



## CITY OF SOLANA BEACH

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- File -

July 12, 2023

VIA U.S. MAIL

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SAN DIEGO  
COUNTY GRAND JURY

Honorable Michael T. Smyth  
Presiding Judge  
Superior Court of California, San Diego County  
Central Courthouse  
1100 Union Street, Tenth Floor  
San Diego, CA 92101

**SUBJECT: Response to Grand Jury Report: "Housing in San Diego County"**

Dear Judge Smyth:

In accordance with Penal Code § 933 et seq., the City of Solana Beach hereby responds to one finding and six recommendations set forth in the 2022/2023 Grand Jury Report: Housing in San Diego County (the "Grand Jury Report"). The finding and recommendations of the Grand Jury have been copied verbatim from the Grand Jury Report below for ease of reference and response.

### FINDINGS

**Grand Jury Finding 03.** The following cities did not meet their housing allocations for all income categories: Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach and Vista.

***City of Solana Beach's Response to Finding 03.*** Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. This process starts with the state determining how much housing at a variety of affordability levels is needed for each region in the state, and then regional governments developing a methodology to allocate that housing need to local governments. This is

known as the Regional Housing Need Assessment/Allocation (RHNA). California's local governments then adopt housing plans (called housing elements) as part of their "general plan" (also required by the state) to show how the jurisdiction will meet local housing needs through the promotion and adoption of housing policies that encourage housing development. The City of Solana Beach's Certified 5<sup>th</sup> Cycle Housing Element met the State criteria that there were sufficient sites and zoning that would allow for the development of more than 375 housing units. The development of these units is dependent upon market trends, funding, available land and economic feasibility as determined by the development community. While the City agrees with the finding that the amount of development that occurred does not reflect the housing need allocation, the City implemented programs and policies that supported and encouraged new housing development. Absent a dependable source of revenue dedicated expressly to the development of housing, local government throughout the state will continue to fall short of meeting their respective housing goals.

## **RECOMMENDATIONS**

### **Grand Jury**

**Recommendation 23-01.** Consider, if they have not done so, using specific plans (as defined by the Governor's Office of Planning and Research) to facilitate the permitting and development of housing, particularly affordable housing, in their jurisdictions.

### ***City of Solana Beach's Response To***

***Recommendation 23-01.*** This recommendation has been implemented on the City's own initiative before the Grand Jury Report was issued. The City's Highway 101 Corridor Specific Plan facilitates the permitting and development of housing through mixed use development in Special Commercial and General Commercial zones at a density of 20 units per acre. Additionally, affordable housing is promoted through the City's inclusionary housing requirement of 15% for affordable housing for developments with five or more housing units under Solana Beach Municipal Code Chapter 17.70.

### **Grand Jury**

**Recommendation 23-02.** Consider working with school districts and community college districts within their jurisdictions to identify developable land for housing owned by districts within their boundaries.

***City of Solana Beach's  
Response To***

***Recommendation 23-02.*** The City is unaware of any school properties within its jurisdiction that would be available for housing development within the City and will further study this recommendation.

**Grand Jury**

**Recommendation 23-03.** Consider working with local religious institutions within their jurisdictions to identify land developable for housing, particularly affordable housing.

***City of Solana Beach's  
Response To***

***Recommendation 23-03.*** The recommendation has already been implemented. The City has had discussions with local religious institutions about housing development on available land owned by religious institutions. Two sites owned by religious institutions (St. James Catholic Parish and Solana Beach Presbyterian) are included in the City's 6<sup>th</sup> Cycle Certified Housing Element as candidate sites identified for housing development.

**Grand Jury**

**Recommendation 23-04.** Consider drafting revenue-generating legislation at the jurisdiction level, if feasible and legal e.g., the Seattle Jumpstart Tax. Monies generated by such a tax to fund or assist in funding the construction of housing, particularly affordable housing.

***City of Solana Beach's  
Response To***

***Recommendation 23-04.*** The city does not support this recommendation. A payroll tax is a tax imposed on a business by reason of its employment of labor within a city, measured by the expense incurred in conducting its business within the city. *A.B.C. Distrib. Co. v City & County of San Francisco*, 15 Cal. 3d 566, 574 (1975). Cities may impose this type of payroll tax based on employee gross earnings in the jurisdiction, but it must be meaningfully

different than an income tax. In addition, the California Constitution prohibits the City from imposing a payroll tax unless and until that tax is submitted to the electorate and approved by majority vote. Cal. Const. art. XIII C, § 2.

**Grand Jury**

**Recommendation 23-05.** Consider providing legislative support to re-introducing in the State Legislature SB 1105, or similar legislation, to create a San Diego County agency that could raise revenue for housing.

***City of Solana Beach's  
Response To***

***Recommendation 23-05.*** Solana Beach initially supported SB 1105 as we believed this would help to address the primary obstacle in development of affordable housing – funding. Despite the City's initial support, this bill was held by the Assembly Committee in the last Legislative Cycle.

Solana Beach will continue to monitor and evaluate proposed legislation that would provide funding for development of affordable housing.

**Grand Jury**

**Recommendation 23-06.** Consider providing legislative support to SB4, which is currently before the legislature. This bill makes it easier to provide affordable housing on land owned by religious institutions.

***City of Solana Beach's  
Response To***

***Recommendation 23-06.*** SB4 would require that a housing development project be a use by right upon the request of an applicant who submits an application for streamlined approval, on any land owned by an independent institution of higher education or religious institution if the development satisfies specified criteria, including that the development is not adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use. The bill would require that 100% of the units, exclusive of manager units, in a housing development project eligible for approval as a use by right under these provisions be affordable to lower income households, except that 20% of the units may be for

moderate-income households, and 5% of the units may be for staff of the independent institution of higher education or the religious institution that owns the land, provided that the units affordable to lower income households are offered at affordable rent. The bill would authorize the development to include ancillary uses on the ground floor of the development, subject to certain restrictions. It does not appear that there are currently any independent institutions of higher education within the City's jurisdiction so this bill would only apply to religious institutions in Solana Beach. The recommendation has already been implemented and the City is currently engaged with its lobbyist to assess and consider its official position on this and other housing-related bills.

**Grand Jury**

**Recommendation 23-07.** Consider requesting proposals for development at the NCTD Coaster Station property to include affordable housing.

***City of Solana Beach's  
Response To***

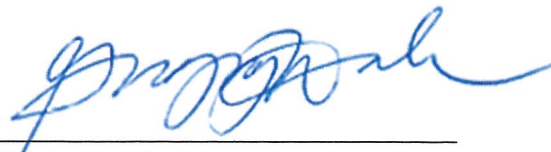
***Recommendation 23-07.*** The recommendation will not be implemented because the City has no authority to authorize or to issue a request for proposals for development at the NCTD Coaster Station property because that property is owned by NCTD.

Should you have any questions concerning this response, please contact Gregory Wade, City Manager, at (858) 720-2431 or [gwade@cosb.org](mailto:gwade@cosb.org).

Sincerely,



Les a Heebner  
Mayor  
City of Solana Beach



Gregory Wade  
City Manager  
City of Solana Beach