



BUILDING INDUSTRY ASSOCIATION

Transmitted via email to RHNA@bayareametro.gov

DATE: August 30, 2021
TO: Therese McMillan, Executive Director, Association of Bay Area Governments
FROM: Lisa Vorderbrueggen, East Bay Executive Director for Governmental Affairs
RE: 2023-2031 Regional Housing Need Allocation Appeals

Dear Ms. McMillan,

BIA|Bay Area is membership organization comprised of more than 40 companies engaged in the business of entitling, designing and constructing new homes throughout the San Francisco Bay Area.

Our members view the Regional Housing Need Allocation (RHNA) process as a critical tool in the need to increase housing production. Families are suffering during this unprecedented housing supply and affordability crisis. Every city, town and county must do its part to help provide adequate housing for people of all income levels.

Under your leadership, the draft RHNA numbers were developed using a robust community input process. Elected officials, planning staff and representatives of numerous stakeholder groups from throughout the region participated. The draft plan subsequently passed muster with a Housing Methodology Committee, ABAG's Regional Planning Committee, ABAG's Executive Board and the California Department of Housing and Community Development.

While BIA|Bay Area believes the total housing numbers should have been higher, we recognize that the draft plan represents the region's collective consensus, and the housing allocations should be upheld. We urge ABAG to deny all 28 city and county appeals of the Regional Housing Need Allocation (RHNA) and adopt the final plan.

Sincerely yours,

A handwritten signature in cursive script that reads "Lisa Vorderbrueggen".

Lisa A. Vorderbrueggen
BIA|Bay Area
1000 Burnett Ave., Ste. 340
Concord, CA 94520
925-348-1956
lvorderbrueggen@biabayarea.org



August 27, 2021

President Arreguin and the ABAG Executive Board,

We write to urge you to uphold ABAG's approved RHNA methodology, and to reject special pleading in appeals by cities seeking to shirk their fair share of our region's housing needs. Every city in the Bay Area must do more to address our housing crisis, and none should be allowed to place their own selfish interests above that core regional priority.

ABAG conducted a lengthy and inclusive process for developing the methodology for distributing the Regional Housing Needs Allocation to each jurisdiction. Many of us were involved in that process for over a year, providing input to the diverse group of city officials, city staff, and other stakeholders on the Housing Methodology Committee. That methodology was ratified by ABAG's Regional Policy Committee and full Executive Board, and has been approved by HCD as satisfying all of the statutory requirements for the process. Yet many cities have

based their appeals on an attempt to relitigate decisions made in the methodology, such as the appropriate baseline and how best to account for the relationship between jobs and housing.

For example, some cities have pointed to their intrajurisdictional jobs-housing ratio as a reason that they should not receive substantial allocations for new housing. This metric was considered and rejected by the Housing Methodology Committee, which recognized that both cities and their residents (current & future) may benefit from proximity to jobs that are not within their legal boundaries, as well as the importance of physical proximity to job opportunities for reducing commutes. Similarly, some cities have attempted to reopen the dispute over how to best incorporate Plan Bay Area 2050 into the methodology baseline, even though that topic was well covered—and adjudicated—by the HMC. These cities are essentially using the appeals process as a second bite at the apple for an argument that ABAG has already rejected.

Other cities are engaged in what is essentially special pleading, arguing for ad hoc adjustments based on factors outside the proper scope of the appeals process, or claiming uniquely exceptional circumstances based on factors like drought or the pandemic that affect the entire region. One jurisdiction even went so far as to admit that the methodology was good for the region as a whole in their appeal. ABAG's job is to create a consistent methodology that distributes growth fairly across cities in the region; it is then the job of individual cities to create plans tailored to their local conditions for meeting that fair share.

We wish especially to address claims that a city is “built out.” This is a subjective political condition, not an objective physical barrier. It is perfectly reasonable and appropriate for some number of the existing structures in a city or town to be replaced by new ones that better meet that city or town's future needs. Too often, when cities claim that they cannot meet their assigned allocation for housing, what they mean is that they do not wish to make the changes necessary in order to do so. When they appeal their allocation, they are saying that other cities should be required to take on the challenge of making those changes so that the city filing an appeal does not have to go through the work of doing so.

Other cities made vague appeals to lack of water to accommodate development. In fact, most residential water use is outdoor - things like washing cars and watering lawns. In many cases, a small transit-oriented multifamily building will consume less water in aggregate than a single-family home on the same amount of land. Infill development also means more sustainable infrastructure, needing less distance of water pipes per person, and protecting critical watersheds from sprawl.

For all these reasons, we urge ABAG to uphold its well-tested, well-vetted, and fairly designed RHNA methodology, which was crafted with significant public input and has been approved by HCD, by rejecting spurious and legally deficient appeals from exclusionary cities.

Thank you for your consideration,

Aaron Eckhouse
California YIMBY

Sonja Trauss
YIMBY Law

Michael Lane
SPUR

Laura Foote
YIMBY Action

Vince Rocha
Silicon Valley Leadership Group

Jeremy Levine
Inclusive Lafayette

Adam Buchbinder
South Bay YIMBY

Greg Magoffna
East Bay for Everyone

Matt Regan
Bay Area Council

Kelsey Banes
Peninsula for Everyone

Zach Hilton
Gilroy City Councilmember

Emily Ramos
Mountain View YIMBY



CITY OF MILPITAS

OFFICE OF THE CITY MANAGER

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3059, www.ci.milpitas.ca.gov

August 27, 2021

Mr. Dave Vautin
Assistant Director, Major Plans
Association of Bay Area Governments and Metropolitan Transportation Commission
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

via E-Mail:
RHNA@bayareametro.gov

RE: Comments on Bay Area Jurisdictions' Appeals to the Regional Housing Needs Allocation

Dear Mr. Vautin:

The City of Milpitas appreciates the dedication and hard work of the ABAG/MTC staff and the Housing Methodology Committee over the last several years. Housing remains a core issue for the Bay Area and local communities, and it is no small feat to balance important social, economic, and environmental factors.

The City of Milpitas is one of the rare cities that has exceeded its market rate housing goals for two consecutive RHNA cycles (13 years). This growth was made possible by long range planning, zoning, and infrastructure investments. And while we continue to search for affordable housing subsidies to meet our lower income RHNA goals, we currently have more than 300 units of deed restricted affordable housing in process.

The City of Milpitas is committed to adding housing to address the current housing crisis and to provide for future growth. As seen above, the City of Milpitas has done its fair share. Accommodating the 2023-2031 RHNA goals will be challenging as Milpitas received a larger RHNA allocation due to its proximity to jobs and transit, and because it qualifies as a high resource area. In fact, on a per capita basis the draft RHNA allocation for Milpitas was 9% while the average for appealing jurisdictions across the Bay Area was only 6%.¹

Generally, the City respects the allocation methodology that was approved by the ABAG Executive Board and decided not to appeal our allocation. However, we cannot stress enough the continuing need for more federal, state, and regional financing and subsidy programs that match the scale of our production.

¹ Per capita calculation is based on draft RHNA allocations and the 2021 California Department of Finance population estimates: https://www.dof.ca.gov/forecasting/demographics/estimates/e-1/documents/RankCities_2021.xlsx

In closing, the city objects to ABAG reallocating additional units to Milpitas from other high resource cities that already have lower per capita draft RHNA allocations. If the number of appeals that succeed is above 7%, ABAG has discretion to craft a methodology to reallocate those appealed units. If this occurs, we ask that ABAG consider a methodology that does not penalize cities like Milpitas that are already producing housing and that have already received relatively large RHNA allocations.

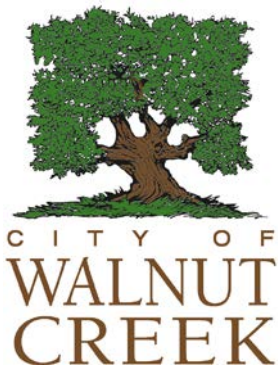
We appreciate your efforts, and we thank you for your time and consideration.

Sincerely,



Steven G. McHarris
City Manager
City of Milpitas

C: Milpitas City Council
Ashwini Kantak, Assistant City Manager
Walter C. Rossmann, Deputy City Manager
Sharon Goei, Building Safety and Housing Director
Ned Thomas, Planning Director



August 18, 2021

Mayor Jesse Arreguin, President
Executive Board, Association of Bay Area Governments
375 Beale Street
San Francisco, CA 94105

Subject: Appeals of Draft RHNA Allocations 2023-2031

Dear Chair Arreguin:

On behalf of the City of Walnut Creek, we are writing to respond to the appeals filed by twenty-seven Bay Area cities and counties regarding their draft Regional Housing Needs Allocations (RHNA) approved by your Executive Board on May 20, 2021.

The City of Walnut Creek has a long history of progressive housing policies, being an early adopter of an inclusionary housing ordinance in 2004, a commercial linkage fee for affordable housing in 2005, and higher density multi-family and mixed-use zoning in our downtown area anchored by the Walnut Creek BART station over the last four decades. Similarly, we recognize the need for more housing in our state and region at all levels of income, and are committed to continuing to be part of the solution. It is in this spirit which we provide our comments.

We have struggled with the approach of the RHNA distribution methodology as it does not adequately take into account the geographic distribution of jobs within the region, particularly in Silicon Valley. As a result, the methodology heavily relies upon Contra Costa County to provide housing for distant jobs involving long commutes, which lowers the quality of life of East Bay residents, increases VMT, and makes it significantly unlikely that our East Bay communities and the region as a whole will achieve the State-mandated greenhouse gas emission reduction targets. We believe the communities of the South Bay and Peninsula should be taking a greater share of the housing – a share that is more commensurate with the projected job growth of these areas. However, we have not appealed our RHNA because we do not feel that we meet the criteria stipulated by the California Government Code.

The increased Regional Housing Needs Determination (RHND) is unprecedented, but so too is the increased need for new housing to support our region's economy and house all of its residents. It will be difficult for the City to accommodate our RHNA, however this housing crisis necessitates an "all hands on deck" approach whereby every jurisdiction does its part to

meet the need, particularly in areas where job growth has and is expected to continue to outpace housing growth.

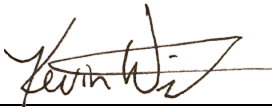
Admittedly, accommodating a larger RHNA can be a challenge for cities and counties, and most cities consider themselves to be “built out”. Further, and given the challenges of climate change, all of our communities are experiencing water shortages, drought, the potential for flooding, and the increased risk of wildland fires. However, our experience shows that careful planning and thoughtful investments in public infrastructure to address these challenges can successfully accommodate higher-density infill development that will house both current and future residents, while preserving and enhancing the best qualities of our communities. Limiting growth by limiting investments in infrastructure frequently results in environmental impacts and a poorer quality of life for all.

The City of Walnut Creek is committed to accepting its fair share of the RHND, and believes that all other jurisdictions should do so as well. Having read all of the appeals, we find them to be in opposition to doing their part to meet the regional housing need, and are generally without merit. We also believe that a further redistribution of units, should the appeals be upheld, would be detrimental to both the City of Walnut Creek and the region at large. Therefore, with the exception of the second appeal filed by the County of Sonoma (for 60 units on land recently annexed into the City of Cloverdale), the City of Walnut Creek opposes all of the RHNA appeals filed by the twenty-seven jurisdictions across the Bay Area, and requests that no additional units be redistributed to the City of Walnut Creek.

When reviewing these RHNA appeals, we respectfully request that ABAG consider our comments and ensure that every jurisdiction does their part to meet the housing needs of our region.

Lastly, we note that the RHNA process must be joined with other efforts to provide the needed housing. Walnut Creek's allocation of dwelling units affordable to low and very-low income households will likely cost more than \$1.5 billion at current construction costs, and the total for the whole Bay Area will likely cost over \$100 billion. Our region's housing shortage will not be solved without significant cost savings or new state or federal funding.

Sincerely,



Mayor Kevin Wilk



Dan Buckshi, City Manager

CC: City of Walnut Creek City Council

From: David Scott [REDACTED]
Sent: Wednesday, August 25, 2021 9:00 AM
To: Regional Housing Need Allocation
Subject: Comment Regarding RHNA

External Email

Dear Sir or Madam

The lack of water resources are not adequately addressed in the current Regional Housing Needs Allocation (RHNA) requirements, and should be revisited to better balance housing development with sustainable levels of water demand and supply.

We need to ensure RHNA requirements are feasible given the available water supply for the planning time period.

BOTTOM LINE

I am very concerned about this push for housing that will ultimately lead to a spike in our population, with absolutely no plan to address our water crunch.

**Thanks,
Dave Scott**

[REDACTED]

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave
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916) 263-2911 FAX: (916) 263-7453
www.hcd.ca.gov



August 30, 2021

Therese W. McMillan, Executive Director
Association of Bay Area Governments
375 Beale Street, Suite 700
San Francisco, CA 94105

Dear Therese W. McMillan:

RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan

The California Department of Housing and Community Development (HCD) appreciates the opportunity to comment on the 28 appeals ABAG has received regarding the draft RHNA plan. The appeals process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction may appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

HCD urges ABAG to only consider appeals that meet the statutory criteria.

Per Government Code section 65584.05(e)(1), ABAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings. The findings must describe how the final determination is based upon the adopted RHNA allocation methodology and why any revisions made are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

HCD has completed review of the appeals and offers the following comments. Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that ABAG failed to consider the circumstance described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states that the council of governments may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and land use restrictions. Any comparable data or documentation supporting this appeal

should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out or limited due to other natural constraints such as fire and flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that ABAG failed to determine the RHNA in a manner that furthers the statutory objectives, HCD reviewed ABAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), many argue that ABAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in statutory objectives two and three. HCD's review of ABAG's RHNA methodology found the allocation does further the environmental principles of objective two. ABAG's methodology allocates nearly twice as many RHNA units to jurisdictions with higher jobs access on a per capita basis while also allocating more per capita RHNA to jurisdictions with higher jobs access via transit. Regarding objective three, HCD found ABAG's methodology allocates more per capita RHNA to jurisdictions with higher jobs/housing imbalances. According to HCD's analysis, jurisdictions within the healthy range of 1.0 to 1.5 jobs for every housing unit receive, on average, less per capita RHNA. Jurisdictions with the highest imbalances – 6.2 and higher – receive more per capita RHNA.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect job growth, commute patterns, and transit ridership. The COVID-19 pandemic has only increased the importance of ensuring that each community is planning for sufficient affordable housing as essential workers, particularly lower income ones, continue to commute to their places of business. Appeals also argued that drought and wildfire risk represent significant and unforeseen changes in circumstances that will limit capacity for future housing. However, these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the ABAG region is too large. The council of government may file an objection within 30 days of HCD issuing the RHND, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region's RHND for this cycle.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and to accommodate statutory objectives of RHNA that shift more housing planning near jobs, transit, and resources. The Bay Area region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6th cycle housing elements:

- Regional Early Action Planning Grants (REAP) 2.0 (available early 2022) – A \$600 million one-time allocation for regional governments. Eligible REAP applicants can apply for these funds for use on transformative planning and implementation activities that support infill housing, and other actions that enable meeting housing goals that also result in per capita VMT reductions.
- SB 2 Permanent Local Housing Allocation – Approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock.
- Prohousing Designation Program – Ongoing awards distributed over-the-counter to local jurisdictions with compliant Housing Elements and prohousing policies. Those awarded receive additional points or application processing preference when applying to housing and non-housing funding programs including the Affordable Housing & Sustainable Communities (AHSC), Infill Infrastructure Grant (IIG), and Transformative Climate Communities (TCC).

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Tyrone Buckley, Assistant Deputy Director of Fair Housing, tyrone.buckley@hcd.ca.gov



Tyrone Buckley
Assistant Deputy Director of Fair Housing

August 30, 2021

Mayor Jesse Arreguín, President
Executive Board, Association of Bay Area Governments
375 Beale Street, Suite 700
San Francisco, CA 94105

RE: RHNA Appeals

Dear President Arreguín and ABAG Administration Committee,

We are the 6 Wins for Social Equity Network and close partners, a diverse set of organizations from across the region advocating for justice in housing, the environment, and the economy. **We write to urge the ABAG Administration Committee to reject all 28 RHNA appeals to ensure the RHNA continues furthering all of its statutory objectives and because none of the appeals pass muster under the three statutory bases for successful appeals.**

These appeals threaten ABAG's compliance with RHNA's statutory objectives, particularly the new objective to Affirmatively Further Fair Housing (AFFH). ABAG designed the methodology, and particularly the Equity Adjustment, to meet the AFFH objective while also meeting the other statutory objectives. ABAG added the Equity Adjustment to ensure that cities with high incomes and low racial diversity receive a share of the lower income RHNA at least equivalent to their current share of Bay Area households. Twenty-three out of the 27 jurisdictions that submitted appeals to lower their housing numbers (Sonoma County submitted two) qualify as "exclusionary jurisdictions" under this definition.

Altogether, the appeals seek to reduce the appealing jurisdictions' aggregate share of the total RHNA from 14.18% to 8.6%, bringing them far below the minimum threshold set by the Equity Adjustment. In other words, granting these appeals would perpetuate and exacerbate existing patterns of racial exclusion and inequity, directly counter to AFFH. ABAG must reject these appeals to avoid violating the AFFH requirement.

In addition to the problematic impact of these appeals on racial segregation, the appeals fail to meet the statutory justifications for reducing allocations as we describe further below.

I. **Appeals Based on Information Submitted through the Local Jurisdiction Survey are Insufficient.**

Under Cal. Gov. Code 65584.05(b), the first possible ground for appeal is that the "council of governments...**failed to adequately consider the information submitted** pursuant to

subdivision (b) of Section 65584.04,” which is the information each jurisdiction provided in response **to the local jurisdiction survey**.

The appeals submitted under this basis fail to demonstrate that RHNA “failed to adequately consider” responses to the local jurisdiction survey. These appeals relate to the following local issues: water and sewer capacity; availability of suitable land; opportunities to maximize use of public transportation; relationship between jobs and housing; and city annexation of county land. However, none of the appeals specifically show that these constraints will preclude the jurisdictions from meeting their RHNA.

A. Appealing jurisdictions fail to demonstrate that water or sewer capacity will prevent them from meeting their RHNA.

While at least 16 jurisdictions argue that they have limited water or sewer capacity, these appeals fail to demonstrate that this will “preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period” (Gov. Code 65584.04(e)(2)(A)). [ABAG’s instructions for appeals](#) require jurisdictions to demonstrate that lack of capacity for sewer or water service is due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction (p. 2). Drought conditions alone do not meet this standard. Water districts could work with jurisdictions to identify alternative sources, mechanisms, or ways to manage water while also accommodating the full need for new housing. For instance, multi-family homes use less water than single-family homes per unit. Zoning for more multi-family housing could thereby help conserve water and ensure space for much needed affordable housing.

B. Appealing jurisdictions fail to demonstrate that availability of suitable land will prevent them from meeting their RHNA.

The local jurisdiction survey seeks information on “[t]he availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities” (Gov. Code 65584.04(e)(2)(B)). However, at least 17 jurisdictions argue they have insufficient land available while failing to describe or provide evidence of underutilized land, opportunities for infill development, or other ways to accommodate their RHNA such as by rezoning lands to higher densities than the minimum requirements for lower income housing.

State law prohibits ABAG from limiting RHNA allocations based on existing zoning or land use restrictions but must instead “consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.” (Gov. Code 65584.04(e)(2)(B)). HCD has also informed jurisdictions that they “should creatively utilize both land use planning and public investments in mitigation measures to solve for the issues of environmental hazard risk,

climate change adaptation, fair housing, and housing affordability simultaneously.” ([HCD AFFH Guidance Memo](#), p. 42).

C. Appealing jurisdictions fail to describe how they could maximize use of public transportation while meeting their RHNA.

The local jurisdiction survey asks respondents to describe opportunities to maximize the use of public transportation and existing transportation infrastructure (Gov. Code 65584.04(e)(3)). However, at least eight jurisdictions argue that they have insufficient public transportation without describing how they could maximize the use of public transportation while meeting their RHNA allocations.

Moreover, the RHNA methodology explicitly incorporates job proximity by transit, balancing this with other statutory objectives. While availability of transit is an important consideration, it is not the only factor for reducing greenhouse gas emissions. Many jobs are not accessible by public transportation or require employees to transport heavy equipment with them. This is why the methodology also incorporates job proximity by auto. More housing in or near communities with such job concentrations will also help achieve climate action goals by significantly reducing vehicle miles traveled for people who currently drive long distances.

D. Appealing jurisdictions fail to address the relationship between low-wage jobs and affordable housing in their jurisdictions.

The local jurisdiction survey asks about the relationship between jobs and housing including “the number of *low-wage jobs* within the jurisdiction and how many housing units within the jurisdiction are *affordable to low-wage workers* as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.” (Gov. Code 65584.04(e)(1) (emphasis added)). At least 10 jurisdictions argue that they have too few jobs but fail to identify which kind of jobs are lacking or whether there are job opportunities in nearby jurisdictions.

The appeals fail to describe the relationship between low-wage jobs and affordable housing, or jobs-housing fit ratios, in their jurisdictions. A balanced jobs-housing fit is between 1 to 2.5, meaning there should be one affordable home available per 1 to 2 low-wage workers in a jurisdiction.¹ However, most of the appealing jurisdictions’ jobs-housing fit ratios are severely imbalanced. Los Altos’s is about **19**, Corte Madera’s is about **12.5**, Pleasant Hill’s is about **10.5**, Clayton’s is about **5.5**, Monte Sereno’s is **6**, San Anselmo’s is about **4.5**, and Fairfax’s is about **3.5**.² These lower wage jobs include essential workers such as farmworkers, healthcare workers, and service workers at our homes, offices, schools, and tourist destinations. These workers are forced to commute to their jobs from miles away. Reducing RHNA allocations for

¹ [“Low-wage Jobs-housing Fit: Identifying Locations of Affordable Housing Shortages,”](#) UC Davis (Feb. 2016).

² UC Davis Jobs-Housing Fit [Excel File](#) (2016).

any of these jurisdictions will mean exacerbating commutes, traffic, and greenhouse gas emissions.

Additionally, the RHNA methodology includes job proximity factors to allocate more housing to jurisdictions that are located in close driving or transit distance from jobs, even if those jobs are in neighboring jurisdictions. The job proximity factors thereby help reduce vehicle miles traveled and associated greenhouse gas emissions.

Some cities argue that telecommuting will reduce the need for new homes, however telecommuting is likely to be a temporary circumstance while most other jobs, such as those in the healthcare and service industries, can never be fully remote. Even if larger employers allow for telecommuting a few days per week, employees will still need to live close enough to access their jobs the rest of the week.³ Moreover, trends in telecommuting are not limited to specific cities, but are likely to be regional issues impacting many jurisdictions, and therefore are not appropriate bases for adjusting the RHNA of individual jurisdictions.

E. Appealing jurisdictions include arguments about local factors that cannot serve as bases for appeal.

Many appeals argue for a reduction based on reasons that are not captured in the local jurisdiction survey. Thus, they are not adequate grounds for appeal.

For example, the Counties of Contra Costa, Santa Clara, and Sonoma argue for a reduction because some of their land will be annexed to incorporated cities within their counties. However, the statute handles annexation through a different process: “If an annexation of unincorporated land to a city occurs *after* the council of governments...has made its final allocation..., a portion of the county’s allocation may be transferred to the city.” Gov. Code (d)(1) (emphasis added). Given that the annexations here will occur after the final allocations are complete, these county’s allocations can be transferred later on when annexation occurs, not through this appeal process.

II. Appeals Based on Application of the Methodology and Furtherance of the Statutory Objectives are Insufficient.

Under Cal. Gov. Code 65584.05(b), the second possible ground for appeal is that the “council of governments...**failed to determine the share of the regional housing need in accordance with the information described in, and the methodology** established pursuant to, Section 65584.04, **and in a manner that furthers, and does not undermine, the intent of the objectives** listed in subdivision (d) of Section 65584.”

³ Financial Review, [“Big Tech wants its workers back in the office,”](#) (Aug. 19, 2021).

Some appeals argue that the methodology does not further the statutory objectives, although the California Department of Housing and Community Development (HCD) has approved the methodology for furthering and balancing all five statutory objectives,

Other appeals challenge pieces of the methodology, such as Plan Bay Area 2050's projections and the absence of factors on emergency access, fire safety, flood risk, and other hazards. However, these are inadequate bases for appeal because they do not argue that ABAG failed to apply the methodology to their jurisdiction or that methodology fails to further the statutory objectives. Finally, ABAG arrived at its final methodology after having robust discussion and analysis on each of these issues.

III. Appeals Based on Significant and Unforeseen Changes that Merit Revisions to Responses to the Local Jurisdiction Survey

Under Cal. Gov. Code 65584.05(b), the final possible ground for appeal is that a “**significant and unforeseen change in circumstances** has occurred in the local jurisdiction or jurisdictions that **merits a revision of the information submitted** pursuant to subdivision (b) of Section 65584.04,” which is the local jurisdiction survey. This means that the changes must relate to the information covered by the survey.

Several appeals argue that COVID-19 has changed land use, housing needs, transportation conditions, and jobs without providing evidence that these changes will persist through 2031. Most essential jobs will remain in-person and most people working remotely now will still need a home within commuting distance of their jobs. The appeals fail to demonstrate that any lasting impacts of COVID-19 would be localized rather than regional in nature.

Some argue that their population growth has decreased. However, this does not mean that housing need has decreased. It is possible that many past residents are being displaced due to rising cost of living. Others argue that there are now drought conditions in their jurisdictions. Unfortunately, this is likely true for most jurisdictions in California, but it does not exempt these jurisdictions from making room for their fair share of affordable housing. Multi-family affordable housing uses less water per unit than single-family homes, and there are other more water-consuming industries where stricter conservation measures will have a larger impact.

IV. Conclusion

In sum, we ask ABAG to deny the 28 appeals submitted because they (1) fail to demonstrate that ABAG inadequately considered responses to the local jurisdiction survey, (2) fail to show that ABAG misapplied the methodology or that the methodology does not further statutory objectives, and (3) fail to describe how significant changes in circumstances will prevent them from meeting their RHNA by 2031.

Sincerely,

Shajuti Hossain, *Staff Attorney*
Public Advocates

Amie Fishman, *Executive Director*
Non-Profit Housing Association of Northern
California (NPH)

Debra Ballinger, *Executive Director*
Monument Impact

Gina Dalma, *Executive Vice President,*
Community Action, Policy and Strategy
Silicon Valley Community Foundation

Zarina Kiziloglu, *Pleasanton Housing*
Commissioner

Tim Frank, *Executive Director*
Center for Sustainable Neighborhoods

Ian Winters, *Executive Director*
Northern California Community Land Trust

Nadia Aziz, *Directing Attorney*
Law Foundation of Silicon Valley

Jeffrey Levin, *Policy Director*
East Bay Housing Organizations

Michael Rawson, *Director*
The Public Interest Law Project

Cindy Wu, *Executive Director*
Bay Area Local Initiatives Support
Corporation (LISC)

Ruby Bolaria Shifrin, *Director, Housing*
Affordability
Chan Zuckerberg Initiative

Leslie Gordon, *Program Director of*
Equitable Development
Urban Habitat

Ofelia Bello, *Executive Director*
Youth United for Community Action (YUCA)

Fernando Martí and Peter Cohen, *Co-*
Directors
Council of Community Housing
Organizations

Fred Blackwell, *CEO*
The San Francisco Foundation

Louise Auerhahn, *Director of Economic &*
Workforce Policy
Working Partnerships USA

Hector Malvido, *Policy, Advocacy, and*
Community Engagement Manager
Ensuring Opportunity Campaign to End
Poverty in Contra Costa County

Kelsey Banes, *Executive Director*
Peninsula for Everyone

Aaron Eckhouse, *Regional Policy Manager*
California YIMBY

Jason Tarricone, *Directing Attorney,*
Housing
Community Legal Services in East Palo Alto

Leslye Corsiglia, *Executive Director*
SV@Home

From: Ryan O'Connell [REDACTED]
Sent: Tuesday, August 3, 2021 3:24 PM
To: Regional Housing Need Allocation
Cc: info@fairhousingelements.org
Subject: Support for the Original RHNA Numbers

External Email

Hello,

As a resident of Napa County who works in multiple counties in the Bay Area, I support the original Regional Housing Needs Assessment and think that we should reject the appeal requesting lower numbers for some counties.

While I understand that rural counties have a special challenge to plan for more housing, every county is facing this challenge and we should not let some, often more affluent, jurisdictions shirk their responsibilities to the community while the other counties and cities all approach their RHNA numbers in good faith.

Thank you for your consideration!

Ryan O'Connell

[REDACTED]

From: Jon Wizard [REDACTED]
Sent: Monday, August 2, 2021 11:33 AM
To: Regional Housing Need Allocation
Subject: Bellyaching

External Email

Hello,

In the spirit of Walnut Creek's letter, we encourage the ABAG RHNA appeals subcommittee to reject the many unsubstantiated and ludicrous appeals, almost all of which have no basis in law and are little more than municipal tantrums.

Thank you,
Jon

--

Jon Wizard
Policy Director he/him
Campaign for Fair Housing Elements
[YIMBY Law](#)
57 Post Street
San Francisco, CA 94104

fairhousingelements.org