

Aaron Meadows
Mayor

September 13, 2023

Anissa Williams
Vice Mayor

Contra Costa County Civil Grand Jury
P.O. Box 431
Martinez, CA 94553
Also via email to ctadmin@contracosta.courts.ca.gov

Dr. George Fuller
Councilmember

RE: City of Oakley's Response to Grand Jury Report No. 2306
"Affordable Housing: 'A Plan Without a Home'"

Shannon Shaw
Councilmember

Dear Foreperson Roberts,

Hugh Henderson
Councilmember

Pursuant to California Penal Code Section 933.05, this letter responds to your letter dated June 22, 2023, requesting that the City of Oakley submit its response to the findings and recommendations included in Grand Jury Report No. 2306, "Affordable Housing: 'A Plan Without a Home'."

The City Council reviewed and authorized this response at its September 12, 2023 City Council meeting.

Grand Jury Findings and City Responses

F1. Within existing city or County infrastructure there is no clear owner who is responsive for achieving RHNA permitting targets.

City response: **Partially Disagree.** We partially disagree with Finding 1 because while a single entity is responsible for reporting on RHNA permitting targets, jurisdictions do not develop housing projects. State Housing Law only requires that jurisdictions plan to address barriers to development, accommodate all types of housing based on the RHNA allocations, and report their progress towards RHNA.

F2. City and County officials see no direct path to meet state-mandated regional housing (RHNA) targets.

City response: **Partially Disagree.** We partially disagree with Finding 2 because while City and County officials recognize the challenges ahead, our Housing Element identifies a clear path to accommodate the RHNA targets and we are actively exploring and implementing strategies to work towards meeting state-mandated regional housing (RHNA) targets.



F3. There are currently no measurable penalties if a city or a County does not achieve RHNA targets in an approved housing element plan.

City response: **Partially Disagree.** We partially disagree with Finding 3 because while there are no legal or financial penalties if the cities and County do not achieve their RHNA targets, there are penalties for not accommodating RHNA in a Housing Element and the consequences for not issuing adequate permits can be considered punitive.

F4. Data published by ABAG shows that Contra Costa County and most of its cities have missed their current RHNA targets for very low- and low-income housing allocations. The allocation requirements continue to increase (16x for very low-income and 4x for low-income residents).

City response: **Partially Disagree.** It is true that many cities and the County as a whole missed their RHNA targets for very low and low-income housing, and that RHNA Allocation for very low- and low-income housing has continued to increase. However, the increase in RHNA allocation is not to the extent mentioned in this report. RHNA numbers from the past 3 cycles hgfdsa

indicate that the current (6th) cycle has had the largest increase of 2.5x from the previous cycle in very low- and low-income housing requirements.

Cycle	Very Low	% permitted	Low	% permitted
1999 - 2006	6,481	44%	3,741	48%
2007 - 2014	6,512	21%	4,325	24%
2015 - 2020	5,264	16%	3,086	55%
2023 - 2031	13,346	n/a	7,685	n/a

F5. Many obstacles hinder the development of AH at the local level, specifically for very low- and low-income housing, including:

- Limited availability of land;
- Restrictive zoning policies specific to AH development;
- Limited developer interest to bring projects forward;
- Limited available funding;
- Lack of community support;



- f. NIMBY opposition & city council response to NIMBY opposition.

City response: **Partially Disagree.** The City partially disagrees with this finding. The City of Oakley does not have restrictive zoning policies specific to AH development.

- F6. Zoning changes are generally addressed only when a project is presented for development. Zoning obstacles include:

- a. Housing element plans that offer poor land choices for AH development;
- b. Restrictive height and high-density zoning policies;
- c. Lack of inclusionary housing ordinance(s) in many cities.

City response: **Partially Disagree.** The City of Oakley has relied upon the Affordable Housing Overlay (AHO) zoning process to identify viable properties that are central to transportation, services, and amenities that can be developed for Affordable Housing. In past Housing Element cycles, HCD has been supportive of Oakley's AHO. Oakley's AHO has been referred to as a successful tool for AH in a 2019 Turner Center Case Study.

- F7. Penalties directed at cities and the County (financial, loss of control over local planning) are tied to not meeting state deadlines for Housing Element plan approval.

City response: **Partially Disagree.** We agree that there are penalties that are directly related to not meeting statutory deadline of the Housing Element. Builder's Remedy, where individuals may apply for a building permit on land that is not designated for housing, is one such penalty that is directly linked to meeting state deadlines for Housing Elements.

- F8. Builder's Remedy and SB35 projects do not address ingrained local obstacles identified in this report that prevent the completion of approved AH projects.

City response: **Disagree.** Builder's remedy and SB35 are not intended to address local obstacles. Instead, they are intended to provide a streamlined development process for jurisdictions that have fallen out of compliance with State Housing Law (Builder's Remedy) or where housing production does not meet the RHNA targets (SB35). The Housing Element and its associated programs are intended to address potential local constraints to housing development. Builder's Remedy also does not guarantee a good housing project; it simply expedites the review process to eliminate local discretion.



A variety of factors, such as market conditions, capital costs, financing, supply chain disruptions, and labor market conditions, may affect the construction and completion of approved affordable housing projects. These factors are rarely associated with local obstacles and are beyond a jurisdiction's purview.

F9. When local Redevelopment Agencies (RDA's) were discontinued by the state in 2012, the County and cities did not address the loss of funding for affordable housing or find alternative funding to support affordable housing projects until voters passed Measure X in November 2020. Projects that target very low- and low-income residents were particularly impacted.

City response: **Partially Disagree.** While the County and cities did not create or find new sources of funds for affordable housing after the State discontinued 452 RDAs, State law limits local jurisdictions' ability to create new funding sources. Voters need to approve virtually all new funding or financing mechanisms to generate the revenues or funds needed to preserve existing affordable housing and construct or finance new affordable housing. The Board of Supervisors and Town/City Councils cannot, for example, float bonds any longer without voter approval.

F10. Measure X housing funds are not fully dedicated to building AH for very low- and low-income residents.

City response: **Agree.**

F11. Local funding provided by bonds like Measure X Housing Fund is a critical component of a developer's overall ability to raise funds for an AH development.

City response: **Disagree.** While local funding provided by bonds like Measure X Housing Fund in Contra Costa County can be a beneficial component, it is not a critical factor in a developer's overall ability to raise funds for an affordable housing (AH) development. Developers often require multiple sources of funding, or "stacking" strategies available to them, including federal and state grants, tax credits, private investments, and partnerships with nonprofit organizations.

F12. Cities that proactively engage citizens, address zoning obstacles, make reasonable zoning concessions, work collaboratively with developers, provide local funding support, and are united in



addressing NIMBY opposition, have been successful in attracting AH projects.

City response: **Partially Disagree.** The City of Oakley has proactively engaged citizens, addressed zoning obstacles, identified viable sites for affordable housing, makes reasonable zoning concessions, works collaboratively with developers, provides local funding support, and is united in addressing NIMBY opposition, and still has difficulty attracting enough very low- and very-low affordable housing units to satisfy the RHNA.

F13. The latest RHNA targets for cities and unincorporated Contra Costa County show a significant increase in the number of units that are expected to be permitted for very low- and low-income housing.

City response: **Agree.**

Grand Jury Recommendations and City Responses

R1. Each city and the County should consider assigning a staff position with clear leadership, ownership and accountability to achieve allocated RHNA targets. The individual in this position would be responsible for establishing and promoting an operational plan to achieve the RHNA goals set forth in the housing element plan.

City response: **The recommendation has been implemented.**

California's Housing Element Law acknowledges that local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain) housing development. Cities and Counties are not responsible for the development and construction of housing to achieve the allocated RHNA targets. Instead, they are responsible for the effective implementation of their housing elements and associated programs to address any existing constraints to housing and for tracking and reporting the jurisdiction's progress toward achieving their RHNA. The Community Development Department is assigned with the responsibility of the above tasks.

R2. Each city and the County should report AH progress and lack of progress using data across all four measured income groups. Special attention should be paid to tracking the housing needs of residents categorized as very low- and low-income. Cities and the County should communicate their progress, biannually, against RHNA targets at council and supervisor meetings.



City response: **This recommendation has been implemented.** The City completes an annual housing report that is submitted to HCD.

- R3. Each city and the County should consider creating a dedicated AH commission comprised of a multi-disciplinary team of diverse citizens and led by a current, nonelected, city expert in planning. Each commission would be charged with providing a community voice in the process and helping to identify and address obstacles that hinder the development of affordable housing projects in their community.

City response: **The recommendation will not be implemented.** While we do not intend to pursue the recommended dedicated AH commission, we value the underlying principle of community engagement and recognize the importance of community input in the decision-making process. We will continue to explore alternative strategies that promote transparency, inclusivity, and community-driven solutions for affordable housing development in our city and County.

We remain committed to finding the most effective and sustainable approaches to address affordable housing challenges, working in collaboration with stakeholders and community members to achieve our shared goals.

- R4. Each city and the County should consider reviewing existing processes and identifying changes that would address or resolve the specific obstacles identified in this report that hinder achieving RHNA allocation targets for very low- and low-income housing in their community.

City response: **The recommendation has been implemented.**
Comprehensive Process Review: As required by State Law, jurisdictions have reviewed existing processes and identified programs to address any potential constraints to development through the Housing Element's Constraints and Zoning Analysis Section.

- R5. Each city and the County should consider developing a public dashboard to report progress against RHNA targets.

City response: **The recommendation has been implemented.** Each jurisdiction (city council or board of supervisors) must prepare an annual progress report (APR) on the jurisdiction's status and progress in implementing its housing element using forms and definitions adopted by



the California Department of Housing and Community Development (HCD). (Government Code Section 65400.) Each jurisdiction's APR must be submitted to HCD and the Governor's Office of Planning and Research (OPR) by April 1 of each year (covering the previous calendar year (CY)). HCD compiles and showcases all APRs through their interactive digital data dashboard with downloadable data sets.

R6. Each city and the County should consider, in their individual Housing Element plans, putting forth land zoned "suitable for residential use," without development obstacles, and located strategically close to existing services, for AH purposes.

City response: **The recommendation has been implemented.** This recommendation has been implemented in previous Housing Cycles by utilizing an Affordable Housing Overlay.

R7. Each city and the County should consider reviewing their zoning policies to identify restrictive zoning policies unique to their jurisdiction that impede AH projects and consider making zoning changes in light that review that will support AH in their community.

City response: **The recommendation has been implemented.** This recommendation has been implemented as the City has updated its Density Bonus Ordinance numerous times in the past and is in the process of updating it again with a completion date of November 2023.

R8. Cities should consider adopting an inclusionary housing ordinance as part of their standard development policy by the end of 2023 (if not already in place).

City response: **The recommendation requires further analysis.** The City of Oakley has many already entitled residential units (over 4,700 units) for an inclusionary housing ordinance to be an effective solution in the future.

R9. Each city and the County should consider how to prioritize the implementation of housing projects that promote development of very low- and low-income housing.

City response: **This recommendation has been implemented.** For example, the City has provided important density bonuses for very low- and low-income housing projects and has contributed resources to projects as well in the past.



R10. Each city and the County should consider prioritizing Measure X funding requests that support projects that address RHNA targets for very low- and low-income residents. Each city and County should consider reporting regularly to their residents on the use of Measure X funds for such purposes.

City response: **The recommendation requires further analysis.** Measure X funds are dispersed into several areas besides Affordable Housing, and it remains to be seen if sufficient funds will make it to the cities in the County that can help with Affordable Housing Projects. The use of Measure X funds for housing are currently being reported by the County here: <https://www.contracosta.ca.gov/8530/Measure-X>

Sincerely,



Joshua McMurray
City Manager

Enclosures:

CC: Aaron Meadows, Mayor
Anissa Williams, Vice mayor
Dr. George Fuller, Councilmember
Shannon Shaw, Councilmember
Hugh Henderson, Councilmember
Derek Cole, City Attorney
Danielle Navarro, Assistant City Manager
Brent Smith, Community Development Director

