



*"Jobs, Homes & Individual Rights "*

December 15, 2009

Mr. Jimmy Smith, Chairman  
Board of Supervisors  
Humboldt County  
825 Fifth Street  
Eureka, California 95501

Subject: Public Records Act Request

Dear Chairman Smith and Members of the Board:

As you know, this afternoon your meeting agenda includes a request to approve an application for a CDBG grant.

[Adopt Resolution authorizing the Submission of a CDBG Planning & Technical Assistance Grant Application for a Variety of Studies: Lucas Street Surplusing for Affordable Housing; Serenity Inn Renovation Planning Study; Motel/Hotel Rehabilitation & Conversion to Multi-Family Affordable Housing; and Commercial/Industrial Property to Rezone for Multi-Family.](#)

RECOMMENDATION: That the Board of Supervisors receive staff report; open the public hearing and receive public testimony; close the public hearing; adopt Resolution No. \_\_\_\_ a.) Authorizing the submission of a \$70,000 application for the 2009/2010 CDBG General Allocation (GA) Planning and Technical Assistance Allocation (PTAA) i. Offsite Improvement Engineering and Preparation of Legal Documents to Surplus County Property for Affordable Housing: Lucas Street; ii. Preservation of an existing at-risk Homeless Center: Serenity Inn; iii. Multi-Family Rehabilitation Program: Motel/Multi-Family Property Acquisition & Rehabilitation Feasibility Study; iv. Housing Element Update: Identify Commercial/Industrial Properties for Conversion to Multi-Family Affordable Housing. b. Allocating \$2,100 from the Economic Development Set-Aside Fund for this program; c. authorizing the Community Development Services Director to sign grant paperwork, and any contracts of subrecipient agreements to implement the grant after review and approval by County Counsel and Risk Management.

Your staff is proposing to make a statement on the application form, that the County's Housing Element complies with the CDBG statutes.

As a condition of receiving an award, each jurisdiction's adopted Housing Element must be in compliance with CDBG statutes. The Department will not award funds to any applicant who is not in compliance and applicants should have a housing element in CDBG statute compliance at application submittal.

is the applicant's Housing Element in State CDBG Compliance?  
"Yes" \_\_\_\_\_ No \_\_\_\_\_ (if No, applicant cannot apply.)

Mr. Jimmy Smith, Chairman  
Humboldt County Board of Supervisors  
December 15, 2009, cont'd

The Housing Element you adopted August 28, 2009 was fraudulent. (See attached)  
If you approve this application, it puts each of you in the potential position of filing a  
fraudulent claim. The Department of Justice takes a dim view of such actions.

Under the provisions of the California Public Records Act, Gov Code 6250 et seq., we  
respectfully request access to all documents pertaining to the County being in compliance, or  
not, with all applicable State CDBG Statutes, including management reports and all internal  
and external communications.

Please let us know when you might make these documents available to us for review  
within the next ten (10) days.

Very truly yours,

Kay Backer, representing  
Humboldt Economic & Land Plan

cc: County Board of Supervisors  
County Planning Commissioners  
Loretta Nickolaus, County Administrative Officer  
Wendy Chaitin, County Counsel  
Kirk Girard, Community Development Services Director  
Michael Richardson, Senior Planner  
Kathy Hayes, Clerk of the Board  
Sharyn Lodes, Planning Commission Clerk  
Bonnie Blackberry, Civil Liberties Monitoring Project  
Lynn Jacobs, Director, State Housing & Community Development  
Cathy Creswell, Deputy Director, State Housing & Community Development

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## County's Housing Element is Fraudulent

By Kay Backer

Last week, Humboldt County received some very bad news. The State did not certify the County's Housing Element. Planning Director Kirk Girard tried to downplay this by telling the Times Standard the rejection was merely procedural. Here's the real story.

State law requires that cities and counties plan for and accommodate a certain amount of growth. They must identify a list of individual lots/sites that are ready for housing development and avoid imposing constraints which unduly discourage housing from being built.

This is clearly explained in the State Housing and Community Development Department's six-page letter of November 30, 2009 to County Administrative Officer Loretta Nickolaus. It is not difficult to understand why the State refused to certify the County's Housing Element when you consider that their land inventory was overstated by 90 percent and 12 different State laws were ignored.

Essentially, the State is requiring the County, in order to get certified, to start over with its land inventory. But it doesn't stop there.

In addition to submitting a land inventory which complies with State law, the County must:

- (1) Analyze the potential and actual government constraints which would or could interfere or slow the development of housing;
- (2) Identify and analyze all relevant land-use standards;
- (3) Analyze any impact on the timing, cost, supply and approval certainty for housing development;
- (4) Analyze existing assisted-housing developments that are eligible to change to non-low income housing uses during the next 10 years;
- (5) List and analyze projects at risk of converting to market-rate uses;
- (6) Identify adequate specific sites which will be rezoned, including development standards and public services and facilities needed to encourage development for all levels of income;
- (7) Revise County programs and identify sites related to affordable Multifamily housing inventory;
- (8) Identify programs that assist the development of adequate housing to meet the needs of Extremely Low, Low, and Moderate Income households;
- (9) Identify specific programs to remove governmental constraints to the maintenance, improvement, and development of housing;
- (10) Analyze the potential cost and supply impact that Inclusionary Zoning could have on housing; and
- (11) Work with the community, including the Find Our Lots (FOL) group to develop a Housing Element that complies with State laws.

The FOL team and members of the Humboldt Economic Land Plan organization (HELP) have been working with County planners on the Housing Element update for nearly two years. We will continue to do so as instructed by the State HCD and in conformance with State law. The County, however, must accept the input of the FOL team, rather than ignore it, as was done in August when the County Board of Supervisors adopted a Housing Element claiming 9,921 dwelling units could be built on 4,499 sites, knowing the FOL team could identify only 1,000 dwelling units. Being 90 percent overstated is not even close. Many would consider it fraudulent.

The County included many sites within the city limits of Eureka, Fortuna, and Arcata. Cities have their own Housing Elements. The County has no authority to do anything within those boundaries. As an example, FOL identified over 200 sites in the County's inventory that are located within the Eureka City limits where the County claimed 761 dwelling units could be built on land that is already developed. The County listed thousands of sites in their land inventory that are constrained by such things as slopes, wetlands, rivers and streams. In the inventory are 1,440 dwelling units in Shelter Cove, despite the fact the service provider cannot commit to even one sewer hookup.

Planning Director Kirk Girard tries to convince the public that the State's response is not out of the ordinary and that he expected to receive HCD's comments. Was it because he knew he didn't comply with HCD's written comments and recommendations made to him earlier this year? Why did he put the County at risk of losing millions of dollars of Federal and State grant money by trying to mislead the State? As late as October, he told County officials: "You know, we have the most accurate inventory in the State." That was not true.

Mr. Girard's inventory was wildly inflated, and now the County has no Housing Element at all in the eyes of the State.

You can read the State HCD's November 30, 2009 letter to the County by going to this web site: [www.helphumboldt.com](http://www.helphumboldt.com)

*Kay Backer is a representative of HELP and a member of FOL.*