

EXHIBIT A

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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December 26, 2013

Mr. Jeff Bond, Director
Community Development Department
City of Albany
1000 San Pablo Avenue
Albany, CA 94706

Dear Mr. Bond:

RE: Review of the City of Albany's 4th Cycle (2009-2014) Draft Housing Element

Thank you for submitting City of Albany's draft housing element received for review on October 28, 2013. Pursuant to Government Code Section 65585(b), the Department is reporting the results of its review. A telephone conversation on December 3, 2013 with you, Ms. Anne Hersch, Senior Planner with the City, and Mr. Barry Miller, the City's consultant, facilitated the review. In addition, the Department considered comments from Mr. Eric Larson, the Law Offices of Robert R. Outis, and the Public Interest Law Project pursuant to Government Code Section 65585(c).

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). The enclosed Appendix describes the revisions needed to comply with State housing element law.

We are committed to assist Albany in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Jess Negrete, of our staff, at (916) 263-7437.

Sincerely,

A handwritten signature in blue ink that reads "Glen A. Campora".

Glen A. Campora
Assistant Deputy Director

Enclosure

APPENDIX CITY OF ALBANY

The following changes would bring Albany'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. 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 and includes 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).*

To demonstrate the adequacy of sites and strategies to accommodate the City's regional housing need and unaccommodated need from the prior planning period, the element must include the following analysis:

Unaccommodated Need: The element generally concludes there was not an unaccommodated need from the 3rd planning period based upon, in part, having adequate sites during the last planning period (page 2:4). As most of the identified sites for the 3rd cycle RHNA are also utilized toward the 4th cycle RHNA, the element must include analysis, described below, demonstrating their suitability for development during the last planning period. For more information, see Realistic Capacity and Suitability of Non-Vacant Sites discussions below.

Realistic Capacity: The housing element indicates the sites identified in Table 4-5 are "providing more capacity than is strictly required" to address the City's regional housing need (page 4:14). However, the element should estimate the number of sites likely to develop with residential uses (e.g., accounting for the likelihood of nonresidential uses) in order to determine whether the identified sites provide sufficient sites, or additional sites are needed, to accommodate the City's regional housing need. The estimate of sites to be developed with residential uses may identify a need to provide additional incentives to encourage residential development on the identified sites.

Suitability of Non-Vacant Sites: While the element provides general descriptions of existing uses on non-vacant sites (pages 4:14-25), it must also demonstrate the potential for redevelopment within the planning period and evaluate the extent to which existing uses may impede additional residential development. The evaluation must consider development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development. The element appears to assume sites are underdeveloped based on various factors but

most prominently the existing floor area ratio or number of units versus the allowable floor area ratio or number of units. To utilize this approach, the element should provide analysis to support an appropriate threshold or ratio to demonstrate redevelopment potential in the planning period. The element could utilize the recent developments in Albany between 2000 and 2010 (page 4-14 to 4-15) to assist with this analysis. Refer to the sample analysis on the *Building Blocks*' website at: http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvacant

Sites with Zoning for a Variety of Housing Types (Emergency Shelters): Program 3.G (SB 2 Compliance), proposes to amend the zoning ordinance to allow emergency shelters by-right in the Commercial Mixed Use (CMX) zoning district (page 6:18). While the element indicates the total acreage and number of parcels in the CMX zone, it must also analyze the suitability and appropriateness of the zone. While the CMX zone allows live-work residential use, it does not describe how the CMX zone is appropriate for the development of emergency shelters. For example, some permitted light industrial and commercial uses may have environmental or other conditions rendering them unsuitable for residential or shelter uses. As a 25 bed limit is proposed for emergency shelters, the element should expand upon the description of the parcel sizes to demonstrate their potential to fully accommodate the need for emergency shelters, as well as facilitate the development of emergency shelters. If non-vacant parcels are needed to accommodate the need for emergency shelters, the element should include an estimate of the number of parcels with redevelopment potential and capacity for conversion to emergency shelters. Refer to the sample analysis on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/SHN_shelters.php#Requisite_Analysis.

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)).*

Fees and Exaction: While the element lists typical housing development fees, it should also identify the total amount of fees and their proportion to the development costs for typical single family and multifamily housing developments. For additional information and a sample analysis and tables, see the *Building Blocks* at http://www.hcd.ca.gov/hpd/housing_element2/CON_fees.php.

Design Review: The housing element indicates there are objective standards, e.g. Residential Design Guidelines, and subjective standards, e.g. "harmonious", in the design review process. The housing element must describe and analyze the design review guidelines and process, including approval procedures and decision-making

criteria, for their impact as potential constraints on housing costs, supply, and affordability, as well as development certainty. The element must demonstrate this process is not a constraint or it must include a program to address and remove this permitting requirement, as appropriate. For additional information and sample analysis, see the *Building Blocks* at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php

B. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions (Section 65583(c)).*

Several programs should be revised to include specific actions, such as amend, evaluate and revise, and implement instead of terms such as consider or study, as follows:

Program 2.A (Minimum Densities) indicates the City will “Consider amending the zoning ordinance” The Program could be revised to indicate “Will amend the zoning ordinance”

Program 2.B (Incentives) indicates the City will “evaluate potential incentives” by Spring 2014. However, the Program should also indicate what action it will take subsequent to evaluating the potential incentives. For example, the program could indicate it will “adopt incentives by 2015.”

Program 2.H (Land Assembly and Lot Consolidation) indicates the City will “Work with interested property owners to encourage” lot consolidation. However, the Program should describe how the City will “work” with property owners. For example, the City could offer a lot consolidation program with expedited processing and fee waivers or offer other incentives. The program should also include specific timelines for implementation or completion of actions.

While Program 3.A (Units For Persons with Disabilities) indicates the City will “encourage the inclusion of units for persons with disabilities”, it should indicate how it will encourage the inclusion of units. For example incentives, financial or regulatory, could be established to encourage the development of housing for persons with disabilities, including those with developmental disabilities.

Other programs which should be revised include, but are not limited to, Program 4.A (Use Permit Requirements for Multifamily in R-4), 4.B (Second Units), 4.D (Evaluation of Mixed Use Standards), and 4.H (Fee Incentives for Affordable Housing).

2. *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 A1 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 City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

3. *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 A2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

In addition, the housing element indicates Measure D parking requirements may make it difficult to modify existing buildings in the multifamily zones to add new housing units (page 5:11) which would affect the identified multifamily sites to accommodate a portion of the City's regional housing need. While Program 4.G (Measure D Ballot Initiative) proposes to commence the preparation of a ballot initiative to revise Measure D, the element should also include programs to mitigate these requirements until Measure D is revised. The housing element indicates that development standards "may preclude the maximum density allowed by zoning" (page 4:14) and it is difficult to attain the allowed FAR of 2.25 in the San Pablo Avenue zone (page 5:12). In regard to the sites identified on Solano Avenue, the element indicates there are challenges in developing these sites due to high existing floor ratios and complying with on-site parking requirements (page 4:14). As the element has identified all of these as potential constraints to residential development, the element should include programs to address and remove or modify these requirements.

C. 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)(8)).

While the element includes a general summary of public participation (pages 1:6-7), it does not demonstrate how the City 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 City'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. For example, the element could describe the success of outreach efforts, summarize public comments and describe how the element incorporated public input. During the period between this draft element and the adoption of the final housing element, the City should continue efforts to achieve public participation including from low and moderate income households.

D. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).

The element must describe how consistency will be achieved and maintained during the planning period. The element could include a program to conduct an internal consistency review as part of its annual general plan implementation report required under Government Code Section 65400. This annual report can also assist future updates of the housing element.