



ABAG-MTC Staff Response to
County of Contra Costa RHNA Appeal

ABAG Administrative
Committee

September 29, 2021

Overview of **County of Contra Costa** Appeal

Appeal Request:

- Reduce allocation by 1,818 units (24%) from 7,645 units to 5,827.

Staff Recommendation:

- Partially grant the appeal.

Appeal bases cited:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey.
- ABAG failed to determine the jurisdiction's Draft Allocation in accordance with the Final RHNA Methodology and in a manner that furthers, and does not undermine, the RHNA Objectives.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

Issues #1, #2 and #3: Areas Identified for Growth in Final Blueprint

Jurisdiction Argument: ABAG failed to adequately consider information about infrastructure constraints, lands protected from development, and policies to preserve prime agricultural land. County asserts Final Blueprint identifies these as areas for growth.

ABAG-MTC Staff Response:

- Final Blueprint, which is baseline allocation in the final RHNA methodology, does not allow any significant growth outside the Urban Limit Line.
- As a result, none of the areas identified above contributed to the County's allocation.

Issue #4: Region's Greenhouse Gas Target

Jurisdiction Argument: ABAG failed to adequately consider the region's greenhouse gas emissions target because the growth pattern for Contra Costa County in the Plan Bay Area 2050 Final Blueprint will result in sprawl and runs counter to goal of reducing greenhouse gases.

ABAG-MTC Staff Response:

- Final RHNA methodology adequately considers the region's greenhouse gas target by using Final Blueprint as baseline allocation, as Final Blueprint was developed specifically to meet greenhouse gas reduction target.
- This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process.
- HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further these objectives.
 - As HCD notes, ABAG's methodology allocates *“nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. . . . Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT.”*

Issue #5: Development Constraints

Jurisdiction Argument: RHNA methodology does not adequately consider constraints to development related to areas at risk of natural hazards and identifies specific sites that have no potential for residential growth.

ABAG-MTC Staff Response:

- Areas at risk of natural hazards not identified in Housing Element Law as constraint to housing. While new development is subject to additional regulations, neither Town nor FEMA prohibits new housing in floodplain.
- Given variety of natural hazard risks Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The Town has authority to plan for housing in places with lower risk.
- Government Code Section 65584.04(e)(2)(B) states:
 - ABAG may not limit consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider potential for increased residential development under alternative zoning ordinances and land use restrictions.
 - Jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.

Issue #5: Development Constraints (*cont.*)

Jurisdiction Argument: County identified specific sites as having no potential for residential growth.

ABAG-MTC Staff Response:

- Plan Bay Area 2050 growth forecast adopted at county and subcounty levels only. Parcel-specific forecast simulates region's future growth pattern; an issue with growth projected for particular parcel is not a valid basis for RHNA appeal, as the Plan does not dictate where jurisdiction sites housing.
- Review of Final Blueprint showed nearly all sites identified by the County were not forecasted to have households on them, with two exceptions:
 - Bethel Island projected to have 19 additional households by 2050, many of which are assumed to be accessory dwelling units (ADUs). The impact of 19 households on the County's share of the region's total households in 2050 and, as a result, its draft RHNA allocation, is deemed negligible.
 - Parcels along SR-4 east of Hercules within the Urban Limit Line are projected to have 5,684 households in 2050, driven by baseline land use data made available to the County during the BASIS review period in 2019 and 2020. Potential for future housing in this area, as envisioned in Final Blueprint, is possible as a result of upcoming closure of the Phillips 66 Carbon Plant in 2023, as part of the Phillips 66 Rodeo Renewed Project.

Issue #6: Change in Circumstances

Jurisdiction Argument: County identifies four areas recently annexed/in process of annexation that should not be considered when forecasting future growth in the County in the Final Blueprint.

ABAG-MTC Staff Response:

- An annexation by San Ramon and one by Pittsburg were not incorporated in the Final Blueprint. However, no households were forecasted in these areas, so a shift of jurisdictional responsibility would have no impact on either jurisdiction’s RHNA allocation.
- The Faria Southwest Hills Boundary Organization affecting Pittsburg is incomplete according to Contra Costa LAFCO and is still part of Unincorporated Contra Costa County.
- A Pittsburg annexation (LAFCO 17-08) was incorrectly included as part of County in Final Blueprint. Reducing the County’s 2050 households baseline by the 412 households projected in that area results in a reduction in the County’s total RHNA of 35 units:

Very Low-Income Units	Low-Income Units	Moderate-Income Units	Above Moderate-Income Units	Total
10	5	6	14	35

Issue #6: Change in Circumstances (*cont.*)

Jurisdiction Argument: County asserts RHNA factor related to Access to High Opportunity Areas was incorrectly applied to the entire population of the county.

ABAG-MTC Staff Response:

- This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process.
- Access to High Opportunity Areas factor is based on percentage of households in High or Highest Resource census tracts on State's Opportunity Map.
- County's score (36% of households) is relatively low compared to other jurisdictions, so this factor reduces the County's allocation.

Recommended Action for **County of Contra Costa** Appeal

Partially grant the appeal filed by the County of Contra Costa by reducing its Draft RHNA Allocation by 35 units, with units to be redistributed in the following manner:

- 35 units from the error related to City of Pittsburg annexation would be transferred to Pittsburg:

Very Low Units	Low Units	Moderate Units	Above Moderate Units	Total
10	5	6	14	35

With this adjustment to the County’s draft RHNA allocation, ABAG has:

- Adequately considered information submitted in the Local Jurisdiction Survey.
- Determined the jurisdiction’s Draft Allocation in accordance with the Final RHNA Methodology and in a manner that furthers, and does not undermine, the RHNA Objectives.
- Incorporated the significant and unforeseen changes in circumstances that are eligible bases for a revision to the RHNA allocation.