

## Association of Bay Area Governments

### Administrative Committee

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September 10, 2021

Agenda Item 6.a.

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#### Regional Housing Needs Allocation (RHNA)

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**Subject:** RHNA Appeals Public Hearing Orientation

**Background:** RHNA is the state-mandated<sup>1</sup> process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

On May 20, 2021, the ABAG Executive Board approved the [Final Regional Housing Needs Allocation \(RHNA\) Methodology and Draft Allocations](#). Release of the Draft RHNA Allocations initiated the appeals phase of the RHNA process.<sup>2</sup> ABAG received 28 appeals from Bay Area jurisdictions by the July 9, 2021 deadline. Appeal materials submitted by jurisdictions are available on the [ABAG website](#).

The list below highlights the key steps and anticipated schedule for the appeals process:

- **July 9:** Deadline for appeal submissions by local jurisdictions or HCD.
- **August 30:** Deadline for comments on appeals submitted. Nearly 450 comments were received, including a letter from HCD (**Attachment A**).
- **September and October:** ABAG Administrative Committee conducts public hearing to consider appeals and comments received.
- **October or November:** ABAG Administrative Committee ratifies written final determination on each appeal and issues Final RHNA Allocations that adjust allocations because of successful appeals.
- **December:** ABAG Executive Board conducts public hearing to adopt Final RHNA Plan.

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<sup>1</sup> See California [Government Code §65584](#).

<sup>2</sup> See [Government Code Section 65584.05](#) for an overview of the appeals process.

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#### Issues:

#### Public Hearing to Consider RHNA Appeals

Per Government Code Section 65584.05(d), ABAG is required to hold a public hearing to consider all appeals filed. On May 20, 2021, the ABAG Executive Board delegated authority to the Administrative Committee to conduct the public hearing and to make the final determinations on the appeals. The Board also approved the *ABAG 2023-2031 RHNA Appeals Procedures (Attachment B)*, which includes policies for conducting the appeals hearing and the methodology for redistributing units from appeals that are upheld.

#### Statutory Bases for Appeal of a Draft RHNA Allocation

Housing Element Law prescribes a relatively limited and narrow set of circumstances where a jurisdiction can appeal an allocation:

1. **ABAG failed to adequately consider information submitted as part of the local jurisdiction survey.** ABAG conducted this survey in early 2020 and, as required by law, requested information related to the factors identified in Housing Element Law that must be considered in the RHNA methodology and information about affirmatively furthering fair housing.
2. **ABAG did not determine the jurisdiction's allocation in accordance with its adopted methodology** and in a manner that furthers, and does not undermine, the RHNA objectives.
3. **A significant and unforeseen change in circumstances has occurred** in the local jurisdiction or jurisdictions that merits revision of information submitted as part of the local jurisdiction survey. *Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.*

#### Public Hearing to Consider Appeals

The ABAG Administrative Committee will hold the required public hearing over six days in September and October. **Attachment C**

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shows the hearing schedule, including the proposed date/time for hearing the appeal from each applicant.

ABAG-MTC staff presented an overview of the RHNA appeals process to the Administrative Committee in May 2021, prior to adoption of process guidelines by the ABAG Executive Board. In advance of the public hearing, ABAG-MTC staff will provide a recap on key background information to help committee members prepare for the appeals process. This presentation will review the:

- Main components of the adopted final RHNA methodology.
- Statutory requirements for an appeal, including required RHNA objectives under State law and factors that ABAG had to consider in developing the methodology.
- Approach for conducting the appeal hearing.

**Recommended Action:** Information

**Attachments:**

- A. Comment Letter from HCD on Appeals Submitted
- B. *ABAG 2023-2031 RHNA Appeals Procedures*
- C. RHNA Appeals Hearing Schedule
- D. Presentation

**Reviewed:**

  
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