

November 19, 2013
5:30 P.M.
Council Chambers of City Hall
340 Palos Verdes Dr. West
Palos Verdes Estates



**AGENDA
OF AN ADJOURNED REGULAR MEETING
OF THE CITY COUNCIL AND THE PLANNING COMMISSION OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA**

Copies of the staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the office of the City Clerk and are available for public inspection. If applicable, materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's office during normal business hours. Any person having any question concerning any agenda item may call the City Clerk to make inquiry concerning the item. Upon request, the agenda and documents in the agenda packet can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk at 310-378-0383, at least 48 hours prior to the meeting to request a disability-related modification or accommodation.

The City Council welcomes and encourages public participation at the Council meetings; however, to allow for the orderly progression of business, each person wishing to comment or make a presentation shall be limited to three (3) minutes. Anyone wishing to address the City Council is requested to fill out a green speaker's card available at the end of each row in the Chambers. The card permits the City to identify persons for purposes of City Council minute preparation. The City Council, at the direction of the Mayor with concurrence of the Council, may modify the order of items shown on the agenda.

**NEXT RESOLUTION NO. R13-32
NEXT ORDINANCE NO. 13-708**

CALL TO ORDER

ADJOURNED REGULAR MEETING
CITY COUNCIL AGENDA
November 19, 2013

PLEDGE OF ALLEGIANCE

ROLL CALL (5:30 PM)

COMMUNICATIONS FROM THE PUBLIC

This portion of the agenda is reserved for comments from the public on items which are NOT on the agenda. Due to state law, no action can be taken by the Council this evening on matters presented under this section. If the Council determines action is warranted, the item may be referred to staff or placed on a future Council agenda.

NEW BUSINESS

All persons addressing the City Council shall be limited to three (3) minutes for comment.

1. **STUDY SESSION - 2013 Housing Element Update for Submittal to the California Department of Housing and Community Development**

Recommendation: It is recommended that the City Council open the study session, receive public input, close the study session and provide direction to staff.

(The staff report will be provided under separate cover.)

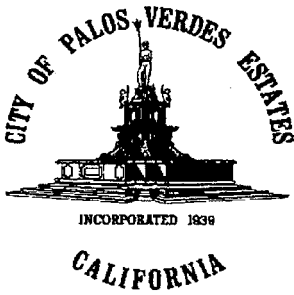
MAYOR & CITY COUNCILMEMBERS' REPORTS

ADJOURNMENT TO TUESDAY, DECEMBER 10, 2013 IN COUNCIL CHAMBERS OF CITY HALL FOR THE PURPOSE OF A REGULAR MEETING.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted on the City Hall Bulletin Boards located by front door and inside adjacent to Council Chambers located at 340 Palos Verdes Drive West, Palos Verdes Estates, CA 90274, Palos Verdes Golf Club, and Malaga Cove Library not less than 72 hours prior to the meeting in accordance with Government Code Section 54954.2. Dated this 15th day of November, 2013.

Vickie Kroneberger, CMC
Executive Assistant/Deputy City Clerk


ADJOURNED REGULAR MEETING
CITY COUNCIL AGENDA
November 19, 2013



MEMORANDUM

Agenda Item #: 1
Meeting Date: 11/19/13

TO: HONORABLE MAYOR AND CITY COUNCIL

THRU: ANTON DAHLERBRUCH, CITY MANAGER 

FROM: JOHN DOUGLAS, J.H. DOUGLAS & ASSOCIATES

SUBJECT: STUDY SESSION REGARDING THE 2013 HOUSING ELEMENT UPDATE FOR SUBMITTAL TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DATE: NOVEMBER 19, 2013

Background

State law requires every city in California to update its Housing Element for the “5th Cycle” planning period.¹ For jurisdictions within the Southern California Association of Governments (SCAG) region, the 5th planning period runs from October 2013 through October 2021.

The Housing Element is a mandated component of each city’s General Plan. Individual jurisdictions are required to not only adopt a Housing Element but also to update the Element periodically. The law governing Housing Elements is far more detailed than for other elements of the General Plan, and is also unusual in that cities are required to submit Housing Elements to the California Department of Housing and Community Development (HCD) for review in draft form prior to adoption as well as after adoption. The legislature has granted HCD the authority to promulgate detailed guidelines for the preparation of Housing Elements, and also to issue opinions regarding whether local Housing Elements substantially comply with the requirements of state law. A finding of substantial compliance is often referred to as “certification” of the Housing Element. Cities that are small bedroom communities like Palos Verdes Estates, need to show the potential of addressing the required housing needs even when the current character of the community makes it an unlikely venture.

Housing Element certification is desirable for several reasons. The General Plan provides the underpinning for a city’s exercise of local zoning and land use regulatory powers. State law provides a presumption of validity for a Housing Element that has been found in substantial compliance by HCD. As a result, a certified Housing Element can help to support a city’s local

¹ The 5th cycle refers to the five state-mandated updates that have been required since the legislature adopted the comprehensive overhaul of state housing element law (Article 10.6 of the Government Code) in 1980.

land use authority in the event of a legal challenge. In addition, some grant funding programs require a certified Housing Element as a prerequisite for eligibility. Over the years, proposals have been introduced in the state legislature to impose penalties on cities and counties that do not to obtain certification (such as withholding gas tax revenues) but no such penalties are presently in effect.

Should Palos Verdes Estates not obtain certification for the Housing Element update, the City is vulnerable to third party lawsuits. These lawsuits can challenge the validity of the General Plan as a whole and if successful, can lead to the City's temporary loss of authority to approve and issue permits. This ultimately means that an outside entity could approve and issue permits for expanded housing measures that could have more detrimental impacts on the community than measures outlined by the City. Obtaining certification maintains the City's authority to preserve the unique character of Palos Verdes Estates.

Key Components of the Housing Element

The Housing Element must include an analysis of housing needs, available resources, governmental and non-governmental constraints, and City policies and programs related to the maintenance, improvement and development of housing for all segments of the community. Two components of the Housing Element normally receive the most attention: 1) the Regional Housing Needs Assessment (RHNA); and 2) City zoning regulations regarding housing for persons with special needs.

Regional Housing Needs Assessment (RHNA)

The Housing Element is required to describe how the City will facilitate the development of new housing for all income groups, with a particular emphasis on housing that is affordable to persons in the lower income categories. The following table illustrates the income levels prescribed in state law along with and corresponding affordable housing costs.

Affordable Housing Costs Los Angeles County

2013 County Median Income = \$64,800	Income Limits	Affordable Rent	Affordable Price (est.)
Extremely Low (<30%)	\$25,600	\$640	--
Very Low (31-50%)	\$42,700	\$1,068	\$140,000
Low (51-80%)	\$68,300	\$1,708	\$235,000
Moderate (81-120%)	\$77,750	\$1,944	\$280,000
Above moderate (120%+)	\$77,750+	\$1,944+	\$280,000+

Assumptions:

-Based on a family of 4

-30% of gross income for rent or PITI

-10% down payment, 4.5% interest, 1.25% taxes & insurance, \$200 HOA dues

Source: Cal. HCD; J.H. Douglas & Associates

RHNA process. The RHNA is determined through a state-mandated process by which each jurisdiction is allocated a share of statewide housing need. For jurisdictions in Los Angeles County, SCAG is responsible for preparing the RHNA allocations. The RHNA process begins with the state's allocation of a share of statewide housing need to the SCAG region. SCAG is responsible for developing a methodology for allocating the total regional need to individual jurisdictions based on the same regional growth assumptions that are used for the Regional Transportation Plan.² For the 5th planning cycle (2013-2021), the total RHNA allocation for the 6-county SCAG region³ is approximately 412,000 new housing units. Palos Verdes Estates has been assigned a RHNA allocation of 16 new housing units, as shown in the following table:

Regional Housing Growth Needs
Palos Verdes Estates

Very Low*	Low	Moderate	Above Moderate	Total
4	3	3	6	16

Source: SCAG 2012

*50% of the very-low need is assigned to the extremely-low-income category pursuant to Government Code §65583(a)(1)

Note: The RHNA projection period is 1/1/2014 – 10/31/2021

Importance of the RHNA. State law requires cities to identify adequate sites with appropriate zoning that could accommodate the level of development assigned in the RHNA, and also to adopt policies and programs to facilitate the development of housing for lower-income households. It is important to note that cities are not required to build or provide funding assistance for the number of housing units reflected in the RHNA. However, if adequate sites with appropriate zoning are not demonstrated in the Housing Element, cities are required to rezone land to provide adequate sites. In coastal areas, affordable housing requires significant financial subsidies. State law requires cities to provide a regulatory setting where affordable

² For more information regarding the RHNA process please refer to SCAG's website at:

<http://rtpscs.scag.ca.gov/Pages/Regional-Housing-Needs-Assessment.aspx>

³ The SCAG region includes Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura counties.

housing could be built, if developers are able obtain sufficient financial subsidies to make a project “pencil out.”

What are “adequate sites”? State law establishes criteria for determining the adequacy of potential sites for affordable housing development. The legislature has specified “default densities” that are considered suitable for lower-income housing in different areas of the state. For small cities in Los Angeles County (i.e., under 25,000 population) a density of 20 units/acre is considered to be the minimum needed to facilitate development of lower-income housing. Cities may meet their RHNA obligation by identifying either vacant sites or “underutilized” sites with potential for additional housing development or redevelopment.

Cities with difficult environmental constraints and few vacant developable parcels have limited options for accommodating new affordable housing development. In Palos Verdes Estates, all of the sites zoned for multi-family housing have already been developed, and there are no vacant sites that would be suitable for rezoning to allow additional multi-family development. A few multi-family properties are developed at lower than the maximum allowable density of 24.9 units/acre, and therefore may be considered underutilized as that term is used in state housing law.

Another option for satisfying the adequate sites requirement is through zoning regulations that permit multi-family residential or mixed-use development in commercial areas. The City’s zoning regulations currently allow mixed commercial and residential development in the Malaga Cove and Lunada Bay commercial districts. Private deed restrictions also allow mixed use in these areas. The zoning ordinance does not specify a density limit for mixed-use development and therefore the actual density for any project would be determined through development standards such as height limit, lot coverage, setbacks and off-street parking. Staff believes that the 35-foot/2-story height limit and other applicable standards can accommodate mixed-use developments at the state standard of 20 units/acre.

Other cities with similar circumstances have satisfied their RHNA obligation by identifying developed commercial properties where mixed-use is allowed at the default density and the development standards (e.g., height limits) do not pose unreasonable constraints on development. In reviewing Housing Elements, HCD examines development regulations, existing site conditions and market trends in order to assess the realistic capacity for housing development.

Zoning Regulations for Persons with Special Needs

An important component of the Housing Element is to demonstrate that the City’s zoning regulations do not pose unreasonable constraints on housing for persons with disabilities or other special needs. These types of housing include group homes, community care facilities, emergency shelters, transitional housing and supportive housing. State law also requires cities to establish procedures to allow “reasonable accommodation” for persons with disabilities in the administration of planning and building regulations. State and federal statutes and case law regarding these types of housing are very complex and continue to evolve, therefore the following discussion is only intended to provide an overview of how HCD reviews this issue in

the context of Housing Elements.

State-Licensed Group Homes for 6 or Fewer Residents. State law generally requires cities to treat state-licensed group homes and care facilities for up to 6 persons (excluding the operator and staff) as a single-family use. There are many types of licensed group homes, including community care facilities, residential care facilities for the elderly, residential care facilities for the chronically ill, drug and alcohol detoxification facilities, congregate living health facilities, intermediate care facilities, and foster homes. For these types of small facilities, cities may not impose development standards (e.g., parking, setbacks, density), permit processing requirements or fees that are any different than those applied to conventional housing. Homeowners associations also cannot enforce restrictive covenants to exclude group homes for 6 or fewer disabled persons.

Some types of licensed group homes are subject to separation requirements in order to avoid “over-concentration.” For example, for community care facilities, a separation of 300 feet (measured from outside walls, not property lines) is required unless the host city consents to a reduced separation. Congregate living health facilities are subject to a 1,000-foot separation requirement. No separation requirements apply to other some types of licensed group homes such as residential care facilities for the elderly, drug and alcohol treatment facilities, or foster family homes. For facilities subject to a separation requirement, the California Department of Social Services (CDSS) must submit the license application to the city for review, and the city may request that the license be denied based on over-concentration criteria. These types of group homes already exist within the City; however, the location of each is unknown as they are primarily regulated by the State. Group homes that require construction do process with the Building & Safety Department for permits in the same manner as a single family residence. Otherwise, the use itself does not process with the City.

Group Homes for More than 6 Residents. Group living facilities for more than 6 persons may be regulated differently than ordinary residential uses. For example, cities may require conditional use permits, impose different development standards, or exclude such facilities from some zones. With regard to Housing Elements, HCD generally requires cities to designate at least one zone where large group homes may locate, although that may be a non-residential zone.

Unlicensed Group Homes. Housing in which some services are provided to persons with disabilities may not require licensing. For example “sober living” facilities providing group living arrangements for people who have graduated from a drug and alcohol rehabilitation program, but which do not provide care, do not require a license. At this time, the law is unclear regarding the extent to which cities can regulate small unlicensed group homes differently than small licensed group homes. Because disabled persons are a protected class, regulations that discriminate against such residents may be subject to legal challenge.

Boardinghouses, Right to Privacy, and the Definition of Family. State law allows cities to regulate boardinghouses differently than family housing. However, ordinances that arbitrarily limit the number of unrelated persons who may live together in a residence have been overturned by the courts. In order to withstand judicial scrutiny, a zoning ordinance must consider groups of

unrelated persons living together as a single housekeeping unit to be equivalent to a family. Examples of appropriate criteria that cities may use in their definition of “family” include shared use of common areas, shared emotional bonds, shared household chores and expenses, shared meals, a single lease agreement, new residents selected by existing residents rather than a landlord, and no arbitrary length of stay limits. Housing that does not meet the “single housekeeping unit” test may be regulated as a boardinghouse with different standards and may be restricted to multi-family or commercial zoning districts.

Emergency Shelters. Effective January 1, 2008 state law was amended (SB 2) to require all cities to allow permanent emergency shelters by-right in at least one zone, subject to a limited range of objective standards. In the context of SB 2, “*emergency shelter*” refers to a permanent facility that provides temporary shelter to homeless persons, as opposed to a temporary facility established after a natural disaster. “By-right” means the approval process must not be discretionary, such as a conditional use permit. As is often the case with new laws, there is some ambiguity as to the limits of city regulation of emergency shelters. A lawsuit was recently filed in the City of Fullerton challenging the city’s authority to require a management plan subject to review and approval by city staff, under the claim that such a requirement amounts to an impermissible discretionary review process.

Transitional and Supportive Housing. SB 2 also requires that cities allow transitional and supportive housing as residential uses subject only to the same standards and procedures as apply to other residential uses of the same type in the same zone. [Government Code Sec. 65583(a)(5)]

“*Transitional housing*” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. [Government Code Sec. 65582(h)]

“*Supportive housing*” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. [Government Code Sec. 65582(f)]

“*Target population*” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. [Government Code Sec. 65582(g)]

There is as yet no judicial opinion clarifying the regulatory framework for transitional and supportive housing, and these facilities can take different forms. One approach is to use similar

standards as apply to group homes and care facilities; i.e., if a transitional or supportive facility is occupied by one family (or housekeeping unit), it must be permitted under exactly the same standards and procedures as a conventional residence. If the facility operates like a group home, then the applicable group home standards apply.

SB 2 requires cities to update their zoning regulations to reflect these new requirements within one year after adoption of the next Housing Element after January 1, 2008.

Reasonable Accommodation for Persons with Disabilities. State and federal fair housing law requires cities to make reasonable accommodations (i.e., modifications and exceptions) in their zoning laws and other land use practices when they may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. In reviewing Housing Elements, HCD confirms whether cities have adopted written procedures describing how requests for reasonable accommodation will be reviewed and approved. Such procedures are often codified in the Municipal Code, but may be established through administrative procedures.

Next Steps

Cities within the SCAG region are required to adopt a Housing Element update for the 2013-2021 planning period no later than February 12, 2014 in order to avoid being required to prepare subsequent Housing Elements on a 4-year cycle rather than the standard 8-year cycle. Following direction from the City Council, staff will submit a draft Housing Element to HCD for 60-day review. Planning Commission and City Council public hearings will subsequently be scheduled to consider adoption of the Housing Element.

Attached is the draft Housing Element update for review. Public hearings will be held in January and February of 2014. While there are several aspects of the update to address, it is imperative that the adoption deadline be met.

CEQA Review

Since no formal action is proposed at the study session, no CEQA findings are required. Appropriate CEQA review will be prepared prior to consideration of the draft Housing Element.

Notification

Notification for the Study Session was published in the Daily Breeze, the PV News, and on the City website. Notices were also posted at City Hall, the Malaga Cove Library, and the Palos Verdes Golf Club. Staff emailed the notice to and discussed the meeting with representatives of the Palos Verdes Homes Association. Staff emailed the notice to and met with representatives of the Malaga Cove Homeowners Association and the Lunada Bay Homeowners Association.

Recommendation from Staff

Staff recommends that the City Council open the study session, receive public input, close the study session, and provide direction to staff.

References & Attachments

California Governor's Office of Planning and Research, California Planning, Zoning and Development Laws, 2012

Attachment A -

California Attorney General, Adoption of a Reasonable Accommodation Procedure, May 15, 2001

Attachment B -

California Department of Housing and Community Development, Senate Bill 2 – Legislation Effective January 1, 2008: Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing, May 7, 2008

Attachment C -

DeBerry, David, Group Homes vs. the Neighborhood: Can They Get Along?, League of California Cities, 2009 Planners Institute, March 25-27, 2009

Attachment D -

Kautz, Barbara, Select California Laws Relating to Residential Recovery Facilities and Group Homes, State Bar of California, April 22, 2011

Attachment E – PVE Draft Housing Element 2013-2021; November 2013

Attachment F - Correspondence

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Division of Housing Policy Development

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
www.hcd.ca.gov
(916) 323-3176 FAX: (916) 327-2643



June 17, 2002

MEMORANDUM TO:

Planning Directors and Interested Parties

FROM:

Cathy E. Creswell
Cathy E. Creswell, Deputy Director
Division of Housing Policy Development

SUBJECT:

Housing Element Legislation Effective January 1, 2002

As you know, all localities are required to prepare and adopt a housing element as a part of their general plan. The housing element must include, among other things, identification and analysis of existing and projected housing needs, an identification of resources and constraints to address these needs and, goals, policies and scheduled programs for the maintenance improvement and development of housing for all economic segments of the community. For your information, Chapter 671, Statutes of 2001 (Senate Bill 520-Chesbro) effective on January 1, 2002, amended housing element law and Government Code Section 65008. As a result, State housing element law now requires localities to include the following in the preparation and adoption of a housing element:

1. As part of a governmental constraints analysis, an element must analyze potential and actual constraints upon the development, maintenance and improvement of housing for *persons with disabilities and demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for housing for persons with disabilities* (Section 65583(a)(4)).
2. As part of the required constraints program, the element must include programs that *remove constraints or provide reasonable accommodations for housing designed for persons with disabilities* (Section 65583(c)(3)).

All elements adopted after January 1, 2002 should comply with the requirements of Chapter 671. The Department is developing technical assistance materials to assist localities in the implementation of these new provisions.

The attached information is provided to inform localities and to assist in evaluating how these new provisions of law effect your communities. A copy of the legislation can be found on the Department's website at www.hcd.ca.gov. You may obtain copies of published bills from the 2001 session from the Legislative Bill Room at (916) 445-2323 or from the Senate's website at: www.senate.ca.gov. If you have any questions or would like additional information on housing element requirements, please contact Paul Mc Dougall, of our staff, at (916) 322-7995.

Attachments

Chapter 671, Statutes of 2001 (Senate Bill 520)

Section 1 of Chapter 671 of 2001 statutes (SB 520) imparts the following:

It is the intent of the legislature in enacting this act only to clarify existing state requirements and not to establish any new reimbursable state mandate.

In addition, Chapter 671 amends two areas of planning and land use law within the Government Code: Chapter 1 - General Provisions (Section 65008) and Chapter 3 – Local Planning (Article 10.6, starting with Section 65580), specifically, as follows, excluding minor clean-up amendments.

Government Code Section 65008 Excerpts (additions or changes in italics/underlined and deletions indicated by asterisks)

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) The race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, *familial status, disability*, or age of the *individual* or group of individuals. *For purposes of this section, both of the following definitions apply:*

(A) "Familial status" as defined in Section 12955.2.

(B) "Disability" as defined in Section 12955.3.

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of low, moderate, or middle income.

(b) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, *familial status, disability*, or age of the owners or intended occupants of the residential development or emergency shelter.

(c) Omitted – Chapter 671 did not have major changes to this subsection

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e).

Chapter 671, Statutes of 2001

(Senate Bill 520)

(2) No city, county, city and county, or other local governmental agency may, because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, familial status, disability, or age of the intended occupants, or because the development is intended for occupancy by persons and families of low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(e-g) – Omitted - Chapter 671 did not have major changes to these subsections

(h) The Legislature finds and declares that discriminatory practices that inhibit the development of housing for persons and families of low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

Government Code Section 65583, Excerpts from Housing Element Law (additions or changes in italics/underlined and deletions indicated by asterisks)

65583. The housing element shall 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. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1 - 3) Omitted – Chapter 671 did not have major changes to these subsections.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (4) of subdivision (a), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) Omitted – Chapter 671 did not have major changes to this subsection.

(6) An analysis of any special housing needs, such as those of the *** “handicapped” omitted*** elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

Chapter 671, Statutes of 2001

(Senate Bill 520)

(7 - 8) Omitted – Chapter 671 did not have major changes to these subsections.

(b) Omitted – Chapter 671 did not have major changes to this subsection.

(c) Omitted – Chapter 671 did not have major changes to this subsection.

(1-2) Omitted – Chapter 671 did not have major changes to this subsection.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Omitted – Chapter 671 did not have major changes to this subsection.

*(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, *** “or” omitted*** color, familial status, or disability.*

(6) Omitted – Chapter 671 did not have major changes to this subsection.

(d-e) Omitted – Chapter 671 did not have major changes to these subsections.

Chapter 671, Statutes of 2001 **(Senate Bill 520)**

IMPLEMENTATION ISSUES

The following is a list of potential issues in a question and answer format to assist localities in implementing the provisions of Chapter 671 (SB 520).

Question #1: What requirements does Chapter 671 add to the housing element process?

Answer: Prior to January 1, 2002 local governments were required to include an analysis of special housing needs in the housing element, including the needs of handicapped persons. SB 520 requires that in addition to the needs analysis for persons with disabilities, the housing element must analyze potential governmental constraints to the development, improvement and maintenance of housing for persons with disabilities and to include a program to remove constraints to, or provide reasonable accommodations for housing designed for occupancy by, or with supportive services for persons with disabilities.

Question #2: What does the law mean by "housing designed for occupancy by, or with supportive services for, persons with disabilities"?

Answer: The new law incorporates the definition of "disability" from the California Fair Employment and Housing Act, Government Code Section 12955.3. See the attached pertinent sections of the Government Code. Housing designed for occupancy by, or with supportive services for persons with disabilities includes a wide range of housing types. For example, housing that is physically accessible to people with mobility impairments, residential care facilities for individuals with disabilities or for the elderly, group homes, housing for individuals with Alzheimer's, housing for persons with AIDS/HIV, housing with support services and transitional housing that serve homeless with disabilities are within the meaning of "housing designed for occupancy by, or with supportive services for, persons with disabilities."

Question #3: Does Chapter 671 apply to jurisdictions that adopted elements prior to January 1, 2002?

Answer: No. The new law applies to any jurisdiction that adopts a housing element after January 1, 2002.

Chapter 671, Statutes of 2001

(Senate Bill 520)

Question #4: What does the law require of a jurisdiction, as part of its governmental constraints program?

Answer: The law requires local governments to remove constraints to housing for persons with disabilities or provide reasonable accommodation to housing for persons with disabilities. Among other things, provisions in a local government's zoning and land use ordinances which restrict or limit housing for persons with disabilities should be identified in the jurisdiction's analysis of potential and actual governmental constraints to housing for persons with disabilities. The Department will be developing a list of examples to assist jurisdictions in the implementation of this requirement. In the meantime, the California Attorney General issued a letter on May 15, 2001 to all mayors and the County Supervisors Association of California that could be useful in understanding "reasonable accommodation" in the zoning and land use context. A copy of this has been attached for your reference.

Question #5: Are there examples of "reasonable accommodation" ordinances that local governments have adopted in California recently?

Answer: While adopting a reasonable accommodation ordinance is not the only means of complying with the provisions of Chapter 671, the Attorney General's Letter cites examples of local ordinances, Long Beach and San Jose, and includes a reference to an organization that can provide more examples.

DEFINITION OF "DISABILITY" FROM THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, GOVERNMENT CODE SECTIONS 12955.3. AND 12926

12955.3. For purposes of this part, "disability" includes, but is not limited to, any physical or mental disability as defined in Section 12926.

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

DEFINITION OF "DISABILITY" FROM THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, GOVERNMENT CODE SECTIONS 12955.3. AND 12926

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

DEFINITION OF "DISABILITY" FROM THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, GOVERNMENT CODE SECTIONS 12955.3. AND 12926

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(l) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(o) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(p) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

DEFINITION OF "DISABILITY" FROM THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, GOVERNMENT CODE SECTIONS 12955.3. AND 12926

(q) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(r) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(s) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the workforce of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SB 520 Analysis Tool

The following list of questions has been developed to guide an analysis of constraints on the development, maintenance and improvement of housing for persons with disabilities. These questions are meant as a device for a locality to develop an analysis that is unique to its own set of circumstances. However, a thorough analysis should touch upon each of the three general categories (i.e., Zoning/Land Use, Permit and Processing Procedures and Building Codes). Also, entitlement jurisdictions should have conducted an analysis of impediments to fair housing for the purposes of receiving funds from Housing and Urban Development (HUD). This impediments analysis contains similar elements and may be a useful resource for a SB 520 constraints analysis.

If you have any questions, please contact Paul Mc Dougall at (916) 322-7995

Over-arching and General

- Does the locality have any processes for individuals with disabilities to make requests for reasonable accommodation with respect to zoning, permit processing, or building laws?
- Describe the process for requesting a reasonable accommodation.
- Has the locality made any efforts to remove constraints on housing for persons with disabilities, such as accommodating procedures for the approval of group homes, ADA retrofit efforts, an evaluation of the zoning code for ADA compliance or other measures that provide flexibility?
- Does the locality make information available about requesting a reasonable accommodation with respect to zoning, permit processing, or building laws?

Zoning and Land Use

- Has the locality reviewed all of its zoning laws, policies and practices for compliance with fair housing law?
- Are residential parking standards for persons with disabilities different from other parking standards? Does the locality have a policy or program for the reduction of parking requirements for special needs housing if a project proponent can demonstrate a reduced need for parking?
- Does the locality restrict the siting of group homes? How does this effect the development and cost of housing?
- What zones allow groups homes other than those residential zones covered by state law. Are group homes over six persons also allowed?
- Does the locality have occupancy standards in the zoning code that apply specifically to unrelated adults and not to families? Do the occupancy standards comply with Fair Housing Laws?
- Does the land-use element regulate the siting of special need housing in relationship to one another? Specifically, is there a minimum distance required between two (or more) special needs housing?

SB 520 Analysis Tool

Permits and Processing

- How does the locality process a request to retrofit homes for accessibility (i.e., ramp request)?
- Does the locality allow group homes with fewer than six persons by right in single-family zones? What permits, if any, are required?
- Does the locality have a set of particular conditions or use restrictions for group homes with greater than 6 persons? What are they? How do they effect the development of housing for persons with disabilities?
- What kind of community input does the locality allow for the approval of group homes? Is it different than from other types of residential development?
- Does the locality have particular conditions for group homes that will be providing services on-site? How may these conditions affect the development or conversion of residences to meet the needs of persons with disabilities?

Building Codes

- Has the locality adopted the Uniform Building Code? What year? Has the locality made amendments that might diminish the ability to accommodate persons with disabilities?
- Has the locality adopted any universal design elements in the building code?
- Does the locality provide reasonable accommodation for persons with disabilities in the enforcement of building codes and the issuance of building permits?

Tentative List of Organizational Resources

The Department is in the process of creating a list of organizations that can assist localities in the implementation of provisions under Chapter 671. The following list consists of a few organizations in the housing for persons with disabilities arena and represents a starting point for a list of organizational resources that will be added to in the future. In the meantime, the department was provided with a list of affiliates to the Mental Health Association in California (MHAC), MHAC roster by County and list of County Mental Health Directors (Courtesy of California Mental Health Directors Association). These lists are available upon request and will be incorporated into the comprehensive list once more complete information is gathered. If you have any suggestions for potential organizations to be added or would like the lists mentioned above, please contact Paul Mc Dougall at (916) 322-7995.

California Department of Rehabilitation

P.O. Box 944222
 2000 Evergreen Street
 Sacramento, CA 95815
 Phone: (916) 263-8981 (VOICE)
 (916) 263-7477 (TTY)
www.dor.ca.gov
 (Web page includes list of Independent Living Centers)

Protection & Advocacy, Inc.

Ms. Dara Schur
 433 Hegenberger Road, Suite 220
 Oakland, CA 94621
 Phone: (510) 430-8033
www.pai-ca.org

Law Office of Kim Savage

Post Office Box 41580
 Long Beach, California 90853
 Phone: (562) 930-1113

Law Office of David Grabill

1930 Alderbrook Lane
 Santa Rosa, CA 95405
 Phone: (707) 528-6839

Mental Health Association in California (MHAC)

1127 11th Street, Suite 830
 Sacramento, CA 95814
 Phone: (916) 557-1167

California Mental Health Directors Association (CMHDA)

2030 'J' Street
 Sacramento, CA 95814
 Phone: (916) 556-3477



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

May 15, 2001

RE: Adoption of A Reasonable Accommodation Procedure

Dear

Both the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") impose an affirmative duty on local governments to make reasonable accommodations (*i.e.*, modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." (42 U.S.C. § 3604(f)(3)(B); see also Gov. Code, §§ 12927(c)(1), 12955(l).)¹ Although this mandate has been in existence for some years now, it is our understanding that only two or three local jurisdictions in California provide a process specifically designed for people with disabilities and other eligible persons to utilize in making such requests. In my capacity as Attorney General of the State of California, I share responsibility for the enforcement of the FEHA's reasonable accommodations requirement with the Department of Fair Employment and Housing. Accordingly, I am writing to encourage your jurisdiction to adopt a procedure for handling such requests and to make its availability known within your community.²

¹ Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131-65) and section 504 of the Rehabilitation Act (29 U.S.C. § 794) have also been found to apply to zoning ordinances and to require local jurisdictions to make reasonable accommodations in their requirements in certain circumstances. (See *Bay Area Addiction Research v. City of Antioch* (9th Cir. 1999) 179 F.3d 725; see also 28 C.F.R. § 35.130(b)(7) (1997).)

² A similar appeal has been issued by the agencies responsible for enforcement of the FHA. (See Joint Statement of the Department of Justice and the Department of Housing and Urban Development, *Group Homes, Local Land Use and the Fair Housing Act* (Aug. 18, 1999), p. 4, at <<http://www.bazelon.org/cpfha/cpfha.html>> [as of February 27, 2001].)

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It is becoming increasingly important that a process be made available for handling such requests that operates promptly and efficiently. A report issued in 1999 by the California Independent Living Council makes it abundantly clear that the need for accessible and affordable housing for Californians with disabilities will increase significantly over the course of the present decade.³ The report's major findings include the following:

- Between 1999 and 2010, the number of Californians with some form of physical or psychological disability is expected to increase by at least 19 percent, from approximately 6.6 million to 7.8 million, and may rise as high as 11.2 million. The number with severe disabilities is expected to increase at approximately the same rate, from 3.1 million to 3.7 million, and may reach 6.3 million.⁴ Further, most of this increase will likely be concentrated in California's nine largest counties.⁵
- If the percentages of this population who live in community settings—that is, in private homes or apartments (roughly 66.4 percent) and group homes (approximately 10.8 percent)—is to be maintained, there will have to be a substantial expansion in the stock of suitable housing in the next decade. The projected growth of this population translates into a need to accommodate an additional 800,000 to 3.1 million people with disabilities in affordable and accessible private residences or apartments and an additional 100,000 to 500,000 in group homes.

I recognize that many jurisdictions currently handle requests by people with disabilities for relief from the strict terms of their zoning ordinances pursuant to existing variance or conditional use permit procedures. I also recognize that several courts called upon to address the matter have concluded that requiring people with disabilities to utilize existing, non-

³See Tootelian & Gaedeke, *The Impact of Housing Availability, Accessibility, and Affordability On People With Disabilities* (April 1999) at <<http://www.calsilc.org/housing.html>> [as of February 27, 2001].

⁴The lower projections are based on the assumption that the percentage of California residents with disabilities will remain constant over time, at approximately 19 percent (*i.e.*, one in every five) overall, with about 9.2 percent having severe disabilities. The higher figures, reflecting adjustments for the aging of the state's population and the higher proportion of the elderly who are disabled, assume that these percentages will increase to around 28 percent (*i.e.*, one in every four) overall, with 16 percent having severe disabilities. (*Ibid.*)

⁵These are: Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara. (*Ibid.*)

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discriminatory procedures such as these is not of itself a violation of the FHA.⁶ Several considerations counsel against exclusive reliance on these alternative procedures, however.

Chief among these is the increased risk of wrongfully denying a disabled applicant's request for relief and incurring the consequent liability for monetary damages, penalties, attorneys' fees, and costs which violations of the state and federal fair housing laws often entail.⁷ This risk exists because the criteria for determining whether to grant a variance or conditional use permit typically differ from those which govern the determination whether a requested accommodation is reasonable within the meaning of the fair housing laws.⁸

Thus, municipalities relying upon these alternative procedures have found themselves in the position of having refused to approve a project as a result of considerations which, while sufficient to justify the refusal under the criteria applicable to grant of a variance or conditional use permit, were insufficient to justify the denial when judged in light of the fair housing laws' reasonable accommodations mandate. (See, e.g., *Hovson's Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096 (township found to have violated the FHA's reasonable accommodation mandate in refusing to grant a conditional use permit to allow construction of a nursing home in a "Rural Residential-Adult Community Zone" despite the fact that the denial was sustained by the state courts under applicable zoning criteria); *Trovato v. City of Manchester, N.H.* (D.N.H. 1997) 992 F.Supp. 493 (city which denied disabled applicants permission to build a paved parking space in front of their home because of their failure to meet state law requirements for a variance found to have violated the FHA's reasonable accommodation mandate).

⁶See, *U.S. v. Village of Palatine, Ill.* (7th Cir. 1994) 37 F.3d 1230, 1234; *Oxford House, Inc. v. City of Virginia Beach* (E.D.Va. 1993) 825 F.Supp. 1251, 1262; see generally Annot. (1998) 148 A.L.R. Fed. 1, 115-121, and later cases (2000 pocket supp.) p. 4.)

⁷ See 42 U.S.C. § 3604(f)(3)(B); Gov. Code, §§ 12987(a), 12989.3(f).

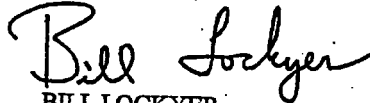
⁸ Under the FHA, an accommodation is deemed "reasonable" so long as it does not impose "undue financial and administrative burdens" on the municipality or require a "fundamental alteration in the nature" of its zoning scheme. (See, e.g., *City of Edmonds v. Washington State Bldg. Code Council* (9th Cir. 1994) 18 F.3d 802, 806; *Turning Point, Inc. v. City of Caldwell* (9th Cir. 1996) 74 F.3d 941; *Hovsons, Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096, 1104; *Smith & Lee Associates, Inc. v. City of Taylor, Michigan* (6th Cir. 1996) 102 F.3d 781, 795; *Erdman v. City of Fort Atkinson* (7th Cir. 1996) 84 F.3d 960; *Shapiro v. Cadman Towers, Inc.* (2d Cir. 1995) 51 F.3d 328, 334; see also Gov. Code, § 12955.6 [explicitly declaring that the FEHA's housing discrimination provisions shall be construed to afford people with disabilities, among others, no lesser rights or remedies than the FHA].)

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Further, and perhaps even more importantly, it may well be that reliance on these alternative procedures, with their different governing criteria, serves at least in some circumstances to encourage community opposition to projects involving desperately needed housing for the disabled. As you are well aware, opposition to such housing is often grounded on stereotypical assumptions about people with disabilities and apparently equally unfounded concerns about the impact of such homes on surrounding property values.⁹ Moreover, once triggered, it is difficult to quell. Yet this is the very type of opposition that, for example, the typical conditional use permit procedure, with its general health, safety, and welfare standard, would seem rather predictably to invite, whereas a procedure conducted pursuant to the more focused criteria applicable to the reasonable accommodation determination would not.

For these reasons, I urge your jurisdiction to amend your zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the fair housing laws. This task is not a burdensome one. Examples of reasonable accommodation ordinances are easily attainable from jurisdictions which have already taken this step¹⁰ and from various nonprofit groups which provide services to people with disabilities, among others.¹¹ It is, however, an important one. By taking this one, relatively simple step, you can help to ensure the inclusion in our communities of those among us who are disabled.

Sincerely,



BILL LOCKYER
Attorney General

⁹Numerous studies support the conclusion that such concerns about property values are misplaced. (See Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & fn. 50 (reporting that there are more than fifty such studies, all of which found no effect on property values, even for the homes immediately adjacent).) A compendium of these studies, many of which also document the lack of any foundation for other commonly expressed fears about housing for people with disabilities, is available. (See Council of Planning Librarians, *There Goes the Neighborhood . . . A Summary of Studies Addressing the Most Often Expressed Fears about the Effects Of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990).)

¹⁰ Within California, these include the cities of Long Beach and San Jose.

¹¹ Mental Health Advocacy Services, Inc., of Los Angeles for example, maintains a collection of reasonable accommodations ordinances, copies of which are available upon request.


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

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643

**MEMORANDUM**

DATE: May 7, 2008

TO: Planning Directors and Interested Parties

FROM: 
Cathy E. Creswell, Deputy Director
Division of Housing Policy Development

SUBJECT: **Senate Bill 2 -- Legislation Effective January 1, 2008:
*Local Planning and Approval for Emergency Shelters and
Transitional and Supportive Housing***

Chapter 633, Statutes of 2007 (SB 2) clarifies and strengthens housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. The law will facilitate efforts to address the critical needs of homeless populations and persons with special needs throughout all communities in California. Generally, SB 2 amends housing element law regarding planning and approval for emergency shelters and transitional and supportive housing as follows:

Planning (Government Code Section 65583)

- At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one year-round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion to emergency shelters.
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provision of onsite management, length of stay and security.
- Includes flexibility for jurisdictions to meet zoning requirements with existing ordinances or demonstrate the need for emergency shelters can be accommodated in existing shelters or through a multi-jurisdictional agreement.

Chapter 633, Statutes of 2007 (SB 2)**Page 2**

- Transitional and supportive housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.

Local Approval (Government Code Section 65589.5: Housing Accountability Act)

- Limits denial of emergency shelters, transitional housing or supportive housing by requiring specific findings.
- Some findings shall not be utilized if new planning requirements of SB 2 are not met; such as identifying a zone without a conditional use permit,

Attached is a briefing paper informing local governments of SB 2, providing assistance in evaluating these new provisions to effectively implement this important new State law; in addition to a copy of the legislation. Electronic copies of these can be found on the Department's website at www.hcd.ca.gov or the Senate's website at www.senate.ca.gov. You may also obtain copies of published bills from the Legislative Bill Room by calling (916) 445-2323. If you have any questions, or seek additional technical assistance, please contact Paul McDougall, HPD Manager, at (916) 445-4728.

Attachments

Chapter 633, Statutes of 2007 (Senate Bill 2)

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Introduction

Homeless Needs

Homelessness in California is a continuing and growing crisis. On any given day, there are at least 361,000 homeless individuals in California – or 1.1 percent of the State's total population. Of this number, two-thirds are estimated to be single adults, while the other third are families. Some 30 percent of California's homeless – 108,000 – are so-called "chronic" homeless who have been homeless for six months or more. This population tends to be comprised of single adults who face such obstacles as mental illness, substance abuse problems and chronic physical health problems or disabilities that prevent them from working. Homeless individuals and families are without permanent housing largely because of a lack of affordable housing, often compounded by limited education or skills, mental illness and substance abuse issues, domestic violence and the lack of family or other support networks.¹

California's homelessness crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness. Passage of SB 2 strengthened the law to increase its effectiveness in addressing the needs of California's homeless population. The upcoming housing element update presents an important opportunity to make ending homelessness a critical priority.

Purpose and Objectives of SB 2

The framework of SB 2 resulted from a collaborative effort by key stakeholders including housing and homeless advocates and providers, local governments, planners, and the building industry. SB 2 strengthens existing housing element requirements to provide the opportunity for the development of emergency shelters and transitional and supportive housing. SB 2 ensures zoning, development and management standards and permit procedures encourage emergency shelters while allowing flexibility for existing local strategies and cooperative efforts.

SB 2 focuses on the impacts of zoning requirements on the development of emergency shelters. While the new statute requires that every local government zone for the development of emergency shelters, it does not restrict how local governments allocate resources to address local priority needs. For example, nothing in SB 2 prohibits communities from also adopting a "Housing First" strategy to provide homeless persons with housing immediately and then providing services as needed.

¹ *Governor's Interagency Task Force on Homelessness, Progress Report and Work Plan for 2003.* Health and Human Services Agency and Business, Transportation and Housing Agency, December 2002

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

Current law, Government Code Section 65583(a)(7), requires an identification and analysis of the needs of homeless persons and families. The analysis is an essential component of an effective housing element; however data sources can be limited and vary in estimates of need. As a result, an analysis should consider a variety of data sources and include proactive outreach with service providers to examine the degree and characteristics of homeless needs in the community and surrounding communities. A thorough analysis includes:

- An estimate or count of the daily average number of persons lacking shelter. Wherever possible, and to better describe the characteristics of needs, this figure could be divided into single males, single females and families (one or more adults with children) as the needs of each subgroup differ significantly.
- As local data or other existing sources permit (see list below), a description of the percentage of the homeless population who are mentally ill, developmentally disabled, veterans, runaway or emancipated foster youth, substance abusers, survivors of domestic violence, and other subpopulations of homeless considered significant by the jurisdiction.
- An inventory of the resources available within the community including shelters, transitional housing and supportive housing units by type. The analysis should estimate the number and type of existing shelter beds, and units of transitional and supportive housing available.
- Assess the degree of unmet homeless needs, including the extent of need for emergency shelters. As part of this analysis, SB 2 now clarifies the need assessment for emergency shelters must consider seasonal and year-round need. In recognition of local efforts to encourage supportive housing, SB 2 allows jurisdictions with 10 Year Plans to End Chronic Homelessness to reduce the need for emergency shelters by the number of supportive housing units identified in an adopted 10-year plan and that are either vacant or funding has been identified to allow construction in the housing element planning period.

Resources to identify and analyze homeless needs, include:

- Consolidated plans
- Continuum of care plans
- 10 Year Plans to End Chronic Homelessness
- Interagency Council on Homelessness, Guide to Developing Plans and Examples (<http://www.ich.gov/slocal/index.html>)

- Local service providers such as continuum of care providers, local homeless shelter and service providers, food programs, operators of transitional housing programs, local drug and alcohol program service providers, county mental health and social service departments, local Salvation Army, Goodwill Industries, churches and schools, and
- 15 countywide Designated Local Boards certified by the Department's Emergency Housing and Assistance Program (<http://www.hcd.ca.gov/fa/ehap/cntys-with-dlb.html>).

Identifying Zoning for Emergency Shelters

Prior to enactment of SB 2, housing element law required local governments to identify zoning to encourage and facilitate the development of emergency shelters. SB 2 strengthened these requirements. Most prominently, housing element law now requires the identification of a zone(s) where emergency shelters are permitted without a conditional use permit or other discretionary action. To address this requirement, a local government may amend an existing zoning district, establish a new zoning district or establish an overlay zone for existing zoning districts. For example, some communities may amend one or more existing commercial zoning districts to allow emergency shelters without discretionary approval. The zone(s) must provide sufficient opportunities for new emergency shelters in the planning period to meet the need identified in the analysis and must in any case accommodate at least one year-round emergency shelter (see more detailed discussion below).



Cloverfield Services Center – Emergency Shelter by OPCC in Santa Monica, CA
Photo courtesy of OPCC in Santa Monica

When identifying a zone or analyzing an existing zone for emergency shelters, the element should address the compatibility and suitability of the zone. The element should consider what other uses are permitted in the zone and whether the zone is suitable for residential or emergency shelters. For example, an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for residential or shelter uses. In some localities, manufacturing or industrial zones may be in transition, where older industrial uses are redeveloping to residential, office or commercial. Transitioning zones may be compatible

with residential uses and suitable for emergency shelters. Also, a commercial zone allowing residential or residential compatible services (i.e., social services, offices) would be suitable for shelters. For example, Sacramento County permits emergency shelters in its commercial zone along with other residential uses and uses such as retail that are compatible with residential.

SB 2 clarifies existing law by requiring zoning identified for emergency shelters to include sufficient capacity to accommodate the need. The identified zone(s) must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element, and have a realistic potential for development or reuse opportunities in the planning period. Further, capacity for emergency shelters must be suitable and available and account for physical features (flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services). The element should also address available acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. For example, if a jurisdiction identifies the public institution zoning district as the zone where emergency shelters will be allowed without a conditional use permit, the element should demonstrate sufficient acreage within the zoning district that could accommodate the actual development of an emergency shelter. The element could also discuss the potential for reuse or conversion of existing buildings to emergency shelters.

SB 2 ensures that each local government shares the responsibility to provide opportunities for the development of emergency shelters. Regardless of the extent of need identified in the element, local governments must provide zoning to allow at least one year round emergency shelter, unless the need for emergency shelters is accommodated through existing shelters or a multi-jurisdictional agreement (see discussion below). This is especially important given the fact that the homeless population is not always visible in the community; is sometimes transitory; data resources are frequently inadequate and the availability and adequacy of services and programs vary significantly by community and can impact the homeless count.

If a local government's existing zoning does not allow emergency shelters without a conditional use permit or other discretionary action, the housing element must include a program to identify a specific zone(s) and amend the zoning code within one year of adoption of the housing element (65583(a)(4)). The only exceptions permitted to the non-discretionary zoning requirement are where a jurisdiction demonstrates their homeless needs can be accommodated in existing shelters; or where the jurisdiction meets all of its need through a multi-jurisdictional agreement (discussed in later sections).

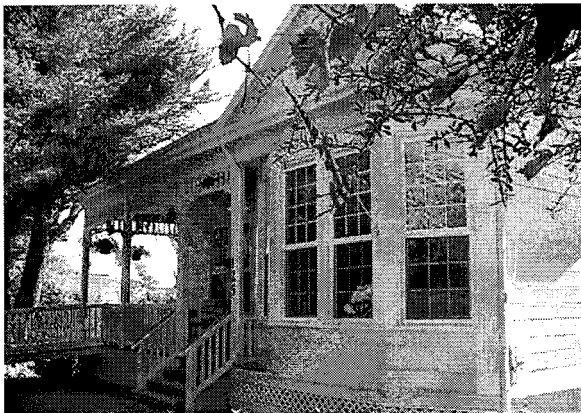
Where a local government has identified a zone and sufficient capacity to encourage emergency shelters consistent with the provisions of SB 2, a local government may also identify additional zones for the development of emergency shelters that require a conditional use permit.

Permitting Emergency Shelters without Discretionary Action

To comply with SB 2, localities must have or adopt a zoning classification that permits emergency shelters in a non-discretionary manner (localities may however apply development standards pursuant to Section 65583(a)(4)). In such zones, permitted uses, development standards and permit procedures must include:

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. However, local governments may apply non-discretionary design review standards.



Emergency Shelter – Jackson, California
Photo courtesy of Amador-Tuolumne Community Action

A local government should not require public notice of its consideration of emergency shelter proposals unless it provides public notice of other non-discretionary actions. For example, if a local government permits new construction of a single-family residence without discretionary action and public notice is not given for these applications, then a local government should employ the same procedures for emergency shelter applications. The appropriate point for public comment and discretionary action is when zoning is being amended or adopted for emergency shelters, not on a project-by-project basis.

Development Standards to Encourage and Facilitate Emergency Shelters

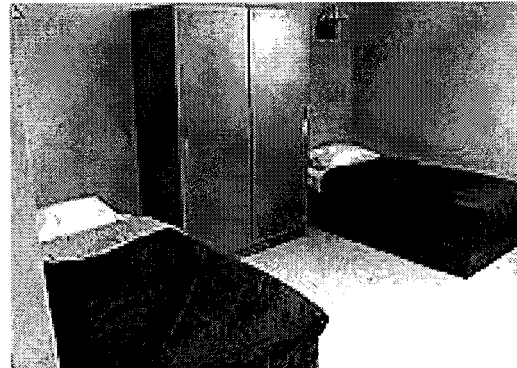
SB 2 requires that emergency shelters only be subject to those development and management standards that apply to residential or commercial use within the same zone, except the local government may apply certain objective standards discussed on the next page (Government Code Section 65583(a)(4)). For example, a light commercial zone might permit a range of wholesaler, service repair and business services subject to buildable area and lot area requirements. In this case, the emergency shelter may be subject only to the same buildable area and lot area requirements. The same zone might permit residential uses subject to certain development standard (i.e., lot area, heights, and setbacks) requirements. In this case, emergency shelters should only be subject to the same development standards.

To demonstrate that processing procedures and standards are objective and encourage and facilitate development of emergency shelters, the housing element must address how:

- zoning explicitly allows the use (meaning the use is specifically described in the zoning code);
- development standards and permit procedures do not render the use infeasible;
- zoning, development and management standards, permit procedures and other applicable land-use regulations promote the use through objective; and predictable standards.

SB 2 allows flexibility for local governments to apply written, objective development and management standards for emergency shelters as described in statute and below.

- The maximum number of beds or persons permitted to be served nightly by the facility.
- Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- The size and location of exterior and interior on-site waiting and client intake areas.
- The provision of on-site management.
- The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.
- The length of stay.
- Lighting.
- Security during hours that the emergency shelter is in operation.



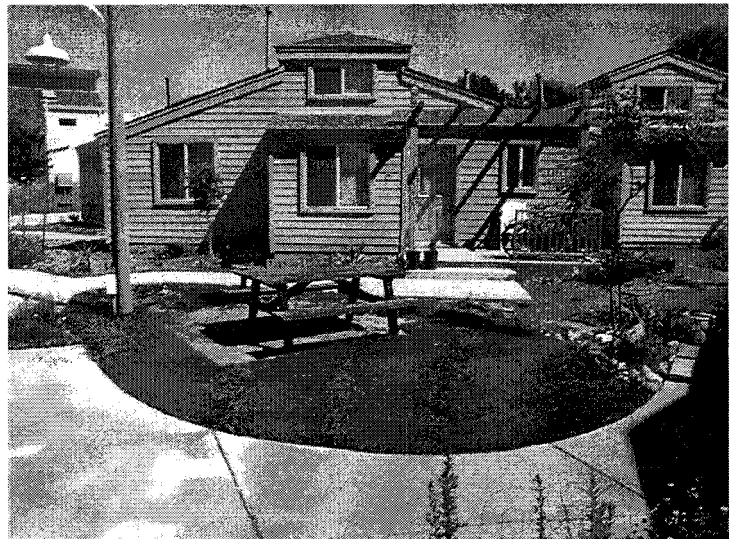
These standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. For example, a standard establishing the maximum number of beds should act to encourage the development of an emergency shelter; local governments should establish flexible ranges for hours of operation; length of stay provision should be consistent with financing programs or statutory definitions limiting occupancy to six months (Health and Safety Code Section 50801) and should not unduly impair shelter operations. Appropriate management standards are reasonable and limited to ensure the operation and maintenance of the property.

Encouraging Multi-Jurisdictional Cooperation and Coordination

SB 2 recognizes and encourages multi-jurisdictional coordination by allowing local governments to satisfy all or part of their obligation to zone for emergency shelters by adopting and implementing a multi-jurisdictional agreement, with a maximum of two adjacent communities. The agreement must commit the participating jurisdictions to develop at least one year-round shelter within two years of the beginning of the housing element planning period. For example, jurisdictions in Southern California Association of Governments (SCAG) region with a statutory due date of June 30, 2008 would need to ensure the development of shelter(s) by June 30, 2010. To utilize this provision, local governments must adopt an agreement that allocates a portion of the new shelter capacity to each jurisdiction as credit towards the jurisdiction's emergency shelter need. The housing element for each participating local government must describe how the capacity was allocated. In addition, the housing element of each participating jurisdiction must describe:

- How the joint facility will address the local governments need for emergency shelters.
- The local government's contribution for both the development and ongoing operation and management of the shelter.
- The amount and source of the funding to be contributed to the shelter.
- How the aggregate capacity claimed by all of the participating jurisdictions does not exceed the actual capacity of the shelter facility.

If the local government can demonstrate that the multi-jurisdictional agreement can accommodate the jurisdiction's need for emergency shelter, the jurisdiction is authorized to comply with the zoning requirements for emergency shelters by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.



Quinn Cottages, Transitional Housing in Sacramento, CA
Photo courtesy of Cottage Housing, Inc.

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with requirements of SB 2, no further action will be required to identify zones available for emergency shelters. The housing element must however, describe how the existing ordinance, policies and standards are consistent with the requirements of SB 2.



Hendley Circle Apartments – Supportive SRO Housing in Burbank
Photo courtesy of Burbank Housing

Existing Shelters That Accommodate the Need for Emergency Shelters

Local governments that can demonstrate, to the satisfaction of the Department, the existence of one or more emergency shelters either within the jurisdiction or pursuant to a multi-jurisdictional agreement that can accommodate the need for emergency shelters identified in the housing element may comply with the zoning requirements of SB 2 by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit. To demonstrate homeless needs can be accommodated in existing shelters, an element must at minimum list existing shelters including the total number of beds and the number vacant. The analysis should support and document the estimate of vacant beds and must consider seasonal fluctuations in the need for emergency shelters.

Transitional and Supportive Housing

Transitional housing is defined in Section 50675.2 of the Health & Safety Code as rental housing for stays of at least six months but where the units are re-circulated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take several forms, including group housing or multifamily units, and may include supportive services to allow

individuals to gain necessary life skills in support of independent living. *Supportive housing* as defined at Section 50675.14 of the Health & Safety Code has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in Health & Safety Code Section 53260 (i.e., low income persons with mental disabilities, AIDS, substance abuse or chronic health conditions or persons whose disabilities originated before the person turned 18). Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

SB 2 provides that transitional and supportive housing constitute a residential use. SB 2 requires zoning to treat transitional and supportive housing as a proposed residential use and subject only to those restrictions that apply to other residential uses of the same type in the same zone. For example, if the transitional housing is a multifamily use proposed in a multifamily zone, then zoning should treat the transitional housing the same as other multifamily uses proposed in the zone.

If jurisdictions do not explicitly permit transitional and supportive housing as previously described, the element must include a program to ensure zoning treats transitional and supportive housing as a residential use, subject only to those restrictions on residential uses contained in the same type of structure.

Housing Element Policies and Programs

Effective programs reflect the results of the local housing need analyses, identification of available resources, including land and financing, and the mitigation of identified governmental and nongovernmental constraints. Programs consist of specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, and describe the jurisdiction's specific role in implementation.



Gish Apartments – Supportive Housing, San Jose, CA
Photo courtesy of First Community Housing and Bernard Andre

Where a jurisdiction does not provide an analysis demonstrating compliance with the provisions of SB 2 through existing zoning, the element must have a program(s) to address the results of that analysis. For example, if the element does not identify an existing zone to permit emergency shelters without a conditional use permit or other discretionary action, the element must include a program to establish the appropriate zoning, unless the jurisdiction has satisfied its needs through existing emergency shelters or a multi-jurisdictional

agreement. If development and management standards do not encourage and facilitate emergency shelters or zoning does not treat transitional and supportive housing as a residential use, the element must include a program(s) to amend existing zoning or processing requirements to comply with SB 2.

Programs to address the requirements of SB 2 for emergency shelters must be implemented within one year of adoption of the housing element. Programs to address requirements for transitional and supportive housing should be implemented early in the planning period. Further, since the program for emergency shelters must be implemented within one year of adoption, the housing element should provide analysis to support and assure effective implementation of the program. For example, the analysis should examine the suitability of zones to be included in the program and whether sufficient and suitable capacity is available. The same type of analysis could evaluate development and management standards that will be considered as part of establishing or amending zoning. This analysis should demonstrate the necessary commitment to ensure zoning, permit procedures and development standards encourage and facilitate emergency shelters.

Timing: When SB 2 Applies

In accordance with Government Code Section 65583(e), any draft housing element submitted to the Department after March 31, 2008 will be required to comply with SB 2.

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

To promote predictability for the development of housing affordable to lower- and moderate-income households, the Housing Accountability Act (Government Code Section 65589.5) prohibits a jurisdiction from disapproving a housing development project, including housing for farmworkers and for very low-, low-, or moderate-income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low-, low-, or moderate-income households, including through the use of design review standards, unless it makes at least one of five specific written findings based on substantial evidence in the record (Government Code Section 65589.5).

SB 2 adds emergency shelters to the list of uses protected under the Housing Accountability Act. In addition, SB 2 clarifies that the definition of a housing development project includes transitional or supportive housing (see Attachment 1: SB 2 - changes are underlined).

Zoning Inconsistency

Pursuant to the Housing Accountability Act, a local government is prohibited from making the finding regarding zoning and general plan inconsistency (Section 65589.5(d)(5)) to disapprove a development if the jurisdiction identified the site in its general plan (e.g., housing or land-use element) as appropriate for residential use at the density proposed or failed to identify adequate sites to accommodate its share of the regional housing need for all income groups. In addition to extending these provisions to emergency shelters and transitional housing, SB 2 prohibits the use of the zoning and general plan inconsistency finding to disapprove an emergency shelter if the jurisdictions have:

- not identified a zone(s) where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit,
- not demonstrated the identified zone(s) include sufficient capacity to accommodate the need for emergency shelter, or
- not demonstrated the identified zone(s) can accommodate at least one emergency shelter.

This provision applies to any site identified in any element of the general plan for industrial, commercial, or multifamily residential uses. In any court action, the burden of proof is on the local jurisdiction to demonstrate its housing element satisfies the above requirements of SB 2.

Attachment 1

Statutory Changes to Housing Element Law (*underline version*)

Attachment 1**Changes to State Housing Element Law****Chapter 633, Statutes of 2007 (SB 2)***(changes indicated in strikeouts and underlines)*

65582. As used in this article, the following definitions apply:

- (a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.
- (b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.
- (c) "Department" means the Department of Housing and Community Development.
- (d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.
- (e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.
- (f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.
- (g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

65583. The housing element shall 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. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, ~~and mobilehomes, and emergency shelters,~~ and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

- (a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
 - (1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
 - (2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also 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. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

- (i) The maximum number of beds or persons permitted to be served nightly by the facility.
- (ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- (iii) The size and location of exterior and interior onsite waiting and client intake areas.
- (iv) The provision of onsite management.
- (v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
- (vi) The length of stay.
- (vii) Lighting.
- (viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in

the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph Transitional housing and supportive housing shall be ~~(5) considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.~~

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

~~(67)~~ An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be ~~(7) assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.~~

(8) An analysis of opportunities for energy conservation with respect to residential development.

~~(89)~~ 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. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, 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. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

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

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

- (2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.
- (3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.
- (4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.
- (5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.
- (6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (89) of subdivision (a).
- 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 paragraph (89) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.
- (7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
- (d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.
- (2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.
- (3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:
- (A) How the joint facility will meet the jurisdiction's emergency shelter need.
- (B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.
- (C) The amount and source of the funding that the jurisdiction contributes to the facility.
- (4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.
- (e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:
- (1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when a city, county, or city and county submits a first draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

Housing Accountability Act

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California. (2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and Environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate- income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional

housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

~~(e) This section does not relieve the local agency (C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.~~

~~(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). This~~ Neither shall anything in this section also ~~does not be construed to relieve the local agency local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(f) This~~ (1) Nothing in this section ~~does not~~ shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. This. (2) Nothing in this section ~~does not~~ shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of ~~either~~ any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of

preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

Attachment 2

Definitions

Attachment 2

Definitions

Emergency Shelters (Health and Safety Code Section 50801(e))

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Transitional Housing (Health and Safety Code Section 50675.2)(h)

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Supportive Housing (Health and Safety Code 50675.14(b))

Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Target Population Definition per HSC 53260(d)

(d) "Target population" means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

Attachment 3

Helpful Links

Attachment 3

Helpful Links

National Alliance to End Homelessness

<http://www.endhomelessness.org/section/tools/tenyearplan>

Interagency Council on Homelessness

<http://www.ich.gov/>

Interagency Council on Homelessness, Guide to Developing Plans and Examples

<http://www.ich.gov/slocal/index.html>

U.S. Department of Health and Human Services, Homelessness Resource Center

[http://www.nrchmi.samhsa.gov/\(X\(1\)S\(axpyp555dhn54z45qhpqgvnj4\)\)/Default.aspx?AspxAutoDetectCookieSupport=1](http://www.nrchmi.samhsa.gov/(X(1)S(axpyp555dhn54z45qhpqgvnj4))/Default.aspx?AspxAutoDetectCookieSupport=1)

The National Coalition for the Homeless – Local Resources in California

<http://www.nationalhomeless.org/resources/local/california.html>

HCD Selected Bibliography on Homeless Issues

<http://www.hcd.ca.gov/hpd/biblio.html>

Building Blocks for Effective Housing Elements

(links to funding resources, data, policy and research on homelessness)

http://www.hcd.ca.gov/hpd/housing_element/index.html

David De Berry
City Attorney of Orange
714-744-5580
ddeberry@cityoforange.org

**GROUP HOMES VS. THE NEIGHBORHOOD
CAN THEY GET ALONG?**

League of California Cities
2009 Planners Institute
Marriot Anaheim
March 25-27, 2009

I. General Authority to Regulate Group Homes.

A. State-Licensed Group Homes

State law requires cities to treat most state-licensed group homes as a single-family use, including, but not limited to: (1) care facilities for the developmentally disabled; (2) community care facilities; (3) care facilities for the elderly; (4) alcoholism and drug abuse facilities; (5) pediatric day health and respite care facilities; and (6) foster homes. In general a city can only apply its generally applicable zoning regulations to such uses.

State law provides that cities can veto the locating of specified facilities within 300 feet of each other, with some notable exceptions, such as alcohol and drug abuse facilities and residential care facilities for the elderly, which have no distance requirements. The lack of distance requirements for alcohol and drug abuse facilities has resulted in high concentrations of these facilities in some cities.

B. Unlicensed Group Homes

Article XI, Section 7, of the California Constitution confers police powers upon cities to “make and enforce within [their] limits all local police, sanitary and other ordinances and regulations not in conflict with general laws.” As noted by Justice William O. Douglas in *Berman v. Parker*, a 1945 United States Supreme Court decision: “The concept of the public welfare is broad and inclusive.... It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.” Justice Douglas’ statement has been recognized by the California Supreme Court “as a correct description of the authority of a state or city to enact legislation under the police power.” *Metromedia, Inc., v. City of San Diego* (1980).

II. Limits on Regulations

A. California Constitution’s Right to Privacy

As stated by the California Supreme Court, the right to privacy includes “the right to live with whomever one wishes or at least, to live in an alternative family with persons not related by blood, marriage or adoption.” *Adamson v. City of Santa Barbara*.

B. Uniform Housing Code (“UHC”) Preemption

In a 1992 case, *Briseno v. City of Santa Ana*, it was held that the UHC occupied the field as far as establishing numerical limitations on persons in a dwelling.

C. Fair Housing Amendments Act of 1988 (“FHAA”) and Fair Employment and Housing Act (“FEHA”)

Prohibits discrimination in housing against specified protected classes, including persons with handicaps. Recovering drug and/or alcohol addicts are considered persons with a handicap, provided they are not currently illegally using or abusing drugs or alcohol. The law requires cities to make reasonable accommodations in rules, policies, practices or services when necessary to afford disabled persons with an equal opportunity to enjoy a dwelling. This may mean that a city might have to allow a boarding house use for a disabled group home which might otherwise be precluded.

Discrimination can be in the form of either disparate treatment, i.e., treatment of the disabled that is different than the non-disabled, or disparate impact, i.e., the disabled and non-disabled are treated the same, but such equal treatment more negatively impacts the disabled. An example of disparate impact is a sidewalk. The sidewalk is the same for disabled and non-disabled alike, but without a wheelchair ramp, a person in a wheelchair is unable to cross the street from one sidewalk to another.

III. 3 Musts for Regulation of Unlicensed Group Homes

A. A Valid Definition of Family or Single-Family Dwelling.

The definition must focus on the use of the dwelling and not the users. Definitions which define families solely in terms of blood relation, marriage or adoption will not survive. The City’s definition for family is as follows:

One of more persons related by blood or legal status or persons not so related who are functioning as a family or single-housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities, membership in the family is fairly stable as opposed to transient and members have

some control over who becomes a member of the family¹.

B. A Valid Boarding House Definition.

A boarding house should be defined, at last in part, on the basis of the number of rental agreements per dwelling. The City's definition of a boarding house is as follows:

A residence or dwelling, other than a hotel, wherein three or more rooms are rented under three or more separate written or oral rental agreements, leases or subleases or combination thereof, whether or not the owner, agent or rental manager resides within the residence.

In turn, the City's zoning scheme prohibits boarding houses in R-1 and R-2 zones, while permitting them in multi-family zones with a conditional use permit.

C. A Process for Relief from the Strict Application of the Zoning Ordinance in the Form of a Reasonable Accommodation.

This can be done through a variance process or a conditional use permit process, but it would be best to create a process specific for a request for reasonable accommodation. A city can choose to "build in" a reasonable accommodation or require all unlicensed group homes to obtain a permit.

The City of Orange has a built in reasonable accommodation. Under the City's zoning scheme an unlicensed group home that is serving six or fewer disabled tenants gets the same zoning preference granted to state-licensed group homes, i.e., it is treated as a single-family use. Thus, a sober living facility with six or fewer tenants, not including a house manager, may locate in a single-family dwelling as a matter of right, notwithstanding the fact that it would otherwise be considered a boarding house and not permitted. A sober living facility desiring to house more than six tenants must seek a variance². The City is in the process of

¹ A 2003 Attorney General opinion and also an unpublished 2003 California Appellate Court decision, *Ferris v. City of San Jose* (2003) 2003 WL 257949 that upheld a San Jose ordinance defining family provides some authority that a City ordinance defining family as a single housekeeping unit that functions more like a traditional family unit will survive a judicial challenge. Two published cases, *Adamson v. Santa Barbara* (1980) 27 Cal.3d 123 and , *College Area Renters Landlord Association v. City of San Diego* (1996)

² The variance procedure has received specific approval in at least two cases, *Oxford House v. City of St. Louis*, 77 F.3d 249 (1996), in which St. Louis had a zoning scheme similar to Orange's and *United States v. Village of Palatine*, 37 F.3d 1230 (1994), special use permit required.

drafting specific regulations which: (1) will continue to allow unlicensed group homes serving six or fewer to locate in a single-family residences as a matter of right, but will require a permit and compliance with specified regulations; and (2) set forth a specific process for persons seeking a reasonable accommodation in the provision of housing.

Whatever the procedure used, the standard for determining whether a reasonable accommodation should or should not be granted is threefold:

- That the request is being made by or on behalf of a person who is considered disabled as defined by state and federal law. Persons who are drug and/or alcohol addicts and not current users are considered disabled.
- That the accommodation is reasonably necessary to afford the disabled an opportunity to use and enjoy a dwelling.
- A reasonable accommodation does not have to be granted if it would create a fundamental alteration in the City's zoning scheme.

IV. A Sober Living Facility Case Study

A. Brief Facts

The City received numerous complaints concerning a home about excessive noise, large numbers of tenants, excessive cars, second hand smoke, etc. Upon inspection of the 5-bedroom, 2,740 square foot home, it was determined that it was being used as a sober living facility. Several building code violations were found. The den/family room had been remodeled into a bedroom. Of the 18 beds that were found, 9 were in the remodeled den/family room alone. There was a pay phone, a coin-operated washer and dryer and four refrigerators. The City filed a misdemeanor complaint, but suspended prosecution after the operator reduced the number to 12 and sought a reasonable accommodation using the variance procedure.

B. Tactics Utilized by the Sober Living Facility.

1. The FHA and FEHA prohibit cities from regulating us at all.

Not true. The sober living facility has the burden of proof to show that they are treating the disabled and that an accommodation is reasonably necessary.

2. Ignoring requests for information related to the facility's operation.

The City's request for information relating to the average tenant's length of stay, the total monthly revenue, the total monthly expenses or documentation that the tenants are in fact disabled have largely been ignored.

3. Filing of a discrimination complaint with FEHA.

FEHA and/or the Department of Justice will ask for extensive documentation relating to your city's zoning scheme, enforcement actions you have taken against non-disabled users under your boarding house of family ordinances, other requests for accommodation which have been granted or denied, all correspondence and reports relating to the subject property, etc.

C. Contentions Made as to Why the Variance, Reasonable Accommodation Must be Granted.

1. We are a family.

While a sober living facility has some indicia of being a family in that the tenants generally do provide support for each other, the tenancy is typically transient, there is no sharing of expenses, the tenants have little to no control over who becomes a tenant, and the tenants typically have no established ties. Some tenants may stay in a sober living facility for a couple of years, but it appears that most do not, as some are referred there in lieu of incarceration and/or as a condition of probation. Most programs are 90 days and many facilities charge rents on a weekly basis.

2. We are losing money and need more tenants.

This is difficult to assess unless supporting documentation is provided. However, there is information you can obtain from the facility's web site as to the rental charges. You can also obtain information regarding any loans on the property and make a reasonable estimate as to the monthly mortgage and property taxes. Your finance department may have information relating to water bills and other monthly charges. You can obtain information relating to market rate rents in the area and make a comparison.

3. Our impacts are no different than a large family.

You can access information from the census bureau to address this contention. It will provide some detail on the number of homes in your city that house seven or more people, the number of adults typically housed, etc. Sober living facilities have the potential of housing a large number of individuals who are all adults and can drive. In one instance, neighbors counted nine cars associated with the sober living facility. Also, as noted above, it is a transient population.

V. Tools for Successfully Defending a Claim of Discrimination.

A. An Ordinance Scheme that is Not Discriminatory on Its Face or In Effect.

See above discussion concerning appropriate definitions of family and boarding house.

B. Affording an Opportunity to Request a Reasonable Accommodation.

If you don't have a specific process, the variance procedure should work, although the necessary findings for the variance need to be modified to comport with the findings for a reasonable accommodation.

C. Making a Good Record.

See IV.C above. Although the sober living facility has the initial burden of making the case for a reasonable accommodation, courts in general may set a fairly low threshold for meeting this burden. Thus, it will be imperative that you obtain information that is relevant to whether or not the sober living facility acts as a single-family unit, the expenses of the operation, the revenue being generated, the impacts, the size and makeup of the household in relationship to size and makeup of typical family households, and whether or not the individuals being served actually are recovering addicts. You may want to enlist an expert in addiction to assist.

D. Staying on point and recognizing the benefits of such facilities.

All studies suggest that persons who are enrolled in alcohol and drug rehabilitation programs have a significantly better chance of recovery than those that don't. The relative benefits of sober living facilities and whether or not a recovering addict should be considered disabled are largely irrelevant. Also, it is

generally beyond argument that some type of group support is also important for recovery. What is relevant is whether or not the sober living facility is in fact serving the disabled and why relief from the City's zoning code is reasonably necessary. Public speakers, staff and members of the various zoning boards and city councils must stay on point. Generalized comments about addicts, disagreement with laws governing the disabled, etc., will only serve to create a poor record and tend to give a reviewing court concerns that the decision was discriminatory-based, notwithstanding what may otherwise be stated in the findings supporting the decision.

E. Making Adequate Findings

As with any land use decision, the right findings, generally memorialized in a resolution, are key. The findings must be supported by the evidence in the administrative record. A court is not going to blindly accept findings for which there is no evidentiary support.

Select California Laws Relating to Residential Recovery Facilities and Group Homes

State Bar of California
Real Property Law Section
Fair Housing and Public Accommodations Section

Third Annual Fair Housing and Public Accommodations Symposium
Golden Gate University
April 22, 2011

Presented by:

Barbara Kautz
Goldfarb & Lipman LLP
1300 Clay Street, Ninth Floor
Oakland, CA 94612
510 836-6336
bkautz@goldfarblipman.com

I. Introduction

This paper summarizes California statutes and case law regarding planning and zoning requirements applicable to group homes and supportive housing that impose limitations on local governments beyond those imposed by the federal Fair Housing Act and state Fair Employment and Housing Act. The paper first reviews state statutes that protect certain *licensed* group homes and describes provisions of State Planning and Zoning Law that are applicable more generally to both licensed and unlicensed homes. It then explains California case law relating to the right of privacy, which prevents local governments from discriminating between households containing related persons and those comprised of unrelated individuals. It concludes by discussing local regulations that appear to be permissible under State law and fair housing law.

II. Statutes Protecting Licensed Facilities

A complex set of statutes requires that cities and counties treat small, licensed group homes like single-family homes. Inpatient and outpatient psychiatric facilities, including residential facilities for the mentally ill, must also be allowed in certain zoning districts.

A. California Licensing Laws

California has adopted a complicated licensing scheme in which group homes providing certain kinds of care and supervision must be licensed. Some licensed homes cannot be closer than 300 feet to each other, while other licensed homes have no separation requirements. All licensed facilities serving six or fewer persons must be treated like single-family homes for zoning purposes.

While this section discusses some of the most common licensed facilities, it does not include every type of license or facility regulated in this complex area of law.

1. Community Care Facilities

Community care facilities must be licensed by the California Department of Social Services (CDSS).¹ A "community care facility" is a facility where non-medical care and supervision are provided for children or adults in need of personal services.² Facilities serving adults typically provide care and supervision for persons between 18-59 years of age who need a supportive living environment. Residents are usually mentally or developmentally disabled. The services provided may include assistance in dressing and bathing; supervision of client activities; monitoring of food intake; or oversight of the client's property.³

CDSS separately licenses residential care facilities for the elderly and residential care facilities for the chronically ill. Residential care facilities for the elderly provide varying levels of non-

¹ Cal. Health & Safety Code 1500 *et seq.*

² Cal. Health & Safety Code 1502(a).

³ 22 Cal. Code of Regulations 80001(c)(2).

medical care and supervision for persons 60 years of age or older.⁴ Residential care facilities for the chronically ill provide treatment for persons with AIDS or HIV disease.⁵

2. Drug and Alcohol Treatment Facilities

The State Department of Drug and Alcohol Programs ("ADP") licenses facilities serving six or fewer persons that provide residential non-medical services to adults who are recovering from problems related to alcohol or drugs and need treatment or detoxification services.⁶ Individuals in recovery from drug and alcohol addiction are defined as disabled under the Fair Housing Act.⁷ This category of disability includes both individuals recovering in licensed detoxification facilities and recovering alcoholics or drug users who may live in "clean and sober" living facilities.

3. Health Facilities

The State Department of Health Services and State Department of Mental Health license a variety of residential health care facilities serving six or fewer persons.⁸ These include "congregate living health facilities" which provide in-patient care to no more than six persons who may be terminally ill, ventilator dependent, or catastrophically and severely disabled⁹ and intermediate care facilities for persons who need intermittent nursing care.¹⁰ Pediatric day health and respite care facilities with six or fewer beds are separately licensed.¹¹

B. Protection from Land Use Regulations for Certain Licensed Facilities

Small facilities licensed under these sections of California law and serving six or fewer residents must be treated by local governments identically to single-family homes. Additional protection from discrimination is provided to certain psychiatric facilities. However, some group homes may be subject to spacing requirements.

1. Limitations on Zoning Control of Small Group Homes Serving Six or Fewer Residents

Licensed group homes serving six or fewer residents must be treated like single-family homes or single dwelling units for zoning purposes.¹² In other words, a licensed group home serving six or fewer residents must be a permitted use in all residential zones in which a single-family home is

⁴ Cal. Health & Safety Code 1569.2(k).

⁵ 22 Cal. Code of Regulations 87801(a)(5).

⁶ Cal. Health & Safety Code 11834.02.

⁷ 24 C.F.R. 100.201.

⁸ Cal. Health & Safety Code 1265 – 1271.1.

⁹ Cal. Health & Safety Code 1250(i).

¹⁰ Cal. Health & Safety Code 1250(e) and 1250(h).

¹¹ Cal. Health & Safety Code 1760 – 1761.8.

¹² This rule appears to apply to virtually all licensed group homes. Included are facilities for persons with disabilities and other facilities (Welfare & Inst. Code 5116), residential health care facilities (Health & Safety Code 1267.8, 1267.9, & 1267.16), residential care facilities for the elderly (Health & Safety Code 1568.083 - 1568.0831, 1569.82 – 1569.87), community care facilities (Health & Safety Code 1518, 1520.5, 1566 - 1566.8, 1567.1, pediatric day health facilities (Health & Safety Code 1267.9; 1760 – 1761.8), and facilities for alcohol and drug treatment (Health & Safety Code 11834.23).

permitted, with the same parking requirements, setbacks, design standards, and the like. No conditional use permit, variance, or special permit can be required for these small group homes unless the same permit is required for single-family homes, nor can parking standards be higher, nor can special design standards be imposed. The statutes specifically state that these facilities cannot be considered to be boarding houses or rest homes or regulated as such.¹³ Staff members and operators of the facility may reside in the home in addition to those served.

Homeowners' associations and other residents also cannot enforce restrictive covenants limiting uses of homes to "private residences" to exclude group homes for the disabled serving six or fewer persons.¹⁴

The Legislature in 2006 adopted AB 2184 (Bogh) to clarify that communities may fully enforce local ordinances against these facilities, including fines and other penalties, so long as the ordinances do not distinguish residential facilities from other single-family homes.¹⁵

Because there are no separation requirements for drug and alcohol treatment facilities, ADP has in practice been willing to issue separate licenses for 'small' drug and alcohol treatment facilities whenever a dwelling unit or structure has a separate address. For instance, ADP has issued a separate license for each apartment in one multifamily building, for each single-family home in a six-home compound, and for each cottage in a hotel, in each case creating facilities that in fact serve many more than six residents. No local effort to regulate these facilities as 'large' residential care facilities has been successful in a published case; in other contexts, the courts have determined that the State has completely preempted local regulation of small residential care facilities.¹⁶

2. Facilities Serving More Than Six Residents

Because California law only protects licensed facilities serving six or fewer residents, many cities and counties restrict the location of facilities housing seven or more clients. They may do this by requiring use permits, adopting special parking and other standards for these homes, or prohibiting these large facilities outright in certain zoning districts. While this practice may raise fair housing issues, no published California decision prohibits the practice. Some cases in other federal circuits have found that requiring a conditional use permit for large group homes violates the federal Fair Housing Act.¹⁷ However, the federal Ninth Circuit, whose decisions are binding in California, found that requiring a conditional use permit for a building atypical in size and bulk for a single-family residence does not violate the Fair Housing Act.¹⁸

¹³ For example, see Health & Safety Code 1566.3 & 11834.23.

¹⁴ Government Code 12955; Hall v. Butte Home Health Inc., 60 Cal. App. 4th 308 (1997); Broadmoor San Clemente Homeowners Assoc. v. Nelson, 25 Cal. App. 4th 1 (1994).

¹⁵ Health & Safety Code 1566.3; Chapter 746, Statutes of 2006.

¹⁶ City of Los Angeles v. Department of Health, 63 Cal. App. 3d 473, 479 (1976).

¹⁷ ARC of New Jersey v. New Jersey, 950 F. Supp. 637 (D. N.J. 1996); Assoc. for Advancement of the Mentally Handicapped v. City of Elizabeth, 876 F. Supp. 614 (D. N.J. 1994).

¹⁸ Gamble v. City of Escondido, 104 F.3d 300, 304 (9th Cir. 1997); see also United States v. Village of Palatine, 104 F.3d 300, 304 (9th Cir. 1997).

A city or county cannot require an annual review of a group home's operations as a condition of a use permit. The Ninth Circuit has held that an annual review provision adopted as a condition of a special use permit was not consistent with the Fair Housing Act.¹⁹

In 2006, the Legislature passed a bill (SB 1322) sponsored by State Senator Cedillo that would have required all communities to designate sites where licensed facilities with seven or more residents could locate either as a permitted use or with a use permit. It was motivated by newspaper reports of suburban communities' "dumping" the mentally ill and homeless in big cities. Although SB 1322 was vetoed by the Governor, changes were later made in Housing Element law to protect certain transitional and supportive housing, as discussed further below.

3. Siting of Inpatient and Outpatient Psychiatric Facilities

Cities must allow health facilities for both inpatient and outpatient psychiatric care and treatment in any area zoned for hospitals or nursing homes, or in which hospitals and nursing homes are permitted with a conditional use permit.²⁰ "Health facilities" include residential care facilities for mentally ill persons. This means that if a zoning ordinance permits hospitals or nursing homes in an area, it must also permit all types of mental health facilities, regardless of the number of patients or residents. This is important because most cities are supportive of hospitals and nursing zones and may allow them in areas where they would normally not wish to allow large facilities for the mentally ill.

In one case, a residential care facility for 16 mentally ill persons was refused a permit in an R-2 zoning district where "rest homes" and "convalescent homes" were permitted, but not "nursing homes." Since the zoning district did not permit "nursing homes" or hospitals, the City believed that it was able to forbid the use in that zoning district. However, the court found that the City's definitions of "rest homes" and "convalescent homes" were very similar to its definition of "nursing homes"—rest homes and convalescent homes were, in effect, nursing homes—and so held that the City must allow the residential facility for mentally ill persons within that zoning district.²¹

4. Separation Requirements for Certain Licensed Facilities

CDSS must deny an application for certain group homes if the new facility would result in "overconcentration." For community care facilities,²² intermediate care facilities, and pediatric day health and respite care facilities,²³ "overconcentration" is defined as a separation of less than 300 feet from another licensed "residential care facility," measured from the outside walls of the structure housing the facility. Congregate living health facilities must be separated by 1,000 feet.²⁴

¹⁹ Turning Point, Inc. v. City of Caldwell, 74 F.3d 941 (9th Cir. 1996).

²⁰ Cal. Wel. & Inst. Code 5120.

²¹ City of Torrance v. Transitional Living Centers, 30 Cal. 3d 516 (1982).

²² Cal. Health & Safety Code 1520.5.

²³ Cal. Health & Safety Code 1267.9.

²⁴ Cal. Health & Safety Code 1267.9(b)(2).

These separation requirements do *not* apply to residential care facilities for the elderly, drug and alcohol treatment facilities, foster family homes, or "transitional shelter care facilities," which provide immediate shelter for children removed from their homes. None of the separation requirements have been challenged under the federal Fair Housing Act, although separation requirements have been challenged in other states.²⁵

CDSS must submit any application for a facility covered by the law to the city where the facility will be located. The city may request that the license be denied based on overconcentration or may ask that the license be approved. CDSS cannot approve a facility located within 300 feet of an existing facility (or within 1,000 feet of a congregate living health facility) unless the city approves the application. Even if there is adequate separation between the facilities, a city or county may ask that the license be denied based on overconcentration.²⁶

These separation requirements apply only to facilities with the same type of license. For instance, a community care facility would not violate the separation requirements even if located next to a drug and alcohol treatment facility.

C. Facilities That Do Not Need a License

Housing in which some services are provided to persons with disabilities may not require licensing. In housing financed under certain federal housing programs, including Sections 202, 221(d)(3), 236, and 811, if residents obtain care and supervision independently from a third party that is not the housing provider, then the housing provider need not obtain a license.²⁷

"Supportive housing" and independent living facilities with "community living support services," both of which provide some services to disabled people, generally do not need to be licensed.²⁸ Recovery homes providing group living arrangements for people who have *graduated* from drug and alcohol programs, but which do not provide care or supervision, also do not need to be licensed.²⁹

The result is that many situations exist where persons with disabilities will live together and receive some services in unlicensed facilities. Because State law does not require that these facilities be treated as single-family homes, some communities have attempted to classify them as lodging houses or other commercial uses and require special permits. Distinguishing a "lodging house" from a "residence" is discussed in more detail in the next section. However, courts in other jurisdictions have found that when the state does not provide a license for a type of facility, cities cannot discriminate against facilities merely because they are unlicensed.³⁰ Although there is no case on point in California or the Ninth Circuit, ordinances requiring greater regulation for *unlicensed* homes with fewer services than *licensed* homes providing more services could raise fair housing issues, although an argument can also be made that unlicensed facilities are completely unregulated and hence require more local supervision. Some

²⁵ Based on cases from other states, the 1,000-foot limit for congregate living health facilities is unlikely to be upheld. Spacing requirements that have been challenged have required 500-foot separations or more.

²⁶ See, e.g., Cal. Health & Safety Code 1520.5(d).

²⁷ Cal. Health & Safety Code 1505(p).

²⁸ Cal. Health & Safety Code 1504.5.

²⁹ Cal. Health & Safety Code 1505(i).

³⁰ North-Shore Chicago Rehabilitation Inc. v. Village of Skokie, 827 F. Supp. 497 (1993).

communities have explicitly adopted ordinances stating that unlicensed group homes serving six or fewer clients are permitted in residential zones.³¹

Legislation was introduced in California in 2006 to make clear that communities *could* regulate *unlicensed* facilities with six or fewer residents. This provision was ultimately removed after receiving fierce opposition from advocates for the disabled and State agencies responsible for finding placements for foster children and recovering drug and alcohol abusers.

III. California Planning and Zoning Laws

California Planning and Zoning Law has long contained provisions prohibiting discrimination in land use decisions based on disability. Effective January 1, 2002, state housing element law was amended to require an analysis of constraints on persons with disabilities and to require programs providing reasonable accommodation. Additional protections for supportive and transitional housing became effective on January 1, 2008.

A. Protection from Discrimination in Land Use Decisions

California's Planning and Zoning Law prohibits discrimination in local governments' zoning and land use actions based on (among other categories) race, sex, lawful occupation, familial status, disability, source of income, method of financing, or occupancy by low to middle income persons.³² It also prevents agencies from imposing different requirements on single-family or multifamily homes because of the familial status, disability, or income of the intended residents.³³

In general, the statute serves the same purposes and requires the same proof as a violation of the federal Fair Housing Act.³⁴ However, federal fair housing law does not specifically limit discrimination based on *income level*,³⁵ and Section 65008 makes clear that discrimination based on disability is prohibited in local planning and zoning decisions.

B. Housing Elements

California requires that each city and county adopt a 'housing element' as part of its general plan for the growth of the community.³⁶ The housing element governs the development of housing in the community. It must identify sites for all types of housing, including transitional housing, supportive housing, and emergency shelters. Beginning in 2002, local housing elements were required to analyze constraints on housing for persons with disabilities and to include programs

³¹ For instance, one community adopted zoning provisions stating that "residential service facilities" serving 6 or fewer clients could be permitted in any residential zone, defining such uses as: "A residential facility, other than a residential care facility or single housekeeping unit, designed for the provision of personal services in addition to housing, or where the operator receives compensation for the provision of personal services in addition to housing. Personal services may include, but are not limited to, protection, care, supervision, counseling, guidance, training, education, therapy, or other nonmedical care."

³² Cal. Gov't Code 65008(a) and (b).

³³ Cal. Gov't Code 65008(d)(2).

³⁴ *Keith v. Volpe*, 858 F.2d 467, 485 (9th Cir. 1987).

³⁵ *Affordable Housing Development Corp. v. City of Fresno*, 433 F.3d 1182 (2006).

³⁶ Cal. Gov't Code 65580 *et seq.*

to remove constraints or to provide reasonable accommodations for housing designed for persons with disabilities.³⁷ The California Attorney General also sent a letter to local planning agencies in May 2001 urging them to adopt reasonable accommodation ordinances. As a consequence, many cities and counties in the State now have a separate reasonable accommodation ordinance that may be applicable to group homes serving disabled persons, whether licensed or unlicensed.

Amendments to housing element law effective January 1, 2008³⁸ specifically require cities and counties to include in their housing elements a program to remove constraints so that 'supportive housing,' as defined in the bill, is treated like other residences of the same type. This means that communities must revise their zoning so that the only restrictions that may be applied to supportive housing, as defined in the statute, are those that apply to other residences of the same type (single-family homes, duplexes, triplexes, or fourplexes) in the same zoning district; no conditional use permit or other permit is required unless other residences of that type in the same zone also must obtain the same permit.

However, to qualify for this protection, the supportive housing must meet the definition of "supportive housing" contained in Health & Safety Code Section 50675.14, which is housing that:

- Has no limit on the length of stay.
- Is linked to onsite or offsite services that assist residents in improving their health status, retaining the housing, and living and working in the community.
- Is occupied by the "target population," defined as adults *with low incomes* having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health problems; and persons eligible for services under the Lanterman Development Disabilities Act, which provides services to persons with developmental disabilities that originated before the person turned 18.

Should a group home meeting this definition of "supportive housing" require a permit of any type, California's "Housing Accountability Act" will allow it to be denied only under very limited circumstances.³⁹

³⁷ Cal. Gov't Code 65583(a)(4); 65583(c)(3).

³⁸ Cal. Gov't Code 65583(a)(5).

³⁹ Cal. Gov't Code 65589.5(d). Local governments cannot deny supportive housing, or add conditions that make the housing infeasible, unless they can make one of five findings:

- The jurisdiction has met its low income housing needs.
- The housing would have a specific, adverse impact on public health or safety, and there is no feasible way to mitigate the impact.
- Denial is required to comply with state or federal law, and there is no way to comply without making the housing unaffordable.
- The housing is proposed on land zoned for agriculture and is surrounded on two sides by land being used for agriculture, or there is inadequate water or sewer service.
- The housing is inconsistent with both the zoning and the land use designation of the site and is not shown in the housing element as an affordable housing site.

Many privately operated group homes have limitations on the length of stay and are not occupied by adults with low incomes and so do not qualify as "supportive housing" under this definition; but many group homes funded under California's Mental Health Services Act do so qualify.

IV. Protections Provided by the California Right to Privacy

Unlike the federal Constitution, California's Constitution contains an *express* right to privacy, adopted by the voters in 1972. The California Supreme Court has found that this right includes "the right to be left alone in our own homes" and has explained that "the right to choose with whom to live is fundamental."⁴⁰ Consequently, the California courts have struck down local ordinances that attempt to control *who* lives in a household—whether families or unrelated persons, whether healthy or disabled, whether renters or owners. On the other hand, the courts will support ordinances that regulate the *use* of a residence for commercial purposes.

Consequently, communities that desire to regulate group homes have attempted to define them as commercial *uses* similar to boarding houses rather than restricting *who* lives there.

A. Families v. Unrelated Persons in a Household

In many states, local communities can control the number of unrelated people permitted to live in a household. However, based on the privacy clause in the State Constitution, California case law requires cities to treat groups of related and unrelated people identically when they function as one household.⁴¹ Local ordinances that define a "family" in terms of blood, marriage, or adoption, and that treat unrelated groups differently from "families," violate California law. California cities cannot limit the number of unrelated people who live together while allowing an unlimited number of family members to live in a dwelling.

In the lead case of *City of Santa Barbara v. Adamson*, Mrs. Adamson owned a very large 6,200 sq. ft., 10-bedroom single-family home that she rented to twelve "congenial people." They became "a close group with social, economic, and psychological commitments to each other. They shared expenses, rotated chores, ate evening meals together" and considered themselves a family.

However, Santa Barbara defined a family as either "two (2) or more persons related by blood, marriage or legal adoption living together as a single housekeeping unit in a dwelling unit," or a maximum of five unrelated adults. The court considered the twelve residents to be an "alternate family" that achieved many of the personal and practical needs served by traditional families. The twelve met half the definition of "family," because they lived as a single housekeeping unit. However, they were not related by blood. The court found that the right of privacy guaranteed them the right to choose whom to live with. The purposes put forth by Santa Barbara to justify the ordinance—such as a concern about parking—could be handled by neutral ordinances applicable to all households, not just unrelated individuals, such as applying limits on the number of cars to *all* households. "In general, zoning ordinances are much less suspect when they focus on the use than when they command inquiry into who are the users."⁴²

⁴⁰ *Coalition Advocating Legal Housing Options v. City of Santa Monica*, 88 Cal. App. 4th 451, 459-60 (2001).

⁴¹ *City of Santa Barbara v. Adamson*, 27 Cal. 3d 123, 134 (1980).

⁴² *Adamson*, 27 Cal. 3d at 133.

Despite this long-standing rule, a 2002 study found that *one-third* of local zoning ordinances, including that of the City of Los Angeles, still contained illegal definitions of "family" that included limits on the number of unrelated people in a household.⁴³ While most cities were aware that these limits were illegal and did not enforce them, interviews with staff members in the City of Los Angeles, for example, found that many did attempt to enforce the limits on the number of unrelated persons.⁴⁴

If a group of people living together can meet the definition of a "household" or "family," there is no limit on the number of people who are permitted to live together, except for Housing Code limits discussed in the next section. By comparison, many ordinances regulate licensed group homes more strictly if they have seven or more residents, by defining such licensed facilities as a separate *use*.

Since *Adamson*, the California courts have struggled to determine when zoning ordinances are focusing on the *occupants* of the home and when they are focusing on the *use* of the home. In particular, courts have struck down ordinances that:

- Limited the residents of a second dwelling unit to the property owner, his/her dependent, or a caregiver for the owner or dependent.⁴⁵
- Allowed owner-occupied properties to have more residents than renter-occupied properties.⁴⁶
- Imposed regulations on tenancies-in-common that had the effect of requiring unrelated persons to share occupancy of their units with each other.⁴⁷

On the other hand, the courts have upheld regulations when they were convinced that the city's primary purpose was to prevent non-residential or commercial *use* in a residential area. In particular, the courts have upheld ordinances that:

- Regulated businesses in single-family residences ("home occupations") and limited employees to residents of the home.⁴⁸
- Prohibited short-term transient rentals of properties for less than thirty days.⁴⁹

B. Occupancy Limits

The Uniform Housing Code (the "UHC") establishes occupancy limits—the number of people who may live in a house of a certain size—and in almost all circumstances municipalities may

⁴³ Housing Rights, Inc., *California Land Use and Zoning Campaign Report* 27-28 (2002). Los Angeles is now considering amendments to its ordinance.

⁴⁴ Kim Savage, *Fair Housing Impediments Study* 37 (prepared for Los Angeles Housing Department) (2002).

⁴⁵ *Coalition Advocating Legal Housing Options v. City of Santa Monica*, 88 Cal. App. 4th 451 (2001).

⁴⁶ *College Area Renters and Landlords Assn. v. City of San Diego*, 43 Cal. App. 4th 677 (1996). However, this case was decided primarily on equal protection grounds, rather than on the right of privacy.

⁴⁷ *Tom v. City & County of San Francisco*, 120 Cal. App. 4th 674 (2004).

⁴⁸ *City of Los Altos v. Barnes*, 3 Cal. App. 4th 1193 (1992).

⁴⁹ *Ewing v. City of Carmel*, 234 Cal. App. 3d 1579 (1991).

not adopt more restrictive limits. The UHC provides that at least one room in a dwelling unit must have 120 square feet. Other rooms must have at least 70 square feet (except kitchens). If more than two persons are using a room for sleeping purposes, there must be an additional 50 square feet for each additional person.⁵⁰ Using this standard, the occupancy limit would be seven persons for a 400-sq. ft. studio apartment (the size of a standard two-car garage). Locally adopted occupancy limits cannot be more restrictive than the UHC unless justified based on local climatic, geological, or topographical conditions. Efforts by cities to adopt more restrictive standards based on other impacts (such as parking and noise) have been overturned in California.⁵¹

Similarly, the Ninth Circuit found that a local ordinance that limited the number of persons in a homeless shelter to 15, when the building code would allow 25 persons, was unreasonable, and found that allowing 25 persons in the shelter would constitute a reasonable accommodation.⁵²

Based on these federal and state precedents, localities may not limit the number of people living in a dwelling below that permitted by the UHC.

V. Local Regulation of Group Homes

In the past decade, much local concern has been directed at sober living homes, which are typically unlicensed facilities designed to provide support to recovering substance abusers. Because privately operated sober living homes often desire to attract middle- and upper middle-income residents, and there is a high demand for such facilities, they have often been located in middle- and upper-class areas, and in some cases have experienced local opposition. The League of California Cities has sponsored legislation designed to require licensing or allow more local control, but those efforts have failed. Communities often view such facilities as businesses exploiting a loophole rather than as residences and so seek to be able to distinguish them from residences, often defining them as "lodging houses" or "boarding houses." Lodging houses typically require a conditional use permit and are not permitted in single-family residential zones. Conversely, sober living homes seek to be classified as "households" or "single housekeeping units" so they may locate in any residential neighborhood without requiring any public notice or needing any use permit.

A. Defining Unlicensed Facilities as Lodging Houses or Single Housekeeping Units

A 2003 opinion of the State Attorney General found that communities may prohibit or regulate the operation of a lodging house in a single family zone in order to preserve the residential character of the neighborhood.⁵³ The City of Lompoc defined a lodging house as "a residence or dwelling . . . wherein three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence." The Attorney General agreed

⁵⁰ Cal. Health and Safety Code 17922(a)(1). See *Briseno v. City of Santa Ana*, 6 Cal. App. 4th 1378, 1381-82 (1992) (holding that the state Uniform Housing Code preempts local regulation of occupancy limits).

⁵¹ *Briseno*, 6 Cal. App. 4th at 1383.

⁵² *Turning Point, Inc. v. City of Caldwell*, 74 F.3d 941 (9th Cir. 1996).

⁵³ 86 Ops. Cal. Att'y Gen'l 30 (2003).

that a lodging house, while providing a 'residence' to paying customers, could be considered a *commercial* use and so could be prohibited in residential areas. ("There is no question but that municipalities are entitled to confine commercial activities to certain districts [citations], and that they may further limit activities within those districts by requiring use permits."⁵⁴)

The Attorney General further concluded that the ordinance was consistent with *Adamson* because it would allow any owner of property to rent to any member of the public and any member of the public to apply for lodging. The proposed ordinance would be directed at a commercial *use* of property inconsistent with the residential character of the neighborhood regardless of the identity of the users.

Based on the Attorney General's opinion and *Adamson*, then, cities have increasingly defined a "household" or "single housekeeping unit" to have these characteristics:

- One joint lease signed by all residents;
- Access by all to all common areas of the home; and
- Shared housekeeping and shared household expenses.
- No limits on length of residence.
- New residents selected by existing residents, not a manager or landlord.

For instance, the City of Los Angeles proposed an ordinance defining a "single housekeeping unit" as:

One household where all the members have common access to and common use of all living, kitchen, and eating areas within the dwelling unit, and household activities and responsibilities such as meals, chores, expenses, and maintenance of the premises are shared or carried out according to a household plan or other customary method. If all or part of the dwelling unit is rented, the lessees must jointly occupy the unit under a single lease, either written or oral, whether for monetary or non-monetary consideration.

The same ordinance proposed to define a boarding or rooming house as:

A one-family dwelling, or a dwelling with five or fewer guest rooms or suites of rooms, where lodging is provided to individuals with or without meals, for monetary or non-monetary consideration under two or more separate agreements or leases, either written or oral.

Under these and similar ordinance definitions, many sober living homes operated by private organizations, whether for-profit or nonprofit, are classified as boarding or lodging houses because residents do not sign a joint lease; new residents are selected by a manager; household expenses may not be shared (i.e., residents pay a set fee to the manager); and there may be limits

⁵⁴ *Id.*

on length of residence. In contrast, persons who desire to live together to support each other during recovery and rent a home together would be classified as a “single housekeeping unit.”

Enforcement Issues. If a group home is challenged as not constituting a single housekeeping unit, the operator will likely assert that it is indeed operating as a single unit. Unless there is public information available showing that a residence is operated as a lodging house (e.g., web advertising), an investigation would be required to demonstrate otherwise. If complaints were based primarily on the disability of the occupants (which could include their status as recovering drug and alcohol abusers), then California privacy rights and fair housing laws might be implicated. In one Washington, D.C., case, a federal district court found a violation of the federal Fair Housing Act where the Zoning Administrator carried out a detailed investigation of a residence for five mentally ill men in response to neighbors' concerns, finding that the Zoning Administrator's actions were motivated in part by the neighbors' fears about the residents' mental illness.⁵⁵ In California, a similar challenge might be additionally based on rights of privacy and equal protection concerns.

B. Best Practices - Service Providers

We advise our nonprofit sponsors that if a facility can be considered a single housekeeping unit, the facility must be treated as a residence with one family residing in it. The most defensible structure for such a facility would be to:

- Have one rental agreement or lease signed by all *occupants*. If, instead, the provider signs the lease and each resident has a verbal or written agreement with the provider, then the facility could be considered a "lodging house" under the definition upheld by the Attorney General.
- Give all residents equal access to all living and eating areas and food preparation and service areas.
- Keep track of, and share, household expenses.
- Do not require occupants to move after a certain period of time, except for time limits imposed by the rental agreement or lease with the owner.
- Allow all existing residents to select new members of the household.

VI. Conclusion

In my own experience as a former city official, many group homes were invisible in the community and caused few problems. Most complaints about overcrowding and excessive vehicles did not involve a group home, but rather the poorest areas where space was rented out to the limits of the Housing Code.

The group homes that caused the most concern were sober living facilities which tended to concentrate in certain inexpensive single-family neighborhoods. In one case, all five homes on

⁵⁵ Community Housing Trust v. Dep't of Consumer & Regulatory Affairs, 257 F. Supp. 2d 208 (D.D.C. 2003).

one block face were purchased by a single owner. He was knowledgeable about his rights but unconcerned about his obligations, and sneered at the City's and neighborhood's concerns. Since the facilities were unlicensed, there was no regulatory oversight. When the occupant of one home was arrested for drug dealing, it caused an uproar.

Many providers are conscious of their position in neighborhoods and make an effort to accommodate community concerns. Others may be perceived as arrogant and dismissive of local concerns, viewing all neighbors as "NIMBYs." Providers who view themselves as part of the community and set house rules that encourage community involvement, restrict noise, control parking, and establish smoking locations not visible from the street can go a long way toward abating perceived problems.

Cities should modify their zoning ordinances to address unlicensed group homes and decide on a strategy for dealing with group homes with seven or more persons (use permit and reasonable accommodation). State legislation requiring some minimal licensing for sober living facilities would also be beneficial to set standards for minimal levels of care. Cities need also to avoid the kind of incidents that result in the Legislature's willingness to further constrain local control of these homes.

SUMMARY: GROUP HOME ANALYSIS UNDER CALIFORNIA LAW

IF LICENSED:

6 or fewer clients:

Must be treated like a single-family home for all zoning purposes, except for spacing requirements for certain licensed facilities (e.g., community care facilities). Community care facilities for the elderly and drug and alcohol treatment centers do not have spacing requirements.

7 or more clients:

Psychiatric facilities—both inpatient and outpatient—must be permitted in any zone that permits nursing homes or hospitals as conditional or permitted uses. (City of Torrance v. Transitional Living Centers)

Other licensed facilities are often subject to a use permit and may not be permitted in certain zones. Advocates may request a reasonable accommodation to avoid use permit requirements or to obtain modifications to traditional zoning requirements. But the Ninth Circuit has not found a use permit *per se* to violate the Fair Housing Act. (Gamble v. City of Escondido)

IF UNLICENSED:

Is it operated as a single housekeeping unit (household, family)?

If so, must be treated like a single dwelling unit.

Unlicensed homes are more likely to be considered as a single housekeeping unit if they meet the following tests:

- Physical access: all have access to common areas: kitchen, laundry, living & family rooms is free.
- No limits on term of occupancy
- All residents on lease or rental agreement [AG's opinion]
- Makeup of the household is determined by the residents rather than a landlord or property manager
- Normal household activities (meals, chores) and household expenses shared (*Adamson*)

There are different *local* definitions of "family" or a single housekeeping unit. (For instance, some localities do not use the existence of separate rental agreements as a test for a single housekeeping unit.) Advocates oppose some of the above characteristics.

Does it qualify as "supportive housing" under housing element law?

If so, must be treated like other residences of the same physical type [depending on date of adoption of housing element].

6 or fewer clients:

Fair housing argument if treated more strictly than licensed facilities; but no case in California holds this specifically.

Defined as a boarding house or another use?

Only the *use* can be regulated, not the *user*.

Group homes for the disabled cannot be treated in a discriminatory fashion from other group homes (boarding houses, dormitories, etc.).

CITY OF PALOS VERDES ESTATES

HOUSING ELEMENT 2013-2021

**Draft
November 2013**

Acknowledgements

City Council

Mayor James F. Goodhart

Mayor Pro Tempore Ellen Perkins

Councilmember George F. Bird, Jr.

Councilmember Rosemary Humphrey

Councilmember John Rea

Planning Commission

City Staff

Anton Dahlerbruch, City Manager

Alan Rigg, P.E., City Engineer/Planning Director

Stacey Kinsella, Senior Planner/Project Manager

Consulting Assistance:

J. H. Douglas & Associates

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I. INTRODUCTION

State law requires the preparation of a Housing Element as part of a jurisdiction's General Plan (*Government Code* §65302(c)). The Element is to consist of an identification and analysis of existing and projected housing needs, and a statement of goals, policies, quantified objectives and scheduled programs for the preservation, improvement and development of housing. It is also required to identify adequate sites for housing and to make adequate provision for the existing and projected needs of all economic segments of the community (§65583).

Guidelines adopted by the Department of Housing and Community Development (HCD) are also to be considered in the preparation of the Element (§65585). Periodic review of the Element is required to evaluate (1) the appropriateness of its goals, objectives and policies in contributing to the attainment of the state housing goals, (2) its effectiveness in attaining the City's housing goals and objectives and (3) the progress of its implementation (§65588).

A. Purpose of the Housing Element

State law recognizes the vital role local governments play in the supply and affordability of housing. Each local government in California is required to adopt a comprehensive, long-term General Plan for the physical development of the city or county. The Housing Element is one of the seven mandated elements of the General Plan. Housing Element law, first enacted in 1969, mandates that local governments plan to meet the existing and projected housing needs of all economic segments of the community. The law recognizes that, in order for the private market to adequately address housing needs, local governments must adopt land use plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development. As a result, housing policy in California rests largely upon the effective implementation of local General Plans and, in particular, local Housing Elements. Housing Element law also requires the California Department of Housing and Community Development (HCD) to review local housing elements for compliance with state law and to report its written findings to the local government.

As mandated by state law, the planning period for this Housing Element extends from 2013 to 2021¹. This Element identifies strategies and programs that focus on: 1) providing diversity in housing opportunities and 2) maintenance and preservation of the housing stock.

The Housing Element consists of the following major components:

- An analysis of the City's demographic and housing characteristics and trends (Chapter II);
- An evaluation of land, financial, and administrative resources available to address the City's housing goals (Chapter III);
- A review of potential constraints, both governmental and non-governmental, to meeting the City's housing needs (Chapter IV); and
- A Housing Action Plan for the 2013-2021 planning period, including housing goals, policies and programs (Chapter V).

¹ The projection timeframe for the Regional Housing Needs Assessment process is 7.8 years from January 2014 through October 2021.

- A review of the City's accomplishments and progress in implementing the previous Housing Element (Appendix A).

B. Public Participation

Section 65583(c)(5) of the *Government Code* states that "The local government shall make diligent effort to achieve public participation of all the economic segments of the community in the development of the housing element, and the program shall describe this effort." Public participation played an important role in the formulation and refinement of the City's housing goals and policies and in the development of a Land Use Plan which determines the extent and density of future residential development in the community.

City residents had several opportunities to recommend strategies, review, and comment on the Housing Element. A public study session was held jointly by the City Council and Planning Commission on November 19, 2013. Following review by HCD, public hearings were held by the Planning Commission and City Council on _____ and _____. All meeting notices were posted on the City's website, and notification was published in the local newspaper in advance of the meetings. Copies of the draft Element were made available for review at City Hall and were posted on the City website. These service providers included organizations that represent the housing interest groups.

Additional information regarding the public involvement process are discussed in Appendix C.

C. Consistency with Other Elements of the General Plan

The City's General Plan sets forth broad policy guidance in the areas of land use, circulation, conservation, recreation, open space, housing, scenic highways, seismic safety, safety and noise. The various General Plan elements provide a consistent set of policies and programs intended to preserve and enhance the quality of life, while accommodating growth and change in a proactive manner. For example, residential development capacities established in the Land Use Element and constraints to development identified in the Conservation, Open Space and Seismic Safety Elements are reflected in the Housing Element. This Housing Element builds upon the other General Plan elements and is consistent with the policies and proposals set forth by the Plan. As the General Plan is amended from time to time, the City will review the Housing Element for internal consistency, and make any necessary revisions.

Senate Bill (SB) 1087 of 2005 requires cities to provide a copy of their Housing Elements to local water and sewer providers, and also requires that these agencies provide priority hookups for developments with lower-income housing. The Housing Element will be provided to these agencies immediately upon adoption.

II. HOUSING NEEDS ASSESSMENT

This chapter examines general population and household characteristics and trends, such as age, race and ethnicity, employment, household composition and size, household income, and special needs. Characteristics of the existing housing stock (e.g., number of units and type, tenure, age and condition, costs) are also addressed. Finally, the city's projected housing growth needs based on the 2014-2021 Regional Housing Needs Assessment (RHNA) are examined.

The Housing Needs Assessment utilizes the most recent data from the U.S. Census, California Department of Finance (DOF), California Employment Development Department (EDD), Southern California Association of Governments (SCAG), and other relevant data sources.

A. Population Characteristics

1. Population Growth Trends

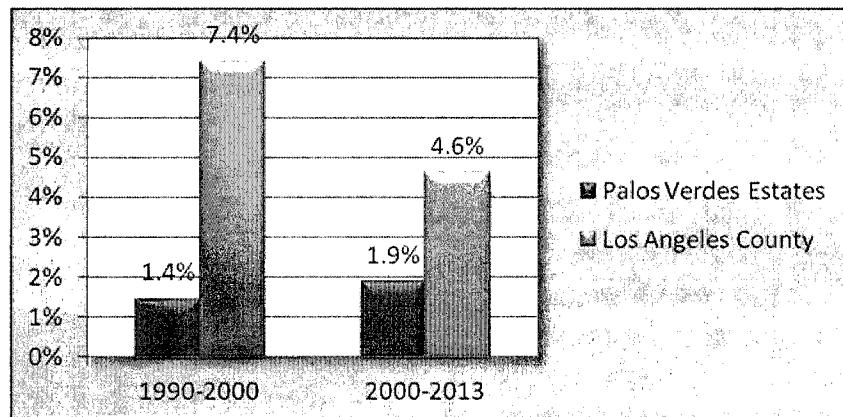
The City of Palos Verdes Estates has grown slowly since 1990 (Table II-1 and Figure II-1). This contrasts dramatically with Los Angeles County, which grew by 7.4% between 1990 and 2000, and 4.6% between 2000 and 2013. As an essentially built-out city, there have been few opportunities for substantial growth during the last 30 years, except through infill.

Table II-1
Population Trends, 1990-2013 –
Palos Verdes Estates vs. Los Angeles County

	1990	2000	2013	Growth 1990-2000	Growth 2000-2013
Palos Verdes Estates	13,152	13,340	13,589	1.4%	1.9%
Los Angeles County	8,863,164	9,519,330	9,958,091	7.4%	4.6%

Source: U.S. Census, California Dept. of Finance Table E-5 (2013)

Figure II-1
Population Growth



Sources: US Census 1990, 2000; California Department of Finance Table E-1(2013)

2. Age

Housing needs are influenced by the age characteristics of the population. Different age groups have different housing needs based on lifestyles, family types, income levels, and housing preference. Table II-2 provides a comparison of the city's and county's population by age group in 2010. This table shows that the age distribution of the city's population is significantly older than Los Angeles County as a whole. It is especially noteworthy that approximately 23% of the city's population is over age 65, whereas only 11% of Los Angeles county's population is over age 65. An aging population has implications regarding the type and size of future housing needs, as well as accessibility.

Table II-2
Age Distribution –
Palos Verdes Estates vs. Los Angeles County

Age Group	Palos Verdes Estates		Los Angeles County	
	Persons	%	Persons	%
Under 5 years	475	4%	645,793	7%
5 to 9 years	821	6%	633,690	6%
10 to 14 years	1,101	8%	678,845	7%
15 to 19 years	965	7%	753,630	8%
20 to 24 years	339	3%	752,788	8%
25 to 29 years	282	2%	759,602	8%
30 to 34 years	234	2%	716,129	7%
35 to 39 years	416	3%	715,635	7%
40 to 44 years	855	6%	714,691	7%
45 to 49 years	1,253	9%	706,742	7%
50 to 54 years	1,278	10%	662,205	7%
55 to 59 years	1,129	8%	560,920	6%
60 to 64 years	1,042	8%	452,236	5%
65 to 69 years	969	7%	323,287	3%
70 to 74 years	713	5%	245,183	2%
75 to 79 years	599	4%	192,881	2%
80 to 84 years	526	4%	152,722	2%
85 years and over	441	3%	151,626	2%
Total	13,438	100%	9,818,605	100%
Median age	49.9		34.8	

Source: 2010 Census, Table DP-1

3. Race and Ethnicity

The racial and ethnic composition of the city differs from the county in that a much lower proportion of city residents are Hispanic/Latino or other racial minorities. Approximately 73% of city residents are non-Hispanic white, contrasted with 28% for the county as a whole. The percentage of Hispanics residing in the city, at 4.7%, is significantly lower than the county's Hispanic population of almost 48%. Asians, at approximately 17%, represent the largest minority group (Table II-3).

Table II-3
Race/Ethnicity –
Palos Verdes Estates vs. Los Angeles County

Racial/Ethnic Group	Palos Verdes Estates		Los Angeles County	
	Persons	%	Persons	%
Not Hispanic or Latino	12,807	95.3%	5,130,716	52.3%
- White	9,868	73.4%	2,728,321	27.8%
- Black or African American	156	1.2%	815,086	8.3%
- American Indian/Alaska Native	14	0.1%	18,886	0.2%
- Asian	2,306	17.2%	1,325,671	13.5%
- Native Hawaiian/Pacific Islander	8	0.1%	22,464	0.2%
- Other races or 2+ races	455	3.4%	220,288	2.2%
Hispanic or Latino (any race)	631	4.7%	4,687,889	47.7%
Total	13,438	100%	9,818,605	100%

Source: 2010 Census, Table DP-1

B. Household Characteristics

1. Household Composition and Size

Household characteristics are important indicators of the type and size of housing needed in a city. The Census defines a “household” as all persons occupying a housing unit, which may include single persons living alone, families related through marriage or blood, or unrelated persons sharing a single unit. Persons in group quarters such as dormitories, retirement or convalescent homes, or other group living situations are included in population totals, but are not considered households.

Palos Verdes Estates had 5,066 households as reported in the 2010 Census. Table II-4 provides a comparison of households by type for the city and Los Angeles County as a whole. Family households in 2010 comprised approximately 81% of all households in the City, compared to 68% for the county. Although non-family households are a small proportion of the city's households, the city's average household size is still somewhat lower than Los Angeles County as a whole (2.65 persons per household city vs. 2.98 persons per household county).

Table II-4
Household Composition –
Palos Verdes Estates vs. Los Angeles County

Household Type	Palos Verdes Estates		LA County	
	Households	%	Households	%
Family households:	4,083	80.6%	2,194,080	67.7%
Husband-wife family	3,649	72.0%	1,480,665	45.7%
With own children under 18 years	1,428	28.2%	721,804	22.3%
Male householder, no wife present	138	2.7%	216,368	6.7%
With own children under 18 years	59	1.2%	92,161	2.8%
Female householder, no husband present	296	5.8%	497,047	15.3%
With own children under 18 years	130	2.6%	239,012	7.4%
Non-family households:	983	19.4%	1,047,124	32.3%
Householder living alone	848	16.7%	784,928	24.2%
Households with individuals under 18 years	1,686	33.3%	1,220,021	37.6%
Households with individuals 65 years and over	2,175	42.9%	790,386	24.4%
Total households	5,066	100%	3,241,204	100%
Average household size	2.65		2.98	

Source: 2010 Census, Table DP-1

2. Housing Tenure and Vacancy

Housing tenure (owner vs. renter) is an important indicator of the housing market. Communities need an adequate supply of units available both for rent and for sale in order to accommodate a range of households with varying incomes, family sizes and composition, and lifestyles. Table II-5 provides a comparison of the number of owner-occupied and renter-occupied units in the city in 2010 as compared to the county as a whole. It reveals a high level of homeownership in the city, almost double the county's proportion of homeownership.

Table II-5
Household Tenure and Vacancy—
Palos Verdes Estates vs. Los Angeles County

Housing Type	Palos Verdes Estates		LA County	
	Units	%	Units	%
Occupied housing units	5,066	95.9%	3,241,204	94.1%
Owner-occupied housing units	4,496	85.1%	1,544,749	44.8%
Average household size of owner-occupied units	2.66		3.16	
Renter-occupied housing units	570	10.8%	1,696,455	49.2%
Average household size of renter-occupied units	2.57		2.81	
Vacant housing units	217	4.1%	203,872	5.9%
For rent	34	0.6%	104,960	3.0%
Rented, not occupied	3	0.1%	4,994	0.1%
For sale only	30	0.6%	26,808	0.8%
Sold, not occupied	23	0.4%	6,726	0.2%
For seasonal, recreational, or occasional use	51	1.0%	19,099	0.6%
All other vacants	76	1.4%	41,285	1.2%
Homeowner vacancy rate (%)	0.7		1.7	
Rental vacancy rate (%)	5.6		5.8	
Total housing units	5,283	100%	3,445,076	100%

Source: 2010 Census, Table DP-1

3. Overcrowding

Overcrowding is often closely related to household income and the cost of housing. The U.S. Census Bureau considers a household to be overcrowded when there is more than one person per room, excluding bathrooms and kitchens, with severe overcrowding when there are more than 1.5 residents per room. Overcrowded households are usually a reflection of the lack of affordable housing. Table II-6 summarizes overcrowding for Palos Verdes Estates based on recent Census data.

Table II-6
Overcrowding –
Palos Verdes Estates vs. Los Angeles County

Occupants per Room	Palos Verdes Estates		LA County	
	Units	%	Units	%
Owner occupied units	4,480	100%	1,552,091	100%
1.01 to 1.50	0	0.0%	71,920	4.6%
1.51 to 2.00	0	0.0%	17,241	1.1%
2.01 or more	0	0.0%	4,877	0.3%
Renter occupied units	504	100%	1,665,798	100%
1.01 to 1.50	0	0.0%	163,166	9.8%
1.51 to 2.00	0	0.0%	86,760	5.2%
2.01 or more	0	0.0%	43,489	2.6%

Source: Census 2006-2010 ACS, Table B25014

Based on U.S. Census standards, Palos Verdes Estates residents live in significantly less crowded housing conditions than the rest of Los Angeles County. According to recent Census data, no overcrowded units were reported in the city. This compares to about 18% of renter-occupied units and 6% of owner-occupied units in Los Angeles County that were considered overcrowded.

4. Household Income

Household income is a primary factor affecting housing needs in a community – the ability of residents to afford housing is directly related to household income. According to recent Census data, the median household income in Palos Verdes Estates was over \$186,000, over 3 times the median income for Los Angeles County as a whole (Table II-7).

Table II-7
Median Household Income –
Palos Verdes Estates and Los Angeles County

Jurisdiction	Median Income	% of County Median Income
Palos Verdes Estates	186,651	336%
Los Angeles County	55,476	100%

Source: U.S. Census, 2006-2010 ACS, Table DP-3

5. Overpayment

According to State housing policy, overpaying occurs when housing costs exceed 30% of gross household income. Table II-8 displays recent Census estimates for overpayment for renter and owner households in Palos Verdes Estates. Approximately one-third of both renters and owners reported overpayment.

Although homeowners enjoy income and property tax deductions and other benefits that help to compensate for high housing costs, lower-income homeowners may need to defer maintenance or repairs due to limited funds, which can lead to deterioration. For lower-income renters, severe cost burden can require families to double up resulting in overcrowding and related problems.

Table II-8
Overpayment by Income Category

% of Income Paid for Housing Expenses	Renter Households	Owner Households
Less than 10%	5.9%	19.6%
10 – 14.9%	15.8%	13.8%
15 – 19.9%	14.6%	13.5%
20 – 24.9%	8.5%	10.0%
25 – 29.9%	10.8%	10.0%
30 – 34.9%	1.9%	6.9%
35 – 39.9%	3.3%	3.9%
40 – 49.9%	12.0%	7.6%
50% or more	15.8%	14.8%
Not computed	11.5%	0

Source: SCAG, 2012

Extremely Low Income Households

State law requires quantification and analysis of existing and projected housing needs of extremely low-income (ELI) households. Extremely-low-income is defined as households with income less than 30% of area median income. The 2013 area median income for Los Angeles County was \$64,800 (see Table II-15). For extremely-low-income households, this results in an income of \$25,600 or less for a four-person household. Households with extremely-low-income have a variety of housing situations and needs, such as overpayment and overcrowding.

Recent Census estimates published by SCAG reported approximately 147 extremely-low-income households resided in Palos Verdes Estates, representing about 3% of all households.

The projected housing need for extremely-low-income households is assumed to be 50% of the very-low-income share of regional housing need of 4 units. As a result, the City has a projected need for 2 extremely-low-income units in this planning period (see Table II-20). The resources and programs to address this need are the same as for low-income households in general and are discussed throughout the Housing Element, and particularly Chapter V, Housing Action Plan. The needs of extremely-low-income households overlap extensively with other special needs groups, and further analysis and discussion of resources and programs for extremely-low-income households can also be found in Chapter IV, Constraints, Section A.1.c. Special Needs Housing.

C. Employment

Employment is an important factor affecting housing needs within a community. The jobs available in each employment sector and the wages for these jobs affect the type and size of housing residents can afford.

1. Current Employment

Current employment and projected job growth have a significant influence on housing needs during this planning period. Table II-9 shows that the city had a workforce of 5,647 persons, or 53% of the working-age population, according to recent Census data. By contrast, Los Angeles County had over 65% of its working-age population in the labor force.

Table II-9
Labor Force –
Palos Verdes Estates vs. Los Angeles County

Labor Force Status	Palos Verdes Estates		LA County	
	Persons	%	Persons	%
Population 16 years and over	10,630	100%	7,602,252	100%
In labor force	5,647	53.1%	4,959,167	65.2%
Civilian labor force	5,647	53.1%	4,953,791	65.2%
Employed	5,470	51.5%	4,522,917	59.5%
Unemployed	177	1.7%	430,874	5.7%
Armed Forces	0	0.0%	5,376	0.1%
Not in labor force	4,983	46.9%	2,643,085	34.8%

Source: Census 2006-2010 ACS, Table DP3

Approximately 65% of the city's working residents were employed in management and professional occupations, while 26% were in sales or related fields (Table II-10). A low percentage of workers (under 5%) were employed in service related occupations such as waiters, waitresses, and beauticians. Employment in the natural resources, construction, maintenance, production, transportation and material moving fields constituted about 5% of the workforce.

Table II-10
Employment by Occupation

Occupation	Palos Verdes Estates	
	Persons	%
Civilian employed population 16 years and over	5,470	100%
Management, business, science, and arts occupations	3,530	64.5%
Service occupations	262	4.8%
Sales and office occupations	1,419	25.9%
Natural resources, construction, and maintenance occupations	144	2.6%
Production, transportation, and material moving occupations	115	2.1%

Source: U.S. Census 2006-2010 ACS, Table DP3

2. Projected Job Growth

Table II-11 shows projected job growth by industry for the Los Angeles-Long Beach-Glendale MSA for the period 2010-2020. The greatest number of new jobs projected to be produced in Los Angeles County over the next few years will be among the lower-wage occupations. Because a high proportion

of new jobs created will be low-wage jobs, there will be a growing demand for units affordable to low-income persons, typically far below the average home price of the area.

Table II-11
2010-2020 Industry Employment Projections –
Los Angeles-Long Beach-Glendale Metropolitan Statistical Area

NAICS Code	Industry Title	Annual Average Employment		Employment Change	
		2010	2020	Jobs	Percent
	Total Employment	4,246,700	4,904,300	657,600	15.5
	Self-Employment (A)	337,500	366,900	29,400	8.7
	Unpaid Family Workers (B)	3,300	3,400	100	3.0
	Private Household Workers (C)	126,600	163,300	36,700	29.0
	Total Farm	6,200	5,800	-400	-6.5
	Total Nonfarm	3,773,100	4,364,900	591,800	15.7
1133,21	Mining and Logging	4,100	4,500	400	9.8
23	Construction	104,500	129,600	25,100	24.0
31-33	Manufacturing	373,200	362,500	-10,700	-2.9
22,42-49	Trade, Transportation, and Utilities	739,800	887,700	147,900	20.0
51	Information	191,500	211,700	20,200	10.5
52-53	Financial Activities	209,500	231,300	21,800	10.4
54-56	Professional and Business Services	527,500	640,600	113,100	21.4
61-62	Educational Services, Health Care and Social Assistance	522,000	660,000	138,000	26.4
71-72	Leisure and Hospitality	384,800	480,000	95,200	24.7
81	Other Services (excludes 814-Private Household Workers)	136,700	150,700	14,000	10.2
	Government	579,600	606,300	26,700	4.6
	Federal Government (D)	51,600	43,900	-7,700	-14.9
	State and Local Government	528,000	562,400	34,400	6.5
	State Government	80,700	88,100	7,400	9.2
	Local Government	447,300	474,300	27,000	6.0

Data sources: U.S. Bureau of Labor Statistics' Current Employment Statistics (CES) March 2011 benchmark and Quarterly Census of Employment and Wages (QCEW) industry employment.

Industry detail may not add up to totals due to independent rounding.

Notes: (A) Self-Employed persons work for profit or fees in their own business, profession, trade, or farm. Only the unincorporated self-employed are included in this category. The estimated and projected employment numbers include all workers who are primarily self-employed and wage and salary workers who hold a secondary job as a self-employed worker.

(B) Unpaid family workers are those persons who work without pay for 15 or more hours per week on a farm or in a business operated by a member of the household to whom they are related by birth or marriage.

(C) Private household workers are employed as domestic workers whose primary activities are to maintain the household. Industry employment is based on QCEW.

(D) Temporary U.S. Census workers are included in the base and projected year employment numbers.

3. Jobs-Housing Balance

A regional balance of jobs to housing helps to ensure that the demand for housing is reasonably related to supply. When the number of jobs significantly exceeds the housing supply, the rental and for-sale housing markets may become overheated, requiring households to pay a larger percentage of their income for housing. In addition, a tight housing market can result in overcrowding and longer commute times as workers seek more affordable housing in outlying areas. Conversely, a lack of jobs can also result in longer commutes, particularly for low-wage service workers. The current jobs-housing objective within the SCAG region is one new housing unit for every 1.5 jobs.²

According to recent Census data, about 94% of employed Palos Verdes Estates residents worked in Los Angeles County, but only 15.5% of workers were employed within the city limits (Table II-12).

Table II-12
Job Location for Palos Verdes Estates Residents

Workplace Location	%
Worked in state of residence	98.6%
Worked in county of residence	93.5%
Worked in place of residence	15.5%
Worked outside county of residence	5.1%
Worked outside state of residence	1.4%

Source: Census 2006-2010 ACS, Table S0801

D. Housing Stock Characteristics

This section reviews the characteristics of the community's housing stock and helps in identifying and prioritizing needs. The factors evaluated include the number and type of housing units, recent growth trends, age and condition, tenure, vacancy, housing costs, affordability, and assisted affordable units at-risk of loss due to conversion to market-rate. A housing unit is defined as a house, apartment, mobile home, or group of rooms, occupied as separate living quarters, or if vacant, intended for occupancy as separate living quarters.

1. Housing Type and Growth Trends

The housing stock in Palos Verdes Estates is comprised mostly of single-family homes, which make up 94% of all units. Multi-family and mobile homes comprise the remaining 6%. Table II-13 provides a breakdown of the housing stock by type along with growth trends for the city compared to the county as a whole for the period 2000-2012. Between 2000 and 2012, there have been 92 housing units added to the city's housing stock. The reduction in multi-family units may be due to condominium conversions.

² SCAG Regional Comprehensive Plan, Land Use & Housing Chapter

Table II-13
Housing by Type –
Palos Verdes Estates and Los Angeles County

Structure Type	2000		2012		Growth	
	Units	%	Units	%	Units	%
Palos Verdes Estates						
Single-family	4,820	93%	4,955	94%	135	146.7%
Multi-family	382	7%	327	6%	-55	-59.8%
Mobile homes	0	0.0%	12	0.2%	12	13.0%
Total units	5,202	100%	5,294	100%	92	100%
Los Angeles County						
Single-family	1,835,024	56%	1,947,820	56%	112,796	61.6%
Multi-family	1,379,277	42%	1,447,958	42%	68,681	37.5%
Mobile homes	56,605	2%	58,314	2%	1,709	0.9%
Total units	3,270,906	100%	3,454,092	100%	183,186	100%

Source: Cal. Dept. of Finance, Tables E-5 & E-8

2. Housing Age and Conditions

Housing age is often an important indicator of housing condition. Housing units built prior to 1978 before stringent limits on the amount of lead in paint were imposed, may have interior or exterior building components coated with lead-based paint. Housing units built before 1970 are the most likely to need rehabilitation and to have lead-based paint in deteriorated condition. Lead-based paint becomes hazardous to children under age six and to pregnant women when it peels off walls or is pulverized by windows and doors opening and closing.

Table II-14 shows the age distribution of the housing stock in Palos Verdes Estates compared to Los Angeles County as a whole as reported in recent Census data.

Table II-14
Age of Housing Stock by Tenure –
Palos Verdes Estates vs. Los Angeles County

Year Built	Palos Verdes Estates		LA County	
	Units	%	Units	%
Built 2005 or later	97	2%	54,241	2%
Built 2000 to 2004	113	2%	109,255	3%
Built 1990 to 1999	313	6%	208,791	6%
Built 1980 to 1989	266	5%	403,248	12%
Built 1970 to 1979	913	17%	496,376	14%
Built 1960 to 1969	1,235	23%	518,500	15%
Built 1950 to 1959	1,750	33%	722,473	21%
Built 1940 to 1949	329	6%	396,035	12%
Built 1939 or earlier	262	5%	516,817	15%
Total units	5,278	100%	3,425,736	100%

Source: Census 2006-2010 ACS, Table DP-4

This table shows that about two-thirds of the housing units in Palos Verdes Estates were constructed prior to 1970. Statistics indicating that a significant portion of the housing stock is more than 30 years old would often indicate a growing need for maintenance and rehabilitation. However, the high household incomes and housing values in the city results in few properties actually falling into disrepair, and therefore the need for public assistance with maintenance and rehabilitation is considered to be very low.

3. Housing Cost

a. Housing Affordability Criteria

State law establishes five income categories for purposes of housing programs based on the area (i.e., county) median income ("AMI"): extremely-low (30% or less of AMI), very-low (31-50% of AMI), low (51-80% of AMI), moderate (81-120% of AMI) and above moderate (over 120% of AMI). Housing affordability is based on the relationship between household income and housing expenses. According to HUD and the California Department of Housing and Community Development, housing is considered "affordable" if the monthly payment is no more than 30% of a household's gross income. In some areas, these income limits may be increased to adjust for high housing costs.

Table II-15 shows affordable rent levels and estimated affordable purchase prices for housing in Los Angeles County by income category. Based on state-adopted standards, the maximum affordable monthly rent for extremely-low-income households is \$640, while the maximum affordable rent for very-low-income households is \$1,068. The maximum affordable rent for low-income households is \$1,708, while the maximum for moderate-income households is \$1,944.

Maximum purchase prices are more difficult to determine due to variations in mortgage interest rates and qualifying procedures, down payments, special tax assessments, homeowner association fees, property insurance rates, etc. With this caveat, the maximum home purchase prices by income category shown in Table II-15 have been estimated based on typical conditions.

Table II-15
Income Categories and Affordable Housing Costs –
Los Angeles County

2013 County Median Income = \$64,800	Income Limits	Affordable Rent	Affordable Price (est.)
Extremely Low (<30%)	\$25,600	\$640	--
Very Low (31-50%)	\$42,700	\$1,068	\$140,000
Low (51-80%)	\$68,300	\$1,708	\$235,000
Moderate (81-120%)	\$77,750	\$1,944	\$280,000
Above moderate (120%+)	\$77,750+	\$1,944+	\$280,000+

Assumptions:

- Based on a family of 4
 - 30% of gross income for rent or PITI
 - 10% down payment, 4.5% interest, 1.25% taxes & insurance, \$200 HOA dues
- Source: Cal. HCD; J.H. Douglas & Associates

b. For-Sale Housing

Housing sales price statistics for the calendar year 2012 reported by DataQuick³ showed a median single-family home price of \$1.36 million and a median condo price of \$550,000. Due to the small number of sales in each city, these data are for the entire Palos Verdes peninsula, which includes Palos Verdes Estates. Clearly there is a large gap between market prices and what low- and moderate-income families can afford.

c. Rental Housing

An internet search for vacant rental units found apartments advertised with rents ranging from \$1,950 to \$2,600 for 2-bedroom units and up to \$10,000 per month for single-family homes. When these rents are compared to affordable housing costs (Table II-15), it is clear that low- and moderate-income households have a difficult time finding rental housing without overpaying.

E. Special Needs

Certain groups have greater difficulty in finding decent, affordable housing due to special circumstances. Such circumstances may be related to one's employment and income, family characteristics, disability, or other conditions. As a result, some Palos Verdes Estates residents may experience a higher prevalence of overpayment, overcrowding, or other housing problems.

State Housing Element law defines "special needs" groups to include persons with disabilities, the elderly, large households, female-headed households with children, homeless people, and farm workers. This section contains a discussion of the housing needs facing each of these groups.

1. Persons with Disabilities

The most recent Census data regarding persons with disabilities was reported in the 2000 Census. In 2000, approximately 652 people between 16 and 64 years of age, or 8% of the working age population, reported a work-related disability (see Table II-16). Of those aged 65 and over, 326 persons reported a physical disability (12%). Housing opportunities for those with disabilities can be improved through housing assistance programs and universal design features such as widened doorways, ramps, lowered countertops, single-level units and ground floor units.

³ <http://www.dqnews.com/Charts/Annual-Charts/LA-Times-Charts/ZIPLAT12.aspx>

Table II-16
Persons with Disabilities by Age

Disability by Age	Persons	Percent
Age 5 to 15 - total persons	2,010	
Sensory disability	12	0.6%
Physical disability	12	0.6%
Mental disability	71	3.5%
Self-care disability	12	0.6%
Age 16 to 64 - total persons	7,923	
Sensory disability	78	1.0%
Physical disability	111	1.4%
Mental disability	80	1.0%
Self-care disability	30	0.4%
Go-outside-the-home disability	118	1.5%
Employment disability	652	8.2%
Age 65 and over* - total persons	2,681	
Sensory disability	170	6.3%
Physical disability	326	12.2%
Mental disability	135	5.0%
Self-care disability	93	3.5%
Go-outside-the-home disability	213	7.9%

Source: 2000 Census, SF3 Tables P8 and P41

Note: Totals may exceed 100% due to multiple disabilities per person

Persons with Developmental Disabilities

As defined by federal law, “developmental disability” means a severe, chronic disability of an individual that:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the individual attains age 22;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in three or more of the following areas of major life activity: a) self-care; b) receptive and expressive language; c) learning; d) mobility; e) self-direction; f) capacity for independent living; or g) economic self-sufficiency;

- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

Examples of developmental disabilities include cerebral palsy, epilepsy and autism. The Census does not record developmental disabilities as a separate category of disability. According to the U.S. Administration on Developmental Disabilities, an accepted estimate of the percentage of the population that can be defined as developmentally disabled is 1.5 percent. Many developmentally disabled persons can live and work independently within a conventional housing environment. More severely disabled individuals require a group living environment where supervision is provided. The most severely affected individuals may require an institutional environment where medical attention and physical therapy are provided. Because developmental disabilities exist before adulthood, the first issue in supportive housing for the developmentally disabled is the transition from the person's living situation as a child to an appropriate level of independence as an adult.

The California Department of Developmental Services (DDS) provides community-based services to approximately 243,000 persons with developmental disabilities and their families through a statewide system of 21 regional centers, four developmental centers, and two community-based facilities. The Harbor Regional Center (<http://www.harborrc.org/>), with offices in Torrance and Long Beach, provides services for people with developmental disabilities on the Palos Verdes Peninsula, including Palos Verdes Estates. The HRC is a private, non-profit community agency that contracts with local businesses to offer a wide range of services to individuals with developmental disabilities and their families.

There is no charge for diagnosis and assessment for eligibility. Once eligibility is determined, most services are free regardless of age or income. There is a requirement for parents to share the cost of 24-hour out-of-home placements for children under age 18. This share depends on the parents' ability to pay. There may also be a co-payment requirement for other services.

Regional centers are required by law to provide services in the most cost-effective way possible. They must use all other resources, including generic resources, before using any regional center funds. A generic resource is a service provided by an agency that has a legal responsibility to provide services to the general public and receives public funds for providing those services. Some generic agencies may include the local school district, county social services department, Medi-Cal, Social Security Administration, Department of Rehabilitation and others. Other resources may include natural supports, which refers to help that disabled persons may get from family, friends or others at little or no cost.

According to its latest Fact Sheet⁴ the Harbor Regional Center provides services to more than 11,000 people with developmental disabilities and their families. About 15% are between birth and 2 years of age and are served under the early intervention program. About 37% are between the age of 3 and 18 years of age, and 48% are adults over 18 years of age. Most of HRC's clients (about 83%) live at home with families. An additional 10% live in some type of licensed home in the community, and about 7% live on their own with supports.

⁴ [http://www.harborrc.org/files/uploads/aboutclientsfam_r0313_\(2\).pdf](http://www.harborrc.org/files/uploads/aboutclientsfam_r0313_(2).pdf)

2. Elderly

According to recent Census estimates, there were 1,836 owner households and 504 renter households in Palos Verdes Estates where the householder was 65 or older (Table II-17). Some elderly homeowners may be physically unable to maintain their homes or cope with living alone. In areas where elderly persons are living in poverty, housing needs can be addressed through smaller units, second units on lots with existing homes, shared living arrangements, congregate housing and housing assistance programs.

Table II-17
Elderly Households by Tenure

Householder Age	Owner		Renter	
	Households	%	Households	%
Under 65 years	2,644	59.0%	348	69.0%
65 to 74 years	944	21.1%	64	12.7%
75 to 84 years	641	14.3%	92	18.3%
85 years and over	251	5.6%	0	0.0%
Total Households	4,480	100%	504	100%

Source: U.S. Census 2006-2010 ACS, Table B25007

3. Large Households

Household size is an indicator of need for large units. Large households are defined as those with five or more members. According to recent Census estimates, about 60% of all owner households and 53% of renter households have only one or two members. About 8% of owner households had five or more members, while less than 6% of renters were large households (Table II-18). This distribution suggests that the need for large units with four or more bedrooms in Palos Verdes Estates is expected to be significantly less than for smaller units.

Table II-18
Household Size by Tenure

Householder Age	Owner		Renter	
	Households	%	Households	%
1 person	613	13.7%	149	29.6%
2 persons	2,060	46.0%	118	23.4%
3 persons	643	14.4%	45	8.9%
4 persons	789	17.6%	163	32.3%
5 persons	308	6.9%	29	5.8%
6 persons	57	1.3%	0	0.0%
7 persons or more	10	0.2%	0	0.0%
Total Households	4,480	100%	504	100%

Source: U.S. Census 2006-2010 ACS, Table B25009

4. Female-Headed Households

Recent Census estimates reported that about 5% of owner households and 7% of renter households were headed by a female (Table II-19). While female-headed households represent a small portion of households in Palos Verdes Estates, they can face difficult challenges dealing with work and child care responsibilities.

Table II-19
Household Type by Tenure

Household Type	Owner		Renter	
	Households	%	Households	%
Married couple family	3,481	77.7%	259	51.4%
Male householder, no wife present	48	1.1%	14	2.8%
Female householder, no husband present	223	5.0%	35	6.9%
Non-family households	728	16.3%	196	38.9%
Total Households	4,480	100%	504	100%

Source: U.S. Census 2006-2010 ACS, Table B11012

5. Farm Workers

Farm worker households are considered a special needs group due to their transient nature and the lower incomes typically earned by these households. Migrant workers, and their places of residence, are generally located in close proximity to agricultural areas providing employment. No significant agricultural activities are found in Palos Verdes Estates or in the surrounding communities.⁵ In addition, Census data published by SCAG⁶ did not identify any farm workers residing in Palos Verdes Estates.

6. Homeless Persons

The U.S. Department of Housing and Urban Development (HUD) defines the term “homeless” as the state of a person who lacks a fixed, regular, and adequate night-time residence, or a person who has a primary night time residency that is:

- A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
- An institution that provides a temporary residence for individuals intended to be institutionalized; or

⁵ 2005 Crop and Livestock Report, Los Angeles County Agricultural Commissioner

⁶ <http://rtpscs.scag.ca.gov/Pages/Housing-Elements-2012.aspx>

- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.⁷

Although there are myriad causes of homelessness, among the most common are:

- Substance abuse and alcohol
- Domestic violence
- Mental illness

Homelessness is a regional problem best dealt with at a regional or countywide scale. Los Angeles County's focus is to provide funding for access to mainstream resources such as income supports, health care, mental health care, substance abuse treatment programs, child care, and job training placement.⁸ These resources serve the existing homeless population, and also work toward the prevention of homelessness.

According to the 2013 Homeless Count Report⁹ by the Los Angeles Homeless Services Authority (LAHSA), it is estimated that 53,798 persons were homeless at the time of the survey. Of this population, 24% were in shelter facilities, 42% were unsheltered and 34% were estimated to be "hidden homeless." Palos Verdes Estates is located within LAHSA's Service Planning Area (SPA) 8 – South Bay. The homeless count for SPA 8 found 5,245 single adults, 551 family members, and 15 unaccompanied youth. The estimated total number of homeless persons in SPA 8 was approximately 14% lower than the previous survey in 2011. LAHSA's survey did not count the homeless population for each jurisdiction, therefore 2010 Census data is the most recent available source. As reported by SCAG¹⁰, the Census Bureau reported no homeless persons in Palos Verdes Estates.

Senate Bill (SB) 2 of 2007 requires that jurisdictions identify a zone or zones that can accommodate at least one year-round emergency shelter¹¹. Cities must quantify the need for emergency shelters and determine whether existing facilities are adequate to serve the need. If adequate existing facilities are not available, the law requires jurisdictions to identify areas where new facilities are permitted "by-right" (i.e., without requiring discretionary approval such as a use permit), or enter into a multi-party agreement with up to two other jurisdictions to accommodate the need. When there is no unmet need, cities may identify a zone where emergency shelters are permitted subject to a conditional use permit. Since no homeless population has been identified in Palos Verdes Estates, there is no unmet need for emergency shelter facilities and the Housing Action Plan (Chapter V) includes Program ## to amend the Municipal Code in conformance with SB 2.

F. Assisted Housing at Risk of Conversion

State law requires that the Housing Element report assisted affordable units that are at risk of conversion to market rate housing during the next ten years. According to SCAG and the California Housing Partnership Corporation, there are no assisted units in Palos Verdes Estates.

⁷ Stewart B. McKinney Act, 42 U.S.C. §11301, et seq. (1994)

⁸ Los Angeles County Housing and Community Development Consolidated Plan, page 5-21

⁹ <http://documents.lahsa.org/planning/homelesscount/2013/HC13-Results-by-SPA-and-SD.pdf> (8/27/2013)

¹⁰ <http://rtpscs.scag.ca.gov/Pages/Housing-Elements-2012.aspx>

¹¹ Government Code Sec. 65583(a)(4)

G. Low and Moderate Income Housing in the Coastal Zone

Section 65590 of the California Government Codes provides for the preservation and production of low- and moderate-income housing in the Coastal Zone. Section 65590 requires the inclusion of low- or moderate-income housing in new residential development in the Coastal Zone where feasible. It also contains requirements for replacement of low- and moderate-income housing within the Coastal Zone with such housing is demolished or converted to other uses.

Government Code Section 65590(b)(3) states that replacement housing must be provided only where feasible if the local jurisdiction has less than 50 acres, in aggregate, of privately-owned, vacant land which is available for residential use. The City of Palos Verdes Estates currently has well below 50 acres of vacant land available for residential use citywide, and less than 5 acres is in the Coastal Zone.

In accordance with Government Code Section 65588(c) housing elements must take into account any low- or moderate-income housing provided or required pursuant to Section 65590. Section 65588(d) provides a framework for the analysis.

The City has not lost any low- or moderate-income dwellings to demolition. Because new housing in the Coastal Zone consists only of development or redevelopment of single-family lots, it is not feasible to require inclusionary units and none have been required. Thus, no low- or moderate-income housing units have been provided or lost pursuant to Section 65590.

H. Future Growth Needs

1. Overview of the Regional Housing Needs Assessment

The Regional Housing Needs Assessment (RHNA) is a key tool for local governments to plan for anticipated growth. The RHNA quantifies the anticipated need for housing within each jurisdiction for the “5th cycle” planning period from January 2014 to October 2021. Communities then determine how they will address this need through the process of updating the Housing Elements of their General Plans.

The current RHNA was adopted by the Southern California Association of Governments (SCAG) in October 2012. The future need for housing is determined primarily by the forecasted growth in households in a community. Each new household, created by a child moving out of a parent's home, by a family moving to a community for employment, and so forth, creates the need for a housing unit. The housing need for new households is then adjusted to maintain a desirable level of vacancy to promote housing choice and mobility. An adjustment is also made to account for units expected to be lost due to demolition, natural disaster, or conversion to non-housing uses. The sum of these factors – household growth, vacancy need, and replacement need – determines the construction need for a community. Total housing need is then distributed among four income categories on the basis of the county's income distribution, with adjustments to avoid an over-concentration of lower-income households in any community.

2. 2014-2021 Palos Verdes Estates New Housing Needs

The Southern California Association of Governments (SCAG) determined the RHNA growth needs for each city within the SCAG region, plus the unincorporated areas. The total housing growth need

for the City of Palos Verdes Estates during the 2006-2014 planning period is 16 units. This total is distributed by income category as shown in Table II-20.

Table II-20
Regional Housing Growth Needs 2014-2021

Very Low*	Low	Moderate	Above Moderate	Total
4	3	3	6	16

Source: SCAG 2012

*50% of the very-low need is assigned to the extremely-low-income category pursuant to Government Code §65583(a)(1)

Note: The RHNA projection period is 1/1/2014 – 10/31/2021

It should be noted that SCAG did not identify growth needs for the extremely-low-income category in the adopted RHNA. As provided in Assembly Bill (AB) 2634 of 2006, jurisdictions may determine their extremely-low-income need as one-half the need in the very-low category.

A discussion of the City's land resources to accommodate this growth need is provided in Chapter III.

III. RESOURCES AND OPPORTUNITIES

A. Sites for Residential Development

Section 65583(a)(3) of the *Government Code* requires Housing Elements to contain an “inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.” The City’s inventory of sites with potential for residential development is provided in Appendix B and summarized in Table III-21.

Affordability Assumptions

In 2004 state Housing Element law was amended¹² to clarify the requirements for the land inventory analysis, and established a “default density” for each jurisdiction. The default density is the density that is assumed to be sufficient to facilitate the production of lower-income housing. The default density for Palos Verdes Estates is 20 units/acre. Since the City allows multi-family residential development at 24.9 units/acre and mixed-use development in the Commercial zone with no density limit, those sites are considered to be suitable for lower-income housing. However, it must be recognized that affordable housing requires two things: 1) a suitable site with appropriate land use regulations, and 2) a willing developer with access to public subsidies to make the project financially feasible. The small number of vacant sites, very high land costs, and limited public subsidies makes affordable housing development in areas like Palos Verdes Estates extremely challenging.

Single-Family Sites

Only about ## vacant residential lots totaling about 30 acres currently exist in the city. This vacant land typically consists of individual single-family (R-1) lots in developed neighborhoods, and there are few locations where even two vacant sites are contiguous. Vacant sites are generally difficult to develop due to topography. The few lots that are large enough to present an opportunity for further subdivision are very steeply sloped, rendering it impractical to construct additional units. At the same time, some of the lots presenting the greatest development challenge also provide spectacular views, inducing potential residents to make the investment needed for massive grading or other modifications of the lot. Thus, they are only suitable for single-family housing. Infrastructure exists to serve these lots, though three of the lots lack direct street access and would require an easement across adjacent lots. Due to terrain and isolated location, none of the vacant lots is suitable for multi-family development.

Multi-Family Sites

Two areas in Palos Verdes Estates allow multi-family development – Lunada Bay and Malaga Cove (see Figures III-1, III-2 and III-3). The R-M zoning for these areas is consistent with the private deed restrictions enforced by the Homes Association, and no additional land can be redesignated for multi-family use without approval of the Association. Within these two areas, all sites are developed at or above the allowable density of 24.9 units/acre except for five lots which are located on Via Campesina, Via Pinale, and Palos Verdes Drive West. These lots could accommodate ## dwelling units if existing development were demolished and replaced at the maximum permitted density of 24.9 units/acre

¹² HCD memo of June 9, 2005 on AB 2348

(Table III-22). Multi-family development is permitted by-right in the R-M district, and adequate streets, sewer, and water infrastructure exist to serve these properties.

Commercial and Mixed-Use Sites

A total of approximately 8.5 acres of land is zoned for commercial use at Lunada Bay and Malaga Cove. Mixed-use development is permitted in these areas, and could accommodate affordable housing. The Zoning Code allows mixed commercial/residential use by use permit. There is no density limit on the residential component of a mixed-use development other than conformance with the applicable standards such as the height limit of 35 feet and two stories (which does not include parking garages), lot coverage, setbacks, parking, landscaping, etc. Development at the “default density” of 20 units/acre is feasible under these regulations. Table III-23 contains an inventory of commercial sites that allow mixed-use development. This table shows that the three sites at Lunada Bay could accommodate 50 multi-family units, while the five sites at Malaga Cove could accommodate 117 units, assuming a density of 20 units/acre.

Other Undeveloped Areas

The only other significant undeveloped areas that are buildable or have potential for redevelopment are in public or quasi-public use. This includes public open space, schools, and churches. Should such uses be abandoned, residential use of the sites could be considered, to the extent this can be accomplished within existing deed restrictions.

The City contains approximately 849 acres of open space, including the 130-acre shoreline preserve, park sites and greenbelt pathways, the golf course, and play areas. These areas are deed restricted and, for areas in the Coastal Zone, designed to enhance preservation and/or access to coastal resources, consistent with the California Coastal Act.

As shown in Table III-21 below, the City’s inventory of vacant and underutilized sites can accommodate the RHNA allocation in all income categories.

Table III-21
Land Inventory Summary

	Income Category		
	VL/L	Mod	Above
Vacant Single-Family lots			30
Underutilized Multi-Family sites	##		
Underutilized Commercial/Mixed-Use sites	167		
Subtotal	##	##*	30
RHNA (2014-2021)	7	3	6
Adequate Sites?	Yes	Yes	Yes

Source: City of Palos Verdes Estates Planning Department, 2013

*Reflects a surplus of VL/L sites

B. Unaccommodated Need from the Prior Planning Period

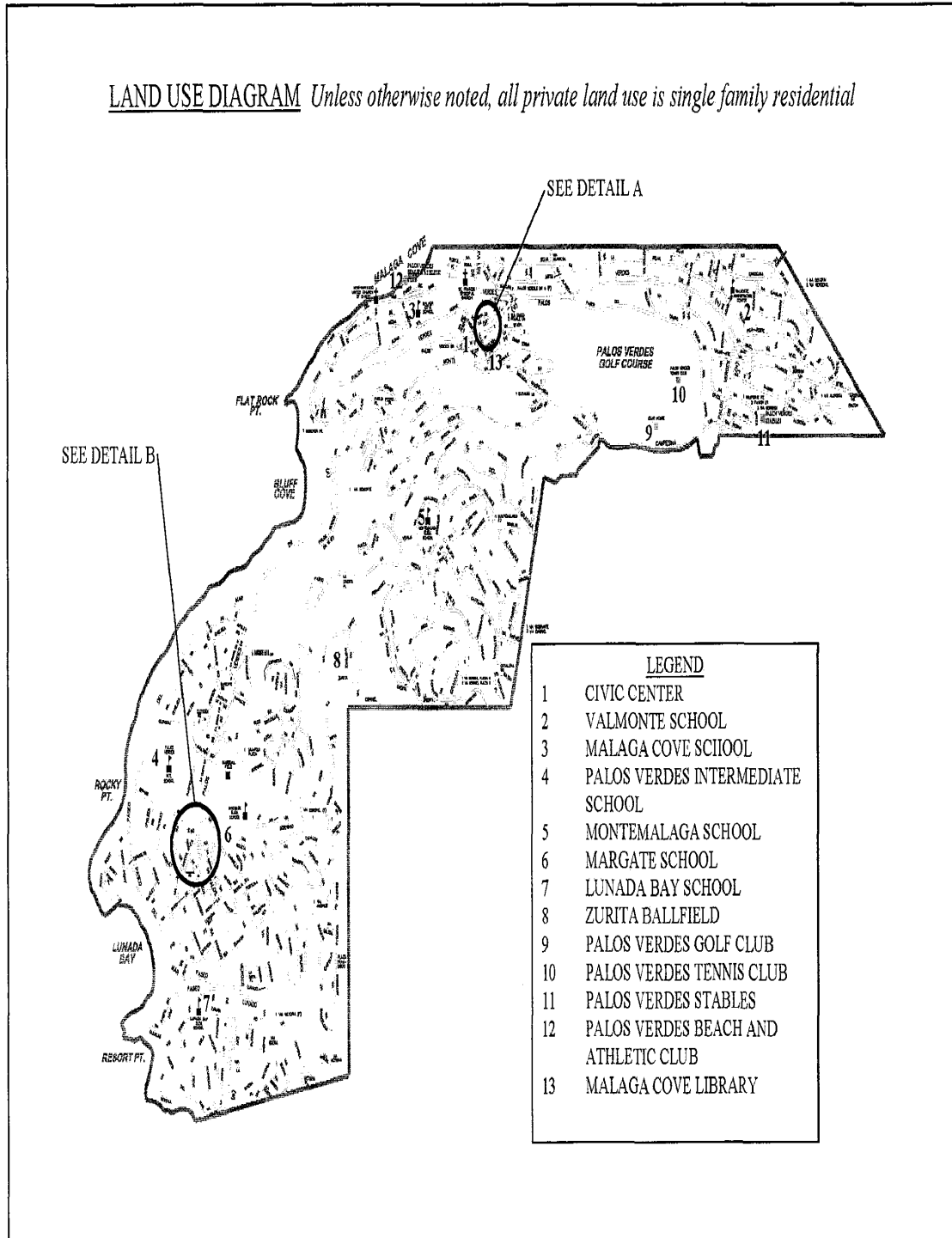
Under Section 65584.09 of the *Government Code*, if a city failed to identify or make available adequate sites to accommodate its RHNA allocation during the prior planning period, then during the first year of the new planning period the city must zone or rezone adequate sites to accommodate the unaccommodated portion of the prior regional housing need allocation. The unaccommodated allocation shall be in addition to the City's RHNA allocation for the new planning period.

The 4th cycle RHNA allocation for Palos Verdes Estates was 72 units, distributed among income categories as follows:

Very low income	19 units
Low income	12 units
Moderate income	13 units
Above moderate income	28 units

The City's inventory of potential sites for residential development has not substantially changed since the 4th planning period, and the inventory exceeded the prior RHNA allocation for all income levels. Therefore, no unaccommodated need exists from the prior period.

Figure III-2
Palos Verdes Estates Land Use Diagram



LAND USE DIAGRAM: DETAIL A

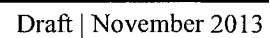


Figure III-4
Lunada Bay Land Use Diagram

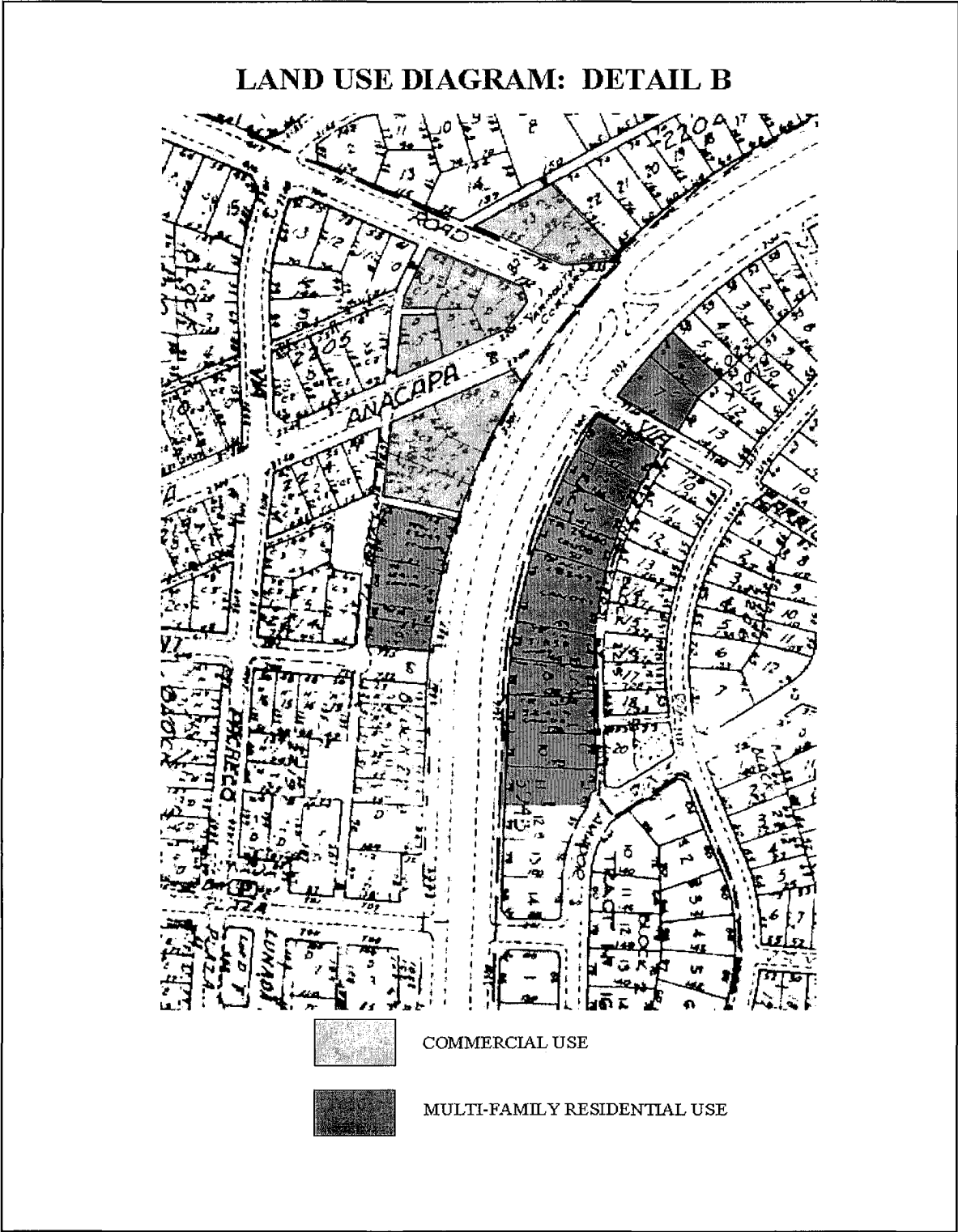


Table III-22

Multi-Family Sites Inventory

Insert table

Table III-23
Commercial/Mixed-Use Sites Inventory

Site #	Site (APN)	General Plan/ Zoning	Parcel Size	Existing Use	Existing Floor Area	Existing FAR	Units by Income Category		
							VL/L	Mod	Upper
Lunada Bay									
Site 1	7542-003-023	C	12,027	Gas Station	1,050				
	7542-003-026	C	14,340	Office/Retail	11,290				
	Subtotal		26,367		12,340	0.47	12		
Site 2	7542-013-018	C	9,148	Market/Cafe	7,434				
	7542-013-019	C	6,386	Retail/Cafe	2,604				
	7542-013-020	C	8,011	Office/Retail	11,150				
	7542-013-022	C	9,187	Office/Retail	4,377				
	7542-013-021	C	6,717	Office/Retail	4,026				
	Subtotal		39,449		29,591	0.75	18		
Site 3	7542-015-900	C	14,183	Public Park	0				
	7542-015-025	C	29,555	Office/Retail/Restaurant	36,478				
	Subtotal		43,738		36,478	0.83	20		
TOTALS-LUNADA BAY			2.52 acres				50		
Malaga Cove									
Site 1	7539-015-900	C	76,230	City Hall/Parking	16,293				
	7539-015-901	C	16,122	Public Park	0				
	Subtotal		92,352		16,293	0.18	42		
Site 2	7539-016-904	C	12,197	Parking	0				
	7539-016-018	C	18,300	Office/Restaurant	7,936				
	7539-016-019	C	11,330	Office	7,514				
	Subtotal		41,827		15,450	0.37	19		
Site 3	7539-016-011	C	5,763	Office	5,445				
	7539-016-012	C	5,772	Office	2,934				

Site #	Site (APN)	General Plan/ Zoning	Parcel Size	Existing Use	Existing Floor Area	Existing FAR	Units by Income Category		
							VL/L	Mod	Upper
	7539-016-013	C	5,763	Office	8,560				
	7539-016-014	C	5,580	Office	4,387				
	Subtotal		22,878		21,326	0.93	10		
Site 4	7539-017-016	C	6,983	Office/Retail	12,114				
	7539-017-015	C	5,672	Office	12,573				
	7539-017-014	C	9,017	Office/Cafe	3,301				
	7539-017-013	C	5,820	Outdoor Patio	0				
	7539-017-012	C	5,776	Market/Office	8,444				
	7539-017-011	C	5,772	Office	12,072				
	7539-017-010	C	5,746	Office	7,080				
	7539-017-009	C	5,872	Office	4,800				
	7539-017-008	C	7,653	Office	9,828				
	Subtotal		58,311		70,212	1.20	26		
Site 5	7539-018-023	C	20,469	Office/Retail	15,435				
	7539-018-002	C	8,320	Office	13,863				
	7539-018-001	C	7,780	Office/Retail	15,639				
	7539-018-021	C	4,783	Office	4,746				
	7539-018-022	C	2,692	Office	2,705				
	Subtotal		44,044		52,388	1.19	20		
TOTALS - MALAGA COVE			5.96 acres				117		

Figure III-5
Malaga Cove Commercial / Multi-Family District



Source: Google Maps, 2013

Figure III-6
Lunada Bay Commercial / Multi-Family District



Source: Google Maps, 2013

C. Energy Conservation Opportunities

State law (*Government Code* §65583(a)(7)) requires all new construction to comply with "energy budget" standards that establish maximum allowable energy use from depletable sources (Title 24 of the California *Administrative Code*). These requirements apply to such design components as structural insulation, air infiltration and leakage control, setback features on thermostats, water heating system insulation (tanks and pipes) and swimming pool covers if a pool is equipped with a fossil fuel or electric heater. State law also requires that a tentative tract map provide for future passive or natural heating or cooling opportunities in the subdivision, including designing the lot sizes and configurations to permit orienting structures to take advantage of a southern exposure, shade or prevailing breezes.

Southern California Edison (SCE) and the Southern California Gas Company offer energy conservation programs including audits of home energy use to reduce electricity consumption, refrigerator rebates, appliance repair and weatherization assistance to qualified low income households, buyer's guides for appliances and incentives, by the Gas Company, to switch from electric to gas appliances. Direct assistance to low-income households is provided by the Gas Company through the California Alternate Rates for Energy (CARE) Program and by SCE through its Energy Management Assistance Program.

Both companies have programs to encourage energy conservation in new construction. SCE's energy rebate program applies to residential developers as well as individual customers. SCE also offers an Energy STAR new home program, and Sustainable Communities Program offering design assistance and financial incentives for sustainable housing development projects. The Gas Company's Energy Advanced Home Program is offered to residential developers who install energy-efficient gas appliances that exceed California energy standards by at least 15%.

Some of the most readily available measures for conserving energy in new residential development, as well as in other homes, are described below.

Insulation and Weatherproofing

A significant portion of the homes in Palos Verdes Estates were built prior to 1970, when there was little concern for the use of electricity, oil and natural gas for heating purposes. To conserve the heat generated by older heating units and minimize the heat loss ratio, these homes can be insulated in the attic space and exterior walls. Windows and exterior doors can be fitted with airtight devices, caulking or other means to maximize heating and cooling efforts.

Solar Energy and Natural Lighting

Daytime interior lighting costs can be significantly reduced or eliminated with the use of properly designed and located skylights. Skylights can be easily installed at reasonable expense in existing houses, thereby substantially reducing electricity costs and energy consumption.

Solar energy is a practical, cost effective, and environmentally sound way to heat and cool a home. In California, with its plentiful year-round sunshine, the potential uses of solar energy are numerous. With proper building designs, this resource provides for cooling in the summer and heating in the winter; it can also heat water for domestic use and swimming pools and can generate electricity.

Unlike oil or natural gas, solar energy is an unlimited resource. Once a solar energy system is installed, the only additional costs are for the maintenance or replacement of the system itself. The user is not subject to unpredictable fuel price increases. Moreover, solar energy can be utilized without any serious safety or environmental concerns.

Solar heating and cooling systems are of three general types: passive, active, or a combination of both. In passive solar systems, the building structure itself is designed to collect the sun's energy, then store and circulate the resulting heat, similar to a green house. Passive buildings are typically designed with a southerly orientation to maximize solar exposure, and constructed with dense materials such as concrete or adobe to better absorb the heat. Properly placed windows and overhanging eaves also contribute to keeping a house cool.

Active systems collect and store solar energy in panels attached to the exterior of a house. This type of system utilizes mechanical fans or pumps to circulate the warm/cool air, while heated water can flow directly into a home's hot water system.

Although passive systems maximize use of the sun's energy and are less costly to install, active systems have greater potential for both cooling and heating a home and providing hot water. This may mean lower energy costs for residents presently dependent on conventional fuels. The City encourages the use of passive solar systems in new residential construction to improve the energy efficiency of housing units.

In order to encourage energy conservation and reduce in greenhouse gas emissions, the City

South Bay Energy Saving Center

In addition to state-mandated Title 24 requirements, Palos Verdes Estates is participating in a coalition to collaboratively tackle the issue of energy conservation.¹³ The South Bay Energy Saving Center (SBESC¹⁴) is educating residents, business owners, and public agencies about the energy conservation programs and incentives available in the community and how to incorporate more energy-saving practices into everyday life. Established through funding from the California Public Utilities Commission, the SBESC includes the 15 cities that comprise the South Bay Cities Council of Governments (SBCCOG), and is associated with Southern California Edison and Southern California Gas Company. Member cities include Carson, El Segundo, Gardena, Hawthorne, Hermosa Beach, Inglewood, Lawndale, Lomita, Manhattan Beach, Palos Verdes Estates, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Torrance, and the Harbor City and San Pedro communities of Los Angeles.

The distribution of water brooms to business owners is one of the Center's most successful projects to date. Targeted mainly to restaurant owners, the water brooms can be used instead of a hose and nozzle or a power washer. Using a combination of air and water pressure, the brooms are water efficient and clean dust, dirt, food spills, leaves, litter, sawdust, and bird droppings from concrete, asphalt, or any other hard surface. So far, the Center has distributed over 400 water brooms. SBESC estimates that each broom can save 50,000 gallons of water annually.

¹³ http://www.imakenews.com/priorityfocus/e_article001104271.cfm?x=bcHNgMg.b7M8B89t

¹⁴ www.sbecs.com

The Center also hosted a community lamp exchange in which about 2,000 residents exchanged their traditional lamps for compact fluorescent light bulbs, free of charge. Edison donated the fluorescent lamps and residents were invited to exchange up to 10 household lamps apiece.

Water Conservation

Simple water conservation techniques can save a family thousands of gallons of water per year, plus many dollars in water and associated energy consumption costs. It is now possible to obtain plumbing products that reduce water waste by restricting the volume of water flow from faucets, showerheads, and toilets. The use of plant materials, in residential landscaping, that are well adapted to the climate in the Palos Verdes Peninsula can also measurably contribute to water conservation by reducing the need for irrigation.

A household can save water by fixing dripping faucets and using water more conservatively. In addition, such conservation practices save on gas and electricity needed to heat water and the sewage system facilities needed to treat it. By encouraging residents to conserve water and install water saving devices, the City can greatly reduce its water consumption needs and expenses.

The City Council also passed a water efficient landscape ordinance (Municipal Code Chapter 18.50) in 2010. This ordinance requires stringent water efficiency standards for landscaping installations of over 2,500 square feet for non-residential projects and over 5,000 square feet for residential installations.

IV. CONSTRAINTS

A. Governmental Constraints

1. Land Use Plans and Regulations

a. California Coastal Act

A portion of the city is located in the Coastal Zone. The California Coastal Act mandates preservation of coastal bluffs, public access to the shoreline, coastal views, and ecologically sensitive areas. In addition to broad policy, the Coastal Commission has also established “stringline” development standards in many areas in order to preserve views. This can act as a constraint upon development. In addition, Coastal Commission permit procedures are time-consuming and complex. Because the City has an adopted Local Coastal Program (LCP) implementation program, development is facilitated by the reduced need to process projects through the Coastal Commission. City decisions may still be appealed to the Coastal Commission, however.

b. General Plan

Each city and county in California must prepare a comprehensive, long-term General Plan to guide its future. The land use element of the General Plan establishes the basic land uses and density of development within the various areas of the city. Under state law, the General Plan elements must be internally consistent and the city’s zoning must be consistent with the General Plan. Thus, the land use plan must provide suitable locations and densities to implement the policies of the Housing Element.

The General Plan provides for two categories of residential density, Single-Family Residential and Multiple-Family Residential. Multiple-Family Residential areas are also governed by the Palos Verdes Estates Specific Development Plan, which establishes a maximum density of one dwelling unit for each 1,750 square feet of lot area, equating to 24.9 units per acre, the same density as specified under the Zoning Code. Multi-family dwellings are permitted by-right in the R-M Zoning District.

c. Zoning Designations and Development Standards

The City regulates the type, location, density, and scale of residential development through the Municipal Code. Zoning regulations serve to implement the General Plan and are designed to protect and promote the health, safety, and general welfare of residents. The Municipal Code also helps to preserve the character and integrity of existing neighborhoods. The Municipal Code sets forth residential development standards for each zone district.

The Plan also regulates minimum dwelling unit size. Minimum ground floor area for dwellings in the R-1 District is 1,200 square feet and minimum unit size in the R-M District is as follows:

1 bedroom	750 sq.ft.
2 bedrooms	950 sq.ft.
3 bedrooms	1050 sq.ft.
Additional Bedrooms	+100 sq.ft.

These minimum sizes are not inordinately large, and are smaller than typical dwellings constructed elsewhere in the region in recent years. However, to the extent that demand existed for very high density, small residential units these limits could act as a constraint on the delivery of housing.

The City height limit accommodates three stories, which can accommodate multi-family development at allowable densities.

The City's zoning regulations specify a maximum lot coverage of 30 percent for single-family lots, 60 percent for interior multi-family lots, and 70 percent for multi-family lots located on a corner. This is consistent with existing deed restrictions. The Code also stipulates that setbacks shall be consistent with covenants of record. These generally provide for minimum side yards of five to ten feet, and minimum rear yards of 12 to 20 feet, depending on the height of the building. These requirements are not unusually restrictive, reflective of typical setbacks required in many suburban communities, and do not pose a constraint on development.

The Zoning Code also restricts maximum floor area of a single-family residence to the lesser of 30 percent of lot area plus 1,750 square feet or 50 percent of lot area. This serves to maintain the character of existing neighborhoods and prevent extremely costly, overly large homes, or “mansionization”.

Zoning for Multi-Family Housing – The allowable density within the Multi-Family (R-M) zoning district is 24.9 dwelling units per acre. With the provision of a density bonus for affordable housing, as provided under *Government Code* Section 65915, this would allow densities up to 33 units per acre depending on the proportion of affordable housing provided. State law establishes a “default density” of 20 units per acre for small cities in the Los Angeles metropolitan area. This refers to the density that is deemed suitable to facilitate development of lower-income housing. Since the City’s allowable multi-family density is greater than the default density, it is not considered a constraint to affordable housing development.

Two areas in the City allow commercial development – Lunada Bay and Malaga Cove. Commercial/residential mixed-use development is permitted in these areas, and could accommodate development of affordable housing. The City's Zoning Code allows mixed commercial/residential use upon the approval of a use permit. The Code does not limit the maximum density for mixed use, although development in commercial areas is limited to 35 feet and two stories, excluding parking garages, and is limited to 80 percent lot coverage. These standards can accommodate development at the default density of 20 units/acre.

Allowable residential uses under the Zoning Code are summarized in Table IV-24.

Table IV-24
Permitted Residential Development by Zone

Housing Type	R-1	R-M	C
Single-Family Detached	P	P	C ¹
Single-Family Attached	X	P	C ¹
Multi-Family	X	P	C ¹
Mixed Use	X	X	C ¹
Manufactured Housing	X	C	X
Mobilehome Park	X	C	X
Second Units	P	X	
Communal Housing ²	C	C	C

P = permitted C = conditionally permitted X = not permitted

1. In combination with commercial use

2. The Municipal Code defines *communal housing* as “housing for nonfamily groups with common kitchen and dining facilities but without medical, psychiatric, or other care. Communal housing includes boarding houses, lodging houses, dormitories, communes, and religious homes.”

d. Special Needs Housing

Persons with special needs include those in residential care facilities, persons with disabilities, persons needing emergency shelter or transitional living arrangements. Many of these groups also fall under the category of extremely-low-income households. The City’s provisions for these housing types are discussed below.

Community Care Facilities

Community care facilities refer to any family home, group home, or rehabilitation facility that provide non-medical care to persons in need of personal services, protection, supervision, assistance, guidance, or training essential for daily living. Under state law, state-licensed community care facilities that serve six or fewer persons must be treated as a single-family residential use. The Municipal Code allows “communal housing” with no limit on the number of occupants in all residential zones subject to a conditional use permit. The Code does not define or regulate “community care facility” or “residential care facility.”

Housing for Persons with Disabilities

Both the federal Fair Housing Act and the California Fair Employment and Housing Act require local governments to allow reasonable accommodation (i.e. modifications or exceptions) in their zoning laws and other land use regulations when necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. The Building Codes adopted by the City of Palos Verdes Estates incorporate accessibility standards contained in Title 24 of the California Administrative Code. For example, apartment complexes of three or more units and condominium complexes of four or more units must be designed to accessibility standards.

- Definition of “family”. According to Municipal Code Section 17.08.190 “*Family*” is defined as an individual or two or more persons living together as a single household in a

dwelling unit. This definition is consistent with state law and does not pose a constraint to housing for persons with special needs.

- Separation requirements. No separation requirements are established in the Municipal Code for group homes or care facilities.
- Site planning requirements. The site planning requirements for communal housing are no different than for other residential uses in the same zone.
- Parking standards. Parking requirements for communal housing are calculated in the same manner as for other residential uses in the same zone.

Emergency Shelters

Senate Bill 2 of 2007 strengthened the planning requirements for emergency shelters¹⁵. Each local government is required to identify a zone or zones to accommodate at least one year-round emergency shelter. When a city does not have sufficient emergency shelter capacity to accommodate its shelter need, zoning regulations must allow emergency shelter facilities by-right. Additional zones may be established where emergency shelters are permitted subject to a conditional use permit.

As discussed in Chapter II, the latest Census data reported no homeless persons in Palos Verdes Estates, and there is no demand for emergency shelters in the city. The Municipal Code does not provide a definition for emergency shelters, however such facilities may be permitted under the regulations for *communal housing* subject to a conditional use permit. In conformance with state law, Housing Action Plan (Chapter V) includes Program 11 to initiate an amendment to the Code to establish a definition and regulations for emergency shelters.

Transitional and Supportive Housing

“Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. [Government Code Sec. 65582(h)]

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. [Government Code Sec. 65582(f)]

“Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. [Government Code Sec. 65582(g)]

¹⁵ Government Code Sec. 65583(a)(4)

Under state law, transitional and supportive housing must be permitted as residential uses subject only to the same standards and procedures as apply to other residential uses of the same type in the same zone. The Municipal Code does not contain definitions or regulations for these uses, therefore the Housing Action Plan (Chapter V) includes Program 11 to initiate an amendment to the Code to establish regulations for these uses consistent with state law.

e. Off-Street Parking Requirements

The City's parking requirements for residential uses summarized in Table IV-25. Within the Overlay District, senior housing is required to provide only one space per unit and three parking spaces for every four units for guest and employee parking. Senior housing parking requirements may be adjusted for individual projects based on an approved parking study.

Table IV-25

Residential Parking Requirements

Type of Unit	Minimum Parking Space Required
Single-Family	2 spaces in a garage
Multiple-Family	2 covered spaces per 1-bedroom unit plus ½ covered space per additional bedroom, not to exceed 3 spaces per unit ¼ guest space per unit

Source: Palos Verdes Estates Zoning Ordinance, 2013

f. Second Units

The City of Palos Verdes Estates currently provides for the establishment second dwelling units on lots occupied by a single-family dwelling. Second units may not exceed 30 percent of the floor area of the existing dwelling if attached, or 700 square feet if detached, and must be located on a lot at least 15,000 square feet in area. The second dwelling unit may not be sold separately from the primary dwelling. While the size limit precludes second units for large families, the size restriction would also act to ensure that the second unit remained modest and affordable and would be well suited to seniors.

g. Density Bonus

Under State law (SB 1818 of 2004), local jurisdictions must provide a density increase up to 35% over the otherwise maximum allowable residential density under the Municipal Code and the Land Use Element of the General Plan (or bonuses of equivalent financial value) when builders agree to construct housing developments with units affordable to low- or moderate-income households, or senior housing. Chapter 18.68 of the Municipal Code establishes regulations and procedures consistent with state law.

h. Building Codes

State law prohibits the imposition of building standards that are not necessitated by local geographic, climatic or topographic conditions. Further, state law requires that local governments making changes or modifications in building standards must report such charges to the Department of Housing and Community Development and file an expressed finding that the change is needed.

The City's building codes are based upon the 2010 California Building, Plumbing, Mechanical, Fire and Electrical Codes. These are considered to be the minimum necessary to protect the public's health, safety and welfare. No additional regulations have been imposed by the City that would unnecessarily add to housing costs.

2. Development Processing Procedures

a. Residential Permit Processing

State Planning and Zoning Law provides permit processing requirements for residential development. Within the framework of state requirements, the City has structured its development review process in order to minimize the time required to obtain permits while ensuring that projects receive careful review.

Where no discretionary review is required, plan check for processing of building permits is generally four to six weeks, depending on work load. For discretionary permits such as conditional use permits or variances for projects not meeting basic standards, there is an initial internal review period of 30 days. If all application materials are in order, the application is then forwarded for a 21-day public review and noticing period. These time frames are typical of those for cities in the region.

One aspect of the approval process that can add additional time to project development is the requirement for neighborhood compatibility findings. A finding of neighborhood compatibility must be obtained from the Planning Commission or City Council for the following developments on single-family residential property:

1. Any new structure of 1,000 square feet or more of gross floor area;
2. Addition of 1,000 square feet or more of gross floor area to any existing structure;
3. Additions of gross floor area in the form of a second story whether in whole or in part to any existing structure;
4. Addition to an existing building of a second story deck or balcony 80 or more square feet in area and/or projecting more than six feet from the existing building;
5. Addition to an existing building of a second story deck or balcony which is located in a required side yard;
6. Addition of a mezzanine, whether in whole or in part, to any existing building or structure, that changes the exterior of the building or structure; or
7. Any increase in the roof ridge elevation of any portion of an existing building, unless the increase is only a result of utilizing an alternate roofing material.

Applicants for multi-family development fitting the same criteria must obtain a Site Plan Permit, subject to the following findings:

1. The use or project proposed is consistent with the General Plan;
2. The use or project is consistent with any specific plan;

3. The use, activity, or improvements proposed by the application is consistent with the provisions of this title and Title 18 of the Code;
4. The approval of the permit application is in compliance with the requirements of the California Environmental Quality Act and Chapter 17.10 of the Code;
5. The neighborhood compatibility requirements of Chapter 18.36 have been satisfied;
6. The art jury of the Palos Verdes Home Association has completed its architectural review and has approved the project; and
7. The application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

Applicants for a finding of neighborhood compatibility are required to confer with staff to review the process and likelihood of success. Applicants are provided with a packet detailing typical conditions of approval and relevant policy, such as the Silhouette Policy.

The additional time required for the neighborhood compatibility process, including the three week public review process, could act as a constraint to large scale development. In the case of single-family development, the properties most likely to be affected would be those on which large homes are proposed.

b. Environmental Review

Environmental review is required for all development projects under the California Environmental Quality Act (CEQA). Most residential projects in Palos Verdes Estates are either Categorically Exempt or require an Initial Study and a Mitigated Negative Declaration. Developments that have the potential of creating significant impacts that cannot be mitigated require the preparation of an Environmental Impact Report. Once deemed complete, most residential projects that require a Mitigated Negative Declaration take two to three months to complete, inclusive of mandatory public review periods. Categorically Exempt developments such as second residential units require a minimal amount of time. As a result, state-mandated environmental review does not pose a significant constraint to housing development.

3. Development Fees and Improvement Requirements

State law limits fees charged for development permit processing to the reasonable cost of providing the service for which the fee is charged. Various fees and assessments are charged by the City and other public agencies to cover the costs of processing permit applications and providing services and facilities such as schools, parks and infrastructure. Almost all of these fees are assessed through a pro rata share system, based on the magnitude of the project's impact or on the extent of the benefit that will be derived.

Table IV-26 shows the estimated development fees associated with a single-family house and a 10-unit multi-family project.

Table IV-26
Residential Development Fee Summary

	Single-Family ¹	Multi-Family ²
School Fees (Palos Verdes Peninsula Unified School District)		
Water meter fee		
Sewer connection fee		
Traffic impact fee		
Park fee		
Conditional Use Permit processing fee	-	\$
Neighborhood Compatibility review fee		
Total Fees per Unit		
Est. Development Cost Per Unit		
Est. Fees as % of Total Cost		

1. Based on one 2,500-square-foot house on a legal lot

2. Based on a 10 multi-family units of 1,200 square feet each on a legal lot

City road standards vary by roadway designation as provided in Table IV-27. The City's road standards are typical for cities in Los Angeles County and do not act as an unreasonable constraint to housing development.

Table IV-27
Road Improvement Standards

Roadway Designation	Standards
Arterial (Major and Secondary)	2 – 4 travel lanes Divided roadway Left-turn lands/pockets 60 – 80 ft road width 80 – 100 ft ROW
Collector Street	2 – 4 travel lanes Undivided roadway 32 – 52 ft road width 60 ft ROW
Local Street	2 travel lanes 36 – 40 ft road width 50 – 60 ft ROW

Source: City of Palos Verdes Estates, 2013

After the passage of Proposition 13 and its limitation on local governments' property tax revenues, cities and counties have faced increasing difficulty in providing public services and facilities to serve their residents. One of the main consequences of Proposition 13 has been the shift in funding of new infrastructure from general tax revenues to development impact fees and improvement requirements on land developers. The City requires developers to provide on-site and off-site improvements necessary

to serve their projects. Such improvements may include water, sewer and other utility extensions, street construction and traffic control device installation that are reasonably related to the project. Dedication of land or in-lieu fees may also be required of a project for rights-of-way, transit facilities, recreational facilities and school sites, consistent with the Subdivision Map Act.

The City's Capital Improvement Program (CIP) contains a schedule of public improvements including streets, bridges, overpasses and other public works projects to facilitate the continued build-out of the City's General Plan. The CIP helps to ensure that construction of public improvements is coordinated with private development.

Although development fees and improvement requirements increase the cost of housing, cities have little choice in establishing such requirements due to the limitations on property taxes and other revenue sources needed to fund public improvements and maintain community standards.

B. Non-Governmental Constraints

1. Private Deed Restrictions

All land in the City of Palos Verdes Estates is subject to private deed restrictions developed at the time the master planned Palos Verdes project was established. These restrictions include allowable land uses and architectural style. Thus, the potential for subdivision or intensification of use in most areas is quite low. Only those areas currently zoned R-M may be developed with multi-family units under the deed restrictions. The restrictions do allow for the establishment of dormitories or boarding houses in areas designated for commercial use and in a strip of residential lots adjacent to Palos Verdes Drive North in Tract No. 6887 in the northeasterly portion of the City.

Deed restrictions also apply to dedicated City open space. Thus, such areas would not be available for other uses, even if constraints posed by topography, infrastructure and other factors discussed below did not exist.

These legally binding private restrictions were established prior to City incorporation. The Palos Verdes Homes Association currently oversees compliance with the deed restrictions. The Homes Association operates independently from the City and consists of owners of property within the planned community subdivision, both inside and outside the boundaries of the City of Palos Verdes Estates. The City has no authority to alter or override the deed restrictions or the decisions of the Homes Association.

The deed restrictions establish standards for density, building height and lot coverage, which are similar to City standards. The restrictions permit mixed residential/ commercial use in commercial areas and are silent regarding second family units, although maids' quarters and guest quarters are permitted. In addition, the deed restrictions address issues related primarily to aesthetics such as exterior building materials, colors, and roof pitch. The restrictions do not dictate architectural style but specify that all buildings must have "good design".

The deed restrictions operate as a constraint to additional development due to the specific development standards, the need to include Association Art Jury review in project design time frames, and the need to satisfy the standards of those individuals that may be serving on the Art Jury at a given time.

Any changes to a site that do not specifically conform to the restrictions must gain not only the approval of the Association, but must be approved in writing by two-thirds of the owners of property within three hundred feet of the site in question. The City has no authority to modify or remove these restrictions.

If a property owner proceeds with any construction or improvements that have not been approved by the Homes Association, the Association has the right to remove such construction or improvements, and place a lien on the property. Under terms of the adopted protective restrictions, failure to conform to the restrictions could actually lead to loss of title.

2. Environmental Constraints

Topography

The City of Palos Verdes Estates is characterized by rugged terrain, with elevation changes of over 1,134 feet over the 3,038-acre city. Most remaining vacant land is steeply sloped. Construction in these areas would likely require extensive grading, sinking of caissons or pilings, or elaborate engineering solutions. Costs would vary according to site topography, site stability, the complexity of necessary engineering studies and surveys, and the physical improvements involved. City topography also renders emergency access difficult and constrains the ability to widen the city's narrow residential streets, thereby inhibiting intensification of use.

Natural Resources and Hazards

The Coastal Sage Scrub vegetative community exists on many of the open slopes in Palos Verdes Estates. This vegetation is recognized as habitat for the California gnatcatcher, a sensitive species for which preservation efforts are underway. Thus, development entailing habitat removal would be constrained.

Significant environmental constraints are also imposed by active earthquake fault zones within the City, including the Palos Verdes Fault, Cabrillo Fault and the Newport-Inglewood Fault. Seismic risks are addressed by Public Safety Element policies.

3. Infrastructure Constraints

Roadways in Palos Verdes Estates are typically steep and winding, and unsuitable for high traffic levels. The City does not contain any major arterials, nor are there any traffic signals. Thus, significant intensification of use in most areas could not be supported by the road network, particularly in consideration of emergency access and evacuation. In a few cases, such as Palos Verdes Drive North, roadway right of way is available for extra capacity. However, in some areas right of way is as narrow as 35 feet, and in others roads abut steep banks which preclude widening. Further, little in the way of state funds is available to local governments for roadway improvement and other infrastructure. Thus, widening of narrow residential streets to handle additional traffic is neither physically nor financially feasible.

Due to access consideration, terrain, vegetation, and limited emergency access fire hazards acts as a constraint on additional development. The City has acted to reduce this threat through a ban on all shake roofs, unless they are Class A fire-rated, and by implementing an aggressive brush abatement program in and adjacent to residential areas.

Most areas of the City are served by a sanitary sewer system, and no problems currently exist due to inadequate water and sewer capacity. However, water and sewer mains were master planned to serve only the levels of development contemplated under the existing deed restrictions, which consists of single-family development on existing lots in all locations except in and adjacent to the Malaga Cove and Lunada Bay commercial districts. Thus, intensification of development beyond that provided under current planning and zoning policies in this area could require infrastructure improvements.

4. Land Costs

As a result of the limited supply of land, coupled with a strong demand for coastal property and view property, the cost of land in the City is quite high. Land prices in the Palos Verdes Estates area vary according to views obtained from the property and proximity to the shoreline. In comparison, lots in the City of Rolling Hills offering no views are advertised at \$25 to \$30 dollars a square foot. View lots in the City of Palos Verdes Estates are currently advertised at about \$80 per square foot, or \$3.5 million per acre. Thus, land cost is a major obstacle for affordable housing.

5. Construction Costs

Construction costs vary according to the type of material used, and the amenities provided. The cost for basic construction is about \$150 per square foot. However, construction prices can easily exceed \$400 to \$600 per square foot for construction providing greater amenities.

Developers may use luxury construction and build larger units to balance high land costs. This is because the land price alone will cause a dwelling to have a fairly high price. Buyers paying higher prices have expectations for greater amenities, which in turn leads to a greater increase in per unit cost.

While per-unit land cost can be reduced through higher density, other constraints such as private deed restrictions and environmental can limit potential densities.

City infrastructure costs do not normally add to construction costs. Because vacant land consists of individual vacant lots in developed areas, infrastructure is already installed. Many residential streets do not have curbs, gutters, and sidewalks, so frontage improvements are not typically an issue. However, many lots do not have large flat pads for home construction and extensive grading may be required to provide a building, thus adding significantly to the cost of development. Grading and engineering for a single lot may easily cost tens of thousands of dollars or more.

6. Cost and Availability of Financing

Palos Verdes Estates is similar to most other suburban communities in southern California with regard to private sector home financing programs. The recent crisis in the mortgage industry has affected the availability of real estate loans, although the long-term effects are unpredictable. For buyers with good credit histories, mortgages can be obtained at very favorable interest rates.

Under state law, it is illegal for real estate lending institutions to discriminate against entire neighborhoods in lending practices because of the physical or economic conditions in the area

("redlining"). In monitoring new construction sales, re-sales of existing homes, and permits for remodeling, it would not appear that redlining is practiced in any area of the city.

C. Fair Housing

State law prohibits discrimination in the development process or in real property transactions, and it is the City's policy to uphold the law in this regard. Fair housing issues are addressed in Palos Verdes Estates through the Fair Housing Foundation, a nonprofit corporation formed to promote the enforcement of fair housing laws and to encourage an atmosphere of open housing. The Planning Department distributes information at City Hall and makes referrals to the Fair Housing Foundation as needed.

V. HOUSING PLAN

The primary focus of the Housing Element is to meet existing and anticipated housing needs and to protect existing residential neighborhoods in Palos Verdes Estates. The policies and implementation measures of the Housing Element are aimed at preserving the quality of the living environment, protecting the lower density character of the area, conserving the existing housing stock, addressing local and regional housing needs, providing for the City's share of housing for all economic groups, providing housing assistance to residents, and ensuring fair housing practices. The City's quantified objectives for the planning period are summarized in Table V-28 at the end of this chapter.

A. Goals, Policies and Programs

GOAL I. Preserve the quality of existing neighborhoods.

Policy 1. Preserve the scale of development in existing residential neighborhoods.

Policy 2. Encourage the maintenance of existing dwellings.

Program 1. Continue to enforce provisions of the Zoning Code, Neighborhood Compatibility and Specific Development Plan requirements which specify regulations for height, lot coverage, setbacks and open space.

Implementation responsibility: Planning Department

Funding: General fund.

Schedule: Continuing.

Quantified Objective: One hundred percent Code compliance

GOAL II. Provide a variety of housing opportunities for all segments of the community, including various economic segments and special needs groups.

Policy 3. Provide adequate sites for new housing consistent with the capacity of roadways, sewer lines, and other infrastructure to handle increased growth.

Program 2. Continue to allow infill in residential areas.

Development of existing vacant residential infill sites would result in the production of approximately 61 additional single family dwelling units, assuming that all sites are buildable, and 13 additional dwellings on sites designated for multi-family use, for a total of 74 dwelling units. It is expected that detached homes would generally be affordable only by upper-income households, while multi-family units would be more broadly affordable.

Implementation responsibility: Planning Department, Building and Safety

Funding: No funding needed.

Schedule: Continuing.

Quantified Objective: 16 new housing units during the planning period.

Program 3. Encourage and facilitate mixed commercial and residential use in commercial areas.

In recent years, mixed-use housing has become increasingly attractive to consumers. Where demand exists for residential uses, this can facilitate the delivery of housing. In a mixed-use project, the provision of an accompanying commercial use can help absorb some of the fixed costs of development, thereby facilitating the production of lower-cost units. Further, existing structures can be adapted to residential use, reducing costs associated with new construction. Existing space at Malaga Cove and Lunada Bay could potentially undergo conversion. Such use is permitted under the City's Zoning Code and under the Palos Verdes Estates Protective Restrictions administered by the Homes Association. The City will facilitate mixed-use development through expedited processing, waiver of fees, or other incentives where affordable housing is provided, consistent with standards provided under Government Code Section 65915.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund

Schedule: 2014-2021.

Quantified Objective: 10 new units in mixed use areas.

Policy 4. Preserve existing affordable housing stock.

Program 4. Regulate the conversion or demolition of rental housing stock.

City parking requirements currently limit condominium conversion of some older units, thus acting as a deterrent to those seeking to convert this rental housing to more expensive condominium use. Condominium conversion ordinances typically relate to local rental vacancy, typically prohibiting conversions when rental vacancy rates are below 4 or 5 percent. The City rental vacancy rate is well above this level, so loss of rental housing stock to condominium conversion does not appear to be a problem at this time.

Implementation responsibility: Planning Department

Funding: None needed

Schedule: Continuing.

Quantified Objective: Preserve rental housing opportunities in 382 units.

Policy 5. Encourage the development of additional low- and moderate-income housing.

Program 5. Continue efforts to streamline the development process to the extent feasible.

City processing and fees have not been found to create a significant impediment to the development of additional housing. The City will continue to provide concurrent processing of all discretionary applications for a project, thereby streamlining the development process. Continue to process Coastal Development Permits at the local level, thereby reducing the stress of the permit process. These measures can reduce development time frames thereby reducing costs due to interest on project financing and builders' staff time.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund/application fees.

Schedule: Continuing.

Quantified Objective: Efficient development processing

Program 6. Continue to allow the establishment of manufactured housing on single-family residential lots not occupied by another dwelling.

Consistent with State law, manufactured housing is permitted on single-family lots not occupied by another dwelling. Manufactured housing may result in substantial savings per square foot over conventional construction. Many of the newer pre-manufactured homes or modules are similar in appearance to site-built homes. The City may, by State law, establish appropriate guidelines regarding such factors as securing of the housing and setbacks.

All such development would be subject to architectural review and compliance with deed restrictions under existing regulations. Private deed restrictions regulating development in the Palos Verdes Planned Community do not specifically address manufactured housing. On the face of it, there is no reason manufactured housing could not meet such guidelines, assuming appropriate colors and exterior materials such as wood siding or stucco were utilized. However, all development is subject to Association review.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund/application fees.

Schedule: Continuing.

Quantified Objective: This would result in no change in total dwelling unit count.

Program 7. Continue to allow second family units

Section 65852.2 of the Government Code provides for the provision of second family units in single-family areas. The City of Palos Verdes Estates currently provides for the establishment of second dwelling units on lots occupied by a single-family dwelling. Under the Palos Verdes Estates Municipal Code as revised in 2003, the units may not exceed thirty percent of the floor area of the existing single-family dwelling if attached or 700 square feet if detached and must be located on a lot at least 15,000 square feet in area. The second dwelling unit may not be sold separately from the primary dwelling.

To further facilitate development of second units the City will provide an informational flyer regarding second units with other literature at the public counter.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund/building permit fees

Schedule: Ongoing

Quantified Objective: Sixteen second family units

Program 8. Continue to implement density bonus incentives consistent with State law.

In accordance with Government Code Section 65915, a city must provide a density bonus or other incentive when an applicant agrees to provide at least ten percent of the total units of a housing development for lower-income households; five percent of the total units of a housing development for very-low-income households; a senior citizen housing development; or ten percent of the total dwelling units in a common interest development for moderate-income households, provided that all units in the development are offered to the public for purchase. State law specifies the amount of the density bonus or incentive on a sliding scale from 20 to 35 percent depending on the proportion of units that are affordable and the affordability levels of the units provided.

The City will continue to implement the Density Bonus ordinance (Municipal Code Chapter 18.68) consistent with State law.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund

Schedule: Ongoing.

Quantified Objective: Three density bonus units.

Policy 6. Encourage means of increasing ability to afford existing housing stock.

Program 9. Encourage shared housing programs for seniors and existing one-person households.

Sharing of one housing unit by two or more roommates can render housing affordable to persons who could not otherwise afford housing individually due to the ability to share housing costs among roommates. This could be of particular benefit to disabled individuals needing occasional assistance or female headed households seeking additional security. As noted in the previous discussion of housing needs, housing affordability is a problem for very-low-income seniors residing in the city. Shared housing could be facilitated by provision of space for flyers on a bulletin board or table at City Hall or public library.

Implementation responsibility: Library/city manager's office.

Funding: General fund

Schedule: Implement in 2014

Quantified Objective: Designated space on one public bulletin board.

Policy 7. *Continue to promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, disability, national origin, or color.*

Program 10. *Provide a means of addressing housing discrimination.*

The City will post State regulations at City Hall and at the library regarding housing discrimination together with the appropriate phone numbers to contact regarding housing discrimination problems. Provide copies of California Department of Fair Employment and Housing publications No. DFEH-157H, DFEH-159, DFEH-700-01, and DFEH-FS06-2003, which provide fact sheets and information to assist in filing housing complaints, along with contact information for DFEH.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund

Schedule: Ongoing

Quantified Objective: Address any instances of housing discrimination.

Program 11. *Emergency shelters, transitional/supportive housing, and reasonable accommodation for persons with disabilities.*

State law requires all cities to adopt regulations for emergency shelters, transitional and supportive housing. The City will initiate an amendment to the Municipal Code to establish definitions and allow these uses consistent with Government Code Sec. 65583(a).

State law also requires cities to allow reasonable accommodation for persons with disabilities in the administration of planning and building regulations. The City will establish written procedures for the review and approval of requests for reasonable accommodation consistent with state law.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund

Schedule: 2014

Quantified Objective: Establish regulations and procedures for emergency shelters, transitional and supportive housing, and reasonable accommodation for persons with disabilities consistent with state law.

GOAL III. **Provide a safe and healthful living environment for City residents.**

Policy 8. *Eliminate potentially unsafe or unhealthful conditions in existing development.*

Program 12. Pursue a pro-active code enforcement program for substandard dwelling units.

Title 8 of the Municipal Code constitutes the City of Palos Verdes Estates Health Code. Chapter 8 provides for abatement of substandard conditions. The City addresses substandard buildings under Municipal Code Chapter 8.36, Substandard Premises, and nuisances in general under Chapter 8.48. Chapter 8.36 addresses the following:

- Substantially deteriorated structures
- Broken windows
- Unstable landforms
- Storing inoperable vehicles
- Graffiti
- Overgrown or dead vegetation
- Partially completed building where work has ceased and permits have expired.

Chapter 8.48 addresses the following:

- Unstable landforms, improper drainage
- Partially destroyed, partially constructed or abandoned buildings
- Broken windows.
- Overgrown, dead, decayed or hazardous vegetation which may harbor vermin or obstructs vehicular sight lines
- Danger or attractive nuisance to the public;
- Accumulation of trash, debris, and other refuse
- Deteriorated parking lots or driveways
- Abandoned pools, ponds, excavations, and other holes
- Construction debris storage bins
- Livestock and other animals
- Overcrowded housing, as defined by the Uniform Housing Code
- Housing which lacks adequate ventilation, sanitation or plumbing facilities, or which constitutes a fire hazard.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund

Schedule: Ongoing

Quantified Objective: Eliminate all substandard conditions

Program 13. Continue to strictly monitor and regulate landform modifications in the City.

Landform modification is addressed through the City's grading permit process, which requires approval of a grading plan and grading permit for landform modification.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund/permit fees

Schedule: Ongoing

Quantified Objective: Permit no unsafe landform modification.

GOAL IV. Encourage the conservation of energy in new housing.

Policy 9. Reduce energy loss due to inferior construction techniques.

Program 14. Continue to require all new projects to conform to the requirements of Title 24 of the California Administrative Code.

The City has adopted the most current editions of all California Codes. Title 24 contains specific requirements for construction techniques which result in energy savings of approximately 50 percent when compared to standard techniques utilized prior to enactment of current standards. Under State law, individual jurisdictions may develop local standards which exceed the requirements of Title 24.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund/permit fees

Schedule: Ongoing

Quantified Objective: All new structures to conform to current energy conservation standards.

Policy 10. Encourage residents to conserve energy.

Program 15. Support public utility companies in their efforts to educate the public in means of energy conservation.

Local utility companies regularly circulate information regarding energy conservation to their residential customers. To support such programs, the City will allow posting of energy conservation materials on publicly owned bulletin boards, and adopt proclamations of support in order to publicize conservation efforts.

Implementation responsibility: Planning Department, Building and Safety

Funding: Minimal, general fund

Schedule: Ongoing

Quantified Objective: Not applicable

Program 16. Consider waiver of permit fees for installation of alternate energy facilities for residential use.

Solar panels may be utilized for heating homes of domestic water or may be utilized to generate electricity. While the earliest solar panels would not likely meet the

architectural standards of the Homes Association, newer solar devices are less unattractive. Some systems closely resemble conventional roof shingles. These are usually most practical to install at the time a new roof is installed.

Many communities have developed sustainable building programs under which building permit and inspection fees for energy and water saving devices are waived. In order to encourage alternate energy use, the City will consider a similar fee waiver.

Implementation responsibility: Planning Department, Building and Safety

Funding: General fund

Schedule: Institute trial program in the fiscal year following adoption of this element.

Quantified Objective: Ten solar systems per year.

B. Quantified Objectives

The City's quantified objectives for new construction, rehabilitation and conservation are presented in Table V-28. The City does not have a substantial number of homes in need of rehabilitation and no significant source of housing funds, and no assisted affordable housing units. Therefore, no objectives for rehabilitation or conservation are established.

Table V-28
Quantified Objectives (2013-2021)

	Income Category				Totals
	V. Low	Low	Mod	Upper	
New construction*	4*	3	3	6	16
Rehabilitation					
Conservation					

*2 of these are extremely-low category pursuant to AB 2634

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Appendix A

Evaluation of the Prior Housing Element

Section 65588(a) of the *Government Code* requires that jurisdictions evaluate the effectiveness of the existing Housing Element, the appropriateness of goals, objectives and policies, and the progress in implementing programs for the previous planning period. This appendix contains a review of the housing goals, policies, and programs of the previous Housing Element, and evaluates the degree to which these programs have been implemented during the previous planning period, 2008 through 2013. This analysis also includes an assessment of the appropriateness of goals, objectives and policies. The findings from this evaluation have been instrumental in determining the City's 2013-2021 Housing Implementation Program.

Table A-1 summarizes the programs contained in the previous Housing Element along with the source of funding, program objectives, accomplishments, and implications for future policies and actions.

Table A-2 summarizes residential development in the city during the previous RHNA period 2006-2013.

Table A-3 presents the City's progress in meeting the quantified objectives from the previous Housing Element.

Table A-1
Housing Element Program Evaluation (2008-2013)

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
Goal I: Preserve the Quality of Existing Neighborhoods				
<i>Policy 1 Preserve the scale of development in existing residential neighborhoods.</i>				
<i>Policy 2 Encourage the maintenance of existing dwellings.</i>				
Program 1. Continue to enforce provisions of the Zoning Code, Neighborhood Compatibility and Specific Development Plan requirements which specify regulations for height, lot coverage, setbacks and open space.	Planning Department; Building & Safety	General Fund	Eliminate 100% of substandard conditions.	The City continued to enforce the Zoning Code throughout the planning period. This program will be continued.
Goal II: Provide a variety of housing opportunities for all segments of the community, including various economic segments and special needs groups.				
<i>Policy 3 Provide adequate sites for new housing consistent with the capacity of roadways, sewer lines, and other infrastructure to handle increased growth.</i>				
<p>Program 3a. Continue to allow infill in residential areas.</p> <p>Development of existing vacant residential infill sites would result in the production of approximately 61 additional single family dwelling units, assuming that all sites are buildable, and 13 additional dwellings on sites designated for multi-family use, for a total of 74 dwelling units. It is expected that detached homes would generally be affordable only by upper income households, while multi-family units would be more broadly affordable, at least at the moderate income level. Department of Finance data indicate that between 2000 and 2008 an average of ten new homes per year were added in the City of Palos Verdes Estates. However, only six new homes were added for each of the past two years as the economy has slowed.</p>	Planning Department; Building & Safety	No funding needed	48 units	The City continued to allow infill development throughout the planning period. This program will be continued and updated to reflect current conditions.

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
<p>Program 3b. Provide for mixed commercial and residential use in commercial areas.</p> <p>In recent years, mixed use housing has become increasingly attractive to consumers. Where demand exists for residential uses, this can facilitate the delivery of housing. In a mixed use project, the provision of an accompanying commercial use can help absorb some of the fixed costs of development, thereby facilitating the production of lower cost units. Further, existing structures can be adapted to residential use, reducing costs associated with new construction. Existing space at Lunada Bay could potentially undergo conversion. While such use is permitted under the City's Zoning Code and under the Palos Verdes Estates Protective Restrictions administered by the Homes Association, the lack of zoning code standards or guidelines for development of the use could delay such development when a proposal is considered. Adoption of standards could provide certainty for developers proposing such development as well as highlight the potential for such use. These could include waiver of fees or other incentives where affordable housing is provided, consistent with standards provided under Government Code Section 65915.</p>	Planning Department; Building & Safety	General Fund	<p>Develop ordinance by 2009.</p> <p>14 new units in mixed-use areas.</p>	No mixed-use projects were proposed during the prior planning period. This program will be continued in the new planning period.
Policy 4 <i>Preserve existing affordable housing stock.</i>				
<p>Program 4a. Regulate the conversion or demolition of rental housing stock.</p> <p>City parking requirements currently limit condominium conversion of some older units, thus acting as a deterrent to those seeking to convert this rental housing to more expensive condominium use. Condominium conversion ordinances typically relate to local rental vacancy, typically prohibiting conversions when rental vacancy rates are below 4 or 5 percent. The City rental vacancy rate is well above this level, so loss of rental housing stock to condominium conversion does not appear to be a problem at this time.</p>	Planning Department	No funding needed	Preserve rental housing opportunities in 382 units.	No rental units were converted to condos. Confirm This program will be continued in the new planning period.
Policy 5 <i>Encourage the development of additional low and moderate-income housing.</i>				
<p>Program 5a. Continue efforts to streamline the development process to the extent feasible.</p> <p>City processing and fees have not been found to create a significant impediment to the development of additional housing. The City will continue to provide concurrent processing of all discretionary applications for a project, thereby streamlining the development process. Continue to process Coastal Development permits at the local level, thereby reducing the stress of the permit process. These measures can reduce development time frames thereby reducing costs due to interest on project financing and builders' staff time.</p>	Planning Department; Building & Safety	General Fund / application fees	Efficient development processing.	The City continued to process development applications in an efficient manner. This program will be continued in the new planning period.
Program 5b. Continue to allow the establishment of manufactured housing on single family residential lots not occupied by another dwelling.	Planning Department;	General Fund / application		This program is standard practice and will be continued.

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
<p>Consistent with State law, manufactured housing is permitted on single family lots not occupied by another dwelling. Manufactured housing may result in substantial savings per square foot over conventional construction, as discussed above. Many of the newer pre-manufactured homes or modules are similar in appearance to site-built homes. The City may, by State law, establish appropriate guidelines regarding such factors as securing of the housing and setbacks.</p> <p>All such development would be subject to architectural review and compliance with deed restrictions under existing regulations. Private deed restrictions regulating development in the Palos Verdes Planned Community do not specifically address manufactured housing. On the face of it, there is no reason manufactured housing could not meet such guidelines, assuming appropriate colors and exterior materials such as wood siding or stucco were utilized. However, all development is subject to Association review.</p>	Building & Safety	fees		
<p>Program 5c. Continue to allow second family units</p> <p>Section 65852.2 of the Government Code provides for the provision of second family units in single family areas. The City of Palos Verdes Estates currently provides for the establishment of second dwelling units on lots occupied by a single family dwelling. Under the Palos Verdes Estates Municipal Code as revised in 2003, the units may not exceed thirty percent of the floor area of the existing single family dwelling if attached or 700 square feet if detached and must be located on a lot at least 15,000 square feet in area. The second dwelling unit may not be sold separately from the primary dwelling</p> <p>Until 2003, the City permitted second family units only on lots having a minimum area of 20,000 square feet and limited the units to no more than 350 square feet of floor area. The City also reduced required parking for a second unit and eliminated the requirement for a use permit. These measures were intended to facilitate the development of second units in the city. To further facilitate development of second units the City could provide an informational flyer regarding second units to be provided with other literature at the public counter.</p>	Planning Department; Building & Safety	General Fund / building permit fees	16 second units	## second units were approved in the previous planning period. This program will be continued.

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
<p>Program 5d. Develop ordinance implementing density bonus provisions of State law.</p> <p>In accordance with Government Code Section 65915, a city must provide a density bonus or other incentive when an applicant agrees to provide at least ten percent of the total units of a housing development for lower income households; five percent of the total units of a housing development for very low income households; a senior citizen housing development; or ten percent of the total dwelling units in a common interest development for moderate income households, provided that all units in the development are offered to the public for purchase. The Code specifies the amount of the density bonus or incentive on a sliding scale from twenty to thirty five percent depending on the proportion of units that are affordable and the affordability levels of the units provided.</p> <p>Currently, the City of Palos Verdes Estates has no specific ordinance implementing this provision of State law. In order to facilitate future projects, it is suggested that the City develop a density bonus ordinance, including a prescribed process for implementation and develop a leaflet describing the requirements and opportunities provided under density bonus law.</p>	Planning Department; Building & Safety	General Fund	Develop ordinance in 2010	The Density Bonus ordinance was adopted consistent with state law and its implementation will continue in the new planning period.
Policy 6. Encourage means of increasing ability to afford existing housing stock.				
<p>Program 6. Encourage shared housing programs for seniors and existing one person households.</p> <p>Sharing of one housing unit by two or more roommates can render housing affordable to persons who could not otherwise afford housing individually due to the ability to share housing costs among roommates. This could be of particular benefit to disabled individuals needing occasional assistance or female headed households seeking additional security. As noted in the previous discussion of housing needs, housing affordability is a problem for very low income seniors residing in the city. Shared housing could be facilitated by provision of space for flyers on a bulletin board or table at City Hall or public library.</p>	Library; City Manager's office	General Fund	Implement in 2009; provide designated space on one public bulletin board.	
Policy 7. Continue to promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.				
<p>Program 7a. Provide a means of addressing housing discrimination.</p> <p>Post State regulations at City Hall and at the library regarding housing discrimination together with the appropriate phone numbers to contact regarding housing discrimination problems. Maintain copies of California Department of Fair Employment and Housing publications No. DFEH-157H, DFEH-159, DFEH-700-01, and DFEH-FS06-2003, which provide fact sheets and information to assist in filing housing complaints. Provide contact information for DFEH.</p>	Planning Department; Building & Safety	General Fund	Address any instances of housing discrimination.	Flyers were posted at City Hall and the library.

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
Goal III: Provide a safe and healthful living environment for City residents.				
Policy 8. Eliminate potentially unsafe or unhealthful conditions in existing development.				
<p>Program 8a. Pursue a pro-active code enforcement program for substandard dwelling units.</p> <p>Title 8 of the Municipal Code constitutes the City of Palos Verdes Estates Health Code. Chapter 8 provides for abatement of substandard conditions. The City addresses substandard buildings under Municipal Code Chapter 8.36, Substandard Premises, and nuisances in general under Chapter 8.48. Chapter 8.36 addresses the following:</p> <ul style="list-style-type: none"> • Substantially deteriorated structures • Broken windows • Unstable landforms • Storing inoperable vehicles • Graffiti • Overgrown or dead vegetation • Partially completed building where work has ceased and permits have expired. <p>Chapter 8.48 addresses the following:</p> <ul style="list-style-type: none"> • Unstable landforms, improper drainage • Partially destroyed, partially constructed or abandoned buildings • Broken windows. • Overgrown, dead, decayed or hazardous vegetation which may harbor vermin or obstructs vehicular sight lines • Danger or attractive nuisance to the public; • Accumulation of trash, debris, and other refuse • Deteriorated parking lots or driveways • Abandoned pools, ponds, excavations, and other holes • Construction debris storage bins • Livestock and other animals • Overcrowded housing, as defined by the Uniform Housing Code • Housing which lacks adequate ventilation, sanitation or plumbing facilities, or which constitutes a fire hazard. 	Planning Department; Building & Safety	General Fund; permit fees	Eliminate all substandard conditions.	This program was implemented and will be continued.
Program 8b. Continue to strictly monitor and regulate landform modifications in the City.	Planning Department; Building & Safety	General Fund; permit fees	Permit no unsafe landform modification.	This program was implemented and will be continued.

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
Goal III: Provide a safe and healthful living environment for City residents.				
Policy 8. Eliminate potentially unsafe or unhealthful conditions in existing development.				
<p>Program 8a. Pursue a pro-active code enforcement program for substandard dwelling units.</p> <p>Title 8 of the Municipal Code constitutes the City of Palos Verdes Estates Health Code. Chapter 8 provides for abatement of substandard conditions. The City addresses substandard buildings under Municipal Code Chapter 8.36, Substandard Premises, and nuisances in general under Chapter 8.48. Chapter 8.36 addresses the following:</p> <ul style="list-style-type: none"> • Substantially deteriorated structures • Broken windows • Unstable landforms • Storing inoperable vehicles • Graffiti • Overgrown or dead vegetation • Partially completed building where work has ceased and permits have expired. <p>Chapter 8.48 addresses the following:</p> <ul style="list-style-type: none"> • Unstable landforms, improper drainage • Partially destroyed, partially constructed or abandoned buildings • Broken windows. • Overgrown, dead, decayed or hazardous vegetation which may harbor vermin or obstructs vehicular sight lines • Danger or attractive nuisance to the public; • Accumulation of trash, debris, and other refuse • Deteriorated parking lots or driveways • Abandoned pools, ponds, excavations, and other holes • Construction debris storage bins • Livestock and other animals • Overcrowded housing, as defined by the Uniform Housing Code • Housing which lacks adequate ventilation, sanitation or plumbing facilities, or which constitutes a fire hazard. 	Planning Department; Building & Safety	General Fund; permit fees	Eliminate all substandard conditions.	This program was implemented and will be continued.
Program 8b. Continue to strictly monitor and regulate landform modifications in the City.	Planning Department; Building & Safety	General Fund; permit fees	Permit no unsafe landform modification.	This program was implemented and will be continued.

Program	Responsible Agency	Funding Source	Program Objectives	Accomplishments & Future Actions
Landform modification is addressed through the City's grading permit process which requires approval of a grading plan and grading permit for landform modification.				
Goal IV: Encourage the Conservation of Energy in New Housing				
Policy 9. Reduce energy loss due to inferior construction techniques.				
<p>Program 9. Continue to require all new projects to conform to the requirements of Title 24 of the California Administrative Code.</p> <p>The City has adopted the most current editions of all California Codes. Title 24 contains specific requirements for construction techniques which result in energy savings of approximately 50 percent when compared to standard techniques utilized prior to enactment of current standards. Under State law, individual jurisdictions may develop local standards which exceed the requirements of Title 24.</p>	Planning Department; Building & Safety	General Fund; permit fees	All new structures to conform to current energy conservation standards.	The City has enforced Title 24 requirements throughout the planning period. This program will be continued.
Policy 10. Encourage residents to conserve energy.				
<p>Program 10a. Support public utility companies in their efforts to educate the public in means of energy conservation.</p> <p>Local utility companies regularly circulate information regarding energy conservation to their residential customers. To support such programs, the City could allow posting of energy conservation materials on publicly owned bulletin boards, and adopt proclamations of support in order to publicize conservation efforts.</p>	Planning Department; Building & Safety	General Fund		The City posted energy conservation flyers on City bulletin boards. This program will be continued.
<p>Program 10b. Consider waiver of permit fees for installation of alternate energy facilities for residential use.</p> <p>Solar panels may be utilized for heating homes of domestic water or may be utilized to generate electricity. While the earliest solar panels would not likely meet the architectural standards of the Homes Association, newer solar devices are less unattractive. Some systems closely resemble conventional roof shingles. These are usually most practical to install at the time a new roof is installed.</p> <p>The 2000 Census showed that less than ten homes utilized solar systems for home heating, though other uses of solar may have been utilized, such as electricity generation or heating swimming pools. Many communities have developed sustainable building programs under which building permit and inspection fees for energy and water saving devices are waived. In order to encourage alternate energy use, it is suggested that the City institute a similar fee waiver.</p>	Planning Department; Building & Safety	General Fund	<p>Institute trial program in the fiscal year following adoption of this element.</p> <p>10 solar systems per year.</p>	

Table A-2
Residential Development by Income Category 2006-2013

Project	VL	Low	Mod	Upper	Total
Individual custom homes					
Any subdivisions?					
Second Units					
Totals					

Table A-3
Progress in Achieving Quantified Objectives (2008-2013)

Program Category	Quantified Objectives	Progress
New Construction*		
Extremely Low	9	-
Very Low	10	-
Low	12	-
Moderate	13	-
Above Moderate	40	
Total	84	
Rehabilitation		
Very Low	-	-
Low	-	-
Moderate	-	-
Above Moderate	-	-
Total	-	-
Conservation		
Very Low	-	-
Low	-	-
Moderate	-	-
Above Moderate	-	-
Total	-	-

*Quantified objective and progress for new construction covers the period 2006-2013 consistent with the RHNA.

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Appendix B

Residential Land Inventory

NOT REVIEWED

From: Desiree Myers <dezmys@gmail.com>**Date:** November 16, 2013 at 7:12:30 AM PST**To:** Anton Dahlerbruch <adahlerbruch@pvestates.org>**Cc:** Betsy Trevnor <[REDACTED]>, Gianinna Ruby Kumagai

<[REDACTED]>, Margaret McCarthy <[REDACTED]>, Erin

Rehkemper <[REDACTED]>, "freenic ." <[REDACTED]>, jill shoemaker

<[REDACTED]> Cynthia Underberger

<[REDACTED]>, susan chang <[REDACTED]>, valerie beranek

<[REDACTED]>

Subject: MCHA questions on Housing Element

Hi Tony,

Here are the question from MCHA for the Housing Element.
 Thank you very much for all your help.

Warm Regards,

- Desiree

General Questions:

- For each of the five types of Housing Element requirements; which CCNRs apply and what is the extent of the protection each can provide?
- What ancillary accommodations may be required if the Elements are build out?
 - Enrollment impact in schools
 - Additional and different transportation needs
 - Will schools receive the typical fee that they get for new homes?
 - How will the two plazas handle the additional parking needs?
 - Is there a possibility that a parking structure would be needed at Malaga Cove?
 - Others...?
- What is the 'Study session'? (who is part of the group, what are the goals/objectives, when will results be shared?)
- Does the city see any downside to compliance?
- Are there any creative solutions and/or compromises?
- What have other cities done to satisfy the requirements? Can we leverage? (Malibu, resident-only gated cities (Hidden Hills, Rolling Hills), others, etc.)

- Does the state have any jurisdiction over the CCNRs? (i.e. override the CCNRs?)
- Is the Homes Association legally required to uphold the CCNRs?

Element 1: 16 units of moderate to very low income housing

- What are the specific accommodations the city recommends to satisfy this requirement?
- Which CCNRs apply and what is the extent of the protection each can provide?

Emergency and homeless shelters

- Which CCNRs apply and what is the extent of the protection each can provide?
- What specifically is required ? (amount of space, number of locations, accommodations for how many people, types of accommodations)
- What are the specific accommodations the city recommends to satisfy this requirement?

Transitional & supportive housing

- Which CCNRs apply and what is the extent of the protection each can provide?
- The info says low-income & disabled housing, however is it limited to just these 2 areas, can it include those transitioning from jail? Can it include sex offenders who are still being watched by government officials or have trouble finding housing or wherewithal to manage their lives?
- Once PVE zones to allow it, can the state 'change' the description of this category to include people transitioning from jail?
- How many people & units are required?
- Can houses be utilized?
- Can the location and number of units/houses be controlled by city?

Residential Care Facilities

- Which CCNRs apply and what is the extent of the protection each can provide?
- What are the specific requirements that are needed to be met? (number of people, number of units, type of care, etc)
- Can this include housing for ex-criminals?

- What is the city proposing (volume, type of residents, number of units, number of people, type of care, location, etc.)
- How will we track whether or not the requirement is met?

Single Room Occupancy Studios w/1 or 2 people each (very high density housing)

- Which CCNRs apply and what is the extent of the protection each can provide?
- What are the specific requirements that are needed to be met? (number of people, number of units, etc.)
- What specifically is the city proposing?