

TO: ABAG Executive Board
DATE: March 17, 2022
FROM: Therese W. McMillan, Executive Director
SUBJECT: Reflecting on the Regional Housing Needs Allocation (RHNA) Process

Overview

During the RHNA Appeals hearing, members of the ABAG Administrative Committee identified some planning and policy topics related to the RHNA and Housing Element processes that they wanted to discuss with the Executive Board. Staff has synthesized the primary issues raised during the appeals phase, as well as others that were heard during development of the RHNA methodology, into three key themes: 1) Allocating RHNA Among Jurisdictions, 2) How ABAG Conducts RHNA, and 3) Flexibility for Local Implementation. Some of these ideas can be addressed by ABAG, others would require state legislation, and some could be handled in either forum. The purpose of the Executive Board's discussion is to identify priorities and provide guidance on next steps.

Allocating RHNA Among Jurisdictions

Many of the topics identified relate to the list of factors in Housing Element Law that a Council of Governments (COG) must include in the RHNA methodology, to the extent that data about the factor is available. The factors in the methodology are used to compare jurisdictions within the region to determine which jurisdictions get bigger or smaller RHNA allocations. Any changes to the statute would require legislative action. Other suggestions related to how existing factors and datasets are defined.

- **Potential new methodology factors:** Some of the ideas proposed for factors to add to the statute include jurisdictions with low property tax receipts, hazards or impacts from climate change, and water capacity. A key question for any proposed new factor is whether the issue is appropriate for choosing among jurisdictions in allocating RHNA units or whether it is an issue that is best addressed in local Housing Elements as jurisdictions choose specific locations for housing and policies and programs to address housing needs. It is also important to find the right balance between increasing statutory requirements for factors that must be addressed in the RHNA methodology and ensuring the region has flexibility in how it meets the multiple objectives of RHNA. Adding more required factors will likely dilute the impact of each individual factor, so it is important to emphasize the region's and state's most significant policy priorities.
- **State's definition of High Opportunity Areas (HOAs):** There was some concern about how the California Department of Community Development (HCD) and the Tax Credit Allocation Committee (TCAC) defined the HOAs that ABAG used as a factor in the RHNA methodology. The primary issue of concern was the State's decision not to consider transit proximity when identifying HOAs. Because of Plan Bay Area's greater emphasis on greenhouse gas reductions, it only included HOAs near transit as part of the Growth

Geographies. The RHNA methodology incorporated all HOAs identified by the State consistent with the State's statutory emphasis on affirmatively furthering fair housing.

- **Defining land availability:** Consider engaging in dialogue with the State about how "adequacy" of available land is defined as part of the RHNA process. As part of the statutory factor related to opportunities and constraints to housing, COGs are required to assess "the 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." The statute also states that the COG may not limit the definition of suitable sites to local government zoning or land use restrictions, but "shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions." However, the statute does not provide additional details about this analysis, except that a COG can exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

How ABAG Conducts RHNA

A second set of topics identified are about how ABAG conducts the RHNA process. Some of the ideas raised include:

- **Local Jurisdiction Survey:** Improve efforts to ensure local governments understand that two of the three statutory bases for a RHNA appeal require a jurisdiction to submit a response to the local jurisdiction survey. The survey is required by statute and must seek information about all statutory methodology factors as well as fair housing issues and actions. Although ABAG/MTC staff and the HMC sought to keep the survey a manageable length given these requirements, it is still a time-consuming task for jurisdiction staff.
- **Subregions:** Consider doing more to advocate for subregion formation. For RHNA Cycle 6, ABAG provided funding to support either a RHNA subregion or county-wide planning collaborative in each county. Most counties chose to pursue a planning collaborative, given the complexities of conducting their own subregional RHNA process.
- **Unincorporated counties:** Consider whether unincorporated counties should be treated differently than other jurisdictions in the RHNA methodology. Housing Element Law includes provisions available only to counties that allow for a transfer of RHNA units to incorporated cities and towns in the county. Otherwise, the statutes handle unincorporated counties the same as other jurisdictions. Some counties proposed that the methodology should do more to limit allocations to unincorporated jurisdictions.
- **Integrating Plan Bay Area:** One of the challenges during the RHNA methodology development process was the fact that the HMC developed the proposed methodology based on the Plan Bay Area 2050 Draft Blueprint, which underwent significant changes

based on feedback from the public, stakeholders, and elected officials prior to adoption as the Final Blueprint. The statutory schedules for Plan Bay Area and RHNA limit staff's ability to better align the processes' timing. For RHNA Cycle 7, ABAG/MTC staff could advocate for changes to the statutory RHNA schedule to allow development of the proposed RHNA methodology to be based on the final version of the Plan's forecasted development pattern. ABAG/MTC staff should also continue to augment the data and analysis used for Plan Bay Area and RHNA—particularly related to areas at risk of natural hazards and identification of underutilized land—to further advance environmental and resilience goals.

Local Implementation of RHNA

The third theme encompassed in the feedback on RHNA was about implementation of RHNA goals by local governments. The ideas proposed would require engagement with the State about providing jurisdictions with more flexibility in meeting RHNA goals. Suggestions include:

- **City-to-city RHNA transfers:** Housing Element Law allows only an unincorporated county to transfer a portion of its final RHNA allocation to a city or town in that county. One option for providing greater flexibility to local governments to meet their RHNA goals would be to allow a city or town to transfer a portion of its RHNA allocation to a contiguous jurisdiction, as long as the transfer still furthers the RHNA objectives, including affirmatively furthering fair housing.
- **More options for RHNA "credit":** One option for greater flexibility would be to make it easier for jurisdictions to get credit toward meeting RHNA goals through preservation. Housing Element Law currently includes some allowance for this, but the statute's narrow definition of acceptable preservation activities is not aligned with the practical realities of how units are preserved. Another option for increased flexibility would be to allow jurisdictions to receive credit in the current RHNA cycle for issuing permits for housing units in excess of their allocation from a previous RHNA cycle.
- **Responding to drought:** The RHNA appeals hearing was conducted during the height of concerns about the state-wide drought. Members of the Administrative Committee wanted greater clarity from the State about potential remedies if it became impossible for a jurisdiction to accommodate its RHNA if a water service provider implemented a moratorium on new hook-ups as part of its response to drought.

Next Steps

While the Bay Area's next RHNA cycle will not kick off for six more years, HCD and the Office of Planning and Research (OPR) will be developing recommendations in 2022 to improve the RHNA process as required under Assembly Bill 101 (2019). HCD/OPR must report to the Legislature by December 31, 2022. In addition, the Joint Legislative Audit Committee has approved an [audit of the RHNA process](#), expected to be completed by the State Auditor in March 2022. Staff will consider feedback from today's Board discussion to both inform future RHNA processes and to identify any next steps for advocacy or legislative priorities in the near term.