



June 28, 2022

County of San Bernardino

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Via email

6/28/2022

Dear Reader,

We appreciate the opportunity to comment upon and provide observations on the June 2022 San Bernardino County draft Housing Element:

[http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE\\_DRAFT\\_FOR%20HCD/HousingElement\\_CWP\\_TechReport\\_Draft\\_2022\\_June.pdf](http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/HousingElement_CWP_TechReport_Draft_2022_June.pdf)

We are pleased to see within this current draft that the timeline for implementation of Program 4 has been moved up. This accelerated timeline is appropriate for beginning to acknowledge and address the severe effects of the unbridled introduction of Short Term Rentals (STRs) within the unincorporated areas of the county. The current 45 day pause in the issuance of new STR permits provides space where the actions described with Program 4 can begin, however will be insufficient to complete the studies needed to fully understand the scope of the issue associated with STRs.

The changes we see in this written document of the Housing Element are very positive, however we believe these changes should be implemented prior to adoption of the Housing Element after this round of State HCD review. The Program 4 studies, including the study on displacement, must to be initiated, along with the creation of ad hoc community committees in the STR-affected community plan areas, PRIOR to approval of this Housing Element by the Planning Commission and adoption by the Supervisors.

Following are general comments based upon the “highlighted” notes made by Colin Drukker of Placeworks on the February 7, 2022 letter by HCD to the County on the Draft Housing Element. (In some cases we were not able to read the entirety of the notes that refer to changes made within the June 2022 Housing Element Technical Report) :

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*Post Office Box 24, Joshua Tree CA 92252 – [www.mbconservation.org](http://www.mbconservation.org)*

*MBCA is a 501(c)3 non-profit, community based, all volunteer organization*

[http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE\\_DRAFT\\_FOR%20HCD/sbdSanBernardinoCouDraftOut020722\\_CountyResp.pdf](http://www.sbcounty.gov/uploads/LUS/HousingPlans/JUNE_DRAFT_FOR%20HCD/sbdSanBernardinoCouDraftOut020722_CountyResp.pdf)

Here is the updated section that reviews the changes that Placeworks has made due to the last round of comments. We have included the updated changes to the County's Housing Element Technical Report (in italics) so that the readers of our MBCA letter benefit from seeing the sections that discuss the housing concerns related to STR saturation in one location together, in a relatively "accessible" document (our MBCA letter) as opposed to having to find these sections in the very large Tech Report.

On page 1-37 of the June Technical Report:

*During the 14 days of public review, the County received eight comment letters, including representatives from the Inland Counties Legal Services, Morongo Basin Conservation Association, Peoples Collective for Environmental Justice, Sierra Club, and several residents from East Desert communities. The County considered these comments over the course of two weeks and made the following types of revisions:*

- ♣ Data corrections and clarifications (e.g., incorrect figures or notes on sources)*
- ♣ Clarifications on the amount and nature of public outreach*
- ♣ Expedited dates, additional narrative, and refinement of Program 4. Short-term Rentals*

**"Displacement"** section of the HCD comment letter.

We were not able to see the entirety of the highlighted Drukker note. We agree with Drukker's note per their changes to 1.3.5. The changes now make it clearer that the community is very concerned about issues with short term rentals. The large number of residents, and a surprising number of non-residents, that answered the county survey indicates the widespread concern about the effects of so many STRs in the community.

We have copied the corrected narrative from the Tech Report that now emphasizes the concerns on housing impacts due to so many STRs during public outreach meetings:

On page 1-35 of the June Technical Report:

*Of the roughly 1,700 respondents, roughly a third or more expressed some level of concern on every issue. Many of the issues relate to nuisance concerns (e.g., noise) and a request for greater regulation and/or code enforcement. Other issues (e.g., impact on roads) relate to concerns over greater population impacting infrastructure. One issue relates closely to the provision of suitable housing stock: concerns on short-term rentals reducing long-term rental options. Roughly 40% of Desert region respondents and 35% of Mountain region respondents indicated that they were concerned about this issue.*

*Additional public input from Desert region residents received during the distribution of the draft Housing Element reiterated this concern.*

On page 1-36 of the June Technical Report:

*Unincorporated residents also expressed concern about the persistent popularity of short-term rentals, both in terms of nuisance issues and the potential negative impact on the supply of affordable longterm housing for lower income residents and employees. To bolster the County’s recent modifications to limit the development of short-term rentals to the Mountain and Desert areas (see [str.sbcounty.gov](http://str.sbcounty.gov)), public input directly influenced the creation of Program 4 to evaluate the potential impacts of short term rentals on the supply of affordable housing and the local hotel industry.*

*In parallel, unincorporated residents across a broad range of communities communicated a desire for more rental housing opportunities and rental assistance—particularly during the outreach for the Consolidated Plan and Analysis of Impediments to Fair Housing. In addition to influencing Program 4, this input encouraged the County to include a program in the Consolidated Plan and Programs 7 and 8 in this Element to support the development and modernization of affordable rental housing, including projects located near job centers that will be affordable to service employees and other low-wage members of the workforce. While the initial quantified objective is relatively small, the County is looking for additional funds and opportunity sites to bolster its efforts.*

See below for inconsistencies in dates for implementation of Program 4.

**“Assessment of Fair Housing Issues”** highlighted note of the HCD comment letter. This change continues to better report the concerns over housing related to so many STRs in the community.

On page 2-89 of the June Technical Report, added:

#### *Related Outreach*

*The County received public input related to disproportionate need and displacement related to overpayment, homelessness, and displacement. Input on overpayment and displacement were most commonly cited together in connection with the surging popularity of short-term rentals, with members of the public expressing strong concern in the Mountain and Desert regions that property owners have been converting a sizable portion of the long-term rental housing stock to short-term rentals, which is cited as a problem for some long-time residents, lower wage workers, and businesses that employ lower wage workers. Public input on homelessness highlighted the need to address the root causes of homelessness and expand homelessness prevention and housing programs, both related and unrelated to COVID.*

On page 2-91 of the June Technical Report under **Homelessness**, (we did not copy that section here due to its size.)

We are pleased to see more clarity and the acknowledgement that the Point In Time Count was not fully accurate, as the many people and families doubling up on couches or living in cars in friends' driveways was not included in the count, etc.

We have been informed by Morongo Basin ARCH that the point in time count was shifted one month due to COVID, and consequently previous arrangements had to be abandoned and re-scheduled affecting the accuracy of the count.

Under the Displacement Risk heading on Page 2-92 of the Tech Report the following was added:

*Some public input stated that the tremendous popularity of short-term rentals (particularly in the East Desert region), is pushing out residents that previously occupied homes as long-term renters. As part of the County's short-term rental survey (2021-2022), roughly 650 residents from the Mountain and Desert regions expressed concern about the potential reduction in long-term rental housing due to the increase in short-term rentals. Additional anecdotal evidence was offered regarding a reduction in the number of monthly rentals being advertised and residents' statements that they know others who have had to find new housing.*

*Through additional analysis as part of Program 4 of the Housing Strategy, the County will evaluate the prior tenancy history of homes that obtained short-term rental permits to better understand whether a substantial number of property owners are terminating or deciding against renewing leases with long-term tenants in order to convert the property to a short-term rental. The County will also evaluate the supply of rental properties (and at what rate) in locations where short-term rentals are popular.*

**While the above describes that a review of displacement is to be added to Program 4, the description of Program 4 found on page 5-8 makes no mention of displacement.**

A study of displacement will require careful analysis. Within the Joshua Tree community, we recommend consultation with the Joshua Basin Water District to study the records of property ownership in this regard. The formation of ad hoc committees familiar with the individual communities would play an important role in establishing the effects of STRs on their community.

On page 2-93 of the June Technical Report:

*The County considers short-term rental housing to be a potential contributor to increasing displacement risks in the Mountain and Desert regions, although the County must complete further study to confirm where and how many property owners are changing from long- to short-term rental patterns, as well as where and how many property owners are developing new housing units explicitly for use as a seasonal home*

*(by the property owner) and that is being made available to others as a short-term rental.*

Referring to page 2-101 of the June Technical Report:

We are pleased to see the timeline moved up for study and caps by community plan area. The delineation of communities and neighborhoods is of utmost importance in the initiation of the studies described in Program 4. Some communities requiring studies may not have a pre-described community plan boundary and the boundaries of the study areas will need to be established.

**The detailed description of Program 4 must include a displacement study as described in 2-92 of the Tech Report**

Again, we appreciate the County listening to all the comments and accelerating the dates for the initiation and completion of Program 4. We do need to see that this great plan has been initiated with robust action, prior to the approval of the Housing Element by the County.

2.6.4 Contributing Factors on page 2-99 of the June Technical Report:

(This section refers to Table 2-34. There is no Table 2-34. Should be 2-33.)

***Table 2-33 page 2-101***

***Factors that Contribute to Fair Housing Issues***

***Contributing Factors (High Priority)***

*Short-term Rental Housing: The prevalence of short-term rental housing, particularly in tourism areas, may constrict the availability of rental housing and increases rental prices even after County amendments in 2019. This can create an issue where lower income residents and employees lack access to affordable housing.*

***Meaningful Actions, Metrics, and Milestones***

*Conduct a public planning process to develop policies to limit the negative impacts of short-term, whole-home rentals on the availability of affordable long term rental housing (see also Program 4 in the Housing Strategy).*

***Timeline:***

*2022: Initiate a study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions.*

*2023 Draft and bring forward an interim cap for consideration by the Board of Supervisors on the total number of short-term rental permits on an annual basis and/or*

*a percentage of total housing units within each community planning area in the Mountain and Desert regions*

*2023: Conduct public engagement to obtain insight from property owners, employers, and employees in target areas*

*2023: Conclude study and initiate implementation of strategies based on the study's findings*

*Metrics: Completed study and public input; new regulations on short-term rentals and incentive program to use properties for long-term rentals for local employees and lower income residents*

We appreciate the County fixing the issue of removing the stand-alone STRs from the RHNA numbers. These details of what to include and what not to include in numbers and statistics must be addressed in depth, during the Program 4 study. For example, hosted STRs do not carry the same impact on housing as stand-alone (whole house) STRs, so the numbers must reflect these distinctions. Community members renting out a trailer or RV STR on their property is a potentially a source of extra income, and do not affect housing, but could affect surrounding neighbors. There are many issues to discuss, and that is why the Program 4 study also needs to include the creation of community-based ad hoc committees.

On page 3-24 of the June Technical Report:

### ***Housing Constraints***

#### ***Short-term Rental Permit***

*Short-Term private home rental permits are required for private homes, located in the Mountain and Desert regions, that are rented for periods of thirty days or less. Permits are required to ensure specific standards are met. Some of the requirements include a limitation of occupants and vehicles, 24-hour availability to resolve complaints, and compliance with relevant fire, building, zoning and health and safety codes. The following types of housing are not eligible for use as a short-term rental: multifamily structures, yurts, travel trailers, and RVs throughout any part of the unincorporated county; and any home in the Valley region. Through the implementation of Program 4, the County will evaluate and address the potential impact of short-term rentals on the availability and/or affordability of housing in the unincorporated areas. The County will also, through Program 4, ensure that no short-term rentals are counted toward the County's RHNA allocation. By their very nature, short-term rentals are not considered to be permanent housing options (by contrast monthly apartment rentals offer the ability to renew and occupy the same unit repeatedly). Accordingly, no analysis of the permitting process is provided.*

On page 5-8 of the June Technical Report:

**Program 4**

**Objective:** *Conduct a public planning process and study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions. Establish and implement strategies based on the study's findings. Update and resubmit 2018 through 2021 annual progress reports (APRs) and ensure that future reports account for units (ADUs, site-built homes, or manufactured homes) that apply for a short-term rental permit and communicate this information to HCD to remove such units from being counted as long-term housing units (at any level of affordability).*

**Timeframe:** *Initiate study in 2022 and complete public outreach and engagement in 2023, with a target completion date no later than 2023. Establish and begin implementation of recommended solutions by 2024 if the study's conclusions support the establishment of incentives and/or a limitation (by region and/or for specific unincorporated communities). By March 2023, bring forward an interim cap for consideration by the Board of Supervisors on the total number of short-term rental permits on an annual basis and/or a percentage of total housing units within each community planning area in the Mountain and Desert regions. Update 2018-2021 APRs in 2022 and adjust future APRs annually to remove units used for short-term rentals.*

The implementation date shown above is inconsistent with time frame described elsewhere. Implementation should be **2023**.

Program 4 as stated above does not include a study of housing displacement. This study is necessary and was committed to elsewhere by the County.

We are pleased to see a commitment by the County to revise past Annual Progress Reports to remove STRs from the RHNA numbers.

On page 5-18 of the June Technical Report:

**5. Housing Programs**

*Short-term rental housing (see Program 4).*

*The County will conduct a public planning process to develop policies to limit the potential negative impacts of short-term, whole-home rentals on the availability of affordable long term rental housing. This study will be initiated in 2022, informed by public and stakeholder engagement completed by 2023, and concluded by 2024, followed by implementation of strategies based on the study's findings.*

The time frame associated with Program 4 is not consistent with the time frame stated in Table 2-33. The studies are to be completed and implemented in 2023.

**“Local Knowledge and Data”** and **“Site Inventory”** highlighted note of the HCD comment letter:

The incorporation of Community Plans within the Development Code would serve to provide insight on local knowledge and data. However, in October 2020, all 14 Community Plans were repealed by the County, thus hampering the incorporation of local knowledge and input into the decision making process. Given its huge size and diversity, the county must now rely upon input from ad hoc committees in local communities to gain needed insight into local conditions.

We believe incorporating local knowledge into the planning process would serve to promote appropriate development in this diverse county. We recommend that the existing planning commission be re-structured into 4 separate planning commissions: for the Valley region, the Mountain region, the North Desert region, and the East Desert Region.

In this regard pre-construction site inspections must be re-introduced during the permitting process for all construction projects. We are still seeing lot line to lot line clearing in violation of codes, as well as piles of destroyed bladed yuccas. The requirement for pre-construction inspections is written in the Development Code still, in areas with sensitive desert plants: Joshua trees, Mojave yuccas, and others. The code also dictates for dust control, that properties should only be cleared for the buildings, driveways and immediate yards.

These impacts from the increase in development driven by the STR market must be analyzed by the County in a proper EIR analysis of the “Project” under CEQA.

**“Consistency with General Plan”** highlighted note of the HCD comment letter:

On page 1-1 of the June Technical report:

### **1.2 General Plan Consistency**

*State law requires that “the general plan and elements and parts thereof comprise an integrated, internally consistent, and compatible statement of policies.” The purpose of requiring internal consistency is to avoid policy conflict and provide a clear policy guide for the future maintenance, improvement, and development of housing within the unincorporated county.*

*The County completed an update to its Policy Plan (October 2020), shortly before embarking on the update of its Housing Element. The Policy Plan update included policies that address topics such as complete streets requirements, environmental justice policies and actions, flood hazards and management, and climate adaptation and resiliency. All elements of the County Policy Plan (which serves as its “general plan”) have been reviewed for consistency in coordination with this Housing Element update, and the County will continue to maintain consistency within the entire Policy Plan.*



**There continues to be an inconsistency between the existing STR ordinance and the County Wide Plan (CWP) that will only be resolved with the implementation of Program 4. Part of the Program 4 study and ad hoc committees should include review of the STR policies as well as the CWP policies for improvement of language.**

We appreciate the work to tidy up the percentages and information in this section.

On page 1-1 of the June Technical report:

### ***2.2.3 Housing Tenure and Vacancy***

*A number of unincorporated communities in the Desert region also contain a substantial amount of vacant housing, with roughly one in four units sitting vacant for at least part of the year. In Joshua Tree, for example, of the estimated 900 to 1,000 total vacant units (23% of all units in Joshua Tree), over 700 or 18% of all units are for seasonal, recreational, or occasional use. In Homestead Valley, roughly one in three units (778) sit vacant for at least part of the year, most of which (563) are for seasonal, recreational, or occasional use.*

The above illustrates the importance of relying on accepted current data. Following is a link to an article that was published in the Desert Sun following the June 14 Board of Supervisors hearing and vote that provides insightful data. During the course of comments being accepted on STRs many different data sets were referenced. Detailed data sets were presented by community members who have been tracking the proliferation of STRs, AirDnA has been referenced and the County's own numbers have been utilized. It is critical that transparent, reliable and creditable data be used for Program 4.

<https://www.desertsun.com/story/news/2022/06/14/san-bernardino-county-pauses-new-short-term-rental-permits-joshua-tree-big-bear/7611599001/>

As written on page 2-49 of the Technical Report:

*Since 2020, the popularity of short-term rentals has expanded substantially, with thousands of short-term rental permits issued throughout the Mountain and Desert regions. It is unclear exactly how many of these units were previously occupied by long-term renters, how many are maintained as seasonal homes for the property owner (who also makes the units available as short-term rentals), and how many are owned by companies/investors that operate the units exclusively as short-term rentals.*

The above analysis must be included within the studies to be undertaken in Program 4.

Continuing on page 2-49 of the Technical Report:

*Both the Mountain and Desert regions are popular tourist destinations that draw people from around the nation. The Mountain region in particular contains several resorts with workers earning lower incomes that need seasonal or full-time housing. The Desert*

*regions offer their own unique tourist experience, with communities in the East Desert offering nearby access to Joshua Tree National Park. Based on public outreach input, some of these workers have difficulty finding housing due in part because of the prevalence of short-term rentals, which can also cause problems for local businesses that struggle to maintain a workforce. **Concerns expressed in the Desert region related more to noise issues associated with short-term rentals, though some residents also indicated that short-term rentals may impact the ability of some (e.g., students attending Copper Mountain College) to obtain nearby and/or affordable housing.** Other public input indicates that the short-term rental market may have already reached or be reaching a saturation as bookings decrease and some property owners complaining of failing to make adequate revenue.*

The bolded section above was removed within the current draft technical report. This information is needed to comprehend the on-the-ground effects of the housing crisis.

In conclusion we are pleased with many of the revisions made to the Technical Report and look forward to seeing these planning policies being reflected and acted upon by County decision makers of the Planning Commission and the Board of Supervisors.

We believe there must be meaningful actions taken to initiate the studies described within Program 4 prior to the adoption of the Housing Element.

The natural environment is delicate, sensitive, easily scarred and slow to heal. All land use and development decisions have to be made through the lens of the on-going effects of climate change. The desert floor (flora and fauna) must be respected for future generations to enjoy, and for the services of carbon sequestration, dust control and flood prevention. Smart development must be in-scale and in character with the Desert for residents and tourist's enjoyment. Encouraging and allowing conversion of over 20% of our once-affordable housing stock into tourist lodging businesses in residential zones in just three years, led to displacement of many community members of different economic levels (low and middle income) with a population drop and then the knock-on effect of inflating the housing market and rental market out of reach of the majority of remaining residents of all economic levels – a perfect storm of policy being written for one county department, but then not being followed by another. This disconnect cannot be allowed to continue.

Thank you for your consideration.

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