

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area

M E M O

To: ABAG Executive Board
From: Paul Fassinger, ABAG Research Director
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Date: November 1, 2007
Subject: RHNA Revision Requests and Opening of Appeals Period

Summary

The period to request revisions to local RHNA allocations closed on September 21, 2007. Nineteen local governments submitted comments during this period. The majority of comments focused on Projections 2007 and consistency with local land use plans. Two jurisdictions made specific revision requests based on their local planning and permitting authority.

ABAG staff had up to 60 days to respond to local requests for a revised RHNA share. Responses are summarized in this memo, along with recommended actions for ABAG's Executive Board. The Board may accept the proposed revisions, modify the draft determination, or determine that the requested revisions are inconsistent with the regional housing need method and/or statute.

Local Revision Requests

Nineteen cities submitted comments during the request for revisions period. All comments were submitted in writing, and include some rationale for the requested revision. According to state housing law, all revision requests must be made in accordance with the "factors" as listed in the state statute, including any information submitted by the local government to ABAG. Requests for revised shares are also to be based upon "comparable data" available for all affected jurisdictions and accepted planning methodology and supported by adequate documentation.

Of the nineteen revision letters received, only two cities, Mountain View and Palo Alto, made specific numeric requests for a revised RHNA share. The majority of the comments were in regards to dissatisfaction with the RHNA method, the affordable unit's distribution method, the feasibility of planning for and/or building the required units, especially affordable units, and how the RHNA allocation is inconsistent with local land use plans. For example, the City of Belvedere believes the Projections 2007 forecast is too high and therefore makes the allocation method faulty.

Berkeley also raised concerns about UC Berkeley, given requirements to consider the impact of colleges and universities in constructing the methodology. As a major subregional employment center, Berkeley argues that other jurisdictions ought to plan housing for and the city's belief that group quarters should be considered toward meeting their RHNA allocation.

As many of the comments pertained to the RHNA method and/or Projections 2007, it is important to note that the final method, including the income distribution was adopted by ABAG's Board in July 2007. Projections were adopted in January 2007. Staff has not recommended any revisions due to dissatisfaction with the RHNA method or Projections 2007. All local comments are summarized, along with staff responses, in Attachment 1.

Staff Recommendations on Local Revision Requests

Mountain View and Palo Alto each made specific requests for a revised RHNA share. Mountain View has made a request to reduce their allocation by 280 units. The basis for the request is that these units were attributed to them due to growth occurring within the NASA Ames area, located in Mountain View's SOI and controlled by the Federal Government. The city claims they do not have authority to plan for this area. The city asked that these units be removed from their allocation. Staff has reviewed Mountain View's allocation and agrees that a portion of their allocation is related to existing jobs and expected growth in the NASA Ames area. Although the city may not have authority to plan for or permit housing directly on the Ames land, staff feels that this lack of planning authority does not negate or preclude the housing need generated by the site. And because this is federal land, the county also does not have planning or permitting authority for the site. Ideally, the city will take any employment anticipated to be generated by NASA and consider planning for housing within their SOI or city boundaries to accommodate the housing need.

In Palo Alto, city staff has requested a revision to its allocation by 645 dwelling units. The justification is that these units are attributed to growth at Stanford University. Although the University is within the city's sphere, in this case, it is subject to Santa Clara County land use control. Staff met with staff from Palo Alto, the County of Santa Clara and Stanford University and has reviewed Palo Alto's allocation. Indeed, a portion of their allocation is related to existing jobs and expected growth at Stanford. Stanford's development is controlled by a General Use Permit granted by the county. The permit requires housing to be planned and built to offset commercial and other development being planned by the university. Therefore, staff recommends that the Board reduces Palo Alto's RHNA share by 645 units. Staff further recommends that these units be reassigned to Santa Clara County as follows.

Change in Housing Unit Responsibility from Palo Alto to Santa Clara County

	Very Low	Low	Moderate	Above Mod	Total
Units	156	123	145	221	645

RHNA Next Steps: Appeals Period, Negotiated Transfers, Appeals Response, Final RHNA

Appeals

According to state law, appeals and negotiated transfers can be made if ABAG does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting local government. If this happens, a local government who has made a revision request may then appeal its draft allocation or transfer the appealed amount to another willing jurisdiction. The appeals period is 60 days and starts at the close of the revision period, i.e. November 15, 2007. Appeals can be made before January 2008.

Appeals Committee

Staff recommends that the ABAG Board form an appeals committee to hear RHNA appeals. Few appeals are anticipated, for there were only two specific requests for revised shares. According to state law, a local government may appeal only if ABAG denies the revision request or does not respond to the satisfaction of the local government, i.e. grants a partial revision on the total requested. Since few appeals are anticipated, only 1-2 meetings may be necessary. At these meetings, local governments would be asked to present to their case to the committee. The committee would deliberate and make a recommendation to the ABAG Board at their January 2008 meeting.

Staff recommends that a 5 member appeals committee be formed from self-nominated members of the ABAG Executive Board. It is further recommended that of those nominated, at least a portion be individuals who also served on the RHNA Housing Methodology Committee.

Negotiated Transfers

Two or more local governments may also agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the subregion shall include the alternative distribution in the final allocation plan.

Appeals Response

Within 45 days of the completion of the 60 days for hearing appeals, or 45 days from January 2008, (mid-February 2008) ABAG is to release a “proposed final allocation plan.” The proposed plan is to include responses to all comments and/or appeals received on the draft allocation. It is also to include any significant revisions.

Final RHNA

No later than June 2008, or within 45 days of the issuance of the “proposed final regional allocation plan,” ABAG is to hold a public hearing to adopt the FINAL regional allocation plan. Within 60 days, the state Housing and Community Development Department shall determine whether or not the final plan is consistent with the existing and projected housing need for the region. HCD may revise the allocation to obtain this consistency.

Schedule of RHNA Next Steps

Action	Date
Open Appeals Period	November 15, 2007
Form Appeals Subcommittee	November 15, 2007
Subcommittee Hears Appeals	December-January 2008
Public Hearing on Appeals	January 17, 2008
Release Proposed Final RHNA Plan	January 17, 2008
Public Hearing on Final RHNA	March 20, 2008
Release Final RHNA	March/April 2008
HCD Determines RHNA Compliance	June/July 2008

Summary Recommendations

Staff respectfully recommends that the Executive Board:

- 1) Deny the revision request of 280 units for the City of Mountain View. Staff believes that the lack of planning authority for the NASA Ames land does not preclude the requirement to plan for the housing generated by NASA Ames.
- 2) Accept the revision request of 645 units for the City of Palo Alto. This amount was attributed to Palo Alto due to housing growth, existing jobs and job growth at Stanford University. Transfer these units to Santa Clara County. Santa Clara County has planning authority for Stanford University.

- 3) Begin the 60 day appeals period. Appeals period will close on January 17, 2008.
- 4) Form a RHNA Appeals Committee. Committee members could be drawn from the ABAG Board via a self-nominated process. It is further recommended that of those nominated, at least a portion be individuals who also served on the RHNA Housing Methodology Committee.
- 5) Within 45-days of close of 60-day appeals period, hold a public hearing to respond to all appeals. Prior to April 2008, release proposed final RHNA plan to include all comments on appeals. Prior to June 2008, hold a public hearing on final RHNA.