



East Bay Housing Organizations

September 8, 2021

To: Bay Area Local Planning Directors

**RE: Public Participation and Transparency for Bay Area Housing Elements**

Dear Bay Area Planning Directors,

The Bay Area can be a place where everyone can afford to live and prosper in a healthy community. To realize this vision, our local governments must prioritize deep community engagement when updating our Housing Elements.

We face an unprecedented affordable housing crisis exacerbated by the climate crisis and the COVID-19 pandemic. Decades of racist and exclusionary policies and systems have caused these crises to disproportionately harm Black, Latinx, Asian & Pacific Islander, and Indigenous communities. The 6th Cycle Housing Element update can be an opportunity for our region to recover from these crises by making sure everyone, regardless of race or income, can enjoy safe, stable homes near their jobs, families, and healthcare needs.

To plan for a better future, **we urge our cities and counties to comply with Housing Element law by implementing comprehensive, inclusive, and detailed public engagement processes.** Regional experts and community leaders have developed recommendations below.

State law requires local governments to **make “a diligent effort...to achieve public participation of *all economic segments* of the community in the development of the housing element.”** (Gov. Code 65583(c)(9) (emphasis added)). “A diligent effort means going beyond simply giving the public an opportunity to provide input and should be **proactively and broadly conducted through a variety of methods to assure access and participation.**” (Department of Housing and Community Development (HCD), [Affirmatively Furthering Fair Housing \(AFFH\) Guidance](#) Memo, April 2021, p. 21). Therefore, our cities and counties must make intentional, proactive, and robust efforts to solicit and incorporate input from community members of all economic backgrounds. A particular effort must be made to include low-income people, people of color, immigrants, non-English speakers, people with disabilities, and others who often face barriers to being heard in public decision making.

The Housing Element “**must describe meaningful, frequent, and ongoing community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process** for the overall housing element,” (HCD AFFH [Guidance Memo](#), p. 10). Local governments should create an outreach plan, release drafts of the Housing Element to the public for review and comment with ample time before submission to HCD, and schedule community input meetings at accessible locations and times, including on evenings and weekends (*Id.* at 10).

Particularly for the Assessment of Fair Housing section of the Housing Element, local governments must examine housing needs and disparities for members of protected classes based, in part, on “**local data and knowledge,**” including “**information obtained through community participation or consultation, such as narrative descriptions of people’s lived experiences.**” (Gov. Code 65583(c)(10); HCD AFFH [Guidance Memo](#), p. 24). This “analysis should not be limited to the jurisdiction itself, but should **include the surrounding region** and an understanding of the role the jurisdiction plays in current and historical trends of segregation at a regional level.” (HCD AFFH [Guidance Memo](#), p. 46). This means that cities and counties must also explicitly seek out information about fair housing issues and disparities from people who need to live in the jurisdiction but cannot.

Public health challenges related to the pandemic demand even more thoughtful and robust planning than usual to ensure that members of the public have opportunities to participate. For example, in addition to traditional public meetings and workshops, cities and counties should provide a mix of opportunities, including booths at outdoor events, hard copy surveys at essential offices and businesses (such as culturally diverse grocery stores, corner stores, and laundromats in low-income neighborhoods), online surveys advertised through email, social media, and local news, and other creative avenues.

Regional experts and community leaders have developed the following recommendations and call on local leaders to employ these strategies to fulfill their legal and moral obligations:

1. **Proactively work with community-based organizations to plan engagement workshops and opportunities** to ensure that their members and partners can directly participate as part of the evaluation and creation of the Housing Element. Send any relevant preparatory materials and other necessary documents to community-based organizations prior to the meeting, so that they may share them with interested members with ample time for review. HCD requires local jurisdictions to engage with groups and individuals, including the following (HCD AFFH [Guidance Memo](#), p. 21):
  - a. Public housing authorities
  - b. Housing and community development providers
  - c. Advocacy groups (local, regional, and state level)
  - d. Community members who are lower income
  - e. Persons and households with special needs
  - f. Members of protected classes
  - g. Representative advocacy organizations and other similarly interested parties

- h. Fair housing agencies
  - i. Independent living centers
  - j. Regional centers
  - k. Homeless service agencies
  - l. Legal services organizations
  - m. People who work in the jurisdiction but cannot afford to live there
  - n. Community groups that organize people of protected classes
2. **Engage community participation and feedback at all stages of the Housing Element process.** Participation should not be limited to public hearings. Jurisdictions should create a roadmap of all major milestones in the Housing Element process each with clear, targeted, and robust outreach and communication plans in which the public should have opportunities to:
- a. Provide input on all components of the Housing Element including: the review and evaluation of the prior element's programs and policies, Assessment of Fair Housing, existing needs and conditions, barriers to addressing housing needs, the adequacy of the land inventory, the selection of sites to accommodate affordable housing needs, potential new programs, etc. before release of a new draft element;
  - b. Review and comment on any draft Housing Element well in advance of its submission to HCD; each draft should indicate how the jurisdiction incorporated public input;
  - c. Review how the jurisdiction has considered and incorporated public input;
  - d. Review the adopted Element; and
  - e. Provide input on each annual Housing Element progress report before it is submitted to the City Council or County Board of Supervisors for approval.
3. **Conduct various methods of engagement to allow participation by all members of the public.** It is likely that much of the public engagement will be "virtual", however, access to computers and internet is not equitably available. For members of the public who lack those resources or who are unable to use video applications, consistently provide an adequate telephone option to participate in meetings as well as surveys, short interviews, and other opportunities to engage at outdoor events and essential businesses and offices. When hosting a virtual meeting, provide multiple options for teleconferencing, with *two-way* communication options that allows computer- and phone-users to engage and provide public comment. For live-streamed meetings, the public should be allowed to comment in real time, through a combination of phone and video, chat boxes, and/or email.
4. **Post notices of all hearing/meeting times, topics, and detailed information regarding participation on easy-to-find places on the jurisdiction's website.** Notices must clearly show how public comments will be received.
5. **Translate all materials and notices into multiple languages** appropriate to the community. During meetings, interviews, and workshops, consider using separate

teleconference lines or audio channels to meet language access needs. Interpreters should be available for residents to understand and participate in the meeting.

6. **Make engagement opportunities accessible to people with disabilities**, including by providing reasonable accommodations such as sign language interpretation and written materials in Braille and other alternative formats.
7. **Give ample time for the public to review materials and submit comments prior to the meeting's start time, such as via email or a dedicated phone number.** Comments should be accepted starting from the time the notices are disseminated. Written or voice message comments should be allowed up until the start of the meeting, as well as live comments throughout the meeting. Have staff read them aloud on the record during the live meeting for transparency and consideration by the full governing body. Avoid arbitrary word limits for email comments. Voice message comments, which can be limited to 3 minutes, should be played during the comment period of the meeting. Ensure that these messages, as well as the emails, can be received in multiple languages and interpreted as needed.
8. **Convene public meetings at times outside of working hours.** Public meetings should be held at times that are convenient, and accessible to allow as many community members as possible to attend. Meetings during traditional working hours excludes many community members and disregards the intention of public participation.
9. **Meet people where they are.** For example, ask to attend regular meetings of community organizations, neighborhood associations, unions, advocacy and industry groups. Other opportunities could include having booths at outdoor events, school district food distribution sites, or outside of culturally diverse grocery stores. At all public engagement opportunities, the local government should describe the Housing Element process and ways to provide input at all stages. Advance planning and creativity will help ensure participation by all economic segments of the community.
10. **Meaningfully incorporate community input and show how it was incorporated.** Provide a transparent feedback loop about how the jurisdiction has considered and incorporated public input into the Housing Element.
11. **Create a designated Housing Element mailing list and website.** Maintain an active mailing list to notify the community, advocates, and all interested of new meetings and documents. Meeting notes, recordings of meetings, data tables and charts, and interim work products should be available on an easily accessed website.
12. **Create a diverse Housing Element Working Group** to provide input on the development of the Housing Element update AND to support and evaluate ongoing implementation. Ensure robust representation by renters, low-income people, people of color, tenant and community organizations, seniors, people with disabilities, unhoused people, farm and

agricultural workers, and others with special needs who are most impacted by the housing crisis, as well as experts in affordable housing development. This working group should continue after the adoption of the Housing Element to review and comment on its Annual Progress Reports and implementation.

The undersigned organizations remain committed to working in partnership with Bay Area jurisdictions to ensure the Housing Element update process is inclusive and lays out an effective roadmap to effectively address the affordable housing crisis. All Bay Area residents deserve a safe, accessible and affordable place to call home, with a range of choices free of barriers to fair housing. The Housing Element update process provides the tools to do just that. We look forward to continuing this work with you.

Regards,

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