

**Contra Costa County Response to Civil Grand Jury Report No. 2306,
entitled “Affordable Housing – A Plan Without a Home”**

Findings

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

Response: Respondent partially disagrees with the finding. The County’s responsibility does not extend to the construction of new housing, and it cannot, on its own, ensure this happens at a pace and scale sufficient to achieve the numeric targets for housing units set by the state, the Regional Housing Needs Allocation (RHNA). The actual production of housing requires independent but coordinated action by a variety of public and private parties including local agencies, landowners, for-profit and non-profit housing developers, construction contractors and tradespeople, financing institutions and public and private grant-making institutions that work at the local, regional, state and national level to generate the subsidies necessary for affordable housing. As is true with many other complex issues, there is not one entity charged with ensuring or able to ensure sufficient units are constructed to meet state, regional and local goals. However, the County has developed and approved a General Plan Housing Element that enables achievement of the County’s RHNA, and the County remains committed to maintaining and building partnerships with involved parties to meet the significant housing needs of our communities.

The County has assigned the Department of Conservation and Development (DCD) to plan for and facilitate housing development that can achieve the County’s RHNA. DCD is responsible for drafting and implementing the General Plan Housing Element to ensure sufficient feasible sites exist to achieve the County’s RHNA and perform a broad array of actions to facilitate the production and preservation of housing affordable to households of various income levels. DCD manages zoning and building code compliance for housing projects and has a Housing and Community Improvement Division that implements financing, regulatory and other programs to promote affordable housing. DCD is responsible for preparing the Annual Progress Report (APR) that describes housing permitting and housing actions, as required by State Housing Law. These reports are presented before the Board of Supervisors prior to submission to the state by April 1 of each year.

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

Response: Respondent partially disagrees with the finding. In its Housing Element, the County has identified adequate sites to meet the RHNA targets and has committed to

strategies and programs, including rezoning, to encourage housing development in accordance with State Law. The State will not certify a Housing Element that does not accommodate RHNA targets. However, most of the land suitable for new housing is owned by private landowners and the County cannot compel submission of applications for housing development on these properties. The County's RHNA for the current eight-year cycle is 5.5 times larger than the allocation for the prior cycle and a substantial increase in private development activity will be necessary if production targets are to be met.

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

Response: *Respondent disagrees with the finding. There are penalties for not accommodating RHNA in a Housing Element and local agencies can lose their ability to review, modify, or approve certain types of housing projects if housing is not being built at a pace sufficient to meet standards established by SB 35, regardless of whether the local agency has a legally-compliant Housing Element and is implementing all its commitments.*

4. 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).

Response: *Respondent partially disagrees with the finding. It is true that many cities and the County have missed their RHNA targets for very low and low-income housing, and that the RHNA for very low- and low-income housing has continued to increase. However, the RHNA was not increased to the extent mentioned in this report. RHNA targets from the past three cycles indicate that the current (6th) cycle has had the largest increase of 2.5 times Bay Area region-wide from the previous cycle in very low- and low-income housing goals. For unincorporated Contra Costa County, very-low and low income housing goals were increased approximately 5.5 times from the prior cycle. Data on RHNA targets and progress for the region and unincorporated Contra Costa County are presented below.*

(continued on next page)

Bay Area Region-Wide RHNA and Progress, 3rd through 6th Cycles				
Cycle	Income Levels	RHNA	Permits Issued	% RHNA Met
3rd 1999-2006	Very Low	47,128	20,725	44%
	Low	25,085	19,714	79%
	Moderate	60,982	23,296	38%
	Above Moderate	97,548	149,289	153%
4th 2007-2014	Very Low	48,840	14,251	29%
	Low	35,102	9,182	26%
	Moderate	41,316	11,732	28%
	Above Moderate	89,242	87,933	99%
5th 2015-2023	Very Low	46,680	17,960	38%
	Low	28,940	15,708	54%
	Moderate	33,420	19,529	58%
	Above Moderate	78,950	162,803	206%
6th 2023-2031	Very Low	114,442	on-going	on-going
	Low	65,892	on-going	on-going
	Moderate	72,712	on-going	on-going
	Above Moderate	188,130	on-going	on-going

Unincorporated Contra Costa County RHNA & Progress, 3rd thru 6th Cycle				
Cycle	Income Levels	RHNA	Permits Issued	% RHNA Met
3rd 1999-2006	Very Low	1,101	372	34%
	Low	642	177	28%
	Moderate	1,401	77	5%
	Above Moderate	2,292	5,151	225%
4th 2007-2014	Very Low	815	88	11%
	Low	598	53	9%
	Moderate	687	330	48%
	Above Moderate	1,408	1,672	119%
5th 2015-2023	Very Low	374	99	26%
	Low	218	216	99%
	Moderate	243	272	112%
	Above Moderate	532	2,075	390%
6th 2023-2031	Very Low	2,072	on-going	on-going
	Low	1,194	on-going	on-going
	Moderate	1,211	on-going	on-going
	Above Moderate	3,133	on-going	on-going

5. 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;
- NIMBY opposition & Board of Supervisors response to NIMBY opposition.

Response: Respondent agrees with the finding. The above list of obstacles can hinder the development of affordable housing, however the County has addressed each item in its Housing Element programs, policies, and actions to the extent feasible.

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

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

Response: Respondent disagrees with the finding. Most jurisdictions consider zoning changes during their review of the Housing Element and when updating the General Plan, rather than solely in response to a proposed development project. State law requires that sites designated in Housing Elements to meet RHNA be zoned for densities and development standards sufficient to meet unit projections within one to three years of the start of the eight-year housing cycle.

The County is in the process of making proactive zoning changes where they are needed for the sites designated in its Housing Element. The County has selected sites in communities throughout the unincorporated area that are good opportunities for new affordable housing because they are readily developable and accessible to services, jobs, schools, transit, grocery stores, parks, and other amenities and infrastructure. The County must and will ensure that these sites are zoned to facilitate the projected amount of housing units. Additionally, the County approved an Inclusionary Housing ordinance in 2006 that requires 15% of the units within a development of five or more units to be affordable or, in the alternative, the payment of an in-lieu fee dedicated to furthering affordable housing in the County.

7. 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.

Response: Respondent agrees with the finding. There are penalties that are directly related to not meeting the statutory deadline of the Housing Element. The consequence referred to as the Builder's Remedy, which limits a local agency's authority to deny a housing development on the basis that the development does not conform to the

agency's General Plan or zoning regulations, is one such penalty that is directly linked to failing to meet state deadlines for Housing Elements. However, there are other penalties that are not directly tied to the statutory deadline. Cities and the County may be subject to litigation and, depending on court decisions, the cities and the County may lose additional local control, such as suspension of authority to issue building permits or approve certain land use permits; and/or cities and the County 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 Permanent Local Housing Allocation (PLHA) and Local Housing Trust Fund (LHTF) 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>

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

Response: Respondent agrees with the finding.

9. 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.

Response: Respondent partially disagrees with the finding. The County applied for, received, and distributed new and expanded sources of state and federal funding, including the state's Permanent Local Housing Allocation and the substantial additional funds provided through the federal HOME program. The County also approved an Inclusionary Housing Ordinance that provides for in-lieu fees dedicated to furthering affordable housing in the County. The County also utilized Housing Assets (land and limited funding) owned by the former County Redevelopment Agency for affordable housing development. The County has also partnered with the Housing Authority of the County of Contra Costa who has provided project-based vouchers to approximately fifty or more affordable housing projects in recent decades.

It should be noted that California 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. Nevertheless, the County

developed and proposed Measure X to the voters and it was approved in the November 2020 General Election. Measure X is a countywide 20-year ½ cent sales tax, and the Board of Supervisors has allocated approximately \$12 million in Measure X funds annually for “housing and related services” for the entire county. The 20-year total is anticipated to be approximately \$238 million. Measure X Affordable Housing funds will be distributed countywide through an annual Notice of Funding Availability (a competitive process).

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

Response: *Respondent agrees with the finding. The County has allocated the Measure X housing funds not only to the development of affordable housing but also to services to prevent people from becoming homeless and for homeless crisis response. The County’s top priority for Measure X housing funds is permanent affordable housing for low-income households (households earning less than 80% of Area Median Income (AMI)), with a particular focus on providing new housing for very low-income households (households earning less than 50% AMI).*

11. 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.

Response: *Respondent agrees with the finding with one clarification. Measure X was not a bond measure but rather a limited-term sales tax increment. Measure X dollars are intended “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.” The County has been spending funds as they are received rather than borrowing against a future revenue stream.*

The amount of Measure X funds allocated annually by the County for affordable housing more than equals the total amount of funds the County receives in a typical year from the federal government for the same purpose. Because the County has dedicated Measure X revenues to create a local housing fund, the County is eligible to apply for grant funds from the state dedicated to matching local housing funds. In the first year the local housing fund was created the County received more than \$3 million from the state’s match program and allocated these funds to affordable housing projects. Commitment of local funds can attract other funding sources as well, making individual projects more competitive for tax credits and other grant programs and encouraging major philanthropic institutions to invest more in an area that is dedicating its own resources to the pressing housing problem. Leveraging additional outside funds and building the local organizational capacity to develop affordable housing are perhaps the biggest systematic advantages of a local source of funding for housing. Meeting the affordable housing needs of the County and the cities will require a total pool of funding

substantially larger than what the County has been able to secure through Measure X and will require a concerted, coordinated effort at many levels of government and effective partnerships with the private sector.

12. 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.

Response: *Respondent partially disagrees with the finding. 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. Neighbor opposition, sometimes rooted in racial and class biases, can also sometimes deter applications, despite supportive policies and policy makers.*

The County takes many actions to overcome these barriers. The County actively engages with neighbors during the development review process, addresses zoning obstacles through Housing Element programs, and provides zoning concessions and incentives for affordable housing development projects, as required by State Law. The County also works collaboratively with developers through the entitlement process and encourages early and consistent outreach to hear and address community and neighborhood concerns.

13. 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.

Response: *Respondent agrees with the finding with one clarification. It is true that the RHNA for very low- and low-income housing has continued to increase. However, the increase in RHNA is not to the extent mentioned in this report. RHNA targets from the past three 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 for the entire Bay Area region and 5.5x for unincorporated Contra Costa County. Please see the response to Finding 4 for detailed RHNA targets from previous Housing Element cycles.*

Recommendations

1. 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.

Response: *The recommendation has been implemented to the extent of the County's responsibilities. 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 Department of Conservation and Development (DCD) is assigned with the responsibility of the above tasks for the unincorporated area of Contra Costa County and the DCD Director oversees the Department's work.*

2. 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.

Response: *The recommendation has been implemented. State Law (Government Code § 65400) requires each city and county to 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). 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*

Local planning agencies must provide this report to the local legislative body (i.e., local Council or Board), HCD, and state Office of Planning and Research by April 1 of each year (covering the previous calendar year). The County prepares and submits an APR each year in compliance with state requirements.

3. 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.

Response: *The recommendation has been implemented.*

- *The County has established the Affordable Housing Finance Committee (AHFC), an advisory body appointed by the Board of Supervisors. The AHFC reviews proposals for affordable housing projects and provides funding recommendations to the Board of Supervisors for the annual allocation of various funding sources including federal and state funds and Measure X.*
- *The Contra Costa County Health Services Department supports the Council on Homelessness, the governing body for the Contra Costa Continuum of Care and the planning body that coordinates the community's policies, strategies, and activities toward preventing and ending homelessness in Contra Costa County.*
- *The members of the Board of Supervisors, together with two non-elected community members, constitute the Board of Commissioners of the Housing Authority of the County of Contra Costa (HACCC) which is charged with providing rental subsidies and managing and developing affordable housing for low-income families, seniors and persons with disabilities.*

4. 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.

Response: *The recommendation has been implemented. Through preparation of the Housing Element, the County 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 that may have contributed to the challenges in meeting RHNA targets. Community members, developers, housing advocates, and relevant government agencies were actively engaged throughout the process and their feedback shaped housing policy. The Housing Element commits the County to various actions to expand the supply of affordable housing opportunities in communities throughout the unincorporated area. The County has identified sites capable of supporting new affordable housing units and is working to rezone sites where needed to fully utilize its housing potential. The County also developed tailored action plans, including concrete steps, timelines, and responsible parties, to address other identified challenges. The County's Housing Element is currently being reviewed for substantial compliance with State Housing Law by the State Department of Housing and Community Development.*

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

Response: *The recommendation has been implemented. As detailed in the response to Recommendation No. 2, the County prepares 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). The County's reports are available on the County website. HCD compiles and showcases all APRs through its interactive digital data dashboard with downloadable data sets. In addition, the County plans to create a comprehensive web-based tool to report on the status of actions related to its adopted Housing Element as well as its in-progress comprehensive General Plan update and Climate Action Plan once all of these plans are adopted.*

6. 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.

Response: *The recommendation has been implemented. The County has prepared a site inventory identifying land suitable and available for residential development to meet its regional housing needs by income level. As more fully described in the response to Finding No. 6, the County focused not only on the feasibility of development but also on locations that are well-positioned to provide a range of other benefits to future residents. For sites where existing zoning is not adequate to realize otherwise feasible housing potential, the County will be rezoning the sites to allow the project density and remove development obstacles.*

7. 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.

Response: *The recommendation has been implemented. As more fully described in the response to Finding No. 6 and Recommendation No. 4, through the Housing Element process, the County has reviewed its zoning policies and identified potential affordable housing development constraints unique to its jurisdiction. The Housing Element Program Section outlines forthcoming changes to the County's zoning policies with specified timeframes to address the identified constraints.*

8. 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).

Response: *The recommendation has been implemented by the County. The County approved an Inclusionary Housing ordinance in 2006 that requires 15% of the units*

within a development of five or more units to be affordable or, in the alternative, the payment of an in-lieu fee dedicated to furthering affordable housing in the County.

9. 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.

Response: *The recommendation has been implemented. The County passed Measure X and allocated approximately \$12 million per year to a local housing fund that prioritizes funding for very low- and low-income housing. The County approved a Housing Element with commitment to revise zoning on sites best suited for the development of very low- and low-income housing projects. The County has planned, approved, and funded affordable housing projects on its surplus lands, including the Orbisonia Heights Project, a 384-unit, 100% affordable housing project adjacent near the Bay Point BART station and across the street from a shopping center. The County created community-wide planned unit zoning districts that ease barriers to affordable housing in former redevelopment areas. The preservation and promotion of naturally occurring affordable housing (NOAH), is also part of the County's affordable housing strategy. While developing housing that is affordable to lower income households is important and a key strategy, preservation of affordable units is equally important and requires additional resources. It may, in some cases, be more cost effective to preserve existing units. Additionally, the promotion of Accessory Dwelling Units, as NOAH, is a key strategy identified in the County's Housing Element.*

10. 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.

Response: *The recommendation has been implemented. The Board of Supervisors has established that the County's top priority for Measure X housing funds is permanent affordable housing for low-income households (households earning less than 80% of Area Median Income (AMI)), with a particular focus on providing new housing for very low-income households (households earning less than 50% AMI).*

Comments: *Providing well-planned housing throughout the county to meet the needs of current and future residents of all income levels is one of the most critical issues facing the County and is a key need in our collective work to address the crisis of homelessness. The County appreciates the Grand Jury's work to increase awareness of this issue.*