

Regional Housing Need Allocation (RHNA) Appeal Process

On July 20, ABAG released draft housing allocations as part of the RHNA process. At this point, each jurisdiction had the opportunity to submit a request to ABAG for a revision to its RHNA. If ABAG denied the request, then the jurisdiction could submit an appeal of ABAG's decision. Eight jurisdictions submitted appeals.

The Executive Board established an ad hoc committee of the Board to hear the appeals. The committee was comprised of:

- Palo Alto Mayor Greg Scharff, Chair
- Oakland Councilmember Desley Brooks, Vice Chair
- Novato Mayor Pat Eklund
- Napa County Supervisor Mark Luce
- Clayton Mayor Julie Pierce
- San Francisco Supervisor Eric Mar (alternate)

By statute, ABAG is required to hold a public hearing to hear the appeals. This public hearing took place on April 1, 2013. The Appeal Committee's recommendations will be presented to the ABAG Executive Board for consideration and adoption at its May 16, 2013 meeting. The Executive Board is scheduled to adopt the final RHNA on July 18, 2013.

Summary of Appeal Committee Recommendations

City of Hayward

The City of Hayward requested a reduction in its RHNA because incorrect data was used in the RHNA methodology for the Past RHNA Performance factor. Based on annual progress reports submitted to the California Department of Housing and Community Development, Hayward was more successful in building affordable housing than was documented in the ABAG publication titled "A Place to Call Home."

ABAG Staff recommended that the Appeal Committee deny the City of Hayward's appeal because the Past RHNA Performance factor for all jurisdictions was based on the 2007 ABAG housing report *A Place to Call Home*. The RHNA methodology must be based on a data source that includes consistent data for the entire region. The data included in the ABAG report was supplied by the local jurisdiction, and local staff had opportunities to review the contents of the report prior to publication.

Mayor Eklund moved and Mayor Scharff seconded a motion to support the City of Hayward's appeal to reduce its RHNA by 116 units across all income categories because ABAG's use of incorrect permitting data was considered a significant and unforeseen change in circumstances. The committee voted unanimously to support the appeal.

City of Lafayette

The City of Lafayette requested a reduction in its RHNA based on the assertion that the calculations for the Growth Concentration Adjustment were inconsistent with the direction from ABAG's Executive Board. The methodology was described as "proportional," while the resulting redistribution had disproportionate impacts on different cities. In the City's view, this indicated that the methodology was applied in error. The City requested a revision of its allocation to 399 units, based on its calculation of its proportionate share of the 4,370 units reallocated region-wide as part of the Growth Concentration Adjustment.

ABAG Staff recommended that the Appeal Committee deny the City of Lafayette's appeal because the methodology for the Growth Concentration Adjustment was applied to all affected jurisdictions in a consistent manner. Units were redistributed based on an area's proportion of regional growth, and the differences in the results among jurisdictions are related to the underlying growth pattern for each jurisdiction from the adopted Preferred Scenario of the Sustainable Communities Strategy (SCS).

Mayor Eklund moved and Mayor Pierce seconded a motion to support the City's appeal to reduce its RHNA by 27 units across all income categories based on a misapplication of the RHNA methodology. The committee voted 3-2 to support the appeal. Ayes: Mayor Scharff, Mayor Eklund, and Mayor Pierce. Noes: Councilmember Brooks and Supervisor Luce.

City of Mountain View

The City of Mountain View requested a reduction in its RHNA because the City decided in its General Plan (adopted on July 12, 2012) to remove housing as an allowed use in its North Bayshore Priority Development Area (PDA). ABAG Staff assigned housing growth to the PDA in the Jobs-Housing Connection Strategy, even though City of Mountain View staff indicated that the City was only studying this possibility. In addition, the City Council's decision not to allow housing represented a significant and unforeseen change in circumstances, which should result in a reduction in the RHNA.

ABAG Staff recommended that the Appeal Committee deny the City of Mountain View's appeal because ABAG staff used the most current information about local plans for growth that was available during development of the Preferred Scenario of the SCS, which was adopted in May 2012. In addition, the decision to remove housing as an allowable use in the North Bayshore area was a deliberate action taken by the City Council, and does not constitute an unforeseen change in circumstances. Housing Element law specifically states that ABAG cannot limit the RHNA based on local land use restrictions [GC 65584.04(d)(2)(b)].

Mayor Eklund moved and Councilmember Brooks seconded a motion to deny the City of Mountain View's appeal. The Committee voted unanimously to deny the appeal.

City of Oakley

The City of Oakley requested a reduction in its RHNA because its PDAs are intended for jobs, not housing; and ABAG should have used RHNA performance data for 2007-2014 since Oakley did not incorporate until 1999 and did not adopt a General Plan until 2005 or Housing Element until 2009.

ABAG Staff recommended that the Appeal Committee deny the City of Oakley's appeal because, in providing feedback about the SCS (which is an input into RHNA), the City requested additional housing growth compared to what ABAG was forecasting. ABAG staff used that feedback along with information from local plans to develop the housing growth distribution for Oakley, consistent with the sustainability goals of the SCS. Although ABAG encourages jurisdictions to plan for RHNA units in PDAs, jurisdictions are under no obligation to do so and the RHNA can be accommodated anywhere in the jurisdiction.

For Past RHNA Performance, data for all jurisdictions was taken from the 2007 ABAG housing report A Place to Call Home. The RHNA methodology must be based on a data source that includes consistent data for the entire region. The data included in the report was supplied by the local

jurisdiction, and local staff had opportunities to review the contents of the report prior to publication.

Councilmember Brooks moved and Mayor Scharff seconded a motion to deny the City of Oakley's appeal. The Committee voted unanimously to deny the appeal.

City of Palo Alto

The City of Palo Alto requested that at least 350 units of its RHNA be transferred to Santa Clara County because the RHNA methodology does not appropriately assign responsibility for growth related to Stanford University. The RHNA methodology assigned the City responsibility for any growth within its Sphere of Influence, which includes sites for housing identified in Stanford's General Use Permit that are near transit and would be consistent with the goals of SB 375. However, the City, County, and Stanford have agreed that the City will not annex the land. In addition, these sites and other areas of the county along El Camino Real were excluded from the VTA Cores, Corridors, and Station Areas PDA when sites in Palo Alto were included, even though the City did not support being a part of the PDA.

ABAG Staff recommended that the Appeal Committee deny the City of Palo Alto's appeal because the rules regarding assigning responsibility for growth in the Sphere of Influence were adopted as part of the RHNA methodology by the ABAG Executive Board on July 19, 2012. The RHNA is not site specific, so the availability of sites for housing in Santa Clara County that would be consistent with the goals of the SCS does not indicate a misapplication of the RHNA methodology. Finally, The Palo Alto portion of the VTA Cores and Corridors PDA was not treated as a PDA for the purposes of RHNA because the City did not agree to designation of the areas as a PDA.

Supervisor Luce moved and Mayor Pierce seconded a motion to deny the City of Palo Alto's appeal. The committee voted 4-1 to deny the appeal. Ayes: Councilmember Brooks, Supervisor Luce, Mayor Pierce, Supervisor Mar. No: Mayor Eklund.

City of San Ramon

The City of San Ramon requested that its RHNA be reduced by 126 based on removing the impact of the Growth Concentration Adjustment, which the City asserts was misapplied to San Ramon. The City argued that all major recipients of the Growth Concentration Adjustment have light and/or heavy rail stations except San Ramon, which received a larger increase than other transit-rich cities with similar growth rates. San Ramon's increase does not meet the stated goal of directing growth to "medium cities with high job growth and transit access."

ABAG Staff recommended that the Appeal Committee deny the City of San Ramon's appeal because the methodology for the Growth Concentration Adjustment was applied to all affected jurisdictions in a consistent manner. Units were redistributed based on an area's proportion of regional growth, and the differences in the results among jurisdictions are related to the underlying growth pattern for each jurisdiction from the adopted Preferred Scenario of the Sustainable Communities Strategy (SCS).

Mayor Scharff moved and Councilmember Brooks seconded a motion to deny the City's appeal. The committee voted 4-1 to deny the appeal. Ayes: Mayor Scharff, Councilmember Brooks, Supervisor Luce, Mayor Pierce. No: Mayor Eklund.

City of Saratoga

The City of Saratoga requested its RHNA be reduced to 204 units based on the assertion that the 40% Minimum Housing Floor is inconsistent with the overall objective of RHNA and SB 375 and is inconsistent with the requirement that allocations consider a jurisdiction's jobs/housing relationship and access to transit. The City argued its allocation should have been lower because there are no significant existing or planned public transit or employment opportunities in the city.

The 40% Minimum Housing Floor was adopted as part of the RHNA methodology by the ABAG Executive Board on July 19, 2012. The adopted RHNA methodology emphasizes better integration of land use and transportation while also meeting the statutory objectives of RHNA, which include "increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner" [GC 65584(d)]. The minimum housing floor ensures that every jurisdiction is planning for housing to accommodate at least a portion of the housing need generated by the population within that jurisdiction. However, the RHNA methodology also caps a jurisdiction's allocation at no more than 150% of its RHNA from 2007-2014 as a way to ensure that a jurisdiction is not overburdened.

Mayor Pierce moved and Councilmember Brooks seconded a motion to deny the City's appeal. The committee voted 3-2 to deny the appeal. Ayes: Councilmember Brooks, Mayor Eklund, Mayor Pierce. Noes: Mayor Scharff and Supervisor Luce.

City of Sunnyvale

The City of Sunnyvale requested a reduction in its RHNA because incorrect data was used in the RHNA methodology for the Past RHNA Performance factor. Based on data included in the City's Housing Element that was certified by the California Department of Housing and Community Development, Sunnyvale was more successful in building affordable housing than was documented in the ABAG publication titled "A Place to Call Home."

ABAG Staff recommended that the Appeal Committee deny the City of Sunnyvale's appeal because the Past RHNA Performance factor for all jurisdictions was based on the 2007 ABAG housing report *A Place to Call Home*. The RHNA methodology must be based on a data source that includes consistent data for the entire region. The data included in the ABAG report was supplied by the local jurisdiction, and local staff had opportunities to review the contents of the report prior to publication.

Supervisor Luce moved and Councilmember Brooks seconded a motion to support the City of Sunnyvale's appeal to reduce its RHNA by 531 units across all income categories because ABAG's use of incorrect permitting data was considered a significant and unforeseen change in circumstances. The committee voted unanimously to support the appeal.