

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

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March 19, 2024

Rafferty Wooldridge, Interim City Manager  
City of La Habra Heights  
1245 N. Hacienda Road  
La Habra Heights, CA 90631

Dear Interim City Manager Rafferty Wooldridge:

**RE: City of La Habra Heights Failure to Adopt a Compliant 6<sup>th</sup> Cycle Housing Element – Notice of Violation**

As you are aware, on May 19, 2023, the California Department of Housing and Community Development (HCD) sent the City of La Habra Heights (City) a Letter of Inquiry regarding noncompliance with State Housing Element Law. On June 9, 2023, the City acknowledged receipt of this letter and responded by requesting technical assistance through an informal review of the City's draft housing element. However, it has not yet submitted a subsequent draft for formal HCD review. The City's most recent draft does not comply with requirements under State Housing Element Law (Article 10.6 (commencing with section 65580) of Chapter 3 of the Government Code), and the City's proposed timeline for compliance is inconsistent with Government Code section 65588, subdivision (e)(3). Therefore, the City is in violation of State Housing Element Law.<sup>1</sup>

Under Government Code section 65585, HCD must review any action or failure to act that it determines to be inconsistent with either an adopted housing element or Government Code section 65583. HCD must then issue written findings to the local government.<sup>2</sup> Additionally, HCD must notify a local government when that local government takes actions that violate Government Code section 65583 and may refer such violations to the California Office of the Attorney General.<sup>3</sup>

**6<sup>th</sup> Cycle Housing Element Submission and Review History**

The 6<sup>th</sup> cycle planning period for the City of La Habra Heights is October 15, 2021, through October 15, 2029. The City failed to adopt a compliant housing element by its 6<sup>th</sup> cycle due date of October 15, 2021, pursuant to Government Code section 65588, subdivision (e)(3). HCD's records are as follows:

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<sup>1</sup> Gov. Code, § 65585.

<sup>2</sup> Gov. Code, § 65585, subd. (i).

<sup>3</sup> Gov. Code, § 65585, subds. (i)(1), (j).

- On March 15, 2022, the City submitted a draft housing element to HCD for review.
- On June 13, 2022, HCD issued a findings letter to the City noting multiple revisions were necessary for the housing element to be compliant with State Housing Element Law.
- On August 10, 2022, the City submitted an element adopted on August 8, 2022, to HCD for review.
- On October 6, 2022, HCD issued a second findings letter to the City noting revisions were still necessary for the housing element to be compliant with State Housing Element Law.
- On May 19, 2023, HCD issued a Letter of Inquiry requesting a specific timeline for (1) submitting an updated draft housing element and (2) obtaining compliance with State Housing Element Law no later than June 9, 2023.
- On June 9, 2023, the City submitted an informal element to HCD for review.
- HCD provided technical assistance to the City on September 19, 2023.

### **Technical Assistance Offered**

HCD has made resources and technical assistance available to assist local jurisdictions in creating comprehensive housing elements. This includes \$123 million in planning grants for regions, cities, and counties to prepare, adopt, and implement plans that streamline housing approvals and accelerate housing production. Unfortunately, the City was not eligible to submit an application for a maximum award of \$160,000 through Senate Bill 2 because the City's housing element was out of compliance. Furthermore, the City was eligible for a maximum award amount of \$65,000 through the Local Early Action Planning Grant Program for local planning activities but failed to apply.

### **Consequences of Noncompliance**

Various consequences may apply if the City does not have a housing element in compliance with State Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant housing element as a prerequisite, including, but not limited to, the following:

- Permanent Local Housing Allocation Program
- Local Housing Trust Fund Program
- Infill Infrastructure Grant Program
- Senate Bill 1 Caltrans Sustainable Communities Grants
- Affordable Housing and Sustainable Communities Program

Second, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of State Housing Element Law, which can lead to court-imposed penalties for persistent noncompliance, including financial penalties. For example, Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month, up to \$100,000 per month. If a

jurisdiction remains noncompliant, a court can multiply those penalties by a factor of six. Other potential ramifications could include the loss of local land use authority to a court-appointed agent.

In addition to these legal remedies available in the courts, under the Housing Accountability Act,<sup>4</sup> jurisdictions without a substantially compliant housing element cannot rely on inconsistency with zoning and general plan standards as a basis for denial of a housing project for very low-, low-, or moderate-income households.<sup>5</sup>

Finally, please note that pursuant to Government Code section 65588, subdivision (e)(4)(C)(iii), a jurisdiction that fails to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until any rezones necessary to accommodate a shortfall of sites pursuant to Government Code sections 65583, subdivision (c)(1)(A), and 65583.2, subdivision (c), are completed.

### **Findings and Conclusion**

HCD finds that the City has failed to adopt a housing element that meets the requirements of State Housing Element Law and is therefore in violation of those statutes. Under Government Code section 65585, subdivision (i), HCD must give the City a reasonable time, no longer than 30 days, to respond to these findings. Therefore, the City has until April 18, 2024, to provide a written response to this notice before HCD may take any of the actions authorized by section 65585, including, but not limited to, referral to the California Office of the Attorney General. In addition, pursuant to Government Code Section 65585, subdivision (k), HCD would like to schedule two meetings in person or via telephone within the next 30 days to discuss the City's failure to adopt a compliant housing element.

Ultimately, state housing laws are effective only with the cooperation of local governments. HCD understands that local governments may encounter staffing and resource constraints in their efforts to gain compliance. However, housing elements are essential to developing a blueprint for growth and are a vital tool to address California's prolonged housing crisis. Accordingly, state law has established clear disincentives for local jurisdictions that fail to comply with State Housing Element Law. To meet the 6th cycle update requirements for a substantially compliant housing element, the City must consider HCD's written findings from previous drafts, adopt the housing element, and submit it to HCD for review and certification before it can be considered compliant. (Gov. Code, § 65585.)

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<sup>4</sup> Government Code, § 65589.5, subd. (d).

<sup>5</sup> For purposes of the Housing Accountability Act, housing for very low-, low-, or moderate-income households is defined as having at least 20 percent of units set aside for low-income residents or 100 percent of units set aside for middle-income residents. (Gov. Code, § 65589.5, subd. (h)(3).)

HCD will consider any written response before taking further action authorized by Government Code section 65585, subdivision (j). If you have any questions or would like to discuss the contents of this letter, please contact Mary Milner of our staff at [mary.milner@hcd.ca.gov](mailto:mary.milner@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Zisser", with a long horizontal flourish extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability