



September 12, 2023

Cynthia Roberts, Foreperson
2022-2023 Contra Costa County Civil Grand Jury
725 Court Street
P.O Box 431
Martinez, CA 94553

Re: Response to Grand Jury Report No. 2306, “A Plan Without a Home”

Dear Ms. Roberts:

Thank you for your letter of June 16, 2023, and the accompanying Grand Jury Report No. 2306, Affordable Housing, in which you highlighted several findings that align with the prevailing trends and challenges in our jurisdiction. As part of our review process, we carefully considered your concerns, and we acknowledge that some findings may lack context. As you highlighted in your letter and report, one significant challenge is the lack of funding for affordable housing initiatives. Additionally, even when funding is available, the competition for these dollars often discourages developers from pursuing projects with a lower probability of receiving funding. However essential it is to emphasize that local jurisdictions play a pivotal role in fostering housing development, including affordable housing options, development activity will often follow the path of least resistance.

Your letter and report indicate that all findings and recommendations uniformly apply to Contra Costa County and the 19 incorporated towns/cities. We recognize the challenges, and associated solutions, for Contra Costa County are different, based on geography/location, demographics, market conditions, land availability and associated costs, and land use/transportation options. Individual jurisdictions may also face unique constraints, especially environmental constraints, which may compromise a jurisdiction’s ability to address housing needs.

There are unique characteristics in Orinda of which the Grand Jury should be aware of which influence how the City is able to address housing. Orinda is geographically challenged in that we are a hillside community with residential neighborhoods cascading uphill from a narrow valley floor. Orinda is mostly built out and relies on infill sites and sites that will be recycled from existing uses. Remaining vacant sites are very challenging to develop due to steep topography, limited roadway access, or other site constraints. The City has a roadway network of narrow, winding roads, with many neighborhoods having one-way in and out. A large portion of the community is in the Very High Fire Severity Zone and/or the Wildland Urban Interface and is highly exposed to wildfire risk. The City is fortunate to have a BART station and access to this regional transportation network.

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Orinda was one of the first jurisdictions in the ABAG Region to have the State Department of Housing & Community Development certify the 6th Cycle Housing Element earlier this year. The Orinda City Council approval of the Housing Element and an updated Safety Element also included approval of a Downtown Precise Plan which will allow for additional housing in the Downtown area in part to revitalize our Downtown, and to take advantage of the proximity to the BART station. In the budget approved by the City Council in June 2023, additional staff resources were allocated to advance implementation of the Housing Element and Downtown Precise Plan. In addition, the City has seen a steady increase of Accessory Dwelling Unit (ADU) production over the past three years and an increase in SB 9 unit development and lot splits since January 2022.

Finally, among the key points from our review and your findings, unfunded mandates from the State that add to the administrative burden continue to impact local jurisdictions and their ability to take proactive steps to increasing housing production. On January 1, 2023, additional housing laws went into effect, including changes to the State Density Bonus law and the Accessory Dwelling Unit (ADU) law. On July 1, 2023, two additional laws came into effect, requiring local jurisdiction staff to create handouts and checklists and re-prioritize workloads to process housing applications on commercial corridors. Before January 1, 2024, local building and public works departments need to develop specific submittal requirements for post-entitlement permit applications, and all such applications, such as building and grading permits, will be subject to a “shot clock” to review and approve permits. The expectations and costs to local jurisdictions and their staff are significant and, without adequate funding and resources, impact local jurisdictions’ ability to focus their resources on implementation.

The key points from our review and partially your findings are as follows:

- **Lack of Funding:** The shortage of funding poses a significant obstacle to the development of affordable housing projects in our jurisdiction. This scarcity hampers the progress of initiatives aimed at addressing the housing needs of our community.
- **Competition for Funding:** When funding becomes available, developers often face stiff competition. This intense competition can lead developers to focus only on projects that have a higher likelihood of receiving funding, potentially leaving out projects that may cater to specific, underserved demographics.
- **Jurisdictions' Role in Housing Development:** Local jurisdictions do not directly produce housing. However, they play a crucial role in creating an environment that encourages housing development, including affordable housing options. The Housing Element and Housing Plan of each jurisdiction serve as essential frameworks for addressing housing concerns.
- **Tools and Collaborative Efforts:** To proactively address the housing needs of our community, jurisdictions utilize various tools provided by the State and local government. This includes setting goals, policies, and actions in their Housing Element and Housing Plan. Collaborative efforts involving developers, community organizations, and other stakeholders are crucial in achieving sustainable and inclusive housing solutions.

The housing crisis has become a pressing concern in our jurisdiction and beyond, with far-reaching implications for individuals and communities. Escalating housing costs, coupled with

stagnant wages and limited housing supply, have led to an increasing number of individuals and families struggling to secure decent and affordable housing.

The lack of accessible housing options has particularly impacted vulnerable populations, including low-income households, seniors, disabled, and individuals experiencing homelessness. As local jurisdictions endeavor to tackle this crisis, they are confronted with the daunting challenge of vying for limited resources and funding. The competition among jurisdictions with diverse capacities and needs often accentuates the difficulty of implementing comprehensive and equitable housing solutions.

Your letter has shed some light on critical aspects of the housing crisis we face today and affirmed that we are not alone as a jurisdiction in facing these challenges. Despite potential areas of partial disagreement, we acknowledge the factual basis of your findings and recognize the interconnectedness of the underlying conditions that have given rise to the current challenges.

We would like to call the Grand Jury's attention to one element which was not touched upon in your report which is of concern to Orinda and most other cities. That is the State's Regional Housing Needs Allocation (RHNA) process. The process by which the number of housing units assigned to a community is something we believe also needs review and possible reform. One example is that there is no consideration given to how competing state objectives like reducing development in Very High Fire Severity Zones comport with the assignment of housing goals to cities. These competing considerations contribute the inability of communities to meet their RHNA targets.

By working collaboratively and understanding the broader context of the housing crisis, we strive to develop more effective strategies and policies to address this pressing issue and create a more inclusive and sustainable housing landscape for all members of our community.

Finally, I would like to note that at its meeting of Tuesday, September 5, 2023, the Orinda City Council reviewed and approved the Orinda response. Please see Orinda's findings below.

Kind Regards,

Drummond Buckley

Drummond Buckley
Planning Director
City of Orinda

cc: David Biggs, City Manager

FINDINGS

Grand Jury Findings

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

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. The Planning Department is responsible for preparing the Annual Progress Report (APR) as required by State Housing Law. These reports are presented before the City Council early in the calendar year, prior to submission to HCD. Furthermore, the Housing Element identifies the department responsible for carrying out the Housing Element's Plans and Programs. In addition, the City's Planning Director is tasked with ensuring that we advance our housing related initiatives and undertake outreach to property owners, housing developers, and non-profits to encourage the development of affordable housing.

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

Partially Disagree. We partially disagree with Finding 2 because while City 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. Despite acknowledging the complexity of the task, officials are committed to finding viable solutions and collaborating with stakeholders to address the housing needs of the region. Through ongoing assessments and adaptive planning, they aim to identify feasible pathways to make progress toward meeting RHNA targets. While it may be a challenging endeavor, the dedication and proactive approach of City officials demonstrate their commitment to addressing the housing crisis and fulfilling their obligations in accordance with state mandates. However, cities are not housing developers and do not construct the units. The City has examples of successful affordable and special needs housing developments which have occurred. Two notable approved projects are looking to start construction soon: the Vista Verde Senior Housing Project will include 52 affordable units undertaken by a non-profit, and the Countryhouse Assisted Living Project will include 38-units being implemented by a for-profit developer. The Countryhouse project was subject to a legal challenge which the City and developer successfully defended at a substantial cost and use of staff time.

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

Partially Disagree. We partially disagree with Finding 3 because while there are no legal or financial penalties if the City does not achieve its 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.

In addition, jurisdictions are subject to penalties if they do not adopt a Housing Element that is certified by the State, including designating adequate sites to accommodate the RHNA targets. For example, the City may be subject to litigation from individuals, housing rights' organizations, developers, and/or HCD. Depending on court decisions, local control may further diminish, beyond that prescribed in State law, including, for example, suspending the City's authority to issue building permits or approve certain land use permits. The City may also be subject to court-issued fines, court receivership, and streamlined approval processes that remove local discretion.

Regardless of the reasons for lack of building permit activities, if the City does not issue building permits that meet the RHNA targets, developers may choose to use a ministerial process for housing projects that meet specified criteria (SB 35). In addition, a developer could choose to construct housing on sites that the City has not designated for housing.

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).

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

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

- a. Limited availability of land;
- b. Restrictive zoning policies specific to AH development;
- c. Limited developer interest to bring projects forward;
- d. Limited available funding;

- e. Lack of community support;
- f. NIMBY opposition & city council response to NIMBY opposition.

Partially Disagree. Though the above list of obstacles can hinder the development of affordable housing, the City has addressed each item in its Housing Element programs, policies, and actions to the extent feasible and considered acceptable to HCD.

(a) Limited Availability of Housing	(b) Restrictive zoning policies specific to affordable housing development	(c) Limited developer interest to bring projects forward	(d) Limited available funding	(e) Lack of community support
<p>Action 1.H: No Net Loss of Housing Capacity.</p> <p>Action 1.I: Senate Bill 9 (SB 9) – The California Housing Opportunity and More Efficiency (HOME) Act.</p> <p>Action 1.K Development on Non-Vacant Sites.</p> <p>Action 1.L Lot Consolidation.</p> <p>Action 2.A: Preservation of At-Risk Housing Units.</p> <p>Action 2.B: Housing Rehabilitation.</p>	<p>Action 1.B: Housing Opportunity Sites.</p> <p>Action 1.D. Residential Zoning Districts and Land Use Designation.</p> <p>Action 4.A: Amend Development Standards to Remove Constraints.</p>	<p>Action 1.F: Multifamily Development.</p> <p>Action 1.G: Support Affordable Housing Development.</p> <p>Action 3.B: Extremely Low-Income Housing.</p> <p>Action 3.E: Objective Design Standards.</p>	<p>Action 3.B: Extremely Low-Income Housing.</p> <p>Action 1.G: Support Affordable Housing Development.</p>	<p>Action 2.D: Participation in First-Time Home Buyer and MCC Programs.</p>

Regarding Item (f) NIMBY opposition & city council response to NIMBY opposition, the City of Orinda has a track record of supporting projects that could be characterized as being opposed by NIMBYs. In the response to Finding 2, we have noted the defense of the lawsuit challenging the Countryhouse assisted living facility. The City’s recently approved Housing Element is also

subject to a legal challenge via a California Environmental Quality Act (CEQA) lawsuit, which again, the City is actively defending.

One of the obstacles not mentioned in the Grand Jury report which the City is finding difficult to navigate relate to conflicting State goals and requirements, especially as they relate to housing production and the desire to reduce development in areas at risk to wildfire.

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.**

Partially Disagree. AB 1397 set forth strict criteria for adequate sites. These criteria are somewhat arbitrary (e.g., not smaller than 0.5 acre and not larger than 10 acres). The requirement to demonstrate substantial evidence that existing uses do not impede redevelopment also tends to steer sites selection to neighborhoods with declining uses and lower and moderate resource areas.

Most jurisdictions consider amending/changing the zoning while reviewing their Housing Element and/or updating the General Plan, not just when a project is proposed for development.

1. Pursuant to Government Code Section 65583.2(b), Housing Element sites must include information on the number of dwelling units that a site can realistically accommodate, the RHNA income category the parcel is anticipated to accommodate, whether the parcel has available or planned and accessible infrastructure, and the existing use of the site, amongst other details. When selecting sites to accommodate the lower income RHNA, HCD provides jurisdictions with best practices to consider factors such as:
 - (1) Proximity to transit
 - (2) Access to high performing schools and jobs
 - (3) Access to amenities, such as parks and services
 - (4) Access to health care facilities and grocery stores
 - (5) Locational scoring criteria for Low-Income Housing Tax Credit (TCAC) Program funding
 - (6) Proximity to available infrastructure and utilities
 - (7) Sites that do not require environmental mitigation
 - (8) Presence of development streamlining processes, environmental exemptions, and other development incentives.

However, sites that meet these locational criteria do not always meet the other existing use criteria needed to demonstrate substantial evidence for existing uses to discontinue within the planning period. These include high vacancies, deteriorating conditions, marginally operating businesses, underutilization of sites, etc. These conditions are

often directly contrary to access to high performing schools and jobs, amenities, adequate infrastructure, and clear of environmental hazards.

In addition to the above requirements and pursuant to AB 686 (Government Code Section 65583(c)(10)), Housing Elements due on or after January 1, 2021, sites must be identified throughout the community in a manner that affirmatively furthers fair housing (AFFH). AFFH means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

Very often the approach to sites selection is to target declining areas for redevelopment. Without tax increment financing as a reinvestment tool, jurisdictions must rely on private investments as catalyst to induce redevelopment in declining neighborhoods. Housing is the best catalyst. For jurisdictions that take a neighborhood revitalization approach to accommodating the RHNA, place-based strategies that focus on public improvements, economic development, prioritization of funding, and targeted outreach are used to complement the sites inventory strategies.

As such, Housing Element plans provide an inventory of land that addresses the unique conditions of each jurisdiction.

2. According to State Density Bonus Law (SDBL), local agencies are required to allow increased density, reduced standards, and development incentives based on the number and type of affordable housing units proposed in a project. The SDBL applies to housing projects, including mixed-use developments, new subdivisions, or common-interest development. Developers may request incentives and concessions from the jurisdiction's regulatory or development standards that result in actual and identifiable cost reductions to provide for affordable housing costs or rents. The number of required incentives is based on the percentage of affordable units provided in the qualifying project. For example, developers may ask for increased height above that allowed by the zoning regulations. As such, height and density do not represent a restriction to development. Furthermore, many sites are located in transit-oriented neighborhoods where recent State laws have preempted restrictions on height and density.
3. Although Orinda does not currently have an inclusionary housing ordinance, 6th Cycle Housing Element Action 3.G requires the City to research and consider adoption of an inclusionary housing ordinance. On May 9, 2023, after the City's adopted Housing Element was certified by HCD, the City Manager brought a report to the City Council outlining the various options to consider when adopting an inclusionary housing ordinance. Staff anticipates that a more focused report will be presented to the City Council in Fall 2023 based on the feedback received at the May 9, 2023 Council meeting.

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.

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.

We partially disagree with Finding 7 because there are other penalties that are not directly tied to the statutory deadline. There are penalties associated with lawsuits, which are rarely brought forward for simply missing the statutory deadline, but more due to a perception of continued inactions. Penalties also include eligibility for funding.

As stated in the response to Finding 3, the City may be subject to litigation from individuals, housing rights' organizations, developers, and/or HCD. Depending on court decisions, the City may lose additional local control, such as suspension of authority to issue building permits or approve certain land use permits; and/or the City may be subject to court-issued fines, court receivership, and streamlined approval processes that remove local discretion.

In addition, depending on specific programs, eligibility for some state funds requires a certified Housing Element (such as PLHA and State HOME funds). Finally, loss of local control is not limited to jurisdictions that do not meet specified timeframes for a certified housing element. For example, SB 35, the Housing Accountability Act, the No Net Loss Act, Density Bonus Law, and AB 2011/SB 6 specify what types of projects local jurisdictions must approve and where such projects must be approved, regardless of whether jurisdictions meet state deadlines for Housing Elements. Link to information on HCD's accountability efforts and enforcement authority: <https://www.hcd.ca.gov/planning-and-community-development/accountability-and-enforcement>

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.

Partially Disagree. While Builder's Remedy and SB35 projects are valuable tools that can expedite affordable housing development, they may not comprehensively address all the ingrained local obstacles identified in this report that hinder the completion of approved AH projects. The effectiveness of these streamlined processes can vary from jurisdiction to jurisdiction, and while they can help overcome certain barriers like restrictive zoning policies and prolonged approval timelines, other challenges mentioned in the report, such as limited available funding, community support, and NIMBY opposition, may continue to persist in diverse degrees in different locations. To achieve the successful completion of approved AH projects and effectively address these obstacles, a multifaceted and jurisdiction-specific approach is required, taking into account the unique circumstances and complexities faced by each locality.

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.

Partially Disagree. While the City 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 City Councils cannot, for example, float bonds any longer without voter approval.

While Measure X, the countywide 20-year ½ cent sales tax was approved in November 2020, Measure X is projected to provide *up to* \$12 million annually for “housing and related services” for the entire County (emphasis added). Measure X Affordable Housing funds will be distributed through a Notice of Funding Availability (NOFA) process, a competitive process.

Other attempts to address the lack of funding for housing are:

- Inclusionary Housing – Orinda’s 6th Cycle Housing Element requires the City to consider an inclusionary housing ordinance as a way to generate affordable housing and in-lieu fees for affordable housing.
- Working with Churches - Orinda has identified three church sites for affordable housing in the 6th Cycle Housing Element and in August of 2022, the City Council approved a rezoning and a 52-unit affordable housing project on a fourth church site.
- Orinda is pursuing the possible development of a Caltrans owned site called the Gateway site, which while excluded from the RHNA allocation of our approved Housing Element by HCD, the City is still pursuing. If the City is able to get the Gateway site included through the Governor’s Executive Order (EO) N-06-19 for Affordable Housing Development (<https://www.dgs.ca.gov/RES/Projects/Page-Content/Projects-List-Folder/Executive-Order-N-06-19-Affordable-Housing-Development#:~:text=To%20address%20the%20shortage%20of,%2C%20cost%20Deffective%20housing%20projects>) process, that can provide a defacto subsidy in that property can be made available on a low to no cost long-term lease.
- Working with the Acalanes Union High School District on the possible development of affordable housing on an undeveloped portion of the Miramonte High School campus.

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

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.

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. While local funding can certainly enhance a project's financial viability and facilitate its development, affordable housing projects cannot move forward successfully without a combination of various funding sources and partnerships that fill the funding gap between market rate and affordable housing feasibility. The critical aspect lies in the ability of developers to strategically leverage and combine these funding options to meet the financial requirements of the project and ensure its feasibility.

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.

Disagree. The City of Orinda actively engages with its community and citizens through community meetings, social media and direct mailer public outreach, opinion surveys, dedicated web pages, addresses zoning obstacles through its Housing Element programs and provides zoning concessions and incentives for affordable housing development projects, as required by State Law. The City also works collaboratively with developers with predevelopment meetings and, to the extent feasible, expediting of affordable housing projects as was done for the Vista Verde affordable housing project approved August 2022, and encourages developer outreach efforts to address community and neighborhood concerns, including any NIMBY oppositions throughout the lifetime of the development process. These proactive steps alone are not enough to successfully attract affordable housing projects. Additional factors that curb interest in affordable housing projects include, though are not limited to, land availability and costs, lacking or inadequate infrastructure, environmental constraints, gaps in funding or financing, supply chain and material/labor costs, and reluctant or unwilling landowners.

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.

Partially Disagree. It is true 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 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. Please see the response to Finding 4 for detailed RHNA numbers from previous Housing Element cycles.

RECOMMENDATIONS

Grand Jury Recommendations

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.

The recommendation has been implemented. California's Housing Element Law acknowledges that, in order for the private market to adequately address the housing needs and demands of Californians, 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 Planning Department, and the Planning Director specifically, is assigned 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.

The recommendation has been implemented. State Law (§65400) requires each jurisdiction (City Council) to prepare an annual progress report (APR) on the jurisdiction's status and progress in implementing its housing element (HE) using forms and definitions adopted by the California Department of Housing and Community Development (HCD).

The HE APR allows HCD to track the progress of the implementation of a jurisdiction's Housing Element and requires its submission as a threshold requirement for several State housing funding programs ([source](#)).

Through the forms and tables provided by HCD ([link](#)), jurisdictions must report annual data on housing in the APR, including the following:

- Housing development applications received (including proposed number of units, types of tenancy, and affordability levels)
- Building/construction activity
- Progress towards the RHNA
- Sites identified or rezoned to accommodate a shortfall in housing need
- Program implementation status
- Local efforts to remove governmental constraints to the development of housing
- Projects with a commercial development bonus

- Units rehabilitated or preserved
- Locally owned lands included in the sites inventory that have been sold
- Locally owned surplus sites

Government Code §65400 requires the planning agency to provide this report to the legislative body (i.e., local Council), HCD, and OPR by April 1 of each year (covering the previous calendar year). APRs must be presented to the local legislative body for its review and acceptance, usually as a consent or discussion on a regular meeting agenda.

The statute does not specify in which order they be provided, and HCD does not require the report to be submitted to the legislative body prior to submitting it to HCD. However, HCD recommends that planning departments provide the report to the local legislative body prior to sending it to HCD and OPR ([source](#)). Biannual reporting would divert staff time from other housing programs.

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.

The recommendation will not be implemented. We appreciate the thoughtful recommendation to create a dedicated Affordable Housing (AH) commission comprised of a multi-disciplinary team of diverse citizens, led by a current, non-elected, city expert in planning. While we acknowledge the potential benefits of such a commission, after careful consideration, we have decided not to pursue its implementation due to the following reasons:

Existing Planning Mechanisms: Orinda has already established planning mechanisms and committees responsible for addressing affordable housing issues, including the Downtown Planning and Housing Element Subcommittee of the City Council. This existing committee provides a platform for community engagement and collaboration, making the formation of a separate commission redundant and potentially duplicative of efforts.

Resource Constraints: Establishing and maintaining a dedicated AH commission would require additional financial and administrative resources. At present, our City is already allocating resources to multiple initiatives aimed at addressing affordable housing needs. Adding another commission might spread resources too thin and hinder the efficiency of current efforts.

Efficient Decision-Making: By involving a diverse range of citizens and experts in existing planning and housing committees, we maintain a balanced and inclusive approach. This integration ensures streamlined decision-making processes and comprehensive representation of community interests without creating an additional layer of bureaucracy.

Alternative Approaches: Instead of forming a separate AH commission, we are committed to strengthening the involvement of community members and experts in our existing planning and housing committees. Enhancing public outreach, conducting regular town hall meetings, and

encouraging community feedback will remain focal points in our efforts to address obstacles hindering affordable housing development.

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.

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.

It should also be noted that the aforementioned Downtown Planning and Housing Element Subcommittee of the City Council has a proven track record providing guidance regarding housing issues, holding 17 meetings between January 2020 and January 2023 regarding the Housing Element and Downtown Precise Plan. At each meeting, the Subcommittee provided guidance to staff, helped inform the public regarding important housing related issues, and provided a forum for public input.

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.

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.

Orinda has conducted a thorough review of existing processes related to affordable housing development, permitting, and zoning regulations. This review aimed to identify any inefficiencies or barriers ("constraints") that may have contributed to the challenges in meeting RHNA allocation targets.

Stakeholder Engagement: To ensure a comprehensive and inclusive approach, stakeholders, including community members, developers, housing advocates, and relevant government agencies, were actively engaged throughout the process. Feedback and input from these stakeholders played a pivotal role in shaping the subsequent actions.

Identifying Key Obstacles: Based on the review and stakeholder input, specific constraints hindering the achievement of RHNA allocation targets were identified. These included issues related to zoning restrictions, lengthy permitting processes, funding constraints, and limited community support.

Development of a Housing Plan: With a clear understanding of the obstacles, the City developed tailored action plans to address the identified challenges. These action plans outlined concrete steps, timelines, and responsible parties for implementation that have been or are in the process of being deemed appropriate by the State Department of Housing and Community Development.

Policy and Regulatory Reforms: To streamline affordable housing development, policy and regulatory reforms were introduced to the broader community at both the Planning Commission and City Council levels and noticed public hearings. These reforms aimed to remove unnecessary barriers, expedite permitting processes, and incentivize the construction of affordable housing.

Community Outreach and Education: Recognizing the importance of community support, extensive outreach and education efforts were undertaken to inform residents about the benefits of affordable housing and dispel common misconceptions.

Outcomes Achieved: As a result of these actions, tangible progress can be made towards meeting RHNA allocation targets for very low- and low-income housing in each community. The review and reforms will lead to a more efficient and supportive environment for affordable housing development.

New affordable housing projects have been approved and initiated, increasing the overall housing stock for low-income residents. The engagement of stakeholders has fostered a collaborative approach to address housing challenges, and community support for affordable housing initiatives has grown significantly. The most recent example is the City Council's approval of Vista Verde, a 52-unit affordable senior project built at 10 Irwin Way on a parking lot owned by the Orinda Community Church.

While challenges persist, the ongoing commitment of the City to address the obstacles identified in the report demonstrates significant strides in advancing affordable housing goals. Continued efforts and collaboration will be crucial in achieving sustained progress and ensuring housing accessibility for all members of our communities.

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

The recommendation has been implemented. Each jurisdiction (City Council) 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. ([link](#))

In addition, all jurisdictions are subject to Government Code Section 65863 (No Net Loss Law), which was amended in 2017 with SB 166, and requires jurisdictions to maintain adequate sites

to accommodate remaining unmet RHNA at each income level throughout the life of an adopted Housing Element. The No Net Loss Law restricts cities from approving a housing project at a lower density, or with fewer units than identified in the Housing Element unless a corresponding number of units are accommodated and identified elsewhere in the city. To assist with the monitoring, cities are developing standard language to include in staff reports when housing projects come forward to decisionmakers for approval and are exploring a No Net Loss Tool to help monitor RHNA progress.

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.

The recommendation has been implemented. As required by State Law, jurisdictions are required to prepare a site inventory identifying land suitable and available for residential development to meet the locality's regional housing needs by income level. Please see the response to Finding 6(a) for details. Further, in addressing HCD's Affirmatively Furthering Fair Housing (AFFH) requirements there is a thorough review of the site selection via the Tax Credit Allocation's Committee (TCAC) Resource Map that designates areas of low-, moderate-, high-, and highest-resource within a jurisdiction and requires specific justification for placing affordable housing projects within low-resources areas.

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 of that review that will support AH in their community.

The recommendation has been implemented. Through the Housing Element process, jurisdictions have reviewed their zoning policies and identified potential affordable housing development constraints unique to their jurisdiction. The Housing Element Program Section outlines forthcoming changes to their zoning policies with specified timeframes to address the identified constraints.

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).

The recommendation has not yet been implemented. Thank you for your recommendation to consider adopting an inclusionary housing ordinance as part of our standard development policy by the end of 2023. We agree that this is an important aspect to explore further and would like to provide you with an update on the progress made towards implementing this recommendation. As described in response to Finding F6 above, Orinda's Housing Element Action 3.G requires the City to consider an inclusionary ordinance, and the City Council is actively working toward this goal, having received a report from the City Manager in May 2023 and with an anticipated follow-up report, to provide direction to staff, in Fall 2023.

The time frame for the analysis and preparation for discussion is set to be completed within the 6th cycle, perhaps in early 2024. This ensures sufficient time for a rigorous and inclusive analysis.

As we move forward, we will continue to keep the public informed about our progress and invite feedback and engagement from all stakeholders. We thank you for bringing this recommendation to our attention and assure you that we are diligently working towards finding the most effective and appropriate approach to adopting an inclusionary housing ordinance.

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.

The recommendation has been implemented. Orinda’s adopted and certified 6th Cycle Housing Element includes several programs to promote the development of very low- and low-income housing throughout the planning period. Some of the programs include:

- Action 1.G – Support Affordable Housing Development
- Action 2.A – Preservation of At-Risk Housing Units
- Action 2.B – Housing Rehabilitation
- Action 3.B – Extremely Low-Income Housing
- Action 3.G – Inclusionary Housing Ordinance

The 6th Cycle Housing Element also includes a number of programs that require the City to annually reach out to housing developers, regional agencies, and property owners to facilitate the development of housing for all income categories.

The City has updated its zoning code to be consistent with state law including Accessory Dwelling Units (ADUs) and SB 9 legislation. The ADU and SB 9 ordinances permit for ministerial approval of ADUs, SB 9-unit development, and SB 9 lot splits. The City continues to inform interested property owners and developers of recent state laws including AB 2011 and SB 6 to encourage the development of very low- and low-income housing throughout the City.

Earlier this year, the City Council adopted the Downtown Precise Plan, Housing Element, and Safety Element, collectively referred to as the “Plan Orinda” project. The Downtown Precise Plan includes objective design standards that will streamline development of project subject to ministerial review. A Programmatic Environmental Impact Report (EIR) was prepared for the Plan Orinda project. The EIR analyzed the potential environmental impact of development with the project area. Future projects proposed within the project area will be able to utilize the EIR without further environmental analysis if the project falls within the parameters that were analyzed in the EIR. Furthermore, as part of the City’s biennial budget that was adopted by the City Council in June 2023, additional funds were dedicated to implementation of Plan Orinda. This includes funding for staff time and resources to facilitate implementation of the programs and action items of Plan Orinda.

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.

The recommendation will not be implemented. Measure X is a countywide 20-year, ½ cent sales tax approved by Contra Costa County voters on November 3, 2020 “to keep Contra Costa’s regional hospital open and staffed; fund community health centers, emergency response; support crucial safety-net services; invest in early childhood services; protect vulnerable populations; and for other essential county services.” Under the Measure X Program Allocation Summary, only \$10 million dollars (about 13% of FY 2022-23 funding and about 4.5% of total funding) were allocated to a Local Housing Trust Fund; for FY 2023-24, \$12 million dollars were allocated. The Measure X Housing Funds are to be dispersed by the Department of Conservation and Development (DCD) and the Health Services’ Health, Housing and Homeless (HSD-H3) Services and the Housing Authority of the County of Contra Costa. The use of Measure X funds for housing are reported by the County here: <https://www.contracosta.ca.gov/8530/Measure-X>.

To the extent the City and its affordable housing development partners are successful in accessing Measure X funds to facilitate an affordable housing project in Orinda, we will share that with the community at the that time, as we would all funding sources used to allow an affordable project to proceed.