

Response to Grand Jury Report Form

Report Title: Affordable Housing: Monitoring and Compliance
Report Date: June 14, 2022
Response by: Maraskeshia Smith Title: City Manager
Agency/Department Name: City of Santa Rosa

FINDINGS: F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11

The City agrees with the Findings numbered: F3, F4, F5, F6, F7, F8

The City disagrees wholly or partially with the Findings numbered: F1, F2, F9, F10, F11

(See attached statement specifying an explanation of the reasons.)

RECOMMENDATIONS: R1, R2, R3, R5, R6, R7, R8

- Recommendations R2 and R8 have been implemented.
(See attached summary describing the implemented actions.)
- Recommendation R3 has not yet been implemented but will be implemented in the future.
(See attached timeframe for the implementation.)
- Recommendations R1, R5, R6, and R7 require further analysis.
(See attached explanation.)

Date: _____ Signed: _____

Number of pages attached: _____

September 13, 2022

The Honorable Shelly J. Averill
Presiding Judge, Superior Court of Sonoma County
Hall of Justice
600 Administration Drive
Santa Rosa, CA 95403

2021-2022 CIVIL GRAND JURY REPORT – Affordable Housing: Monitoring and Compliance – City of Santa Rosa

Dear Judge Averill,

This letter responds to the 2021-2022 Sonoma County Civil Grand Jury Final Report entitled “Affordable Housing: Monitoring and Compliance.” The following responses have been reviewed and approved by the City Council of the City of Santa Rosa.

The City of Santa Rosa (City) has reviewed the report including the eleven findings and disagrees with the following:

F1 - Monitoring of compliance with Affordable Housing regulations has been inconsistent and often inadequate

The City disagrees that affordable housing monitoring has been inconsistent and inadequate. The extent of affordable housing monitoring can vary based on funding source and funder which may incorporate additional data to be collected and monitored. Not all affordable housing projects within Sonoma County receive funding from the identical sources and programs which may result in differing reporting requirements. During COVID-19, on-site monitoring was suspended, but the reviewing of monitoring reports submitted by property owners and managers continued to be performed by City staff. Additionally, affordable housing projects often have multiple funding and reporting requirements by the California Tax Credit Allocation Committee, the California Debt Limit Allocation Committee, and the California Department of Housing and Community Development, as well as the requirements of private lenders. Affordability requirements have changed over time with new or additional monitoring requirements being placed on newer projects; revisions to affordability agreements for in-service projects may require the review and approval of outside, private funders and institutions who underwrote the financial investment based on the compliance and monitoring requirements identified at time of development.

F2 – The use of self-reported data in monitoring is an accepted norm

The City partially disagrees with this finding. Self-reported data is a common practice, but the data is reviewed for errors and inconsistencies. Affordable housing units are frequently monitored by multiple agencies increasing the ability to identify errors or omissions in self-reported data.

F9 - The cities of Petaluma and Rohnert Park use computerized compliance monitoring programs to facilitate and improve the quality of their work

The City uses a computerized system to monitor its loans; it also uses other electronic programs and platforms to track and monitor compliance for the various forms of financial assistance provided to projects. The use of a particular computerized compliance monitoring system is not an indicator of the of the quality in the monitoring.

F10 - The property titles of Affordable single-family houses have not always been flagged as deed restricted.

The City disagrees with this finding in that it is overly general and does not take into account other instruments that can be recorded against a property to regulate the affordability or re-sale. Older properties and developments may not have the same restrictions or documentation that are used in current transactions. For homeownership units, the City will record a Deed of Trust if financial assistance has been provided, additional documents that are executed restrict Owner Occupancy and Resale Restrictions. For rental units, again the City will record a deed of trust if financial assistance has been provided and also will record a Regulatory or Affordability Agreement identifying the number of income restricted units, the income levels for those restricted units, the duration of time the units are restricted, and identifying the compliance and reporting requirements of the development.

F11 - The majority of the housing representatives the Grand Jury interviewed felt that there is not enough staff within their departments to make anyone a full-time compliance monitor

The City disputes this finding as it not is not privy to the individuals that were interviewed to prepare the report or the testimony that was provided. The City has a full-time staff person that performs compliance monitoring for affordable housing units and added an additional full-time position in the Fiscal Year 2022-2023 budget to assisting in compliance monitoring for the approximately 500 new affordable housing units that are under construction. It is anticipated that the new staff member will begin assisting with compliance monitoring in fall 2022.

The report requires the City to respond to recommendations R1, R2, R3, R5, R6, R7, and R8.

Implemented Recommendations- R2 and R8:

Recommendation R2 - The Sonoma County Community Development Commission and the nine Cities resume on-site monitoring by October 1, 2022.

The City HUD entitlement jurisdiction CDBG and HOME funding and is required to adhere to HUD's guidelines and regulations Consistent with HUD guidance, the City

suspended on-site monitoring during the height of the COVID-19 pandemic. The City resumed its on-site monitoring on February 28, 2022.

Recommendation R8 - By December 31, 2022, the Sonoma County Community Development Commission and the nine Cities should update and maintain their inventory of Affordable houses within their jurisdictions and verify that all their property titles are flagged for restricted sale.

The City has an inventory of affordable housing units that is updated regularly and available on its website. Additionally, the City has an internal, proprietary software program that tracks the loans and affordability of rental and ownership units that have received financial assistance from the Housing Authority of the City of Santa Rosa and/or the City, funding is accompanied by recorded affordability agreements. For rental housing, a Regulatory, Density Bonus, or Housing Affordability Agreement is recorded against the property either at close of a loan from the Housing Authority or prior to issuance of a building permit if there is not a financial interest from the Housing Authority or City. The agreement identifies the number of restricted units, maximum allowed income of tenants, and term of the agreement. For ownership units, if there is a financial interest, a deed of trust is recorded against the property and is accompanied by either a Resale Restriction or Owner Occupancy Agreement. Owner occupancy is verified annually to ensure that the units are being maintained as the primary residence of the borrower(s). The City does not publicly identify the site address of individual ownership units that have received financial assistance as that is confidential information to protect the recipients' privacy rights.

Recommendations to be Implemented in the Future – R3:

Recommendation R3 - By January 1, 2023, the Sonoma County Community Development Commission and the nine Cities review and ensure that they have sufficient personnel to conduct on-site monitoring and process self-reported monitoring data to meet future Regional Housing Needs Allocations.

The City's Affordable Housing portfolio is staffed by a group known as the Housing Trust, which is comprised of six staff members, one of which is assigned to compliance monitoring. As a result of the hundreds of new affordable housing units that are currently under construction within the City, an additional compliance monitoring position was added in the Fiscal Year 2022-2023 budget. Once the position is filled, anticipated in fall 2022, two permanent staff members will be conducting affordable housing compliance monitoring, in addition to the inspection and program monitoring conducted by for the City's Housing Choice Voucher Program.

Timeline – Fall 2022 if the City is able to select and hire a qualified candidate.

Recommendations Requiring Further Analysis – R1, R5, R6, and R7:

Recommendation R1 – By December 31, 2022, the Sonoma County Community Development Commission and the nine Cities meet and develop agreed-upon standards and procedures for the monitoring of Affordable Housing.

The City is open to participating in discussions with the Sonoma County Community Development Commission and the other Cities to review standards and procedures for monitoring, but as a HUD entitlement jurisdiction for Community Development Block Grant (CDBG) and HOME Investment Partnership funding, as well as other funding sources available to the City to develop affordable housing, monitoring and compliance requirements may be applied that would not be applicable to other jurisdictions. The City does not have the ability to require other jurisdictions to adhere to its desired standards or procedures.

Timeline – The City will participate in meetings with the other jurisdictions to identify potential standards and procedures. An additional six months from the December 31, 2022, date is necessary to coordinate with all parties involved.

Recommendation R5 - By January 1, 2023, the nine Cities develop informational documents and policies to provide both upfront and ongoing training in the monitoring and compliance procedures for developers and managers of Affordable Housing projects.

The City of Santa Rosa is HUD entitlement jurisdiction for CDBG and HOME and is required to comply with regulations associated with HUD funding and programs which may differ from the training and monitoring needs of the other cities. The City is willing to participate in the development of informational documents and policies related to the monitoring and compliance of affordable housing, but the City's requirements may be more onerous than other jurisdictions due to funding from HUD or the California Department of Housing and Community Development (HCD).

Timeline - The City will participate in meeting with the other jurisdictions to identify and develop information documents and potential policies. An additional six months from the December 31, 2022, date is necessary to coordinate with all parties involved.

Recommendation R6 - By November 1, 2022, the nine Cities meet and discuss to jointly or individually utilize Affordable Housing monitoring software.

The City has an internally developed and maintained proprietary software program to monitor its affordable housing loan portfolio and track unit affordability. The City is open to participating in discussions on software options, but has its own procurement process to adhere to. For the City to change software systems, there will need to be a demonstrated economic and performance benefit from the proprietary system that is currently in place.

Timeline - The City will participate in meeting with the other jurisdictions to discuss software options. An additional six months from the December 31, 2022, date is necessary to coordinate with all parties involved.

Recommendation R7 - By November 1, 2022, the nine Cities meet and discuss pooling resources to fulfill their monitoring responsibilities, through either a consultant or designated employees.

As a HUD entitlement jurisdiction for CDBG and HOME, the City is responsible for monitoring the units that are created through its funding sources which may necessitate additional monitoring and compliance requirements that would not be applicable to other jurisdictions. By conducting its own monitoring, the City is also able to ensure that it is meeting its monitoring requirements and obligations to the entities that oversee that oversee the City.

Timeline - The City will participate in meeting with the other jurisdictions to discuss monitoring responsibility, but has one, soon to be two, staff members assigned to this role. An additional six months from the December 31, 2022, date is necessary to coordinate with all parties involved.