

**From:** [Buckheit, Lani](#)  
**To:** [PLANCOM - Planning Commission](#)  
**Cc:** [Lyle, Amy](#)  
**Subject:** PC - Late Correspondence - Item 8.1 Housing Element  
**Date:** Tuesday, January 24, 2023 4:56:05 PM  
**Attachments:** [FHANC\\_PublicComment\\_SantaRosa\\_HE.pdf](#)

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**- PLEASE DO NOT REPLY TO ALL -**

Chair Weeks and members of the Planning Commission,

The reason for this email is to provide you with late correspondence for item 8.1, Public Hearing – Housing Element, scheduled for the Planning Commission meeting this Thursday 1/26. Please see attached. These will also be added to the agenda.

Thank you,

**Lani Buckheit | Administrative Secretary**

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*Due to increased demand, limited resources, and time constraints, delays are expected in the City's permit processing. The Planning Division anticipates returning to standard processing and response times by Fall 2022. Thank you for your patience and understanding as City operations are reestablished following the coronavirus pandemic.*





# Fair Housing Advocates of Northern California

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January 23, 2023

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cc:     HCD, [HousingElements@hcd.ca.gov](mailto:HousingElements@hcd.ca.gov)  
        Beatriz Guerrero Auna, [bguerreroauna@srcity.org](mailto:bguerreroauna@srcity.org)

**RE:    Santa Rosa's 6th Cycle Housing Element Draft Revision**

Dear Ms. Lyle,

Thank you for the opportunity to comment on the draft Housing Element ("Draft"). We appreciate all the work that has gone into producing this document, and we offer our comments on the annotated Draft for incorporation into a final document that moves Santa Rosa in the direction of significant progress to achieve housing justice and meet current and future housing needs. We stand as partners committed to this goal.

Fair Housing Advocates of Northern California (FHANC) is a private nonprofit organization dedicated to assisting individuals experiencing housing discrimination and educating the community, including tenants, housing providers, and government employees, as to their rights and responsibilities under federal and state fair housing laws. The mission of FHANC is to ensure equal housing opportunity and to educate the community on the value of diversity in housing.

FHANC provides free comprehensive fair housing counseling services to individuals alleging housing discrimination in Sonoma County (except the incorporated city of Petaluma), Marin County, and Solano County (except the incorporated city of Vacaville). FHANC also provides other services, such as prepurchase and foreclosure prevention services and trainings to housing providers in other neighboring counties.

In addition to counseling and education services, FHANC recruits, trains, and employs fair housing testers in order to investigate claims of housing discrimination and to assist in conducting systemic investigations.

As noted by HCD in their letter dated November 1, 2022, “the Draft must include a complete analysis of affirmatively furthering fair housing (AFFH). Based on the outcomes of that analysis, the element must add or modify programs.”

Specifically, programs to affirmatively further fair housing must identify clear “metrics and milestones for determining what fair housing results will be achieved.”<sup>1</sup> Furthermore, a recent survey of HCD reviews of draft housing actions from Southern California jurisdictions emphasizes that time bound actions with “specific commitments [from local actors], metrics, and milestones” are required.<sup>2</sup>

In order to meet the City’s requirement to affirmatively further fair housing, we urge the planning team to strengthen the AFFH analysis further, as well as adding programs to protect Santa Rosa renters, who comprise a large portion of the most vulnerable residents in the City.

### **Strengthen Fair Housing Education and Enforcement Goals and Programs**

We appreciate the City’s commitment to “continue to fund and support Fair Housing Advocates of Northern California (Fair Housing)... on an annual basis to provide fair housing counseling services, tenant-landlord mediation, public education, and legal referrals for Santa Rosa tenants and landlords,” and look forward to continuing to work with the City to address pressing fair housing issues.

The Draft rightly recognizes lack of acceptance of Housing Choice Vouchers as a major issue in the City. For example, the Draft indicates that a contributing factor to the “Disproportionate presence of Hispanic- identifying communities in low-resource areas” is “Lack of availability of rentals that accept HCV in moderate- and high- resource areas of the city.”

Given that discrimination based on source of income (SOI) is illegal in California, the prevalence of rental properties in moderate and high-resource areas refusing to accept HCVs indicates a major gap in housing providers’ knowledge of their duties under fair housing law, as well as an increased need for enforcement against landlords who discriminate against voucher holders. This suggests that a targeted fair housing outreach campaign is necessary not only in areas of poverty, but in moderate and high resource areas as well. While program H-36 commits the City to “actively emphasize and promote acceptance of vouchers to property owners in high-resource neighborhoods,” the Draft should go further by committing to providing fair housing education to housing providers and tenants in high-resource areas that recognizes refusal to accept HCVs as a violation of fair housing law. As this law is relatively new in California, such education and outreach regarding SOI discrimination to all facets of the community is necessary. To that end, FHANC is willing to partner with the City to assist with these efforts.

The high rates of SOI discrimination in the County have also been reflected in FHANC’s audits and investigations. FHANC has conducted investigations over the past several years to

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<sup>1</sup> Gov. Code § 65583(c)(10)(A)(iv).

<sup>2</sup> ABAG, Affirmatively Furthering Fair Housing (AFFH) Policy Tips Memo Learning from Southern California & Sacramento: Early Experiences in Complying with AB686.

determine the prevalence of discrimination in rental housing in Sonoma, Marin, and Solano counties. In 2019-20, FHANC conducted an audit to test for national origin and SOI discrimination<sup>3</sup>, and in 2021-22, FHANC conducted an audit to test for race and SOI discrimination<sup>4</sup>. Both of these audits revealed that Sonoma County had the highest rate of discrimination of the three counties, with evidence of discrimination found in 86% and 92% of tests conducted in each audit, respectively. In 2019-20, FHANC found evidence of SOI discrimination in 62% of tests in the county, national origin discrimination in 5% of tests, and both national origin and SOI discrimination in 19% of the tests. In 2021-22, FHANC found evidence of SOI discrimination in 88% of tests in the county, race discrimination in 63% of tests, and both race and SOI discrimination in 62% of the tests. FHANC continues to see increases in complaints of SOI discrimination, and in the past fiscal year FHANC received more SOI complaints than any other type except disability.

We therefore urge the City to strengthen its commitment to fair housing education, outreach, and enforcement activities in all areas of the City, with a particular focus on SOI discrimination. The City should include specific metrics and milestones and concrete, measurable goals to accompany their fair housing commitments.

### **Prioritize Specific Policies and Programs to Protect Tenants**

Program H-32 commits the City to continuing to provide services to tenants and “Exploring programs and/or policies implemented by other jurisdictions.” However, we urge Santa Rosa to commit to advancing specific policies and programs that offer strong tenant protections as a crucial component of affirmatively furthering fair housing. FHANC echoes the comments provided in Legal Aid of Sonoma County’s (LASC’s) December 14, 2022 letter regarding the need for specific tenant policies in the City. Santa Rosa should commit to enacting the following policies/ordinances to maximize housing opportunity and protect the rights of all tenants, including those of protected classes:

**Fair Chance Ordinance:** The use of criminal history in obtaining housing should be eliminated, given the disparate impact on people of color, using Berkeley, Oakland, and Seattle, and Alameda County as templates for such an ordinance.

**Rent Stabilization:** Further limiting the rent increase caps enacted by the state is crucial to address the displacement of the City’s low-income renters.

**Just Cause Eviction:** The City should commit to enacting a Just Cause Eviction ordinance, which would offer tenants, especially those of protected classes, crucial protection. One of the leading causes of evictions and displacement are the no fault just causes - substantial remodels, owner move-ins, and withdrawal from the rental market. These no-fault just causes are often used, and abused, by owners to remove tenants so that rents can be increased to market rate, further eroding affordable housing stock. Strengthening no-fault just causes for evictions – through higher relocation payments, longer eviction notice periods, and a right for a tenant to return at the

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<sup>3</sup> See 2019-2020 Audit Report: National Origin and Source of Income Discrimination in Rental Housing, <https://www.fairhousingnorcal.org/resources--more-information.html>

<sup>4</sup> See 2021-2022 Audit Report: Race and Source of Income Discrimination in Rental Housing, [https://www.fairhousingnorcal.org/uploads/1/7/0/5/17051262/race\\_and\\_soi\\_audit\\_report\\_2021-22\\_1.pdf](https://www.fairhousingnorcal.org/uploads/1/7/0/5/17051262/race_and_soi_audit_report_2021-22_1.pdf).

same rent at the time of displacement, apart from lawful, annual rent increases – are critical to a general plan that complies with state law and addressing the displacement of the City’s BIPOC and senior renters. A Just Cause ordinance should include:

- Substantial repairs - Repairs for health and safety concerns only and permits obtained before notice to vacate is served; tenant has the right to return under the same terms/rent, subject to allowable rent increases
- Withdrawal from the rental market - Clarify that a sale of the property is not “withdrawal” and is not a just cause for eviction; owner is required to file notice with the city/county; a longer notice period and the right to return for displaced tenants.
- Right to Return if owner/owner’s family move out of the unit within 2 years, or if the owner/owner’s family fail to move into the unit within 30 days of the tenant’s removal.

Community or Tenant Right to Purchase (“COPA/TOPA”): As a key intervention against speculation, TOPA/COPA preserves currently affordable housing and generates new permanently affordable housing for future generations. TOPA/COPA expands stability and wealth-building opportunities for tenants by creating pathways to homeownership.

Tenant Bill of Rights: The purpose of a Tenant Bill of Rights (TBR) is to state unequivocally that all residents have the right to clean, safe, and secure housing, which includes but is not limited to:

- Anti-retaliation - Rebuttable presumption of retaliation if tenant asserts their rights, including but not limited to, requesting a reasonable accommodation, reporting sexual harassment, and otherwise filing complaints against housing provider staff within 6 months.
- Clean, safe housing - stronger protections for tenants from eviction if they deduct repairs from rent
- A rental registry.
- Tenant Commission- Seats reserved that represent low-income seniors, persons with disabilities, tenants in federally subsidized housing including LIHTC, and communities of color on a commission that provides information, referrals, and advice to tenants and advises City leadership on programs and policies affecting tenants.
- Nonpayment notices - Require landlords to provide a 7-day warning letter before a 3-day notice to pay or quit.
- Protections for subletting - Subletting not a just cause for eviction IF the landlord unreasonably withheld consent following a written request by tenant, so long as the maximum number of occupants does not exceed allowable limits.
- Protections for families - Addition of family members not a just cause for eviction, so long as the number of occupants does not exceed allowable limits. Protections for families - Addition of family members not a just cause for eviction, so long as the number of occupants does not exceed allowable limits.

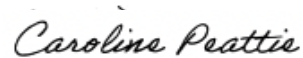
The Draft should include the above policies and programs proven to improve and conserve existing, non-subsidized, affordable housing stock and address the unmet needs of low-income, protected class tenants in order to meet the City’s obligations under Housing Element Law.

## **Conclusion**

Our agency is committed to housing justice and assisting the City to meet the current and future housing needs of Santa Rosa citizens. There is a tremendous opportunity with this Housing Element to outline specific, aligned, and actionable plans that will have widespread impact for years and decades to come. Santa Rosa should seize this opportunity to take the lead to outline and advance specific policies and practices to realize the goal of fair housing opportunity and housing justice for all who call Santa Rosa home.

Thank you for your work and time on this urgent and important opportunity.

Sincerely,



Caroline Peattie  
Executive Director  
Fair Housing Advocates of Northern California



Savannah Wheeler  
Staff Attorney/Housing Counselor  
Fair Housing Advocates of Northern California