



Cynthia Roberts, Foreperson
2022-2023 Contra Costa County Civil Grand Jury
725 Court Street
P.O. Box 431
Martinez, California 94553-0091

Re: Response to Grand Jury Report No. 2306 -“Affordable Housing: A Plan Without A Home”

Dear Ms. Roberts:

This correspondence will serve as the City of Walnut Creek’s response to Grand Jury Report No. 2306, “Affordable Housing: A Plan Without A Home” pursuant to California Penal Code Section 933 et seq. The City responds to each of the Findings and Recommendations as set forth below.

FINDINGS:

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

Response: Partially disagree with the finding. The City of Walnut Creek has a Housing Manager responsible for implementing housing plans and programs contained in the City’s Housing Element and monitoring progress annually as required by State law. However, except in very limited circumstances, jurisdictions do not develop, finance or construct housing projects.

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

Response: Disagree. In the City of Walnut Creek’s Housing Element, the City identified adequate sites to meet its RHNA targets along with programs to encourage housing development. The State will not certify a Housing Element that does not provide a direct and viable path to accommodate RHNA targets.

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

Response: Partially disagree. While there are no legal or financial penalties if the cities and County do not achieve their RHNA targets, there are penalties for not providing sufficient sites to accommodate a city's RHNA allocation in a Housing Element. Penalties include "Builder's Remedy", loss of eligibility for State grant funding and potential lawsuits.

- F4. Data published by ABAG show that Contra Costa County and most of its cities have missed their current RHNA targets for very low- and low-income housing allocations.

Response: Agree.

- 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.

Response: Partially Disagree. Though the above list of obstacles can affect the development of affordable housing, the City of Walnut Creek has addressed each item in our adopted Housing Element programs, policies, and actions. The cost of land and the amount of funding needed for affordable housing are the biggest challenges.

- 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.

Response: Disagree. The City of Walnut Creek proactively made changes in the last RHNA Cycle to incorporate more housing sites, including two Specific Plans (West Downtown Specific Plan and North Downtown Specific Plan) to significantly increase housing opportunities near BART stations. In addition, the City has an established and effective inclusionary ordinance (Ordinance 2025) that was adopted on February 17, 2004, along with a commercial linkage fee ordinance (Ordinance 2040) adopted on March 1, 2005. These ordinances provide for either the direct construction of affordable housing units or funding to construct affordable housing units.

- 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.

Response: Agree.

- 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.
- Response: Partially Disagree. While Builder's Remedy and SB 35 projects are tools that can expedite affordable housing development, they may not comprehensively address all the ingrained obstacles identified in this report that hinder the completion of approved Affordable Housing projects.
- 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.
- Response: Disagree. Measure X is under the County's purview and is not subject to the City of Walnut Creek's discretion. The City of Walnut Creek has not received Measure X funding for affordable housing. As previously noted, in 2004 and 2005 the City of Walnut Creek enacted inclusionary and commercial linkage ordinances to help provide for, or fund, affordable housing.
- F10. Measure X housing funds are not fully dedicated to building AH for very low- and low-income residents.
- Response: Agree.
- F11. Local funding provided by bonds like Measure X Housing Fund is a critical component of a developer's overall ability to raise funds for an AH development.
- Response: Partially Disagree. Measure X is not under the City of Walnut Creek's purview. As such, Measure X dollars allocated to housing production are not critical to the overall ability of Walnut Creek to meet the City's 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.
- Response: Disagree. The City of Walnut Creek actively works with the community, property owners, developers and others to create and partially fund affordable housing opportunities in the City. These proactive steps alone are not enough to successfully attract affordable housing projects. Additional factors that impact interest in affordable housing projects include, though are not limited to: land availability and costs; infrastructure/utility availability; environmental constraints; gaps in funding or financing, including interest rate levels; supply chain and material costs; and labor costs.
- 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.

Response: Agree.

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.

Response: The recommendation has been implemented. The City of Walnut Creek has a Housing Manager that oversees a Housing Division that is responsible for establishing and promoting an operational plan to achieve goals set forth in the City's adopted Housing Element.

- 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.

Response: The recommendation has been implemented. State Law (Government Code §65400) requires each jurisdiction 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).

Government Code §65400 requires the planning agency to provide this report to the legislative body (i.e., local Council or Board), HCD, and Governor's Office of Planning and Research (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.

- 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.

Response: The recommendation will not be implemented. The City of Walnut Creek has extensive and 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.

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

Response: The recommendation has been implemented. Each jurisdiction 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.

The City of Walnut Creek is also in the process of enhancing its dashboard capabilities through a partnership with Accela (which offers the web-based information system and SaaS platform the City currently utilizes) as part of the National League of Cities Capstone Challenge.

- 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.

Response: The recommendation has been implemented. As required by State Law, jurisdictions are required as part of the Housing Element to prepare a site inventory identifying land suitable and available for residential development to meet the locality's regional housing needs by income level.

- 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.

Response: 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 a jurisdiction.

- 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).

Response: The recommendation has been implemented. The City of Walnut Creek adopted its Inclusionary Housing Ordinance (Ordinance 2025) on February 17, 2004.

- 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.

Response: The recommendation has been implemented. According to State law, it is mandatory for cities and counties to assess all development projects in the sequence they are received. The City of Walnut Creek does, however, have a streamlined review process as well as an expedited review policy for special needs housing.

- 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.

Response: Contra Costa County oversees Measure X funds, not the City of Walnut Creek. The City would, however, accept such funding if it were to become available.

The City Council approved this response letter at its September 5, 2023 regular meeting.

Sincerely,



Dan Buckshi, City Manager
City of Walnut Creek