DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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April 30, 2025

Amanda Mager, City Manager
City of Blue Lake
P.O. Box 458
Blue Lake, CA 95525

Dear Amanda Mager:

RE: City of Blue Lake Failure to Adopt a Compliant 6th Cycle Housing Element – Letter of Inquiry

The purpose of this letter is to inquire about the status of the City of Blue Lake's (City) 6th cycle planning period housing element pursuant to Government Code section 65588, subdivision (e). The 6th cycle planning period for the City is August 31, 2019, through August 31, 2027.[1] The City failed to adopt a compliant housing element by its 6th cycle due date of August 31, 2019. Therefore, the City is out of compliance with Housing Element Law.[2]

The California Department of Housing and Community Development (HCD) issued a letter to the City on September 20, 2023, finding the City's draft housing element had met the statutory requirements of Housing Element Law. However, the housing element cannot be found in substantial compliance until the City has completed its necessary rezones; specifically, the City's commitment to complete Program HI-14 (Rezoning and By-Right Procedures) to meet unaccommodated need from the 5th cycle Regional Housing Needs Allocation (RHNA).

HCD is requesting the City provide a revised and specific timeline for (1) completing necessary rezones, (2) submitting an updated draft housing element, and (3) obtaining compliance with Housing Element Law no later than May 30, 2025.

6th Cycle Housing Element Submission and Review History

HCD records are as follows:

- On April 27, 2022, HCD issued a Letter of Inquiry to the City regarding its failure to submit a draft housing element by its statutory due date.

[1] Gov. Code, § 65588, subd. (e)(3).
[2] Article 10.6 (commencing with section 65580) of Chapter 3 of the Government Code.

- On May 31, 2022, the City submitted a draft housing element to HCD for review.
- On August 29, 2022, HCD issued a findings letter to the City noting multiple revisions necessary for the housing element to be compliant with Housing Element Law.
- On August 28, 2023, the City submitted a subsequent draft element to HCD for review.
- On September 20, 2023, HCD issued a second findings letter to the City noting that the City's revised housing element met the statutory requirements of Housing Element Law, but cannot be found in substantial compliance until the City has completed necessary rezoning and the element is adopted, submitted to, and approved by HCD, in accordance with Government Code section 65585.
- As of the date of this letter, the City has not submitted rezone documentation since receiving HCD's second findings letter.

AB 1398, Statutes of 2021

Please note, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a jurisdiction fails to adopt a compliant housing element within one year from the statutory deadline, its housing element cannot be found in compliance until any rezones necessary to accommodate the jurisdiction's RHNA are completed. Once the City completes the rezone, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the City's housing element compliance.

Consequences of Noncompliance

Various consequences may apply if the City does not have a housing element in compliance with Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant housing element as a prerequisite, including, but not limited to, the following:

- Permanent Local Housing Allocation Program
- Local Housing Trust Fund Program
- Infill Infrastructure Grant Program
- Senate Bill 1 Caltrans Sustainable Communities Grants
- Affordable Housing and Sustainable Communities Program

Second, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of Housing Element Law.[3] Further, state law provides for court-imposed penalties for persistent noncompliance, including financial penalties. For example, Government Code section 65585, subdivision (l)(1), establishes a minimum fine of $10,000 per month, up to $100,000 per month. If a jurisdiction remains noncompliant, a court can multiply those penalties by a factor of six.

[3] Gov. Code, § 65585, subd. (j).

Moreover, in any action brought by the Attorney General or HCD to enforce the adoption of housing element revisions, jurisdictions are subject to additional fines of between $10,000 and $50,000 per month for each failure to adopt court-ordered housing element revisions assessed from the date of initial violation until the date the violation is cured, including all investigation and prosecution costs in a successful lawsuit.[4] Other potential ramifications could include the loss of local land use authority to a court-appointed agent.[5]

In addition to these legal remedies available in the courts, under the Housing Accountability Act, jurisdictions that do not maintain a compliant housing element may lose control over where and when very low-, low-, or moderate-income housing and emergency shelters are built, in what is commonly known as the 'Builder's Remedy'.[6]

Conclusion

HCD recognizes that, ultimately, state housing laws are effective only with the cooperation of local governments and understands staffing and resource constraints that may hinder efforts to gain compliance. HCD also acknowledges the City's measurable effort towards achieving compliance in cooperation with HCD. However, housing elements, and the timely implementation; thereof, are essential to developing a blueprint for growth and are a vital tool to address California's prolonged housing crisis. Accordingly, state law has established clear disincentives for local jurisdictions that fail to comply with Housing Element Law. To meet the 6th cycle update requirements for a substantially compliant housing element, the City must make a draft housing element available for public comment, submit the draft housing element to HCD for review, consider HCD's written findings, adopt the housing element, and submit it to HCD for review and certification.[7]

HCD will consider any written response before taking further action authorized by Government Code section 65585, subdivision (j), including referral to the California Office of the Attorney General.

If you have any questions or would like to discuss the contents of this letter, please contact Isaac O'Connell of our staff at Isaac.OConnell@hcd.ca.gov.

Sincerely,

Fidel Herrera
Proactive Housing Accountability Senior Manager
Housing Accountability Unit

[4] Gov. Code, § 65009.1, subd. (a)(1).
[5] Gov. Code, § 65585, subd. (l).
[6] Gov. Code, § 65589.5, subd. (d)(6).
[7] Gov. Code, § 65585, subds. (b)-(h).