

**From:** [Greg Schmid](#)  
**To:** [Fred Castro](#)  
**Subject:** Note for ABAG Board Meeting  
**Date:** Wednesday, September 18, 2019 11:35:12 AM  
**Attachments:** [Sept 18 letter.docx](#)

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**\*External Email\***

Please pass on note to the ABAG Executive Board for their meeting on Sept 19.  
Thank you,  
Greg Schmid  
650 494-6769

TO: ABAG EXECUTIVE BOARD  
Meeting September 19, 2019  
Agenda Item 7.b. Public Hearing on Plan Bay Area 2050

FROM: Greg Schmid  
Palo Alto CA 94303  
[gregschmid@sbcglobal.net](mailto:gregschmid@sbcglobal.net)

You are being asked to approve the methodology for Plan Bay Area 2050 on September 19. There are at least two California Government Codes directly relevant to this approval that are not addressed in your proposed methodology. In addition, the methodology contains an explicit recommendation to use a simulation model that lies at the heart of the dreadful imbalances that currently imperil the Bay Area.

Before approving the Plan Bay Area 2050 Methodology before you, you must get explicit answers to these questions on properly addressing the California Government Codes and assuring that there are proper steps in place to explore appropriate alternative models for Bay Area growth.

#### CA GOVERNMENT CODES

Government Code 65890 (“Guidebook for Jobs-Housing Balance”) states that “The Department of Housing and Community Development shall prepare a guidebook for use by cities....The guidebook shall include “methodologies to encourage the balance of jobs and housing...and various tools available to local governments...to mitigate the undesirable effects of any imbalance between jobs and housing” (65890.5 (7) (b).

There is no public record of any such “guidebook” on either the HCD or ABAG websites. The Methodology should directly address this Code requirement.

Government Code 65584 (“Housing Elements”) states that the Department of Housing and Community Development shall determine existing and projected need for housing in each region that shall ... promote an improved intraregional relationship between jobs and housing” (65584 (d) (3). In turn the regional council of governments (ABAG) in consultation with HCD shall develop a methodology in which “public participation and access is required” (65584.04 (d)...and it shall include “each member jurisdiction’s existing and projected jobs and housing relationship” (65584.04 (e) (1).

I find nothing in the methodology proposed for approval on September 19 that mentions either “public participation and access” or “intraregional relationship between jobs and housing”. The only description of allocation of jobs to local communities is the use of the in-house model Bay Area Urban Sim 2.0. This model will “micro-simulate the choices real estate developers make on how much of, what and where to build” (Projected Methodology, page 14).

But Urban Sim 2.0 is a variation of the same model that was used to forecast the current Plan Bay Area local distribution of jobs and housing. Note that this Plan with its emphasis on job creation in job-rich ‘priority development areas’ has helped create our existing disastrous land

use situation. Any effective new methodology must start with a clear description of the existing situation. Our current Plan Bay Area forecasts have been overwhelmed by the concentrated growth of jobs in the West Bay region (a narrow stretch of land along the Bay that runs from San Francisco to the cities of Santa Clara and Cupertino). Under the current Plan Bay Area this area was forecast to have a little over twice the number of jobs as the cities of Oakland and San Jose. In the first seven years of the Plan that share of jobs in the West Bay has been SEVEN times the growth of jobs in Oakland and San Jose (data on the period 2010-2017 comes from the Bureau of the Census, ACS data on individual communities jobs-housing growth). In fact, during the period 2010-2017, this narrow stretch of land that encompasses the West Bay has been the site of two and a half times the number of jobs as the whole rest of the Bay Area. One half of those jobs have been filled by commuters from outside the area. And over the last three years the three transit systems serving the West Bay—Caltrain, BART and the VTA—have had no net increase in ridership. An effective methodology must start with a description of the current problem, especially since the CA Code mandates the “public participation and access... to intraregional jobs-housing balance data”. (Projected Methodology, page 14).

You cannot approve a methodology that does not fulfill the clear mandates of the CA Government Codes and that relies on the use of a simulation model that has a clear record of failure to help identify huge, costly imbalances.

#### KEY QUESTIONS

- Does the proposed methodology follow existing Government Codes?
- Does it capture what is actually taking place in “intraregional jobs-housing balances”?
- Does it meet the requirement of “public participation and access”?

You cannot approve this methodology without publicly addressing those issues.

**From:** [Jason Bezis](#)  
**To:** [Fred Castro](#); [David Rabbitt](#)  
**Cc:** [supervisorandersen@bos.cccounty.us](mailto:supervisorandersen@bos.cccounty.us); [Anne.O@bos.cccounty.us](mailto:Anne.O@bos.cccounty.us); [jpierce@ci.clayton.ca.us](mailto:jpierce@ci.clayton.ca.us); [David Hudson](#)  
**Subject:** [ABAG Executive Board Meeting] Written Testimony for Items 7.b, 7.c, 7.d  
**Date:** Thursday, September 19, 2019 3:02:30 PM  
**Attachments:** [ABAG Executive Board-Sept 19 2019-Bezis Opposition to 7b 7c 7d.pdf](#)

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**\*External Email\***

Dear ABAG President Rabbitt and ABAG Clerk Castro:

The attached PDF is a letter that serves as written testimony for Items 7.b, 7.c and 7.d on tonight's ABAG Executive Board meeting agenda, including the public hearing (7.b). Please ensure that my letter is included in the administrative record and presented to the legislative body for consideration in their deliberations.

I am copying Contra Costa County's four Executive Board members directly on this message as they presumably directly represent me. I would look forward to a direct reply to my concerns expressed herein from the four Contra Costa County representatives during deliberations tonight and after tonight's meeting. (I have copied Supervisor Mitchoff's chief of staff because Supervisor Mitchoff does not have an e-mail address listed on her County webpage.)

Sincerely,  
JASON A. BEZIS  
Law Offices of Jason A. Bezis, SBN 225641  
Lafayette, Calif.  
(925) 962-9643 (landline)  
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# LAW OFFICES OF JASON A. BEZIS

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September 19, 2019

Association of Bay Area Governments Executive Board  
c/o Fred Castro, Clerk of the Board  
Bay Area Metro Center, 375 Beale Street  
San Francisco, CA 94105  
E-MAIL: fcastro@bayareametro.gov; David.Rabbitt@sonoma-county.org

## **Re: September 19, 2019 Executive Board Meeting: Comment on Items 7.b, 7.c, 7.d**

Dear President Rabbitt and ABAG Executive Board Members:

I write on behalf of myself and other concerned citizens in opposition to adoption tonight of the Regional Growth Forecast Methodology for Regional Housing Control Total for Plan Bay Area 2050. **Instead the Methodology should be considered for adoption at a future meeting after my concerns and the concerns of others are addressed.** This letter is to serve as written testimony for the public hearing (7.b) and related agenda items (7.b, 7.c, 7.d).

First, ABAG should address how its proposed Methodology comports with the State Housing and Community Development Department jobs/housing balance methodology called for in Government Code § 65890.3, “a guidebook for use by cities, counties, councils of government, state agencies, and the private sector in the planning and development of a housing supply to meet the need created by employment growth.” I find no evidence in your proposed Methodology that you consulted this HCD guidebook. I find no citations to the HCD Guidebook in your proposed Methodology, no discussion about it and no allusions to it. Government Code § 65890.5(d) required the Assembly Office of Research to complete “a study of the effectiveness of the guidebook as a decisionmaking tool by public agencies and the private sector to facilitate improved jobs-housing balance.” I cannot find a copy of the HCD guidebook or a copy of the Assembly Office of Research study in the ABAG/MTC Library. As best as I can tell, ABAG has completed ignored this HCD jobs/housing balance guidebook and the related Assembly report. **These omissions suggest that your proposed Methodology is not reasonable and is not supported by substantial evidence.** I ask that your Executive Board delay adoption of your proposed Methodology until ABAG carefully analyzes this Government Code § 65890.3 HCD jobs/housing balance guidebook and the related Assembly report.

Second, your Board should delay adoption of the Methodology until there is full disclosure of the peculiar 2014 ABAG/MTC legal settlement with Building Industry Association (BIA) that apparently gives BIA (the real estate development industry) undue influence over the Methodology. **BIA Senior Vice President of Government Affairs Paul Campos openly admits in an August 16, 2019 e-mail, “[T]he region now should make every methodological decision that . . . will establish the highest housing target for the region.”** The full, executed settlement agreement needs to be published by ABAG. *Pursuant to the Public Records Act, Government Code §§ 6250 et seq., I hereby request all communications, including but limited to e-mails and letters, exchanged between BIA and its agents and/or ABAG and its agents and/or MTC and its agents from January 1, 2014 to present concerning the Methodology.* In the

interests of full transparency, your Board should adopt the Methodology at a future date only after all of these documents are publicly disclosed and published to a section of the ABAG website, so that your Board and the public can rest assured that BIA has not exercised undue influence over the Methodology.

Third, your Board needs to delay adoption of the Methodology because once ABAG discloses the full 2014 ABAG/MTC legal settlement, there needs to be robust public discussion about what ABAG/MTC exactly conceded and what the terms of the settlement precisely mean. I and others are deeply concerned that **ABAG/MTC conceded their discretionary powers in perpetuity to powerful real estate development interests.** This raises important questions about whether or not ABAG/MTC and BIA negotiated the legal settlement with an “arm’s length” relationship and whether or not BIA and MTC (historically dominated by regional corporate interests) ganged up against ABAG (a traditional defender of local public entities and local decisionmaking) to force this settlement on terms most favorable to powerful real estate development interests. The Methodology at issue tonight apparently is the centerpiece of your BIA legal settlement so this is a matter of utmost gravity. **This apparent undue influence by BIA over ABAG’s Methodology suggests that ABAG’s proposed Methodology is not reasonable and is not supported by substantial evidence and not entitled to judicial deference.**

Fourth, your Board needs to delay adopting the Methodology until key terms in the ABAG/MTC legal settlement with BIA are clearly and publicly defined. An unexecuted copy of a February 27, 2014 settlement agreement between BIA, ABAG and MTC is on the internet. It imposes this “obligation” on ABAG:

*Regional Housing Control Total and Forecasted Development Pattern.* The SCS shall set forth a forecasted development pattern for the region that includes the Regional Housing Control Total, which shall have no increase in in-commuters over the baseline year for the SCS, and shall not be based on historical housing production. The SCS will not use a “ratio” theory, which assumes the same percentage of in-commuters as historic levels of in-commuting. The SCS must demonstrate how all of the Regional Housing Control Total can be accommodated within the boundaries of the nine counties of the Bay Area.

*This is an extraordinary concession of ABAG/MTC’s governmental discretionary power to corporate private parties in the real estate development industry and is an indirect assault on local land use controls by the Bay Area’s 101 cities at a “code red” level.* The terms “Regional Housing Control Total” and “in-commuters” are not well-defined in the agreement. The key term “in-commuter” is not defined at all. **ABAG/MTC’s concession to BIA, “shall have no increase in in-commuters over the baseline year,” is extraordinary, not reasonable and is not supported by substantial evidence.** This seems to mean that for every new job added in the nine-county Bay Area, a new housing entitlement needs to be provided somewhere in the Bay Area. This presumably will artificially and significantly inflate Regional Housing Needs Allocation numbers and force communities to “upzone” against the will and best interests of existing neighborhoods.

Fifth, the proposed Methodology feeds into Plan Bay Area 2050 and regional transportation plans, but it is not reasonable and not supported by substantial evidence because MTC has not adjusted its transportation plans accordingly. If the “shall have no increase in in-commuters over the baseline year” is a paramount goal of Plan Bay Area 2050, then the regional transportation plan should not be inducing an increase of “in-commuters” to the Bay Area. I-580 Altamont Pass widening/auxiliary lane projects

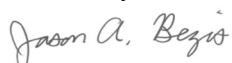
should be ceased. Improvements to I-80 in Solano County also should be halted, along with improvements to U.S. 101 in the Gilroy to San Jose corridor and improvements to State Route 17 between Santa Cruz and Los Gatos. MTC should be lobbying to freeze improvements to I-205 in San Joaquin County. All of these projects facilitate and induce “in-commuters” by automobile to the Bay Area.

If “no increase in in-commuters over the baseline year” truly is ABAG/MTC’s goal, then projects such as ValleyLink (train from East Dublin/Pleasanton BART station to Lathrop in San Joaquin County) needs to be re-thought and arguably should be eliminated from regional transportation plans. MTC also would need to re-think the ACE Train extension to Modesto, Ceres and elsewhere in the San Joaquin Valley because those projects also could counteract ABAG/MTC’s purported “no increase in in-commuters over the baseline year” commitment. Some studies of the BART extension into central Contra Costa County in 1973 have shown that arrival of BART actually induced more “in-commuting” by private automobile from central Contra Costa County to elsewhere in the Bay Area.

Sixth, ABAG and MTC were not reasonable in making the 2014 settlement agreement with BIA because there is no evidence that BIA and its members agreed to anything that would help to fulfill its purported purpose. The settlement agreement includes, “All Parties understand and agree that neither the Agencies, nor individual local jurisdictions have legal authority to prohibit employees who live outside the region from commuting to jobs in the region.” If BIA truly cared about “no increase in in-commuters over the baseline year,” then it would have agreed to curtail “in-commuters.” BIA would have agreed to reduce housing construction serving Bay Area “in-commuters” in San Joaquin and Stanislaus counties. Or BIA would have agreed to legally-binding mitigation for housing outside the Bay Area that is occupied by Bay Area “in-commuters,” such as transportation impact fees and other fees aimed directly at “in-commuters.” Or BIA could have agreed to support construction of toll plazas on I-580 Altamont Pass, SR 17 in Santa Cruz Mountains, U.S. 101 near Gilroy and I-80 near Dixon to actually disincentivize “in-commuters.” Instead, BIA gets to have its cake (continue to build housing outside of the Bay Area for in-commuters) and eat it, too (adoption of the Methodology on BIA terms would force new entitlements for housing inside the nine-county Bay Area even though new “in-commuters” fill those new jobs). BIA is the winner and ABAG’s 101 cities are the losers no matter how the proverbial coin is flipped: “heads” – BIA wins (forces ABAG cities to issue new housing entitlements and continues to build housing for Bay Area “in-commuters” in Central Valley), “tails” – ABAG loses (ABAG cities cede local control, accommodate new residents AND cope with increased traffic from “in-commuters” from projects that BIA members continue to build outside of the Bay Area).

The ABAG Executive Board should not permit this local control-busting “Bay Area housing entitlement grab” to occur without careful, deliberate study. BIA, in apparent cahoots with their corporate-captured partners within MTC, hatched this power grab five years ago. Now it is coming to fruition. **Your Board cannot act approve this Methodology tonight as it is unreasonable, not supported by substantial evidence and apparently imposed under undue influence from external, private sector actors.**

Sincerely,



JASON A. BEZIS, Esq.

**From:** [Patti L Fry](#)  
**To:** [Fred Castro](#)  
**Subject:** PBA 2050 Forecast Methodology  
**Date:** Wednesday, September 18, 2019 9:14:41 AM

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**\*External Email\***

Executive Committee -

As you consider the Plan Bay Area 2050 methodology, please consider that it is based on a jobs forecast despite the fact that jobs cannot grow when the supporting infrastructure of housing, transit, roads and bike/pedestrian passageways, water, schools, sewers, storm drains, treatment plants, etc. are not in place.

Currently all of that infrastructure is inadequate for growth, and the jobs/housing imbalance keeps worsening. Additionally, climate change and sea level rise will have significant impacts on our communities and where/how growth can occur.

Because jobs are now housed in smaller spaces (i.e., square feet per worker), that growth could occur even more disproportionately to the infrastructure.

Gridlock is occurring regularly. The jobs/housing imbalance imperils our middle class and poorer community members who are essential to vibrant communities.

The last thing we need is jobs growth unless and until the supporting infrastructure can catch up to what jobs exist and could increase in developments already approved.

Do not begin with a plan for the future that is based on a wish list for jobs growth. That represents a dangerous fantasy and recipe for even more severe problems.

Instead, insist on a plan that is based on realistic infrastructure projections that paint the picture of what growth is feasible. The current mess (e.g., jobs/housing imbalance) is a result of similar forecast methodologies as those proposed. A completely different approach is overdue. .

Thank you for your consideration,  
Patti Fry  
former Menlo Park Planning Commissioner  
BS, MBA, Stanford University



**From:** [tesw@aol.com](mailto:tesw@aol.com)  
**To:** [Fred Castro](#)  
**Subject:** Oppose staff recommendation  
**Date:** Thursday, September 19, 2019 10:49:48 AM

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**\*External Email\***

Dear ABAG members:

I concur with Susan Kirsch's reasons to oppose the forecasting methodology, below.

I have attended a number of MTC-ABAG meetings, and have noticed a distinct lack of public notice and consideration of public testimony and written comments.

Please follow the legal agreement and hold at least one well-noticed, public hearing on the methodology used to determine the Regional Housing Control Total. Under terms of the settlement agreement, the public hearing must be held on **the same day** the methodology is proposed for adoption, which must be **prior** to the Regional Housing Control Total being disclosed. I recommend holding at least two hearings so that the public, both professionals and citizens, have time to fully analyze the draft methodology.

Sincerely,  
Tess Welborn  
President  
Haight Ashbury Neighborhood Council

## **8 Reasons to OPPOSE the staff recommendation 08-19**

### **Regional Growth Forecast Methodology for Plan Bay Area 2050**

**Background:** In 2014, MTC/ABAG and the Building Industry Association Bay Area (BIA) signed a legal settlement. It requires ABAG to hold a public hearing on the methodology used to determine the Regional Housing Control Total. Under terms of the settlement agreement, the public hearing must be held on the same day the methodology is proposed for adoption, which must be prior to the Regional Housing Control Total being disclosed.

According to the 9/19/19 memo from Cynthia Kroll, Chief Economist and Assistant Director, the Regional Growth Forecast will be done at a later date. Kroll writes that staff sought public and stakeholder input on the Regional Growth Forecast Methodology through four public meetings. "Comments will be addressed by staff and results reported at the September 19, 2019 public hearing on the Regional Growth Forecast Methodology." Only the Methodology needs to be approved at this juncture.

**Action:** OPPOSE Resolution 08-19 until the Methodology discussion—including assumptions, tools, inputs and impacts—is clearly presented and discussed and the eight issues below are resolved.

#### **8 Reasons to OPPOSE 08-19: Resolution to adopt the Regional Growth Forecast Methodology:**

1. The Regional Housing Control Total is the key element of the Methodology. There should be a definition and description in plain English, which are not provided.

We know from the legal settlement agreement, Agreement 5, that all Parties agreed they don't have "legal authority to prohibit employees who live outside the region from commuting

to jobs in the region. The intent of the Agreement is to ensure that the Regional Housing Control Total adopted as part of the SCS provides housing opportunities within the region to those employees projected to work within the region.” In other words, it is based on a population of employees who might commute into the 9-county Bay Area, if housing were available, and assuming they wanted to live in the Bay Area.

In addition, please clarify Agreement 6.a. It seems to say that the goal is for no NEW commuters from outside nine-county Bay Area. Therefore, ALL projected new jobs need to have housing provided WITHIN the nine-county Bay Area. It seems BIA wants to use this SCS process to force housing construction within the nine-county Bay Area. BIA gets to "have its cake and eat it, too" because nothing prevents the building industry from continuing to build like crazy in Tracy, Manteca, Stockton, Modesto for "in-commuters" into the Bay Area even as it gets new entitlements to build in the Bay Area.

Before supporting the staff recommendation, please clarify the role the Regional Housing Control Total plays in the Regional Growth Forecast Methodology. How was this derived and by whom? Who will set—and what will be the basis—of jobs growth numbers. How will the Control Total be used in setting RHNA? Where is the record of public presentation and discussion about the Regional Housing Control Total?

2. Re: Attachment 3B, “Regional Growth Forecast Methodology: Comments Received, Staff Response.”

Staff Comment #1 to Greg Schmid, says “*The Regional Growth Forecast is driven by assumptions about national employment and population growth.*” Later, in direct contradiction (Staff Comment #19 to Paul Martin), staff writes, “*ABAG/MTC are required to develop a reasonable Regional Growth Forecast based on actual conditions.*” Which is it?

Given that SB375, the basis of PBA2050, requires a Regional Transportation Plan and Sustainable Communities Strategy, the Forecast Methodology should serve the region. Where is the public record of a discussion of this assumption?

3. Chief Economist Cynthia Kroll’s memo (9/19/19) on Regional Growth Forecast Methodology lists four public meetings that were “Opportunities for Input on the Methodology.”

Attachment 3B summarizes 22 public comments. One might expect questions or comments about Methodology, but 20 of the comments are about PBA2050 in general. Staff responded with a version of “bring this up later in the process when the PBA2050 Blueprint is being crafted.”

It’s hard to believe four public meetings about Methodology didn’t generate a single question or comment about Methodology! There are many terms that influence Methodology that one might expect people to ask: Regional Housing Control Total, REMI, Urban Sim 2.0, Travel 1.5, BASIS, iterative process, or forecasting. Clarify what was covered in the Methodology workshops. Does the public record show discussions about the methodology tools, uses and examples of using them?

4. This ABAG ExCom meeting on 9/19/19 fulfills a legal settlement agreement with the Builders Industry Association (BIA) regarding PBA 2014. ABAG wanted to challenge the lawsuit, but MTC chose to settle.

We can imagine how the BIA, developers, real estate and financial interests benefit from the Methodology. How does MTC benefit? What is the impact on the region, the counties and communities the ABAG ExCom represents? Where is the record of public discussion about the settlement agreement and its impact on regional growth extending to 2050?

5. Staff's Regional Growth Forecast Methodology repeatedly refers to an *iterative process*, which means a process for arriving at a desired result by repeating rounds of analysis or a cycle of operations. The objective is to bring the desired decision closer to discovery with each iteration. Where is the record of public discussion about this process, including the desired result?

6. Paul Campos, BIA Senior Vice President of Governmental Affairs, (Attachment B, page 9, Comments from Jurisdictions) notes the iterative process provides opportunity to test how increased housing production could influence prices and rents. In his email of August 16<sup>th</sup>, he writes, “. . . *the region now should make every methodological decision that . . . will establish the **highest housing target for the region**.*” Be reminded that BIA is the agency that filed the lawsuit in 2014. Where is the record of public discussion about this “methodological decision” for the highest housing target? Where is discussion about the jobs/housing balance? Where is the discussion re: environmental impact, especially GHG.

7. MTC/ABAG staff celebrate gathering “10,000 unique public comments” (Resolution 09-19: Approval of PBA 2050 Cross-Cutting Issues, Vision, and Guiding Principles) via pop-up events and Post-it notes. This is not a scientific method for collecting data.

Elected officials and community leaders want thoughtful public discussion that follows a pattern of systematic problem solving, defined criteria, and exchanging ideas. The ABAG ExCom is being asked to adopt a staff resolution that is based on a deeply flawed and inadequate model of public input and discussion.

1. Resolution 09-19, Attachment A, describes the intended outcomes of PBA2050 "to ensure by the year 2050 that the Bay Area is affordable, connected, diverse, healthy, and vibrant for all." But it fails to focus on the key provision of SB-375: to reduce greenhouse gas emissions by creating a Regional Transportation Plan (RTP), including a Sustainable Communities Strategy (SCS). PBA 2050 is veering far off course, and now is the time for a course correction.

I urge you to oppose the staff recommendation re: **Regional Growth Forecast Methodology** until these issues are addressed. Please vote against approval of both 08.19 and 09.19.