



August 5, 2026

Orange County Board of Supervisors and Orange County Housing Authority
Attn: Clerk of the Board
400 West Civic Center Drive, Sixth Floor
Santa Ana, CA 92702

**Subject: August 11, 2026 Agenda Item #26-001455
Loan and Project-Based Vouchers for Mercury Senior Apartments**

Dear Chairman Chaffee, Members of the Board of Supervisors, and Orange County Housing Authority,

On behalf of the City of Brea ("City"), I am writing to express the City's concerns regarding Agenda Item No. 26-001455, "Loan and Project-Based Vouchers for Mercury Senior Apartments." At the direction of the Brea City Council, the following comments are respectfully submitted for your consideration.

On April 1, 2025, the Brea City Council approved a Development Agreement with Lennar Homes of California, LLC ("Lennar") for the Greenbriar Residential Development Project ("Greenbriar Project") consisting of 179 market-rate, for-sale homes at 1698-1700 Greenbriar Lane currently under construction. In accordance with the City's Affordable Housing Ordinance, the Development Agreement approved the project's affordable housing obligation to be satisfied through the construction of off-site affordable units. To fulfill this requirement, Lennar identified the property located on the southeast corner of Mercury Lane and Berry Street ("Project Site") and partnered with C&C Development Co., LLC ("C&C") to develop the affordable housing component.

On August 19, 2025, the City Council approved regulatory agreements with C&C along with financial contributions to support the Mercury Senior Apartments Project ("Mercury Project"). The project will provide 85 affordable rental units at the Project Site.

Cecilia Hupp
Mayor

Marty Simonoff
Mayor Pro Tem

Christine Marick
Council Member

Blair Stewart
Council Member

Steven Vargas
Council Member

The County of Orange ("County") intends to transfer nine (9) units from the County's Regional Housing Needs Allocation ("RHNA") obligation to the City in exchange for a financial contribution to the Mercury Project. The City acknowledges and appreciates the County's partnership in expanding affordable housing opportunities. However, the City is concerned the County is taking credit for funding sources, such as the U.S. Department of Housing and Urban Development ("HUD") vouchers as County originated funds. It is common understanding that the HUD provided vouchers are only administered as pass-through assistance by the County, and therefore the City does not believe they should be counted as a County financial contribution toward the project resulting in the transfer of RHNA units.

On May 20, 2026, City staff requested technical assistance from the California Department of Housing and Community Development ("HCD") questioning the appropriateness of the County's policy. City staff remain in active communication with HCD and are awaiting formal determination.

Based on HCD Building Blocks Guidelines, the local jurisdiction, in this case the City of Brea, authorized to issue building permits for residential development is generally the jurisdiction eligible to receive RHNA credit for units approved, permitted, and/or constructed during the applicable RHNA planning period. Accordingly, counties may receive RHNA credit only for housing units located within their unincorporated areas and not for projects constructed within the boundaries of incorporated cities.

Furthermore, California Government Code § 65584.07 does not authorize cities and counties to transfer assigned RHNA obligations between one another except under limited circumstances, including: 1) by mutual agreement during the period between adoption of the final RHNA and the due date for the applicable Housing Element update; 2) following the annexation of county territory by a city; or 3) upon the incorporation of a new city.

As part of the recommended actions for the August 11, 2026 meeting of the Orange County Board of Supervisors ("Board"), the Board is being asked to authorize the utilization of up to \$1,375,000 in Housing Successor Agency funds and eight (8) Project-Based Vouchers for the Mercury Project. The City believes it would be premature for the Board to authorize an action that could rely on an interpretation of State law, by HCD, that is still under review. If the Board elects to proceed prior to HCD's determination, the City would exhaust all administrative and potential legal remedies if found by HCD the action was inconsistent with State Law.

Given this timing the City respectfully requests the Board to continue this Agenda Item #26-001455 until HCD has provided formal guidance. This would allow the parties to proceed with a clear understanding of the applicable RHNA requirements and ensure any Board action is consistent with State law and HCD's determination.

Thank you for your time and consideration of the City of Brea's comments. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact Marie Dao, Senior Management Analyst at (714) 671-4461 or by email at maried@cityofbrea.gov.

Sincerely,



Jason Killebrew

Assistant City Manager/Community Development Director

CC: Brea City Council
Kristin Griffith, City of Brea City Manager
Terence Boga, City of Brea City Attorney
Justin Kirk, Deputy Director, OC Development Services, County of Orange
Julia Bidwell, Director, OC Housing & Community Development, OC Community Resources, County of Orange
Dylan Wright, Director, OC Community Resources, County of Orange
Brandon Yung, Housing Policy Analyst, Housing and Community Development, State of California