



Summary of Housing Element Review Letters

Learning from Southern California & Sacramento

In Winter/Spring 2022, ABAG staff and consultants reviewed 33 comment letters from the California Department of Housing and Community Development (HCD) to jurisdictions in regions with earlier Housing Element deadlines. This summary presents common themes and lessons for Bay Area jurisdictions as they prepare their 6th cycle Housing Elements.

Methodology

Staff and consultants identified a subset of 33 representative comment letters from jurisdictions in the SCAG (Southern California), SACOG (Sacramento) and SANDAG (San Diego). Letters were selected to reflect a diversity of jurisdiction types by geography, size, and socioeconomic characteristics, including racial and ethnic diversity. Staff analyzed both the frequency of comments by Housing Element section and compiled both common and unique comments by major section.

Key Findings and Recommendations

Many assumptions that jurisdictions made in previous Housing Elements will not be possible this cycle. Housing Elements must be more thorough, with more robust descriptions of housing needs, more thorough and inclusive outreach, a stronger focus on fair housing, more specific policies and programs, and better justification for sites included in the inventory.

Although the types of comments received by each jurisdiction varied based on their particular demographic and economic characteristics and planning contexts, the most frequent comments can be grouped into five major categories (including the percentage of letters that contained comments on each topic):

- AFFH (94%);
- Public Participation (67%);
- Sites Inventory (94%);
- Government Constraints (58%);
- Policies and Programs (55%).

In addition, a cross-cutting theme is noted below in terms of special needs populations. Finally, unique and recent comments from HCD review letters are presented that may have special relevance for Bay Area jurisdictions.

1. AFFH

Observation

A common theme in the comments across 94 percent of the review letters is that the draft Elements are not sufficiently detailed and specific with respect to the required data and analyses for AFFH, and also fail to connect findings from the AFFH analysis with specific sites strategies and programs and policies.

Recommendations

- 1) Review the recommendations and observations contained in the ABAG memo from March 2022, which can be found [here](#).
- 2) Ensure that the AFFH analyses are sufficiently detailed in terms of required data and maps and include local knowledge and other relevant factors to address State guidelines. Additionally, have a summary narrative that tells the story of the community: how it has changed over time and what the landscape is like today.
- 3) Connect findings from the AFFH analysis to proposed affordable housing programs and policies. It is not enough to just discuss the data, cities must show how they intend to advance fair housing.
- 4) Use an AFFH lens when initially deciding on sites to include, not as a check after choosing sites, and describe your process and considerations.

2. Public Participation

Observation

Sixty-seven percent of the letters contained comments concerning inadequate public outreach, almost always connected with the need to demonstrate that outreach was conducted to both lower-income households and households with special needs.

Recommendations

- 1) Ensure robust outreach to lower-income and special needs groups. Hosting one or two meetings with no special focus on lower-income or special needs groups will likely not be sufficient.
- 2) Connect the community input received through outreach activities to policies and programs. There should be clear text that summarizes the feedback from the community and how the suggestions were or were not incorporated into the Housing Element.

3. Sites Inventory

Observation

All but two jurisdictions in this analysis received one or more comments on the sites inventory section, with the most common and extensive comments falling under two major subcategories: realistic capacity (73%) and non-vacant sites (65%). A frequent type of comment from HCD regarding these sections was that jurisdictions did not provide sufficiently detailed analysis to demonstrate that the proposed sites would develop with the proposed number of housing units during the planning period.

Recommendations

- 1) Follow HCD's detailed guidance (provided in their memo of June 10, 2020, which can be found [here](#)) and provide specific, site-level analyses to demonstrate that proposed housing sites could actually accommodate the proposed number of housing units by income-level during the planning period. This includes analysis for realistic capacity calculations as well as for development on non-vacant sites that allow other uses in addition to residential uses.
- 2) For non-vacant sites, most jurisdictions will need to provide substantial evidence that the existing use is not a barrier to redevelopment. This is a high bar and will require both site specific analysis and a summary of development trends. Additionally, jurisdictions should summarize policies and programs that support residential development on proposed redevelopment sites.
- 3) Do not assume that all sites that allow both residential and commercial will include residential, unless there is evidence to support that conclusion. If sites permit developers to choose office or other non-residential uses, it is important to analyze what percentage of applicants are likely to choose non-residential (based on market trends and experience on nearby or similar sites) and reduce unit assumptions accordingly.

4. Governmental Constraints

Observation

Fifty-five percent of letters included comments related to governmental constraints on housing production, frequently including comments on constraints to housing development for lower-income and special needs households.

Recommendations

- 1) Do not merely provide data. Provide an analysis of what is or is not a constraint for both market-rate and affordable projects. If there are constraints, identify policies and programs to address those constraints. Jurisdictions should explicitly document and analyze governmental constraints to housing production for lower-income and special needs households and include detailed policies and programs to address such constraints, with clear timelines, milestones, responsible parties and funding.

5. Policies and Programs

Observation

Many jurisdictions received comments asking for more specificity in their policies and programs section. Generally, a program to study an issue will receive a comment asking for more concrete actions. Vague language will likely be rejected, especially if a program is tied to a constraint.

Recommendations

- 1) Review all programs to ensure that there are clear timelines and metrics to evaluate success. Pay close attention to “ongoing” programs. Often these should be rewritten with clear, accountable steps.
- 2) Have a narrative that summarizes key new policies and programs, and connects them to needs, community feedback or constraints.

6. Special Needs Populations

Observation

Across every section included in this analysis, HCD reviewers commented on the lack of sufficient attention to special needs populations (e.g., the elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness). Both in terms of fully documenting and analyzing housing needs and in terms of developing policies, programs and affordable housing sites strategies, the draft Housing Element’s treatment of special housing needs tended to be more high-level and/or cursory than required or expected by HCD.

Recommendations

- 1) In addition to the general data in the housing needs section, prepare detailed assessments of special housing needs and clearly connect special housing needs findings to programs, policies and sites strategies that are concrete and actionable.

7. Unique and Recent Comments: ADUs, SB 9 and AB 215

Observation

Numerous jurisdiction-specific comments were noted in the review letters, but three major types of comments are especially worthy of elevation to inform Bay Area Housing Elements. These concern how jurisdictions count units towards their RHNA using past Accessory Dwelling Unit development trends as well as more recent guidance regarding SB 9 and AB 215.

Recommendations

- 1) **ADUs:** Average at least the past three years of production rather than one recent year to determine the anticipated development of ADUs during the eight-year planning period.

- 2) **SB 9:** The lack of clear, published guidance may have led some jurisdictions to over-estimate unit production related to the state’s adoption of SB 9. As with the sites inventory generally, potential SB 9 sites require detailed site by site analysis. Carefully review the guidance recently provided by HCD on this topic, which can be found [here](#).

- 3) **AB 215 and Public Outreach:** AB 215 adds an additional 30-day review period plus 10 business days for jurisdictions to consider comments before drafts can be submitted to HCD. Jurisdictions should plan to make drafts available for comment per AB 215 and HCD guidance to ensure that the public has adequate opportunity to comment on drafts before elements are submitted for HCD review.