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October 19, 2001

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COMMUNITY HOUSING  
POLICY DIVISION

Dear Ms. Cleary,

The East Bay Housing Organizations and the Non-Profit Housing Association of Northern California (NPH) are membership associations of primarily nonprofit organizations sponsoring, developing, owning or managing housing for low-income people. Greenbelt Alliance is a regional land conservation and urban planning advocacy organization. We would like to offer our joint perspective on the draft General Plan housing element of Alameda County. Please accept our comments for your review.

We view the process of Housing Element revision as an opportunity to take a hard look at County housing policies and programs in order to build on those that have worked well, to strengthen those that have disappointed, and to develop new ones where there are gaps. As the draft document points out, the County's housing problems are severe. 57 % of the low- and very-low income renter households in the County are paying over 50% of their incomes for rent. Unless we ensure that affordable housing will be available to people who are of modest incomes, a very substantial number of struggling families and seniors in Alameda County will remain just a step away from homelessness.

Alameda County's updated housing element is quite readable and presents compelling statistics about housing trends and needs. It contains an excellent compilation of housing data from cities within the County, which could serve as a model for other counties. We also commend the County for its excellent outreach efforts and strong working relationships with non-profit housing and service providers who work to address Alameda County's need for new and rehabilitated affordable housing. We hope and expect that this spirit of cooperation will continue during the preparation of the missing land inventory and subsequent rezoning of land for multifamily housing. The County's housing policies include commendable initiatives such as a residential overlay zone and by-right zoning for multi-family housing. These are some of the more worthwhile programs, policies, and initiatives.



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However, we are also critical of the housing element, mainly because it does not include adequate sites, programs to meet identified needs for very low and low income housing, or an adequate analysis of governmental constraints. As the draft Housing Element acknowledges, current zoning provides enough land to meet only 7.2% of the housing needs of very-low and low-income households in the County. These and other issues constitute noncompliance with the housing element law (references to the statute are cited in this letter or in footnotes).

This shortcoming is all the more important given the County's disappointing performance relative to its fair share housing needs from 1990-2001. **Only 19% of the housing needed for very low and low income households in the County from 1990-1995 was in fact built by 2001. In contrast 294% of the need for above moderate housing was met in that same time period.**<sup>1</sup> These facts argue persuasively for an increased County effort to focus resources – both land and capital – and implement policies and programs specifically for the production of housing for lower income households.

## IMPROVING THE DRAFT HOUSING ELEMENT

Diagnosing the problem and adopting effective solutions is the task of the housing element. The draft has done a good job of defining problems. As the County acknowledges, the draft does not identify land resources. Other programs and policies also require significant elaboration and a commitment to action in order to address the problems. In particular we believe that a stronger commitment must be made to meet the goals for new very low and low-income housing.

In order to fulfill its overall purpose, the housing element must carry out the following three tasks. It must ensure there are adequate sites, zoned appropriately, to meet the County's share of the regional allocation of housing needs. It must focus available resources (both land and financial), and increase capital if existing sources of capital are inadequate. Finally, it must confront restrictive zoning, lack of community acceptance and other constraints on housing. We believe that the draft housing element can be improved to carry out all three tasks.

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<sup>1</sup> Although the Draft Housing Element does not include such an analysis, according to January 1989 Housing Needs Determinations of the Association of Bay Area Governments, Alameda County had a projected housing need of 2,890 units from 1990-95, of which 1,156 were for very low and low income households and 1,127 were for above moderate income households. The Alameda County 2001 draft Housing Element reports that 218 units affordable to very low and low income households were built, while 3311 above moderate rate units were built. The draft housing element supplied on the County's web site did not have continuous pagination. All references to page numbers are therefore specific to the section noted. Evaluation of the Previous Housing Element, p.21.

There are a number of omissions and flaws in the current draft housing element that need correction. Detailed examples of these problems are presented in the page-by-page analysis that follows. Problems include:

- In the review of the effectiveness of the various implementing policies in the **previous housing element**, the housing element omits the analysis of "appropriateness of goals, objectives, and policies" required by Sec. 65588(a)(1). Past practices resulted in only 19% of needed very low income and low income new construction being built, whereas the goals for above-moderate income housing construction were exceeded. The element should "describe how the goals, objectives, policies, and programs in the updated element are being changed or adjusted to incorporate what has been learned from the results of the previous element."<sup>2</sup>
- The **analysis of constraints** is inadequate in that it does not analyze the fact that the County's zoning standards are viewed by affordable housing developers as a constraint to housing development for low and very low income households.<sup>3</sup> In particular, the county's 25 foot height limit on multifamily housing represents an obvious constraint that the Housing Element does not propose to address.<sup>4</sup>
- The element lacks a clear plan for the **use of Redevelopment Agency (RDA) funds for low and moderate income housing**. The housing element does not provide information on the amount of tax increment financing being set aside; it should also specify the planned use of funds by income<sup>5</sup>. This information would ideally be presented in a summary table.
- The **land inventory** does not comply with the statute<sup>6</sup> in that it does not identify specific parcels and analyze them by size, current zoning designation, development standards, and constraints such as slope and drainage. Only a summary and general discussion of these issues is included. In addition, the element does not contain the required **program for site identification**, assessing the potential of land inventoried for housing serving lower income households, and their feasibility for development within the planning period.<sup>7</sup>
- The **five year program of actions** should be expanded to include, for each program or action, (1) a time frame for completion, (2) funding source, (3) responsible agency/official, and (4) a quantified objective where applicable.

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<sup>2</sup> HCD requirement per p. 5, Q. 5 of "Housing Element Questions and Answers: A Guide to the Preparation of Housing Elements", prepared by Division of Housing Policy Development, June 2001. Available on HCD web site for download. Hereafter cited as "Q&A."

<sup>3</sup> 65583(a)(4)

<sup>4</sup> Draft Housing Element, p.6 of Government Constraints lists this as a "possible" constraint, but no action is proposed.

<sup>5</sup> Q&A, p. 26, Q. 32.

<sup>6</sup> 65583(a)(3).

<sup>7</sup> 65583(c)(1)

## DETAILED comments on the text of draft housing element

All page and table references are to the draft dated September, 2001 . The draft was accessed on October 29, 2001 on the County's web site.

### *I. Review of Progress under Prior Housing element*

This section is an opportunity to describe and quantify the progress towards fulfilling the previous element's goals and objectives. The draft element does a commendable job in summarizing performance for those goals and objectives with numerical measures. Overall it can be seen that for construction and acquisition performance was generally exceeded in programs serving above moderate households, while conversely, the needs of very low and low income households were not met. This disappointing performance should be addressed by changing the policies and programs in the updated housing element. However, the draft omits the analysis of "appropriateness of goals, objectives, and policies" required by Sec. 65588(a)(1). The element should, per HCD requirement, "describe how the goals, objectives, policies, and programs in the updated element are being changed or adjusted to incorporate what has been learned from the results of the previous element."<sup>8</sup>

### *II. Housing Needs Assessment*

Overall, this section is thorough and complete. The County's collection of up-to-date vacancy and rent data is helpful and appreciated. Ideally, this section would end with a summary table listing the numbers of units needed by each group.

### *III. Ability to Meet Housing Need: Land Inventory and other Resources*

The County would appear to have a more than adequate supply of vacant and underutilized land suitable for housing development. However, the land inventory does not comply with the statute<sup>9</sup> in that it does not identify specific parcels and analyze them by size, current zoning designation, development standards, and constraints such as slope and drainage.<sup>10</sup> Only a summary and general discussion of these issues is included. Since no sites are listed, the element also lacks a meaningful discussion of the capacity of any sites to be developed during the planning period. The draft element should identify adequate sites, zoned appropriately to accommodate the various types of housing needed by people in the various income categories, which allow for the

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<sup>8</sup> Q&A, p. 5, Q. 5.

<sup>9</sup> 65583(a)(3).

<sup>10</sup> Q&A, p. 17.

County's fair share of housing to be provided. The element should also describe recent or historical development trends in areas to be developed or redeveloped.

The element lacks a clear plan for the use of Redevelopment Agency (RDA) funds for low and moderate income housing. Ideally, program balances for other financial resources should also be included. The housing element should specify what percentage of tax increment financing is being set aside and the planned use of funds by income<sup>11</sup>. This information should be presented in one location (e.g. a summary table), and the planned expenditure compared with anticipated RDA set aside funds available during the planning period. Ideally, program balances for other financial resources should also be included.

#### *IV. Constraints on Housing*

The element does not list the lack of land zoned at appropriate densities for multi-family housing as a government constraint. In contrast, the element states that "Planning Staff also believes that land in the County's jurisdiction is appropriately zoned."<sup>12</sup> As the draft Housing Element also acknowledges, current zoning provides enough land to meet only 7.2% of the housing needs of very-low and low-income income households in the County.<sup>13</sup> These statements would appear to be in conflict. The lack of housing zoned for multifamily housing represents a significant constraint to affordable housing development and is entirely within the County's ability to mitigate. We would hope that the County would identify specific sites that can be developed by right to meet the needs of very low and low income households.

The element does not include an adequate analysis of the County's residential development standards for each of its zones, as required by the statute.<sup>14</sup> In particular, height restrictions are a potential constraint on housing development that may lead to higher per unit costs and lower affordability. In our opinion, the County's 25 foot height limit on multifamily housing represents one of the most dramatic constraints to affordable housing development in all of the Bay Area. In cases, this constraint may make new development unfeasible as affordable housing developers cannot get the unit density required to make a development competitive for Low Income Housing Tax Credits, the HUD 202/811 program, HCD's Multifamily Housing Program or other competitive public funding. As noted elsewhere in this letter, the Housing Element does not propose to address this constraint.<sup>15</sup>

Another constraint is the County's parking requirements. It appears from the element that the County requires 2 parking spaces per unit regardless of income

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<sup>11</sup> Q&A, p. 26, Q. 32.

<sup>12</sup> Draft Housing Element, Governmental Constraints, p.3.

<sup>13</sup> Draft Housing Element, Projected Housing Supply, p.1.

<sup>14</sup> 65583(a)(4)

<sup>15</sup> Draft Housing Element, , Government Constraints p.6, lists the height limit as a "possible" constraint, but no action is proposed.

or age. If true, this also represents a potential constraint as it likely leads to decreased project densities and higher construction costs.<sup>16</sup> If, as stated, reduced parking requirements are made for higher density housing, specific information should be stated in the element.<sup>17</sup> Too often, parking standards fail to take into account the real vehicle ownership rates and use patterns of the development's prospective residents, resulting in excessive onsite parking. We would recommend establishing an as-of-right parking reduction for both affordable housing and senior housing as a program to mitigate zoning and development constraints. A tool enabling planners to assess the appropriate reduction is also available on the web site [www.nonprofithousing.org](http://www.nonprofithousing.org).

Under non-governmental constraints, the element wisely includes an analysis of community concerns (NIMBYs) as a constraint to affordable housing. NIMBYism is typically a serious issue, especially in suburban communities. We applaud the County's intent to continue to address this constraint with ongoing community education.

#### *V. Goals, Quantified Objectives, and Policies*

The Housing Program section of the element describes a variety of programs to promote housing development. In general, the program of actions should be expanded to include for each program or action (1) a time frame for completion, (2) funding source, and (3) a quantified objective where applicable.<sup>18</sup> We hope that Alameda County intends to achieve many objectives prior to the end of the planning period, and if so, the element should state this.

The Housing Program section does not contain an adequate program for site identification, assessing the potential of land inventoried for housing serving lower income households, and their feasibility for development within the planning period, as required.<sup>19</sup> The draft does note that the County currently lacks enough land zoned for multi-family housing to meet its ABAG housing needs allocation.

We commend the preliminary list of actions that County has approved to address this problem. We believe that a strong commitment to all of these actions is needed to address the affordable housing problems in Alameda County. In particular, we want to encourage the County to adopt performance standards for by-right multi-family housing development and then identify specific sites for which by-right zoning is available. Based on the experience of affordable housing development within the County, we would strongly

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<sup>16</sup> A recent NPH study found the cost of parking to be one of the most significant barriers to construction of affordable housing, adding an average of 21% or \$29,380 to the cost of a typical Bay Area unit. In addition, lower-income people typically own fewer cars, and affordable housing should be required to build less parking. See [www.nonprofithousing.org](http://www.nonprofithousing.org) for more information.

<sup>17</sup> Draft Housing Element, Governmental Constraints, p.6.

<sup>18</sup> 65583(c)

<sup>19</sup> 65583(c)(1)

encourage sites appropriate for multifamily housing to be zoned to densities of at least 35 units/acre, with height limits of 40-50 feet, and reduced parking requirements.

Although the draft lacks an inventory of land, the County clearly recognizes a need to re-zone. We also believe that the County may need to increase the allow densities on some land currently zoned for low-density single family residential. We believe that there are some obvious areas of the County to consider. First, we would recommend that the County selectively rezone to higher density multi-family those sites that are close to transit, ideally within 1/2 mile of BART or 1/3 mile from a bus stop. In addition, we view major commercial corridors as likely locations for rezoning to higher density, mixed-use residential. Likely locations would include various areas along Mission Boulevard in Ashland and Cherryland, Redwood Boulevard in Castro Valley, and Hesperian Boulevard in San Lorenzo.

The element proposes to develop an Inclusionary Zoning Ordinance.<sup>20</sup> When Alameda County voters adopted Measure D in November 2001, they instructed the County to create an inclusionary zoning ordinance for residential developments within the Urban Limit Line. The County proposes to consider adoption of an inclusionary zoning ordinance that would cover all land in the County's jurisdiction. Such an ordinance is absolutely essential to make sure that saving open space and agricultural land does not come at the expense of lower income residents of the County. We also note that the county is considering adoption of Residential Overlay Zoning which would be a positive effort in this direction.<sup>21</sup>

As HCD's Q&A notes, the housing element can be used as a tool to promote smart growth.<sup>22</sup> (Smart growth is exemplified by efforts and strategies that encourage infill development in existing communities where schools, shops, and transit already exist while conserving open space, farm land, and natural habitat). We support the proposed programs to amend the County Density Bonus, increase residential densities, create minimum density requirements, and allow higher density housing in commercial zones in order to encourage smart growth.<sup>23</sup>

We note with dismay that the County has set a new construction objective of only 146 units of housing serving very low income households, and 266 units for low income households. Since a lack of financial resources is specifically listed as one of the reasons for the low number of units to be developed, we want to encourage the County to adopt a Commercial Linkage Fee for affordable housing as proposed in program 1.1.15. In addition, we urge Alameda County to identify or develop additional local resources and policies in order to better meet critical housing needs, such as:

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<sup>20</sup> Draft Housing Element, Unincorporated Area Policies 1.1.14

<sup>21</sup> Draft Housing Element, Unincorporated Area Policies 1.1.16

<sup>22</sup> Q&A, p. 3, Q. 4.

<sup>23</sup> Draft Housing Element, Unincorporated Area Policies 1.1.21, 2.2.4, and 2.2.5, 3.2.5

- Additional set aside of Redevelopment funds for lower income housing beyond the legal minimum of 20%, e.g. 25%, 30%, or more
- Allocation of general fund revenues for housing

In regard to preservation of existing affordable housing, we would recommend that the county take a more proactive approach, including increased noticing requirements and Right of First Refusal. The element notes some efforts to address the potential conversion of affordable housing to market rate. We respectfully urge the County to consider requiring owners who want to opt-out or prepay to provide notice to the County. Federal and state law requires that notice be provided to tenants of an owner's desire to opt-out or prepay. Federal law is requires that notice be provided from 5-9 months for prepayments and 12 months for opt-outs. State law requires 9 months notice. Some cities have passed their own notice requirements which have extended this time period even further and also require a public hearing about the impact on the tenants.

The County should also consider requiring a Right of First Refusal from owners who sell assisted projects. A Right of First Refusal provides an opportunity for the local jurisdiction or a qualified entity (typically a nonprofit organization) to purchase the assisted property. The City of San Francisco requires a six-month period after giving notice in which owners must negotiate with the City or a qualified entity for a "fair return" price. The City of Portland, Oregon, provides a 90-day period in which the City can make an offer based on an appraisal.

#### *VI. Other Issues*

The element proposes to eliminate annual staff reporting on progress towards the goals of the Housing Element. Since HCD requires an annual report on housing element implementation, we would ask the County to continue to provide an annual staff report and a public hearing on progress towards the goals of the Housing Element.<sup>24</sup>

## **CONCLUSION**

Based on the information presented above, we believe that the draft housing element has many strengths, and provides a good starting point for strengthening commitments and identifying actual sites and resources for low and very low-income housing. If the County chooses to make firm commitments to action, such as rezoning and providing capital resources, the Housing Element will serve its intended purpose.

However, we wish to emphasize our conclusion that Alameda County's draft housing element should contain a stronger commitment to action for programs that enable the production of housing serving low and very low-income

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<sup>24</sup> 65400(b)(1)



households. The draft has identified a range of programs to address these housing needs, suggesting that Alameda County *could* come much closer to achieving the ABAG housing needs of low and especially, very-low income households than the stated goals currently suggest. However, essential resources such as land have not yet been identified.

We look forward to working with the County to create the meaningful change necessary to make housing more accessible to all of Alameda County's citizens. It is our hope that these comments will be considered and that a stronger, more effective plan will result.

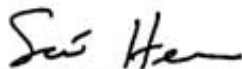
Sincerely,



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Cc: Adolph Martinelli, County of Alameda  
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Linda Gardner, County of Alameda  
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