

READ AND CONSIDERED
DATE 9/7/22 BY [Signature]

Response to Grand Jury Report Form

Report Title: Affordable Housing: Monitoring and Compliance
Report Date: June 14, 2022
Response by: Jack Ding Title: Mayor
Agency/Department Name: City of Sonoma

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

I (we) agree with the findings numbered: F6

I (we) disagree wholly or partially with the findings numbered: F1, F2, F3, F4, F5, F7, F8, F9, F10 and F11

(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

- Recommendation numbered: R3 has been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered: _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered: R6 and R8 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: R1, R2, R5 and R7 will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: 09/02/2022 Signed: Jack Ding

Number of pages attached: _____

(See attached Civil Grand Jury Response Requirements)

FINDINGS OF THE SONOMA COUNTY CIVIL GRAND JURY
(2021 – 2022)

“Affordable Housing: Monitoring and Compliance.”

The City of Sonoma provides the following in response to the Findings made by the Sonoma County Civil Grand Jury:

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

Response: Disagree with respect to the City of Sonoma. The City of Sonoma records “Affordable Housing Agreements” for its Inclusionary “For Rent” and “For Sale” units. The City requires agreements for not just Very Low Income (VLI) and Low Income (LI) but also for Moderate Income units and, in 2021, created a new “Middle Income” category to which its Inclusionary Housing Ordinance applies. Within each aforementioned agreement, the owner provides documentation under penalty of perjury and on forms prepared by the City. The owner must provide on-going documentation annually to the City, which is reviewed by assigned staff. The City has retained the services of a consultant (Rise Housing) to oversee compliance and monitoring.

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

Response: Disagree with respect to the City of Sonoma. The City provides forms for use by the property manager or owners that are submitted to the City on an annual basis. The owners of units are required to report information as deemed necessary by the City to ensure that the units remain affordable for the terms of the respective agreement. Owners do not simply self-report data based on what they deem necessary information. They report under penalty of perjury. The City’s consultant will be conducting a full audit in 2022/23 and will develop a new procedure for the City.

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

Response: Partially agree. The City of Sonoma is able to conduct on-site monitoring as the need arises. The City would typically receive a complaint and respond accordingly. Any in-person monitoring would be performed by Planning Department staff. Given the size of the City, on-site visits should be manageable.

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

Response: Partially agree. The City of Sonoma received its annual reports during COVID-19 as required by its agreements but did not perform any on-site inspections.

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

Response: Partially agree. The City of Sonoma would conduct on-site monitoring as the need arises based on complaints. Staff would notify the managers or owners in advance as “surprise” or “unscheduled” visits could be considered inappropriate based on the affordable housing agreements. The City’s consultant will be conducting a full audit in 2022/23.

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

Response: The City of Sonoma is unaware of what “informational documents” that the CDC has for its programs. The CDC is a County agency. As a result, the City is unable to respond in agreement or disagreement with this Finding made by the Grand Jury.

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

Response: Agree with respect to the City of Sonoma. The City does not have compliance regulations other than those contained within the respective recorded affordability agreements. These agreements outline the responsibilities of developers and manager for “rental” or “for sale” units. Breach or default of the agreements may result in judicial action taken by the City. Each developer or manager needs to have its own procedures to maintain compliance with the agreements. However, staff turnover in the private sector is high, which may impact developers’ ability to comply. The City’s consultant is developing procedures which will facilitate training for City staff.

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

Response: The City of Sonoma cannot “agree” or “disagree” with this Finding that was made by the Grand Jury. It is more than likely to be true declaratory statement. It is helpful information to know about and is appreciated.

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

Response: Disagree regarding the City of Sonoma. The City’s affordability requirements in Sonoma Municipal Code Section 19.44.060 (C) – Continued affordability, state the following regarding deed restrictions (emphasis added):

C. Affordability Agreement. Affordability shall be guaranteed through an “affordability agreement” executed between the developer and the city (on a standard “For Sale” or “Rental” form approved by the

city council). The project specific "affordability agreement" shall be approved by the city attorney and planning director particular to the project. The agreement shall be recorded on the subject property with the county recorder's office before the issuance of building permits and shall become effective before final inspection of the first unit. The subject agreement shall be legally binding and enforceable on the property owner(s) and any subsequent property owner(s) for the duration of the agreement.

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.

Response: The City can only respond for itself on this Finding as it is unaware of the results of the interviews that the Grand Jury conducted with other housing representatives. The City of Sonoma partially agrees as to itself. The City has a small staff that monitors the agreements and is likely to devote more time on monitoring and compliance as the number of agreements increases. Within each agreement that has been recorded over the last year, there is a provision for a monitoring and compliance fee to be paid by the developer to the City to cover staff costs. At present a full-time compliance monitor is neither cost effective nor necessary. A large number of the City's affordable housing units are managed by well established, reputable non-profit organizations such as Burbank Housing and SAHA.

RECOMMENDATIONS OF THE SONOMA COUNTY CIVIL GRAND JURY
(2021-2022)

“Affordable Housing: Monitoring and Compliance”

The Sonoma County Civil Grand Jury recommends that:

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)

Response: The responsibility for monitoring affordability agreements in the City of Sonoma is outlined in the Sonoma Municipal Code (Section 19.44.060(C)). As such, the City Council directs policy and directs staff accordingly. Each jurisdiction in the County (including the SDC) is best suited to determine its own priorities and policies rather than try to adopt a one-size-fits-all approach. The City would consider reaching out to the other agencies in the County by December 31, 2022, to determine what standards and procedures currently exist.

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

Response: The responsibility for monitoring affordability agreements in the City of Sonoma is outlined in the Sonoma Municipal Code and within each affordability agreement. As such, the City Council directs policy and staff accordingly. The City has the right and opportunity to conduct on-site monitoring should it choose to do so and has that right in perpetuity. This enabling power is provided in the affordability agreements on an as-needed basis.

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)

Response: Task completed. The City of Sonoma has recently reviewed its inventory of affordability agreements with the assistance of a consultant and its legal counsel and has determined that the City has sufficient staff to conduct on-site monitoring and annual reporting as required by the affordability agreements that it currently has. The City now has the power and authority to collect annual fees for monitoring outlined in its standard form affordability agreements for “for sale” units and “rental” units. Further, the City will determine at a point in the future when it needs additional staff or consultant services as it builds its inventory during the completion of this present 5th Housing Element Cycle (one year remaining) and the 6th Cycle. The City requires affordability agreements not only for VLI and LI units but also Moderate and Middle income units. See SMC Section 19.44.020(C)(1)(a and b).

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)

Response: The affordability agreements outline the responsibilities of developers and managers for “rental” or “for sale” units. Breach or default of the agreements may result in judicial action taken by the City. Each developer or manager needs to have its own procedures to maintain compliance with the agreements. Staff turnover in the private sector is high in most cases. And may be the cause of inconsistent monitoring and compliance on their part. The City trains its staff to review the affordability agreements and receives advice from its legal counsel to update them as necessary. The City is working with its consultant to formalize an annual monitoring and compliance program for its purposes.

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

Response: The City of Sonoma will reach out to the other Cities within the County by November 1, 2022, to determine if the existing software that is used by the Cities of Rohnert Park and Petaluma is something that will complement the City of Sonoma’s tracking system.

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)

Response: The City of Sonoma has retained the services of a consultant (Rise Housing) to assist it in the implementation of its affordability agreements, which includes among other things, monitoring and compliance. The contract was approved in the First Quarter of 2022 and is a one-year contract. This assistance will allow the City to determine the focus of its future tasks and the City may wish to extend the contract if additional services are necessary.

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)

Response: The City of Sonoma will review its existing “for sale” agreements by December 31, 2022, to verify that all of the affordability agreements have been recorded pursuant to the provisions of the Sonoma Municipal Code. The City’s consultant, Rise Housing is doing this work currently. The updated inventory addresses both ownership and rental units. The City is coordinating with the County regarding properties once owned by the redevelopment agency.