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July 19, 2010

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Chief Executive Officer and Clerk of the Board of Supervisors
County of Stanislaus
1010 10th Street Suite 6800
Modesto, CA 95354

Ms. Christine Ferraro Tallman (Hand-Delivered)
Clerk of the Board of Supervisors
1010 10th Street Suite 6700
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**Re: Notice of General Plan Violation as to Stanislaus County General Plan
Amendment No. 2009-04, Housing Element adopted April 20, 2010
("Housing Element")**

✓
BOARD OF SUPERVISORS
2010 JUL 19 P 4:43



Dear Mr. Robinson, Chair Grover, Vice Chair Monteith, Supervisor O'Brien, Supervisor Chiesa, Supervisor DeMartini:

This letter is submitted by California Rural Legal Assistance, Inc. ("CRLA") on behalf of CRLA's lower income client, Ena Lopez, who is a resident of the County of Stanislaus ("the County"), is in need of affordable and appropriately sized housing, and is concerned about an adequate supply of affordable housing in the unincorporated areas of the County for farmworkers and others in need of lower income housing, such as large families, and female headed households. On behalf of CRLA's client, we are writing in support of and to encourage or facilitate the development of housing that would increase the supply of housing in the unincorporated areas of the County affordable to lower income persons and families.

In accordance with California Government Code Section 65009(d), we are notifying the County that its Housing Element does not substantially comply with State housing element law in that it does not identify adequate sites for lower income housing, especially very low and extremely low income housing, including multifamily rental housing and farmworker housing and it does not make adequate provision for existing and projected regional housing needs. Because of these inadequacies, all planning and land use activities taken or contemplated by the County can be challenged as invalid because the County will be unable to make any required findings of general plan consistency.

Background

On January 29, 2010, Deputy Director Cathy Creswell, of the Division of Housing Policy, at the California Department of Housing and Community Development ("HCD") sent a letter to Kirk Ford, Planning Director of the County's Department of Planning and Community Development regarding the submission of the Draft 2009-2014 Housing Element. For your convenience, a copy of the January 29, 2010 HCD letter is attached, and is hereinafter referred to as "the January 29 HCD letter."

The January 29 HCD letter notes that the draft Housing Element was received by HCD on December 2, 2009. The letter states, among other things, that while "[t]he draft element addressees many statutory requirements...revisions [of the Housing Element] will be necessary to comply with State housing element law (Article 10.6 of the Government Code)."

On April 20, 2010 the County adopted an updated Housing Element to its General Plan. (General Plan Amendment No. 2009-04). The adopted Housing Element includes programs and commitments to address the County's regional need for housing affordable to lower income households and person with special housing needs such as farmworkers, persons with disabilities, and homeless persons. The County's Regional Housing Needs Allocation (RHNA) as assigned by the Stanislaus Area Council of Governments (STANCOG) for the current planning period are 5,568 units, of which 2,208 are for lower-income households.

We reviewed the updated Housing Element adopted by the County on April 20, 2010 and have found several legal deficiencies. We note that the April 20, 2010 letter submitted by the Building

Industry Association to the Board of Supervisor regarding the housing element, also identified ways in which the Housing Element Update fails to comply with state housing element law.

Housing Element Deficiencies

The County's Housing Element is deficient in the following respects:

A. Inventory of Sites

The Housing Element does not contain an adequate inventory of land suitable for residential development to accommodate the County's remaining lower income need within the planning period. Government Code Section 65583(a)(3) and 65583.2 require a housing element to contain an adequate inventory of suitable land for residential development, including vacant site and sites having potential for redevelopment, and an analysis of the relationship to zoning public facilities and services to those sites. The Housing Element should include analysis of the capacity of the sites to provide for variety of housing types, including multifamily rental housing, housing for agricultural employees, mobilehomes and transitional housing.

1. Salida Community Plan/Large Sites

Specifically, with regard to Salida, the January 29 HCD letter, notes that "[g]iven the reliance on sites in Salida to accommodate the County's RHNA, the element should clarify existing or planned capacity including any expansion and improvement plans."

The Housing Element fails to include a detailed description of phasing or other timing requirements that could impact the timing requirements that could impact the capacity of units built in the planning period.

Many of the sites listed in the Salida area, in Appendix A are not zoned at sufficient density for the development of lower income housing. As discussed below the element has not sufficiently demonstrated that lower income housing can be developed at a density lower than 20 dwelling units per acre. Further analysis of the larger sites in the Salida area is necessary to demonstrate their adequacy for the development of lower income housing

The County also must analyze and explain why accommodating the County's RHNA targeted for only one community, whether past development history or future trends would support funneling all development into one community and what impact that might in terms of fair housing and equitable land use.

2. Non-Vacant and Underutilized Sites

The January 29 HCD letter notes as to "non-vacant" (i.e. underutilized) sites, the Housing Element Update does not "demonstrate the potential for redevelopment and evaluate the extent to which existing uses may impede additional residential development."

3. Suitability of Small Sites

With regard to the suitability of small sites being identified to build affordable housing, the January 29 HCD letter states that the Housing Element does not “include a complete analysis demonstrating the potential of [small sites] to accommodate new residential development, given necessary economies of scale particularly for new multifamily development affordable to lower-income households.” Indeed, most assisted housing developments utilizing State or federal financial resources typically include at least 50 to 80 units.

The January 29 HCD letter notes that “the element may need to identify additional, appropriately sized sites that facilitate the development of housing for lower-income households or include programs to encourage development on smaller sites.” fails to identify additional, appropriately sized the potential of small site developments utilizing State does not “describe existing and/or proposed policies or incentives...to facilitate small lot development, especially lot consolidation opportunities.”

4. Zoning Appropriate to Encourage Housing for Lower-income Households

The Housing Element Update has failed to demonstrate that lower income housing can be developed on sites zoned at less than 20 dwelling units per acre. In Section V, the Housing Element Update refers to surveys as to rental rates and home sales prices, to demonstrate that lower income housing can be developed, at a density lower than 20 dwelling units per acre, on the sites that have been identified within the element to accommodate the County's lower income RHNA need. However there is no detail provided as to when the multifamily units were developed (i.e. were these units developed within the current planning period) or if those units are located within the unincorporated area and if so where.

HCD's January 29 letter notes as to R-3 and specific plan areas that “capacity in [R-3 and specific plans] zones fall short of accommodating the County's RHNA.”

With regard to sites identified in the Housing Element as appropriate for development of lower income housing that are zoned at less than 20 dwelling units per acre (i.e. the R2 zone), the January 29, 2010 HCD letter notes that, in accord with Government Code Section 65583.2(c)(3)(B), the element must “analyze the R-2 zone (maximum density of 14 units per acre) to evaluate the adequacy of the zone to encourage and facilitate the development of housing affordable to lower-income households. Specifically, “the analysis should be based on factors such as market demand, development experience within zones, and specifically address financial feasibility.” (See page 2 of the Appendix to the January 29 HCD letter)

Our conversations with affordable housing developers have revealed that at least 20 units per acre are necessary to encourage and facilitate the development of affordable housing affordable to lower-income households.

5. **Second Units**

The Housing Element fails to address whether second units in R-1 zoning (i.e. Bret Harte) can function as a separate unit. The housing element indicates Bret Harte's zoning ordinance permits second units and those units are anticipated to provide housing for lower-income households. However, the criteria for second units in single family zones (Bret Harte R-1 zoning) include that "the second dwelling unit shall not be independent of the existing single-family dwelling." The criteria for second units appears to rule out a "second dwelling" since the second unit must not be independent of the existing dwelling. Indeed, the County's Zoning Ordinance states that "[s]econd dwelling means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated." (Stanislaus County Zoning Ordinance 21.12.525).

Furthermore, the existing dwelling must be "occupied by the property owner at the time of application and one of the dwellings shall continue to be occupied by the property owner." In order to utilize second units to accommodate a portion of the County's share of regional housing needs, with regard to R-1 zoning, the County must show how these second units will be able to accommodate lower income households during instances where the owner neither lives in the existing building nor second unit.

If the County is allowing "guesthouses" (which according to County's Zoning ordinance does not allow kitchens) or "second dwellings" in a R-1 zoning area to help accommodate their RHNA, then we believe the County must adjust the number of units anticipated to be affordable to lower-income households accordingly.

Consequently, we remain rather concerned about the County's ability to rely on second units as part of an overall adequate sites strategy to accommodate a portion of the regional housing need when glaring inconsistencies presently remain.

6. **Suitability and Availability of Infrastructure**

With regard to total infrastructure capacity relative to the County's regional housing need, the January 29 HCD letter notes that, the element must clarify "infrastructure capacity available and planned" since, "many areas of the County do not have community water and/or sewer."

The County has repeatedly failed to provide proper infrastructure to the predominantly Latino neighborhoods in the unincorporated county. HCD's January 29 letter asking the County to "describe steps the County will take or is taking to address a lack of capacity." The County must describe those steps and describe how it affects the County's ability to plan for the development of housing for lower income households. The County also must have a program with specific dates and activities in order to plan to deliver capacity. There are serious fair housing and equitable land use issues raised by the County's lack of disproportionate lack of infrastructure in minority communities. The County also must demonstrate compliance with SB 1087 and HCD's related guidance.

7. Farmworker Housing

The Housing Element fails to provide a description of difference housing types needed to accommodate the need of farmworker housing (permanent and seasonal); fails to identify sites to accommodate the need for farmworker housing, and fails to provide a description of development standards and processing requirements on farmworker housing.

8. Persons with Disabilities

The Housing Element notes the high number of persons with disabilities (37,333) residing in the County, but nonetheless fails to address the needs of this population. The Housing Element fails to provide a quantitative and qualitative description of the needs and identify programs or policy options to meet those needs.

9. Emergency Shelters

The January 29 HCD letter notes that “the element must...demonstrate the zone(s) has sufficient capacity to accommodate at least one year-round emergency shelter and describe the characteristics and suitability of the zone(s) for emergency shelters.”

B. Analysis of Government Constraints

1. Land-use Controls

The January HCD letter states “the element should evaluate the cumulative impact of Measure E in addition to other land-use policies.”

C. Public Participation

With regard to Public Participation, the January 29 HCD letter states that “the element should describe comments in the development of the element.” The Housing Element also fails to include a list of the service providers who were sent surveys and adequately summarize public comments.

Fair Housing

The County’s failure to adopt a valid Housing Element not only violates State housing element law, but also raises serious fair housing concerns, including violations of Government Code Section 65008, the California Fair Employment and Housing Act (Government Codes Sections 12900 *et seq.*) and the Americans with Disabilities Act (42 U.S.C. Sections 3602 *et seq.*) Decent, affordable housing is most needed by protected classes under fair housing law such as racial and ethnic minorities, persons with disabilities, families with children and others.

We urge the Board of Supervisors of the County of Stanislaus to bring its Housing Element into compliance with State housing element law within sixty (60) days in accordance with Government Code Section 65009(d).

Sincerely,
CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

A handwritten signature in black ink, appearing to read 'Arsenio Mataka', with a long horizontal flourish extending to the right.

Arsenio Mataka
Staff Attorney

Attachments as stated

cc: Mr. Kirk Ford, Planning Director
Mr. John P. Doering, County Counsel
Ms. Cathy Creswell, Deputy Director, Division of Housing Policy Development, HCD
Ms. Robin Huntley, Analyst, Division of Housing Policy Development, HCD

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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January 29, 2010

Mr. Kirk Ford, Planning Director
Department of Planning and Community Development
County of Stanislaus
1010 10th Street, Suite 3400
Modesto, CA 95354

Dear Mr. Ford:

RE: Review of the County of Stanislaus' Draft Housing Element

Thank you for submitting Stanislaus County's draft housing element received for review on December 2, 2009 along with additional revisions received on January 20 and January 27, 2010. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on January 14, 2009 with Mr. Bill Carlson, Senior Planner, Ms. Angela Freitas, Deputy Director, and Ms. Nancy Brown, the County's consultant, facilitated the review.

The Department commends the County for reducing impact fees on senior projects and deferring fees on housing for lower-income households. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must identify adequate sites to accommodate the County's regional housing needs allocation. The enclosed Appendix describes this and other revisions needed to comply with State housing element law.

The Department appreciates the cooperation and assistance of Mr. Carlson, Ms. Freitas and Ms. Brown throughout the course of the review and is committed to assisting Stanislaus County in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Robin Huntley, of our staff, at (916) 323-3175.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosures

**APPENDIX
COUNTY OF STANISLAUS**

The following changes would bring Stanislaus County's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov/hpd. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Stanislaus County has a regional housing need allocation (RHNA) of 5,568 housing units, of which 2,208 are for lower-income households. To address this need, the element relies on small sites, non-vacant sites and sites within the new Salida Community Plan. To demonstrate the adequacy of these sites and strategies to accommodate the County's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element indicates seven units affordable to very low-income and 73 units affordable to low-income households have been built (Appendix 2). The element indicates affordability was determined by: 1) sales price/valuation; 2) second-unit/mobilehome; and 3) type of subsidy. However, the element does not identify the actual sales price, rent level, the type of subsidy or describe how affordability for mobilehomes and second units was established. Technical assistance can be found on the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing_element2/HN PHN regional.php](http://www.hcd.ca.gov/hpd/housing_element2/HN_PHN_regional.php).

Sites Inventory: The element identifies residential capacity in Residential Development Potential Study Areas (Section V) and Appendix 1, but the information about capacity is not consistent. The element should be revised to clarify this inconsistency.

Sites Inventory/Salida: The element must identify sites sufficient to accommodate the RHNA and demonstrate their suitability and availability for development in the planning period. Section V of the element indicates Salida has potential capacity for 5,000 housing units (page V-19), including 940 units affordable to lower-income households. However, the element does not identify sites by parcel number, general plan, zone, size, and residential capacity for each identified site. In addition, Section V indicates, "Prior to new development occurring within the Salida Community Plan, it will be required that the Salida Wastewater Treatment Plant be expanded or upgraded and/or a new plant constructed to provide capacity and that an adequate water supply is ensured." Given the reliance on sites in Salida to accommodate the County's RHNA, the element should clarify existing or planned capacity including any expansion and improvement plans. Assistance can be found on the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing_element2/SIA land.php](http://www.hcd.ca.gov/hpd/housing_element2/SIA_land.php).

Zoning for Lower-Income Households: Pursuant to Section 65583.2(c)(3)(A) and (B), the element must identify sites with zoning and densities appropriate to encourage and facilitate the development of housing for lower-income households. For communities with densities that meet specific standards (at least 20 units per acre for Stanislaus County), this analysis is not required (Section 65583.2(c)(3)(B)). The element indicates housing affordable to lower-income households can be accommodated on sites zoned R-2 and R-3, and within specific plan areas allowing densities up to 25 units per acre (page V-28). While the R-3 and specific plan areas include densities considered appropriate pursuant to Government Code Section 65583.2(c)(3)(B), capacity in those zones falls short of accommodating the County's RHNA for lower-income households. Therefore, the element must analyze the R-2 zone (maximum density of 14 units per acre) to evaluate the adequacy of the zone to encourage and facilitate the development of housing affordable to lower-income households. The analysis should be based on factors such as market demand, development experience within zones, and specifically address financial feasibility. Technical assistance can be found on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#zoning.

Non-Vacant and Underutilized Sites: While the element provides very general descriptions of existing uses on non-vacant and underutilized sites (Appendix 1), it must also demonstrate the potential for redevelopment and evaluate the extent to which existing uses may impede additional residential development. For example, many sites have existing residential uses (one or more units) and some are churches, but no information is provided about the appropriateness of these sites or the potential for redevelopment. The evaluation should consider development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. For sites with residential uses, the inventory could generally describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For non-residential sites, the inventory could generally describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. Refer to the sample analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvacant.

Small Sites: Most higher density sites in Appendix 1 are less than half an acre in size. While it may be possible to build housing on a very small parcel, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. The element must include a complete analysis demonstrating the potential of these sites to accommodate new residential development, given necessary economies of scale particularly for new multifamily development affordable to lower-income households. The analysis could describe existing and/or proposed policies or incentives the County will offer to facilitate small lot development, especially lot consolidation opportunities. Depending on the outcome of the analysis, the element may need to identify additional, appropriately sized sites that facilitate the development of housing for lower-income households or include program(s) to encourage development on smaller sites. Assistance can be found on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.

Measure E: Some sites listed in the sites inventory (Appendix 1) indicate an on-site constraint as "Measure E". The element must describe how Measure E impedes development on the identified sites as well as on sites within the Salida Community Plan adopted. For example, the element should address whether rezoning is required pursuant to Measure E, when the measure to rezone the sites will be placed on the ballot, what the costs will be for the ballot measure, who must bear the cost and the impact and contingency plans if the measure is not approved.

Second Units: The element indicates that once infrastructure is connected in the Shackelford and South Ceres areas, 25 percent of sites with new service are expected to develop second units (pages V-20 and V-21). In addition, the element indicates Bret Harte's zoning ordinance permits second units and those units are anticipated to provide housing for lower-income households (page V-4). If utilizing second units to accommodate a portion of the County's share of regional housing need, the element must include an analysis of the capacity of second units in the planning period based on the need for second units in the community, the number of units approved in the previous planning period, the resources or incentives available for their development and any other relevant factors and provide analysis to support to affordability of the units for lower-income households. Technical assistance can be found on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_secondunits.php.

Suitability and Availability of Infrastructure: The element must clarify total infrastructure capacity available and planned relative to the County's regional housing need. This is particularly important given many areas of the County do not have community water and/or sewer (pages V-3 through V-25). The element should also describe steps the County will take or is taking to address a lack of capacity. The Department will send, under separate cover, samples of County infrastructure analyses to assist the County.

Emergency Shelters: Program 4-7 (page VII-11) proposes to designate a zone(s) where at least one year-round emergency shelter will be allowed without a conditional use (CUP) permit. Pursuant to Chapter 633, Statutes of 2007 (SB 2), the element must specify the zone(s) and demonstrate the zone(s) has sufficient capacity to accommodate at least one year-round emergency shelter and describe the characteristics and suitability of the zone(s) for emergency shelters. For example, the element could describe the acreage, typical parcel sizes and other allowable uses and development standards in the zone. The Department's technical assistance memo on SB 2 can be found on the Department's website at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

Housing for Farmworkers: The element describes a need for housing to accommodate 7,220 permanent and 12,073 seasonal farmworkers and the availability of 576 farm labor and migrant housing units provided by the Housing Authority of Stanislaus County (page III-6). The element must include an analysis of zoning to encourage and facilitate a variety of housing types for farmworkers, permanent and seasonal.

The element states farmworker housing is allowed in Zone A-2 with a CUP (Table VI-3, page VI-6). The element should include an analysis of the impact of the CUP. For example, the element should describe approval findings and discretionary action required by the CUP process.

The element should also address whether the County's zoning is consistent with the Employee Housing Act (Health and Safety [H&S] Code 17021). Specifically, H&S Code 17021.5 and 17021.6 generally requires employee housing to be permitted by-right, without a CUP, in single-family zones for less than six persons and in agricultural zones with no more than 12 units or 36 beds. This is especially critical given the extent of farmworker needs in Stanislaus County.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Land-Use Controls: The element generally describes a 30-year land-use restriction (page VI-2) requiring voter approval to redesignate land zoned for agriculture or open space to residential use (Measure E). As noted in the Department's December 17, 2007 correspondence (enclosed), the element should provide a complete description of the provisions of Measure E that could effect residential development and analyze its impact on the cost, supply and affordability of housing. The element should, for example, analyze the effects of limiting the supply of land for residential development and subjecting land-use changes to approval by the electorate. In addition, the element should evaluate the cumulative impact of Measure E in addition to other land-use policies. The cumulative impact assessment should relate these policies to the lack of developable residential land.

Fees and Exaction: While the element lists planning, environmental and impact fees (pages VI-4 through VI-6), it should also analyze the impacts of the fee amounts on the cost and affordability of housing. For example, the analysis should address the proportion fees represent of total development costs for typical single- and multi-family developments and how they impact project feasibility and costs. Technical assistance can be found on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_fees.php.

Local Processing and Permit Procedures: While the element provides Table VI-3 (Housing Types Permitted by Zoning District) and Table VI-4 (Timelines for Permit Procedures), it must specifically analyze approval procedures for typical multi- and single-family developments, including the level of discretionary action and decision-making criteria such as approval findings, for impacts on the cost and supply of housing, including approval certainty. See the sample analysis in the *Building Blocks'* technical assistance tool at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php.

3. *Analyze potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction (Section 65583(a)(6)).*

The element did not address this requirement. Although nongovernmental constraints are primarily market-driven and generally outside direct government control, localities can significantly influence and offset the negative impact of nongovernmental constraints through responsive programs and policies. Analyzing specific housing cost components including the cost of land, construction costs, and the availability of financing assists the locality in developing and implementing housing and land-use programs that respond to existing local or regional conditions. Technical assistance and sample analyses can be found on the *Building Blocks*' website at

http://www.hcd.ca.gov/hpd/housing_element2/CON_nongovconstraints.php#Requisite_Analysis.

B Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A-1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the County may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition:

Program 4-7 (Emergency Shelters): While the Program commits the County to designate a zone(s) where at least one year-round emergency shelter will be allowed without a CUP within one year of the adoption of the housing element, it must be revised as follows to comply with SB 2:

- identify the zone or zones being considered; and
- commit to only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone.

Program 4-8 (Transitional Housing): The Program commits the County to identify zones that will allow the development of transitional housing without undue regulatory requirements. However, pursuant to SB 2, transitional and supportive housing must be permitted as a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone. Consequently, transitional and

supportive housing should not be limited to specific residential zones. The Program does not address supportive housing. The Program must be revised to be consistent with this statutory requirement. See sample program on the Department's *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/PRO_adqsites.php.

Program 4-6 (Mixed-Use Development): The Program identifies opportunities for mixed-use development in established Central Business Districts and development standards that could be utilized. However, the Program could be revised to identify specific potential properties by a specific date and describe how mixed-use development will be encouraged. For example, the Program could include a commitment to identify properties by a date such as 2011, post the identified properties and potential incentives on the County's website by a date such as 2012 and reach out to owners and developers biannually. The County could also identify and analyze sites in Central Business Districts as part of the housing element update to assist in demonstrating adequate sites to accommodate the RHNA.

Program 2-8 (Second Units): Include a date certain when the County will consider reducing fees for second units.

Program 4-5 (Establish Minimum Residential Densities): This Program commits to establish minimum densities. However, since this Program was not implemented in the previous planning period, it should commit to a date early in the planning period such as 2011.

Program 3.3 (Municipal Utilities): While the Program commits to construct or rehabilitate municipal utility services in lower-income, unincorporated areas, it could list priority areas relative to identified sites to accommodate lower-income households. For example, the element relies heavily upon sites in the Salida area to accommodate the housing need for lower-income households; therefore, the Salida area could be identified as a priority for this Program.

2. *Describe the amount and uses of fund in the redevelopment agency's Low and Moderate Income Housing Fund (Section 65583(c)).*

The element did not address this requirement. The element should include an estimate of the moneys expected to accrue to the Low- and Moderate-Income Set Aside Fund through the end of the planning period, and the planned use of these funds. For your information, Health and Safety Code Section 33413(b)(4) requires a redevelopment implementation plan to be consistent with a community's housing element. The integration of applicable information from the redevelopment agency's current housing implementation plan into the housing element will assist in the development of an effective housing element. Technical assistance can be found on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/OR_lowmod.php.

3. *The housing element shall contain programs which "assist in the development of adequate housing to meet the needs of extremely low-, low- and moderate-income households (Section 65583(c)(2)).*

While the element includes some programs to assist in the development of low-, and moderate-income households, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be expanded or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of extremely low-income (ELI) households. To address this requirement, the element could revise programs to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy units, and supportive housing, which address some of the needs of this income group.

Program 2-7 (State and Federal Housing Programs for Farmworkers): Despite a significant need for housing for farmworkers, the Program does not describe when the County will apply or support applications for funding or include actions adequate to address the need for farmworkers. This Program should include specific actions to assist in the development of housing for farmworkers. For example, the Program could include actions to partner with developers and assist with site identification. Other actions could include working with growers and stakeholders to identify strategies, establishing prototype plans for employee housing or providing zoning beyond the Employee Housing Act. See the Department's *Financial Assistance Program Directory* at http://www.hcd.ca.gov/fa/LG_program_directory.pdf. Other resources include the United States Department of Agriculture at <http://www.rurdev.usda.gov/> and Rural Community Assistance Corporation at <http://www.rcac.org/>.

Energy Conservation: The element includes Program 1-7 which generally commits the County to reduce energy costs, but does not describe specifically how the County will encourage conservation of energy resources or reduce energy costs through building and design standards or when the County will initiate action. Given the importance of promoting strategies to address climate change and energy conservation, additional actions could be included. For example, the Program could describe how the County will promote public education programs or other potential opportunities for energy conservation. Additional information on potential programs or policies to address energy conservation objectives is available on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_conservation.php and the Department's *Green Building and Sustainability Resources* bibliography at http://www.hcd.ca.gov/hpd/green_build.pdf.

4. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in Finding A-2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.

Program 2-6 (Farm Worker Housing in Agricultural Zones): While the Program commits to continue allowing farm-employee housing in agricultural zones, depending upon the results of analysis as noted in Finding B-2, it may need to be revised to commit compliance with the Employee Housing Act (Health and Safety Code 17021.5 and 17021.6).

C. Quantified Objectives

Establish the number of housing units, by income level that can be constructed, rehabilitated, and conserved over a five-year time frame (Section 65583(b)(1 & 2)).

While the element includes new construction objectives by income group for very low-, low-, moderate- and above-moderate income (page VII-2), it must include objectives for rehabilitation and conservation. In addition, pursuant to AB 2634, it must include objectives for ELI households.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort (Section 65583(c)(7)).

While the element includes a general summary of the public participation process (page I-3), it does not demonstrate how the County has or will make a diligent effort to achieve the involvement all economic segments of the community through the adoption process. The element should be revised to specifically describe the County's efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the development of the element. In addition, the element should describe comments considered in the development of the element. For example, the element could include a list of the service providers who were sent surveys, describe the success of out reach efforts and turnout at public meetings, summarize public comments and describe how the element incorporated public input.