

# OAKLEY



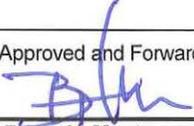
CALIFORNIA

Agenda Date: 09/27/2016  
Agenda Item: 3.7

## STAFF REPORT

**Date:** September 27, 2016  
**To:** City Council  
**From:** Bryan Montgomery, City Manager

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

**SUBJECT: Approval of responses to Civil Grand Jury Reports No. 1609  
"Human Trafficking" and No. 1614 "Where Will We Live?"**

### Summary

The California Constitution established civil grand juries in each county. The California Code includes provisions on the formation of civil grand juries and their powers and duties. With respect to public agencies, civil grand juries are authorized to "investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit" (California Penal Code section 925a). The Code also stipulates that a written response will be provided by the city or joint powers agency within 90 days after the civil grand jury submits a report.

The Contra Costa Grand Jury has recently issued three reports that require a response from the City of Oakley: No. 1609 "Human Trafficking" and No. 1614 "Where will we Live?"

Staff has prepared the attached responses.

### Fiscal Impact

Staff time to prepare the responses to these Reports is estimated to have cost approximately \$500.

### Recommendation

Approve the draft responses and authorize the City Manager to forward them to the Civil Grand Jury.

### Attachments

1. Contra Costa Civil Grand Jury Reports Nos. 1609 and 1614, and corresponding draft response letters from the City.

September 27, 2016

~ DRAFT ~

Mr. Michael Simmons, Foreperson  
Contra Costa County Civil Grand Jury  
725 Court Street  
P.O. Box 431  
Martinez, CA 94553-0091  
[epant@contracosta.courts.ca.us](mailto:epant@contracosta.courts.ca.us)

Re: **Responses to Contra Costa County Grand Jury Report No. 1609,  
"Human Trafficking"**

Mr. Simmons:

Pursuant to California Penal Code Section 933.05, this letter responds to Contra Costa County Grand Jury Report No. 1609, "Human Trafficking." This response was reviewed and authorized by the City Council at the September 27, 2016 City Council Meeting.

### **GRAND JURY FINDINGS**

**Finding No. 1:** "The San Francisco Bay Area is one of three "hot spots" for human trafficking in California, along with Los Angeles and San Diego."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 2:** "The emphasis in human trafficking cases has shifted from solely prosecution to a "victim-centered" approach in which the needs of persons who have been trafficked receive equal consideration."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 3:** "Effectively identifying and apprehending traffickers requires knowledge of the local environment and criminal activities acquired through years of experience."

*Response:* The City of Oakley partially disagrees with the finding. In addition to experience, training in these specific areas and collaboration with other agencies are also very critical.

**Finding No. 4:** "Most police officer training related to human trafficking is acquired through working with more experienced officers and victim advocates."

*Response:* The City of Oakley only partially disagrees with this finding. In-class training, coordination with other agencies, including non-profit organizations are other elements of training.

**Finding No. 5:** "The required two-hour POST Training Video in dealing with human trafficking complaints provides a general basis, but more intensive training found in the POST 2014 training manual contains in-depth coverage of the issues important to officers assigned to trafficking cases."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 6:** "Successful apprehension and prosecution of traffickers often involves coordination and cooperation among local, State and federal agencies."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 7:** "City law enforcement and Contra Costa County Sheriff's Department have no comprehensive or consistent method for analyzing data about the number and type of adult trafficking victims. More data that is complete is needed to define the magnitude of the problem and to support decisions about victim services and resource allocation."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 8:** "City law enforcement and Contra Costa County Sheriff's Department do not always use resources offered by State and federal for joint "sting" and "sweep" operations."

*Response:* The City of Oakley does not have complete information on this finding, but believes it is likely to be true.

**Finding No. 9:** "Trafficking frequently occurs in combination with other violent crimes and its victims often have a history of abuse and trauma."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 10:** "The use of specialist multidisciplinary teams in high crime areas can increase the likelihood that trafficking will be recognized as a component of other crimes."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 11:** "Public awareness is a critical factor in identifying potential human trafficking activity."

*Response:* The City of Oakley agrees with this finding.

**Finding No. 14:** "A comprehensive approach to dealing with human trafficking includes robust community engagement; training law enforcement in responding to human trafficking incidents; vigorous prosecution of perpetrators; education of and advocacy to policy makers; and wrap-around services for victims/survivors."

*Response:* The City of Oakley agrees with this finding.

## CIVIL GRAND JURY RECOMMENDATIONS

**Recommendation #1:** Recommendation No. 1: "City law enforcement agencies and the Sheriff's Department should consider incorporating expanded training for officers assigned to trafficking-related duties."

*Response:* The City of Oakley has implemented this recommendation. Sworn staff are provided with specific training on Human Trafficking every two years through our in-service training program. Additionally, detectives who investigate human trafficking incidents have also been provided with additional training through CVS and California POST-approved training.

**Recommendation No. 2:** "City law enforcement agencies and the Sheriff's Department should consider increasing collaboration with State and Federal law enforcement to expand "sweeps" and "stings" in high crime areas."

*Response:* The City of Oakley believes this recommendation may have merit, but it lacks detail on cost and personnel resources needed to accomplish it.

**Recommendation No. 3:** "City Law enforcement agencies and the Sheriff's Department should consider the benefits of assigning multidisciplinary teams in areas with significant drug, gang and/or prostitution activity to assist in identifying trafficking activities."

*Response:* The City of Oakley is not inclined to implement this recommendation. The model for enforcing and investigating human trafficking cases is not entirely consistent with a multidisciplinary team. All sworn staff at the City of Oakley are trained in identifying human trafficking cases and will summon assistance from detectives should such a case be identified.

Again, we thank you for the opportunity to respond to the Grand Jury's recent Report No. 1609. If you have any questions or need any assistance, please contact me directly at (925) 625-7025 or at [montgomery@ci.oakley.ca.us](mailto:montgomery@ci.oakley.ca.us).

Respectfully submitted,

Bryan H. Montgomery  
City Manager

cc: City Council

**A REPORT BY  
THE 2015-2016 CONTRA COSTA COUNTY GRAND JURY**  
725 Court Street  
Martinez, California 94553

Report 1609

# Human Trafficking

APPROVED BY THE GRAND JURY:

Date: June 14, 2016



\_\_\_\_\_  
MICHAEL SIMMONS  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: June 6, 2016



\_\_\_\_\_  
JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1609

**Human Trafficking**

**TO: City Councils for the following cities: Antioch, Brentwood, Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Ramon, San Pablo, Walnut Creek; Contra Costa County Sheriff's Department; Contra Costa County Board of Supervisors**

**SUMMARY**

Human trafficking (trafficking) is slavery. It is everywhere and the full extent is not known. The principal forms of human trafficking are:

- Adult sex trafficking, commonly associated with prostitution
- "Commercial Sexual Exploitation of Children" (CSEC), a subset of sex trafficking
- Labor trafficking
- Domestic Servitude.

California is a magnet for human trafficking, attractive because of its need for cheap labor, its vibrant economy and its access to global travel.

Human trafficking can occur in our own neighborhoods, but often goes unnoticed and unreported. Masquerading as a legitimate business, trafficking uses social media and moves freely from region to region to avoid detection by law enforcement. Adult sex trafficking is the most readily recognized form of trafficking and attracts the most community interest, but forced labor often involves more victims.

California's first anti-trafficking bill, enacted in 2005, makes the trafficking of humans a felony and assists victims of such trafficking. Following the enactment of this legislation, local jurisdictions have made substantial changes in their approach to the apprehension and prosecution of trafficking.

Successful apprehension of perpetrators requires a multi-faceted effort. Various levels of law enforcement, from the FBI, to state agencies dealing with labor violations, to local law enforcement, are involved in stopping human trafficking. Hard pressed to function alone, the most successful efforts by local jurisdictions rely on coordinating with a

number of state and federal agencies. Investigations are labor intensive and can take years before yielding results.

The number of trafficking victims in Contra Costa County is unknown. No one agency is responsible for collecting and reporting statistics about victims. After apprehension, the primary avenues for victims to seek assistance are through Community Violence Solutions (CVS), a non-governmental agency (NGO), and victim-witness advocates through the County District Attorney's Office, and/or the FBI in coordination with the County.

The new paradigm places law enforcement on the front line in assessing victim needs. The first step for law enforcement is determining whether there has been human trafficking. If law enforcement determines that there has been trafficking, the victim may be referred to CVS or Victim-Witness Advocates, which seem best able to provide services. Skill in the initial assessment can make the difference as to whether the victim will communicate with the officer and/or accept a referral to social services. Proposition 35, passed in 2012, requires all field officers and investigators to complete a minimum two-hour training in human trafficking no more than six months after hire. The Commission on Police Officer Standards and Training (POST) video *Human Trafficking: Identify and Respond* provides the approved course on handling human trafficking complaints. It introduces the subject, but understandably fails to incorporate county-specific guidelines for successful victim assessment or referral. An expanded training package designed for presentation over a period of weeks, and consisting of multiple modules was released in 2014. The State does not currently require this training.

Community awareness is a key factor in identifying human trafficking. Some efforts have been made to raise awareness about traffickers and their victims; for instance, District Attorney staff occasionally give presentations to community groups and to local law enforcement about the problem and; posters throughout the County provide information about stopping human trafficking. These strategies for working at the neighborhood level appear to be effective in Alameda County, which has implemented a community-based program called the Human Exploitation and Trafficking (H.E.A.T.) Watch Program.

The lead multi-disciplinary task force charged with addressing human trafficking in Contra Costa County is the Zero Tolerance for Human Trafficking Coalition. In 2015, the coalition produced a protocol for victims of CSEC and is now considering developing operating guidelines for serving trafficking victims.

## **CONFLICT OF INTEREST DISCLAIMER**

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the investigation, preparation or approval of this report.

## BACKGROUND

Human trafficking is the third most prevalent crime in the United States, behind only narcotics and gang-related activities. Statistics from the U.S. Department of Justice and the State provide a snapshot of trafficking today:

- Over 80% of the victims of human trafficking, are born in the United States;
- The U.S. State Department conservatively estimates 14,500 - 17,500 people are trafficked annually in the U.S.;
- In the U.S., over 80% of reported trafficking cases are sex trafficking, rather than labor;
- Over 70% of labor trafficking victims who were not born in the United States, entered the United States on legal visas;
- Of those identified as victims of labor trafficking, 62% are 25 years or older compared to 13% of confirmed sex trafficking victims; and
- The average age for girls entering into trafficked prostitution or pornography is 12-14 years.

The State of Human Trafficking in California (2012) issued by the California Attorney General notes that "...trafficking [in California] as a criminal enterprise is second only to the drug trade in annual revenues." Approximately 80% of human trafficking activity occurs in three "hotspots", the San Francisco Bay Area, Los Angeles and San Diego.

California Penal Code 236.1 (paraphrased below) provides that human trafficking involve one or more of the following acts:

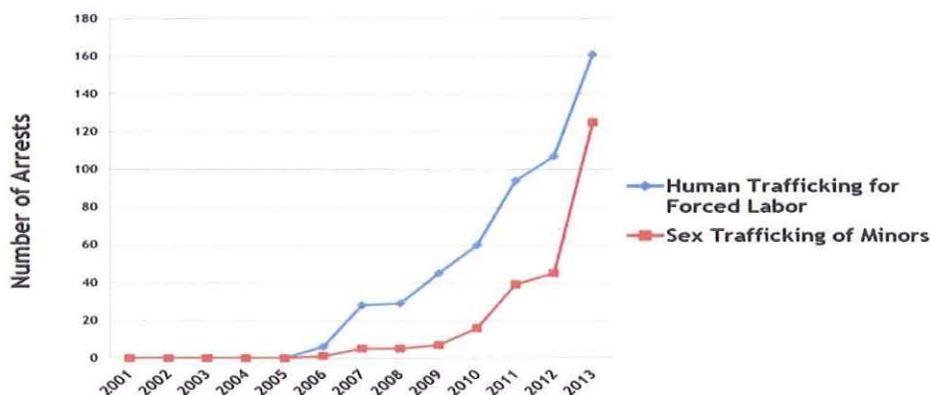
- **Coercion:** causing a person to believe that failure to perform an act would result in serious harm or physical restraint;
- **Deprivation of personal liberty:** accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace or threat of unlawful injury;
- **Duress:** a direct or implied threat of force, violence, danger, hardship or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which he or she would otherwise not have submitted; or
- **Forced labor or services:** labor or services obtained or maintained through force, fraud, duress or coercion, or equivalent conduct that would reasonably overbear the will of the person.

### California's Response to the Human Trafficking Problem

In 2005 California enacted its first anti-trafficking law (AB22) making human trafficking a felony and assisting its victims. Along with a related bill, (SB180), the legislation also established the California Alliance to Combat Trafficking and Slavery (CA ACTS) Task Force to review California's response to human trafficking. Proposition 35, which passed in 2012, increases prison terms for traffickers and requires sex traffickers to register as sex offenders. It also requires that all law enforcement officers assigned to

field or investigative duties take a minimum of two hours of training in handling human trafficking complaints by July 1, 2014.

The effect of Proposition 35 in increasing the number of arrests related to human trafficking is shown in the graph below.



Source: California Attorney General Statistics

Statewide there were nine federally funded task forces established between 2010 and 2014. The task forces are comprised of federal, State, and local law enforcement, non-governmental organizations (NGOs) and city and county governments. They continue to play an important role in building awareness to combat human trafficking. As attention to the problem has grown, more local task forces and working groups have been established. Key in the East Bay are the Alameda County District Attorney's Human Exploitation and Trafficking (H.E.A.T) Unit, established in 2005, and Contra Costa County's Zero Tolerance for Human Trafficking Coalition, established in 2013.

## DISCUSSION

The Bay Area is a magnet for traffickers due both to its location and to its economy. Easy access to international travel facilitates the importation of workers. A thriving service industry employing low skilled, low paid workers creates a market for undocumented immigrants, and a vibrant tourist industry attracts travelers looking for sex. The multi-jurisdictional law enforcement response to a projected spike in sex trafficking connected with the 2016 Super Bowl raised public awareness of the opportunistic nature of this enterprise. As with any entrepreneur, traffickers follow the money.

### Adult Sex Trafficking: A Changing Industry

Under the law, prostitution is not necessarily trafficking, and pimps are not necessarily traffickers, unless the offense entails loss of personal liberty, duress, or the victim is

under age. The evidence shows, however, that the majority of adult women arrested for prostitution are victims of human trafficking.

The character of sexual exploitation has changed dramatically with the advent of technology and social media. While street prostitution still exists (particularly in low-income areas and cities), the industry is increasingly moving under cover. For example:

- An explosion of websites designed to expedite the sex trade (e.g. Backpage, City Vibe, and even Craigslist), allow prostitutes and their pimps to connect with clients electronically;
- Pimps can solicit potential victims under cover of apparently innocent social media encounters through forums such as Facebook and Twitter;
- Disposable cell phones, elaborate networks of connected user names and aliases, and other sophisticated strategies can obscure the direct relationship between the exploiter and the victim; and
- Prostitution operations are increasingly mobile, changing locations to avoid detection or find better commercial opportunities. Operations can encompass multiple regions including cities, counties, states, and even countries.

Trafficking often is connected with other illegal activity. For instance, an arrest for narcotics, gang activity or domestic violence can frequently reveal sex trafficking as well. One of the reasons for this connection may be that gangs appear to be turning to sex trafficking as an additional source of revenue.

### **Labor Trafficking: The Tip of the Iceberg**

Labor trafficking is notoriously difficult to identify, and difficult to prosecute. It often involves multiple victims and, in contrast to prostitution, many victims are not U.S. citizens. Uncovering labor trafficking frequently requires paying attention to things that just don't look right. According to guidelines distributed by the California Attorney General, some signs that may indicate labor trafficking include:

- Working excessively long and/or unusual hours, perhaps being prohibited from taking breaks or other unusual restrictions at work;
- Being controlled (e.g., workers being transported to and from worksites in groups);
- Lacking passports or other forms of identification; no financial records or bank accounts; and
- Fearful of speaking to someone else alone.

These indicators may point to the existence of a trafficking operation, but not always. Often, the first sign of potential labor trafficking involves a complaint, either by a victim or from an astute observer.

Labor traffickers typically engage in businesses that appear to be legitimate, and the investigation of trafficking often hinges on uncovering fraudulent and/or illegal business practices. Business owners may cheat on income and employment taxes, workplace rules, wage and hour regulations, workmen's compensation insurance, health and safety requirements, and/or immigration laws. They defraud their employees of fair compensation and the workplace protections to which they are entitled by law resulting in a situation that is no better than indentured servitude.

Often called the "Al Capone Approach", after the infamous gangster who was finally successfully prosecuted for tax evasion, the investigation and prosecution of labor trafficking frequently entails interagency cooperation. The State Department of Industrial Relations (DIR), the Employment Development Department (EDD) and the Department of Insurance (DI) often work with the District Attorney's Office during labor trafficking investigations. A senior DIR official explained, "Labor traffickers are cheaters", and "...at base, a labor trafficking investigation starts with an investigation of fraud".

#### **A Look at the Data: How Much Trafficking is There?**

County reports about the number of adult human trafficking victims differ, making an overall assessment of the size of the problem difficult. There is no comprehensive source dealing with trafficking victims.

Based on a survey of nineteen city police departments and the Contra Costa County Sheriff's Department regarding the number of incidents of adult sex trafficking, labor trafficking, and CSEC occurring between January and August 2015, seven jurisdictions reported at least one incident. As reported by these jurisdictions, eighty-six incidents involved adult sex trafficking, sixteen involved CSEC victims and one incident involved labor trafficking. Additionally, there were eight arrests for pimping of underage girls.

The survey also asked about the number of department personnel trained to deal with human trafficking. All responding departments stated that at least some officers had received training.

The table below summarizes a Zero Trafficking Coalition report on victims identified and served by its “grant partners” for the period from June 2014 through June 2015.

	Total	Adults	Minors
Sex trafficking	103	64	39
Sex+Labor	4	4	
Labor	1	1	
<b>Total Victims</b>	<b>108</b>	<b>69</b>	<b>39</b>
<b>Citizenship</b>			
U.S.	99	62	37
Non U.S.	9	7	2
<b>Gender</b>			
Female	106	63	38
Transgender	2	1	1

The Coalition statistics understate the true number of victims because they show only victims who received services from one or more the NGOs associated with the Coalition. Victims who were not referred to services, or who refused a referral, or who went to service providers not associated with the Coalition, are not included. Accordingly, it is difficult to determine the overall number of victims in the County.

For 2011 through 2015, the District Attorney reports the following number of criminal cases filed for human trafficking:

- Thirty-five filings for 2011 through 2013:(an average of eleven per year);
- Five filings during 2014; and
- Seven filings during 2015.

### **Investigation and Prosecution**

Investigators and patrol officers must deal with the complex realities of human trafficking enterprises, often hidden from sight. These enterprises move between jurisdictions to avoid scrutiny, take advantage of technology to maintain and attract their clientele and victims, and use intimidation and duress to prevent victims from leaving or reporting the crime to outsiders.

A successful trafficking investigation hinges on many factors. Local concern can make apprehending suspected traffickers a law enforcement priority. Most police agencies are operating with resource constraints, and there is every incentive to put ongoing (and visible) crime first. Investigating trafficking is time intensive and often takes months (or years) to build a case. Historically, prostitution has received most of the attention because local citizens are aware and concerned. It is not clear, however, whether

citizens typically understand the link between prostitution and trafficking. Labor trafficking, even less obvious to the public eye, has not yet achieved similar recognition.

In at least one instance since 2014, the FBI offered to assist some Contra Costa cities with massage parlor stakeouts. These cities declined the offer, citing the need to focus their limited resources on higher priorities. The FBI also conducts an annual one-week "sweep" in the Concord/Pittsburg/Antioch area (Operation Cross Country) in partnership with local police departments. Not all agencies participate even though the FBI provides substantial personnel and financial assistance to augment those of the local police departments.

When cities place a priority on identifying trafficking operations, the results are notable. For example, there has been a high level of public concern about the possibility of illegal activity associated with the multitude of massage parlors in the City of Pleasant Hill. Since 2013, the Pleasant Hill Police Department has staged forty-one undercover investigations of sixteen massage parlors yielding nine arrests on suspicion of prostitution.

California Assembly Bill 1147- The Massage Therapy Reform Act took effect on January 1, 2016. The Act empowers cities and counties to close massage businesses that have been involved in illegal activities and provides municipalities with other leverage, such as a certification requirement for massage parlors.

Consistent training and intensive exposure help investigators and patrol officers become experts at identifying the signs of human trafficking. Investigators need be able to sense what is going on beneath the surface of a seemingly ordinary encounter. It can take years to develop familiarity with the subtle signs of trafficking. In this rapidly changing arena, familiarization with trends, patterns, and best practices is critical. While most officers receive introductory POST training, practical training occurs on the job, and is also provided by more experienced officers. In this rapidly evolving field, advanced training and networking with other law enforcement agencies provides critical enhancements to the local experience. Not all police departments in the County have a formal training plan in this area, although officers may receive training from time to time.

Regional task forces such as the Bay Area H.E.A.T. Coalition (BAHC) provide additional training and networking opportunities. BAHC is a regional network of law enforcement, County first responders, NGOs, community organizations, and elected officials who come together to share best practices and developments. More than 2,000 professionals have been connected through BAHC. Few Contra Costa law enforcement staff routinely attend these meetings despite their value in keeping track of trends in the wider Bay Area.

An interdisciplinary approach to policing recognizes the relationship between crimes that are more obvious and trafficking, which is often hidden. Trafficking is frequently related to drug crimes, gang activity, and domestic violence. Understanding and

capitalizing on that relationship is often the key to discovering and apprehending traffickers. Most law enforcement departments assign one officer or detective as the contact point in the investigation of suspected trafficking cases. However, the single point of contact model can generate an overwhelming workload unless adequate support is available.

The Pittsburg Police Department uses a “street team” of three detectives, each with specialized drug, gang, or domestic violence experience. This team receives advanced training about identifying and responding to human trafficking. With this training and the range of knowledge shared among the three detectives, the street team has an increased ability to identify victims of trafficking while investigating crimes within one of their specializations. Moreover, the sharing and coordination of effort increases the efficiency and effectiveness of the team.

Local law enforcement is able to build a case for prosecution through close coordination with federal and state law enforcement agencies. Some trafficking is purely local, but most of it respects no borders. Both the federal and state governments have an interest in trafficking investigations at the local level. For example, sex trafficking across state lines is a federal offense of interest to the FBI and violation of labor laws attracts attention from various state agencies.

Contra Costa County gets high marks from state and federal partners for its aggressive approach in the investigation and prosecution of both sex and labor trafficking cases.

- Investigating labor trafficking operations can sometimes have a substantial payoff. One Contra Costa case involving the Golden Dragon Restaurant in Brentwood expanded to include multiple restaurants in several counties, 120 victims, over \$500,000 in cash seized, and at least \$120 million in fraud charges.
- Highly visible recent sex trafficking prosecutions in Contra Costa show how extensive such operations can be. Danville residents James Joseph and Avisa Lavassani, were indicted for operating a sex trafficking ring extending as far as Miami, Cleveland, and New York, which generated tens of thousands of dollars per month. This operation, housed in an unremarkable home in an upscale neighborhood, involved more than 15 known victims. A multi-agency FBI task force working with San Ramon, Danville police, and the District Attorney’s Office successfully arrested the traffickers after a lengthy investigation.

A proactive approach to monitoring the activities of suspected traffickers can identify and apprehend hidden perpetrators. Electronic communications are increasingly the tool of choice for sex traffickers to communicate with potential customers, schedule appointments, and identify potential victims. Police departments are now using the same tools to follow suspects and to identify potential trafficking operations.

In addition to monitoring various websites and other social media, several databases are useful in the fight against human trafficking:

- ARIES, which is maintained by the Contra Costa Sheriff's Office, includes data about known offenders including residences, job histories, gang affiliations, arrest history, and even tattoos;
- Thorn's Spotlight, which provides information about suspected trafficking networks, focuses on identifying victims, and is able to filter and search digital images of victims appearing in online advertisements;
- Online software developed by the University of California *Technology and Human Trafficking Initiative* detects possible cases of online sex trafficking;
- Human Trafficking Reporting System (HTRS), which is funded by the Department of Justice, provides national, regional, and local statistics about human trafficking; and
- SafetyNet, maintained by Alameda County, collects comprehensive data about child sex trafficking.

The ability to disguise one's identity through social media and "dating" websites can be as beneficial to law enforcement as it is to perpetrators, allowing law enforcement to enter the hidden world of sex trafficking. Some departments designate a person to routinely monitor websites suspected of being used for trafficking as a way of discovering potential criminal activity.

Involved citizens, aware of their local environment, can be the key to first identifying suspected trafficking. Many investigations begin with a tip from a concerned citizen. The Golden Dragon investigation (above) began with a complaint from a restaurant employee. A recent sex trafficking case in Dublin was discovered when neighbors became concerned with unusual activity in and around a neighborhood home. Alameda County has developed a comprehensive program of community engagement, as discussed further below.

### **Victim Assistance**

Current practice puts law enforcement in the forefront of dealing with trafficking victims. Recognizing that many prostitutes are unwilling participants and victims, rather than partners, of their pimps resulted in a shift away from the criminalization of prostitution. Similarly, individuals subjected to labor trafficking (particularly the undocumented) are now considered victims, instead of "aliens" to be deported.

While apprehension of traffickers requires coordination and cooperation among law enforcement agencies, appropriately attending to the needs of the victims requires a different set of skills. Conditioned through mental and physical intimidation, trafficking victims typically do not trust or communicate with law enforcement. However, they are crucial to the prosecution of trafficking cases. To bridge the communication gap, law enforcement relies on specially trained advocates. The victim-centered approach

requires that victim's needs are assessed and, based on that assessment, victims are referred to appropriate services to help them adjust to life after trafficking. For the most part, police and detectives sympathize with the victims, but often do not have the skills to elicit witness information or to convince them to walk away from "the life". Reported success varies widely, but victims often strongly resist efforts by police officers to turn in their abusers, provide witness statements, or seek assistance from available service agencies. Asked about his success in convincing prostitutes to get help, one detective responded "...basically zero."

Police involvement is necessarily short term, and dealing with victims after the original contact falls to a variety of County agencies and NGOs. Most police officers interviewed knew of and/or used Community Violence Solutions (CVS) for short-term help. The District Attorney's Office and social service NGOs also provide victims of trafficking with services from specialists. This relationship between victims and these agencies can be lengthy. One source estimates that it can take between twelve and sixteen separate attempts (and sometimes years) before the victims successfully manage to leave "the life".

### **Organizing the Process: A New County Approach**

The Zero Tolerance Coalition is currently producing operating guidelines for handling adult sex and labor trafficking victims, including guidelines for multidisciplinary teams to provide case review and coordination. The draft guidelines should be completed by December 2016. Two summits in 2015 and 2016 involving representatives from multiple counties, social service agencies, law enforcement and the community served to focus the effort to complete these guidelines. The Coalition is working closely with Alameda County's H.E.A.T. Program, which has been a leader in addressing the human trafficking problem since 2006. By working with H.E.A.T., Contra Costa County will be able to leverage its efforts to prevent trafficking, identify it when it occurs and provide a coordinated approach to victim assistance.

### **A Model to Emulate: Alameda County's H.E.A.T. Program**

Set up in January 2006, the Alameda County District Attorney's H.E.A.T. Unit has prosecuted 427 human trafficking cases. Of these cases, 312 cases (81%) resulted in convictions. The H.E.A.T. Unit continues to be the State's most prolific prosecutor of human trafficking cases. The H.E.A.T. Unit prosecutes offenders for human trafficking, child sexual assault, kidnapping, and other serious crimes. The H.E.A.T. Program developed a collaborative strategy for combatting human trafficking. Successfully implemented in the Bay Area and other communities, the strategy encompasses:

- Robust community engagement;
- Training for law enforcement;
- Vigorous prosecution;

- Education of and advocacy to policy makers; and
- Wrap-around services for victims/survivors.

This strategic approach recognizes that the program is only as strong as the involvement and commitment of law enforcement agencies, County service providers, prosecutors, and the community.

The H.E.A.T. website contains a full explanation of each area. The community engagement and law enforcement training aspects explained on the website could be particularly useful components of a new Contra Costa County Human Trafficking Protocol.

Implementation of H.E.A.T. Watch Neighborhood Programs enhances community engagement. The programs raise awareness that stopping human trafficking is a priority. This effort includes systematic guidelines for communities interested in setting up H.E.A.T. Watch Programs, webinars, hotlines, newsletters, training and outreach events and even H.E.A.T. Watch Radio. Social media, such as Facebook and Twitter, help law enforcement find victims. Alameda County also uses outdoor billboards and bus signs to raise awareness.

To address the law enforcement side of controlling human trafficking, the Alameda County H.E.A.T. Watch Program developed a comprehensive law enforcement-training curriculum. This curriculum provides a detailed outline and many training materials focused on first responders, who are typically law enforcement.

Training materials also deal with investigating and developing a case that can withstand the scrutiny of the court and defense counsel. Additionally, the training materials explain where law enforcement should focus resources and how to develop evidence that establishes the essential elements of the crime.

## **CONCLUSION**

As attention to the extent and consequences of human trafficking has grown, law enforcement in Contra Costa County has made significant strides in investigating suspected trafficking and prosecuting the traffickers. Identifying and assisting the victims remains a significant challenge, requiring the coordinated efforts of both law enforcement and the community. The operating guidelines for victim identification and assistance under development by the Zero Tolerance Coalition should include a comprehensive action plan for addressing both law enforcement issues and victim needs similar to that used in Alameda County.

## FINDINGS

- F1. The San Francisco Bay Area is one of three “hot spots” for human trafficking in California, along with Los Angeles and San Diego.
- F2. The emphasis in human trafficking cases has shifted from solely prosecution to a “victim-centered” approach in which the needs of persons who have been trafficked receive equal consideration.
- F3. Effectively identifying and apprehending traffickers requires knowledge of the local environment and criminal activities acquired through years of experience.
- F4. Most police officer training related to human trafficking is acquired through working with more experienced officers and victim advocates.
- F5. The required two-hour POST Training Video in dealing with human trafficking complaints provides a general basis, but more intensive training found in the POST 2014 training manual contains in-depth coverage of the issues important to officers assigned to trafficking cases.
- F6. Successful apprehension and prosecution of traffickers often involves coordination and cooperation among local, State and federal agencies.
- F7. City law enforcement and Contra Costa County Sheriff’s Department have no comprehensive or consistent method for analyzing data about the number and type of adult trafficking victims. More data that is complete is needed to define the magnitude of the problem and to support decisions about victim services and resource allocation.
- F8. City law enforcement and Contra Costa County Sheriff’s Department does not always use resources offered by State and federal for joint “sting” and “sweep” operations.
- F9. Trafficking frequently occurs in combination with other violent crimes and its victims often have a history of abuse and trauma.
- F10. The use of specialist multidisciplinary teams in high crime areas can increase the likelihood that trafficking will be recognized as a component of other crimes.
- F11. Public awareness is a critical factor in identifying potential human trafficking activity.
- F12. The County’s efforts to build a broad public awareness of human trafficking has primarily been a poster campaign beginning in 2015.
- F13. The Zero Tolerance for Human Trafficking Coalition is developing operating guidelines for case review and coordination to be completed in December 2016.
- F14. A comprehensive approach to dealing with human trafficking includes robust community engagement; training law enforcement in responding to human trafficking incidents; vigorous prosecution of perpetrators; education of and advocacy to policy makers; and wrap-around services for victims/survivors.

## RECOMMENDATIONS

- R1. City law enforcement agencies and the Sheriff's Department should consider incorporating expanded training for officers assigned to trafficking-related duties.
- R2. City Law enforcement agencies and the Sheriff's Department should consider increasing collaboration with State and federal law enforcement to expand "sweeps" and "stings" in high crime areas.
- R3. City Law enforcement agencies and the Sheriff's Department should consider the benefits of assigning multidisciplinary teams in areas with significant drug, gang and/or prostitution activity to assist in identifying trafficking activities.
- R4. The County Board of Supervisors should consider identifying funds to assign the Zero Tolerance Coalition to take a leadership role in developing report formats, collecting and reporting on comprehensive data about adult and child trafficking in Contra Costa County.
- R5. The County Board of Supervisors should consider directing the Zero Tolerance Coalition to develop a multi-disciplinary approach in dealing with human trafficking, after identifying funds to do so.
- R6. The County Board of Supervisors should consider directing the Zero Tolerance Coalition to develop and implement a systematic plan for building community awareness of human trafficking, after identifying funds to do so.

## REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Antioch City Council	F1 – F11, F14	R1 – R3
Brentwood City Council	F1 – F11, F14	R1 – R3
Clayton City Council	F1 – F11, F14	R1 – R3
Concord City Council	F1 – F11, F14	R1 – R3
Danville City Council	F1 – F11, F14	R1 – R3
El Cerrito City Council	F1 – F11, F14	R1 – R3
Hercules City Council	F1 – F11, F14	R1 – R3
Lafayette City Council	F1 – F11, F14	R1 – R3
Martinez City Council	F1 – F11, F14	R1 – R3
Moraga City Council	F1 – F11, F14	R1 – R3
Oakley City Council	F1 – F11, F14	R1 – R3
Orinda City Council	F1 – F11, F14	R1 – R3
Pinole City Council	F1 – F11, F14	R1 – R3
Pittsburg City Council	F1 – F11, F14	R1 – R3
Pleasant Hill City Council	F1 – F11, F14	R1 – R3
Richmond City Council	F1 – F11, F14	R1 – R3
San Ramon City Council	F1 – F11, F14	R1 – R3
San Pablo city Council	F1 – F11, F14	R1 – R3
Walnut Creek City Council	F1 – F11, F14	R1 – R3
Contra Costa County Sheriff's Department	F1 – F11, F14	R1 – R3
Contra Costa County Board of Supervisors	F11 – F14	R4 – R6

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to [epant@contracosta.courts.ca.gov](mailto:epant@contracosta.courts.ca.gov) and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson

725 Court Street

P.O. Box 431

Martinez, CA 94553-0091

September 27, 2016

~ DRAFT ~

Mr. Michael Simmons, Foreperson  
Contra Costa County Civil Grand Jury  
725 Court Street  
P.O. Box 431  
Martinez, CA 94553-0091  
[epant@contracosta.courts.ca.us](mailto:epant@contracosta.courts.ca.us)

**Re: Responses to Contra Costa County Grand Jury Report No. 1614, "Where Will We Live?"**

Mr. Simmons:

Pursuant to California Penal Code Section 933.05, this letter responds to Contra Costa County Grand Jury Report No. 1614, "Where Will We Live?" This response was reviewed and authorized by the City Council at the September 27, 2016 City Council Meeting.

### **GRAND JURY FINDINGS**

**Finding #1:** "PDAs recognize the importance of housing near transportation and jobs for developing prosperous communities."

*Response:* The City of Oakley agrees with this finding.

**Finding #2:** "Plan Bay Area 2040 seeks to combine transportation, jobs and housing as a solution to the needs of our growing population."

*Response:* The City of Oakley agrees with this finding.

**Finding #3:** "While State law mandates that ABAG conduct the RHNA process, a city is not required to subsidize and/or build the units; it is only required to demonstrate that local zoning will not impede development."

*Response:* The City of Oakley agrees with this finding.

**Finding #5:** "Inclusionary zoning programs provide incentives and regulatory waivers to builders and developers who produce both affordable and market rate homes within the same project."

*Response:* The City of Oakley partially disagrees with this finding. Inclusionary Zoning requires the inclusion of affordable housing (or payment of a fee in lieu of units) in market rate developments. Separately, Density Bonus (both State law and local ordinance) provide incentives and regulatory waivers that may be afforded to the developer of affordable units. Inclusionary zoning units may be double-counted toward density bonus units which may lead to those incentives and waivers.

**Finding #6:** "The city's Inclusionary Housing ordinance helps to provide affordable housing in the City."

*Response:* The City of Oakley does not have an Inclusionary Housing ordinance and disagrees with this finding.

**Finding #8:** "Inclusionary Housing Ordinances sometimes include the option for the developer to pay in lieu fees instead of constructing affordable housing units."

*Response:* The City of Oakley agrees with this finding.

**Finding #9:** "The city supplements the shortage of funds for affordable housing by requiring builders to pay impact fees, in lieu fees, or other construction and remodeling fees."

*Response:* The City of Oakley agrees with this finding.

**Finding #10:** "Infill costs less to service than new development because it takes advantage of the existing infrastructure."

*Response:* The City of Oakley only partially agrees with this finding. It is true that infrastructure for new development on the fringe is more expensive to develop. It is also the case that, in contrast, urbanized areas of the city are within the service boundaries of utility and other service providers and adequate infrastructure components generally are in place. Although new development provides incremental improvements to the local utility services and pays fees for larger scale improvements, older undersized infrastructure can also be overloaded by new development even in urban areas which can lead to major infrastructure projects that include high costs for right of way, disruption to existing development, and other costs. Services such as police and fire services, parks, and schools also incur costs from new development that are not always adequately covered by infill, while "greenfield" development in Oakley includes special taxes for these purposes.

**Finding #11:** "The elimination of redevelopment agencies resulted in a reduction of the number of affordable housing units constructed in the city by eliminating a major source of funding for affordable development projects."

*Response:* The City of Oakley agrees with this finding.

**Finding #12:** "The city delegates to the builder, owner, or management company of affordable housing properties the responsibility for gathering and validating affordable housing clientele information, as well as maintaining lists of potentially interested buyers."

*Response:* The City of Oakley agrees with this finding.

**Finding #13:** "There is no accessible centralized information source for available affordable housing, which compounds the problems created by the affordable housing shortage for those who are searching for affordable housing."

*Response:* The City of Oakley partially agrees with this finding as there appears to be no County-wide centralized source; however, the City does include a listing of affordable housing locations on its website.

## **CIVIL GRAND JURY RECOMMENDATIONS**

**Recommendation #1:** The city should consider increasing affordable housing in PDAs.

*Response:* This recommendation will not be implemented. The City Council designated affordable housing sites in the current Housing Element cycle and no affordable housing was increased in these areas. Within the Downtown PDA, the Downtown Specific Plan does encourage mixed-use development, though not specifically designated as "affordable."

**Recommendation #2:** The city should consider adopting an Inclusionary Housing Ordinance.

*Response:* This recommendation will be implemented and at a future date the City will consider once again an Inclusionary Housing Ordinance as part of a future Housing Element update.

**Recommendation #3:** The city should explore rehabilitating existing housing stock as affordable housing for purchase or rental, and identify funding to do so.

*Response:* This recommendation has partially been implemented. Currently, the City has temporarily reduced development impact fees for residential

development which can assist in the rehabilitation of the existing housing stock. The City does not intend on purchasing any residential units.

**Recommendation #5:** The city should explore increasing existing “impact fees” or “linkage fees” or enacting such fees in order to generate revenue with which to assist funding affordable housing.

*Response:* This recommendation will not be implemented and is not considered a priority for these fees by the City Council.

**Recommendation #6:** The city should consider designating an employee within the city’s planning or housing department to coordinate with property management to maintain current waiting and interest lists of available affordable housing and ensure information is posted in the city website, and identifying funding to do so.

*Response:* This recommendation has partially been implemented. The City’s Planning Manager is in frequent communication with the affordable housing complexes location in the City. Information is also included on the City’s website; however, we do not maintain data there such as waiting lists.

**Recommendation #7:** The city should consider seeking federal, state, and local funding sources for affordable housing.

*Response:* This recommendation has partially been implemented. The City does assist and coordinate with those interested in building affordable units by preparing letters of reference and recommendation for these types of grants.

**Recommendation #8.** The city should consider partnering with for-profit and not-for-profit builders to secure land suitable for affordable housing, and identify funding to do so.

*Response:* This recommendation has partially been implemented. As previously stated, the City does assist and coordinate with those interested in building affordable units by preparing letters of reference and recommendation for grants that may assist with these components of the projects.

**Recommendation #11:** The city should consider undertaking an education initiative in the earliest phase of affordable planning projects in order to alleviate community concerns regarding affordable housing, and identifying funding to do so.

*Response:* This recommendation has been implemented. The City works closely with affordable

housing developers to notify and educate surrounding neighborhoods when developments are proposed and going through the entitlement process.

**Recommendation #13:** The city should consider identifying all infill and vacant land not in PDAs and encourage use of it for affordable housing through tax incentives, density bonuses, etc.

*Response:* This recommendation will not be implemented because it is not warranted or is not reasonable, based on the following explanation. The City of Oakley has an adopted and State –certified Housing Element that identifies opportunity sites which are vacant or underdeveloped and already designated in the General Plan and zoning for appropriately scaled development that is sufficient to meet the RHNA allocation for the eight-year planning period.

**Recommendation #15.** The city should consider creating an easily accessible, online central repository with all relevant information on deed-restricted housing units to assure that inventory of affordable housing is maintained, and identify funding to do so.

*Response:* This recommendation has been partially implemented. The City includes a listing on its website of affordable housing complexes located in the City.

Again, we thank you for the opportunity to respond to the Grand Jury's recent Report No. 1614. If you have any questions or need any assistance, please contact me directly at (925) 625-7025 or at [montgomery@ci.oakley.ca.us](mailto:montgomery@ci.oakley.ca.us).

Respectfully submitted,

Bryan H. Montgomery  
City Manager

cc: City Council

A REPORT BY  
THE 2015-2016 CONTRA COSTA COUNTY GRAND JURY

725 Court Street  
Martinez, California 94553

Report 1614

**Where Will We Live?  
The Affordable Housing Waiting List  
is Closed.**

APPROVED BY THE GRAND JURY:

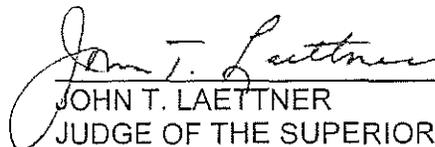
Date: 6/14/16



MICHAEL SIMMONS  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 6/15/16



JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT

Contact: Michael Simmons  
Foreperson  
925-957-5638

Contra Costa County Grand Jury Report 1614

**Where Will We Live?  
The Affordable Housing Waiting List is Closed.**

**TO: City Councils of Antioch, Brentwood, Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga, Oakley, Orinda, Pinole, Pleasant Hill, Pittsburg, Richmond, San Pablo, San Ramon, Walnut Creek and the Contra Costa County Board of Supervisors**

**SUMMARY:**

The Bay Area is one of the most expensive regions in the world to live and work. Our County has a housing crisis that demands our immediate attention. Lack of affordable housing in Contra Costa County negatively affects our citizens and economy. Government lawmakers and fair shelter advocates call housing "affordable" when a household pays no more than 30 percent of its total income for housing costs. Income levels determine who qualifies for Affordable Housing (AH). Those qualifying include a range of households from formerly homeless individuals to first-time homebuyers. AH can include rental and homeownership; single-family and multi-family; and new or rehabilitated units. The Bay Area has an extensive network of for-profit and non-profit housing developers that create well designed, well managed AH. Despite their efforts, the demand far outstrips the supply.

California housing element law, California Government Code section 65580 et seq., mandates that every city provide its fair share of AH. Since 2007, the cities in the Bay Area, including in Contra Costa County, have failed to issue the requisite number of building permits to meet their share allocations.

President of the Bay Area Council, Jim Wunderman, warned that "water isn't the only thing that is in short supply in the Bay Area. Our region is growing, our economy is humming, but the housing shortage could be our Achilles heel." He called for California's housing problems to receive the same decisive action that is being undertaken to combat the drought. In a recent Bay Area Council housing poll, 67 percent of residents complain that it is harder to find a place to live in the Bay Area compared with a year ago.

The Grand Jury surveyed all nineteen cities in the County to learn about the resources implemented to address the shortage of AH. More than 70 percent of the County's cities have adopted ordinances that mandate developers build a certain percentage of new home projects at below-market prices for people with lower incomes. Financial

tools used by the cities include housing impact fees, linkage fees, in lieu fees, and density bonuses. Some cities have donated publicly owned land, vacant land for infill, and property for renovation to non-profit housing developers in an effort to alleviate their city's AH crises. Our investigation revealed however, that ordinances, builder incentives, housing fees, and donations are not enough to solve the shortage of AH and the County and cities can and should do more. What is missing we discuss in the four focus areas of this report:

1. Public awareness about AH;
2. Governmental resources available to communities, builders, and developers for AH;
3. Contra Costa cities' performance in meeting the need for AH; and
4. Improving and centralizing information regarding the availability of AH to ensure that those who may qualify can readily learn and keep informed of AH opportunities.

## **METHODOLOGY**

In conducting its investigation and preparing this report, the Grand Jury performed the following tasks:

- Interviewed selected city and County staff and representatives of:
  - for-profit and non-profit builders and developers,
  - AH advocacy organizations, and
  - area-wide quasi-governmental agencies.
- Attended meetings of:
  - the County Board of Supervisors,
  - regional organizations,
  - city councils,
  - municipal planning commissions.
- Reviewed:
  - published court decisions,
  - public materials,
  - online documents,
  - Contra Costa County and city websites.
- Prepared and submitted to each city within the County a written survey pertaining to AH, and reviewed and analyzed the responses of each city (Appendix 1)

## DISCUSSION

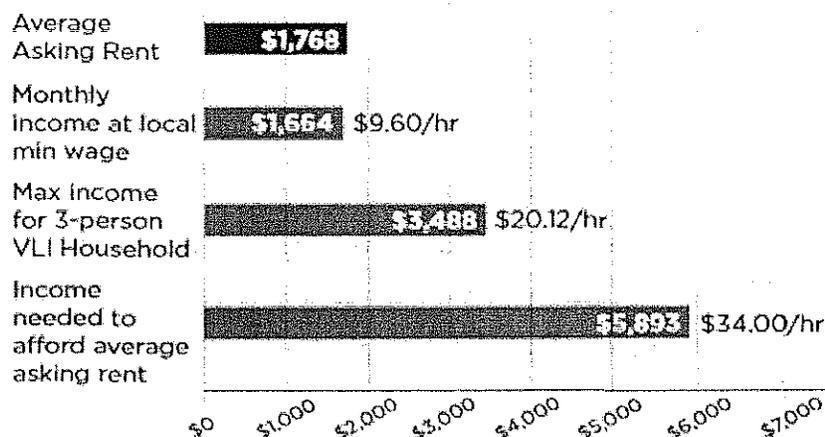
### Why should AH matter to the residents of Contra Costa County?

A 2015 East Bay Housing Organization (EBHO) report states that:

<b>17.1% OF CONTRA COSTA COUNTY RESIDENTS LIVE IN POVERTY DUE LARGELY TO HIGH HOUSING COSTS</b>	
Official Poverty Measure:	Adjusting for Housing Costs and Social Programs:
<b>11.9%</b>	<b>17.1%</b>

Source: The Stanford Center on Poverty and Inequality with the Public Policy Institute of California, California Poverty by County, 2012.

### **RENTERS NEED TO EARN 3.5X MINIMUM WAGE TO AFFORD AVERAGE ASKING RENTS**

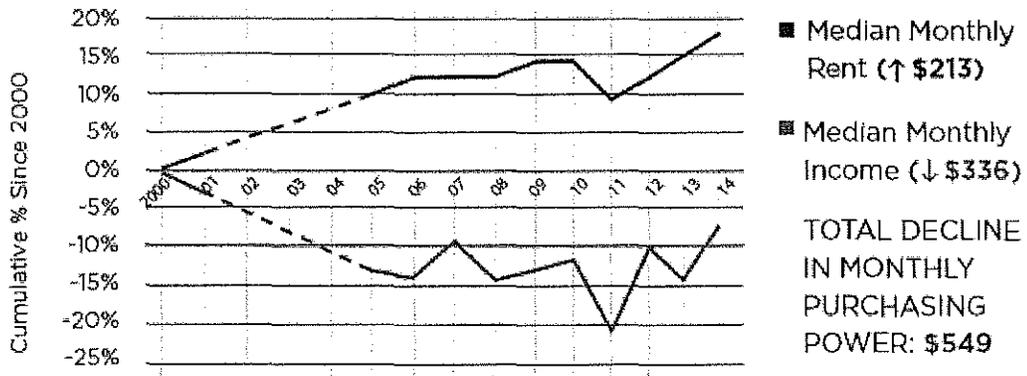


Source: 2015 Real Answers average apartment rent data, HUD 2015 County Section 8 Program Income Limits.



- Seventeen percent of County residents live in poverty, in which high housing costs play a significant role.
- Inflation adjusted median rent has increased seventeen percent since 2000 while the median renter income has declined seven percent.

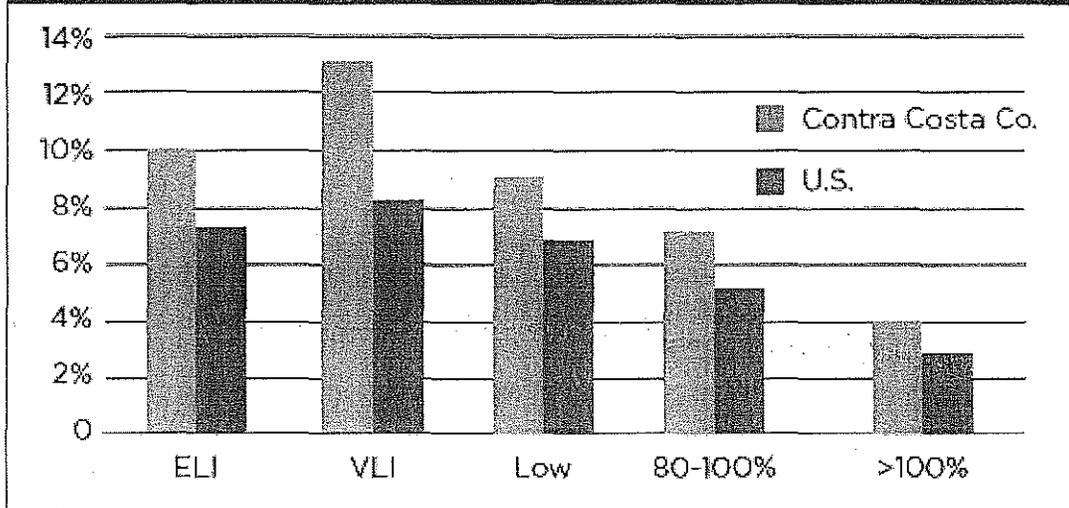
**INFLATION ADJUSTED MEDIAN RENT HAS INCREASED 17% SINCE 2000  
WHILE MEDIAN RENTER INCOME HAS DECLINED 7%**



Source: US Census 2000 and Annual ACS Data 2005-2014. Median rents and incomes from 2001-2004 are estimated trends.

- Renters need to earn three and one-half times the minimum wage to afford average-asking rents of \$1,768 per month, reflecting upward pressure on rents in the Bay Area and the County, driven by a resurgent economy and increased demand.

**OVERCROWDING FOR CONTRA COSTA'S LOWER-INCOME RENTERS IS 43% HIGHER THAN THE NATIONAL AVERAGE**



SOURCE: CHPC analysis of 2007-2011 CHAS data.

The chart above shows the higher percentages in the County who fall within the lower income categories (low, very low [VLI], and extremely low [ELI]) as compared to the comparable percentages nationwide.

## WHO IS BEING LEFT OUT OF THE CONTRA COSTA COUNTY RENTAL MARKET?

**Average Asking Rent: \$1,768**

**Hours/week of  
work needed to  
afford average  
asking rent**

<b>Job Category</b>	<b>Mean Hourly Wage</b>	<b>Hours/week of work needed to afford average asking rent</b>
Medical Assistants	\$19.38	70
EMTs & Paramedics	\$17.77	77
Preschool Teachers	\$17.35	78
Janitors & Cleaners	\$14.87	91
Retail Salespersons	\$13.89	98
Waiters & Waitresses	\$11.50	118

SOURCE: CHPC Analysis of 2014 Bureau of Labor statistics and 2015 Real Answers average rent data.

- Between 2010 and 2014, County real estate had the highest sales price increase (50 percent) in the Bay Area.
- From fiscal year 2008-2009 to fiscal year 2013-2014, the County lost seventy-one percent of state and federal funding for AH, a loss of \$39,500,000.

Communities thrive when people have safe and stable housing; when they live near their jobs, schools, and places of worship; when families can build roots and meet diverse neighbors; and when we use resources wisely, greening our housing and preserving open space. AH residents are seniors and people with disabilities on a fixed income, as well as teachers, retired military personnel, car mechanics, childcare workers, and others who work in our communities.

In addition to the obvious benefits of helping residents, AH can benefit the wider community in significant ways:

- Providing housing for the local workforce, especially lower wage earners;
- Revitalizing distressed neighborhoods;
- Directing economic benefits to the local community, such as increased jobs and sales taxes; and
- Promoting economic and social integration while building community.

## Government Efforts to Achieve AH

In June 2015, the *East Bay Times* ran an article entitled, "*Bay Area Housing Crisis May Cause NIMBY Attitudes to Wane*". NIMBY is an acronym for "not in my backyard". Bay Area residents seem to be willing to challenge this attitude as two-thirds now believe it is tougher to find a place to live, and over half are ready to embrace higher density housing in their neighborhoods to tackle the problem. Seventy-six percent of Bay Area residents want policy makers and developers to direct their efforts toward the creation of certain types of housing. Specifically, respondents want the focus on housing for low and middle-income people.

In the County, population continues to increase, bringing constant pressure on state and local governments to focus on housing affordability. Various state and local laws and ordinances are available to cities in the County and the greater Bay Area to address the shortage of AH.

### Housing Element

California Housing Element law (California Government Code section 65580 et seq.) is the State's primary market-based means to increase housing supply, affordability, and provide opportunities for private builders without unduly constraining housing development. The County and its nineteen cities each have a Housing Element plan certified by the California Department of Housing and Community Development (HCD), detailing their goals pertaining to AH.

### Association of Bay Area Governments (ABAG)

ABAG is the comprehensive regional planning agency and Council of Governments (COG) for the nine counties and 101 cities and towns of the San Francisco Bay Region. The region encompasses Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma counties. As the COG for the Bay Area, ABAG is responsible for regional land use planning and coordination with local governments. The State sets the housing needs and ABAG allocates the housing goals for the nine Bay Area Counties by income levels set by the federal Housing and Urban Development agency (HUD). While land-use planning is fundamentally a local issue for city governments, the availability of housing is a matter of statewide importance. Housing element laws require local governments to be accommodating and accountable to meet projected housing needs. The cities maintain local control over where and what type of development should occur while providing the opportunity for the private sector to meet market demand.

The following is a summary of housing permits issued for all Bay Area jurisdictions for the period between 2007 and 2014. This data was compiled primarily from Annual Housing Element Progress Reports (APRs) filed by jurisdictions with the California Department of Housing and Community Development (HCD). In certain instances when APR data was not available but permitting information could be found through other sources ABAG made use of the data sources below:

- Adopted and certified housing elements for the period between 2007 and 2014
- Draft housing elements for the period between 2014-2022
- Permitting information sent to ABAG directly by local planning staff

Note: Given that calendar year 2014 is in-between the 2007-14 and the 2014-2022 RHNA cycles, HCD provides Bay Area jurisdictions with the option of counting the units they permitted in 2014 towards either the past (2007-2014) or the current (2014-2022) RHNA cycle, ABAG did not include 2014 permitting information in this report for jurisdictions that requested that their 2014 permits be counted towards their 2014-2022 allocation. Those jurisdictions are indicated by an asterisk (\*).

Bay Area	Very Low (0-50% AMI)			Low (50-80% AMI)			Moderate (80-120% AMI)			Above Moderate (120%+ AMI)			Total		
	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met
Alameda	10,017	3,095	31%	7,616	1,699	22%	9,078	1,140	13%	18,226	13,681	75%	44,937	19,615	44%
Contra Costa	6,512	1,353	21%	4,325	1,035	24%	4,996	3,654	73%	11,239	10,758	96%	27,072	16,800	62%
Marin	1,095	250	23%	754	256	34%	977	219	22%	2,056	818	40%	4,882	1,543	32%
Napa	879	135	15%	574	71	12%	713	268	38%	1,539	960	62%	3,705	1,434	39%
San Francisco	6,589	3,920	59%	5,535	1,481	27%	6,754	1,234	18%	12,315	13,468	109%	31,193	20,103	64%
San Mateo	3,588	702	20%	2,581	641	25%	3,038	746	25%	6,531	6,080	93%	15,738	8,169	52%
Santa Clara	13,878	3,798	27%	9,567	2,692	28%	11,007	2,371	22%	25,886	35,962	139%	60,338	44,823	74%
Solano	3,038	283	9%	1,996	481	24%	2,308	1,067	46%	5,643	3,141	56%	12,985	4,972	38%
Sonoma	3,244	715	22%	2,154	826	38%	2,445	1,033	42%	5,807	3,065	53%	13,650	5,639	41%
Bay Area Totals	48,840	14,251	29%	35,102	9,182	26%	41,316	11,732	28%	89,242	87,933	99%	214,500	123,098	57%

### Regional Housing Needs Allocation (RHNA)

Government Code sections 65580-65589.8, also known as the Regional Housing Needs Allocation (RHNA), set forth the state-mandated process for identifying the total number of housing units by affordability level that each jurisdiction should accommodate.

Income categories established by HUD for 2015 in the County are:

- **Extremely Low** – A subset of the very low-income regional housing need, defined as households earning less than thirty percent of the median household income: family of four earning \$28,050 or less per year.
- **Very Low** – Defined as households earning less than fifty percent of the median household income: family of four earning \$28,051 to \$46,750 per year.
- **Low Income** – Defined as households earning fifty to eighty percent of the median household income: family of four earning \$46,751 to \$71,600 per year.
- **Moderate Income** – Defined as households earning eighty to one-hundred twenty percent of the median household income: a family of four earning \$71,601 to \$112,200 per year. The median income for the County falls within this category at \$93,500 per year.
- **Above Moderate Income** – Defined as households earning over one-hundred twenty percent of the median household income: family of four earning more than \$112,200 per year.

Between 2007 and 2014, municipalities in the Bay Area collectively issued permits for 57 percent of the RHNA. Housing permits were skewed toward units for higher income consumers, meeting 99 percent of the RHNA for above-moderate income housing, but only 28 percent for moderate-income housing, 26 percent for low-income housing, and 29 percent for very low income housing.

The next eight-year RHNA cycle, 2014-2022, for the County and cities, projects a lower allocation than the RHNA for 2007-2014. HCD made an adjustment to account for abnormally high vacancies and unique market conditions due to prolonged recessionary conditions, high unemployment, and unprecedented foreclosures in parts of the Region.

ABAG Final Regional Housing Need Allocation for the County 2014-2022

**FINAL REGIONAL HOUSING NEED ALLOCATION, 2014-2022** Adopted by the ABAG Executive Board on July 18, 2013

**Contra Costa County**

	Very Low	Low	Moderate	Above Moderate	Total
Antioch	349	205	214	680	1,448
Brentwood	234	124	123	279	760
Clayton	51	25	31	34	141
Concord	798	444	559	1,677	3,478
Danville	196	111	124	126	557
El Cerrito	100	63	69	166	398
Hercules	220	118	100	244	682
Lafayette	138	78	85	99	400
Martinez	124	72	78	195	469
Moraga	75	44	50	60	229
Oakley	317	174	175	502	1,168
Orinda	84	47	54	42	227
Pinole	80	48	43	126	297
Pittsburg	392	254	316	1,063	2,025
Pleasant Hill	118	69	84	177	448
Richmond	438	305	410	1,282	2,435
San Pablo	56	53	75	265	449
San Ramon	516	279	282	340	1,417
Walnut Creek	604	355	381	895	2,235
Unincorporated	374	218	243	532	1,367
<b>Contra Costa Total</b>	<b>5,264</b>	<b>3,086</b>	<b>3,496</b>	<b>8,784</b>	<b>20,630</b>

Association of Bay Area Governments

For the County (including all 19 Cities and the unincorporated areas of the County), the proposed RHNA translates to 20,630 new units or just under 11 percent of the Bay Area's total units. The 2014-2022 RHNA allocation is more reflective of the planning environment in the County; more specifically, it reflects both the broader policy of channeling new growth to infill areas with existing transportation infrastructure as well as to discourage growth outside of the County's urban limit line.

Senate Bill 375, "The California Sustainable Communities, and Climate Protection Act of 2008," established a new framework for the RHNA. SB 375 requires each of the state's

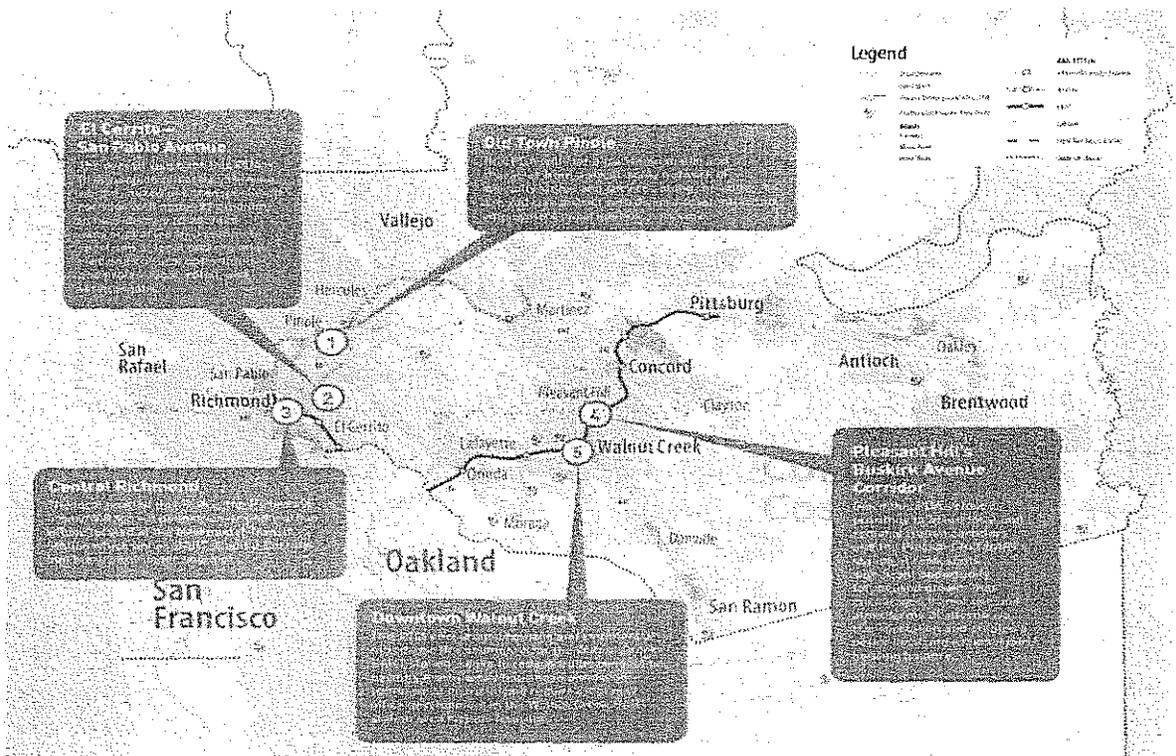
18 metropolitan areas, including the Bay Area, to develop a Sustainable Communities Strategy (SCS) with the goals of reducing greenhouse gas (GHG) emissions from cars and light trucks and accommodating all needed housing growth within the region. This law seeks to ensure that future land uses (through RHNA and other plans) are coordinated with long-term transportation investments.

Priority Development Areas (PDAs)

PDAs are local areas within each city that focus development on housing, employment, amenities, and services to meet the day-to-day needs of residents and workers in a pedestrian-friendly environment served by transit. These are neighborhoods within walking distance of frequent transit service, offering a wide variety of housing options, and featuring amenities such as grocery stores, community centers, and restaurants. During 2013 and 2014, 48 percent of all allocated building permits were located in PDAs. During that same time, PDAs were home to 59 percent of the region's permitted multi-family housing units.

*Plan Bay Area 2040* is a long-range integrated transportation and land-use/housing strategy that focuses housing growth in PDAs. This plan provides a strategy for meeting 80 percent of the region's future housing needs in PDAs. Identified by cities and towns across the region, the PDAs range from regional centers like Walnut Creek's West Downtown area, to smaller town centers such as Old Town Pinole.

**A Map of Contra Costa County PDAs**



## Inclusionary Housing Ordinances (IH)

The most popular city response to AH has been incorporating “Inclusionary Housing” (IH) ordinances in the Housing Element. In California, between 1990 and 2003, the numbers of communities with IH more than tripled—from 29 to 107 communities—meaning about 20 percent of California communities now have IH ordinances. Also called Inclusionary Zoning, seventy-eight cities in the Bay Area, including fourteen cities in the County, have some type of IH policy in place.

The purpose of inclusionary zoning laws is to prevent people from being excluded from affordable housing in the communities where they live or work. IH ordinances require developers to sell a certain percentage of their new homes at below market prices. Most cities designate between 10-15 percent of new units as affordable, though some require as high as 20 percent, others as low as 4 percent. The cities’ IH laws specify a threshold number of units before the ordinance takes effect.

The California building industry sued, claiming that the mandate to sell a certain percentage of homes at below market pricing was a “taking” of their property and violated the Takings Clause of the U.S. and state constitutions. Last year, in an important victory for AH advocates, in the case of California Building Industry Association v. City of San Jose, 61 Cal. 4th 435 (2015) the California Supreme Court upheld the City of San Jose’s IH ordinance, stating:

*“The proper constitutional inquiry is a far less exacting one: whether the requirements of San Jose’s inclusionary housing ordinance are reasonably related to the city’s legitimate interest in alleviating the municipality’s chronic shortage of low-and moderate-income housing generally.”*

The Court had no difficulty in concluding that there was no violation of the Takings Clause under the U.S. or state constitutions. The Court found that the city could regulate land use because it has a legitimate interest in easing the chronic shortage of AH even if it reduces builders’ profits. The builders appealed this decision to the U.S. Supreme Court. In March 2016, the U.S. Supreme Court left intact the state court’s ruling.

Bay Area cities started adopting inclusionary zoning in 1973, and were among the first cities in California to begin experimenting with this policy tool. However, 50 Bay Area cities with inclusionary zoning have produced fewer than 7,000 affordable units since 1973. Contrast this with ABAG’s estimate that the region needs 24,217 AH units per year. At current rates, cities with inclusionary zoning will only produce four percent of the regions estimated AH needs for the next eight-year cycle, 2014-2022.

Opponents say that IH has had a negative impact on homebuyers, local governments, and builders. They argue that inclusionary zoning has failed to create more AH because price controls do not get to the root of the problem and the real causes of AH shortages are government restrictions. Supply has not kept up with demand due to artificial restrictions attributed to land-use regulation. One recent study found that 90

percent of the difference between physical construction costs and the market price of new homes is land use regulation.

A number of cities in the County add substantial fees to the cost of development to pay for additional public benefits or to mitigate inconvenience, traffic and other effects from new housing. Builders call these add-ons the "Christmas Tree List". These additional costs often act as a deterrent to the development of new AH. When selling a percentage of units at below market, someone must make up that difference. Taxpayers and market rate buyers bear the cost of the mandated affordable units.

One of the great advantages of inclusionary zoning programs is that there is not a significant dollar cost to the city for the creation of the affordable home. The corollary is that inclusionary housing works best where the housing market is strong; that is, where private builder/developers want to build because they believe there is strong market potential and that people will buy or rent the homes they build.

This June, San Franciscans voted to pass Proposition C, the affordable housing charter amendment. Prop C will double the amount of inclusionary housing that must be included in new, market-rate developments. Twenty-five percent of new apartments or condos would have to be deemed affordable. In addition, Prop C requires developers to include ten percent middle income housing so that San Franciscans such as teachers and nurses can afford to live in the communities they serve. This measure ensures that both low-income and middle-income housing will be built in the same development as luxury condos. Bay Area city and county residents are watching this proposition closely.

### Density Bonus Law

Density bonuses allow more units to be built on a property than would otherwise be allowed under zoning ordinances. In exchange for the density bonus, more AH units must be built. Allowing developers to increase the total number of housing units in a development helps to offset the building costs that the developers incur but cannot recover from the sale of below market price units. Other incentives included under density bonus laws that help make the development of AH economically feasible are:

- Reduced parking requirements;
- Reduced setback and minimum square footage requirements; and
- Ability to donate land for the development of AH to earn a density bonus.

These other incentives often are even more helpful to a project than the density bonus itself.

### Other Incentives Used By Cities

#### 1. Accessory Dwelling Units

Under the California Second Unit Law (AB) 866, cities may allow homeowners to build secondary units (known as "in-law" or "granny units"). The purpose is to

increase the inventory of very low- and low-income housing without increasing service needs or additional government investment.

## 2. Infill Housing

Infill housing on vacant or underutilized sites within already developed areas is included in many cities' Housing Element to increase AH. According to an article published by the Greenbelt Alliance, "*Strategies for Fiscally Sustainable Infill Housing*":

*"A city's costs associated with building more housing are twofold. First, there are the initial costs of building or upgrading the infrastructure to serve the new housing; this may include building new roads, upgrading sewage and water capacity in the area, and building new facilities. Second, cities pay for many of the ongoing public services for the residents in the area, including police, fire, parks, and libraries. These ongoing costs also include operations and maintenance for the roads, sewage, and other infrastructure."*

Infill housing can lower both initial and ongoing costs to cities by taking advantage of excess capacities in existing infrastructure and locational efficiencies.

## 3. Fees Paid by Developers to Fund AH

The following fees paid by developers and builders to fund AH are detailed in the cities' Housing Element laws or Inclusionary Zoning ordinances:

### a) Housing Impact Fees

Developers of market-rate commercial and residential units pay an impact fee based on the square footage or number of new units built in a development. These fees contribute to the development or preservation of AH for residents.

### b) In Lieu Fees

Nearly seventy percent of IH ordinances include an in lieu fee provision for developers. This fee allows developers to pay to the city a dollar amount based on square footage, instead of actually building AH. These fees go into specially designated accounts, segregated from a city's general fund, and are used for the development of AH units and housing element mandates. These fees can fund programs compatible with AH goals such as rent relief, down payment assistance, or property renovation for sale. In lieu fees give developers a broader choice in implementing AH mandates. They can seal the deal when cities and developers are bargaining for new permits.

### c) Linkage Fees

A portion of the jobs created by new commercial development—hotel, retail, office, etc.—are often low paying. The employees in these positions cannot

afford market-rate housing. Commercial linkage fees, also known as job-housing linkage fees, help ameliorate some of the housing impacts generated by such projects. A Job-Housing Nexus Analysis is required to measure the connection between the construction of new commercial buildings, employment, and the need for AH. The analysis ends with a cost per-square foot for that building to provide housing for employees who would live in the locality if they could afford to do so.

AH funding available to cities:

- Home Investment Partnerships Program (HOME): assists cities, counties, and nonprofit community housing development organizations (CHDOs) to create and retain AH, by for example, rehabilitation, new construction, and acquisition and rehabilitation, for both single-family and multifamily projects, and predevelopment loans by CHDOs. All activities must benefit lower-income renters or owners.
- Community Development Block Grant (CDBG): The primary purpose of the CDBG program is to develop viable urban communities by providing decent housing, a suitable living environment, and expanded economic opportunities principally for persons of low income. The County's goal is to develop and conserve viable communities in areas where blight and disinvestment threaten residents' safety, vitality, and productivity. These funds contribute to projects that benefit urban County residents.
- HOME Investment Partnerships Act (HIPA): The purpose of the HIPA program is to expand the supply of decent, safe, sanitary, and AH for very low and low-income households. The County, as the Urban County representative, and the Cities of Antioch, Concord, Pittsburg, and Walnut Creek, are a group for purposes of participation in the HIPA program. The City of Richmond operates an independent HIPA program. HIPA fund contributions acquire, rehabilitate, and construct housing for lower-income households in the group area.

Other programs used by Bay Area Cities to finance AH:

- Housing Trust Funds: These funds, sponsored by legislation, ordinance, or resolution, can be earmarked only for AH. The key characteristic of a housing trust fund is that it receives ongoing revenue from dedicated sources of public funding, such as local fees or loan repayments. The key benefit of this type of trust is that it provides an on-going and dedicated source to fund needed housing.
- Community Land Trusts: Non-profit community based organizations supported by the city or county whose mission is to provide AH in perpetuity by owning land and leasing it to those who live in houses built on that land.

## IS THE COUNTY MEETING ITS FAIR SHARE ALLOCATION OF AH?

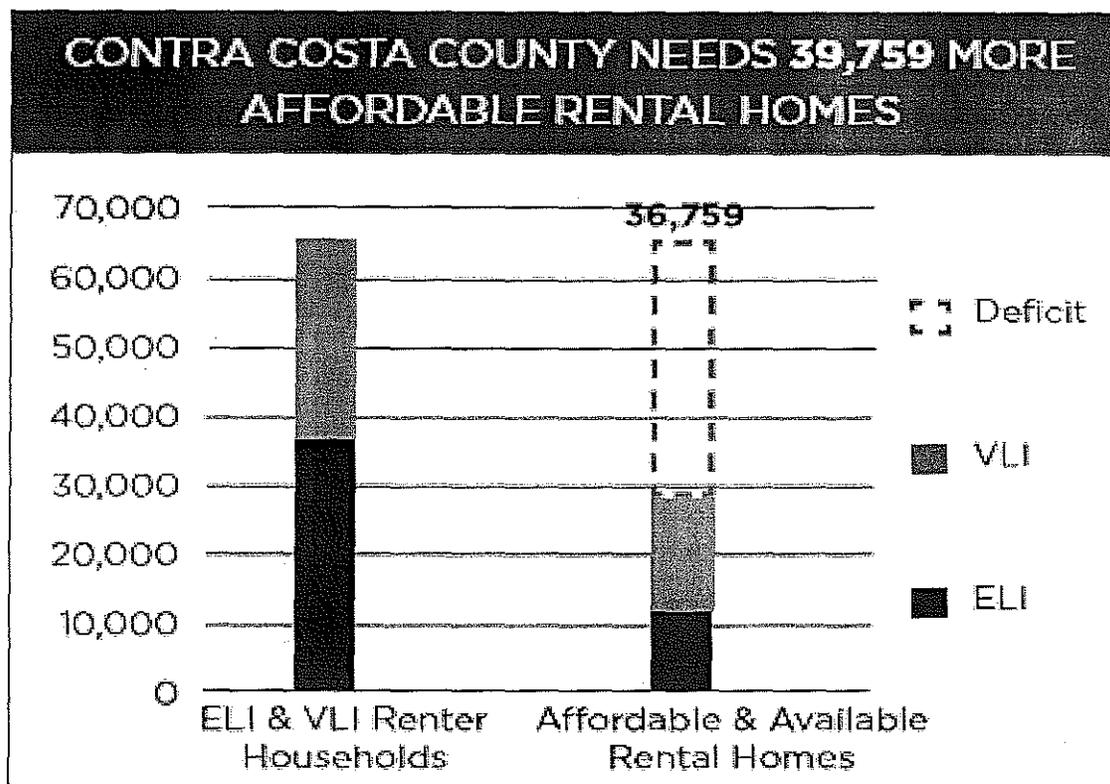
### Bay Area Progress in Meeting 2007-2014 RHNA

CONTRA COSTA COUNTY	Very Low (0-50% AMI)			Low (50-80% AMI)			Moderate (80-120% AMI)			Above Moderate (120%+ AMI)			Total		
	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met
Antioch	516	8	2%	339	20	6%	381	834	219%	1,046	381	36%	2,282	1,243	54%
Brentwood	717	192	27%	435	58	13%	480	175	36%	1,073	1,608	150%	2,705	2,033	75%
Clayton	49	-	0%	35	1	3%	33	2	6%	34	46	135%	151	49	32%
Concord*	639	2	0%	426	-	0%	498	8	2%	1,480	216	15%	3,043	226	7%
Danville <sup>2</sup>	196	2	1%	130	84	65%	146	101	69%	111	287	259%	583	474	81%
El Cerrito	93	142	153%	59	38	64%	80	13	16%	199	163	82%	431	356	83%
Hercules <sup>3</sup>	143	-	0%	74	-	0%	73	-	0%	163	153	94%	453	153	34%
Lafayette <sup>2</sup>	113	47	42%	77	8	10%	80	8	10%	91	170	187%	361	233	65%
Martinez	261	48	18%	166	-	0%	179	4	2%	454	148	33%	1,060	200	19%
Moraga	73	-	0%	47	-	0%	52	-	0%	62	9	15%	234	9	4%
Oakley*	219	242	111%	120	191	159%	88	874	993%	348	331	95%	775	1,638	211%
Orinda	70	72	103%	48	20	42%	55	22	40%	45	137	304%	218	251	115%
Pineole	83	2	2%	49	1	2%	48	10	21%	143	59	41%	323	72	22%
Pittsburg	322	79	25%	223	126	57%	295	666	225%	931	839	90%	1,772	1,719	97%
Pleasant Hill	160	9	6%	105	1	1%	106	8	8%	257	194	75%	608	212	34%
Richmond	391	74	19%	339	153	45%	540	243	45%	1,556	892	57%	2,826	1,362	48%
San Pablo	22	-	0%	38	1	3%	60	35	58%	178	-	0%	298	36	12%
San Ramon	1,174	196	17%	715	255	36%	740	302	41%	834	2,247	269%	3,463	3,000	87%
Walnut Creek	456	150	33%	302	25	8%	374	19	5%	826	1,206	146%	1,958	1,400	72%
Contra Costa County*	815	88	11%	598	53	9%	687	330	48%	1,408	1,672	119%	3,508	2,143	61%
County Totals	6,512	1,353	21%	4,325	1,035	24%	4,996	3,654	73%	11,239	10,758	96%	27,072	16,800	62%

Between 2010 and 2014, County real estate had the highest median price increase (50 percent) in the Bay Area. For the period 2007-2014 RHNA, the County had the best rate of success in the Bay Area in meeting its AH goals at 62 percent, but still fell far short. Of the 27,000 units assigned in the County, less than 16,800 building permits were issued. Most concerning is that in the County, permits issued for the very low and low-income RHNA units were less than 25 percent of allocated need or less than fourteen hundred units.

According to East Bay Housing Organizations (EBHO), the County needs 39,759 more affordable rentals to meet immediate demand in the Extremely Low Income (ELI) and

Very Low Income (VLI) categories. Please see chart below. Since 2010, the nine counties of the Bay Area have added less than 10,000 units of housing per year, 50 percent of the rate of construction from previous decades.



SOURCE: NLIHC Analysis of 2013 ACS PUMS.

Builders' key issues/problems with meeting AH goals

Builders are the producers of AH. They are key players in bringing the vision and solutions to the housing shortage. They are partners in helping cities achieve their fair share goal of AH. However, loss of government funding, as well as marketplace factors and the Great Recession created the perfect storm, presenting impediments to the construction of AH:

- From fiscal year 2008-2009 to fiscal year 2013-2014, the County lost 71 percent of state and federal funding, a loss of over \$34 million in redevelopment funds. Redevelopment agencies facilitated the development of AH through land acquisition and transfer, and provision of predevelopment funding. The result is that many cities have closed housing programs and cut staff.

**FROM FY 2008-09 TO FY 2013-14 CONTRA COSTA COUNTY  
LOST 71% OF STATE AND FEDERAL FUNDING**

FUNDING SOURCE	FY 2008/2009	FY 2013/2014	% CHANGE
HUD	\$11,748,233	\$9,149,237	-22%
HCD (Prop. 46 & Prop 1C)	\$9,474,560	\$7,312,544	-23%
MHSA	\$0	\$0	0%
Redevelopment	\$34,784,527	\$0	-100%
<b>TOTAL</b>	<b>\$56,007,320</b>	<b>\$16,461,781</b>	<b>-71%</b>

SOURCE: CHPC tabulations of Redevelopment Housing Activities Report and HUD's CPD program formula allocations. State housing bond funding from Propositions 46 and 1C provided by HCD. MHSA program funding provided by CalHFA.

- There is a lack of developable land and the land that can be developed is expensive.
- Local development standards for height limits, lot coverage maximums, and parking requirements that lead to reduction of the number of units that can be built on a given site impedes construct of AH.
- Cities often have a lengthy development application and permit process.
- Cities also often require the developers pay add-on fees for infrastructure.
- High local development impact fees can add fifty to one hundred thousand dollars in development costs per single-family unit according to the Contra Costa County Consortium's 2015-2020 Consolidated Plan.
- The County has an urban limit line to concentrate development and protect open space. This policy increases the cost of available land, which increases the cost of development.
- One of the biggest challenges for builders of price-controlled units is alerting qualified buyers to the availability of low income housing due to a lack of comprehensive and easily-accessible directories for potential renters to gain information about such housing. Some builders estimate that the administrative cost of selling price-controlled homes is about double that spent on market-rate homes. Builders front the direct administrative costs, and the financing costs of carrying unsold inventory while searching for qualified buyers.

Results of the Contra Costa Grand Jury 2015-2016 AH Survey of Cities

The 19 cities in the County have differing policies and practices pertaining to AH. (See Appendix 1, Survey re AH) Highlights of these policies and practices and the tools used to address their AH shortages include:

### AH Laws in the County

- All cities have a 2015 certified "Housing Element", which details their respective plans for reaching their RHNA allocation.
- All cities have a Density Bonus Ordinance, with the exception of Lafayette, which was considering adopting such an ordinance at the time of this report.
- Thirteen cities and the County have restrictions on condominium conversions.
- Three cities have ordinances for rent stabilization: Concord, Danville, and Hercules.
- None of the cities has a rent control ordinance.

### Inclusionary Zoning

- Fourteen cities and the County have enacted an IH ordinance with a Below Market Rate Policy: Brentwood, Concord, Danville, El Cerrito, Hercules, Martinez, Oakley, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek.
- Sixteen cities have enacted an IH ordinance with in lieu fees: Brentwood, Clayton, Concord, Danville, El Cerrito, Hercules, Martinez, San Ramon, Walnut Creek, Moraga, Oakley, Pinole, Pittsburg, Pleasant Hill, Richmond, and San Pablo.
- The formula for calculating in lieu fees varies by city.
- Over one-half of the cities and the County allow builders to pay in lieu fees rather than build AH in new developments.
- Half of the cities allow developers of new housing to build AH elsewhere in the city, which is determined by the city.
- The threshold number of units above which the city required AH varied from a high of twenty-five (Brentwood) to a low of one (Walnut Creek) with an average of eight.

### Builder Linkage Fees

- Nine cities have Housing Impact fees: Antioch, Brentwood, Hercules, Martinez, Pinole, Pleasant Hill, Richmond, San Pablo, and Walnut Creek.
- Seven cities have commercial linkage fees: Antioch, Brentwood, Martinez, Pinole, Richmond, San Ramon, and Walnut Creek.

### Public Awareness of Availability of AH

- Only one city, Brentwood, maintains a list or directory of AH units for rent or sale within the community. All other cities delegate to the builder or developer of the AH property maintenance of the AH list.
- Only the city of Brentwood maintains a waiting lists or lists of interested potential candidates for AH in the community. All other cities direct interested residents to contact the AH developer, builder, or management company.

- Most affordable ownership housing is provided and managed by developers of for profit market rate housing who are responsible for locating and selling to qualified consumers.
- Pleasant Hill is the only city in the survey with no deed restricted housing. Maintaining the affordability of a property that is deed restricted for lower income households is an important element of affordable home program management. Reselling or re-renting deed-restricted units to another qualified household maintains an inventory of AH. (See Table Appendix 2)

Anyone looking for AH in the County has to be persistent and patient and access numerous sources of information, repeatedly and often. For example: *East Bay Housing Organization's (EBHO) 2015-2016 AH Guidebook* suggests the following for those seeking AH:

1. Frequently check the websites of non-profit developers.
2. Call them and ask for a list of properties, including those in development. If they have an interest list, have your name placed on the list for properties that meet your needs and income level.
3. Get on as many waitlists as you can. When a waitlist opens, call the property. Ask for an application, or go to the property to get an application. Submit it by the deadline.
4. Once you have submitted your applications, let each property know if you move, or change your phone number. In order to remain on a waitlist, you must be in regular contact with the site manager of each property. Ask to find out the best way to do this.
5. Apply to as many AH properties as you can. Be persistent, do not get discouraged, and advocate for more AH in your community.
6. You can also call 211 for help and advice.

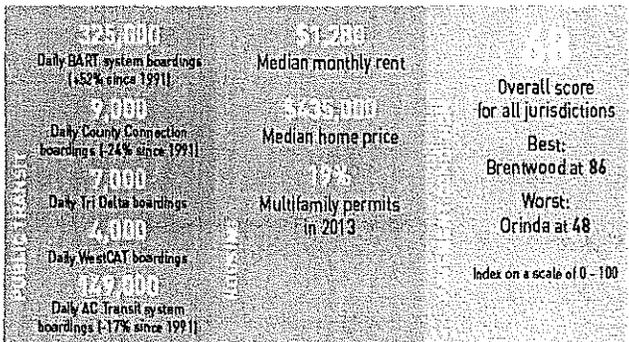
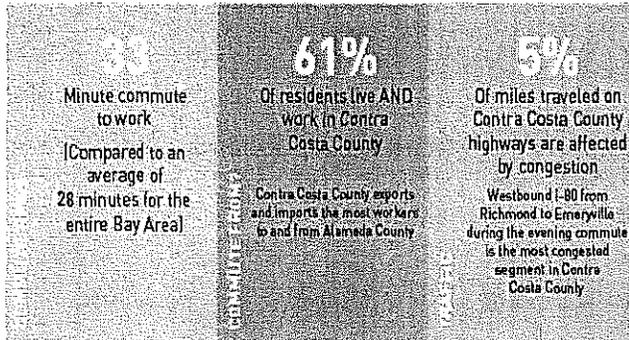
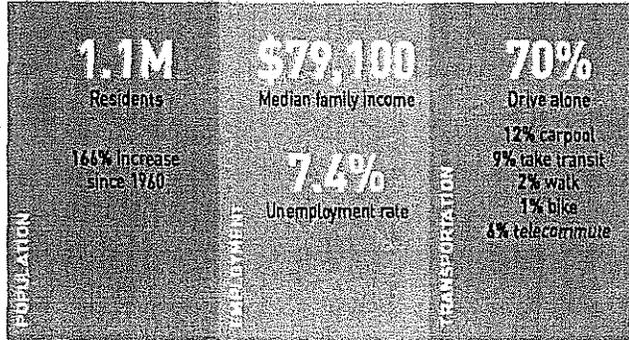
### **THE FUTURE: *PLAN BAY AREA 2040***

The 1.1 million residents of the County have a strong interest in protecting the wealth of features that make it a magnet for people and businesses. ABAG's *Plan Bay Area 2040* looks forward to a sustainable pattern of regional growth that will help preserve the Bay Area's unique quality of life. The Plan meets the requirements of California's climate law (Senate Bill 375, Steinberg) to decrease transportation-related greenhouse gas emissions and accommodate all needed housing growth within our region's borders.

# COUNTY FOCUS

## Contra Costa County Today

### Plan Bay Area 2040



From 2010 to 2040, Contra Costa County is projected to experience 11 percent of the regional housing growth, adding an estimated 93,390 homes. The County will also take 11 percent of the region's job growth, adding an estimated 70,300 jobs, the majority of which will be in PDAs. Both jobs and housing growth will cluster along San Pablo Avenue in the western part of the County, including Richmond, as well as in the suburbs of Antioch, Pittsburg, Walnut Creek, and San Ramon. The most transformative growth will occur at the former Concord Naval Weapons station, where a new Regional Center with over 17,000 jobs and 12,000 homes will rise near BART.

# Contra Costa

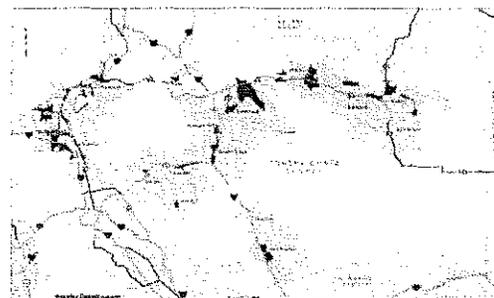


- All but three of Contra Costa's jurisdictions have designated PDAs
- PDAs make up 7 percent of urbanized area in county
- Include seven of the PDA Place Types—only "urban neighborhood" is missing

## Forecast 2010–2040 Growth in PDAs

2010–2040	% Growth	Share of County
Jobs	60%	59%
Households	115%	61%

Place Type	Number
City Center	1
Employment Center	1
Mixed-Use Corridor	7
Regional Center	1
Suburban Center	5
Transit Neighborhood	9



*Plan Bay Area 2040* recommends mixed-income housing production and locally-led planning in PDAs. PDAs are locally identified, infill development opportunity areas within existing communities. They are generally areas of at least 100 acres where there is local commitment to developing more housing along with amenities and services to meet the day-to-day needs of residents in a pedestrian-friendly environment served by transit. To be eligible to become a PDA, an area has to be within an existing community, near existing or planned fixed transit or served by comparable bus service, and planned for more housing.

It is important to note that for purposes of compliance with state law, the requirement is simply that jurisdictions demonstrate that there is adequate zoned capacity by listing possible parcels on which an adequate number of housing units could be built. In other words, these sites are markers for where jurisdictions assure that housing development could go, but not necessarily, where future housing will go. Ultimately, actual development is driven by developer interest, the availability of financing or subsidy sources (in the case of deed-restricted AH), and where developers expect to maximize their investment.

PDAs will play a primary role in accommodating expected future growth. Overall, the existing households in the PDAs will increase 115 percent to over 100,000 households by 2040 while employment in Contra Costa PDAs will increase 60 percent to almost

188,000 jobs. About 60 percent of both new employment and new households will occur in PDAs. To view the PDA interactive website go to:

<http://gis.abag.ca.gov/website/PDAShowcase/>

### Conclusion

We can no longer afford to ignore the housing crisis in the County. AH is imperative as we plan for the future. Middle class families and professionals cannot afford to enter the housing market in the communities in which they work. Evicted renters become homeless, because they cannot afford escalating housing cost increases. The Bay Area News Group reports almost daily about the shortage of AH. Cities and counties do not generally build the houses. However, we look to our city and County boards and planners to lead us into a future community where we can all afford to live and thrive.

## FINDINGS

- F1. PDAs recognize the importance of housing near transportation and jobs for developing prosperous communities.
- F2. *Plan Bay Area 2040* seeks to combine transportation, jobs and housing as a solution to the needs of our growing population.
- F3. While State law mandates that ABAG conduct the RHNA process, a city is not required to subsidize and/or build the units; it is only required to demonstrate that local zoning will not impede development.
- F4. While State law mandates that ABAG conduct the RHNA process, the County is not required to subsidize and/or build the units. It is only required to demonstrate that local zoning will not impede development.
- F5. Inclusionary zoning programs provide incentives and regulatory waivers to builders and developers who produce both affordable and market rate homes within the same project.
- F6. The city's Inclusionary Housing ordinance helps to provide AH in that city.
- F7. The County's Inclusionary Housing ordinance helps to provide AH in the County.
- F8. Inclusionary Housing Ordinances sometimes include the option for the developer to pay in lieu fees instead of constructing AH units.
- F9. The city supplements the shortage of funds for AH by requiring builders to pay impact fees, in lieu fees, or other construction and remodeling fees.
- F10. Infill costs less to service than new development because it takes advantage of the existing infrastructure.
- F11. The elimination of redevelopment agencies resulted in a reduction of the number of AH units constructed in the city by eliminating a major source of funding for affordable development projects.
- F12. The city delegates to the builder, owner, or management company of AH properties the responsibility for gathering and validating AH clientele information, as well as maintaining lists of potentially interested buyers.
- F13. There is no accessible centralized information source for available AH, which compounds the problems created by the AH shortage for those who are searching for affordable housing.

## RECOMMENDATIONS

- R1. The city should consider increasing AH in PDAs.
- R2. The city should consider adopting an Inclusionary Housing Ordinance.
- R3. The city should explore rehabilitating existing housing stock as AH for purchase or rental, and identify funding to do so.
- R4. The County should explore rehabilitating existing housing stock as AH for purchase or rental, and identify funding to do so.
- R5. The city should explore increasing existing "impact fees" or "linkage fees" or enacting such fees in order to generate revenue with which to assist funding of AH.
- R6. The city should consider designating an employee within the city's planning or housing department to coordinate with property management to maintain current waiting and interest lists of available AH and ensure information is posted on the city website, and identifying funding to do so.
- R7. The city should consider seeking federal, state, and local funding sources for AH.
- R8. The city should consider partnering with for-profit and not-for-profit builders to secure land suitable for AH, and identify funding to do so.
- R9. The County should consider seeking federal, state, and local funding sources for AH.
- R10. The County should consider partnering with for-profit and not-for-profit builders to secure land suitable for AH, and identify funding to do so.
- R11. The city should consider undertaking an education initiative in the earliest phase of affordable planning projects in order to alleviate community concerns regarding AH, and identify funding to do so.
- R12. The County should consider undertaking an education initiative in the earliest phase of affordable planning projects in order to alleviate community concerns regarding AH, and identify funding to do so.
- R13. The city should consider identifying all infill and vacant land not in PDAs and encourage use of it for AH through tax incentives, density bonuses, etc.
- R14. The County should consider identifying all infill and vacant land not in PDAs and encourage use of it for AH through tax incentives, density bonuses, etc.
- R15. The city should consider creating an easily accessible, online central repository with all relevant information on deed-restricted housing units to assure that inventory of AH is maintained, and identify funding to do so.

R16. The County should consider creating an easily accessible, online central repository with all relevant information on deed-restricted housing units to assure that inventory of AH is maintained, and identify funding to do so.

### REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Contra Costa County Board of Supervisors	F1, F2, F4, F5, F7, F10, F13	R4, R9, R10, R12, R14, R16
City Council of Antioch	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Brentwood	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Clayton	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Concord	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Danville	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City of Council El Cerrito	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City of Council Hercules	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City of Council Lafayette	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Martinez	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Moraga	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15

City Council of Oakley	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Orinda	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Pinole	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Pleasant Hill	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Pittsburg	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Richmond	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of San Pablo	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of San Ramon	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15
City Council of Walnut Creek	F1 – F3, F5, F6, F8 –F13	R1 – R3, R5 – R8, R11, R13, R15

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to [epant@contracosta.courts.ca.gov](mailto:epant@contracosta.courts.ca.gov) and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson

725 Court Street

P.O. Box 431

Martinez, CA 94553-0091

## Appendix 1

Contra Costa Civil Grand Jury 2015-2016  
Survey re Affordable Housing  
December 2015

City:

Person Responding: \_\_\_\_\_

Contact information:

(email) \_\_\_\_\_ (phone) \_\_\_\_\_

What is the "threshold" number of residential units in a development project above which requires affordable housing?

Does (City) require a builder or developer of a new residential project or proposal greater than the "threshold" number of residential units to provide affordable housing within the project?

If not within the proposed project or proposal, is the builder or developer required to provide affordable housing elsewhere within (City)?

What steps, if any, does (City) take to confirm that a builder or developer is complying with its obligation to provide affordable housing as a component of its development in (City)?

What record does (City) maintain regarding compliance by a builder or developer with the obligation to provide affordable housing?

If a builder or developer is required to provide affordable housing elsewhere within (City), who determines and how is the alternate location for affordable housing determined?

Does the city permit payment of funds by the developer or builder "in lieu" of providing affordable housing? If yes, how and when does this occur?

How does (City) calculate the amount of an "in lieu" payment?

Does (City) deposit "in lieu" funds into a segregated or "trust account" specifically for "in lieu" funds? If yes, how are "in lieu" funds tracked or accounted for?

Has (City) received payment of "in lieu" funds within the period 2007-2014? If yes, what is the total \$\$ amount of "in lieu" funds received by the City within the period 2007-2014?

What is the current "in lieu" \$\$ balance held by (City)?

Does (City) have a plan or protocol for the expenditure of "in lieu" funds, including a time frame within which the funds must be spent and an amount of funds to be spent? If yes, and the plan or protocol is included in an ordinance, please cite or refer to the ordinance by number.

Is (City) required to spend those funds on affordable housing within (City) city limits?

What is the total \$\$ amount of "in lieu" funds spent by (City) on affordable housing within the period 2007-2014?

Has any affordable housing been constructed in (City) within the period 2007-2014.

How many units of affordable housing currently exist in (City) in each of the following income categories? Very Low \_\_\_\_\_ Low \_\_\_\_\_ Moderate \_\_\_\_\_ Above Moderate \_\_\_\_\_

How many units of affordable housing are deed restricted in (City)?

Does (City) maintain a record of inquiries to (City) from candidates for affordable housing? If yes, for how long is such a record maintained?

Does (City) maintain a record of responses to inquiries from candidates for affordable housing and referrals of such candidates to appropriate (City) or private resources? If yes, for how long is such a record maintained?

How does (City) inform candidates for affordable housing that such housing is or will become available within (City)?

Does (City) maintain a central list or waiting list of candidates for affordable housing? If not, is such a waiting list maintained elsewhere or by any entity other than (City)?

If a waiting list is maintained, how many people are currently on the waiting list or lists for affordable housing in (City)?

Has the number of people on the waiting list for affordable housing changed from 2007 to 2014? If the number has increased, by how much? If the number has decreased, by how much?

Does (City) select the management company to manage affordable rental housing within (City)? If yes, what are the criteria used in the selection of the management company? If not, who selects the management company and does (City) have input into the selection of the management company?

What is the name of the management company or companies managing affordable housing within (City)? Does (City) require reporting by the management company or

companies to (City)? If yes, please provide a copy of the most recent report from each management company.

What is the name and contact information of the (City) staff person or department administrator most knowledgeable about affordable housing within (City)?

What are the major obstacles to providing affordable housing within (City)?

How is (City) addressing these obstacles?

CONTRA COSTA COUNTY AFFORDABLE HOUSING POLICIES

City	Commercial Linkage Impact	HOUSING IMPACT FEE	Inclusionary zoning/In-Lieu Fees	Density Bonus Ordinance	GENERAL TRUST FUND	Taxes or Fees Dedicated to Housing	Affordable Housing Complexes	2nd Dwelling	Acquisition/Rehabilitation/Conversion Program	Condo Conversion Ordinance
Antioch	Yes	YES	No	YES	YES	No	Yes	Yes	Yes	Yes
Brentwood	Yes	YES	YES	Yes	No	No	Yes	Yes	No	Yes
Clayton	No	NO	UC	Yes	No	No	Yes	Yes	No	Yes
Concord	No	NO	YES	YES	No	Yes	Yes	Yes	Yes	Yes
Danville	No	NO	YES	YES	No	No	N/A	N/A	Yes	Yes
El Cerrito	No	NO	YES	Yes	No	No	N/A	N/A	Yes	Yes
Hercules	No	YES	YES	YES	No	No	N/A	N/A	Yes	No
Lafayette	No	NO	No	UC	No	No	Yes	Yes	No	No
Martinez	YES	YES	No	YES	No	No	NO	Yes	Yes	Yes
Moraga	No	NO	No	YES	No	No	No	Yes	Yes	Yes
Oakley	No	NO	YES	YES	YES	Yes	Yes	Yes	No	No
Orinda	No	NO	No	YES	No	No	N/A	N/A	Yes	Yes
Pinole	YES	YES	YES	YES	No	No	N/A	N/A	Yes	No
Pittsburg	No	NO	YES	YES	No	No	Yes	Yes	No	No
Pleasant Hill	No	YES	YES	YES	No	No	N/A	N/A	Yes	Yes
Richmond	YES	YES	YES	YES	No	No	Yes	Yes	Yes	Yes
San Pablo	No	YES	YES	YES	YES	Yes	Yes	Yes	Yes	No
San Ramon	Yes	NO	YES	YES	No	No	Yes	Yes	Yes	Yes
Walnut Creek	YES	YES	YES	YES	No	No	Yes	Yes	Yes	Yes
Contra Costa County Unincorporated	No	NO	No	YES	No	No	Yes	Yes	Yes	Yes

UC - Under consideration  
 N/A - Info Unavailable