



City Council Agenda Item Staff Report

Rico E. Medina
Mayor

CITY OF SAN BRUNO
OFFICE OF THE MAYOR

August 23, 2023

Honorable Nancy L. Fineman
Judge of the Superior Court
c/o Bianca Fasuescu
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655

Subject: Response of the City of San Bruno to the San Mateo County Civil Grand Jury Report "Accessory Dwelling Units: Affordable Housing's Panacea or Prevarication?"

Dear Judge Fineman,

Thank you for the opportunity to respond to the Grand Jury Report entitled "Accessory Dwelling Units: Affordable Housing's Panacea or Prevarication?" The City of San Bruno's response to the findings and recommendations of the report are listed below.

Response to Findings:

F1. Due to recent changes in California ADU-related laws, local governments cannot condition ADU permits in San Mateo County on complying with affordability monitoring and verification.

Response: Agree.

F2. San Mateo County and most of its municipalities rely on ADUs to meet their affordable housing commitments in their RHNA-6 plans.

Response: Wholly disagree. If the finding read "San Mateo County and most of its municipalities include ADUs to meet their affordable housing commitments in their RHNA-6 plans," then the City of San Bruno would agree with the finding. The City of San Bruno is required to plan for a housing allocation of 3,165 units. The City of San Bruno's adopted Housing Element plans for 3,662 units. The portion of the City's housing allocation that consists of ADUs is 240. If circumstances result in no ADUs being built in the planning period, the City could still meet its required housing allocation at all income levels.

F3. Atherton, Hillsborough, Portola Valley, and Woodside rely on ADUs to meet as much as 80 percent of their affordable housing commitments in their RHNA-6 plans.

Response: No comment.

F4. HCD has instructed San Mateo County jurisdictions to monitor and verify future ADU production and affordability every two years but has yet to specify how to verify whether very low-, low- or moderate-income households are occupying the ADUs as planned.

Response: Agree. For clarity, HCD requires all California jurisdictions to monitor and report on all housing production.

F5. Other than Brisbane and Redwood City, San Mateo County and its jurisdictions have yet to articulate how they will monitor and verify ADU production or affordability.

Response: Agree. The City of San Bruno received the HCD comment related to ADU reporting, in addition to several other comments. The City of San Bruno has not completed its revisions to respond to HCD's comments, which is tentatively scheduled to be resubmitted to HCD in August or September 2023. The City of San Bruno is committed to provide reasonable ADU monitoring and reporting to HCD's satisfaction.

F6. Without effective ADU monitoring and verification, it will be impossible to evaluate whether the jurisdictions are meeting their RHNA-6 obligations for low-, very-low, and moderate-income housing units.

Response: Wholly disagree. As noted previously, the City of San Bruno includes 240 ADUs as part a total 3,662 unit plan that fulfills the required 3,165 unit allocation. Theoretically, the City of San Bruno can still fully meet its RHNA obligations for every affordability category without a low-income ADU being provided. As noted previously, the City of San Bruno is committed to provide reasonable ADU monitoring and reporting to HCD's satisfaction.

F7. ADU affordability and occupancy could be monitored by agencies such as HIP Housing which has proven systems and processes to verify occupancy of deed-restricted rental properties in San Mateo County.

Response: Agree. For a cost, ADU affordability and occupancy could be monitored. The question facing jurisdictions that do not have a high proportion of ADUs in their housing allocations is how much of the limited public funds available should go toward monitoring of a small number of units, or toward efforts that can have a greater impact for more lower-income households.

Response to Recommendations:

R1. San Mateo County and each City should immediately stop using ADUs to meet their State-mandated very low-, low-, and moderate-income housing targets in their Housing Element submissions until they have also proposed an effective monitoring system that verifies how newly developed ADU's will be used.

Response: The recommendation will not be implemented because, as written, it is not warranted or is not reasonable. The City of San Bruno will monitor and report on all housing types, including ADUs, in a manner that meets HCD's satisfaction. However, this recommendation is not warranted because HCD will not certify a Housing Element submission until that Housing Element includes monitoring and reporting to HCD's satisfaction. HCD may require less detailed monitoring and reporting of ADUs for City's that have a low percentage of ADUs when compared to City's with high percentage of ADUs. HCD's decision is based on their expertise and understanding of State law, and also their experience reviewing hundreds of Housing Elements for a wide range of California jurisdictions.

R2. By February 1, 2024, San Mateo County and each City should develop, adopt, and implement a verification system capable of monitoring and verifying how newly developed ADU's are being used.

Response: The recommendation has not yet been implemented, but will be implemented in the future. The City of San Bruno will establish a monitoring and reporting system for all housing types, to HCD's satisfaction, in a timeframe that is acceptable to HCD.

R3. By February 1, 2024, San Mateo County and each City should develop and adopt incentives for ADU owners which could be offered in exchange for deed restrictions that would include requirements for ADU tenants to participate in independent monitoring.

Response: The recommendation requires further analysis, and may not be implemented because annual reporting may show additional incentives are not necessary or warranted to achieve the City's RHNA. The City will monitor and report on all types of new housing production, to HCD's satisfaction. If the City's housing production does not keep pace to meet the RHNA, as evidenced through the City's annual reporting to HCD, the HCD will require the City will have to take additional steps to reduce governmental constraints on housing production. That could include incentives for certain housing types, such as ADUs, if the City has a need for producing more ADUs. However, it is also possible the City can achieve its RHNA without a significant number of lower income ADUs, therefore establishing incentives for ADUs may not be warranted and those resources would be assigned to other areas of housing needs.

R4. By February 1, 2024, San Mateo County and each City should track the intended use of ADUs – rented or non-rented – during the permitting process and offer incentives in exchange for deed restrictions that require ADUs to be used as rentals.

Response: The first part of this recommendation has not yet been implemented, but will be implemented in the future. The City will establish a system for monitoring and reporting on new housing production, including ADUs, to HCD's satisfaction. The timing of this implementation will be subject to the City's continued work with HCD. The second part of this recommendation regarding incentives requires further analysis, as noted in the response to R3, and may not be implemented because it may not be warranted.

R5. By April 1, 2024, San Mateo County and each City should develop and adopt a new ADU affordability distribution formula specific to each jurisdiction to the extent they are used for meeting the very low-, low-, and moderate-income housing requirements in their RHNA housing elements.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. The City of San Bruno will work with HCD to ensure compliance with housing laws. If HCD accepts the ABAG affordability assumptions for ADUs, then the City of San Bruno intends to utilize those assumptions. The ABAG assumptions are based on a UC Berkeley study that surveyed thousands of homeowners statewide with repeat mailing and the data was aggregate to reduce the margin of errors. There is also no evidence in the data to suggest significant variation from city to city. The recommendations for an affordability distribution of 30/30/30/10 (very low/low/moderate/above-moderate) had a significant cushion built in to ensure cities did not accidentally underproduce the amount of housing needed.

Since ADUs are a relatively small portion of the City's allocation, and since there are finite resources available to put towards housing, the City reserves the right to focus resources on efforts that will have the greatest impact, within the law.

R6. San Mateo County and each City should consider working together to address Recommendations 2 and 3.

Response: The recommendation has been implemented, as San Mateo County jurisdictions work collaboratively through 21 Elements to develop, adopt, and implement a range of policies and programs in the county, including housing issues.

This response was approved by the San Bruno City Council at a public meeting on August 22, 2023.

Sincerely,

Rico E. Medina
Mayor