



City of Mission Viejo

Office of the Mayor and City Council

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July 8, 2008

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

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 this thought-provoking report. 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. Partially Agree. The Regional Housing Needs Assessment (RHNA) in the Housing Element is only required to show the number of housing units by income group needed between 2006 and 2014 and that the City has land to accommodate these units. The 2008 Mission Viejo Housing Element update has been prepared in compliance with state law. The City of Mission Viejo is not familiar with, nor indeed responsible for, the Housing Elements of the County or other cities. As noted in our response to Recommendation 1, below, the Grand Jury report was received after the Housing Element Needs Assessment had been prepared, and therefore is problematic for the current Housing Element update. The City would support additional analysis regarding the needs of seniors in subsequent updates to the Housing Element.

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. Agree. The State does not require this analysis for projected need by age group. Also, as noted in Response 1, above, the timing of the Grand Jury report comes too late in this Housing Element update cycle to be incorporated in the 2008 element. The City is generally in support of the Grand Jury conclusions, and will consider these issues in subsequent amendments to the Housing Element.



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

Response 3. Partially Agree. The City of Mission Viejo's Housing Element is available online at <http://cityofmissionviejo.org/DepartmentPage.aspx?id=88>. Future amendments to the Housing Element will also be made available online.

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

Response 4. Partially Agree. The City of Mission Viejo zoning code allows senior housing to be built in Commercial and Business Park zones as well as in residential zones, and allows for reduced parking standards. These are strong incentives for developers to build senior housing. In addition, Mission Viejo city staff routinely confers with developers regarding development opportunities. Again, however, the City of Mission Viejo is not familiar with other jurisdictions' policies.

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 is June 30, 2008. While the Grand Jury report raises very important issues related to the future housing needs of senior citizens, the timing of the requested action is problematic for the current Housing Element cycle – the Grand Jury report arrived approximately one month before Housing Element updates are due. In addition, the data and analysis requested by the Grand Jury is not currently required under state Housing Element law. Most jurisdictions in Orange County completed the required analysis for the Housing Element update many months ago, and compliance with this Grand Jury recommendation would require city staff and consultants to expend time and resources researching and revising the analysis that was already finalized. In our case, this would require extra expense that has not been budgeted, since the work is beyond the scope of our current Housing Element consultant contract and we do not have the staff resources available to conduct the recommended research and data compilation in-house. Therefore, while we support this Grand Jury recommendation for future Housing Element updates, we respectfully disagree that this work should be completed for the current element because it is not feasible due to the scheduling and budgetary reasons described above.

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 additional analysis would be beneficial and would provide valuable information for local government policy-makers and the housing industry, the State does not require this kind of extensive analysis for approval of the document. At this point the timing is problematic due to the state-mandated schedule for updating Housing Elements. In addition, the data on aging and income by household type is nearly a decade old. It is preferable for many reasons to provide the data after the 2010 Census is complete. We support the inclusion of such

information in future Housing Element updates, and we will make a diligent attempt to provide the requested additional data in the current element to the extent schedule and staff resources allow, but we respectfully disagree that this additional analysis should be required in the current housing element cycle for the reasons described in Response 1, above.

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

Response 3. We agree and support this recommendation. The Housing Element has been 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 and support this recommendation. City staff regularly attends regional housing meetings to learn of new housing needs and trends and meet housing developers. Staff also routinely confers with developers regarding development opportunities, and will continue to encourage the development of affordable 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 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 fact Mission Viejo has several different types of senior facilities that are classified as “group quarters” in the U.S. Census, such as nursing homes [skilled nursing facilities, long-term care rooms at hospitals, long-term care rooms in congregate housing facilities, convalescent homes, and rest homes for the aged with nursing care.] The City also has a high concentration of group homes, including community-based homes that provide care and supportive facilities, which do not count towards any jurisdiction's RHNA need. In light of the anticipated growth in the senior population, we believe this is an area of Housing Element law that urgently needs to be reviewed and modified by the state legislature. And, in order to provide consistency in response and analysis, it is recommended that efforts be conducted on a countywide basis with countywide analysis on the demographics and individual city analysis based on the countywide effort.

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. The law limits the amount of funds redevelopment agencies may dedicate to senior housing projects to the ratio of seniors 65 and over to the total population as reported in the most recent census (Sec. 33334.4b). Since redevelopment agency low/mod set-aside funds represent a significant source of financial assistance for affordable housing, this law limits the extent to which cities and counties can facilitate senior housing projects. *In particular, limiting senior project assistance to the jurisdiction's age profile in the last census prohibits agencies from proactively planning for demographic trends, as discussed in the Grand Jury report.*

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

Sincerely,



Trish Kelley
Mayor

c: Ann Avery Andres, Foreman, Orange County Grand Jury
City Council
Planning and Transportation Commission
City Manager
City Clerk
Director of Community Development