November 1, 2021

Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Submitted via electronic mail

Re: Hearing on Project No. 2020-000606-(All Districts) for the Housing Element Update (Item 62)

Dear Honorable LA County Board of Supervisors,

Eastside Leadership for Equitable and Accountable Development Strategies (Eastside LEADS) and Public Counsel submit this comment letter regarding the November 2, 2021 Draft of the L.A. County Housing Element 2021-2029. Our comments are focused on the impact of the Housing Element on communities in Unincorporated East LA.

Eastside LEADS is a coalition based on the Eastside of Los Angeles that believes that development without displacement is possible, as long as the voices, the needs, and the priorities of local residents are centered in the process. We organize and advocate for policies that uplift the values of social housing, preserve and expand deeply affordable housing, promote social equity, and give residents control over decision making and governance. Public Counsel is the largest public interest law firm of its kind. Public Counsel's Community Development Project provides legal support to community-based organizations working to confront the devastating affordable housing and homelessness crisis that is gripping our communities, including by advocating for inclusive development that protects residents from displacement.

We thank the Department of Regional Planning (DRP) and the California Housing and Community Development Department (HCD) for meeting with members of Eastside LEADS throughout the months of August and September 2021 to hear our concerns. DRP incorporated several of our recommendations into the most recent draft.

While we support many of the programs outlined in the Draft Housing Element, especially those that preserve affordable and rent stabilized housing and protect tenants from displacement, we urge the County to take further steps to strengthen its adopted programs through stronger affordability and tenant protection requirements. We are concerned that without stronger measures, the County will effectively increase displacement pressures in the unincorporated communities of East Los Angeles.

The Impact of the Housing Element in East LA

The Regional Housing Needs Allocation (RHNA) for Unincorporated LA County this cycle mandated that the County plan for 90,052 units, including 25,648 very-low income, 13,691 low-income, 14,180 moderate-income, and 36,533 above-moderate income units.[1] This unprecedented allocation presents both challenges and opportunities for the County. The high allocation is an opportunity for the County to prioritize policies and programs to create and preserve more housing for low-income residents than it has ever planned for before. At the same time, the allocation presents challenges because it requires the County to find more suitable sites for the site inventory and program for rezoning than it has ever found before, while complying with its duties to affirmatively further fair housing.

These dual goals appear to have led the County to select a number of sites for the site inventory and rezoning program that are located in East LA because it is located within the Metro Plan Area, which is overall a moderate resource area in the TCAC Opportunity Map. According to DRP, a total of 235 sites in East LA are in the rezoning program, 227 sites have existing non-residential uses and 8 sites have existing residential uses.

But, as acknowledged in the Housing Element, East LA itself is an area "at risk of displacement" and among the unincorporated areas where fair housing issues are most prevalent.[2] East LA contains census tracts with higher concentrations of people of color and Low and Moderate Income (LMI) households.[3] Over 97% of the residents are of Hispanic origin with 87% percent speaking Spanish as a first language.[4] East LA is also designated as a Moderate or Low Resource area and encompasses one or more High Segregation and Poverty census tracts.[5] It ranks low in terms of access to opportunities, including economic, educational, and environmental health.[6] It also has a higher concentration of overcrowded and severely overcrowded households.[7]

East LA also has higher concentrations of census tracts that are considered sensitive communities at risk of displacement.[8] These historically underserved neighborhoods have experienced the biggest negative effects of the COVID-19 pandemic to their economies, their households, their education and work environments. According to the COVID-19 Neighborhood Profile of East LA conducted by the USC Sol Price Center for Social Innovation, "East LA has had the third highest cases of COVID-19 and 7th highest deaths in LA County". Furthermore, the same study highlights how 22% of residents do not have access to internet connectivity and 25% have limited English language proficiency. These gaps in technology and language literacy have made it difficult for these households to apply to local and state aid programs, thus plunging these households into deeper debt. These facts paired with the Housing Element's data that "a household earning $50,000 a year needs to spend over 30 percent of their income to afford a fair market rent two bedroom apartment in Los Angeles County" further reinforces the

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[1] Revised Draft Housing Element (dated November 2, 2021), page 3., *available at* https://planning.lacounty.gov/assets/upl/project/housing_board-letter-20211102-draft-housing-element.pdf (hereinafter "Draft Housing Element").
[2] Draft Housing Element, Appendix E, pages 85 and 86.
[3] *Id.* at page 82.
[4] *Id.* at page 50.
[5] *Id.* at page 59.
[6] *Id.* at page 68.
[7] *Id.* at page 79.
[8] *Id. at page 86*

need for stronger tenant protection and affordable housing development programs within this Housing Element cycle.

Eastside LEADS Housing Element Program Priorities

The Draft Housing Element includes sites in East LA in the site inventory and within the program for rezoning. Including these sites as designated areas for increased capacity development in East LA without corresponding affordability and tenant protection requirements will effectively increase displacement pressures in an already rapidly gentrifying neighborhood. Therefore, the County must include strong, concrete, and mandatory programs to mitigate against the displacement risk for East LA residents. It must also prioritize the building of deeply affordable housing in East LA. Prioritizing these programs will help the County meet its duties to affirmatively further fair housing.

HCD's October 26 review letter on the draft also lifted up these fair housing concerns with the Draft Housing Element. Specifically, HCD noted: "For goals and actions to create meaningful impact and overcome contributing factors to fair housing issues, programs must include metrics and milestones, have specific implementation actions, and be implemented early in the planning period."[9] In addition, HCD pointed out that since a "significant portion of the County is vulnerable to displacement," the County "must include strong programs and actions to mitigate the risk."[10]

Therefore, to mitigate the risks of displacement and to affirmatively further fair housing, Eastside LEADS proposes the following amendments to the Housing Element programs.

Program 8: Metro Area Plan

We support the County's prioritization of strategies to address displacement and gentrification in the Metro Area Plan since the plan "anticipates enhancing housing opportunities for a diversity of income levels in areas that have been historically underserved or segregated."[11] In order for the Metro Area Plan to address displacement and gentrification, it must prioritize deeply and extremely low income affordable housing, along with strong tenant protections and preservation of existing affordable housing. Expanding the Inclusionary Housing Ordinance to all submarkets should be a strong component of the Metro Area Plan.

Regarding the inclusion of community benefits in the Metro Area Plan, we encourage the County to work with local residents to incorporate community benefits that also support local micro entrepreneurs like street vendors and small businesses owned by BIPOC communities. One way to support these small businesses is to encourage developers, especially those that receive public funds and incentives, to prioritize retail leases to long-time and local small business owners. The community benefits program for the Metro Area Plan should also build upon the existing LA County Community Benefits Policy for Economic Development Projects.

In addition, while we support that the County intends to pursue a gentrification and displacement study to evaluate the applicability of mitigation tools in the Metro Area Plan, such as "community land trusts, long-term affordability restrictions, jobs/housing linkage fees, and nonprofit and

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[9] State Department of Housing and Community Development Review Letter, October 26,2021, at page 4, *available at* https://planning.lacounty.gov/assets/upl/project/housing_board-letter-20211102-review-letter-20211126.pdf. (hereinafter, "HCD Review Letter").
[10] *Id.*
[11] Draft Housing Element at page 28.

public ownership of land," we agree with HCD that the Housing Element must include more information on the start and completion dates of this study and how the results will be implemented.[12] The displacement study should also track new data on COVID-19 related evictions and other eviction trends that partners with Stay Housed LA identify.

Program 9: Inclusionary Housing Feasibility and Implementation

The Site Inventory includes many sites from submarkets that are not covered by the current County Inclusionary Housing Ordinance, including in East LA. Program 9 proposes to extend the Inclusionary Housing Ordinance to East LA, South LA and the Antelope Valley in the third quarter of 2022, only *if* supported by an updated feasibility analysis. But the County has already conducted an economic feasibility study that would satisfy the requirements of Gov. Code 65850.01 and should not delay expansion of the Inclusionary Housing Ordinance to conduct an additional study.

Inclusionary zoning is an important tool to ensure affordable housing is built alongside market rate housing and to prevent displacement of low-income communities in gentrifying areas. Without an inclusionary requirement, new market-rate development will be out of reach for existing residents in the Eastside, will not produce housing affordable to low-income residents, and could harm residents by catalyzing direct and indirect displacement. The County currently has an Inclusionary Housing Ordinance, but it does not apply to many of the communities most at risk of displacement and in need of affordable housing, including East LA.

Program 9 of the Draft Housing Element would expand the Inclusionary Housing Ordinance to cover East LA only if supported by the updated economic feasibility study. However, economic feasibility studies are too often backward looking, relying on historic building trends and prices. In gentrifying areas, a backward looking study will underestimate development opportunities and can erroneously conclude that an inclusionary zoning requirement is not economically feasible. These communities actually need an inclusionary housing requirement in place *before* further market driven development and/or further speculation occurs.

DRP has told Eastside LEADS that inclusionary requirements must be supported by a feasibility study under state law and that is why the County cannot commit to expanding the Inclusionary Housing Ordinance to East LA at this time. However, it is important to note that a study is not required in every circumstance, and that there is no reason to delay such a commitment right now. Gov. Code section 65850.01 allows, but does not require, HCD to request an economic feasibility study of inclusionary zoning ordinances under limited circumstances, and the law explicitly restricts HCD's scope of review to determining whether the study was competently prepared and made available to the public. The County has already satisfied the requirements of this law and should commit to amending the Inclusionary Housing Ordinance to include currently exempted submarkets.[13]

We therefore recommend that Program 9 be amended to reflect a commitment to amending the Inclusionary Housing Ordinance by mid-2022 to include all submarket areas. Further, it is crucial that this amendment occurs *before* any program to rezone is completed. The coordination of all

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[12] *See also* HCD Review Letter at page 4.

[13]The County has already commissioned and received an economic feasibility study and supplemental study in 2018 and 2020, which are more than adequate to satisfy the requirements of Gov. Code 65850.01. See http://planning.lacounty.gov/assets/upl/project/housing_la_ahap_appendixE.pdf and http://planning.lacounty.gov/assets/upl/project/iho_supplemental-analysis.pdf.

of the rezoning programs - Programs 8, 9, and 17 - must occur to *ensure* affordability for all East LA sites before any rezoning takes place. The County cannot expect to have affordable housing built on these sites and count them for the low-income RHNA without a mechanism to ensure such housing is actually built - e.g. an inclusionary requirement in place.

Furthermore, expanding the Inclusionary Housing Ordinance to East LA is also incredibly important for another reason - without the baseline protections of an Inclusionary Housing Ordinance in East LA, the significant fair housing issues already highlighted in the Housing Element will be exacerbated in a manner inconsistent with Gov. Code § 65583(c)(9)(A), which requires both analysis of displacement risks as well as programs to address that risk.

Program 17: Adequate Sites for RHNA

Gov. Code §65583.2(c), as amended by AB 1397, provides that non-vacant sites identified to accommodate the RHNA in the previous housing element and vacant sites identified to accommodate the RHNA in the previous two housing elements may not be identified to accommodate lower-income RHNA for the current cycle *unless* those sites are subject to a program "to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households". This provision ensures that "recycled" sites identified to accommodate lower-income RHNA include at least 20% affordable housing.

In response to our previous comments and HCD's October 26 review letter,[14] DRP amended Program 17 to state that in order to comply with Gov. Code section 65583.2(c), "the program will rezone sites identified in the Site Inventory that are from previous housing elements to require 20 percent of the units in a housing development to be affordable to lower income households. The sites are already by right, per the County's By Right Housing Ordinance. This will be coordinated with Program 9: Inclusionary Housing Feasibility and Implementation."[15]

Although we appreciate that the County has now added an inclusionary program for the recycled sites, we remain concerned that these sites will remain by-right without any affordability until inclusionary requirements are adopted three years from now in October 2024. In rapidly gentrifying areas like East LA, this could make these sites unavailable for affordable housing and accelerate patterns of displacement. Therefore, we encourage the County to expand inclusionary housing requirements to these sites as soon as possible.

Program 22: Housing for Acutely Low Income Households Program

When the Board of Supervisors approved the Affordable Housing Preservation Ordinance in 2020, the Board instructed DRP to: "Consider adding a program in the Housing Element Update to research Deeply Low Income (DLI) and the feasibility of defining a local program for DLI, including practical availability of funding for qualifying projects."[16] We support DRP's decision to move up the timeline for this program from October 2029 to December 2024 in the Draft Housing Element.

We recommend that Acutely Low Income be included in any affordable housing incentive programs in the Metro Area Plan and any of the other area plans. We look forward to continuing

[14] HCD Review Letter at page 7.
[15] Draft Housing Element at page 30.
[16] *See* Item 71 of Statement of Proceedings for Nov. 10, 2020 Meeting of the Board of Supervisors, *available at* https://file.lacounty.gov/SDSInter/bos/sop/1081554_111020.pdf.

to work with DRP as it develops its incentive program for developers to target this much needed housing for LA County residents.

We also recommend that the Draft Housing Element be amended to include programs to *preserve* existing Acutely / Deeply Low Income housing. While we support the programs in the current draft Housing Element aimed at encouraging production of new ALI/DLI housing, there are no programs focused on preserving existing ALI/DLI housing. The County's current Affordable Housing Preservation Ordinance allows developers to replace units affordable to or occupied by ALI/DLI households with ELI units that are unaffordable to ALI/DLI households. At a minimum, the Housing Element should include a program with a short-term objective of amending the Affordable Housing Preservation Ordinance to require replacement of units occupied by or affordable to ALI/DLI households with units affordable to these households..

Program 38: Pilot Community Land Trust Program

We support DRP's decision to continue to grow the existing portfolio of sites purchased with support of county funding from five properties to "at least five properties." We are also encouraged by DRP's adoption of the recommendations submitted by the Los Angeles Community Land Trust Coalition. We agree with the recommendations by HCD that more details on the metrics of outcomes that DRP is targeting for this program are needed with respect to the number of families housed by this project.[17] DRP should also include metrics to guide the current need of "project based rental subsidies" for the unincorporated East LA area.

Program 40: Systematic Code Enforcement

The Systematic Code Enforcement program should be prioritized for the end of the short term or the beginning of the mid-term period, not towards the currently stated timeline of October 2029. The preservation of a quality housing stock is essential in preventing large-scale displacement, especially in working-class communities where slum housing conditions are prevalent. As stated in the Draft Housing Element, without a centralized code enforcement system and proactive inspections, it is challenging to truly gauge the extent and severity of substandard rental housing in unincorporated areas. This lack of a comprehensive habitability program leaves many rental units unassessed and even more families without recourse to receive urgent repairs. The Code Enforcement Workgroup (LACDA, DRP, DPH, and DPW) alongside DCBA should work alongside Stay Housed LA partners to identify trends in habitability complaints and explore options to develop a centralized code enforcement process that includes proactive inspections, a rent escrow account program, and a building acquisition program for egregious cases of noncompliance.

Program 41: Development of County Owned Sites

The County is the ultimate authority as it relates to permitting and development of County-owned sites that are located within an incorporated city. Eastside LEADS recommends that the County use its assets to support the tenants most vulnerable to displacement due to economic and market trends. Underutilized or empty public land should be used to develop community land trusts, deeply affordable housing sponsored or built by neighborhood-based nonprofits, and/or be the first sites to be considered for housing under Program 22: Housing for Acutely Low Income Households or new public housing. In SD1, there is an effort underway to study the potential to repurpose the Historic LA County General Hospital into an affordable

[17] HCD Review Letter at page 4.

housing and mixed-use development. Such an effort could help the County achieve RHNA goals by targeting deeply low and extremely low income housing needs.

Program 45: Rent Stabilization and Mobilehome Rent Stabilization Ordinances

We appreciate the updates DRP made to this program in response to our comments. DRP updated this program to add: "At the direction of the Board, these ordinances will be strengthened along with the County's capacity to address gaps in tenant protections for non-rent-stabilized units, enforcement of anti-harassment provisions, relocation assistance, and other emerging issues as needed, including opportunities to further support R/ECAP communities and other communities at risk of displacement."

During the 5th Housing Element Cycle, the County adopted a transformational rent stabilization ordinance to protect tenants in eligible units from exorbitant rent increases and arbitrary evictions. The success of this program illustrates the urgent need to further expand protections to better protect tenants currently covered by the rent stabilization ordinance and bring stability to tenants that do not live in eligible units. For example, in unincorporated East LA, nearly two-thirds of tenants live in units exempt from the County's rent stabilization ordinance.[18] To better protect these tenants, Program 45 should be expanded to include a short-term objective of amending the rent stabilization ordinance to require relocation assistance be paid to tenants in units ineligible for rent stabilization that are displaced by large rent increases. A relocation assistance requirement for tenants who are economically displaced from their unit will allow more of these households to find replacement housing in their communities and help prevent homelessness.

Program 46: Stay Housed L.A.County

In our last comment letter on the draft, we called for the County to expand the Stay Housed LA program and adopt a codified right to counsel for tenants in eviction proceedings as a program in the Housing Element. In response, DRP updated the draft to state that a program evaluation by USC is underway that will provide insights on the success of the program and on future programmatic and funding needs.

In order to gauge the success of the program, the County should reach out to Stay Housed LA partners. Stay Housed LA partners hold first hand experience about the benefits and effectiveness of this program because they collaborate with ongoing know your rights clinics and representation of tenants with their many housing issues including evictions, harassment, habitability, and with navigating access to language justice and technical needs. Reaching out to Stay Housed LA partners to evaluate the program is consistent with HCD's recommendation to "complement federal, state and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers."[19]

The County should not solely rely on the findings of the program evaluation being conducted by USC because the survey gathering is optional to tenants. There remains real hesitancy from tenants to undergo this survey by USC because of the stress that households are going through. The stress and confusion caused by the eviction process is one that tenants do not

[18] U.S. Census Bureau. 2014-2019 American Communities Survey 5-year estimate, table 25033, "Total Population in Occupied Housing Units by Tenure by Units in Structure."
[19] HCD Review Letter at page 3.

often want to re-experience and doing a survey or even a media interview puts the tenant back into the scenario that has caused them severe pain and anxiety. In addition to this survey, DCBA and lead agencies of the Stay Housed LA program should conduct site visits and interviews of the community based partners and legal service providers to learn more about the benefits and challenges of the Stay Housed LA program.

Program 47: Affirmatively Furthering Fair Housing

We appreciate DRP's addition of a program to explore adding protections from denial of housing based on eviction history, credit, rent or utility debt, or criminal history. These additions to the program are crucial as we move towards recovery from the pandemic so that households that face evictions due to nonpayment of rent or other protections are not negatively impacted.

Conclusion

As the blueprint for development in the unincorporated areas for the next 8 years, it is essential that the Housing Element not only plan for the development of much-needed housing for low-income residents, but also include strong programs to preserve existing affordable and rent stabilized housing, prevent displacement, and protect tenants. These programs are especially important for East LA, which is facing growing displacement pressures. We therefore urge the County to strengthen the programs in the Housing Element as recommended in this letter to address these displacement concerns.

We thank you for the opportunity to comment on the Housing Element and look forward to future public engagement as the Housing Element moves through the adoption process.

Sincerely,

The Eastside LEADS Coalition
Public Counsel