



December 1, 2022

Housing Element Consultants, Planners, and Elected Officials

Dear General Plan Updating Teams and Esteemed Elected Officials:

We represent a coalition of Marin non-profits working alongside and on behalf of thousands of Marin residents, especially the Latino immigrant community, Black, Indigenous, and People of Color (BIPOC), and other lower-income residents disproportionately impacted by the current housing crisis.

We write to provide comment on the “HCD Draft” of the Housing Element released on November 4, 2022. We recognize that this draft is the product of diligent work on behalf of City staff and consultants, and we want to start by thanking you for your service. Overall, this is a thoughtful draft, with many excellent and important ideas. We applaud the City for incorporating suggestions we have made previously, including working with the Bay Area Housing Finance Agency (BAHFA), the importance of collaboration across jurisdictional boundaries in Marin, and the pursuit of a Pro-Housing Designation. The City seems truly genuine in its intent to produce more housing for a diverse community, and we look forward to partnering with the City on Precise Plans and other aggressive and progressive measures laid out in the latter set of programs.

While there is much to celebrate in San Rafael’s HCD Draft, the plan falls short in one critical area: protecting tenants from displacement. The Goals and Policy sections both clearly commit the City to anti-displacement and homelessness prevention, but the Program section falls short of a sufficient commitment to real solutions in this area, including stronger just cause eviction measures and rent control. Instead, **the Element as written functionally accepts that displacement will happen** - it commits more firmly to relocation assistance (Program 2) than it does to either Just Cause Eviction (Program 11) and Tenant Protection Measures (Program 12).

Relocation assistance is certainly a necessity in preventing homelessness in many cases, but it does not offer a sustainable solution to displacement from the community. If evicted under current conditions, San Rafael’s lower-income, fixed-income, and most vulnerable residents are almost certain to experience displacement from the community, city, and likely even the county in which they call home. Given the disproportionate impact of the housing crisis on BIPOC residents, the impact of this approach will run counter to the City’s commitment to equity.

Obligations under state law to Affirmatively Further Fair Housing include improving place-based strategies to encourage community conservation and revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement. **Without**

including further, adequate tenant protections for San Rafael’s lower-income, fixed-income and most vulnerable residents, we are of the opinion that this draft of the Element as currently written does not meet the State requirements to Affirmatively Further Fair Housing.

Recommendations for Changes

In order to protect San Rafael residents and Affirmatively Further Fair Housing, we respectfully urge the City to make the following changes. Many of the requests and suggestions below reflect our prior requests submitted to the Council in a letter dated November 2, 2022, regarding the ongoing crisis at 400 Canal Street.

1. Change the Just Cause for Eviction (Program 11) and Relocation Assistance (Program 2):
 - a. Edit the Just Cause for Eviction Program (11) to commit to enacting stronger just cause eviction measures within 12 months of the adoption of this plan. The maintenance and monitoring sections, including meeting with tenant advocacy organizations, are only effective if the City takes stronger program policy actions now.
 - b. Include language specifically committing to a Just Cause Eviction Ordinance with the following components:
 - i. Add enhanced just cause eviction protections for all buildings, except for single-family homes and accessory dwelling units, including protections from evictions for substantial repairs, withdrawals from the rental market, subletting, family size and additions, and any retaliatory actions;
 - ii. Tighten right-to-return protections, reducing incentives for specious Owner Move-In evictions, withdrawal from the rental market, and substantial remodels.
 - c. Move this Program to Program 2, replacing and incorporating Relocation Assistance. Relocation Assistance is inappropriate as a stand-alone program. Relocation Assistance is rarely effective in preventing displacement and homelessness in a housing market as tight as San Rafael’s. While it is necessary to have it included as a program, it must be included as a part of a larger program on Just Cause Eviction.
 - i. Remove the section in Program 11 on working with landlords on relocation assistance, and replace it with a section committing the City to working with landlords and tenants to prevent no-fault evictions for any reason.

- ii. Incorporate the main points of the current Program 2 (Relocation) into the new Program 2 (Just Cause for Eviction).
- iii. Add a statement that the City believes relocation assistance is only in emergency cases, or when requested by the tenant, and it is not the City's policy to rely on it as an anti-displacement measure.
- iv. Add commitments to additional relocation assistance and longer notice periods for seniors, persons with disabilities, households with school-aged children, and an increase of relocation payments to match current rental market conditions.

2. Changes to Tenant Protection Measures (Program 12)

- a. Acknowledge the urgency needed to implement expanded renter protections and rent control measures covering the City's most vulnerable Census tracts 1122.01 and 1122.02. The Council should prioritize this measure as a clear indication of its commitment to anti-displacement in San Rafael.
 - b. Edit the section to include a commitment by the Council to enact a city-wide rent control ordinance by December 2023. Include needed commitments of staff time, community engagement, research etc. to enable the Council to meet this goal.
 - c. The rent control ordinance should include protections against excessive rent increases all buildings eligible under state law, especially those comprised of five or more units.
3. Add a new Program, or Amend Preservation of At-Risk Housing (Program 31) to commit the City to working with non-profit partners, tenants and community advocates to develop a program to convert at-risk, naturally occurring affordable housing complexes into tenant- and community-controlled buildings.
- a. The overwhelming majority of at-risk buildings in San Rafael are privately owned without subsidy. This section must acknowledge this fact clearly, and ideally back it up with data.
 - b. The Program should explicitly commit to a study that centers financing-based solutions, alongside Tenant Opportunity to Purchase / Community Opportunity to Purchase Act options. The City should commit to working with BAHFA explicitly to design a cutting-edge program for converting older buildings with high degrees of vulnerability.

The Public and the Latino/x Communities of San Rafael have already spoken

The plan refers repeatedly to increased community engagement, and references engagement with groups like ours regularly throughout the plan. It includes a Program 9 explicitly on capacity-building and engagement in the Latino/x community, including 6 meetings to be conducted in 2023-24 alone. However, in Programs 11 and 12, the plan acknowledges that the community has already asked for stronger rent and eviction protections. To its credit, San Rafael's community engagement has already sought out and received clear guidance from lower income and vulnerable communities regarding their current housing situation and needs. We support continued community engagement in the implementation of effective policy, but the city already has heard enough from the community at this point to move forward with stronger anti-displacement measures.

San Rafael residents deserve a plan whose Programs match its values, as evident in the Goals and Policy section. We need a plan that commits to real action to prevent displacement, and an Element that Affirmatively Furthers Fair Housing. Most importantly, we need a Housing Element that does not accept the displacement of lower income, Latino/x and working San Rafael residents, but instead commits the City to using its powers to include them as valuable members of our community through policy approaches and investments that advance equity.

Sincerely,



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