

September 7, 2023

Cynthia Roberts, Foreperson
2022-2023 Contra Costa County Civil Grand Jury
Contra Costa County
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RE: City of San Pablo response to June 16, 2023 Letter Regarding the 2022-2023 Contra Costa County Civil Grand Jury Report 2306 entitled "Affordable Housing: A Plan Without a Home"

Dear Madam Foreperson,

Thank you for your letter 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 of the findings may lack a local 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 within the County. However, we recognize the challenges, and associated solutions for Contra Costa County will vary, depending 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.

For example, there are very large differences between the demographics, environment, and housing situation in the East County area versus the West County area, which makes Countywide findings particularly difficult to assert. Of further significance, are the unique attributes of San Pablo in comparison with other communities in the County and in the larger Bay Area. San Pablo has the lowest household income of the 109 incorporated Bay Area communities (53.3% very low-income and 18.8% Low-Income in 2015), and a median household income (in 2021 dollars) of just \$67,294 for 2017-2021), the lowest percentage of white population (i.e., 7.9% listed as White alone/non-Hispanic/Latino in 2022)), and at 2.6 square miles, is one of the smallest communities geographically. With a population of 31,389, the City is largely built-out, with the exception of generally seismically unstable hillside areas to the east of I-80. With respect to housing characteristics, the housing stock in San Pablo is essentially comprised of affordable housing, when compared to other communities in the area. San Pablo also

has a large share of subsidized housing units and over 59% of its housing stock are non-owner-occupied rental units. After experiencing very low housing development activity of any kind during the past two RHNA cycles (2007 to 2014 and 2015-2020), San Pablo is performing well above its weight with over 500 units of housing in the pipeline, including 220 units of affordable housing. In fact, San Pablo's greatest challenge in meeting RHNA thresholds is in the area of Above Moderate-Income housing, which is not surprising given proud working-class character of the community.

In addition, 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 housing 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 of these statutory requirements 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 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. This lack of funding is seen in the fierce competition for Low Income Housing Tax Credits and for the limited HUD and state government allocated funding that can be put toward creation of affordable housing. The City of San Pablo is below the HUD threshold to be a Participating Jurisdiction and its residents do not benefit from CDBG or HOME funding for new or rehabilitated housing opportunities. Sadly, the relative availability of HUD funds has only shrunk over the years regardless of the Federal Administration, leaving poor communities like San Pablo with ever growing unmet needs for rental subsidy and public housing opportunities.
- **Rising Costs:** The rising costs of construction and scarcity of labor has worsened the housing crisis, making it that much harder to fund and to successfully carry out construction projects. Resistance to modular construction in some areas and labor requirements for publicly funded projects make successful project completion even more challenging.
- **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. Funneling of funds to high resource areas for regional equity purposes, has had the unfortunate effect of starving poorer communities with existing needs, like San Pablo. Many projects require lengthy lead times and multiple funding applications in order to be successful, a bar that few developers can sustain.
- **Jurisdictions' Role in Housing Development:** In the absence of redevelopment authority and Participating Jurisdiction allocations for HUD funding, local jurisdictions do not directly produce housing. Instead, they can 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. Some communities, like San Pablo, have carefully leveraged their successor agency land assets to promote affordable housing over the years, but these opportunities have now diminished with time and no new redevelopments sites are being created. The State-imposed limitation on redevelopment activities in California does not exist in 47 other states, which still allow tax increment financing to be used for housing and economic development purposes. By disallowing Tax Increment Financing in 2015, California joined just Arizona and Wyoming in prohibiting this popular and effective housing and economic development tool.

- **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 San Pablo 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.

The Civil Grand Jury report 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 applaud you for your efforts in investigating this critical issue.

By working collaboratively and understanding the broader context of the housing crisis, we strive to develop more effective strategies and policies to address the pressing issue of the lack of affordable housing in Contra Costa County and to work towards creating a more inclusive and sustainable housing landscape for all members of our community.

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 typically themselves develop housing projects. State Housing Law requires only that jurisdictions plan to address barriers to development, accommodate all types of housing based on the RHNA allocations, and report their progress towards RHNA. San Pablo's Community Development/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, each jurisdiction's Housing Element identifies the department responsible for carrying out the Housing Element's Plans and Programs.

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 and County officials recognize the challenges ahead, San Pablo's Draft 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, San Pablo 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 and County officials demonstrate their commitment to addressing the housing crisis and fulfilling their obligations in accordance with state mandates. However, the cities and County are not housing developers and do not construct the units.

The City of San Pablo closely monitors its progress in meeting RHNA numbers at the staff, Planning Commission, and City Council level. We project a good likelihood of meeting our current cycle overall RHNA allocation and have prepared a strong and proactive Draft Housing Element that will position San Pablo well for success during the next cycle. While the overall RHNA numbers for San Pablo may be met, the recommended above moderate-income allocation is not realistic for our local economy and housing market, and San Pablo will likely continue to do more than its fair share in producing affordable housing.

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 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.

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, cities and the County 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 cities' or County's authority to issue building permits or approve certain land use permits. Cities and the County 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 cities or County do 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 cities or County have 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 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

In San Pablo’s case, the City exceeded its RHNA allocations for Very Low Income (146%) and Low Income (101%) during the 1999-2006 cycle, but suffered a building downturn in 2007-2014, when it did not meet any of its income allocations. San Pablo anticipates meeting its Very Low, Low, and Moderate income RHNA allocations for the current cycle, but is unlikely to meet its Above Moderate-Income allocation.

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, San Pablo has addressed each item in its Housing Element programs, policies, and actions to the extent feasible and considered acceptable to HCD. Incorporated as a largely developed community

in 1948, and with just 2.6 square miles, San Pablo may be considered essentially fully built out. The older residentially zoned portions of the community provide a very valuable stock of affordable housing, with large household sizes and a healthy proliferation of ADUs. Redevelopment of these areas would be expensive and counterproductive in the loss of existing affordable housing stock. Nonetheless, the City has identified ample new housing development sites in its draft Housing Element, along with modifications to its Zoning Ordinance to better facilitate higher density housing development. Through proactive efforts and a can-do attitude, the City has begun to attract increased interest by housing developers, including those who are willing to include affordable units. The San Pablo community is largely in support of the City's efforts. Housing production is a strong feature of the City Council's goals, and the Planning Commission has approved virtually all of the housing proposals that have been presented to it in recent years, without the need for additional hearings.

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 lower income housing 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, including San Pablo, consider amending/changing the zoning while reviewing their Housing Element and/or updating their General Plan, not just when a project is proposed for development. In fact, because zoning amendments are time consuming to prepare and generally involve extensive and often costly CEQA analysis, it makes sense to group these amendments and to time them as Housing Element, General Plan, or Specific Plan implementation actions.

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, among 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)), in 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. However, without tax increment financing as a reinvestment tool, jurisdictions must rely on private investments as a 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. The City of San Pablo has recently entitled a number of projects requiring density bonus and/or height adjustments, including those at 2555 El Portal, 2364 Road 20, 13717 San Pablo Avenue, and 1820 Rumrill Boulevard.

3. 15 jurisdictions in Contra Costa County have implemented inclusionary housing ordinances. Because it is a lower-income community and has not previously had a strong market for market rate units, San Pablo has not adopted an Inclusionary Housing Ordinance. San Pablo adopted an Affordable Housing Strategy document in 2020. This report recommended that the City conduct a feasibility study for inclusionary housing, but expresses concerns about the readiness of the San Pablo market. Adopting an inclusionary housing ordinance could result in a chilling of San Pablo's housing development market, in that it can have the result of increasing housing costs and reducing profits in an area where property values are lower than in higher income areas to the south. Even without an inclusionary requirement in place, San Pablo has shown a strong recovery in the past few years, particularly for affordable housing projects.

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 not meeting state deadlines for Housing Elements. There is also the penalty of potential loss of certain grant funding sources, which is of grave concern to our community.

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.

In addition, as stated in the response to Finding 3, cities and the County may be subject to litigation from individuals, housing rights' organizations, developers, and/or HCD. 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 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.

It should be noted that the City of San Pablo practices streamlined processing of planning applications. The City does not keep a docket and discretionary applications are scheduled for the next available regular monthly Planning Commission meeting. The Planning Commission has a long history of rendering decisions efficiently, generally without continuations. With the exception of plan adoption, appeals, map and zoning text amendments, major subdivisions, and overconcentration of alcohol, planning approvals are decided by the Planning Commission alone. Zoning Administrator approvals are rendered at the staff level within a 30-day window.

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 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.

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. While it is helpful where applied, Measure X is no substitute for the meaningful, long-lasting, locally determined housing development and redevelopment activities that were previously possible with Redevelopment Agency jurisdiction and funds.

Since the loss of redevelopment, the City of San Pablo, as the successor agency, has worked diligently to leverage remaining assets to promote additional housing and other redevelopment opportunities. These successes include the Mixed Use Center South area in central San Pablo, which is the home of County health facilities, the new City Hall, Public Library, an entitled 20-lot residential townhouse subdivision at 2812 Chattleton Lane, and a 91-unit mixed use development at 13717 San Pablo Avenue. Also in development on existing or prior local successor agency holdings is the 100-unit affordable Alvarado Gardens project at the old City Hall site (13831 San Pablo Avenue) currently under construction and the recently entitled 40-unit affordable housing project at 1820 Rumrill Boulevard. Other uses of the City's successor agency funds include a first-time homebuyer program administered by the San Pablo Economic Development Corporation, and previously, a COVID related rent and mortgage support program. However, the City has neared the end of its property dispositions and without redevelopment, there is no longer the ability or resources to plan for and to accomplish the redevelopment of the community. The City and its developer partners will then be left with just facing the stiff competition for Low Income Housing Tax Credits, and Measure X or other regional, state or federal funding sources.

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.

Partially Disagree. Bond funding requires voters' approval. Depending on the timing (economic conditions and bond measures for other competing interests), bond financing has not been the most significant source of affordable housing financing. While local funding provided by bonds like Measure X Housing Fund in Contra Costa County are a beneficial component to help fund affordable housing construction, the amount of funding available from Measure X is not high enough to be a critical factor in a developer's overall ability to raise funds for an affordable housing (AH) development. 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. While a contributing factor, Measure X dollars allocated to housing production is not critical to the overall ability of the jurisdictions to meet their RHNA requirements for affordable housing.

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.

Partially Disagree. The City of San Pablo agrees that proactive strategies can help attract affordable housing developers and mitigate the barriers to housing production; however, proactive strategies alone do not result in affordable housing projects being constructed. Suitable development sites must also exist in a community, the sites must be available, and the local market must provide a return on the developer's investment such that a project is feasible and can be built. For example, while San Pablo engages in a host of proactive strategies outlined in its Council Work Plan Goals, Housing Element, and Affordable Housing Strategy, a variety of other obstacles towards affordable housing development exist beyond a local jurisdiction's control. This includes the gap in financing between constructing market-rate versus affordable housing, land costs, the land-to-building ratio when a property contains an underutilized building, the cost to upgrade or renovate an existing nonresidential building to accommodate housing, infrastructure costs (on- and off-site), fees for public utilities (particularly for non-municipal utilities), delays and obstacles in accessing non-municipal services and utilities, unexpected site constraints, etc.

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. 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.

As noted above, in recent years, the City of San Pablo has had better success in meeting its Very Low Income and Low-Income housing requirements compared to its Above Moderate-Income housing allocation, and has also had some success in meeting its Moderate-Income housing requirement. For the 2023-2031 RHNA cycle, the expectations for Above Moderate-Income housing, which comprises 46% of San Pablo's allocation (341 of the 746 total units), continues to be at odds with the local market and economic trends. This persistent expectation of the lowest-income community in the Bay Area, which is essentially fully built out, to produce half of its housing in the above-moderate category is a good illustration of how the RHNA numbers can be at odds with the on-the-ground market reality of our communities.

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 Community Development/Planning Department is assigned with the responsibility of the above tasks. In addition, despite San Pablo’s small size, the City Manager’s Office has a full-time position dedicated to housing, successor agency, and other related policy issues.

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 or board of supervisors) 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

Through the forms and tables provided by 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

Government Code §65400 requires the planning agency to provide this report to the legislative body (i.e., local Council or Board), 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.

In addition to presenting the APR to the San Pablo Planning Commission and City Council on an annual basis prior to submission to HCD, City staff presents progress on achieving San Pablo's RHNA numbers as a regular element of Staff Reports and presentations on housing-related entitlements and 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: Our city and County already have established planning mechanisms and committees responsible for addressing affordable housing issues. These existing structures provide platforms for community engagement and collaboration, making the formation of a separate commission redundant and potentially duplicative of efforts.

In San Pablo, the City's Planning Commission is responsible for reviewing major entitlements, such as Major Design Review and Density Bonuses for housing projects. The Commission is also responsible for holding hearings on the Housing Element, special planning studies, and plan and zoning amendments. The City Council takes recommendations from the Planning Commission and holds its own public hearings on the Housing Element, General Plan, and other City Ordinances. In addition, the City Council sits and acts the Local Successor Agency for actions related to the City's remaining redevelopment projects, many of which involve affordable housing, and include property sale and development subsidy. For Housing Policy discussions and analysis, the City Council also has an Economic Development, Housing, and Project Management Standing Committee that meets regularly to discuss topics such as the Housing Element Update and implementation of the City's Affordable Housing Strategy document. Adding an additional entity would disrupt our governmental structure, established lines of authority, and highly developed areas of expertise.

Resource Constraints: Establishing and maintaining a dedicated AH commission would require additional financial and administrative resources. At present, our city and County are 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. This is especially of concern for a small, resource-constrained City like San Pablo.

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 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.

Additional relevant points include:

- San Pablo has a Planning Commission comprised of a variety of residents that provides recommendation on policy changes, reviews development projects, provides a community voice, and makes recommendations on changing zoning regulations, which can lead to a reduced number of obstacles to development. The long history of success of San Pablo's Planning Commission in expeditiously hearing and entitling affordable housing projects is discussed above.
- For a small City, San Pablo has a number of commissions, including our Planning Commission, Safety Commission, Youth Commission, and a number of advisory Committees. In our experience, each commission requires a designated staff member to manage the meeting, minutes, calendar, agenda, noticing, etc. The City of San Pablo does not have staffing or staff capacity to create additional commissions without compromising the function of the current commissions. We believe that the proposed commission would be fully redundant to the function of our Planning Commission and the Council Standing Committee on Housing.

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.

As noted above the City of San Pablo has had excellent success in meeting its RHNA allocation targets for very low and low-income housing. Additional success is anticipated as pipeline projects get completed.

Affordable Housing Strategy: The City of San Pablo adopted an Affordable Housing Strategy in 2020 and is implementing its recommendations through our bi-annual City Council Work Plan. The City Council will be holding a Housing Workshop and identifying additional goals once the current draft Housing Element has been certified by HCD. This is expected to occur in late 2023.

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.

Through this process, San Pablo 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, permitting processes, and funding constraints.

Development of a Housing Element: With a clear understanding of the obstacles, each city and the County 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.

While challenges persist, the ongoing commitment of the jurisdiction 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 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.

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 and the County 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 cities or County. To assist with the monitoring, cities and the County 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.

Also, as noted above, San Pablo has been including regular reports and presentations to its Planning Commission and City Council on progress in meeting the City's RHNA allocations.

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 noted above, because it is a lower-income community and has not previously had a strong market for market rate units, San Pablo has not yet adopted an Inclusionary Housing Ordinance. San Pablo adopted an Affordable Housing Strategy document in 2020. This report recommended that the City conduct a feasibility study for inclusionary housing, but expresses concerns about the readiness of the San Pablo market. Adopting an inclusionary housing ordinance could result in a chilling of San Pablo's housing development market, in that it can have the result of increasing housing costs and reducing profits in an area where property values are lower than in higher income areas to the south. Even without an inclusionary requirement in place, San Pablo has shown a strong recovery in the past few years, particularly for affordable housing projects.

City staff conducted an initial assessment of this requirement in 2021 and determined that it would need to consult with experts in this area to assess the probability of success of this tool, including the possibility for negative impacts on overall housing starts due to the unique attributes of the San Pablo market.

In response to this recommendation and as a part of the implementation of the 2020 Affordable Housing Strategy document, and implementation of the 2030 Housing Element, once it is certified, the City of San Pablo will review the potential for adopting an Inclusionary Housing ordinance.

We anticipate that the scope of any subsequent feasibility analysis will include the examination of successful inclusionary housing models implemented in other jurisdictions, the potential impact on housing affordability, and the feasibility of implementing such an ordinance in our city.

If an inclusionary housing feasibility study is pursued, the City would seek to ensure a comprehensive and well-informed decision-making process. Our team would collaborate with relevant stakeholders, including city officials, housing experts, developers, and community members. We would also seek public input through town hall meetings and community surveys to gain a broader perspective on this matter.

The time frame for the analysis and preparation for discussion would be expected to be completed within the 6th cycle, once our Draft Housing Element has been adopted by the City and certified by HCD. This will ensure sufficient time for a rigorous and inclusive analysis.

At the end of the analysis period. We would present the findings of the analysis and any proposed inclusionary housing ordinance for public discussion and consideration. We are committed to adopting an approach that strikes a balance between promoting affordable housing opportunities and being mindful of potential challenges or unintended consequences.

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.

According to local ordinance, it is mandatory for cities and counties to assess all development projects in the sequence they are received. Nevertheless, jurisdictions have implemented incentives and expedited permitting processes for certain categories of housing type or tenure.

Affordable Housing Zoning and Incentives: City and County officials have reviewed and revised zoning regulations to incentivize the development of very low- and low-income housing projects. By encouraging housing development throughout the city and offering density bonuses, and in some cases, financial support for qualifying projects, San Pablo has been able to encourage developers to prioritize these types of housing developments.

Streamlined Permitting Process: San Pablo has a streamlined permitting process has been implemented for all housing projects, including those with affordable units. We have worked to reduce bureaucratic hurdles and expedite the approval timeline. These measures aim to minimize delays and facilitate the construction of housing units for low-income residents more efficiently.

Public-Private Partnerships: Collaborative efforts between public entities and private developers have been fostered to maximize available resources and expertise. Through these partnerships, the County and cities leverage private sector investments to create a greater number of affordable housing units. In San Pablo, this partnership has resulted in the 100-unit Alvarado Gardens project, that is currently under construction, and in the 40-unit 1820 Rumrill Project that has recently been entitled. Both

projects are 100% affordable for low income households. At 2555 El Portal, the City worked with the County and the private property owner to expeditiously approve a 54-unit supportive housing project that is also under construction and is available for very low-income households.

Further, the preservation and promotion of naturally occurring affordable housing (NOAH), is also part of our 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 our Housing Plan.

The City of San Pablo has robust activity in the creation of accessory dwelling units within our existing neighborhoods and more recent activity in SB9 lot splits and duplex construction. In 2022, the City entitled 41 ADUs.

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>

A recent recipient of Measure X funds in San Pablo is the 54-unit permanent supportive housing project at 2555 El Portal.

The jurisdiction has identified local funding sources for each of their Program Actions in their Housing Element to support affordable housing projects that address RHNA targets for very low- and low-income residents.

This concludes the review letter from the City of San Pablo. We thank the Grand Jury for its tremendous efforts and for its meaningful and far-reaching report. The City of San Pablo stands ready to continue to do its part to improve the supply and access to affordable housing in Contra Costa County.

Sincerely,



Abel Pineda
Mayor