandoned homes/buildings. The City of Fresno can establish a revolving fund to insure that rehabilitated homes are sold back to the community at a low cost. Finally, for the program to have a beneficial impact the timeframe section should include 15 rehabilitation grants annually, and 5 distressed property grants using PLHA and CDBG funding for extremely low and low income residents.
- **Program 22 – Comprehensive Code Enforcement.** While we appreciate Code Enforcement’s response and the City’s diligence to keep increasing staff, there are still additional actions that should be taken to create a comprehensive code enforcement. HCD’s AFFH Guidance recommends that “to overcome contributing factors to fair housing and affirmatively further fair housing, actions must consider a wide range of actions across all action areas. The number and scale of actions will depend on the severity of the needs but regardless of need, a cohesive and effective program will consider multiple action areas.” This program as written continues to fail to address critical housing issues since the last housing element cycle. The program should be revised to include actions around legally holding landlords accountable for retaliation, unlawful evictions, and harassment towards tenants who file code enforcement complaints such as a commitment to adopt a tenant anti-harassment ordinance. As stated,

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we recommend that the City adequately analyze code enforcement's procedures and incorporate tenant feedback for a comprehensive code enforcement program.

- **Program 23 - Special Needs Housing (*identified in the AFH as a Meaningful Action*).** Much of the language in this program is vague, noncommittal, and does not provide adequate actions in order to provide a beneficial outcome. This program states the City “shall advocate for provision of special needs,” “partner with and encourage local and state non profits,” and “provide/encourage.” These actions are not concrete or specific and provide no assurance of a beneficial impact on persons’ with disabilities access to housing. This should be revised to include review and enforcement of compliance with legal requirements for accessibility of multi-family and affordable housing, including in permitting processes, not just “encourage[ing]” accessibility features. Additionally, we recommend that the program add specific actions to remove barriers to housing by special needs groups such as allowing undocumented residents to apply for and receive housing assistance, vouchers and other subsidies unless otherwise required by federal law.
- **Program 26 - Equitable Community Investments (*identified in the AFH as a Meaningful Action*).** Program 26 states it will “seek funding,” “continue to actively seek resources,” and “continue implementing the written policies.” These commitments are vague and non-committal. There are no actions on how these will be completed and is ambiguous and as a result provides no indication that a beneficial outcome will result from the program and further fair housing. The programs continue not to commit the City to take a lead role in planning, funding, and/or constructing projects or indeed any role beyond identifying issues and needs and seeking funding on an annual basis. Additionally, it should not rely on the General Plan’s identification of Priority Areas for Development Incentives in Chapter 12 and should instead use the Urban Displacement Project data to guide investments.
- **Program 28 – Opportunity To Purchase Act (OPA) (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City’s action to initiate research on a local Opportunity to Purchase Act, we strongly recommend that the City implements robust outreach and engagement, in partnership with CBOs that work closely with low-income communities in racially/ethnically-concentrated. Additionally, the program states it “shall research” and “consider establishing an OPA.” These are not commitments

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and fail to implement any specific, firm, or enforceable commitment such that no beneficial outcome of the action is indicated.

- **Program 29 – Mobile Home Parks (*identified in the AFH as a Meaningful Action*).** Program 29 contains no commitments, actions, or enforceable language that will ensure a beneficial impact throughout the planning period. Additionally, this program repeats verbatim language included in Program 10A of the 2015-2023 without explaining how or why reliance on the same program action will have better results during the next planning period. With residents like Three Palms and Trails End Mobile Home Park experiencing the negative impacts of slumlords, it is crucial that the City make significant improvements to the program actions. Furthermore, the program must address the need for heat resiliency such as weatherization and insulation especially to older mobile home parks by funding a mobile home park renovation fund for all mobile homes. This fund will help low income families with issues that they need to address due to inspection violations or other habitability concerns. Additionally, this program should include a commitment to penalize and fine mobile home park owners who are not providing adequate and safe conditions for their tenants. For example, Three Palms Mobile Home Park had not had safe drinking water for quite some time and the owner was never made responsible for this clear human rights violation. Finally, consistent with the City’s responsibility to AFFH, the program should support quality of life and access to opportunity improvements for all mobilehome parks in Fresno by taking meaningful actions to increase green space, transit, and resources near mobile home parks.
- **Program 30 – Emergency Rental Assistance Program (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City adding this program, it states that the City will “seek additional funding” and fails to commit ongoing funding that can come from the Local Housing Trust Fund, the General Fund, or its own permanent funding source to ensure a beneficial impact during the planning period. Identification and commitment of a permanent local source of funding by 2024 will highlight a commitment to prevent displacement and protect tenants.
- **Program 31 - Eviction Protection Program (EPP) (*identified in the AFH as a Meaningful Action*).** The Eviction Protection Program is a critical anti-displacement and anti-homeless tool. However, the program's current language to “seek additional funding to support the “EPP” is not a strong commitment and does not provide indication that a beneficial outcome will occur if funding is not replenished. We strongly recommend that



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the City commit to staffing 5 full-time staff for screening so tenants are able to receive help as soon as possible. We also recommend program expansion to include:

- Wide-reaching outreach and education campaigns
 - Direct legal representation and assistance for low-income tenants encountering legal issues. This includes but is not limited to being served with a notice from their landlord (e.g. 3-day notice, notice of rent increase, etc.)
 - Evaluation of the Eviction Protection Program to ensure it is effective and address issues to improve the program.
-
- **Program 33 – Homeless Assistance (*identified in the AFH as a Meaningful Action*).** Program 33 does not commit the City to any concrete action. The program states it will “identify partnership opportunities,” “leverage the homeless assistance response team” and “support the Voucher Incentive Program” none of which commit to any enforceable and actionable items. The city must commit to completing an adequate analysis of needs of unhoused City residents. This should include the completion of an AFH analysis of disproportionate needs.
 - **Program 34 - At-Risk Housing.** Program 34 includes actions without a clear commitment to take steps that will lessen the severity or impact of the issue in any timeframe. Again, the language is non-committal, vague, and ambiguous in how the program will reach its objective. Additionally, stronger tenant protections should be included as an objective and completed no later than June 2024 for residents facing displacement and an affordable housing resource map for tenants so they have the option to relocate.

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Thank you for your consideration of our comments. We look forward to discussing them with you and continuing to work with the state and the City to ensure that the City adopts a Housing Element that fully complies with the law and addresses the serious housing needs and disparities that impact Fresno City residents.

Sincerely,

Valerie Feldman
Staff Attorney
PILP

Karla Martinez
Policy Advocate
LCJA

CC: Hillary Prasad, Housing Policy Specialist, California Department of Housing and
Community Development
Jose Ayala, Housing Policy Specialist, California Department of Housing and
Community Development
Scott Lichtig, Deputy Attorney General, Bureau of Environmental Justice, Department of
Justice
Robert Swanson, Deputy Attorney General, Bureau of Environmental Justice,
Department of Justice

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**Attachment A:
Resident Katie Taylor's Declaration of Industrial Impacts**



**DECLARATION OF KATIE TAYLOR IN SUPPORT OF
SOUTH FRESNO COMMUNITY ALLIANCE'S COMMENTS ON THE CITY OF
FRESNO'S GENERAL PLAN FINAL PROGRAMMATIC
ENVIRONMENTAL IMPACT REPORT (SCH #2109050005)**

I, Ms. Katie Taylor, declare:

1. I am a resident of Fresno, California. For over fifty years, I have lived on Central Avenue near its intersection with Orange Avenue in unincorporated Fresno County, just South of Fresno City limits.

2. The Amazon Fulfillment Center was constructed across the street from my house in 2017. The Ulta Beauty distribution center was built less than half a mile from my house in 2017 as well. There are other large facilities near my house, including the FedEx terminal, that attract traffic. Several other truck terminals and truck stops have been built around my neighborhood in the last few years as well. It seems like there are always new facilities being built nearby.

3. I was never notified that large warehouses were going to be built so close to me. When I saw the orchard trees being plowed down across the street, I did not know why. I thought the property owners were just going to plant more fruit trees. My neighbors thought the same thing. The next thing we knew there were big buildings being constructed. We were not given an opportunity to provide input on whether these projects went forward, the types of impacts they might have on the community, and what types of mitigation to avoid and reduce the projects' impacts might be appropriate. We were not given the opportunity for our voices to be heard.

4. I am not aware of the City ever contacting me or my family to inform us of the City's development of its current General Plan ("2014 General Plan"), the 2014 General Plan Master Environmental Impact Report, the Programmatic Environmental Impact Report for the 2014 General Plan, the Roosevelt Community Plan, or other action to zone or pre-zone land in my neighborhood for industrial land uses.

5. Three of my family members have passed away from cancer. My husband, daughter, and son all died of cancer. Some of my neighbors have died of cancer too. I have a heart condition and thyroid problems. I have allergies as well. My allergies have gotten worse since the warehouses were built. Some of my neighbors' children have asthma, which they say has gotten worse.

6. The construction of the Amazon facility had major impacts on me and my neighborhood. While construction was ongoing for months, the Amazon construction covered my house with dust. The construction occurred at night as well. The nighttime construction was loud and they used very bright lights. The truck traffic during the construction was also extremely loud,

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and I could hear the noise from within my home with the windows shut. The construction caused vibrations that were so strong that my house shook on some occasions.

7. Since the Amazon and Ulta facilities began operating, the car and truck traffic in my neighborhood has increased significantly. People who come visit my house are shocked by how much traffic there is now. There is traffic traveling to the facilities 24 hours a day, seven days week. A loud rumbling from the trucks passing can be heard all hours of the day and night. The vibration from the trucks shakes my house. The trucks are so loud sometimes that it sounds like someone is knocking at my door, and it can sometimes be hard to hear visitors talking in my house when trucks pass by.

8. The trucks going to and from the facilities create a lot of dust and fumes, which covers my house and car constantly. I have to clean the dust off the windows of my house and car almost every day. The dust also seeps into my house through cracks in my doors and windows. My neighbors complain about the dust getting inside their houses too.

9. Traffic lights were put up at the intersection of Central and Orange when the Amazon warehouse was constructed. The lights are very bright and blink continuously. They shine into my windows, which disrupts my sleep. My daughter has Down syndrome and autism. The constant flashing of the traffic lights is very disturbing for her because of her condition.

10. I have noticed that my neighborhood has become hotter since the warehouses were constructed, including during the night. I am forced to use my air conditioning more, which increases my energy bill. My neighbors have also noticed that it is hotter, that the neighborhood does not seem to cool down as much in the evening as it used to, and that they have to use their air conditioners more.

11. I have noticed that the traffic from the warehouses affects pedestrians. People I know that walk around the neighborhood have to be very careful because of the traffic. Some of the Amazon employees drive recklessly. I have noticed more accidents because of the traffic from the warehouses. There is frequently congestion from employee vehicles backed onto Orange Avenue near my house.

12. The water pressure at my house has dropped in the last four or five years. I have to pay for a water tank that comes every two weeks. My water is contaminated. One of my family members tested the water and found that it was not safe to drink. A person from UC Davis came and tested my water too and told me not to drink it because of the contamination.

13. I am worried that the value of my house has gone down because of the warehouses and other facilities. I believe that the value of my neighbors' houses has gone down too. This really hurts us because we do not have very much money, my home is my main source of wealth, and we are trying to pass our homes down to our kids to help support them economically.

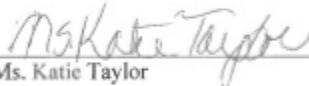
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14. Since about 2017, my neighbors and I have made many efforts to seek that the City stop approving new warehouses and industrial facilities in my neighborhood, that they notify us before studying and approving any new projects and allow us an opportunity to provide input, and that industrial developers and land owners respect these requests. When I and my neighbors have talked to the City and the developers, we tell them about the noise, dust, traffic, health problems, lowered property values, and other impacts from the warehouses and other projects. But they ignore us and keep building projects here without even notifying us first. It feels like we are not being heard. It feels like they are bullying us—like we are being targeted because of our race and because we do not have a lot of money.

15. The traffic, noise, dust, health, and other impacts from the facilities have caused me to suffer from a significant amount of stress and anxiety. For example, the abrupt loud noises and flashing lights are very unnerving and stressful. The heavy traffic from cars and trucks makes me constantly worry about my family's safety. My daughter has also said that she worries about the traffic, noise, and other impacts from the facilities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on September 13, 2021, in Fresno, California.


Ms. Katie Taylor



August 16, 2023

Mayor Jerry Dyer
Fresno City Councilmembers
Michelle Zumwalt, Planning and Development Department
2600 Fresno Street, Room Fresno, CA 93721

RE: City of Fresno Draft 6th Cycle Housing Element

Dear Councilmembers, Mayor Dyer, and Ms. Zumwalt,

The undersigned organizations write to you to advocate for a Housing Element that is equitable, inclusive, and responsive to disadvantaged communities' needs. We are a group of community-based organizations working alongside community partners and leaders throughout the City of Fresno. Housing Element Law requires that cities and counties make a diligent effort to 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.

Goals, policies and actions must be aggressively set to overcome those contributing factors to meet the "meaningful impact" requirement in statute and to avoid actions that are materially inconsistent with the obligation to affirmatively further fair housing. Goals and policies must be created with the intention to have a significant impact, well beyond a continuation of past actions, and to provide direction and guidance for meaningful action. AFFH Guidance, p. 52. The draft element's Housing Action Plan contains numerous actions that lack concrete steps and measurable outcomes and will not necessarily result in a beneficial impact during the planning period in violation of the Housing Element Law's standards. The following programs are inadequate and include our recommendations to improve them.

- **Program 1 - Maintain Adequate Sites.** Program 1 states that the City shall continue to maintain a current inventory of Housing Element sites to ensure that it can adequately accommodate the 2023-2031 RHNA. Given the impact of rezoning to the availability of and location of sites suitable for housing, the City should take additional steps to ensure transparency in decision-making related to proposed rezones and take diligent steps to provide notice of the proposed rezone along with an assessment of the potential impacts of the rezone on housing opportunity prior to a decision on the proposal. This includes but is not limited to public hearings and door to door canvassing to facilitate effective



notice. Further, the city must conduct a racial equity analysis which would include the benefits and disadvantages of the proposed rezone and whether it would result in displacement of protected racial/ethnic groups, reduce housing opportunities for protected groups, and how it would impact patterns of segregation. Finally, the program should explicitly prohibit the rezoning of sites suitable for lower income households to industrial land use classifications which would bring industrial uses next to or near neighborhoods that include or are planned for housing affordable to lower income residents. This is critical to ensure that the City is compliant with its duty to affirmatively further fair housing.

- **Program 2- Variety of Housing Opportunities in High Resource Areas (*identified in the AFH as a Meaningful Action*).**

The program states that the City “will identify and pursue opportunities” with affordable housing developers to promote the development of affordable units in high resource areas. Unfortunately, it does not provide any details on how they will in fact promote the development of affordable units for lower income households in high opportunity areas. There is no clear commitment to zone sites for multi-family development in areas of high opportunity or a commitment to ensure that such units are affordable to all income levels. Further, there is no commitment to match funding opportunities with the identification of available sites to facilitate their development. Notably, the City will not conform with its duty to AFFH if it does not ensure adequate sites for affordable housing for lower income residents in high resource areas. Without clear and enforceable commitments and timelines, this program will not provide a beneficial impact or further fair housing. Furthermore, in order to expeditiously address the lack of housing opportunities accessible to lower-income residents in high resource areas, the timeline of this program should be shortened.

Accordingly, a specific objectives of this program should be changed to (a) assess the number of sites that must be rezoned in high resource areas (as identified in TCAC/ HCD’s Opportunity Maps) to effectively AFFH , and (b) rezone the adequate number of sites pursuant to that analysis by December of 2025.

- **Program 3 - Encourage and Facilitate Accessory Dwelling Units (ADUs) (*identified in the AFH as a Meaningful Action*).** While we support and encourage the development of ADUs, the program does not outline clear commitments that will yield identifiable beneficial outcomes. The program states “a primary objective of this program is to increase the supply of affordable units throughout the city” but fails to identify any



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specific commitments to take any action on how this objective will be reached.

Additionally, building ADUs is generally not an accessible housing option to low income households who cannot afford predevelopment costs associated with ADUs. We recommend additional measures in this program to make ADUs accessible to lower income households such as targeted outreach to low-income homeowners, incentives for landlords to make ADUs affordable, no interest loans for ADU development and waivers for inspection fees. Additionally, a dedicated liaison in the Office of Community Affairs should be available for all questions regarding ADUs.

- **Program 8 - Use of Sites in Previous Housing Elements..** Program 8 should be updated to clarify that streamlined approval will be available to both vacant and non-vacant sites through a zoning amendment. As written it appears that the zoning amendment will only apply to vacant sites included in the 4th and 5th cycle housing elements.
- **Program 9 - Annual Reporting Program.** While we appreciate the sentiment that the City will “engage all members of the Fresno community,” and the specific commitment to use multilingual notices and media, the City should revise this program and avoid using vague language with no commitments. To make the public engagement associated with this program meaningful, we recommend that the program include a commitment and associated timeframe for the City to implement input received through its various outreach efforts such as workshops and surveys in addition to the annual public hearing. The annual report should include specific actions the City will take to overcome identified constraints and barriers to complying with Housing Element programs.
- **Program 10 - Incentives for Housing Development (*identified in the AFH as a Meaningful Action*).** This program does not present a commitment to address housing production for low-income units or actions that will be taken to complete the program. To facilitate and promote the use of available incentives, the city should make a list of incentives, including density bonus incentives and impact fee waivers, available to the public through an accessible database.

Additionally, the program’s current language that it will “identify site opportunities in higher resource areas and ...improve access to resources” suffers from the same issues that program 2 does insofar as it fails to identify clear and enforceable commitments and steps that it will take to ensure the availability of sites for lower income households in high opportunity areas. It is critical for this program’s success and the City’s role in AFFH that the housing element includes clear, timebound, and enforceable actions to



ensure availability of sites for lower income households in high resource areas, as outlined above.

Finally, the City should include enforceable commitments to avoid displacement and gentrification in the Downtown Planning Area, and assess the role that priority processing in the area has on the City's duty to AFFH.

- **Program 11 - Local Housing Trust Fund (*identified in the AFH as a Meaningful Action*)**. The Local Housing Trust Fund is a great tool to alleviate the housing crisis and we are glad to see the City's commitment to leverage State matching funds. We recommend adding the creation of a Community Advisory Board as an action to ensure that projects are driven by a community process and benefit the most impacted residents. Housing advocates have met previously with City staff to develop an equitable Community Advisory Board made up of a diverse group of residents most impacted by housing barriers, legal experts, and small landlords.
- **Program 16 - Surplus Public Lands**. The commitment to release surplus sites appears to simply be a commitment to comply with its existing duties under the Surplus Lands Act. The language is ambiguous, non-committal and must be revised. In addition, the program states the City will "consider depositing a portion of up to 100 percent [of sale proceeds] to the LHTF" We recommend instead that the City commit to depositing 100 percent of sale proceeds into the LHTF.
- **Program 18 – Home Buyer Assistance (*identified in the AFH as a Meaningful Action*)**. While a critical program for many Fresnans, this Program should include additional commitments to ensure that low-income residents, undocumented residents, residents who speak languages other than English, and residents in racially and /ethnically-concentrated areas of poverty (R/ECAPs) have the opportunity to benefit from these funds. During the 5th Cycle planning period, many residents without social security numbers or who faced language access barriers were unable to apply for the City's homebuyer assistance program. While the City was able to assist nine families with this program, this program must incorporate mechanisms that will allow more families to apply during the next 8-year cycle by addressing barriers and pursuing state funds every year. This program has other deficiencies that must be addressed such as lack of public outreach and lack of interpretation for applicants applying by phone. Solutions include: ensuring that low-income residents are knowledgeable about the programs, undocumented residents are able to successfully apply for this program, including closing



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costs as part of funding packages. In order to ensure that residents living in R/ECAPs are targeted, we recommend the City create annual reports listing how many applicants were assisted, outreach efforts made and whether they live in R/ECAPs. Due to the concerns outlined above, the program as currently implemented and drafted fails to adhere to HCD's AFFH Guidance that "actions must be specific with timelines, discrete steps and measurable outcomes to have a 'beneficial impact' during the planning period."

- **Program 19 – Housing Choice Voucher Incentive Program (HCV) (*identified in the AFH as a Meaningful Action*)**. This action fails to include meaningful actions with specific timelines, and measurable outcomes to have a "beneficial impact" during the planning period. The program should develop and implement a proactive enforcement program housed within that legal department to ensure HCV. The City should revise this program action to include a timeline of one workshop a month (twelve workshops throughout the year) to ensure residents and landlords are able to access housing quickly and better assist residents/landlords going through any issues that prevent them from using/accepting HCV. Additionally, collaborating with and funding CBOs and fair housing organizations to provide information to voucher holders and landlords on California's source of income discrimination prohibitions. The program should also commit the City of Fresno to finance billboard ads about protections against HCV discrimination and send informational materials to all landlords in Fresno registered in the rental registry regarding HCV. Finally, the program should be revised to include a commitment to actively pursue enforcement against discrimination against voucher-holders and supplementing vouchers with additional subsidies to support voucher use in higher-cost markets in high resource areas. Northeast Fresno has very limited HCV use, with only four census tracts north of Herndon Avenue containing any HCVs, and of those four tracts, no tract exceeds 5 percent HCV use. By revising the program to include the above recommendations would help address fair housing needs in Fresno.
- **Program 21 – Housing Rehabilitation (*identified in the AFH as a Meaningful Action*)**. Government Code section 8899.50 requires "meaningful actions" well beyond combating discrimination to overcome patterns of segregation and foster inclusive communities. These actions, as a whole, must address significant disparities in housing needs and in access to opportunity." The current program has failed to address the needs of extremely low income residents and vulnerable populations such as undocumented residents. As we continue to see the negative effects of Climate Change across the world, it is imperative that the City include weatherization such as cooling mechanisms, like



heat pumps, air conditioning, insulation and other cooling assets to increase resilience to extreme heat as part of the rehabilitation program. It is a critical and urgent need given that extreme heat kills thousands per year and impacts disadvantaged communities the most. Additionally, the City must establish an acquisition and rehabilitation fund to purchase older, blighted, and/or abandoned homes/buildings. The City of Fresno can establish a revolving fund to insure that rehabilitated homes are sold back to the community at a low cost. Finally, for the program to have a beneficial impact the timeframe section should include 15 rehabilitation grants annually, and 5 distressed property grants using PLHA and CDBG funding for extremely low and low income residents.

- **Program 22 – Comprehensive Code Enforcement.** While we appreciate Code Enforcement’s response and the City’s diligence to keep increasing staff, there are still additional actions that should be taken to create a comprehensive code enforcement. HCD’s AFFH Guidance recommends that “to overcome contributing factors to fair housing and affirmatively further fair housing, actions must consider a wide range of actions across all action areas. The number and scale of actions will depend on the severity of the needs but regardless of need, a cohesive and effective program will consider multiple action areas.” This program as written continues to fail to address critical housing issues since the last housing element cycle. The program should be revised to include actions around legally holding landlords accountable for retaliation, unlawful evictions, and harassment towards tenants who file code enforcement complaints such as a commitment to adopt a tenant anti-harassment ordinance. As stated, we recommend that the City adequately analyze code enforcement’s procedures and incorporate tenant feedback for a comprehensive code enforcement program.
- **Program 23 - Special Needs Housing (*identified in the AFH as a Meaningful Action*).** Much of the language in this program is vague, noncommittal, and does not provide adequate actions in order to provide a beneficial outcome. This program states the City “shall advocate for provision of special needs,” “partner with and encourage local and state non profits,” and “provide/encourage.” These actions are not concrete or specific and provide no assurance of a beneficial impact on persons’ with disabilities access to housing. This should be revised to include review and enforcement of compliance with legal requirements for accessibility of multi-family and affordable housing, including in permitting processes, not just “encourage[ing]” accessibility features. Additionally, we recommend that the program add specific actions to remove barriers to housing by special needs groups such as allowing undocumented residents to apply for and receive



housing assistance, vouchers and other subsidies unless otherwise required by federal law.

- **Program 26 - Equitable Community Investments (*identified in the AFH as a Meaningful Action*).** Program 26 states it will “seek funding,” “continue to actively seek resources,” and “continue implementing the written policies.” These commitments are vague and non-committal. There are no actions on how these will be completed and is ambiguous and as a result provides no indication that a beneficial outcome will result from the program and further fair housing. The programs continue not to commit the City to take a lead role in planning, funding, and/or constructing projects or indeed any role beyond identifying issues and needs and seeking funding on an annual basis. Additionally, it should not rely on the General Plan’s identification of Priority Areas for Development Incentives in Chapter 12 and should instead use the Urban Displacement Project data to guide investments.
- **Program 28 – Opportunity To Purchase Act (OPA) (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City’s action to initiate research on a local Opportunity to Purchase Act, we strongly recommend that the City implements robust outreach and engagement, in partnership with CBOs that work closely with low-income communities in racially/ethnically-concentrated. Additionally, the program states it “shall research” and “consider establishing an OPA.” These are not commitments and fail to implement any specific, firm, or enforceable commitment such that no beneficial outcome of the action is indicated.
- **Program 29 – Mobile Home Parks (*identified in the AFH as a Meaningful Action*).** Program 29 contains no commitments, actions, or enforceable language that will ensure a beneficial impact throughout the planning period. Additionally, this program repeats verbatim language included in Program 10A of the 2015-2023 without explaining how or why reliance on the same program action will have better results during the next planning period. With residents like Three Palms and Trails End Mobile Home Park experiencing the negative impacts of slumlords, it is crucial that the City make significant improvements to the program actions. Furthermore, the program must address the need for heat resiliency such as weatherization and insulation especially to older mobile home parks by funding a mobile home park renovation fund for all mobile homes. This fund will help low income families with issues that they need to address due to inspection violations or other habitability concerns. Additionally, this program should include a commitment to penalize and fine mobile home park owners who are not providing



adequate and safe conditions for their tenants. For example, Three Palms Mobile Home Park had not had safe drinking water for quite some time and the owner was never made responsible for this clear human rights violation. Finally, consistent with the City's responsibility to AFFH, the program should support quality of life and access to opportunity improvements for all mobilehome parks in Fresno by taking meaningful actions to increase green space, transit, and resources near mobile home parks.

- **Program 30 – Emergency Rental Assistance Program (*identified in the AFH as a Meaningful Action*).** Although we appreciate the City adding this program, it states that the City will “seek additional funding” and fails to commit ongoing funding that can come from the Local Housing Trust Fund, the General Fund, or its own permanent funding source to ensure a beneficial impact during the planning period. Identification and commitment of a permanent local source of funding by 2024 will highlight a commitment to prevent displacement and protect tenants.
- **Program 31 - Eviction Protection Program (EPP) (*identified in the AFH as a Meaningful Action*).** The Eviction Protection Program is a critical anti-displacement and anti-homeless tool. However, the program's current language to “seek additional funding to support the “EPP” is not a strong commitment and does not provide indication that a beneficial outcome will occur if funding is not replenished. We strongly recommend that the City commit to staffing 5 full-time staff for screening so tenants are able to receive help as soon as possible. We also recommend program expansion to include:
 - Wide-reaching outreach and education campaigns
 - Direct legal representation and assistance for low-income tenants encountering legal issues. This includes but is not limited to being served with a notice from their landlord (e.g. 3-day notice, notice of rent increase, etc.)
 - Evaluation of the Eviction Protection Program to ensure it is effective and address issues to improve the program.
- **Program 33 – Homeless Assistance (*identified in the AFH as a Meaningful Action*).** Program 33 does not commit the City to any concrete action. The program states it will “identify partnership opportunities,” “leverage the homeless assistance response team” and “support the Voucher Incentive Program” none of which commit to any enforceable and actionable items. The city must commit to completing an adequate analysis of needs of unhoused City residents. This should include the completion of an AFH analysis of disproportionate needs.



- **Program 34 - At-Risk Housing.** Program 34 includes actions without a clear commitment to take steps that will lessen the severity or impact of the issue in any timeframe. Again, the language is non-committal, vague, and ambiguous in how the program will reach its objective. Additionally, stronger tenant protections should be included as an objective and completed no later than June 2024 for residents facing displacement and an affordable housing resource map for tenants so they have the option to relocate.

Additionally, the draft element lacks policies and programs identified in Leadership Counsel's February 2023 letter, attached hereto. We incorporate the policies and programs recommended in that letter here by reference. In addition to the policies and programs highlighted in Leadership Counsel's February 2023 letter, the draft element should also be revised to include the following programs:

- A. Rent Control and Just Cause Protection Ordinance. The Housing Element draft mentions tenant protection "strategies" but in no way does the draft commit to tangible solutions. City of Fresno tenants, along with advocates, have been demanding rent control and just cause ordinance since 2021. The Here To Stay Report lists this as the communities' top priorities. Tenants have attended City Council meetings for the past two years asking for this; they have met with every city council member; and have lifted this as a priority in the City's Housing Element workshops. Yet, the City refuses to acknowledge residents' need. We strongly recommend that the City incorporate this into the Housing Element.
- B. Inclusionary Zoning Ordinance. The City should adopt a program to develop and adopt an inclusionary zoning ordinance by a date certain that is no more than three years into the planning period in order to allow the ordinance to result in the production of lower-income units during the planning period. To ensure that the ordinance AFFH and maximizes the production of affordable units, the ordinance should apply to single-family and multi-family housing and require a minimum share of affordable units (approx. 25-30%) and affordability levels of those units, including affordability for very-low and extremely-low income households. The City should develop this ordinance in partnership with lower-income residents and CBOs.
- C. Urban Greening is used as buffer zones when residential is placed or already placed near existing polluting land uses to mitigate health impacts.
- D. Citing industrial uses. Programs should explicitly prohibit the rezoning of sites suitable for lower income households to industrial land use classifications which would bring industrial uses next to or near neighborhoods that include or are



planned for housing affordable to lower income residents. This is critical to ensure that the City is compliant with its duty to affirmatively further fair housing.

- E. 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.
- F. 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
- G. 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.
- H. 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.
- I. 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.
- J. Establish a Housing Element Implementation Committee to oversee the timelines and implementation of each program and policy. The committee should be composed primarily by tenants, low-income homeowners, and at-risk populations to ensure implementation meets the needs of most at-risk communities.

As discussed previously, each program must contain clear action steps, deadlines, and measurable outcomes that will be achieved within the planning period and address housing and fair housing needs prioritized during the public process.

* * * * *

Thank you for your consideration of our comments. Please contact us if you would like to find a time to discuss them. We look forward to working together to advance access to safe, affordable housing for all City of Fresno residents.



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

Edith Rico, Project Director
Building Healthy Communities

Shar Thompson, Central Valley Regional Coordinator
Tenants Together

Marisa Moraza, Campaign Director
Power California



DATE: August 16, 2023

TO: Michelle Zumwalt, Sophia Pagoulatos- City of Fresno

FROM: Scott Miller, President/ CEO

RE: Multi-Jurisdictional Housing Element (2023 – 2031) Appendix 1-E Fresno

On behalf of our board and membership, sincere thanks for the opportunity to provide feedback on this important document. Our chamber recognizes the importance of fostering a balanced and sustainable housing landscape that not only supports the growing needs of our community but also respects the rights and interests of property owners. We appreciate the efforts made to address housing challenges within the county, and we strongly support the administration's One Fresno Housing Plan in general. Simply put, we believe all of us in Central California should do what we can to aggressively increase the supply of housing and remove the obstacles to getting it done quickly and affordably.

With that in mind, we will continue to focus on the following:

1. **Transparent, market driven solutions with measurable outcomes:** We commend the plan for creating new expedited permissions for ADUs, encouraging creative financing strategies and meaningful expansion of public-private partnerships. By implementing measures that encourage affordable housing without burdening developers or property owners, we can stimulate growth while ensuring housing remains within reach for residents of various economic backgrounds. We hope to see even more incentives such as density bonuses and increases in tax relief for favorable projects moving forward.
2. **Reduce impediments:** We applaud the steps taken by programs 5 and 20 in the draft plan and encourage more. To foster a thriving housing ecosystem, we will always advocate locally and at the State level for streamlined regulatory processes that expedite development without compromising safety and quality. We'd like to see the plan go further to create regulatory exemptions for the development of affordable housing.
3. **Respecting Property Owner Rights:** As a matter of principle, we generally oppose rezoning of private property without the consent of the property owner. We ask that language be included in Program 1 (and other sections as appropriate) specifically discouraging forced rezoning except as a last resort in implementation of the RHNA.
4. **Reconsideration of the Opportunity to Purchase Act:** We think this program (28) could have potential pitfalls. While we'd encourage local nonprofit organizations to own and develop housing in partnership with the City, we recommend removal (or clarification) of the language that implies possible intervention in private sales to create a de facto first right of refusal scenario.

Since 1885, our Chamber has been committed to the idea that collaboration and creativity are keys to a prosperous Fresno County. We are eager to actively engage in discussions and offer our insights to ensure that the final Housing Element reflects the best interests of our diverse community. As always, we're grateful for the opportunity to provide feedback and appreciate the positive working relationship.

A blue ink handwritten signature, appearing to read "Scott Miller", is written over a white background.

Scott Miller

To promote the success of the regional business community through effective advocacy, education and relationship building.



August 16th, 2023

Michelle Zumwalt
Planning and Development Department, City of Fresno,
2600 Fresno Street, Room 3065, Fresno, CA 93721

On behalf of the California Apartment Association (CAA), I extend CAA's support for the Fresno County Multi-Jurisdictional Housing Element Update as currently written. The Housing Element update's core goals and proposed policies reflect the importance and urgency of developing housing across Fresno County that is affordable and available to families of all income levels. CAA looks forward to working with all jurisdictions in successfully implementing this plan's goals.

CAA participated in many of the workshops during the public outreach period and appreciates that many of the goals and policies referenced in the latest Housing Element draft reflect the input of the community and underscore the importance of building the homes our community needs.

The first goal, with good reason, is new housing development. All Fresno County jurisdictions need to significantly increase housing units over the next eight years, and this is especially true in the extremely low, very low, and low economic segments. (Policy 1.2) This cannot be achieved without the rapid implementation of Policy 1.4, which addresses minimizing unnecessary development costs which add to the costs of housing production. Additionally, incentivizing infill housing development, along with promoting higher-density housing, mixed use zoning, and TOD development will significantly add to housing supply while reducing VMT and aligning with the goals set forth in AB 32.

Goal 2 relates specifically to affordable housing, and we believe all aspects should be implemented as soon as practicable. CAA is happy to work with the county and cities in sharing best practices from around the state to ensure the policy goals are adopted quickly and as seamlessly as possible. The need for these initiatives is particularly crucial in Fresno County, which has a significant number of economically-challenged households as discussed in the demographic section of the Housing Element Update. CAA is currently working with Fresno Housing to host a series of webinars regarding accepting Housing Choice Vouchers (Policy 2.2) as we have done in many other cities and counties throughout California. Our experience has been that once rental housing providers understand the program, and the benefits of accepting Housing Choice Vouchers, HCV reach is significantly expanded.

Goal 3, Improving and maintaining the quality of housing and residential neighborhoods is another area of emphasis for CAA. (Policies 3.3 and 3.4) Our organization was a key stakeholder in the developing and implementing the Anti-Slum Enforcement Team (ASET) and the Rental Housing Improvement Act (RHIA). CAA continues to work with the City of Fresno through the Neighborhood Revitalization Team and the School Area Team to ensure all rental housing providers, CAA members and non-members alike, abide by and embrace these programs. We welcome the opportunity to work with other jurisdictions as well.

Goal 5, Fair and Equal Housing Opportunities, reflects a core element of CAA's mission. CAA offers meetings and webinars throughout the year, to ensure rental housing providers are educated on federal, state, and local laws and to allow our members to be reminded of these laws as well as any changes in the preceding year. CAA has worked in Fresno, and throughout the state, in conjunction with local governments educating rental housing providers on the importance of all Fair Housing laws. CAA aims to be a partner with all cities in the region to help educate housing providers and their residents on their rights and responsibilities under applicable laws.

CAA appreciates the work Fresno County, the incorporated cities of Fresno County, and the Council of Governments have done on this Housing Element update. CAA looks forward to working with all stakeholders in the passage and implementation of the Multi-Jurisdictional Housing Element as currently presented.

Sincerely,

Greg Terzakis
Senior Vice President

California Apartment Association
980 Ninth Street, Suite 1430
Sacramento, CA 95814
(800) 967-4222 • caanet.org

The **California Apartment Association** is the largest statewide rental housing trade association in the country, representing over 50,000 rental housing providers offering over 1 million rental homes statewide.





August 16, 2023

Michelle Zumwalt
Planning and Development Department
City of Fresno
2600 Fresno Street, Room 3065
Fresno, CA 93721

Dear Ms. Zumwalt;

On behalf of the more than 4,500 members of the Fresno Association of REALTORS® (F.A.R), I am writing to express support for the Fresno County Multi-Jurisdictional Housing Element Update as currently written. The Update's core goals and policies address the importance and urgency in developing and increasing housing supply in Fresno County. F.A.R looks forward to working with our coalition partners and all jurisdictions in successfully implementing this Update.

California is witnessing a historic housing shortage. While this is universally recognized, there is less agreement about how to define and measure it, or even what makes the shortage so intense. Many factors have applied acute pressure in the housing market amid the general shortage conditions. There are many consequences for those living within Fresno County and no one is likely exempt from the effects of this crisis.

F.A.R. participated in several of the workshops during the public outreach period and would like to emphasize and extend support for the following goals and policies referenced in the latest Housing Element draft.

The first goal is new housing development, and we cannot emphasize this particular goal enough. All jurisdictions within the Element need to significantly increase housing stock over the next eight years, and this is especially true in the extremely low, very low, and low economic segments. (Policy 1.2) This cannot be achieved without the rapid implementation of Policy 1.4, which addresses minimizing unnecessary development costs which adds to the costs of housing production. Additionally, incentivizing infill housing development, along with promoting higher-density housing, mixed use zoning, and TOD development with significantly add to housing supply while reducing VMT and aligning with the goals set forth in AB 32.



Goal 2 specifically addresses affordable housing, and we are in support of implementing all aspects as soon as practicable. F.A.R. intends to work closely with our coalition partners, such as the California Apartment Association (CAA) to share and support best practices to ensure public policy goals are achieved as quickly as possible. We understand that the need for these initiatives is particularly crucial in Fresno County, which has a significant number of economically challenged households as indicated in the demographic section of the Housing Element Update.

Goal 3, Improving and maintaining the quality of housing and residential neighborhoods is another area of importance and emphasis for F.A.R. (Policies 3.3 and 3.4)

Goal 5, Fair and Equal Housing Opportunities, Real estate professionals and consumers depend on strong fair housing laws and practices for our communities and economy to thrive. Discrimination distorts the housing market and closes the door on the American dream of homeownership for qualified buyers. At F.A.R., we advance our commitment to fair housing through policy advocacy, innovative programming, and legal guidance. F.A.R. promotes public policy to advance broader homeownership availability, accessibility, and affordability in all communities. We prioritize efforts to narrow homeownership gaps among demographic groups and promote strong enforcement of anti-discrimination laws in the housing market. F.A.R. promotes awareness, education and understanding to advance fair housing in the industry.

F.A.R. commends the work Fresno County, the incorporated cities of Fresno County, and the Council of Governments have done on this Housing Element update. Further, we would like to thank Mayor Dyer and his One Fresno Plan for his leadership, vision, and practical strategy to address the housing crisis we face today and, in the years to come. F.A.R. looks forward to working with all stakeholders in the passage and implementation of the Multi-Jurisdictional Housing Element as currently written.

Thank you for the opportunity to provide our feedback and we thank you for your leadership.

Sincerely,

Brian Domingos

Brian Domingos, President
Fresno Association of REALTORS®

EMAIL TO: housingelement@fresno.gov BY AUGUST 15TH!
SUBJECT: MJHE Plan 2 and PLAN 3

The following are my reasons for opposing Plans 2 and 3:

1- Your MJHE Plan is a Plan which takes a law passed in Sacramento to address the issues of homelessness and housing shortages and arrives at "A SACRAMENTO SOLUTION".

Homelessness & housing shortages are conditions that WE IN THIS NEIGHBORHOOD did NOT create!

2. **ADU's (Plan 2)**- Most of us chose this neighborhood BECAUSE it is zoned "Single-Family Residential". AARP cites that "ADUs change the character of a neighborhood and cause problems for a community that was NOT BUILT for higher density". We SAVED to buy our homes in this lower density neighborhood!

3. Your "Masterpiece Plan" presents a VERY ONE-SIDED VIEW of ADUs. It emphasizes "Make an income/extra money. House extra family or caregivers." Shame on you for not providing FULL DISCLOSURE of the downside to ADUs to any and all interested parties!

4. In reviewing professional, expert opinions, we are advised "DO NOT COUNT ON ADU INCOME TO LIVE ON... due to the frequent jurisdictional changes [for rentals] that occur". (Think Covid-property owners were unable to evict for non-payment, unable to collect rent owed, owners are limited to a "Sacramento-fixed" percentage of raising rent depending on how many rentals they owned- just to identify a few issues.)

5. Your Plan states placing ADUs in single-family neighborhoods with higher median incomes is to "facilitate housing mobility opportunities for lower-income households..." (Pg 1E-4-17).

This is nothing more than a "Calif Social Experiment"!

Your Plan has no mention of:

6. ... the costs and responsibilities involved in rental units that eat into passive rent income. Yet you highlight income...

7. ... how extra POLICE or FIRE PROTECTION will be provided at a time when our Mayor and Chiefs of Police & Fire are desperate for recruits to fill CURRENT vacancies. Then there are CITY RENTAL INSPECTIONS!

8. ... details like parked cars crowding our streets, about how adding mailboxes or garbage cans will be determined, the disruption to the privacy of neighbors and those in the main home w/ADU renters coming or going.

9. ... about a home that is already a rental. Can the property owner simply ADD an ADU if the current renter objects?

10. Low-Income Housing (Plan 3)- Fresno's low-income housing is poorly kept. I OBJECT to what becomes eyesores in my neighborhood!

11. Building low-income, multi-family units in our neighborhood- in your "Infill Opportunity Zones" or ANY "rezoned" property- again brings up the issue of A LACK OF police and fire personnel.

12. In the *Wall Street Journal*, 8/8/23, front page HEADLINES- "Apartment Landlords Face Peril As Their Debt Costs Skyrocket". Talk about housing that will be falling apart, will be unattended, and become OUR NEIGHBORHOOD'S PROBLEM...

13. Incorporating your Plans 2 & 3 into NEW areas of building homes- NOT IN EXISTING SINGLE-FAMILY, LOW-DENSITY NEIGHBORHOODS- is where these plans need to be enacted. Home buyers will KNOW what they're getting, they'll KNOW what the residential components will be/are, and these buyers will have 100% awareness of the decision they make to buy in such a neighborhood. It is CRUEL to inflict these misguided plans on our neighborhoods!

14. HERE'S TWO IDEAS-

A- CONTINUE the outstanding efforts to remodel and repurpose the motels and inns that have fallen into disrepair or been abandoned and use these for low-income/homeless opportunities.

B- Bring in the "NECESSARY RESOURCES" to these sites.

Thank you

Joseph Gugliemo

Rachel Gugliemo

Concerned Resident's

From: [REDACTED] >
Sent: Friday, August 11, 2023 11:48 AM
To: HousingElement <HousingElement@fresno.gov>
Subject: MJHE Plan 2 & 3

External Email: Use caution with links and attachments

The following are my reasons for opposing Plans 2 and 3:

1- Your MJHE Plan is a Plan which takes a law passed in Sacramento to address the issues of homelessness and housing shortages and arrives at "A SACRAMENTO SOLUTION". Homelessness camps; housing shortages are conditions that WE IN THIS NEIGHBORHOOD did NOT create!

2. ADU's (Plan 2)- Most of us chose this neighborhood BECAUSE it is zoned "Single-Family Residential". AARP cites that "ADUs change the character of a neighborhood and cause problems for a community that was NOT BUILT for higher density". We SAVED to buy our homes in this lower density neighborhood! Nobody, gave us a handout! We created our neighborhood on our own.

3. Your "Masterpiece Plan" presents a VERY ONE-SIDED VIEW of ADUs. It emphasizes "Make an income/extra money. House extra family or caregivers." Shame on you for not providing FULL DISCLOSURE of the downside to ADUs to any and all interested parties!

4. In reviewing professional, expert opinions, we are advised "DO NOT COUNT ON ADU INCOME TO LIVE ON... due to the frequent jurisdictional changes [for rentals] that occur. (Think Covid-property owners were unable to evict for non-payment, unable to collect rent owed, owners are limited to a "Sacramento-fixed" percentage of raising rent depending on how many rentals they owned- just to identify a few issues.)

5. Your Plan states placing ADUs in single-family neighborhoods with higher median incomes is

to “facilitate housing mobility opportunities for lower-income households...” (Pg 1E-4-17).

This is nothing more than a “Calif Social Experiment!”

Your Plan has no mention of:

6. ... the costs and responsibilities involved in rental units that eat into passive rent income. Yet

you highlight income...

7. ... how extra POLICE or FIRE PROTECTION will be provided at a time when our Mayor and

Chiefs of Police & Fire are desperate for recruits to fill CURRENT vacancies. Then there are CITY

RENTAL INSPECTIONS!

8. ... details like parked cars crowding our streets, about how adding mailboxes or garbage

cans will be determined, the disruption to the privacy of neighbors and those in the main home

w/ADU renters coming or going.

9. ... about a home that is already a rental. Can the property owner simply ADD an ADU if the

current renter objects?

10. Low-Income Housing (Plan 3)- Fresno’s low-income housing is poorly kept. I OBJECT to what

becomes eyesores in my neighborhood! Excessive trash litter the streets, yards not kept up, etc.

11. Building low-income, multi-family units in our neighborhood- in your “Infill Opportunity

Zones” or ANY “rezoned” property- again brings up the issue of A LACK OF police and fire personnel.

12. In the Wall Street Journal, 8/8/23, front page HEADLINES- “Apartment Landlords Face Peril

As Their Debt Costs Skyrocket”. Talk about housing that will be falling apart, will be unattended,

and become OUR NEIGHBORHOOD’S PROBLEM...

13. Incorporating your Plans 2 & 3 into NEW areas of building homes- NOT IN EXISTING SINGLE-

FAMILY, LOW-DENSITY NEIGHBORHOODS- is where these plans need to be enacted. Home

buyers will KNOW what they’re getting, they’ll KNOW what the residential components will

be/are, and these buyers will have 100% awareness of the decision they make to buy in such a neighborhood. It is CRUEL to inflict these misguided plans on our neighborhoods!

14. HERE'S TWO IDEAS-

A- CONTINUE the outstanding efforts to remodel and repurpose the motels and inns that have fallen into disrepair or been abandoned and use these for low-income/homeless opportunities.

B- Bring in the "NECESSARY RESOURCES" to these sites.

Thank you,
Dennis Statham
559-779-4779

From: Sarah A <[REDACTED]>
Sent: Wednesday, August 09, 2023 11:16 AM
To: HousingElement <HousingElement@fresno.gov>; Sophia Pagoulatos <Sophia.Pagoulatos@fresno.gov>; Veronica Martinez <Veronica.Martinez@fresno.gov>; Michelle Zumwalt <Michelle.Zumwalt@fresno.gov>
Cc: Sarah A <[REDACTED]>
Subject: Following up about Multi-Jurisdictional Housing in our Fresno 93711 bluff area

External Email: Use caution with links and attachments

To: M.Zumwalt, Room 3065, Planning & Development
Department

Dear Planning department representatives,
Thank you, thank you for all the good work you do. I know it's difficult dealing with NIMBYism and you remained perfectly calm. Thank you for listening to my concerns.

I've copied the note I sent to our District 2 Councilman, mostly due to my lack of time to repeat it. Please consider my comments. In addition to the comments below, I'm in support of the new and restorative planning within City limits, as opposed to urban sprawl and leapfrog development. Maybe design/infrastructure committees exist to give Developers advice/boundaries on building attractive, green, sustainable communities that will add long-term value to our beautiful city. And wouldn't it be great to have more shady green spaces and urban farms throughout Fresno?

Please let me know if there is anyway I can help your efforts here. Thank you in advance for all you do!

Sarah Adams
[REDACTED]

Dear Councilman Karbassi,

I attended the jurisdictional housing meeting last night at Nelson Elementary. The planning department staff had a challenging time giving an overview of the City's projects last night. The residents in the Bluff area seemed most concerned about the large piece of land at east end of Alluvial Ave; as well, the lot at SW corner of Van Ness and Alluvial; and in general, the trauma and de-valuation of neighborhood properties that could happen to the existing established high-end homes in our area, IF flanked by super dense apartment style housing or a high-travelled Alluvial Ave somehow connecting to Palm....

Some residents in the room also expressed concern about parking issues related to ADU additions. It seems to me ADUs might fit better on larger lots, minimum of 1/2 acre, with mandatory off-street parking planned/enforced, to avoid congestion concerns.

Also, by keeping Alluvial blocked on the East end, the high-end neighborhood would be preserved, and not opened up to through-traffic, or wandering transient folks.

Maybe there was some consensus last night (?) that high density, MEDIUM-INCOME housing could fit into NEW undeveloped areas, as opposed to existing areas.

Also, it seems there was some approval of less-dense density, and housing FOR SALE instead of for RENT. If there are individual homeowners, there is shared long term interest and responsibility for the neighborhood. Other comments included the need for thoughtful open space planning, landscaping, infrastructure, pedestrian and bike pathways.....

On a personal note, I walked around the large lot east of Alluvial Ave this morning--maybe 40 acres?--which is zoned for office buildings apparently. Why is this not zoned for medium-income, dense, townhouse 2-story housing with green space, paths to the ParkPlace shopping center with gym, cafes, restaurants? These businesses would be patronized by local community and there would be less turnover. As well, having access to the river on existing paths and views, is a super extension of the San Joaquin River Parkway and Conservation Trust's mission. This would allow home buying opportunities for young professionals, families, and retired; therefore, creating diversity. There is even a private pre-school in the neighborhood and Nelson elementary school not far away.

If I were looking for new community housing, more affordable, as a working person, I'd be interested in this north Fresno location! It sounds like the City doesn't need more office buildings in the area, due to plenty of existing office space....so why not use this acreage to build a wonderful dense townhouse development, and to keep existing Bluff residents to its west happy, don't connect Alluvial. It appears that it could easily be accessed off Palm.

We hope you can consider and support these ideas.
Best wishes,

Sarah J. Adams
tel. 760/937-6581

From: Mike C. <[REDACTED]>
Sent: Wednesday, August 09, 2023 7:54 AM
To: HousingElement <HousingElement@fresno.gov>
Subject: #Program

External Email: Use caution with links and attachments

Program(s) are effective but there's not enough of them. and the ones that there are, are only for families.. There are single people that need just as much help as people that have families..
Wish I had a program now.
#needone

[Sent from Yahoo Mail on Android](#)

From: Lynette S. <[REDACTED]>
Sent: Wednesday, August 09, 2023 1:06 PM
To: HousingElement <HousingElement@fresno.gov>
Subject: MJHA PLAN 2 and Plan 3

External Email: Use caution with links and attachments

I attended last night's meeting at Nelson Elementary. I would like to emphatically "go on the record" as being in opposition to Plan 2 (ADUs) and Plan 3 (multi-family, low income housing)!

I am a life-long Fresno County resident and have resided the past 31 years at my current address- 7264 N Brooks Ave, Fresno, 93711 (Herndon/West/Alluvial).

The following are my reasons for opposing Plans 2 and 3:

1- Your MJHE Plan- this is a Plan which takes a law passed in Sacramento to address the issues of homelessness and housing shortages and arrives at "A SACRAMENTO SOLUTION".

(Homelessness & housing shortages are conditions that WE IN THIS NEIGHBORHOOD did NOT create!)

2. **ADU's (Plan 2)**- Most of us chose this neighborhood BECAUSE it is zoned "Single-Family Residential". AARP cites that "ADUs change the character of a neighborhood and cause problems for a community that was NOT BUILT for higher density". We SAVED to buy our homes in a lower density neighborhood!

3. Your "Masterpiece Plan" presents a VERY ONE-SIDED VIEW of ADUs. It emphasizes "Make an income/extra money. House extra family or caregivers." Shame On You for not providing FULL DISCLOSURE of the downside to ADUs!

4. Reviewing professional, expert opinions, we are advised "DO NOT COUNT ON ADU INCOME TO LIVE ON... due to the frequent jurisdictional changes [for rentals] that occur". (Think Covid-property owners were unable to evict for non-payment, unable to collect rent owed, owners are limited to a "Sacramento-fixed" percentage of raising rent depending on how many rentals they owned.)

5. Your Plan states placing ADUs in single-family neighborhoods with higher median incomes is to "facilitate housing mobility opportunities for lower-income households..." (Pg 1E-4-17). This is nothing more than a "Calif Social Experiment"!

Your Plan has no mention of:

6. ... the costs and responsibilities involved in rental units that eat into passive rent income. Yet you highlight income...

7. ... how extra POLICE or FIRE PROTECTION will be provided at a time when our Mayor and Chiefs of Police & Fire are desperate for recruits to fill CURRENT vacancies. Then there are CITY RENTAL INSPECTIONS!

8. ... details like parked cars crowding our streets, about how adding mailboxes or garbage cans will be determined, the disruption to the privacy of neighbors and those in the main home w/ADU renters coming or going.

9. ... about a home that is already a rental. Can the property owner simply ADD an ADU if the current renter objects?

10. **Low-Income Housing (Plan 3)**- Fresno's low-income housing is poorly kept. I OBJECT to what becomes eyesores in my neighborhood!

11. Building low-income, multi-family units in our neighborhood- in your "Infill Opportunity Zones" or ANY "rezoned" property- again brings up the issue of A LACK OF police and fire personnel.

12. WSJ, 8/8/23, Front Page HEADLINES- "Apartment Landlords Face Peril As Their Debt Costs Skyrocket". Talk about housing that will be falling apart, will be unattended, and become OUR NEIGHBORHOOD'S PROBLEM...

13. Incorporating your Plans 2 & 3 into NEW areas of building homes- NOT IN EXISTING SINGLE-FAMILY, LOW DENSITY NEIGHBORHOODS- is where these plans need to be enacted. Home buyers will KNOW what they're getting, they'll KNOW what the residential components will be/are, and will have 100% awareness of the decision they make to buy in such a neighborhood. It is CRUEL to inflict these misguided plans on our neighborhoods!

14. HERE'S TWO IDEAS-

A- CONTINUE the outstanding efforts to remodel and repurpose the motels and inns that have fallen into disrepair or been abandoned as housing solutions for the low-income and homeless populations.

B- Increase "NECESSARY RESOURCES" in those areas!

Thank you,

Lynette Statham, LCSW
559.284.7092



United Brotherhood of Carpenters & Joiners of America

August 9, 2023

Via Email: housingelement@fresno.gov;
michelle.zumwalt@fresno.gov

Planning and Development Department,
City of Fresno,
2600 Fresno Street, Room 3065,
Fresno, CA 93721
(559) 313-9735 or

ATTN: Michelle Zumwalt, Architect,
Re: 6th Cycle Housing Element Update (2023-2031)

Dear Michelle Zumwalt

Please accept these comments on the above referenced Housing Element Update on behalf of the members of Carpenters Local 701, which represents working men and women in the City of Fresno. Local 701 has long been at the forefront of training the next generation of construction workers, opening pathways to the industry for diverse and traditionally underserved populations, and embracing new technologies and delivery methods to expedite the construction of much needed housing.

We appreciate the opportunity and look forward to working together on this important endeavor.

To meet the urgent need for housing units outlined in the State's Regional Housing Needs Allocation (RHNA), as well as the policy goals outlined in the City of Fresno Housing Element, it is vital that the City of Fresno support efforts to build the local construction workforce.

However, the City of Fresno current housing element draft fails to address a major impediment to housing production that other cities have acknowledged and committed to addressing in their own, now-finalized housing elements. Namely, neither Fresno County nor the City of Fresno have enough skilled, highly productive residential construction workers to build the nearly 36,866 units that the City of Fresno is supposed to produce over an 8 year time period.

As part of the 6th Cycle Housing Element process, the City of Fresno must seek to build 36,866 units over an eight year period. However, as the housing crisis in our communities has continued to deteriorate in recent years, **the number of workers employed in residential building construction in Fresno has actually decreased by 10% since 2007.**¹ A continuously shrinking residential construction workforce cannot build 36,866 units of housing in 8 years. As such, **the City should commit to developing local residential construction labor policy in its Housing Element.** This policy should seek to alleviate the labor shortage impediment to housing in the City by investing in the development and retention of workers in the local residential construction labor supply.

To support the policy goals of the Housing Element, Local 701 is therefore requesting that the City add local hire and apprenticeship requirements to the General Plan and Housing Element for all residential construction projects larger than 10 units. The standards Local 701 is proposing in this comment letter would help to ensure greater benefits for the broader community, help ensure that construction labor needs are met, and guarantee that new residential development projects within the City are making needed investments in the region's skilled construction industry workforce.

The City Should Bar Issuance of Building Permits Unless Each Future Residential Development of 10 units or Above has a Viable Apprenticeship Program and Local Hiring Requirements

The Carpenters propose the following additions to the Municipal Code of the City of Fresno for any residential project larger than 10 units

Permitting requirements in the Municipal Code of the City of Fresno.

A person, firm, corporation, or other entity applying for a building permit under the relevant section of the Municipal Code of the City of Fresno, California shall be required to comply with the apprenticeship, healthcare, and local hire requirements of the Housing Element and General Plan. Failure to comply with the requirements set forth in this section shall be deemed a violation of this article.

Apprenticeship:

For every apprenticeable craft, each general contractor and each subcontractor (at every tier for the project) will sign a certified statement under penalty of perjury that it participates in a Joint Apprenticeship Program Approved by the State of California, Division of Apprenticeship Standards **OR** in an apprenticeship program approved by the State of California Division of Apprenticeship Standards that has a graduation rate of 50% or higher and has graduated at least thirty (30) apprentices each consecutive year for the five (5) years immediately preceding submission of the pre-

¹ QCEW data: Difference between YEAR2007 employment (3482) and YEAR 2022 (3121) in Private NAICS 2361 Residential building construction for All establishment sizes in Fresno, California, NSA.

qualification documents. The contractor or subcontractor will also maintain at least the ratio of apprentices required by California Labor Code section 1777.5.

Local Hire Policy:

Contractor will be required to provide documentation that the contractor will hire a minimum of twenty-five percent (25%) of staff for any job classification with more than four (4) employees employed whose primary residence, which is not a post office box, is, and has been, within Fresno county within 180 days of the expected date of issuance of the Notice to Proceed for the project.

As part of making these proposals, Local 701 wishes to make the City of Fresno aware that other cities in the wider region have incorporated language into their finalized housing elements that does commit to the development of residential construction labor policy:

Cities including Redwood City, Menlo Park, and Foster City, example, have included the following language as part of the policy goals in their respective housing elements:

Adopted Housing Element policy goal (Redwood City and Menlo Park):

“Encourage developers and contractors to evaluate hiring local labor, hiring from or contributing to apprenticeship programs, increasing resources for labor compliance, and providing living wages.”²

Adopted Housing Element policy goal (Foster City):

“**Encourage Local Hiring.** Encourage developers and contractors to evaluate hiring local labor, hiring from, or contributing to apprenticeship programs, increasing resources for labor compliance, and providing living wages.

Local Labor Program List. Establish and post a list of local labor unions and apprenticeship programs on City’s website and encourage the developers and contractors to hire local labor. Responsible Agency: Community Development Department, City Attorney Timeframe: Establish the list by December 2023. Bi-annually update the list or upon requests from the local unions to be added to the list.”³

At a minimum, Local 701 strongly calls on the City of Fresno to incorporate a similar commitment to develop residential labor policy in their own housing element. This will help alleviate a major impediment to housing production: the labor shortage crisis in the residential construction.

² See, page 322: City of Menlo Park 2023-31 Housing Element. Available at [city-of-menlo-park-2023-2031-housing-element.pdf \(menlopark.gov\)](https://www.menlopark.gov/sites/default/files/2023-03/city-of-menlo-park-2023-2031-housing-element.pdf)
See, page 52: City of Redwood City 2023-31 Housing Element. Available at [REDWOOD-CITY-HE-ADOPTED-2-13-23.pdf \(welcomehomerwc.org\)](https://www.redwoodcity.org/sites/default/files/2023-03/REDWOOD-CITY-HE-ADOPTED-2-13-23.pdf)

³ See, page 82: City of Foster City 2023-31 Housing Element. Available at <https://engagefostercity.org/housing-element>

In addition to the above examples, **other cities have also identified the utility of new legislative tools such as AB 2011,⁴** which both streamlines housing production while also raising labor standards for local workers. The Carpenters encourage the City of Fresno to also make use of and lead in taking advantage of the opportunity presented by such legislative developments.

While there has been a remarkable economic expansion in Fresno in recent years, rising inequality and displacement adds to the City's affordability crisis and threatens to undermine the region's strong economy. Local 701 has a strong track record of developing many programs that will enable the City to meet the General Plan and Housing Element goals. These programs include a robust Joint Apprenticeship Training Committee, vigorous utilization of apprentices in the City of Fresno, healthcare coverage for all members and their families, and innovation within the construction industry.

Joint Apprenticeship Training Committees (JATC's), such as the Carpenters Training Committee for Northern California (CTCNC), are a proven method of career training built around a strong partnership between employers, training programs and the government. This tripartite system is financially beneficial not only for the apprentice, but is a major benefit for the employer and the overall economy of the City of Fresno. The CTCNC monitors current market conditions and adjusts the workflow of apprentices to meet the needs of the community, heading off any shortage of skilled workers. History has demonstrated that strong utilization of apprentices throughout the private sector helped California builders produce millions of units of housing.

CTCNC recruitment strategies include robust diversity and inclusionary outreach programs, such as pre-apprenticeship, with proven results in representative workplaces and strong local economies. It is imperative that our underserved populations have supportive and effective pathways to viable construction careers, while ensuring that employers are able to find and develop the best and brightest talent needed to thrive in a competitive economy.

Employer-paid health insurance plans for our members and their families provides preventative services to stay healthy and prevent serious illness. Timely care reduces the fiscal burden for our members and their families, and significantly reduces the utilization of safety-net programs administered by the City of Fresno and Fresno.

Embracing new technologies and delivery systems will have a significant impact on the construction industry, particularly the residential sector. Increasing housing delivery methods reduces project durations and provides City of Fresno residents housing sooner. Local 701 is at the forefront of ensuring that new construction technologies deliver those benefits while also creating work opportunities for those already in the trades as well as those looking to begin a construction career.

Local 701 is in a unique position to address many of the key ideas outline in the City of Fresno Housing Element Update. By investing in the training and utilization of apprentices, performing

⁴ See, page 28: County of Santa Cruz 2023-31 Housing Element. Available at [2023 Housing Element \(sccoplanning.com\)](https://www.sccoplanning.com)

outreach to ensure that the workforce closely mirrors the demographics of our local community, providing employer-paid healthcare for our members and their families, and promoting innovation in the residential construction sector, Local 701 is prepared to assist in closing the affordability gap in the City of Fresno and Fresno area. We look forward to engaging City staff and elected leaders as the Housing Element moves forward and working cooperatively to bridge the needs of the City with the skills and tools of Local 701.

Sincerely,

Jayson Martinez

Senior Field Representative

Carpenters Local 701

A handwritten signature in blue ink, appearing to be 'J Martinez', with a large loop at the top and a horizontal stroke at the bottom.

From: Valarie Armstrong <varmstrong@cysfresno.org>
Sent: Tuesday, August 08, 2023 9:59 AM
To: HousingElement <HousingElement@fresno.gov>
Subject: Multi_Jurisdictional Housing Element Public Comment

External Email: Use caution with links and attachments

City planning and ordinances need to adopt special caveats for tiny homes. Lenders need to be encouraged to provide longer term loans.

Tiny homes (\$80-160K) and RV park model homes (\$59-120k) are less expensive to build and maintain and yield a reduced environmental impact.

Tiny home communities foster a stronger sense of community and belonging. Providing affordable options in a housing market that has outpaced wages.

If a committed developer could create tiny home subdivisions on smaller plots of land, the options to reduce carbon footprints and still maintain affordable purchase prices are endless.

Thank you

Valarie Armstrong
Human Resources Director
Comprehensive Youth Services of Fresno Inc.
4545 N. West Ave.
Fresno CA 93705

(559) 229-3561 xt122 | Direct (559) 230-6322 | Fax (559) 229-3681
www.cysfresno.org / varmstrong@cysfresno.org

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From: Martha Gonzalez <[REDACTED]>

Sent: Tuesday, August 08, 2023 10:44 AM

To: HousingElement <HousingElement@fresno.gov>

Subject: The City need to do more for homeless people. I had call and left several messages about a homeless couple living next to our property for over a year and nothing has been done by the City. They have 2 poor dogs tied up all day and the smell is terribl...

External Email: Use caution with links and attachments

-----Original Message-----

From: Patrick C. <[REDACTED]>

Sent: Tuesday, August 08, 2023 12:34 PM

To: HousingElement <HousingElement@fresno.gov>

Subject: Public comment for housing element

External Email: Use caution with links and attachments

[REDACTED] I understand that the housing element is basically a number report to the State. And agree more affordable housing in different styles is needed around the City.

However, one strategy I feel is missing in this report is the deliberate planning that's needed to build a community with services that are needed within walking distance that would include medical, food, public transit and green space to help clean the air and provide space for play and exercise. City planners have called them catalytic corridors in meetings I've attended. I think there needs to be a goal to work collaboratively with parks, arts commission, public works. the Planning commission should not be allowed to make changes to a well thought out plan just because a developer asks. There needs to be a moratorium on changes.

Thank you

Sent from my iPhone

From: Vanesa Donangtavanh <vanesad@selfhelpenterprises.org>
Sent: Monday, July 31, 2023 9:11 AM
To: Betsy McGovern-Garcia <betsyg@selfhelpenterprises.org>; Sophia Pagoulatos <Sophia.Pagoulatos@fresno.gov>
Cc: Michelle Zumwalt <Michelle.Zumwalt@fresno.gov>; HousingElement <HousingElement@fresno.gov>
Subject: RE: City of Fresno Housing Element Public Draft Available

External Email: Use caution with links and attachments

Good morning Sophia,

Following up on this item. Is there anything else we need to do on our end to get this issue addressed in the Housing Element?

Thanks,
Vanesa

VANESA DONANGTAVANH

PROJECT MANAGER

Self-Help Enterprises



8445 W. Elowin Court
P.O. Box 6520
Visalia, CA 93290

559-931-2479 Office
559-651-3634 Fax:
vanesad@selfhelpenterprises.org
[Http://www.selfhelpenterprises.org](http://www.selfhelpenterprises.org)



Honored to be recognized as a
Top 50 Affordable Housing
Developer of 2022

From: Betsy McGovern-Garcia <betsyg@selfhelpenterprises.org>
Sent: Monday, July 17, 2023 2:10 PM
To: Sophia Pagoulatos <Sophia.Pagoulatos@fresno.gov>
Cc: Michelle Zumwalt <Michelle.Zumwalt@fresno.gov>; HousingElement <HousingElement@fresno.gov>; Vanesa Donangtavanh <vanesad@selfhelpenterprises.org>
Subject: RE: City of Fresno Housing Element Public Draft Available
Importance: High

Sophia,

We are concerned that any housing project over 1 unit requires a discretionary approval in the City of Fresno. Would the City consider adding a program to create a process wherein any affordable housing project of 100 units or less, in a zone which allows multifamily housing, would be by-right?

This is a MAJOR barrier in Fresno.

Thanks.

Betsy

From: Sean Z. <[REDACTED]>
Sent: Sunday, July 30, 2023 7:19 PM
To: HousingElement <HousingElement@fresno.gov>
Subject: Housing element public comment

External Email: Use caution with links and attachments

Housing is way too expensive in Fresno and getting worse. Specifically I think Fresno needs a lot more apartments, particularly tall apartment buildings built near transit lines. We are way too sprawled out and need to focus on building some density around the downtown core. I would really love to see Fresno use a social housing program similar to Vienna, where the city government builds and owns lots of apartment buildings, keeping rent low. I say this as a homeowner that housing prices are out of control and something needs to be done to bring it down. I would also love to see very strict rent control. In addition we need to be building way more housing for the homeless, as its both cruel and unconscionable to have so many people sleeping on the streets, and lessens everyone's enjoyment of the city.

From: Jeffrey M. <[REDACTED]>

Sent: Thursday, July 27, 2023 5:52 PM

To: HousingElement <HousingElement@fresno.gov>

Subject: Please don,t meddle in things that aren't your purview. Government great at creating additional problems doing things that are free market in nature don't trust you or your motives. Stop meddling:

External Email: Use caution with links and attachments

From: Amber F. <[REDACTED]>
Sent: Thursday, July 27, 2023 11:31 AM
To: HousingElement <HousingElement@fresno.gov>
Subject:

External Email: Use caution with links and attachments

What part of town are they going to be located in? How much will our taxes go up to pay for this shit? Don't we pay enough already? This state and county is sucking us dry! Soon there will be no one left working and paying taxes, all homeless and welfare, who'll pay then?

From: rudemaq <[REDACTED]>
Sent: Thursday, July 20, 2023 11:36 AM
To: HousingElement <HousingElement@fresno.gov>
Subject: Rental Housing Rehad Assistance

External Email: Use caution with links and attachments

Hello,

I am a owner investor. I have a rental property that recently got inspected by the City for health and safety. The unit pass the inspection with only a couple of minor corrects.

Since this inspection was done by the City.

I was wondering if the City has any programs or know of any other agencies or programs to assist with energy window replacement for energy saving purposes? Such as a loan program or rebates?

Thank you,
Rudy Quintana

From: Kathleen O. <[REDACTED]>
Sent: Thursday, July 20, 2023 12:02 PM
To: HousingElement <HousingElement@fresno.gov>
Subject: attention: M. Zumwalt, Community Discussion

External Email: Use caution with links and attachments

The city needs to take professionals who are low-income into account. Many people work for entities like Fresno Unified School District but do not make a living wage that lets them afford an apartment or a house. It is absolutely insane that we expect people to teach our children in daycares, preschools, elementary, middle, and high schools, and yet they cannot afford housing because there is no regulation. When an apartment costs nearly \$2000, the monthly take-home for many of these workers, and the landlord or management company demands 2x, 3x, even 4x rent in income requirements, you are demanding that homeless teachers teach your children.

From: Glenn Miller <[REDACTED]>
Sent: Thursday, July 20, 2023 1:38 PM
To: Veronica Martinez <Veronica.Martinez@fresno.gov>
Subject: Re: Multi-Jurisdictional Housing Element

External Email: Use caution with links and attachments

WE HAVE HAPPILY MOVED OUT OF THE FAST DECLINING LIVING CONDITIONS IN FRESNO AND CALIFORNIA. WE HAVE LIVED THERE 70 YEARS AND GREW SICK OF IT. SORRY BUT I SEE NO FIXING IT UNDER CURRENT POLITICAL CONDITIONS, WE ARE IN EAST TN. AND HAVE NEVER FELT SO FREE. GOOD BYE FOREVER. P.S. there 300k others who have done the same just last year.

On Thursday, July 20, 2023 at 10:06:18 AM PDT, City of Fresno <veronica.martinez@fresno.gov> wrote:

From: Cheyenne J. [REDACTED]
Sent: Thursday, July 20, 2023 9:36 PM
To: Sophia Pagoulatos <Sophia.Pagoulatos@fresno.gov>
Cc: Cheyenne J. <[REDACTED]>
Subject: SW Planning Meeting Response 7-20-23

External Email: Use caution with links and attachments

Dear Sophia,

You saw how upset I got tonight. I'm not ashamed, maybe a little embarrassed I cursed & made people uncomfortable but oh well! This needs to make people uncomfortable!

I am with UU church of Fresno, Social Justice committee, and sub- committee IAF, Industrial Areas Foundation. We fight for people's rights and justice for all!

The city is lying through their teeth. You know that the affordable housing isn't for us locals, it's for all the commuters living here for cheap & working in LA, SF or Bay Area. Affordable housing means for the outsiders coming into Fresno & buying up stuff. They have no interest in Fresno. They don't shop here or eat here. They just sleep here & occupy space! The city knows the potential here to be the next LA. They don't care about us locals or that they are shortening front yards/backyards for stupid bike lanes & more traffic to come.

Yet you deny this. More pollution. More traffic. More noise. And not a single resident being affected is notified! The city knows & has already deemed these people to be uneducated & so you intimate folks with big words & fancy confusing sentences & spreadsheets so people won't engage. The people will give in! And the city wins.

I sat next to three people who are poor & were waiting for their keys to get into their home tonight. Keys they were promised but nope, city had other plans! These people don't deserve to be lied to and strung along! They were so confused by all the big talk language. It's no wonder the city is getting away with this.

I look at ALL the pamphlets given from tonight! My god. I'm looking at all this information from tonight's meeting and it's BS! The lowest income to qualify for an elderly person is \$43,650 & for mortgage assistance it's \$46,200. I barely make \$43,680 and I have a job! Most people are on welfare, fixed incomes of SSI/SDI/Retirement/etc. or homeless. There's no way for them to qualify for a home. I wouldn't even qualify. Then there's "borrow up to \$100,000 and no monthly fees on the loan", For who??? Certainly not me or those more poor. We certainly won't qualify for that.

The City of Fresno knows what they are doing. The water issue is besides the point. This has always been an issue here in Fresno with our water as a wager to gain more power. But the point is the City of Fresno is robbing people of their homes. Their land. Their neighborhoods. Their peace of mind & living. And not telling them the truth! No notice!

My contacts tonight since we are to connect from these events are:

- Alysonn Walker/SW Rep & formed SW
- The pastor of Westside Church of God
- Tasha Jones/Talk2Tasha-Social media site 559-246-7000. Knows Alysonn really well

I wrote my input on the white boards. Doubt it'll go anywhere but land on deaf ears.

And hope you all understand that I'm just super passionate about standing up for what's right! I'm in this mix of people. I sit right in this with them. I'll never have a home of my own. I'll always be stuck in Apt living.

And it's NOT ok! \$850/month used to get someone rent on a 1-bedroom home. Now it's \$1600 a month.

Please stop this! Thank you!

Live Vertically,
Cheyenne

Sophia,

We are concerned that any housing project over 1 unit requires a discretionary approval in the City of Fresno. Would the City consider adding a program to create a process wherein any affordable housing project of 100 units or less, in a zone which allows multifamily housing, would be by-right?

This is a MAJOR barrier in Fresno.

Thanks.

Betsy

BETSY MCGOVERN-GARCIA

VICE PRESIDENT

Self-Help Enterprises



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P.O. Box 6520
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[Http://www.selfhelpenterprises.org](http://www.selfhelpenterprises.org)

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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



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



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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