



THE PUBLIC INTEREST LAW OFFICE OF THE LOS ANGELES COUNTY AND BEVERLY HILLS BAR ASSOCIATIONS
The Southern California Affiliate of The Lawyers' Committee for Civil Rights Under Law

December 20, 2018

VIA EMAIL ONLY

Mario Suarez
Director
Pomona Development Services Department
505 S. Garey Ave.
Pomona, CA. 91769
Mario_suarez@ci.pomona.ca.us

RE: Pomona Draft Housing Element (2013-2021)

Dear Mr. Suarez:

We are writing to comment on the City's most recent draft housing element (hereinafter referred to as the December 2018 Draft) currently under review by the Department of Housing and Community Development (HCD). Although the housing element the City adopted in January 2014 had several areas of inadequacy and failed to substantially comply with state law, the City has made significant changes to its draft housing element over the last year to remedy these deficiencies. One particular area remains that requires revision before the City's housing element will comply with the state's Housing Element Law. As we detail below, the City must identify additional sites where emergency shelters can be located without discretionary review.

The City has chosen to remove its commitment, upon which HCD previously conditioned approval of the prior draft housing element, to identify multiple sites where emergency shelters can be approved without discretionary review. The City will now only extend the Emergency Shelter Overlay to an existing shelter to allow for 7 additional beds and to one additional site that is the current location of the American Recovery Center. See December 2018 Draft, Program 2.18, p. 10-94 to 10-95. This potential action is insufficient to provide a realistic capacity for the City's identified shelter need for 585 people. See December 2018 Draft, p. 10-53.

With the closure of the Armory shelter and the opening of the City's new Hope for Home shelter, the City currently has capacity or available beds for approximately 200 people experiencing homelessness. The City must then identify adequate sites where shelters could be located without discretionary review to accommodate the remaining people in need of shelter. HCD's May 7, 2008 Local Planning and Approval of Emergency Shelters and Transitional and Supportive Housing memorandum states the zone(s) must provide sufficient opportunities for new emergency shelters in the planning period to meet the need identified in the analysis. The calculation of the required capacity is determined by subtracting the number of available shelter beds from the total of people in need of shelter. At this time the City has 200 beds available at Hope for Home and will have 7 additional beds available at the Our House Family Shelter, and therefore the City needs to identify additional sites that could accommodate the remaining 378 people in need of shelter.

The City's December 2018 Draft does not identify sites that could accommodate 378 people in need of shelter. The Emergency Shelter Overlay applies to 1390 E. Mission Blvd., with a limit of 71 beds, 1400 E. Mission Blvd., the existing site of the Hope for Home shelter, 1753 N. Park Avenue – Our House Family Shelter, and the City proposes to extend the overlay to the American Recovery Center location at 2180 Valley Boulevard. The American Recovery Center site is currently in use and the City offers no explanation of how the existing use could accommodate the potential development of an emergency shelter.

To remedy this last remaining housing element deficiency we recommend the City revise the current version of Program 2.18 and identify additional sites where the Emergency shelter Overlay will apply. We note here that City staff has already identified additional sites and recommended they be included in the Emergency Shelter Overlay. These sites are vacant lots that are spread throughout the central corridor of the City. (See Attachment 3 – ES Overlay Map.) The only remaining step would be for the City Council to adopt the staff's recommendation.

Letter to Mario Suarez, Development Services

December 20, 2018

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If you have any questions regarding this letter please feel free to contact either Antonio Hicks at ahicks@publiccounsel.org or Valerie Feldman at vfeldman@pilpca.org.

Sincerely,

/S/

Antonio Hicks, Senior Staff Attorney
Public Counsel
Community Development Project

/S/

Valerie Feldman, Staff Attorney
Public Interest Law Project

Cc: Paul McDougall, Manager, Housing Policy Division, HCD
Christi Hogin, Interim Pomona City Attorney, Best Best & Krieger, LLP



THE PUBLIC INTEREST LAW OFFICE OF THE LOS ANGELES COUNTY AND BEVERLY HILLS BAR ASSOCIATIONS
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February 13, 2019

VIA EMAIL ONLY

Anita D. Gutierrez
Development Services Acting Director
City of Pomona
505 S. Garey Ave.
Pomona, CA. 91769
Anita_Gutierrez@ci.pomona.ca.us

RE: Pomona Draft Housing Element (2013-2021)

Dear Ms. Gutierrez:

Thank you for the opportunity to review the City's most recent proposed draft housing element submitted to the Department of Housing and Community Development on February 1, 2019 (hereinafter referred to as the February 2019 Draft or Draft).

Compliance with Government Code section 65583(a)(4)(A)

Beginning in 2008, state housing element law requires every city and county to identify a zone or zones where emergency shelters are permitted without discretionary review. Gov. Code § 65583(a)(4)(A). Each zone identified must have sufficient capacity to meet the identified need for shelter in the housing element. *Id.* If the City does not identify a zone or zones where shelters can be developed without discretionary review in the housing element, the City's housing element must include a program to identify a zone within the first year of the planning period. *Id.* The City's planning period began October 15, 2013. In order to comply with Government Code section 65584(a)(4)(A) the City was required to identify a zone or zones with adequate capacity by October 15, 2014. Now, nearing the end of the planning period, the City's February 2019 Draft still falls short of meeting the requirements of this ten year old law. The City must make sufficient shelter sites available before, or concurrent, with the adoption of its housing element. A housing element that does

not do so, especially considering how long the City has failed to comply with this requirement, does not substantially comply with state law.

1. Identified Need

The City has identified a need for shelter for 585 people experiencing homelessness in the most point in time count for Los Angeles County.

2. Capacity

The City has identified two sites where the Emergency Shelter Overlay applies and two additional sites to be included in the overlay at a future date, to provide capacity for the identified need. The City's new Hope for Home shelter currently maintains 323 beds, including 100 beds that were transferred upon closure of the Pomona Armory. Indicating a net increase of 223 beds. (February 2019 Draft, p. 10-53). At various places in the Draft the City states it will be able to accommodate 400 beds at Hope for Home (p. 10-24) and it does have 400 beds at Hope for Home (p. 10-54). Therefore, it continues to be unclear whether the Hope for Home has 400 available beds or may have them in the future. This must be clarified to determine how much remaining capacity is required to accommodate the identified need of 585 individuals.

To provide capacity to meet the remaining identified need, the City proposes in Program 2.18 to extend the Emergency Shelter Overlay to the American Recovery Center ("ARC") site. The ARC site is currently occupied with a "thriving" center with no indication of the redevelopment potential for a shelter. (Draft, p. 10-55). The Draft indicates that 1.52 acres are vacant or underutilized but does not indicate what percentage of that 1.52 acres is underutilized and what current use renders it non-vacant. In addition, Table 10.4-4 illustrates potential shelter capacity on a 3.16 acre site without identifying why 3.16 acres is available for development of a shelter rather than the 1.52 acres that is vacant or underutilized. (Draft, p. 10-55). Further information is required to determine the feasibility of the ARC site, including information about the American Recovery Center's current use of the entire parcel and its intention to discontinue any of those uses. If the City does not

intend to allow shelters on any other sites, with or without discretionary review, determining the adequacy and availability of the site is crucial.

3. Identify a Zone Within One Year of the Planning Period.

Lastly, the City must expand the Emergency Shelter Overlay to include additional capacity to the current overlay sites before, or concurrent, with the housing element adoption. The City has far exceeded the requirement to provide this capacity within one year of the planning period as required by Government Code 65583(a)(40(A). In addition, because the planning period is almost over the back-up plan in Program 2.18, to identify more sites if the point in time count indicates a higher need than 344 persons is inadequate. The time to identify and make shelter sites available is long overdue and cannot be delayed further once the City assesses whether the ARC site is adequate.

The City plans to remove the ability to develop shelters in any other zone within the City, even with discretionary approval; this proposal makes identifying adequate sites for shelter that comply with SB2 even more important and without any further delay.

We appreciate the ability to provide comments to the City regarding its latest housing element revisions and look forward to the City making the necessary changes to accomplish a legally compliant housing element.

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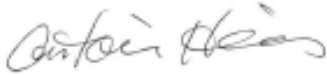
Letter to Anita Gutierrez, Development Services

February 13, 2019

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If you have any questions regarding this letter please feel free to contact either Antonio Hicks at ahicks@publiccounsel.org or Valerie Feldman at yfeldman@pilpca.org.

Sincerely,



Antonio Hicks, Senior Staff Attorney
Public Counsel
Community Development Project



Valerie Feldman, Staff Attorney
Public Interest Law Project

Cc: Paul McDougall, Manager, Housing Policy Division, HCD
Christi Hogin, Interim Pomona City Attorney, Best Best & Krieger, LLP
Marco Martinez, Partner, Best Best & Krieger, LLP



THE PUBLIC INTEREST LAW OFFICE OF THE LOS ANGELES COUNTY AND BEVERLY HILLS BAR ASSOCIATIONS
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April 5, 2019

Christi Hogin
Marco Martinez
Interim City Attorney
City of Pomona
505 South Garey Avenue
Pomona, California 91766

RE: *Singleton v. City of Pomona*

Dear Ms. Hogin and Mr. Martinez:

Thank you for your recent correspondence including HCD's findings regarding the City's most recent draft housing element. As outlined below, the City of Pomona ("City") has violated certain terms of the settlement agreement executed on June 26, 2018 in *Singleton v. City of Pomona*, LASC Case No. BS169699 ("Agreement").

Section 4.3 of the Agreement requires that the City submit a housing element to HCD that complies with the terms of the Agreement within 164 days of executing the agreement, which was December 7, 2018. However, the City did not submit a housing element by December 7 to HCD that satisfied the term requiring it to identify additional sites with appropriate zoning to permit shelters with a capacity for 515 people. (Agreement, Section 4.4(i)). Instead, the draft included a site that is infeasible for shelter development. As detailed in our letter of December 20, 2018,¹ the City removed its commitment to designate multiple sites to permit emergency shelters by right and the single site American Recovery Center site (ARC site) has an existing use.

Further, after submitting a timely revised housing element to HCD by December 7 as required by the Agreement, the City was required to receive findings on its draft housing element and either adopt, or make revisions consistent with the findings, and schedule the element for adoption. (Agreement, Sections 4.5 and 4.6). Instead, the City rescinded its housing element on the last day of the 60 day review period (prior to HCD issuing its findings) and re-submitted a revised housing element on February 1, 2019. As set forth in our comment letter of February 13, 2019, the subsequent revisions continue to rely on the ARC site, and the existing Hope for Home shelter, without documenting why these sites can accommodate the need of 515 individuals as required by the Agreement.

Now that HCD has completed its review of the City's most revised draft housing element, it is clear that not only additional information is necessary to comply with state housing element law, but any

¹ For a thorough explanation of why the identified site is inadequate, please see our correspondence to the City's Development Services Department dated December 20, 2018 and February 13, 2019

Letter to Christi Hogin and Marco Martinez
April 5, 2019
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zoning changes to permit emergency shelters without discretionary review must occur before or concurrent with the adoption of the housing element. This echoes the requirement in our Agreement that the *draft* housing element submitted to HCD by December 7, 2018 would include sites that were currently zoned to permit emergency shelters. In addition, to the requirements of our Agreement, HCD has identified necessary specifics regarding timing and adequacy as part of any program to identify additional capacity for shelters.

Before Petitioners seek judicial enforcement of the stipulated judgment, please advise us by April 15, 2019 how the City intends to remedy the breaches described herein. The City already had 6 years to comply with Government Code section 65583(a)(4)(A) and still has not done so; the City has continued to create obstacles to complying with state law by repeatedly disregarding its own staff's recommendations for potential sites that would fulfill the terms of our agreement and the requirements of state law.

We look forward to hearing from you by April 15, 2019.

Sincerely,



Antonio Hicks, Senior Staff Attorney
Public Counsel
Community Development Project



Valerie Feldman, Staff Attorney
Public Interest Law Project