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RE: City of Garden Grove Draft 6th Cycle Housing Element

Dear Ms. Ayobi,

Public Law Center (“PLC”) is a 501(c)(3) legal services organization that provides free civil legal services to low-income individuals and families across Orange County. Our services are provided across a range of substantive areas of law, including consumer, family, immigration, housing, and health law. Additionally, PLC provides legal assistance to community organizations. Further, the mission of our Housing and Homelessness Prevention Unit includes preserving and expanding affordable housing. Thus, I write on behalf of individuals in need of affordable housing in Orange County to comment on the City of Garden Grove (“the City”) Draft 6th Cycle Housing Element.

Government Code Section 65583 requires that a housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.¹ Additionally, the housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community.² Here, the City’s Draft 6th Cycle Housing Element fails to include all of the necessary information and fails to include adequate programs to address the housing needs of Garden Grove residents. We encourage HCD to find the Draft inadequate until additional updates are made to satisfy the requirements of State Housing Element law and HCD guidance.

Emergency Shelters

The City has identified the M-1 and AR zone to accommodate emergency shelters without a conditional use permit or other discretionary permit.³ However, the City states that the term “emergency shelter” “excludes Group Shelter and Homeless Person’s Center” but does not

¹ Cal. Gov. Code Section 65583.

² Cal. Gov. Code Section 65583.

³ Cal. Gov. Code Section 65583(a)(4)(A); City of Garden Grove, 2021-2029 Draft Housing Element, 12-38 to 39 (July 2021).

explain what this means or whether this limits the space available for emergency shelters in the M-1 zone.⁴ Further, the City notes that emergency shelters are “permitted only in the Emergency Shelter Overlay Zone located on the block bounded by Westminster Boulevard to the south, Newhope Street to the west, Harbor Boulevard to the east, and the Garden Grove Freeway to the north.”⁵ However, the City does not specify whether these zones can accommodate at least one year-round emergency shelter or whether these zones are sufficient to accommodate the City’s need for emergency shelter.⁶ To meet the statutory requirements, the City must further describe its zones for emergency shelters and whether it has sufficient capacity to accommodate its need for emergency shelters.

Assessing Emergency Shelter Need

The City identifies a total 225 unhoused individuals with 163 unsheltered and 62 sheltered.⁷ However, the City does not describe how it reached this number, whether it be utilizing the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, or the percentage of those in emergency shelters that move to permanent housing solutions.⁸ The City must describe how it considered all of the factors listed above to reach its emergency shelter need.

Multijurisdictional Agreements

The City states that it “supports several homeless service providers that provide . . . emergency and transitional shelters,” including, in pertinent part, the Women’s Transitional Living Center and Interval House.⁹ The City also lists Mercy House as an emergency shelter that assists its homeless population.¹⁰ However, it appears that the Women’s Transitional Living Center is located in Fullerton,¹¹ Interval House is in Long Beach¹² and Mercy House has no locations located in Garden Grove.¹³ The City may only use these shelters to satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelter if it has a multijurisdictional agreement with those cities.¹⁴ However, the City cannot have a valid multijurisdictional agreement with Fullerton or Long Beach because these cities are not adjacent to each other.¹⁵

⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-38 (July 2021).

⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-38 (July 2021).

⁶ Cal. Gov. Code Section 65583(a)(4)(A).

⁷ City of Garden Grove, 2021-2029 Draft Housing Element, 12-28 (July 2021).

⁸ Cal. Gov. Code Section 65583(a)(7).

⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-115 (July 2021).

¹⁰ City of Garden Grove, 2021-2029 Draft Housing Element, 12-28 (July 2021).

¹¹ domesticshelters.org, *Women’s Transitional Living Center in Fullerton, CA*, <https://www.domesticshelters.org/help/ca/fullerton/92832/women-s-transitional-living-center> (last visited Aug. 12, 2021).

¹² domesticshelters.org, *Interval House in Long Beach, CA*, <https://www.domesticshelters.org/help/ca/long-beach/90803/interval-house> (last visited Aug. 12, 2021).

¹³ Mercy House, *Orange County*, <https://www.mercyhouse.net/regions/orange-county> (last visited Aug. 12, 2021).

¹⁴ Cal. Gov. Code Section 65583(d)(1).

¹⁵ Cal. Gov. Code Section 65583(d)(1).

The City may use a Mercy House shelter in an adjacent community if it can describe a multijurisdictional agreement between the City and the jurisdiction with the following elements:

- Only be between a maximum of two other adjacent communities;¹⁶
- Require the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period;¹⁷
- Allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need;¹⁸
- Require that each jurisdiction describe how the capacity was allocated as part of its housing element;¹⁹
- Describe how the joint facility will meet the jurisdiction's emergency shelter need;²⁰
- Describe the jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility;²¹ and
- Describe the amount and source of the funding that the jurisdiction contributes to the facility.²²

Emergency Shelter Standards

The City notes that Section 9.16.020.050(W) identifies emergency shelter standards, “including a minimum distance of 300 feet from any other emergency shelter and a maximum of 60 beds or persons” and parking for shelter participants and staff.²³ However, the City does not detail any of the other standards applicable to emergency shelters. Without this information, it is impossible to determine whether the City can demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters.²⁴

One of the objectives of Program 13: Special Needs Housing is to “periodically evaluate emergency shelter development and siting standards based on existing needs and development interest and as warranted, re-evaluate and make appropriate changes to facilitate the development of emergency shelters.”²⁵ The City indicates that the timeframe for this Program is the entire planning period, but the City should identify specific intervals at which it will perform this evaluation and identify benchmarks that, if not met, will trigger the re-evaluation and adjustment of its emergency shelter standards.

¹⁶ Cal. Gov. Code Section 65583(d)(1).

¹⁷ Cal. Gov. Code Section 65583(d)(1).

¹⁸ Cal. Gov. Code Section 65583(d)(2).

¹⁹ Cal. Gov. Code Section 65583(d)(2).

²⁰ Cal. Gov. Code Section 65583(d)(3)(A).

²¹ Cal. Gov. Code Section 65583(d)(3)(B).

²² Cal. Gov. Code Section 65583(d)(3)(C).

²³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-54 (July 2021).

²⁴ Cal. Gov. Code Section 65583(a)(4)(A).

²⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-111 (July 2021).

Inability to Accommodate the Need for Emergency Shelter

As stated above, the City’s “Emergency Shelter Overlay Zone [is] located on the block bounded by Westminster Boulevard to the south, Newhope Street to the west, Harbor Boulevard to the east, and the Garden Grove Freeway to the north.”²⁶ To meet the needs of its unsheltered homeless population of 163 individuals, this limited area must be able to accommodate three shelters because the City’s emergency shelter standards limit shelters to 60 beds.²⁷

The City must describe whether the overlay zone can actually accommodate all three shelters. If it cannot, the City must include a program to amend its zoning ordinance to meet the requirements of Section 65583(a)(4)(A) within one year of the adoption of the housing element.²⁸

Special Housing Needs

The City addressed the special housing needs of persons with disabilities, including a developmental disability;²⁹ the elderly; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter.³⁰ However, the City failed to provide a thorough analysis of the housing needs of these groups, including failing to address how the City will help address these needs.

First, the City states that people with disabilities often have limited income, such as Social Security income, and have “difficulty finding accessible housing (housing that is made accessible to people with disabilities through the positioning of appliances and fixtures, the heights of installations and cabinets, layout of unit to facilitate wheelchair movement, etc.) because of the limited number of such units.”³¹ Although 10.4% of the City’s residents live with disabilities, the City only notes that the State Department of Developmental Services and the Orange County Regional Center serve these residents, but does not explain how the City assists them.³² The City must explain how it will assist these residents in navigating their special housing needs in its next draft, not merely pass the responsibility on to the State and County.

Second, the City acknowledges that elderly residents often have low, fixed incomes; disabilities or physical limitations; dependency needs; are living alone and have difficulty maintaining a home; have high healthcare costs; and need access to public transportation.³³

²⁶ City of Garden Grove, 2021-2029 Draft Housing Element, 12-38 (July 2021).

²⁷ City of Garden Grove, 2021-2029 Draft Housing Element, 12-28. 54 (July 2021).

²⁸ Cal. Gov. Code Section 65583(a)(4)(A).

²⁹ “‘Developmental disability’ means a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.” Cal. Welfare and Institutions Code Section 4512.

³⁰ Cal. Gov. Code Section 65583(a)(7).

³¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-25 (July 2021).

³² City of Garden Grove, 2021-2029 Draft Housing Element, 12-25 (July 2021).

³³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-26 (July 2021).

Despite these many concerns, the City does not directly address how it currently helps these residents with these issues or how it will do so in the future. Although Program 4: Affordable Housing Construction states that the City will “[leverage] City funds to construct affordable housing,” the City generally states that “affordable senior housing is a key need in the community as evidenced by the rapid leasing of units in new senior development” and that “the growing need for affordable senior housing will continue as the population ages.”³⁴ This program does not describe how the City will fund and facilitate the development of sufficient affordable senior housing for its elderly residents or how it will address the other issues elderly residents face. In its next draft, the City must explain how it will do so.

Third, the City briefly discusses the challenges larger households, farmworkers, and female-headed households face. Large households often face overcrowding in smaller, less expensive units or in large units shared with other households because adequately sized units are usually very expensive.³⁵ Farmworkers have “difficulty finding affordable, safe, and sanitary housing” due to high housing costs and very low wages.³⁶ However, the City states that because only 408 of its residents are farmworkers, “no targeted programs are needed; the housing needs of migrant and/or farm worker housing need can be met through general affordable housing programs.”³⁷ Female-headed households tend to have lower incomes and greater need for affordable housing, daycare, healthcare, and other supportive services.³⁸ The City also acknowledges that 22.5% of female-headed households live in poverty.³⁹ Despite all of these special housing needs, the City does not explain how it will assist these three groups with their housing concerns generally or with specific programs. The City must create programs that will address these needs for all special housing needs groups, even if there are only 408 residents in the specific special housing needs category.

Preserving Assisted Housing Developments

The housing element must include an analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.⁴⁰ While the City identifies some of the units at risk of conversion to market rate, the City fails to identify some additional units that, according to the National Housing Preservation Database, are at risk of conversion during the upcoming planning cycle.⁴¹ These developments include:

- Malabar Apartments, 9777 Bixby Ave, 125 assisted units, at risk of expiration in 2027; and
- Stuart Drive Apartments & Rose Garden Apartments, 11802 Stuart Dr, 239 assisted units, at risk of conversion in 2027.

³⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-105 (July 2021).

³⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-26 (July 2021).

³⁶ City of Garden Grove, 2021-2029 Draft Housing Element, 12-27 (July 2021).

³⁷ City of Garden Grove, 2021-2029 Draft Housing Element, 12-27 (July 2021).

³⁸ City of Garden Grove, 2021-2029 Draft Housing Element, 12-27 (July 2021).

³⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-27 (July 2021).

⁴⁰ Cal. Gov. Code Section 65583(a)(9).

⁴¹ National Housing Preservation Database, <https://preservationdatabase.org/>, last accessed September 9, 2021 and filtered for developments in Garden Grove.

The City should include these two developments at risk of conversion to market rate in its analysis.

Additionally, the jurisdiction must identify public and private nonprofit corporations known to the local government that have legal and managerial capacity to acquire and manage these housing developments.⁴² The City only specifically mentions one such entity, Jamboree Housing Corporation, but does not mention whether the City has done any outreach to Jamboree Housing and whether it has determined if Jamboree has the capacity to acquire any of the identified properties.⁴³ The City should provide information regarding Jamboree Housing's capacity and identify additional entities that may be able to acquire properties at risk of conversion.

The jurisdiction must also identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments at risk of conversion, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community.⁴⁴ In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.⁴⁵ While the City does analyze the costs of providing rental assistance, transferring ownership, and constructing replacement housing,⁴⁶ the City does not identify funds available to assist with preservation of these units or explain why these funds are not available for this purpose due to already existing legal obligations or other urgent needs for the use of this funding.

The housing element shall include a program to preserve for lower income households the assisted housing developments at risk of conversion.⁴⁷ The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in Section 65583(a)(9), except where a community has other urgent needs for which alternative funding sources are not available.⁴⁸ The program may include strategies that involve local regulation and technical assistance.⁴⁹ The City has not analyzed the availability of funding for the preservation of assisted housing developments or identified more urgent needs and explained why the funding is not available. Additionally, the City's Program 7: Preservation of Affordable Rental Housing⁵⁰ does not contain strong commitments by the City to actually preserve assisted housing developments.

⁴² Cal. Gov. Code Section 65583(a)(9)(C).

⁴³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-65 (July 2021).

⁴⁴ Cal. Gov. Code Section 65583(a)(9)(D).

⁴⁵ Cal. Gov. Code Section 65583(a)(9)(D).

⁴⁶ City of Garden Grove, 2021-2029 Draft Housing Element, 12-64 (July 2021).

⁴⁷ Cal. Gov. Code Section 65583(c)(6).

⁴⁸ Cal. Gov. Code Section 65583(c)(6).

⁴⁹ Cal. Gov. Code Section 65583(c)(6).

⁵⁰ City of Garden Grove, 2021-2029 Draft Housing Element, 12-107 (July 2021).

Instead the City just commits to “periodically monitor,” with no indication of the frequency at which it will monitor these developments, and then provide information to property owners and residents. Additionally the timeframe for the Program identifies the entire planning period. Considering the City is aware when some of these developments could potentially convert to market-rate, the City should commit to more definitive timeframes to reach out to these property owners and entities that could potentially acquire the properties to preserve as affordable. Finally, considering the potential for over 850 units of affordable housing converting to market-rate during the planning period, the City should commit to more definitive actions that will actually result in the preservation of these units. Program 7 is substantially the same as in the previous Housing Element and the City recognizes that in 2020, affordability covenants for 56 multifamily rental units expired.⁵¹ If this Program was unsuccessful at preserving those 56 units in 2020, the City should assess why the Program was not successful and what should be changed to ensure that even more units are not lost during the 6th Cycle.

Reducing RHNA By Units Built

To reduce its share of the regional housing need, the City has listed four projects as under construction or permits issued/applied and two projects with entitlements approved.⁵² However, the City does not describe whether any of these units will be built between the start of the projection period and the deadline for adoption of the housing element.⁵³ Additionally, the City has not provided a description of the methodology for assigning those housing units to an income category based on actual or projected sale prices, rent levels, or other mechanisms establishing affordability and has not explained how it determined that 41 very low-income and 359 low-income units will be available.⁵⁴ To reduce the City’s need by these units, the projects must be built within the requisite timeframe and the City must provide the description of its methodology.

No Net Loss Requirements

The City’s very-low- and low-income RHNA is 6,967 units and it has identified enough sites to create a buffer of 756 units, or approximately 10% more lower income units than required. However, to maintain adequate sites to accommodate its remaining unmet RHNA in each income category throughout the entire planning period, HCD recommends that jurisdictions include a buffer in the housing element inventory of at least 15 to 30 percent more capacity than required, especially for lower incomes.⁵⁵ The City should seriously consider adding more lower-income units to increase its buffer to at least 15% to avoid having to rezone during the planning period and avoid violating the No Net Loss and Housing Element laws.⁵⁶

⁵¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-124 (July 2021).

⁵² Cal. Gov. Code Section 65583.1(d); City of Garden Grove, 2021-2029 Draft Housing Element, 12-75 (July 2021).

⁵³ Cal. Gov. Code Section 65583.1(d).

⁵⁴ Cal. Gov. Code Section 65583.1(d).

⁵⁵ Cal. Gov. Code Section 65863; HCD, Memorandum regarding No Net Loss Law, 5 (Oct. 2, 2019).

⁵⁶ HCD, Memorandum regarding No Net Loss Law, 4 (Oct. 2, 2019).

Constraints

Governmental Constraints

In its analysis of governmental constraints upon the maintenance, improvement, or development of housing, the City addressed the following: land use controls, building codes and enforcement, site improvements, fees and exactions, development standards, and local processing and permit procedures.⁵⁷ The City has also discussed how it will remove some of these constraints.⁵⁸

Land Use Controls

In addressing land use controls, the City first describes its general plan land use designations and the corresponding zoning districts.⁵⁹ However, the City does not specifically state whether any of these designations or zoning districts constrain housing. The City merely states that it “does not restrict development activities and permits via growth and urban boundary limits, preservation ordinances such as historic or trees, supermajority requirements, voter approvals of any residential projects, or adequate public facilities ordinances” and moves on to permitted uses and development review.⁶⁰

Program 17: Zoning Code Update states that the City will pursue “those measures not required to create zoning capacity to achieve the RHNA.”⁶¹ However, only one objective specifically addresses possible constraints on housing: “modify Multi-Family Residential Development Standards specifically revising or removing Development Density R-3 Zone table that limits residential density based on lot size.”⁶² This program is extremely vague and does not address any other possible constraints generated by the City’s zoning code. Rather than simply listing out its land use designations and zoning code, the City must analyze whether these land use controls negatively impact housing and address how to mitigate those constraints.

Second, the City discusses density and states that “in some cases, reducing the number of units based on the lot size could create a constraint to housing production.”⁶³ To mitigate this constraint, the City intends to “[align] zoning density regulations in the R-3 zone with those allowed by the Medium Density Residential Generals Plan land use category.”⁶⁴ As referenced above, Program 17 addresses this issue but is noncommittal as the City states it will either revise or remove the limit on residential density in R-3.⁶⁵ Further, the City does not explain how it would revise this requirement to mitigate this constraint. The City must provide more detail in Program 17 to adequately address this issue.

⁵⁷ Cal. Gov. Code Section 65583(a)(5).

⁵⁸ Cal. Gov. Code Section 65583(a)(5).

⁵⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-37 (July 2021).

⁶⁰ City of Garden Grove, 2021-2029 Draft Housing Element, 12-37 (July 2021).

⁶¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-113 to 114 (July 2021).

⁶² City of Garden Grove, 2021-2029 Draft Housing Element, 12-113 (July 2021).

⁶³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-43 (July 2021).

⁶⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-43 (July 2021).

⁶⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-113 to 114 (July 2021).

Third, the City identifies parking standards that are disproportionate to actual parking demand as something that “can pose a significant constraint to housing development” by increasing costs and reducing the land available.⁶⁶ Moreover, details such as the number of required parking spaces, minimum stall sizes, and garage/carport requirements all contribute to development costs.⁶⁷ The City says that housing developers have the option to seek waivers to reduce parking standards if they are found to be excessive.⁶⁸ However, the City does not elaborate on the extent to which parking standards constrain housing development in Garden Grove. The City’s brief description of the waiver does not explain how waivers work, what requirements a developer must meet to qualify for a waiver, and does not evaluate if this is actually effective at removing this constraint. Although Program 14: Parking Standards acknowledges parking as a constraint, the City merely commits to “[continuing] to evaluate parking standards and [employing] creative parking solutions to balance residents’ parking needs without constraining development of affordable housing.”⁶⁹ This program does not actually commit the City to addressing this issue and is extremely vague about how it might do so. Additionally, without clear standards for obtaining a waiver to parking requirements, the program is discretionary and there is no guarantee that the City will actually alleviate this constraint for any developer. The City must provide further analysis consider specific methods of reducing excessive parking standards.

Fourth, the City discusses height limits, setback requirements, and non-objective design considerations that limit the allowable height and floor of developments.⁷⁰ However, the City does not specifically name these standards as constraints. Even so, Program 16: Objective Design Standards states that the City will adopt “objective design standards [to] facilitate high-quality residential developments and compliance with State objectives” and that these standards “will ensure provision of adequate private open space, parking, and related features, as well as architectural design, consistent with State law (SB 35).”⁷¹ This program does not specifically address how it will address the discussed standards or how these actions will remove these standards as constraints. The City must provide such a description.

Finally, the City notes the following possible constraints: varying standards between zones that allow the same densities;⁷² internal inconsistencies in zoning regulations;⁷³ minimum site size requirements in Planned Unit Developments (PUD);⁷⁴ and complex specific plans and the resulting review process.⁷⁵ However, the City does not attempt to address these constraints in its description of the issues or in its programs. The City must provide more detail about these constraints and create programs to address them. For example, the City should commit to

⁶⁶ City of Garden Grove, 2021-2029 Draft Housing Element, 12-50 (July 2021).

⁶⁷ City of Garden Grove, 2021-2029 Draft Housing Element, 12-50 (July 2021).

⁶⁸ City of Garden Grove, 2021-2029 Draft Housing Element, 12-50 (July 2021).

⁶⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-112 (July 2021).

⁷⁰ City of Garden Grove, 2021-2029 Draft Housing Element, 12-43 (July 2021).

⁷¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-113 (July 2021).

⁷² City of Garden Grove, 2021-2029 Draft Housing Element, 12-46 (July 2021).

⁷³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-46 (July 2021).

⁷⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-48 (July 2021).

⁷⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-49 (July 2021).

evaluating and simplifying its specific plans within a specific timeframe to reduce processing times and provide clear, understandable requirements for potential housing developers and providers.

Building Codes and Enforcement

The City briefly touches on building codes and their enforcement and explains that “these standards and the time required for inspections increase housing production costs and may impact the viability of rehabilitation of older properties.”⁷⁶ The City then attempts to justify the codes by noting that they are mandated by State law.⁷⁷ However, the City has not provided any analysis about how these codes specifically affected housing production within its City. Even if the codes are standard across California, the City must provide the requisite analysis.

Site Improvements

In its brief description of site improvements, the City explains that “developers are generally responsible for covering the full cost of water, sewer, road, and drainage improvements within their projects” but that the requirements in Chapter 9.40 are identified to “protect the health, welfare, and public safety of residents and established adequate infrastructure to serve new housing.”⁷⁸ Although the City notes that “some of the improvements listed, such as ornamental street signs and intersection widening, may be outdated,” the City does not describe how it will update its requirements to reflect current requirements or lower the cost of these improvements to promote housing production.⁷⁹ The City must provide a detailed analysis of the improvements required by Chapter 9.40 and make specific commitments to mitigating this constraint.

Fees and Exactions

The City discusses multiple types of fees that can be imposed on a development. First, “development fees and taxes charged by local governments contribute to the cost of housing.”⁸⁰ Second, “building, zoning, and site improvement fees can significantly add to the cost of construction and sometimes have a negative effect on the production of affordable housing.”⁸¹ The City compared some of these fees against those listed by the Building Industry Association of Orange County and states that the City’s fees are either comparable or lower. Third, the City explains that “Government Code Section 6620 requires that planning and permit processing fees not exceed the reasonable cost of providing the service or impact, unless approved by the voters” and that “agencies collecting fees must provide project applicants with a statement of amounts and purposes of all fees at the time of fee imposition or project approval.”⁸² Fourth, Chapter 9.44 (Mitigation Fees) identifies six development impact fees, but the list is not exhaustive of all

⁷⁶ City of Garden Grove, 2021-2029 Draft Housing Element, 12-55 to 56 (July 2021).

⁷⁷ City of Garden Grove, 2021-2029 Draft Housing Element, 12-56 (July 2021).

⁷⁸ City of Garden Grove, 2021-2029 Draft Housing Element, 12-58 (July 2021).

⁷⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-58 (July 2021).

⁸⁰ City of Garden Grove, 2021-2029 Draft Housing Element, 12-57 (July 2021).

⁸¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-57 (July 2021).

⁸² City of Garden Grove, 2021-2029 Draft Housing Element, 12-59 (July 2021).

capital facilities fees imposed on developments as more fees can be imposed on mixed-use developments.⁸³

However, the City did not explain how any of these fees, despite some being comparable or lower to regional rates, affect housing development within the jurisdiction, and specifically the development of affordable housing. Further, the City made no attempt to mitigate the negative impact of these fees on development. The City must explain further and explain how it will mitigate fees as a constraint on housing and specifically on affordable housing.

Local Processing and Permit Procedures

The City notes that “the Land Use Code contains provisions that have the potential to affect housing supply” such as timelines for permit processing.⁸⁴ To address this constraint, the City states that it “has worked to improve the permit process through its one-stop counter and streamlined processing” and that a “reduction in processing time results in a shorter holding time for the developer, which translates to cost savings that should be reflected in the prices or rents for the end products.”⁸⁵ However, the City has not stated whether this has actually resulted in lower costs that are passed on to its residents. Without this analysis, it is impossible to tell whether these actions actually mitigate this constraint. The City should provide more information about these mitigation efforts and their effectiveness.

Nongovernmental Constraints

In addressing nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, the City discusses development costs, construction costs, and land costs. But the City does not discuss requests to develop housing at densities below those anticipated in the analysis required by Section 65583.2(c) or the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development, both of which could hinder the construction of a locality’s share of the RHNA.⁸⁶ The City’s analysis of these constraints also fails to demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality’s planning for the development of housing for all income levels and the construction of that housing.⁸⁷

First, the City explains that the availability of financing “is a significant factor that can impact both the cost and supply of housing” and that interest rates have a significant impact on home construction, purchase, and improvement costs.⁸⁸ Additionally, the City explains that, despite interest rates remaining relatively low, lenders look upon applicants with increased scrutiny since the 2008 housing finance crisis. The City’s general response to this issue is that interest rates are set at the federal level, and that its Housing Authority and Neighborhood Improvement Division exists to coordinate loan assistance and grants, as well as attracting recent

⁸³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-60 (July 2021).

⁸⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-52 (July 2021).

⁸⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-52 (July 2021).

⁸⁶ Cal. Gov. Code Section 65583(a)(6).

⁸⁷ Cal. Gov. Code Section 65583(a)(6).

⁸⁸ City of Garden Grove, 2021-2029 Draft Housing Element, 12-31 (July 2021).

interest from affordable housing developers.⁸⁹ This response is inadequate because it lacks any concrete steps that are likely to remove this constraint; rather, it relies on an optimistic, but hypothetical outcome in which the State and federal governments and affordable housing developers may provide funding. The City must provide concrete steps to remove this constraint, such as sourcing additional and more specific areas of funding.⁹⁰

Second, the City states that “construction costs are the most significant contributor to development costs.”⁹¹ The City explains that “construction costs are determined primarily by the cost of labor and materials such as concrete, timber, and mechanical systems-and steel costs for higher-rise buildings” and that cause of cost increases “were the price of wood, plastics, and composites and higher labor costs due to prevailing wage requirements and shortage of available construction workers.”⁹² However, the City does not explain how it is attempting to mitigate this constraint and must do so.

Third, the City explains that land costs are affected by several factors such as “the economic potential of the proposed or planned uses, lot size, proximity of public services, and the financing arrangement between the buyer and seller.”⁹³ Although the City does not specifically name land costs as a constraint, the City notes that “land costs for single-family zoned parcels of Garden Grove range from \$1,200,000 to \$2,229,000 per acre and \$3,050,000 to \$3,727,000 per acre on properties zoned for multi-family use.”⁹⁴ Again, the City does not explain how it will address this constraint and must explain how it can assist developers in developing housing, especially affordable housing, in the face of these high land costs.

Finally, the City must also analyze the additional nongovernmental constraints that include requests to develop housing at densities below those anticipated in the analysis required by Section 65583.2(c) and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development, both of which may hinder the construction of a locality’s share of the RHNA. The City should then discuss how it will address these constraints.⁹⁵

Site Inventory

The housing element must include 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.⁹⁶

⁸⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-34 (July 2021).

⁹⁰ Cal. Gov. Code Section 65583(a)(6).

⁹¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-32 (July 2021).

⁹² City of Garden Grove, 2021-2029 Draft Housing Element, 12-32 (July 2021).

⁹³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-32 to 33 (July 2021).

⁹⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-32 to 33 (July 2021).

⁹⁵ Cal. Gov. Code Section 65583(a)(6).

⁹⁶ Cal. Gov. Code Section 65583(a)(3); Cal. Gov. Code Section 65583.2(a).

Sites Suitable for Residential Development

It is unclear whether the non-residentially zoned sites the City included in its inventory permit residential use.⁹⁷ In one table, the City states that housing is permitted within the following zones: R-1, R-2, R-3, and OS.⁹⁸ However, in another table, the City lists the following zoning districts that can accommodate dwelling units at various densities: R-1, R-2, R-3, Harbor Corridor Specific Plan: Transition Zone North and Transition Zone West, CCSP: Peripheral Residential Districts, PUD, CCSP: Core Residential District, CCSP: Community Center Residential District, Civic Center Mixed Use (CC), Garden Grove Boulevard Mixed Use (GGMU), and Neighborhood Mixed Use (NMU).⁹⁹ However, the City lists numerous sites with zoning districts that do not appear to permit housing development such as M-1, M-P, C-1, C-2, C-3, C1-(T), A-R, HCSP-OP, HCSP-TCB, HCSP-SDS, HCSP-DC, HCSP-TS, HCSP-TCB, and BCSP-BCC.¹⁰⁰ The City must clarify whether these sites allow for residential uses. If they do not, it must include a program to rezone these sites to permit residential uses.¹⁰¹

If such a program is required, Program 8: Residential Sites Inventory and Monitoring of No Net Loss is not sufficient as it states that, in pertinent part, the City will “provide adequate sites to accommodate the City’s entire RHNA allocation of 19,168 units (4,166 very low income, 2,801 low income, 3,211 moderate income, and 8,990 above moderate income).”¹⁰² It is unclear whether this program will rezone nonresidential sites by rezoning them to permit residential use.¹⁰³

Site Inventory

The City provides a map that shows the location of the sites included in the inventory, but this map shows the sites without identifying each site by its APN.¹⁰⁴ To better demonstrate that these sites do not perpetuate patterns of segregation, the City should include multiple maps with more detailed information such as the site’s APN and income designation. Additionally, although the City states whether each site is adequate to accommodate lower-income housing, moderate-income housing, or above-moderate-income housing, the City should identify whether each lower-income site can accommodate very-low- and low-income units for the same reasons.¹⁰⁵

Lower Income Sites

The City has listed the following sites that are smaller than half an acre for lower income housing:

- **Site 10134366:** .36 acres

⁹⁷ Cal. Gov. Code Section 65583.2(a)(4).

⁹⁸ City of Garden Grove, 2021-2029 Draft Housing Element, 12-38 (July 2021).

⁹⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-37 (July 2021).

¹⁰⁰ City of Garden Grove, 2021-2029 Draft Housing Element, Appendix B (July 2021).

¹⁰¹ Cal. Gov. Code Section 65583.2(a)(4).

¹⁰² City of Garden Grove, 2021-2029 Draft Housing Element, 12-108 (July 2021); Cal. Gov. Code Section 65583.2(a)(4).

¹⁰³ City of Garden Grove, 2021-2029 Draft Housing Element, 12-108 (July 2021); Cal. Gov. Code Section 65583.2(a)(4).

¹⁰⁴ Cal. Gov. Code Section 65583.2(b)(7).

¹⁰⁵ Cal. Gov. Code Section 65583.2(c).

- **Site 10101106:** .17 acres
- **Site 23139229:** .45 acres

However, these sites cannot be deemed adequate to accommodate lower-income housing unless the City can demonstrate that sites of an equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or provide other evidence that the site is adequate to accommodate lower-income housing.¹⁰⁶ The City must provide this information or remove these sites from its inventory.

Nonvacant Sites

First, the City has identified three sites that appear to be owned by the city or county:

- **Site 09017128:** Garden Grove Weed Abatement
- **Site 08907268:** Garden Grove Regional Center; Garden Grove Social Services
- **Site 13242319:** OCFA Fire Station 82

However, the City has not described whether there are any plans to dispose of the property during the planning period or how the city or county will comply with the Surplus Lands Act and must do so when it updates its draft.¹⁰⁷

Second, the City has not explained the methodology it used to determine the development potential of its nonvacant sites.¹⁰⁸ Although the City addresses development trends and regulator or other incentives or standards that encourage additional residential development on these sites, the City has not considered (1) the extent to which existing uses may constitute an impediment to additional residential development; (2) the jurisdiction's past experience with converting existing uses to higher density residential development; (3) the current market demand for the existing use; (4) 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; or (5) market conditions.¹⁰⁹

Third, because the City relies on nonvacant sites to accommodate 50% or more of its housing need for lower-income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified does not constitute an impediment to additional residential development during the planning period.¹¹⁰ The City must provide a more thorough analysis of the development potential of nonvacant sites by considering these factors and describe that analysis in its next draft.

¹⁰⁶ Cal. Gov. Code Section 65583.2(c)(2).

¹⁰⁷ Cal. Gov. Code Section 65583.2(b)(3).

¹⁰⁸ Cal. Gov. Code Section 65583.2(g)(1).

¹⁰⁹ Cal. Gov. Code Section 65583.2(g)(1).

¹¹⁰ Cal. Gov. Code Section 65583.2(g)(2).

Presumption of Impeding Additional Residential Development

The City states that it mailed a letter survey to owners of over 100 properties and that “of those that responded, 56 percent expressed interest” in residential development.¹¹¹ However, the City does not provide the actual number of property owners that expressed this interest and does not indicate which nonvacant parcels this applies to. Many of the sites listed have existing uses that appear to be unlikely to cease such as chain restaurants, retail, and parking lots. Without specific information about these owners, the City has not provided substantial evidence that the existing uses are likely to be discontinued during the planning period.¹¹² Therefore, the City cannot overcome the presumption that existing uses impede additional residential development for any of its nonvacant sites.¹¹³

Accessory Dwelling Units

The City has “conservatively” estimated that 3,618 ADUs will be constructed over the 6th Cycle based on an average of 436 ADUs per year.¹¹⁴ This estimate appears to be solely based on previous ADU production:

- **2017:** “a few dozen”
- **2018:** 217
- **2019:** 297
- **2021 (as of April 1, 2021):** 108¹¹⁵

With only “a few dozen” ADUs produced in 2017, without 2020 information, and without considering other factors such as the need for these units in the community¹¹⁶ or the availability of ADUs and JADUs that will be part of the rental stock rather than used as offices or guest houses,¹¹⁷ the City cannot accurately estimate its ADU production for the upcoming cycle. Additionally, the City cannot utilize either of the following approaches HCD Staff would accept without further analysis or incentives: (1) average ADU applications from the beginning of the 5th Cycle to 2017, multiplied by five; or (2) average ADU applications from 2018, multiplied by eight. In its next draft, the City must provide firm numbers for 2017 and 2020, describe how it considered the other factors listed above, then revise its ADU estimate.

Additionally, Program 9: Accessory Dwelling Units states that the City will prepare pre-approved ADU plans, provide educational materials, monitor ADU permit applications, and consider establishing an amnesty program.¹¹⁸ First, the City generally states that it will “promote development of ADUs by providing written information at the City’s planning counter and on

¹¹¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-86 (July 2021).

¹¹² Cal. Gov. Code Section 65583.2(g)(2).

¹¹³ Cal. Gov. Code Section 65583.2(g)(2).

¹¹⁴ City of Garden Grove, 2021-2029 Draft Housing Element, 12-81 (July 2021).

¹¹⁵ City of Garden Grove, 2021-2029 Draft Housing Element, 12-81 (July 2021).

¹¹⁶ Cal. Gov. Code § 65583.1(a).

¹¹⁷ HCD, Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADUs), *Requisite Analysis*, <https://hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/accessory-dwelling-units.shtml> (last visited Mar. 21, 2021).

¹¹⁸ City of Garden Grove, 2021-2029 Draft Housing Element, 12-109 (July 2021).

the City’s website.”¹¹⁹ However, the City does not explain what written information it will provide, how this differs from the information it currently provides, or how it expects this information to boost ADU production. The City must provide more details about this aspect of the program in its next draft.

Second, the City states it will “monitor ADU permit applications and approvals through the Housing Element Annual Progress Report process; [and] identify and implement additional incentives or other strategies, as appropriate, to ensure adequate sites during the planning period.”¹²⁰ The City does not explain what other incentives or strategies it will implement if ADU production is lower than expected and it does not specify that this program will also monitor the affordability of these ADUs. To ensure the developed ADUs are actually being used as residences at the stated affordability levels, the City must revise this monitoring program in its next draft.

Third, the City will only “[consider] establishing an ADU ‘amnesty’ program to allow existing unpermitted units to come up to code standards without penalty, helping to preserve accessory units.”¹²¹ The City must revise this program to make a firm commitment to creating this program or remove it from its draft.

Finally, due to the City’s extremely high production estimate, the City should strongly consider adding more resources and incentives to encourage the creation of affordable ADUs,¹²² such as reducing or eliminating building permit/development fees;¹²³ expediting procedures;¹²⁴ offering incentives for affordability;¹²⁵ and offering financial assistance or incentives for affordable ADU construction and preservation.¹²⁶

Affirmatively Furthering Fair Housing

California law requires that public agencies administer all “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.”¹²⁷ To affirmatively further fair housing, a public agency must do the following:

[Take] meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that

¹¹⁹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-109 (July 2021).

¹²⁰ City of Garden Grove, 2021-2029 Draft Housing Element, 12-109 (July 2021).

¹²¹ City of Garden Grove, 2021-2029 Draft Housing Element, 12-109 (July 2021).

¹²² HCD, ADU Handbook, 19 (December 2020); Cal. Gov. Code § 65583.1(a); Cal. Health and Safety Code § 50504.5.

¹²³ SCAG, Accessory Dwelling Units (ADUs), SCAG Housing Element Digital Workshop, 6 (August 27, 2020).

¹²⁴ HCD, ADU Handbook, 19 (December 2020).

¹²⁵ SCAG, Accessory Dwelling Units (ADUs), SCAG Housing Element Digital Workshop, 6 (August 27, 2020).

¹²⁶ SCAG, Accessory Dwelling Units (ADUs), SCAG Housing Element Digital Workshop, 6 (August 27, 2020).

¹²⁷ Cal. Gov. Code Section 8899.50(b).

restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address 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.¹²⁸

Meaningful action means taking significant action that is designed and reasonably expected to achieve a material positive change that affirmatively furthers fair housing.¹²⁹

Housing elements must incorporate the obligation to affirmatively further fair housing in the following sections: (1) outreach, (2) assessment of fair housing, (3) site inventory, (4) identification and prioritization of contributing factors, and (5) goals, policies, and actions. Each section is addressed below.¹³⁰

Outreach

Beyond preexisting outreach requirements, jurisdictions must include a summary of their fair housing outreach capacity.¹³¹ Jurisdictions “must describe meaningful, frequent, and ongoing public participation with key stakeholders.”¹³² Moreover, jurisdictions must summarize “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.”¹³³

The City must further describe its outreach efforts. Over just two days in early September 2020, the City held stakeholder meetings.¹³⁴ However, after these meetings, the City ceased interacting with stakeholders. Because stakeholder engagement lasted just two days and happened ten months before the City published a draft housing element, the City has established neither “frequent” nor “ongoing” public participation with key stakeholders. Additionally, the

¹²⁸ Cal. Gov. Code Section 8899.50(a)(1).

¹²⁹ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 66 (April 2021); Affirmatively Furthering Fair Housing, 80 Fed. Reg. at 42354. Although the Department of Housing and Urban Development does not enforce this federal AFFH rule, California law has adopted the federal rule. This means that the federal AFFH rule can inform how to interpret the obligation to affirmatively further fair housing in California law.

¹³⁰ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 21 (April 2021).

¹³¹ Cal. Gov. Code Section 65583(c)(10)(A)(i).

¹³² HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 21 (April 2021).

¹³³ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 22 (April 2021).

¹³⁴ City of Garden Grove, 2021-2029 Housing Element Draft, 12-7 (July 2021).

City fails to summarize issues that contributed to lack of participation. For these reasons, the City's outreach section falls below HCD's standards. To comply with State law, the City should describe, or encourage, additional key stakeholder participation and address lack of participation.

Assessment of Fair Housing

A fair housing assessment needs to have a summary of fair housing enforcement and capacity.¹³⁵ In addition, the assessment must analyze these five areas: (1) fair housing enforcement and outreach capacity; (2) integration and segregation patterns and trends related to people with protected characteristics; (3) racially or ethnically concentrated areas of poverty (R/ECAPs) or racially concentrated areas of affluence (RCAAs); (4) disparities in access to opportunity for people with protected characteristics, including persons with disabilities; and (5) disproportionate housing needs within the jurisdiction, including displacement risk.¹³⁶ Furthermore, each of these analyses must include local and regional patterns and trends, local data and knowledge, and other relevant factors.¹³⁷ The analyses should each arrive at conclusions and have a summary of fair housing issues.¹³⁸

Fair Housing Enforcement and Outreach Capacity. The City does not have a section for fair housing enforcement and outreach capacity. Until the City includes such a section, the City's assessment of fair housing is inadequate.

Segregation and Integration. "At minimum, the analysis must discuss levels of segregation and integration for race and ethnicity, income, familial status, persons with disabilities, and identify the groups that experience the highest levels of segregation."¹³⁹

The City must bolster its discussion of segregation and integration. The City only analyzes data regarding race and ethnicity and fails to consider income, familial status, and persons with disabilities.¹⁴⁰ The City also does not account for regional segregation and integration trends. Moreover, relying on State and federal data,¹⁴¹ the City does not look at other relevant factors, or local data or knowledge. For these reasons, the City's section on integration and segregation wilts under State law. To strengthen its analysis, the City should analyze

¹³⁵ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 62 (April 2021).

¹³⁶ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 27–28, 62 (April 2021).

¹³⁷ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 62 (April 2021).

¹³⁸ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 62 (April 2021).

¹³⁹ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 31 (April 2021).

¹⁴⁰ City of Garden Grove, 2021-2029 Housing Element Draft, 12-67 to 69 (July 2021).

¹⁴¹ City of Garden Grove, 2021-2029 Housing Element Draft, 12-67 to 69 (July 2021).

integration and segregation patterns and trends based on income, familial status, and disability status over time. This analysis should be at a local and regional level. Furthermore, the City should utilize local data and knowledge and other relevant factors “beyond data that identifies and compares concentrations of groups with protected characteristics.”¹⁴²

R/ECAPs and RCAAs. Jurisdictions must identify R/ECAPs and RCAAs.¹⁴³ “The analysis must be conducted at a regional and a local level where the incidence of concentrated areas of poverty is discussed relative to the region and within the locality. Importantly, this regional comparison should discuss the incidence of racial concentrations in areas of affluence.”¹⁴⁴

The City neglects required information in its R/ECAPs and RCAAs section. Although HUD’s 2017 data indicate that no R/ECAPs exist in the City, the California Tax Credit Allocation Committee’s (TCAC) 2021 data reveal one area of high segregation and poverty in the City and many more in Orange County and SCAG.¹⁴⁵ This data is shown in Exhibit 1. The City would have discovered these R/ECAPs if it had properly updated its regional and local data. Additionally, the City does not even mention RCAAs, local data, local knowledge, or other relevant factors. Hence, without utilizing adequate data sources, at both a regional and local level, for both R/ECAPs and RCAAs, the City cannot satisfy HCD’s requirements. We recommend that the City present and analyze all relevant regional and local data about R/ECAPs and RCAAs. The City should also employ local data and knowledge, and other relevant factors.

Disparities in Access to Opportunity. The City’s discussion of disparities in access to opportunity is inadequate. HCD’s Guidance Memo presents questions that the City “should, at minimum” answer.¹⁴⁶ These questions cover disparities in educational, transportation, economic, and environmental opportunities, and disparities in other factors.¹⁴⁷ The City should answer each one of these questions in HCD’s Guidance utilizing all necessary data sources.

Disproportionate Housing Needs, Including Displacement. Jurisdictions must analyze both disproportionate housing needs and displacement.¹⁴⁸ “[C]ategories of housing need are

¹⁴² HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 25 (April 2021).

¹⁴³ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 32–34 (April 2021).

¹⁴⁴ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 32 (April 2021).

¹⁴⁵ City of Garden Grove, 2021-2029 Housing Element Draft, 12-70 (July 2021).

¹⁴⁶ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 35 (April 2021).

¹⁴⁷ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 35–36 (April 2021).

¹⁴⁸ Cal. Gov. Code Section 65583(c)(10)(ii).

based on such factors as cost burden and severe cost burden, overcrowding, homelessness, and substandard housing conditions.”¹⁴⁹

The City cursorily talks about displacement, without touching on cost burden, severe cost burden, overcrowding, substandard housing, or homelessness, each of which the City must consider.¹⁵⁰ We recommend following HCD’s Guidance Memo and analyzing the aforementioned disproportionate housing needs.

Conclusion and Summary of Fair Housing Issues. None of the City’s sections conclude and summarize fair housing issues. To equal HCD’s standard’s, the City must do so.

Site Inventory

A jurisdiction’s site inventory must be consistent with the jurisdiction’s obligation to affirmatively further fair housing.¹⁵¹ “Sites must be identified and evaluated relative to the full scope of the assessment of fair housing.”¹⁵² The jurisdiction should consider the following during its site inventory analysis:

- how identified sites better integrate the community;
- how identified sites exacerbate segregation;
- whether the jurisdiction concentrated the RHNA by income group in certain areas of the community;
- whether local data and knowledge uncover patterns of segregation and integration; and
- how other relevant factors can contribute to the analysis.¹⁵³

The identified sites must attempt to improve conditions related to integration and segregation patterns and trends related to people with protected characteristics; racially or ethnically concentrated areas of poverty or affluence; disparities in access to opportunity for people with protected characteristics, including persons with disabilities; and disproportionate housing needs within the jurisdiction, including displacement risk.¹⁵⁴ Moreover, the jurisdiction

¹⁴⁹ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 39 (April 2021).

¹⁵⁰ City of Garden Grove, 2021-2029 Housing Element Draft, 12-71 (July 2021).

¹⁵¹ Cal. Gov. Code § 65583.2(a); HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 45 (April 2021).

¹⁵² HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 3, 45 (April 2021).

¹⁵³ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 45–46 (April 2021).

¹⁵⁴ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 46, 63 (April 2021); Cal. Gov. Code Section 65583(c)(10)(A)(ii).

must map the number of units at identified sites and include the sites' assumed affordability.¹⁵⁵ The jurisdiction should also address whether it groups sites near areas of concentrated affluence or areas of concentrated poverty.¹⁵⁶

The City needs additional discussion about its site inventory. While the City dabbled with TCAC's opportunity areas in its housing resources section, which covered the City's site selection, the City does not separately tackle each area provided above.¹⁵⁷ Also, the City does not map sites according to their assumed affordability but only according to site type.¹⁵⁸ For these reasons, the City has not met California law. To do so, the City should map sites with their assumed affordability. Furthermore, the City should handle each area of analysis while considering its site inventory.

Identification and Prioritization of Contributing Factors

As a result of a jurisdiction's assessment of fair housing, the jurisdiction must identify and prioritize significant contributing factors to fair housing issues.¹⁵⁹ The jurisdiction must explain how it prioritized contributing factors.¹⁶⁰ "A fair housing contributing factor means a factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues."¹⁶¹ The jurisdiction must follow these steps:

- (1) identify fair housing issues and significant contributing factors;
- (2) prioritize contributing factors, giving highest priority to those factors that
 - (a) deny fair housing choice or access to opportunity or
 - (b) negatively impact fair housing or civil rights compliance; and
- (3) discuss strategic approaches to inform and strongly connect these contributing factors to goals and actions.¹⁶²

The City does not identify or prioritize contributing factors. The City must do so to comply with State law. We suggest the City consult HCD's Guidance Memo for further details.

¹⁵⁵ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 46, 63 (April 2021).

¹⁵⁶ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 48 (April 2021).

¹⁵⁷ City of Garden Grove, 2021-2029 Housing Element Draft, 12-91 (July 2021).

¹⁵⁸ City of Garden Grove, 2021-2029 Housing Element Draft, Exhibit H-6 (July 2021).

¹⁵⁹ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 49 (April 2021); Cal. Gov. Code Section 65583(c)(10)(A)(iii).

¹⁶⁰ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 51 (April 2021).

¹⁶¹ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 49 (April 2021).

¹⁶² HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 49 (April 2021).

Goals, Policies, and Actions

Jurisdictions must provide goals, policies, and a schedule of actions during the planning period to affirmatively further fair housing.¹⁶³ These goals, policies and actions must be based on the jurisdiction’s identification and prioritization of contributing factors.¹⁶⁴ The jurisdiction’s actions may address, but are not limited to, the following areas:

- mobility enhancement,
- new housing choices and affordability in high opportunity areas,
- place-based strategies for preservation and revitalization,
- displacement protection, and
- other program areas.¹⁶⁵

The jurisdiction’s actions must be meaningful and sufficient to overcome identified patterns of segregation and to affirmatively further fair housing.¹⁶⁶ Accordingly, actions must commit to specific deliverables, measurable metrics, or specific objectives.¹⁶⁷ Actions must also have definitive deadlines, dates, or benchmarks for implementation.¹⁶⁸ In contrast, “programs that ‘explore’ or ‘consider’ on an ‘ongoing’ basis are inadequate”¹⁶⁹ Moreover, adequate actions must be “in addition to combatting discrimination” and “well beyond a continuation of past actions.”¹⁷⁰

The City’s goals, policies, and actions fall below California law’s standard. Many of the City’s goals, policies, and actions do not surpass combatting discrimination. For example, the City promises to “prohibit discrimination in the sale, rental, or financing of housing.”¹⁷¹ Nonetheless, the City must already do this under State and federal law. Hence, this goal, along with others that just commit the City to comply with existing legal obligations, are not sufficient to affirmatively further fair housing. Also, the City has other goals, policies, and actions that only commit the City to continuing current programs. For instance, the City will “continue to

¹⁶³ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 51 (April 2021); Cal. Gov. Section 65583(c)(10)(A)(iv)–(v).

¹⁶⁴ Cal. Gov. Section 65583(c)(10)(A)(iv)–(v); AFFH Guidance Memo 63 (April 2021).

¹⁶⁵ Cal. Gov. Section 65583(c)(10)(A)(iv)–(v); AFFH Guidance Memo 63 (April 2021).

¹⁶⁶ Cal. Gov. Section 8899.50(a)(1), (b); AFFH Guidance Memo 51–53 (April 2021).

¹⁶⁷ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 52 (April 2021).

¹⁶⁸ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 52 (April 2021).

¹⁶⁹ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 52 (April 2021).

¹⁷⁰ Cal. Gov. Code Section 8899.50(a); HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 52 (April 2021).

¹⁷¹ City of Garden Grove, 2021-2029 Housing Element Draft, 12-102 (July 2021).

invest in landlord and tenant counseling and mediation services, unlawful detainer assistance, housing discrimination services, homebuyer education and outreach, and local eviction prevention strategies.”¹⁷² But the City already provided these services, which means that they cannot count as satisfactory affirmatively furthering fair housing goals. Additionally, this goal is vague and it is unclear how the City actually provides these services and programs. Finally, many of the City’s goals, policies, and actions lack measurable objectives and specific timelines for implementation. The objectives to “[p]ursue funding” and “[e]nsure economic development” exemplify the City’s failure to include measurable objectives, since the City does not indicate how much funding or development would suffice to fulfill this goal.¹⁷³ Moreover, the City designates the entire planning period as its timeframe for all objectives, which does not differ from an “ongoing” timeframe—a feature that renders goals inadequate.¹⁷⁴ Because many of the City’s goals, policies, and actions lack measurable objectives and timelines for implementation, this section cannot withstand HCD’s scrutiny. We suggest picking actions that go beyond prohibiting discrimination and beyond continuing past actions. We also recommend that the City add specific metrics and milestones to its goals. We again refer the City to HCD’s Guidance Memo.

Public Participation

In an effort to demonstrate a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, the City has described its housing element website, who was invited to participate in its outreach efforts, general comments that were received, and meetings it held with the public.¹⁷⁵ Only two community workshops were held on November 18, 2020 and April 21, 2021 and the four stakeholder interviews and focus group meetings were only held on September 2, 2020 and September 3, 2020.¹⁷⁶ Aside from several study sessions with City officials, the City has not provided any other community workshops or stakeholder and focus group meetings. The City should strongly consider specifically reaching out to these participants before it submits its next draft to HCD and on an ongoing basis in the future.¹⁷⁷ These meetings should also involve residents across the jurisdiction to ensure outreach is accessible to different communities and be held at different times of the day and different days of the week.¹⁷⁸ Additionally, although the City noted general

¹⁷² City of Garden Grove, 2021-2029 Housing Element Draft, 12-114 (July 2021).

¹⁷³ City of Garden Grove, 2021-2029 Housing Element Draft, 12-115 (July 2021).

¹⁷⁴ City of Garden Grove, 2021-2029 Housing Element Draft, 12-115 (July 2021).

¹⁷⁵ Cal. Gov. Code Section 65583(c)(9); HCD, Building Blocks: A Comprehensive Housing-Element Guide, *Public Participation*, <https://hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml> (last visited Mar. 17, 2021).

¹⁷⁶ City of Garden Grove, 2021-2029 Housing Element Draft 12-8, Appendix C (July 2021).

¹⁷⁷ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 10 (April 2021).

¹⁷⁸ HCD, Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements, 10 (April 2021).

comments received, the City must also describe how these comments were incorporated into the housing element.¹⁷⁹

Conclusion

The housing element process is an opportunity for jurisdictions to meet the needs of California's residents, including needs for housing that is accessible to seniors, families, and workers and the needs of extremely-low-, very low-, and low-income families for affordable housing. We encourage HCD to require the City to make further updates to its Draft 6th Cycle Housing Element and we look forward to working with Garden Grove and HCD in this process. We encourage the City to make the most of this opportunity to thoroughly analyze the housing needs of its residents and identify adequate sites and programs to meet those housing needs during the upcoming planning cycle.

Sincerely,
THE PUBLIC LAW CENTER, BY:



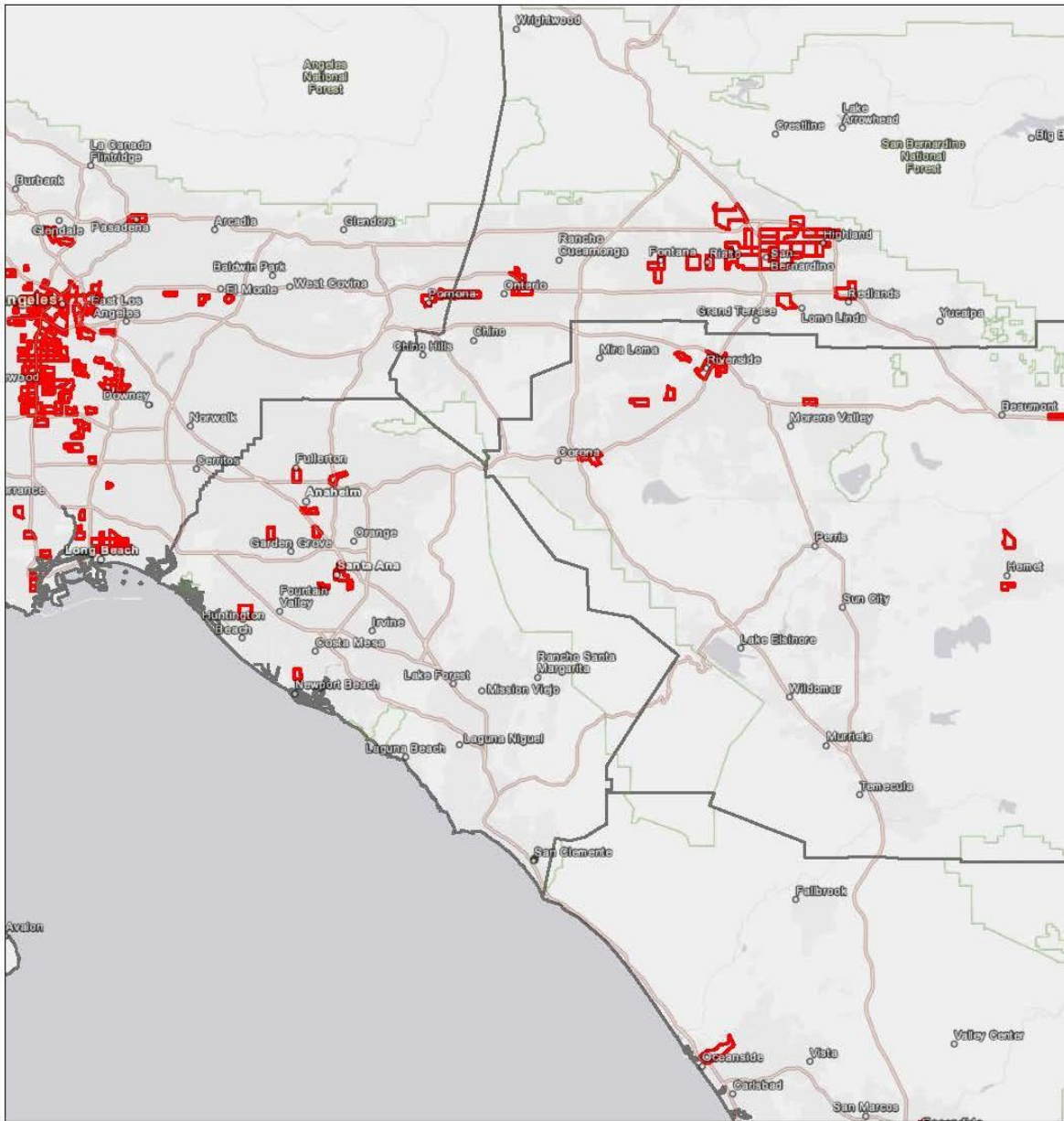
Richard Walker, Housing and Homelessness Prevention Unit, Senior Staff Attorney
Alexis Mondares, Housing and Homelessness Prevention Unit, Legal Fellow

CC: Chris Chung, Urban Planner, City of Garden Grove, Community and Economic
Development Department, chrisc@ggcity.org

¹⁷⁹ HCD, Building Blocks: A Comprehensive Housing-Element Guide, *Public Participation*, <https://hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml> (last visited Mar. 17, 2021).

Exhibits

Exhibit 1



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County Boundaries

(R) TCAC Area of High Segregation and Poverty (2021) - Tract

1:577,791

