



# Service Matters

## Elected Officials Explored Alternative Growth Options for A More Livable Bay Area

The world operates on regional economies, making a region the new metropolitan city. In these regional cities economic, social, and ecological systems are three different poles of the regional growth dynamic.” So stated William Fulton, author of *The Regional City: Planning for the End of Sprawl*, in the opening keynote address at Association of Bay Area Governments’ (ABAG) Fall General Assembly. He also noted that New York and the Bay Area are the “grandparents” of regional planning in

their emphasis is on “compact efficiency coupled with environmental sensitivity.”

**Mountain View** Councilmember Rosemary Stasek shared how they work with developers in planning, frontloading the process for submitting all proposals with workshops, study sessions, and public participation to come up with smart growth development that will meet the needs and approval of the city and community. Anya Lawler,

Governor’s Office of Planning and Research (OPR) Deputy Director of Policy, discussed findings from meetings in twenty areas across California. Cities and counties were clear: more money/incentives are needed to help build affordable housing and the state needs to give a clearer vision of land-use and smart growth. As part of these efforts, a draft of General Plan Guidelines created by OPR is

currently available for city and county review and comment at [www.opr.ca.gov](http://www.opr.ca.gov).

Moderated by ABAG Executive Board Member and **Santa Rosa** Councilmember Steve Rabinowitsh, the panel’s comments were subjected to focused questions by Bay Area respondents, including San Francisco Chronicle Urban Design Columnist John King, **Union City** Mayor Mark Green, **Solano County** Supervisor Barbara Kondylis, **Danville** Councilmember Millie Greenberg, and **Marin County** Supervisor Cynthia Murray. John King warned of the overuse of the term smart growth,

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the United States. Fulton, along with other national and local elected leaders, explored “Smart Growth: Alternative Growth Options for a More Livable Bay Area” on October 17th at the Oakland Marriott City Center Hotel. This one-day conference focused on the “what and how” of smart growth and delineated local and state policies and incentives needed to implement a smart growth vision.

A **Smart Growth Speak Out** session during the General Assembly brought a national and statewide perspective to the Bay Area smart growth discussion. California and Oregon elected officials and the State Office of Planning and Research shared experiences with Smart Growth initiatives. Lake Oswego, Oregon Mayor Judie Hammerstad noted that “smart growth is good planning” and that in Oregon local elected officials are reminded that “we are not only responsible for our own area, but we are also responsible for impact on other areas.” Carlsbad Councilmember Ramona Finnilla, representing San Diego Association of Governments, commented that

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# Fall General Assembly

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commenting that it has become pejorative and the term density has also become politicized and one dimensional. Queries and comments on inclusionary zoning, open space, social infrastructure and the ongoing challenge to



ensure that social equity issues are on the table were all part of the question and answer period.

Luncheon keynote speaker Alex Marshall, author of *How Cities Work: Suburbs, Sprawl and the Roads Not Taken*, traced from the 1800s to present time how cities and areas have been developed around transportation systems. From the seaport era to the canals, from streetcars to railroads to subways and cars, Marshall described how cities changed dramatically with each introduction of new transportation technology and government investment. He suggested that

balance of transportation systems is a solution to today's problems of congestion and sprawl.

## Translating a Vision into Reality

The afternoon session was devoted to examining the region's Smart Growth Alternative Vision. Smart Growth Steering Committee Chair and Metropolitan Transportation

Commission (MTC) Vice Chair, **Marin County** Supervisor Steve Kinsey and other presenters described the process that created the Smart Growth Alternative Vision and considered how the Bay Area can determine incentives and use policy-based projections to implement Smart Growth. Gwen Regalia, ABAG President and **Walnut Creek** Mayor Pro Tem, pointed out that, "the Smart Growth Alternative Vision is a starting point...only one version of a vision on how to grow. While the vision as it is written may not be realized in detail, the intent is clear. It illustrates a path, a footprint to becoming sustainable, to grow in a smarter, more efficient manner."



David Early, Principal, Design, Community & Environment pointed out that smart growth development focuses on existing downtowns, centers around transit, and intensifies existing neighborhoods with in-law units and other in-fill projects." **Contra Costa** Supervisor John Gioia, representing BCDC, summarized that "this is not a discussion about no-growth or growth. Local control is gone the instant you get into the car and onto the freeway. Traffic is caused by decisions made by the next county over or the community next door. Most importantly, smart growth looks to not leave any residents behind. Housing affordability occurs by two means: building more housing (reducing demand and lowering prices) and by increasing incomes through better education. This process is difficult, but we will all sink or swim together."

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## About Partners and Co-Sponsors

*Fall General Assembly partners included the four Bay Area regional agencies – MTC, BAAQMD, RWQCB, BCDC and the Bay Area Alliance for Sustainable Development, leaders of the Smart Growth Strategy/Regional Livability Footprint Project along with ABAG. Conference Corporate co-sponsors included Shea Homes, Bechtel Infrastructure Corporation, Pacific Gas and Electric, and KB Home.*

## SMART GROWTH POLICIES

Adopted by the Smart Growth Steering Committee and ABAG Executive Board  
Recommended for adoption by the Five Regional Agencies

### Housing and Displacement

Improve existing housing and develop sufficient new housing to provide for the housing needs of all people. Support efforts to improve housing affordability and limit the displacement of existing residents and businesses.

### Mobility, Livability and Transit Support

Enhance community livability by promoting in-fill, transit oriented, and walkable communities, and compact development as appropriate. Develop multi-family housing, mixed-use development, and alternative transportation improvements to improve opportunities for all members of the community.

### Local and Regional Transportation Efficiencies

Promote opportunities for transit use and alternative modes of transportation including improved rail, bus and ferry services as well as enhanced walking and biking access to transit facilities.

### Jobs/Housing Balance and Match

Improve the jobs/housing linkages through the development of housing in proximity to jobs, and both in proximity to public transportation. Support efforts to match job income and housing affordability levels.

### Open Space, Natural Resource, and Agricultural Preservation

Protect and enhance open space, agricultural lands, the San Francisco Bay and Estuary and other valued lands, creeks and ecosystems throughout the region.

### Infrastructure Investments

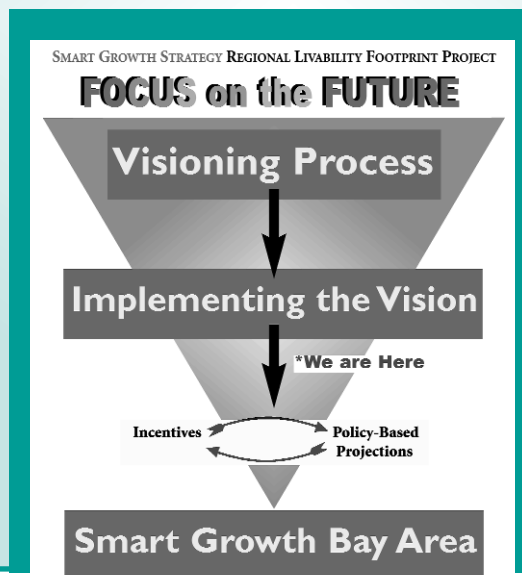
Improve urban infrastructure investment and upgrades that promote smart growth, including water and land recycling, brownfield clean-up and re-use, multi-use and school facilities, smart building codes, retention of historic character and resources, and educational improvements.

### Local Government Fiscal Health

Improve the fiscal health of local government by promoting stable and secure revenue sources, reduced service provision costs through smart growth targeted infrastructure improvement, and state and regional sponsored fiscal incentives.

### Social Justice, Equity and Aging

Protect and enhance the rights of under-represented communities by improving conditions within disadvantaged neighborhoods, providing equal opportunities and access to jobs, housing and public services, and insuring environmental justice.



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**Contra Costa** Supervisor Mark De Saulnier, representing BAAQMD, underscored the importance of a regional vision during his remarks: “We thought that air pollution would be solved by technology, it won’t be. It is tied to land use and changes make the difference. We must meet and keep attainment standards for federal and state requirements. This regional vision is a mechanism to allow both local control and dynamic discussion between communities about land use policies that affect our environment.”

Juliet Ellis, Executive Director, Urban Habitat, representing Bay Area Alliance, Social Equity Caucus reminded attendees that the issue of social equity is essential to good city planning. She announced that the 65 members of the Social Equity Caucus are ready and able to work with cities and counties on projects to help them

move forward to serve all community members. President Regalia and Smart Growth Steering Committee Chair Steve Kinsey concluded that “smart growth principles must be adopted and legislative changes need to be made. We need to take the vision and make its ideas a reality by developing incentive packages that follow smart growth principles. We must have commitment across the board for smart growth to work.”

### Smart Growth Vision: Next Steps

The agreed to Smart Growth policies will be refined and a set of “policy-based projections” will be released to guide the regional initiative, based on realistic assumptions about regional growth patterns and allowing for the influence of incentives and regulatory changes that might enhance the region. City and county review of these policy-based projections will be a vital part of this process.

## A New Look at the Debate over Construction Defect Litigation

As the policy debate continues among builders and insurers and the attorneys for homeowner plaintiffs over whether defect litigation is reducing the amount of affordable, for-sale attached housing in California, a new report issued in October 2002 adds an analytical perspective to the conflicting claims. The research study, *The Impact of Construction-Defect Litigation on Condominium Development*, was funded by the California Policy Research Center, the Fisher Center for Real Estate and Urban Economics, and the Berkeley Program on Housing and Urban Policy.

Examining existing construction conditions and litigation policies, the study documented trends in building activity, examined litigation and the California legal environment in context with other states, and investigated legislative, builder, and insurance responses to the problem. Findings indicate that construction of multifamily housing and condominiums dropped sharply in the first half of 1990s with some recovery in the latter half. Interviews with builders and insurers confirmed that construction-defect litigation became more prevalent in California than anywhere else, affecting condominium projects more than single-family homes or apartments.

### Moving from the Courtroom to the Bargaining Table

It was noted that aspects of California's legal environment may actually facilitate more defect litigation than occurs in other states, in particular in the area of substantive liability standards. California is one of five states that apply the plaintiff-friendly doctrine of strict products liability to claims of defective residential construction. As a result, the study shows that, in response to the toll of litigation, legislative reform and recent court decisions are being used to dampen litigation activity. A decision by the California Supreme Court in late 2000 restricted the range of damages available to homeowners in strict liability cases. Policy makers, builders, and insurers and others are pushing for legislation to "move more and more construction-defect disputes out of the courtroom to the bargaining table." Senate Bill 800 recently signed into law represents a genuine attempt by state legislature to level the playing field in construction-defect lawsuits. It streamlines pretrial procedures and encourages quick resolution of defect claims by promoting prompt repairs rather than attenuated, costly litigation. Finally, the study

also documents that builders and insurers are also finding new ways of doing business to improve building quality and maintenance, which will reduce legal expenses in the long run.

The study's authors conclude that the resolution of the affordable-housing problem in California will require more than reforms in the area of construction-defect litigation. However, from a public policy standpoint, these reforms must and should be part of a broader strategy that enhances subsidies, loosens overly restrictive land controls, and overcomes unreasonable community opposition to new low-and moderate income housing stock. The principal co-authors of this report are Cynthia Kroll, regional economist at Berkeley's Fisher Center for Real Estate and Urban Economics, and Larry Rosenthal, executive director of the Berkeley Program on Housing and Urban Policy. The research team also included Robert Edelstein, professor at UC Berkeley's Haas School of Business and co-chair of the Fisher Center, Professor John Quigley of the Haas School of Business and Department of Economics, and graduate students David Howe and Nan Zhou in the fields of economics and information and systems management.

The complete report can be found online at [www.ucop.edu/cprc/condorpt.pdf](http://www.ucop.edu/cprc/condorpt.pdf).

On May 31st of this year, the Regional Planning Committee (RPC) of the Association of Bay Area Governments held a half-day Construction Defect Litigation Forum. This well-attended discussion brought together different viewpoints on construction defect law. Recently, state legislation to revamp and revitalize the construction of this needed housing type was passed and was signed into law.



# ABAG Launches Consumer Financial Privacy Website

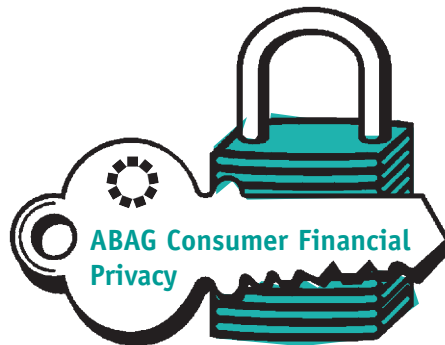
**L**ocal governments are tackling the financial privacy issue through the adoption of consumer financial information privacy ordinances. To support local governments' efforts, the Association of Bay Area Governments (ABAG) has launched a website clearinghouse for information on consumer financial privacy and related local governments' ordinances. ABAG hopes that in the absence of state legislation, the site will further consistency and uniformity in the adoption and enforcement of local ordinances.

Located in the current issues section of [www.abag.ca.gov](http://www.abag.ca.gov), the website provides information and contacts on current consumer privacy law, ordinance templates, legislation, relevant newspaper articles and court rulings, with links to websites such as the State of California Office of Privacy Protection, the Privacy Rights Clearinghouse, and Senator Jackie Speier, author of recent consumer financial privacy legislation which narrowly failed passage. Local governments are encouraged to send information on their ordinance or plans to implement an ordinance directly to an e-mail address found at the site ([halimaha@abag.ca.gov](mailto:halimaha@abag.ca.gov)).

## Background

Due to the failure of the state to adopt California financial privacy legislation, local governments like **San Mateo**

**County, Contra Costa County, and Daly City** have adopted local ordinances to better protect consumers from the selling or sharing of their personal information. Other local jurisdictions are in the process. Local ordinances require financial institutions to request and obtain consumer permission before releasing their financial information to a non-affiliated third party or affiliate (referred to as an "opt-in" approach).



Current practice and disclosure is based on the federal Gramm-Leach-Bliley Act which requires financial institutions to notify customers of their privacy policy at the beginning of the transaction, i.e., that customers have the option to prevent the sharing of personal information with third parties (referred to as an "opt out"

alternative). However, most customers are not aware of or cannot find this option because notification is often buried in fine print with confusing terminology. Local ordinances reverse this process and require financial institutions to seek a written waiver before releasing information.

For information about this website or ABAG's position, contact Patricia M. Jones, Assistant Executive Director at (510) 464-7933 or Kathleen Cha, Senior Communications Officer at (510) 464-7922.

## U.S. Census Count Questions

Was the population of your community counted properly? The Census Bureau found mistakes with the counts of large group populations. An accurate count is important because federal and state allocations are based on population, which means money for your community.

Anything that changes the population total should be reported. Look at the reporting for large group quarters populations and apartment complexes, or other dense developments very near city limits.

You must contact the Census Bureau directly to challenge the accuracy and or completeness of the Census 2000 in writing or by electronic mail to begin the process, which must be completed by September 30, 2003. Local governments can write to:

**The U.S. Census Bureau  
Count Question Resolution Program  
Decennial Management Division, Room 2002/SFC-2  
47000 Silver Hill Road, Stop 7100  
Washington, DC 20233-7100**

or e-mail to: [Count.Question.Resolution@census.gov](mailto:Count.Question.Resolution@census.gov)

For more information, visit the Census Bureau website at <http://www.census.gov/dmd/www/CQR.htm>.

# How Are Local Governments Standing Up to Quakes

## New Survey Explores Local Governments' Earthquake Mitigation

**T**he Association of Bay Area Governments (ABAG) conducted an earthquake mitigation survey that documents earthquake preparedness efforts by local governments since the 1989 Loma Prieta earthquake. Eighty percent of the questionnaires sent to Bay Area city managers and county administrators in April 2002 were completed and returned to ABAG.

The survey results will serve as a benchmark to document measurable improvements in earthquake preparedness over the next four years. Local governments can review the results of the survey to coordinate efforts within their jurisdictions and to review what other jurisdictions are doing. Review of these diverse programs will provide opportunities for local governments to learn from each other how to create innovative and effective programs to manage earthquake risk.

### Public Buildings and Emergency Recovery Plans

The 1989 Loma Prieta earthquake spurred the escalation of city and county efforts to prepare for future earthquakes. The survey shows that dozens of Bay Area city halls, police buildings, fire stations, libraries, theaters, and other public buildings have undergone structural retrofit since the earthquake. It also found that the **City of San Francisco** has been a leader in retrofit efforts, with approximately 70 public buildings strengthened, including its City Hall. Approximately 175 public buildings in the Bay Area have been retrofitted since the Loma Prieta earthquake.

Since the 1989 Loma Prieta earthquake, 95% of local governments have implemented emergency communications and emergency power recovery plans in their buildings. Approximately 86% of local governments have indicated that they have a plan for public buildings for protection of data and recovery of records following an earthquake. Approximately 69% of local governments have plans for emergency power related to transportation, like that needed for traffic lights or fuel pumps for emergency vehicles.

### Programs for Privately-Owned Buildings

The efforts of local governments have extended to privately-owned buildings as well. Local governments have encouraged retrofit efforts in the private sector by providing financial and other incentives to owners of private buildings and by adopting retrofit standards.

Approximately 31% of local governments offer some type of financial incentive to private owners for retrofit and 67% of local governments have adopted one or more retrofit standards. The **City of Berkeley** has placed a measure on the November 2002 ballot that would provide funding for financial, technical, and educational materials to encourage building retrofit of privately-owned residential buildings.

Of those local governments responding to the questionnaire, 40% have conducted an inventory of potentially hazardous private buildings, in addition to the state-mandated inventory of privately-owned un-reinforced masonry buildings. Soft-story buildings, which are apartments built on top of parking garages or commercial spaces and are highly susceptible to collapse during a strong earthquake, are a concern of most local governments. The **cities in Santa Clara County** have joined with the county to create maps of soft-story buildings for the use of emergency response personnel. The **City of San Leandro** has developed a preliminary inventory of soft-story buildings and is working on a "validation form" that will serve as a checklist for building owners to retrofit their buildings. The **City of Fremont's** efforts have focused on developing a model standard for retrofitting soft-story buildings. Programs related to privately-owned buildings reflect the diversity of local governments' hazards concerns.

The city and county earthquake mitigation survey was conducted by ABAG and sponsored by ABAG PLAN Corporation, and the Earthquake Engineering Institute (EERI) Northern California Chapter's Quake '06 Project.

The findings of this extensive survey were unveiled at a press conference on October 16, along with best practices and steps needed to safeguard the Bay Area during the next major earthquake. Additional information is available at [www.abag.ca.gov](http://www.abag.ca.gov) or by contacting ABAG's Earthquake Program Manager, Jeanne Perkins at 510/464-7934.



## Desalination - A New "Old" Idea

If you thought that desalination was an idea that dried up and blew away, it is time to dust it off and look at it again. Desalination offers much to any region with concerns about water supply.

At the ABAG CALFED Task Force meeting on September 30, 2002, a presentation by Marin Municipal Water District (MMWD) Director Jared Huffman highlighted the benefits of and changes in desalination techniques and technology. According to Mr. Huffman, desalination is growing in acceptance due to several factors.

### Growing Acceptance

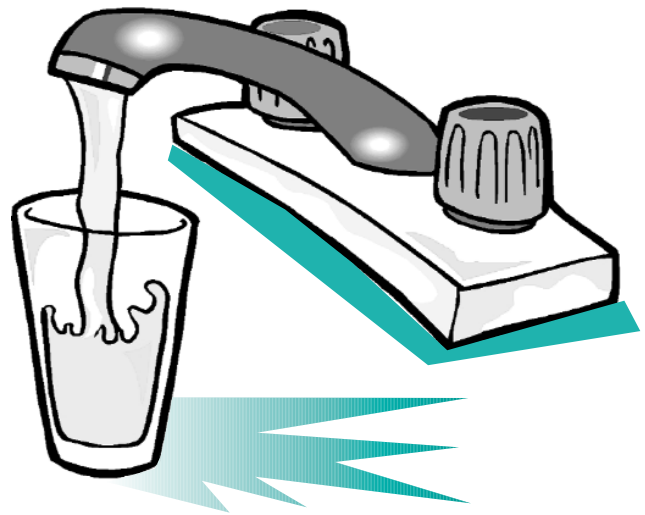
Specifically, the reduction in cost per acre foot has made it more of a viable option. The technology that makes it possible has seen a major cost reduction, coupled with improvements in productivity. In Tampa Bay, Florida, water is available at less than \$700 an acre foot. Several large desalination plants are planned for Southern California. Another fiscal benefit is that desalination plants are also potential energy recovery co-location facilities.

### Challenges

At this time, some challenges remain that need to be addressed. Desalination requires large amounts of energy, which is its' biggest environmental impact. Disposal of the brine by-product will also have to pass regulatory review and approval. The majority of costs are at the beginning of the project and it takes time for plants to be constructed and the desalinated water to become available. Some negative public perceptions still exist regarding the new technology, the taste and quality of desalinated water, and the concern about unlimited growth as a result of unlimited water resources.

### Positive Desalination Factors

Desalination is very appealing as an option to importing water resources because desalination is drought-proof and, as technology continues to improve, the lowered costs will be competitive with imported water. Desalination also offers the ability to stabilize statewide water supplies thereby helping to restore Bay/Delta ecosystems. The MMWD's 1990 pilot plant proved that it was possible to desalinate Bay water and produce water with excellent quality and taste.



State and federal funding is available to develop programs. On this year's ballot, Proposition 50 would allocate \$100 million towards desalination programs. Additional information on desalination is available from the California Coastal Commission at [www.coastal.ca.gov](http://www.coastal.ca.gov).

## Special Events and Awards



Oakland Councilmember Dick Spees reacts to surprise presentation and gift celebrating his 23 years of regional service and participation as an ABAG Executive Board member and Officer.



ABAG President Gwen Regalia announces the APA California Chapter 2002 Focused Issue Planning Award for *Blueprint 2001 Housing Element Ideas and Solutions* presented in San Diego earlier this month.

# MARK YOUR CALENDAR!

## November 2002

- 20 12:00 noon  
**ABAG POWER Executive Committee**  
MetroCenter, ABAG 106B
- 21 3:30 p.m.  
**Legislation and Governmental Organization Committee**  
MetroCenter, ABAG 106B
- 5:00 p.m.  
**Finance and Personnel Committee**  
MetroCenter, ABAG 106A
- 7:30 p.m.  
**Executive Board**  
MetroCenter, Auditorium

## December 2002

- 12 12:00 noon  
**ABAG POWER Executive Committee**  
MetroCenter, ABAG 106B
- 1:30 p.m.  
**Bay Trail Steering Committee**  
MetroCenter, ABAG 106B
- 20 10:00 a.m. - 12:00 p.m.  
**ABAG CALFED Water Management Committee**  
MetroCenter, Auditorium

## Notable Numbers: A Look at Smart Growth

### Development Based on Current Trends

#### 83,000 acres

of "greenfields" (currently undeveloped land) — would be converted to urban use by 2020.

#### One-third

of new housing would be affordable to people with very low, low, and moderate incomes (this is 60% of the Bay Area households).

#### 9%

of new housing would be affordable to new nearby workers.

### Smart Growth Scenario for the Future

#### 15,600 acres

of "greenfields" would be converted to urban use by 2020.

#### Two-thirds

of new housing would be affordable to people with very low, low, and moderate incomes.

#### 62%

of new housing would be affordable to new nearby workers.


#### 46 %

increase in housing in the region's most impoverished communities, leading to new opportunities in housing, retail services, and transit.

Numbers from the Smart Growth Strategy Regional Livability Footprint Project, *Shaping the Future of the Nine-County Bay Area, Final Report, October 2002, Analysis of One Smart Growth Scenario*

## Save the Date

 **ABAG Short Term Economic Conference**  
**January 30, 2003 • 9 a.m. - 12:30 p.m.**  
**Joseph P. Bort MetroCenter Auditorium**  
**101 Eighth Street, Oakland**

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