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Submitted Electronically

Ben Metcalf, Director  
California Department of Housing and Community Development  
2020 W. El Camino Ave.  
Sacramento, CA 95833

Re: California's Housing Future: Challenges and Opportunities

Dear Director Metcalf:

Thank you for the opportunity to review the Statewide Housing Assessment 2025, *California's Housing Future: Challenges and Opportunities*. The cities of California are serious about their obligation to plan for their fair share of housing for all income levels and are committed to playing a role in meeting the housing challenges the Report identifies.

Our comments are divided into three categories:

- General comments about the Report's contents;
- Specific comments about the Report's premises and recommendations; and
- Topics not currently included in the Report.

### **General Comments**

1. The Report achieves its fundamental purpose: to assess California's housing needs. It provides a clear explanation of projected housing needs through 2025, demographic trends, current housing characteristics, and housing costs and affordability. The housing shortfall includes both rental and homeownership in terms of both supply and affordability.
2. The discussion of the cost implications of transportation (H + T Index) is a helpful tool for evaluating and understanding the full economic impact of where housing is located.
3. The Report suggests that in order to promote a housing market that is more accessible, affordable, equitable, and sustainable, the State must be "deliberate about understanding the diverse needs of Californians, the State's role in housing markets and assistance, and the tradeoffs inherent in the diverse policy options at its disposal" (page 33). We would suggest that the State also be deliberate about understanding the impact and role of the private sector in how, when, and under what circumstances housing is constructed.
4. In several places, the Report draws conclusions about, for example, the gap between housing that is planned for and housing is constructed, without any foundational support, examples, evidence, or other data. For example, at page 35, the Report cites the following "barriers and constraints:"

- Lengthy development review;
- Lack of certainty at the local level of where and what is economically and politically feasible to build;
- Local opposition; and
- Lack of enforcement of State housing laws.

The danger in drawing conclusions without foundation is highlighted in Figure 2.3 and Figure 2.4 in which constraints are assigned to various stages of the residential development process in a manner that infers that if the “constraint” were eliminated, the problem would be solved.

In order to determine both whether these factors are “barriers and constraints” and how to respond, we suggest that the Report add information that supports these conclusions including identifying the “State housing laws” that are referenced several times throughout the Report.

5. Appendix A is a detailed description of California’s “Diverse Needs.” We agree with the conclusion that this diversity makes “one-size-fits-all policies” difficult to implement and inefficient for meeting the diverse needs of all Californians. The Constitution reflects this conclusion in its grant of the police power to cities in order to allow local communities to respond to their peculiar and specific conditions.

### **Specific Comments**

1. *Cities do not build housing.* The Report conflates planning for housing and construction of housing. For example, on page 33, the Report explains that the housing element law requires cities to plan for their fair share of the regional housing need (RHNA) over a specific period of time. 90% of cities and counties in California have complied with this requirement.<sup>1</sup> Immediately thereafter, the Report states “not one region built enough housing to meet its regional need.” Neither “regions” nor cities build housing. The private sector builds housing. It is essential that the Report recognize this distinction in order to devise realistic solutions.

For example, one of the “options” to “reform land use policies” (page 49) suggests linking housing production and other housing goals to incentives and investments. Since cities don’t produce housing, and since State housing laws don’t require the private sector to build housing, we have difficulty understanding how “strengthening State oversight of housing laws to improve housing production” responds to the housing challenge.

2. *Cities do not control the market.* The Report states that “local governments do not permit enough housing to meet their need in part because [of] market conditions.” We suggest that the Report compare the number of housing units that cities have approved against the number of applications for building permits to add another dimension to this analysis.

Appendix B (page 4) states that failure to meet “housing production goals” is due to market conditions, competition among builders for housing demand at the higher-income and price levels, lack of subsidies for affordable housing and legal and political processes that can stop or dramatically slow housing projects. We agree with this analysis and suggest that these factors be emphasized in the body of the Report rather than the “barriers and constraints” discussed at pages 33-37.

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<sup>1</sup> Table B.3 (Appendix B, page 11).

3. *The RHNA process is antidote to “fiscalization” of land use.* The Report cites “incentives to approve sales-tax generating development” rather than residential development as a constraint to the construction of housing. Cities that plan for their fair share of housing have directed the development community to sites that can be developed for housing within the housing element planning period and that are suitable for residential development.<sup>2</sup> Although there may be incentives to approve sales-tax generating development, the housing element site inventory and the “no net loss” statute<sup>3</sup> mean that these incentives do not impact the production of housing.

4. *Streamlining the approval of housing with robust public engagement and environmental review early and upfront may speed up, and reduce the cost of, the housing approval process but might not mean more housing is constructed.* The first category of options to address the housing challenge is called “Reforming land use policies to advance affordability, sustainability, and equity.” The League of California Cities generally agrees with Option #1 with one significant exception. This option suggests strengthening “existing regulatory and entitlement tools for local governments” such as Density Bonus Law, Housing Accountability Act, and Mitigation Fee Act.” We are unable to evaluate this suggestion without more detail and analysis. For example:

- Data that compares the number of units approved under the Housing Accountability Act compared to the number of submitted building applications for those units;
- Data that explains which, if any, exceptions are used by cities to disapprove housing projects under the Housing Accountability Act; and
- Information on alternative funding sources to provide services and facilities to housing development if mitigation fees are reduced to a level that does not support those services and facilities.

5. *Analyze, track and report on difference between the number of housing units approved by cities and the number of applications for building permits submitted by developers.* An option under “reform land use policies to advance affordability, sustainability, and equity lists key areas to improve existing reporting, tracking and analysis to measure progress. We are suggesting adding this important information to provide a more complete picture of the contribution of the market to the housing challenge.

6. *Impact fees are limited to the reasonable costs of facilities and services required by the housing development.* “High impact fees” are identified as a “constraint” to the production of housing. We would like to caution that the amount of impact fees is restricted under current law. If cities are not permitted to recoup their cost for providing services and facilities to new development through impact fees, then the State must be prepared to identify an alternative funding source for these services and facilities.

7. *Authorize inclusionary rental programs.* Appendix B mentions the impact of the *Palmer/Sixth Street Properties* case on inclusionary rental programs. Legislative clarity on how inclusionary rental programs can coincide with the Costa-Hawkins Act would allow some jurisdictions to pursue this effective way of providing affordable rental units.

## **Topics Not Currently Included in the Report**

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<sup>2</sup> Gov’t Code 65583.2(a)

<sup>3</sup> Gov’t Code 65863.

1. *A complete picture of the Challenges and Opportunities in California's Housing Future must include a discussion of CEQA as a "constraint."* Identifying compliance with CEQA as a "constraint" does not mean disagreeing with its valid public policy purposes and objectives. However, it does acknowledge the resources (time and money) that compliance requires. We agree with "environmental review early and upfront" (page 48). However, that's only part of the story. CEQA requires re-evaluation of a project (even a residential project that is consistent with a specific plan for which an EIR has been prepared) if "new information or changed circumstances" reveal environmental impacts not previously evaluated. This current requirement means re-starting the CEQA cycle (with its time, money, and potential for litigation).

2. *Tax-increment financing was a significant funding source for affordable housing.* Challenge 3 is "unstable funding for affordable-home development." The League of California Cities supports the use of the new funding tools provided by Enhanced Infrastructure Financing Districts and Community Revitalization Investment Authorities.

However to complete the picture of Challenge 3, we suggest that the Report add (a) the significant role played by redevelopment agency tax-increment financing including, for example, the number of affordable housing units constructed through this financing mechanism; and (b) the significant investment local voters are making in housing bonds such as the more than \$2 billion approved by three counties in November, 2016.<sup>4</sup> We understand that Proposition 98 meant redevelopment tax-increment financing included a contribution from the State's General Fund. We would suggest that there remains a role for a contribution from the State's General Fund in providing affordable housing.

Thank you for the opportunity to review the Statewide Housing Assessment 2025, *California's Housing Future: Challenges and Opportunities*. If you have any questions regarding the League's comments, please contact me at (916) 658-8264.

Sincerely,



Jason Rhine  
Legislative Representative

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<sup>4</sup>Alameda County, Los Angeles County, and Santa Clara County.