

BOARD of SUPERVISORS



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December 20, 2023

The Honorable Scott Wiener  
California State Senator  
California State Capitol  
1021 O Street, Suite 6630  
Sacramento, CA 95814-4900

Re: Board of Supervisors Resolution No. 572-23

Dear Senator Wiener:

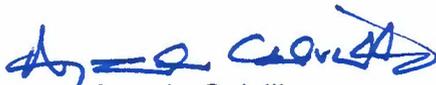
On December 5, 2023, the Board of Supervisors of the City and County of San Francisco adopted Resolution No. 572-23 (Urging the City Attorney and the Mayor to Respond to HCD's "Policy and Practice Review" by Seeking Extensions of Deadlines for Required Actions, and Certain Revisions and Corrections; and Setting City Policy for Implementation of the Housing Element), which was enacted on December 15, 2023.

The Board of Supervisors directs the Clerk of the Board to forward the following document to your attention:

- One copy of Resolution No. 572-23 (File No. 231175)

If you have any questions or require additional information, please contact the Office of the Clerk of the Board at (415) 554-5184, or by e-mail: [board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org).

Sincerely,

  
Angela Calvillo  
Clerk of the Board

jec:vy:

- c. Members of the Board of Supervisors, President Peskin, Supervisors Chan, Mandelman, Preston Tom Paulino, Office of the Mayor  
Eileen F. Mariano, Office of the Mayor  
Andres Power, Office of the Mayor  
Susanna Conine-Nakano, Office of the Mayor  
Paul Yoder, Karen Lange, Erica Smith, City Lobbyists - Shaw/Yoder/Antwih Inc.

AMENDED IN COMMITTEE

11/27/2023

FILE NO. 231175

RESOLUTION NO. 572-23

1 [Urging the City Attorney and the Mayor to Respond to HCD's "Policy and Practice Review" by  
2 Seeking Extensions of Deadlines for Required Actions, and Certain Revisions and  
3 Corrections; and Setting City Policy for Implementation of the Housing Element]

4 **Resolution urging the City Attorney and the Mayor to request that the State Department**  
5 **of Housing and Community Development (HCD): 1) extend the deadlines for Required**  
6 **Actions in HCD's Policy and Practice Review to ensure that all of San Francisco's**  
7 **extensive, collaborative work to further housing development does not lead to de-**  
8 **certification of San Francisco's adopted Housing Element; 2) revise and correct HCD's**  
9 **Policy and Practice Review to be consistent with all policies in San Francisco's**  
10 **adopted Housing Element, including its policies and actions related to affordable**  
11 **housing and equity, as well as the City's legal obligations to affirmatively further fair**  
12 **housing, and to be consistent with San Francisco's status as a Charter City imbued**  
13 **with the power of local action over municipal affairs; and setting forth that as part of**  
14 **the City's Housing Element implementation, it is the policy of the City to address the**  
15 **dual goals of production of new housing as well as the preservation of existing**  
16 **housing.**

17  
18 WHEREAS, On February 1, 2023, California's Department of Housing and Community  
19 Development (HCD) certified San Francisco's Housing Element, finding it fully compliant with  
20 State Housing Element Law; and

21 WHEREAS, Since then, both the Mayor and the Board of Supervisors have introduced  
22 multiple Ordinances proposing changes to the City's land use and housing policies to advance  
23 and conform to the goals in the City's Housing Element, including several significant  
24 Ordinances that have already been adopted to "reduce constraints" for market rate housing,  
25 specifically Board File Nos. 230026 (increasing density on certain single-family

1 parcels); 230374 (streamlining review of site permits); 230764, 230769 and 230855 (reducing  
2 inclusionary and other impact fees); and 230732 (facilitating housing in the downtown area),  
3 which are hereby declared to be a part of this resolution as if set forth fully herein; and

4 WHEREAS, San Francisco's Housing Element is the first to center racial and social  
5 equity in the formation of its housing goals and land use actions, and successful  
6 implementation will require a coordinated, interlocking, and balanced set of actions; and

7 WHEREAS, San Francisco exceeded its market rate housing production goals in prior  
8 Regional Housing Needs Assessment (RHNA) cycles, although it failed to produce more than  
9 half of its affordable housing production goals in those same cycles; and

10 WHEREAS, San Francisco will not be able to achieve its 2023-2031 affordable housing  
11 production goals with a singular focus on private development policies and practices without  
12 sufficient measures to address racial equity, fair housing practices, affordability, and  
13 displacement; and HCD's singular focus on efforts to streamline market rate development  
14 may even exacerbate the City's affordability crisis; and

15 WHEREAS, San Francisco is a Charter City with authority over municipal affairs and  
16 the power to take local action as long as the action is not inconsistent with the City's Charter,  
17 the California or United States Constitutions, and state laws that address matters of statewide  
18 concern; and

19 WHEREAS, HCD published a document entitled "San Francisco Housing Policy and  
20 Practice Review" (Policy and Practice Review) and transmitted it to San Francisco on  
21 October 25, 2023; and

22 WHEREAS, In the Policy and Practice Review, HCD imposes deadlines for Required  
23 Actions that mandate changes to local laws and actions within time periods that may conflict  
24 with or are contrary to San Francisco's Charter and other local and state laws; and  
25

1           WHEREAS, Some timelines imposed by the Policy and Practice Review are as short  
2 as 30 days, which is not sufficient time to accommodate the City's obligation to consider and  
3 address the potential adverse impacts such actions would impose on the urgent need to  
4 preserve and enhance existing rent-controlled housing, retain neighborhood small  
5 businesses, provide job opportunities, consider the workforce represented by organized labor,  
6 and to protect communities at greater risk and disproportionately impacted by displacement,  
7 particularly Black, Indigenous and people of color (BIPOC), as well as other critical needs of  
8 San Francisco's residents; and

9           WHEREAS, The City committed to implementing many of the required actions in the  
10 Policy and Practice Review as part of its certified Housing Element, but the Policy and  
11 Practice Review purports to create shorter time frames to accomplish those same actions;  
12 and

13           WHEREAS, The Policy and Practice Review states that failure to implement the  
14 required actions in the time frames specified therein will cause HCD to initiate the process to  
15 de-certify the City's Housing Element and additional enforcement action; and

16           WHEREAS, The Policy and Practice Review directs the City to disregard certain local  
17 laws, including voter adopted amendments to the General Plan and Planning Code; and

18           WHEREAS, HCD has de-certified other jurisdiction's Housing Elements under a  
19 substantial compliance standard; and

20           WHEREAS, De-certification of a Housing Element would trigger various consequences,  
21 including the loss of state funding, and the "Builders Remedy," which is recently proving to  
22 reduce, rather than increase, the number of housing units developers are building in San Jose  
23 and surrounding areas; and

1           WHEREAS, De-certification of San Francisco's Housing Element would diminish the  
2 construction and building trades' ability and rights to negotiate project labor agreements,  
3 leading to labor shortages and increasing disparities between wages and housing costs; and

4           WHEREAS, De-certification of San Francisco's Housing Element would deregulate  
5 development of market rate housing and put the approximately 65% of San Francisco's  
6 population that are renters, as well as San Francisco's historically marginalized low-income  
7 communities and communities of color, at heightened risk of displacement; and

8           WHEREAS, San Francisco's RHNA goal of over 82,000 housing units is based in large  
9 part on the Association of Bay Area Governments' Final RHNA Plan methodology, which  
10 allocates almost half of the regional housing need based on the factors related to job  
11 proximity, and results in jurisdictions with the most access to jobs – such as San Francisco -  
12 experiencing higher growth rates from their RHNA allocations than other jurisdictions in the  
13 region – such as Marin County, but the Policy and Practice Review fails to consider the  
14 changes in regional work patterns due to the COVID-19 pandemic and the ability for many  
15 employees to work from home; and

16           WHEREAS, Since the certification of San Francisco's Housing Element, the State has  
17 adopted two legislative interventions designed to increase and streamline the production of  
18 housing – Senate Bill 423 (SB 423) and Assembly Bill 1114 (AB 1114); and

19           WHEREAS, SB 423, included a late-in-the-process amendment specially requiring San  
20 Francisco, as the only jurisdiction out of California's 58 counties, to report its RHNA progress  
21 each year, while other jurisdictions are subject to the general requirement that RHNA  
22 progress be reviewed every four years, which will ultimately force San Francisco out of  
23 compliance with its RHNA goals, requiring San Francisco to ministerially approve certain  
24 housing projects in 2024; and  
25

1           WHEREAS, AB 1114 will impose stringent deadlines for review of “postentitlement  
2 phase permits,” as that term is defined, and limit appeals of those types of permits, and will  
3 also address several of the Required Actions listed in the Policy and Practice Review; and

4           WHEREAS, De-certification of San Francisco’s Housing Element will lead to the  
5 displacement of low-income residents, renters, and seniors, which the City has a vested  
6 interest in protecting and advocating for, which is why San Francisco has adopted as a city  
7 priority policy protection of San Francisco residents from displacement; and

8           WHEREAS, De-certification of San Francisco’s Housing Element will jeopardize San  
9 Francisco’s ability to access state funding for transit infrastructure and affordable housing,  
10 which is contrary to the state’s overall climate goals to prioritize denser, affordable  
11 development near transit; and

12           WHEREAS, San Francisco has worked diligently to meet or exceed HCD’s requests  
13 throughout the Housing Element adoption process and worked collaboratively with HCD  
14 during HCD’s Policy and Practice Review investigation, despite a demonstrated pattern of an  
15 inconsistent application of state law across jurisdictions and ever-changing goal posts; and

16           WHEREAS, Over 57% of the RHNA plan for this RHNA cycle (which has greatly  
17 inflated production mandates over prior RHNA cycles) is targeted to three income categories  
18 that are “below market,” but HCD has not provided any new resources for assisting in the  
19 accomplishment of these affordable housing mandates, most notably funding; and

20           WHEREAS, HCD’s Policy and Practice Review fails to acknowledge the legal  
21 requirements of AB 686 (2018) to “affirmatively further fair housing,” and ignores  
22 Section 65584(d)(5) of the Government Code, which specifically provides that the RHNA plan  
23 shall further clear objectives, including affirmatively furthering fair housing, but HCD’s review  
24 does not address the displacement of low-income, BIPOC, Seniors, and disabled San  
25 Franciscans; and

1           WHEREAS, HCD's Policy and Practice Review ignores Section 65584(d)(1) of the  
2 Government Code that specifically provides that the RHNA plan shall further the objective of  
3 "[i]ncreasing the housing supply and mix of housing types, tenure, and affordability in all cities  
4 and counites within the region in an equitable manner, which shall result in each jurisdiction  
5 receiving an allocation of units for low- and very low-income households," and de-certification  
6 of San Francisco's Housing Element and imposition of the "Builder's Remedy" could box San  
7 Francisco into only prioritizing the lucrative development of market-rate housing, which is in  
8 contravention of the mandate for equitable distribution in the region; and

9           WHEREAS, San Francisco's Housing Element has several priority Implementing  
10 Actions that are specifically intending to Affirmatively Further Fair Housing, such as Actions  
11 1.1.2, 1.1.3, 1.1.14, 1.1.15, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.8, 1.4.6, 1.4.7, 1.5.2, 1.5.4, 1.5.5,  
12 1.7.1, 1.7.4, 1.7.5, 1.7.7, 1.7.8, 1.7.9, 1.7.11, 2.1.1, 2.1.2, 2.1.4, 2.1.5, 2.1.7, 2.2.1, 2.2.2,  
13 2.2.4, 2.2.8, 2.2.9, 2.3.1, 2.3.3, 2.3.4, 2.4.1, 2.4.2, 2.4.3, 2.4.4, 4.1.1,4.1.2, 4.1.3, 4.1.4, 4.1.5,  
14 4.1.9, 4.2.1, 4.2.5, 4.4.2, 4.5.1, 4.5.5, 4.5.12, 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.6, 5.3.2, 5.3.3,  
15 5.4.1, 5.4.7, 5.4.8, 5.4.9, 6.1.2, 6.2.1, 6.3.1, 6.3.3, 6.3.6, 6.3.9, 7.4.3, 8.4.21, 8.6.2, 8.6.7,  
16 8.6.10; and

17           WHEREAS, HCD's Policy and Practice Review appears to blame the slow rate of  
18 development permits and applications in 2023 entirely on San Francisco's review and  
19 approval process, which analysis is incomplete, as it ignores the market realities of declining  
20 market rate demand, high interest rates, lack of financing, and other labor and development  
21 costs that are completely independent of San Francisco's approval processes; and

22           WHEREAS, It is a City priority to retain and provide housing affordable to members of  
23 the City's workforce so they may live and work in San Francisco consistent with  
24 Section 65584(d)(3) of the Government Code, which specifically says the RHNA plan shall  
25 promote an improved intraregional relationship between jobs and housing, including an

1 improved balance between the number of low-wage jobs and the number of housing units  
2 affordable to low-wage workers in each jurisdiction; however, HCD's Policy and Practice  
3 Review ignores Section 65584(d)(3) and the threatened de-certification of San Francisco's  
4 Housing Element and imposition of the "Builder's Remedy" would undermine this San  
5 Francisco priority; and

6 WHEREAS, HCD's Policy and Practice Review fails to acknowledge that more  
7 than 60,000 housing units have been documented by the City as sitting vacant in San  
8 Francisco, and while more than 50,000 housing units have been entitled, these projects have  
9 not moved into construction because of a lack of financing and equity lending, not due to any  
10 City zoning or local discretionary review process; now, therefore, be it

11 RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
12 urges the City Attorney and the Mayor, on behalf of the City, to request that HCD extend the  
13 deadlines for Required Actions in HCD's Policy and Practice Review to ensure that all of San  
14 Francisco's extensive, collaborative work to further housing development does not lead to de-  
15 certification of San Francisco's adopted Housing Element; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
17 Francisco urges the City Attorney, on behalf of the City, to ask HCD to revise and correct the  
18 Policy and Practice Review so it is responsive to the adopted San Francisco Housing  
19 Element, including its actions on preserving existing affordable housing and fostering racial  
20 and social equity, as well as responsive to the City's legal obligations to affirmatively further  
21 fair housing, and San Francisco's status as a Charter City imbued with the power of local  
22 action over municipal affairs; and, be it

23 FURTHER RESOLVED, That as part of the City's Housing Element implementation, it  
24 is the policy of the City to address the dual goals of production of new housing as well as the  
25 preservation of existing housing; and, be it

1           FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
2 Francisco requests that HCD partner with the City to draft a review of joint local - state actions  
3 to advance policies, tools, and financial and resource investments to achieve the affordable  
4 housing goals in the 2023-2031 RHNA cycle; and, be it

5           FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
6 Francisco directs the Clerk of the Board to transmit this Resolution to the City Attorney, the  
7 Mayor, the City Lobbyist, and the State Legislative Delegation upon final passage.

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**City and County of San Francisco**  
**Tails**  
**Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 231175

**Date Passed:** December 05, 2023

Resolution urging the City Attorney and the Mayor to request that the State Department of Housing and Community Development (HCD): 1) extend the deadlines for Required Actions in HCD's Policy and Practice Review to ensure that all of San Francisco's extensive, collaborative work to further housing development does not lead to de-certification of San Francisco's adopted Housing Element; 2) revise and correct HCD's Policy and Practice Review to be consistent with all policies in San Francisco's adopted Housing Element, including its policies and actions related to affordable housing and equity, as well as the City's legal obligations to affirmatively further fair housing, and to be consistent with San Francisco's status as a Charter City imbued with the power of local action over municipal affairs; and setting forth that as part of the City's Housing Element implementation, it is the policy of the City to address the dual goals of production of new housing as well as the preservation of existing housing.

November 27, 2023 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

November 27, 2023 Land Use and Transportation Committee - CONTINUED AS AMENDED

December 04, 2023 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

December 05, 2023 Board of Supervisors - ADOPTED

Ayes: 8 - Chan, Mandelman, Melgar, Peskin, Preston, Ronen, Safai and Walton

Noes: 3 - Dorsey, Engardio and Stefani

File No. 231175

I hereby certify that the foregoing Resolution was ADOPTED on 12/5/2023 by the Board of Supervisors of the City and County of San Francisco.

  
\_\_\_\_\_  
Angela Calvillo  
Clerk of the Board

Unsigned

12/15/2023

\_\_\_\_\_  
London N. Breed  
Mayor

\_\_\_\_\_  
Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

  
\_\_\_\_\_  
Angela Calvillo  
Clerk of the Board

12/15/2023

\_\_\_\_\_  
Date