

READ AND CONSIDERED  
DATE 9/14/22 BY [Signature]

**RECEIVED**

SEP 14 2022

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA

**Response to Grand Jury Report Form**

Report Title: Affordable Housing: Monitoring and Compliance  
Report Date: June 14, 2022  
Response by: Mark Landman Title: Mayor  
Agency/Department Name: City of Cotati

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

I (we) agree with the findings numbered: F4, F5, F7, F11 (partially agree)  
I (we) disagree wholly or partially with the findings numbered: F1, F2, F3, F6, F8, F10 is unknown by City staff

(Attach a statement specifying any portions of the findings that are disputed with an explanation of the reasons.)

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

- Recommendations numbered: R8 have been implemented.  
(Attach a summary describing the implemented actions.)
- Recommendations numbered: R2, R5, R7 have not yet been implemented, but will be implemented in the future.  
(Attach a timeframe for the implementation.)
- Recommendations numbered: R1, R5, R6, require(s) further analysis.  
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. ***This timeframe shall not exceed six months from the date of publication of the Grand Jury report.***)
- Recommendations numbered: R3 (see attached explanation) will not be implemented because they are not warranted or are not reasonable.  
(Attach an explanation.)

Date: 9/14/22 Signed: [Signature]

Number of pages attached: 6

(See attached Civil Grand Jury Response Requirements)

RECEIVED

SEP 14 1955

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA

**Response to Grant Jury Report on Affordable Housing: Monitoring and Compliance – City of Cotati**Response to Findings

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

Cotati Response: Partially disagree. As the smallest City in Sonoma County, the City historically contracted with the Sonoma County Community Development Commission (CDC) to play the role of Housing Authority and Housing Administrator for the City. This agreement was formalized through a Joint-Powers Agreement. Unfortunately, this agreement was allowed to expire and efforts to re-instate it were not successful due to management and staffing changes affecting the CDC since approximately 2019. While re-instating this agreement is a top priority for City staff, the Cotati City Council allocated additional funding within the Community Development Department to create an affordable housing monitoring and compliance program, absent adequate support from the CDC. Further, State dissolution of redevelopment agencies in 2011 further reduced the City of Cotati capacity to incentivize the development of deed-restricted affordable housing and conduct robust monitoring. The combination of these two factors resulted in recent City-led monitoring efforts that were often inconsistent. However, no evidence has been found that monitoring has been inadequate.

At the time of this response, there are 19 projects in Cotati with deed-restricted affordable units, consisting of a total of 326 affordable units. Of these, six projects (consisting of 177 rental units) also have regulatory agreements with at least one other State or Federal housing agency who conduct robust monitoring, including regular on-site inspections. (These State and Federal housing agencies and/or programs include the California Housing Finance Agency or “CHFA”, Community Development Block Grant (CDBG), Low-Income Housing Tax Credit (LIHTC) and Housing and Urban Development or “HUD.”) This leaves 13 projects (consisting of 149 units) for which Cotati is the primary housing body responsible for compliance monitoring. However, a majority of these are ownership units (119), with affordable housing deed restrictions being recorded against their property titles.

Further, the most recently approved 13 of these owned homes are under Housing Land Trust of Sonoma County (HLT) management, and the HLT is involved in the ownership structure of these units, ensuring they remain affordable and owners qualify for the affordability restrictions. While city-led monitoring of these projects has been inconsistent since the CDC JPA agreement was allowed to lapse, the combination of State, Federal, and non-profit agencies responsible for monitoring 58% of the affordable units in Cotati and another 33% of these units including deed restrictions reviewed by title officers during any proposed transaction, allow a significant majority of our affordable housing stock (91%) to continue to receive robust monitoring, per their regulations. The Grand Jury Report does not reference or acknowledge the compliance monitoring that these agencies and restrictions ensure.

Table 3 of the Grand Jury report indicates that Cotati has no dedicated monitoring

personnel, which as of August 22, 2022, is incorrect. Even prior to adopting the FY 2022/23 budget, the City Council authorized the creation of a Planning Technician position in the Community Development Department to add staff capacity that will support the City's Housing Administration efforts. The CD department was able to successfully fill this position with the new Technician starting on August 22, 2022. Like most small cities, Cotati does not have the volume of transactions nor the budget to support a full-time individual for Housing Administration. For smaller cities, this function is best performed regionally or in a collective effort, which was previously performed by the CDC. Currently, the Community Development Department (supplemented by consultant/non-profit resources and/or CDC staff), is responsible for ensuring adequate monitoring of the City's Affordable Housing stock take place.

F2. The use of self-reported data in monitoring is the accepted norm.

Cotati Response: Disagree, in part. While this may have been true for the properties with limited numbers of inclusionary units where the affordability covenants rest with the City and no other agencies are involved in monitoring (30 units total or approximately 9%), this is not true of owned units with deed restrictions or units with required monitoring performed by CHFA, CDBG, LIHTC and HUD, all of which conduct regular on-site monitoring in addition to desktop monitoring. As noted in response to Finding 1 above, 91% of the deed-restricted affordable units in Cotati are also monitored by a State or Federal agency which conducts onsite monitoring, a not-for-profit housing organization and/or title officers reviewing any sale transactions.

As noted in the response to Finding 1, Cotati's recent staff increases and on-going conversations with the County CDC and consultant/non-profit resources will ensure robust and local compliance monitoring of projects within the City resume in Fiscal Year 2022/2023.

F3. On-site (in-person) monitoring beyond that required by law is rare due to insufficient personnel, budgetary limitations, and relatively low incentives.

Cotati Response: Disagree, in part. Please see responses to Findings F1 and F2.

F4. COVID-19 further reduced in-person on-site monitoring due to public health restrictions.

Cotati Response: Agree.

F5. Surprise or unscheduled monitoring of individual units is not done, for reasons of privacy, availability, efficiency, and practicality.

Cotati Response: Agree.

F6. Unscheduled monitoring of properties and management, in order to review tenant files, grounds, and the amenities is not done.

Cotati Response: Partially Disagree. Cotati City staff do regularly monitor the grounds and amenities of the larger affordable housing unit developments through unscheduled visits to these sites.

F7. The Community Development Commission has informational documents and policies to provide upfront training in the monitoring process.

Cotati Response: Cotati agrees with this finding, with the following clarification. City staff is not familiar with the specific informational documents and policies referenced by the Grand Jury, however City staff can confirm that the County does maintain webpages with current

area median income limits, rent limits and utility allowance schedule – which the City refers affordable housing property managers and owners to as needed. As the City continues to strengthen local monitoring, the City will document the monitoring processes.

- F8. There is limited or no standardized training in Affordable Housing compliance regulations for developers and managers of inclusionary housing within the nine Cities.

Cotati Response: Disagree, in part. Most jurisdictions, Cotati included, have detailed affordability covenants with developers and/or managers of inclusionary housing which specify the requirements and compliance expectations of projects with affordable housing units. Cotati Community Development Department staff and contract consultants/non-profits to provide substantial technical assistance to developers and managers of inclusionary housing projects during the development review process and throughout the initial marketing of newly constructed affordable housing units to ensure clear understanding of compliance parameters. However, it is correct that there is no on-going compliance training provided by City staff for managers of affordable housing units after they are initially constructed and occupied. Typically, guidance is provided as needed after occupancy. Any on-going regular training, if needed, would best occur at a regional basis.

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

Cotati Response:

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

Cotati Response: Unknown. City staff work with developers of for-sale affordable housing units to ensure proper deed restrictions, legal sale limitations and other title documentation is properly recorded against the ownership deeds for all affordable ownership units within the City. Cotati Community Development Department and Administrative Services Department staff are regularly contacted by title companies asking for clarification and/or confirmation of title documentations affecting the affordability levels of units proposed for sale and/or purchase. All recent affordable ownership units in Cotati have been put under the administration and stewardship of the Housing Land Trust of Sonoma County (HLT), to further ensure that all units are flagged as deed restricted. Because HLT owns the land each home sits on, they are legally required to be involved in every sale/purchase transaction and are required to provide express permission for the sale, income levels of the buyers and the sales price of the home. This model was adopted by the City of Cotati to both ensure that units remain affordable and that this affordability continues in perpetuity. The City of Cotati is also expressly identified as the land ownership beneficiary in these recorded documents, should the HLT no longer be able to provide these services.

Cotati staff have heard anecdotal stories of affordable housing units being “lost” due to unit owners and/or title officers not identifying or enforcing deed restrictions, however no specific addresses or properties have been identified. Staff is aware that any deed restricted units subject to foreclosure and sale by the bank would have had their deed restrictions removed as part of that process due to the subordination process of mortgage lending. Given the high number of homes foreclosed upon during the “Great Recession”, there is a

possibility that some of the City's deed restricted units were "lost" this way; however again City staff is not able to confirm any specific deed restricted properties having been re-sold at market rates.

- 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.

Cotati Response: City of Cotati staff agree with Finding 11 with the following clarification. While Cotati staff agrees that there is insufficient staffing resources to make anyone a "full-time compliance monitor," a dedicated full time staff member is not necessary to provide robust monitoring and maintain a monitoring program for the City of Cotati. In most small cities, there is insufficient volume of transactions nor the budget to support a full-time individual for Housing Administration. Strategic use of staff time, consultant/nonprofit resources and leveraging staff efforts by the CDC, CHFA, CDBG, LIHTC and HUD regarding monitoring and compliance work can ensure robust compliance monitoring and assistance without dedicating a single "full-time compliance monitor". Further, the Cotati City Council has prioritized providing staff to support this effort by creating a new Planning Technician in the Community Development Department.

### **Response to Recommendations**

- 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. (F7, F8)

Cotati Response: This recommendation requires additional analysis. Each jurisdiction has its own set of policies, programs, codes and affordability covenants governing affordable housing. For that reason, it may *not* be reasonable or warranted to develop one set of agreed-upon standards and procedures to monitor all affordable housing units in the County. With that said, over the past year, the City of Cotati has participated in County-initiated meetings to discuss how the County and Cities can collaborate on monitoring affordable housing units. The County has committed to facilitating additional meetings, and the City is committed to participating in these to discuss developing a collaborative compliance monitoring program with the County and other participating Cities.

- R2. The Sonoma County Community Development Commission and the nine Cities resume on-site monitoring by October 1, 2022. (F3, F4)

Cotati Response: For the City of Cotati, this recommendation has not yet been implemented, but will be implemented in the near future. The City has filled the newly created position and begun training this individual in housing compliance and monitoring. Further, the City has engaged with the County CDC to request this agency resume its past effort to support the smaller non-entitlement jurisdictions with a compliance monitoring program in Fiscal Year 2022-2023, and plans to resume on-site monitoring of projects for whom the City is the oversight agency in Fiscal Year 2022 - 2023. Actual monitoring activities and efforts are scheduled to begin in October or November, 2022, but may not be completed until mid-2023 depending on the timing of the CDC agreement, staff training and compliance inspection scheduling.

- 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. (F1, F2, F3, F5, F6, F11)

Cotati Response: This recommendation will be implemented for Cotati as it becomes needed. The City of Cotati cannot commit any other City in the County to any mandate or effort. Secondly, the Regional Housing Needs Allocations (RHNA) are planning a tool intended to *plan and zone for* projected local housing needs. However, RHNA does not guarantee that a specified number of units will be built, nor the timeframe for their construction. For this reason, it would not be reasonable or warranted to require sufficient personnel today to conduct on-site monitoring of units that are not yet in development and may never be built. Rather, Cotati staff find it is more appropriate to develop a staffing plan to support monitoring affordable housing units as these units are built and occupied.

Further, it is worth noting that the January 1, 2023 date is before local housing jurisdictions are required to adopt the Housing Element that will guide RHNA compliance, and compliance with RHNA is intended to occur over an eight-year time period. These facts further support building a monitoring and compliance program based on the actual needs of each community, rather than projections provided by the Council of Governments.

However, as has been identified above, Cotati has committed resources to ensure compliance monitoring of all existing and future affordable housing units within the City can be conducted, regardless of the outcome of the CDC negotiations and the timing of affordable housing units under the projected RHNA.

- 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. (F8)

Cotati Response: This recommendation requires additional analysis and as identified above, has already been partially complied with by the City of Cotati (regarding upfront training). As described in Recommendation R1 above, the City is committed to participating in the County-led meetings to discuss developing a collaborative compliance monitoring program with the County and other participating cities. The result of this work is expected to include informational documents and policies to provide upfront and ongoing training materials to support the monitoring and compliance efforts for developers and managers of affordable housing projects. Regardless of the outcome of this regional effort, the City will continue to provide personalized technical assistance (see Finding F8) to the affordable housing projects for whom the City is an oversight agency. I

- R6. By November 1, 2022, the nine Cities meet and discuss to jointly or individually utilize Affordable Housing monitoring software. (F9)

Cotati Response: The City of Cotati cannot commit any other jurisdiction in the County to any mandate or effort. This recommendation may not be implemented directly by the City. As noted in Findings F1, the City of Cotati has begun to engage with the County CDC regarding their resumption of monitoring and compliance efforts on behalf of the City. If this negotiation is successful, the CDC would utilize their current monitoring programs and

processes to support the City effort. As discussed in the City's response to Recommendation R1 above, the City of Cotati has joined County-initiated meetings over the past year to discuss how the County and Cities can collaborate on monitoring affordable housing units. This has included a discussion of affordable housing monitoring software. City staff cannot commit that the creation of a City led monitoring program will result in the purchase of software to facilitate this management. However, City staff will explore all options and best practices related to affordable housing monitoring.

- 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. (F11)

Cotati Response: This recommendation has not yet been implemented but it is anticipated that this meeting will occur prior to November 1, 2022. As discussed in the City's response to Recommendation R1 above, the City of Cotati has joined County-initiated meetings over the past year to discuss how the County and Cities can collaborate on monitoring affordable housing units. This has included a discussion of pooling resources, making resources consistent and combining efforts.

- 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. (F10)

Cotati Response: The recommendation has been implemented by the City of Cotati.