

THE LEAGUE OF WOMEN VOTERS OF SANTA MONICA



P.O. Box 1265 Santa Monica, CA 90406-1265
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#MakingDemocracyWork

December 1, 2021

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Re: Santa Monica Housing Element 2021-2029

The League of Women Voters of Santa Monica (LWVSM) is submitting these comments for your consideration in the review of the 2021-2029 Housing Element for the City of Santa Monica. We have voiced some of our concerns with Santa Monica's 6th Cycle Housing Element throughout the process by submitting public comments at public hearings, participating in outreach sessions hosted by the City's planning department, and encouraging our members to be a part of the process by sharing information about opportunities for input in our weekly newsletters.

Our comments are based on issues raised at the Housing Element hearings conducted by the Planning Commission and the City Council. We are concerned that the Element's failure to address very real development constraints will make it impossible for the City to meet its RHNA goals. Furthermore, the Element does not provide specific policy or legal authority for the rezoning necessary to meet the City's RHNA goals. Given the City's requirement that a super majority of the City Council must vote in favor of adopting zoning and land use changes that increase maximum height limits or floor-area ratio, this lack of authority in the Housing Element is a major problem. (In 2018, Measure SM was passed by Santa Monica voters. It requires an affirmative vote of at least five of seven members of the City Council for an amendment to the City's Land Use Circulation Element or the Downtown Community Plan when that amendment would increase the maximum height limit or floor area ratio of the project for a period of 10 years). Please consider the following in your review of the City's 6th Cycle Housing Element.

State Density Bonus Law and the City's Inclusionary Housing Program. The City adopted the Affordable Housing Production Program (AHPP) in the early 1990's in response to the passage of Measure R, which requires that 30% of all new housing units be affordable to and deed restricted for occupancy by lower income households. Approximately 40% of all affordable housing units, since adoption of the AHPP, have been produced by private market rate developers, either through the AHPP or Development Agreements. This demonstrates the importance of the private market rate development community in building affordable units.

The AHPP currently offers developers a menu of inclusionary options through which they can opt to provide stated percentages of very low income, low income OR moderate income units. This program is compatible with a developer's right to build a project using the full authority of the State Density Bonus Law (DBL). However, the City's 6th Cycle Housing Element proposes to remove this menu of inclusionary options and replace it with a one size fits all inclusionary requirement. The proposal is to set percentage set-aside requirements for very low income, low income and moderate income units. The Housing Element provides no explanation of how these new requirements will be compatible with developers' right to use the State Density Bonus Law to the fullest extent allowed. The City's response has been that the AHPP requirements will be an addition to the DBL units.

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Based on discussions at the public hearings, we believe that this proposed change to the AHPP would deny developers' right to use the DBL to its full extent. For example, if a developer opts to use the full authority of the DBL to include 15% very low income units, thereby receiving a 50% density bonus and four concessions, that developer would also have to include Low Income and Moderate Income units per the proposed AHPP. No feasibility analysis has been conducted by the City on this scenario. We urge you to consider the impacts of this proposed change to the AHPP, such as rendering this type of project infeasible, resulting in less housing being produced, and creating an unnecessary conflict with regards to the authority of the DBL.

HCD should direct the City to include specific language stating its intent to address any conflict between the AHPP and DBL such that new housing projects will be feasible. The vague language in the Element, together with the City's apparent resistance to ensuring this feasibility, must be removed and a clear statement made.

Unit Caps on Residential Parcels. The City's Zoning Ordinance sets the maximum number of units that can be built on its residentially zoned parcels. The maximum number of units that can be built on an R2 parcel is 4; on R3 it is 5; and on R4 it is 6, despite the size of the site. This is notwithstanding the fact that the Zoning Ordinance sets forth objective development standards for each of these districts, most particularly the square footage of land per unit. A proposed project cannot have more units than the lesser of units allowed by land area or the maximum unit cap. For example, a 15,000 square foot R4 land area could accommodate twelve new housing units and up to six more with a density bonus. However, the existing Zoning Ordinance would limit the number of new units to six for a Tier 1 (Base Standard) housing project

The LWVSM submits that these caps are exclusionary and a major development constraint. The rationale for setting these limits was the policy to protect rent controlled units and to prevent displacement. Given new State Law requiring one to one replacement of units removed and tenant displacement protections, this rationale may not be as logical as it seemed at the time of its adoption. Further, the City could go beyond these State requirements by exempting rent controlled properties from lifting the caps.

LWVSM requests that HCD direct the City to remove these unit caps in R districts and that this be included as a program, with a near term deadline for approval, in the Housing Element.

Development Standards for Rezoning. It is clear that substantial rezoning will be necessary to accommodate enough housing units to meet the City's RHNA goals. Although the Housing Element sets forth a range of Floor Area Ratios (FARs) and Heights that will be necessary to meet these goals, this is totally inadequate as a basis for any rezoning of individual districts in the city. Each district will be rezoned with no policy or legal basis provided by the Housing Element. The super majority City Council requirement for upzoning, together with no legal basis in the Housing Element for this district by district rezoning, would take far longer than it should and could jeopardize the City's ability to meet its RHNA goals.

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Another reason for including district-specific rezoning direction, even if conceptual, is the fact that this rezoning scenario was the basis for determining the site capacity of SSI (Suitable Sites Inventory) properties. As the Housing Element now stands, there is no explanation of how this site capacity was determined (other than the FAR and height ranges).

HCD should require that these capacity assumptions be made clear in the Housing Element and that these assumptions serve as direction for rezoning by the City.

We thank you for your consideration of our comments and thorough examination of Santa Monica's 2021-2029 Housing Element.

Sincerely,

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President, League of Women Voters of Santa Monica

on behalf of the League of Women Voters of Santa Monica