



1st response

July 17, 2008

The Honorable Nancy Wieben Stock
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Mayor
Mark Tettemer

Mayor Pro Tem
Peter Herzog

Council Members
Richard Dixon
Kathryn McCullough
Marcia Rudolph

City Manager
Robert C. Dunek

RE: Response to Grand Jury Report - "No County for Old Boomers"

Dear Judge Wieben Stock,

This letter is submitted in response to the recent Grand Jury report "~~No County for Old Boomers~~ When Orange County Baby Boomers Retire, Where Will They Live." We appreciate the opportunity to provide the following responses to the findings and recommendations in the Report. As requested, our responses indicate whether we agree or disagree with the findings, and whether or not the recommendations will be implemented. At the conclusion of this letter we also offer some additional recommendations we believe should be considered along with those articulated by the Grand Jury.

Findings:

F-1 The Housing Elements for the cities and County of Orange do not reflect that the number of affordable senior housing units in Orange County will not accommodate the projected population.

Response 1. The City of Lake Forest is not familiar with, and is not responsible for, the Housing Elements of the County or other cities. As it concerns the City of Lake Forest (City), we respectfully disagree with the Finding. As required by state law, the City is in the process of updating its Housing Element. The 2008 Draft Lake Forest Housing Element Update ("Update") identifies 8.4 percent of the City's total population as over the age of 65. The Housing Action Plan in the Update contains several policies and programs aimed at facilitating the development of affordable housing (including affordable senior unit) to meet the needs of our senior population. Examples include assisting developers in identifying potential affordable housing sites, facilitating development by potentially offering incentives on a case-by-case basis, encouraging the development of second units to accommodate elderly family members, and encouraging development of units designed for special needs groups, including the elderly. As required by state law, the Update includes a detailed and good faith effort to address all of the City's housing needs during the planning cycle, including those of our senior community.

F-2 The Housing Elements for the County of Orange and the cities do not focus sufficiently on or analyze the population growth and housing needs of the aging baby boomer generation.

Response 2. As noted above, the City is not familiar with, and is not responsible for, the Housing Elements of the County or other cities. As it concerns the City, we respectfully disagree with the Finding. The Update analyzes and discusses population growth for all segments of the community. Included in these various groups are those who fall within the Grand Jury's definition of "Baby Boomer."

F-3 Not all Housing Elements are available online for easy access by the public.

Response 3. The City takes a proactive approach to communicating with its residents and businesses. Maintaining an easy to navigate and up-to-date web site is a key part of our commitment to keep our residents and businesses informed.

The City's General Plan, including its Housing Element, is posted on the City website (<http://www.ci.lake-forest.ca.us>). Once certified by the State and approved by the Lake Forest City Council, the Update will also be made available on line. Consequently, as it concerns the City, we respectfully disagree with the finding.

F-4 Municipalities are not proactive enough in encouraging the development of affordable senior housing.

Response 4. As it concerns the City, we respectfully disagree with the finding. The City is proactive and encourages the development of affordable units. Our existing Housing Element encourages residential developers to incorporate a minimum of 15% affordable units into their projects. This applies to all forms of affordable housing, including senior housing developments. This provision is also included in the Update. City staff routinely confers with developers and property owners regarding development opportunities. In so doing, we encourage the development of affordable housing, including affordable senior developments.

Recommendations:

Recommendation 1. Include the current and projected affordable senior housing inventory by type, location and cost in the 2008 and future years' development of the Housing Element.

Response 1. State law requires every city and county in California to update the Housing Element of its General Plan periodically according to a state-mandated schedule. For jurisdictions in Orange County, the due date for the next Housing Element revision was June 30, 2008. While the Grand Jury report raises very important issues related to the future housing needs of "Baby Boomers," the timing of the requested action is problematic for the current Housing Element cycle. The Grand Jury report was received after our Housing Element Needs Assessment was prepared, our outreach efforts

concluded, and after review of the Update by our Planning Commission and City Council. Moreover, the Grand Jury report was received after we sent our Update to the State for review, which would complicate our making additional changes. In addition, as noted in our response to Finding 1, all of the data required by state law to address the City's housing needs for the planning cycle is included in the Update. The data and analysis requested by the Grand Jury is not currently required under state Housing Element law. Therefore, while we acknowledge the findings and recommendations contained in the Grand Jury's report, we will not include the recommended information in the Update. We will, however, evaluate the costs/benefits of including this information in future updates. If proven helpful and beneficial to the Lake Forest Planning Commission and City Council, and at their discretion, we will include the recommended information in our future updates.

Recommendation 2. *Include sufficient data in the Housing element to acknowledge the imminent growth in the county's aging population. This data is to include the current population and the growth trend of the aging baby boomer generation as well as the current median income and the income trend of the senior population.*

Response 2. While we agree that this recommendation offers the potential of providing valuable information for local government policy-makers and the housing industry, again the timing is problematic due to the state-mandated schedule for updating Housing Elements. As noted in our response to Findings 1 & 2, the Update provides a demographic evaluation of our senior community and includes programs and policies aimed at meeting their housing needs. Consequently, while we acknowledge the findings and recommendations contained in the Grand Jury's report, we will not include the recommended information in the Update. We will, however, evaluate the costs/benefits of including this information in future updates. If proven helpful and beneficial to the Lake Forest Planning Commission and City Council, and at their discretion, we will include the recommended information in our future updates.

Recommendation 3. *Put all Housing Elements online on each city's website.*

Response 3. We agree. The Housing Element has been and will continue to be posted on the City website.

Recommendation 4. *Confer with developers to establish the needs for affordable senior housing and to encourage investment in future projects.*

Response 4. We agree. As noted above, City staff routinely confers with developers and property owners regarding development opportunities, and we will continue to encourage the development of affordable housing (including senior housing) pursuant to Housing Element policies.

Additional Recommendations for Consideration.

State Housing Element law requires every jurisdiction to accommodate its fair share of the region's new housing need for all economic segments of the community. The process by which jurisdictions' fair share growth needs are determined is known as the Regional Housing Needs Assessment, or RHNA. Cities and counties are required to establish specific, quantified

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objectives for the production of new housing units in each of four income categories – very low, low, moderate, and above moderate – commensurate with their RHNA allocation. Jurisdictions are also required to demonstrate that they have sufficient vacant sites, or “underutilized” sites with additional development potential, with appropriate zoning and development standards to accommodate their fair share housing need at each income level.

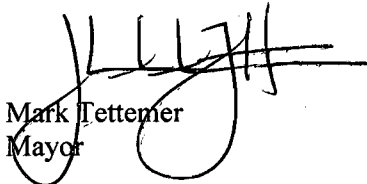
Under state law, some types of housing projects that are designed for the elderly or persons with disabilities are considered to be “group quarters” rather than “housing units” for purposes of the RHNA. Because of the role of state government in reviewing and “certifying” local housing elements, and the potential legal consequences for failure to obtain state certification, the RHNA and related analysis of a jurisdiction’s housing development capacity can be highly controversial. One significant implication of current housing law is that jurisdictions could actually be penalized for encouraging assisted living facilities or other senior housing developments through their land use plans and zoning ordinances since these housing types may not qualify for RHNA credit. In light of the anticipated growth in the senior population, we believe this is an area of Housing Element law that needs to be reviewed and potentially modified by the state legislature.

Another area of concern related to senior housing is state redevelopment law (Health and Safety Code Sec. 33000 et seq.). Under state law, redevelopment agencies must set aside 20% of tax increment revenues for use in improving or increasing the supply of low- and moderate-income housing (Set Aside Funds). Set Aside Funds can be and often are used by redevelopment agencies to facilitate development of affordable housing, including affordable senior housing. Unfortunately, State redevelopment law limits the amount of Set Aside Funds a redevelopment agency may expend on affordable senior housing to the proportion of low income seniors to low income non- senior households, based upon the most recent census data. This limitation does not allow redevelopment agencies to adjust their expenditure of Set Aside to accommodate proven demographic trends that extend beyond the most recent census. In particular, limiting senior project assistance to the jurisdiction’s age profile in the last census limits redevelopment agencies’ abilities to be proactive partners in creating affordable senior housing and planning for demographic trends, as discussed in the Grand Jury report. We believe this is another area of state law that needs to be reviewed and potentially modified by the state legislature

Thank you again for bringing this important topic to the attention of local governments in Orange County.

Sincerely,

CITY OF LAKE FOREST


Mark Tettermer
Mayor

c: Ann Avery Andres
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Lake Forest City Council