



RHNA Appeals Public Hearing Orientation

ABAG Administrative
Committee
September 10, 2021

Today's Presentation




Review of
Final RHNA
Methodology

1



Statutory
Requirements
for an Appeal

2



Procedures for
Considering
Appeals

3

- **Goal:** ensure Administrative Committee members are familiar with statutory requirements and ABAG's adopted procedures for considering appeals.
- *We will not be delving into arguments raised in the appeals; that is the purpose of the upcoming public hearing.*



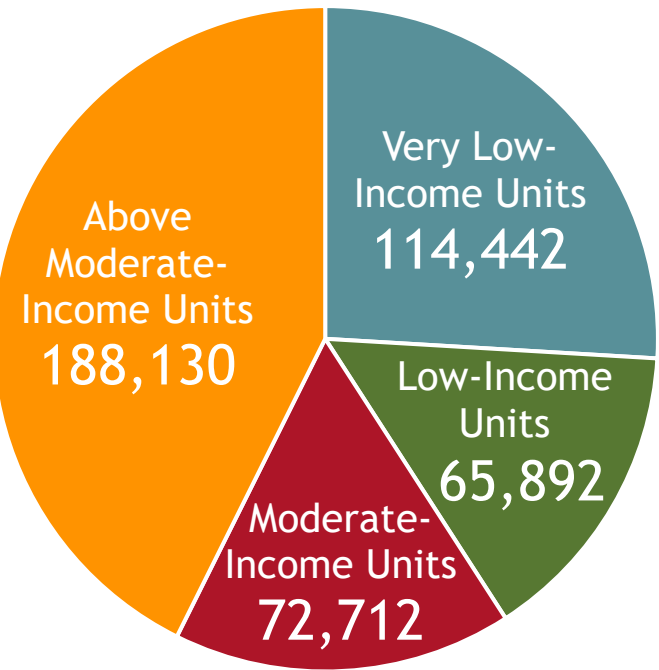
Part 1: Review of Final RHNA Methodology

Review of Final Methodology: RHNA Methodology Development Process

October 2019 to September 2020	Housing Methodology Committee (HMC) worked collaboratively and voted to recommend a Proposed RHNA Methodology.
October 15, 2020	ABAG Executive Board approved Proposed RHNA Methodology.
October 25 - November 27, 2020	Public comment period on Proposed RHNA Methodology, including public hearing on November 12.
January 2021	ABAG Regional Planning Committee and Executive Board voted to include “equity adjustment” as part of the Draft RHNA Methodology.
February 11, 2021	As required by law, ABAG submitted Draft RHNA Methodology to HCD for review.
April 12, 2021	HCD confirmed Draft RHNA Methodology furthers statutory objectives.
May 20, 2021	ABAG Executive Board approved Final RHNA Methodology and release of Draft RHNA Allocations.

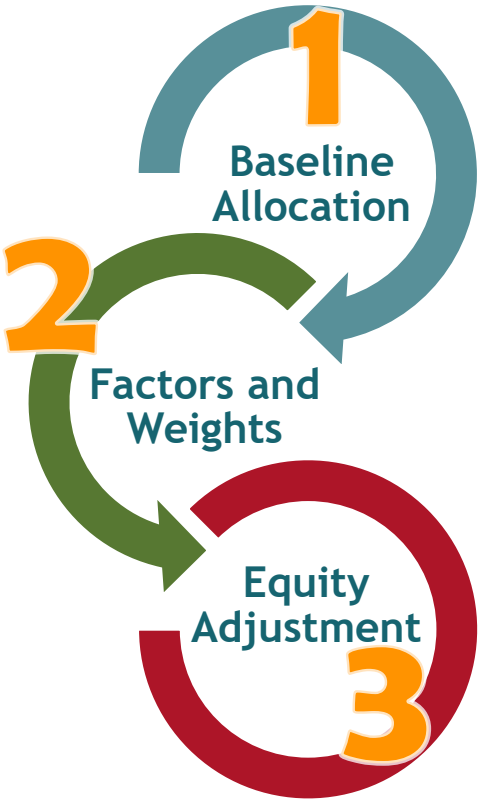
Review of Final Methodology:
RHNA Process Overview

Regional Housing Needs
Determination from HCD



Total RHND: 441,176

Final RHNA Methodology



Allocation to Local
Jurisdiction

- Very Low-Income Units
- Low-Income Units
- Moderate-Income Units
- Above Moderate-Income Units

Review of Final Methodology:

Refresher: Regional Housing Needs Determination

- ABAG received the RHND from HCD on June 9, 2020.
- Procedures for calculating the RHND are clearly specified in state law; ABAG-MTC staff reviewed HCD's methodology and believe it adheres to applicable legal requirements.
- With narrow statutory grounds for objecting to RHND, the ABAG Executive Board decided in June 2020 not to file an objection.
- ***The window to appeal the RHND is now closed.*** ABAG Administrative Committee does not have authority to change HCD's RHND for the Bay Area.
- Arguments based on the RHND do not meet statutory criteria for an appeal established by Government Code Section 65584.05.

Review of Final Methodology: **Baseline Allocation**



- Jurisdiction receives initial share of RHND using its **share of the region's total households in 2050** using data from the Plan Bay Area 2050 Final Blueprint.
- Benefits of incorporating the Final Blueprint include:
 - **Prioritizes growth in Growth Geographies:** Priority Development Areas, Transit-Rich Areas, and High-Resource Areas (with at least basic transit service).
 - Uses UrbanSim model to **analyze wide variety of land use data and market feasibility; integrates local jurisdiction information** about plans, zoning, and physical characteristics that affect development.
 - **Avoids growth outside urban growth boundaries and areas with unmitigated high hazard risk** from wildfires and sea level rise.
 - **Increases consistency between RHNA and Plan Bay Area 2050**, as required by law.

Review of Final Methodology:
Refresher: Confirming Consistency with Final Blueprint



Plan Bay Area 2050
*Final Blueprint
Growth Pattern*

35-Year Projections (2015 to 2050):

- Regional Scale
- County Scale
- Sub-County Scale

1.5 million
new homes

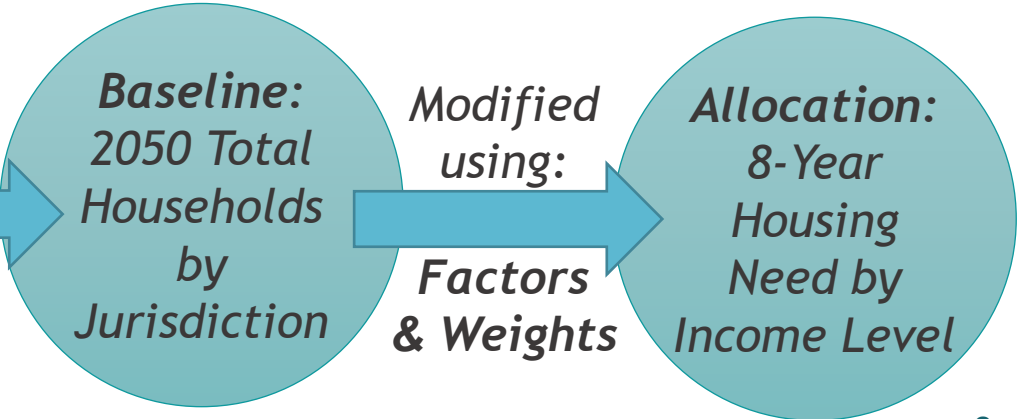
Regional Housing Needs Allocation
Final Methodology

8-Year Need Estimates (2023 to 2031):

- Regional Scale
- Jurisdiction Scale

441,000+
new homes

Housing Element Law requires RHNA to be consistent with the development pattern in Plan Bay Area 2050. Staff’s analysis indicates that the Draft RHNA Allocation achieves this outcome.



Review of Final Methodology: Factors and Weights



- **Factors and weights adjust a jurisdiction's baseline allocation up or down.**
 - Jurisdictions with a higher score receive more housing.
 - Higher weight means more housing units assigned by that factor.
- **Factors standardized by scaling to a specific range to limit baseline adjustment.**
 - A jurisdiction with a low score still receives an allocation from a factor.

Access to High Opportunity Areas Factor

- Encourages housing in jurisdictions with well-resourced schools and access to jobs and open space, among other advantages.
- Based on data from State's Opportunity Map
- Directly addresses RHNA objective to affirmatively further fair housing.

Job Proximity-Transit & Job Proximity-Auto Factors

- Encourage housing in jurisdictions with easier access to the region's job centers.
- Based on number of jobs that can be accessed with 30-minute auto or 45-minute transit commute.
- Evaluate jobs-housing balance using commute shed rather than jurisdiction boundary to better reflect lived experience.

Review of Final Methodology: Equity Adjustment



- Ensures each jurisdiction identified as exhibiting above average racial and economic exclusion receives an allocation of lower-income RHNA units that is at least proportional to the jurisdiction's share of households in 2020.
- 49 jurisdictions identified using a composite score of jurisdiction's divergence index score (which measures segregation by looking at how much local racial demographics differ from the region) and share of higher-income households.
- Modest change: ~3,000 lower-income units redistributed from remaining 60 jurisdictions.
- HCD applauded inclusion of equity adjustment as key component in advancing statutory objective to affirmatively further fair housing.

STEP 1:
Group RHND
by income

Total Regional Housing Need
Determination (RHND) from HCD

441,176

VERY LOW
114,442

LOW
65,892

MODERATE
72,712

ABOVE MODERATE
188,130

STEP 2:
Factor weight =
units allocated
by factor

Allocation Factors for Very Low-
and Low-Income Units

Allocation Factors for Moderate-
and Above Moderate-Income Units

70% Access to High
Opportunity Areas
(AHOAs)

15% Job
Proximity – Auto
(JPA)

15% Job
Proximity – Transit
(JPT)

40% Access to High
Opportunity Areas
(AHOAs)

60% Job
Proximity – Auto
(JPA)

126,234

27,050

27,050

104,337

156,505

STEP 3:
Calculate
jurisdiction's
units from
each factor

Jurisdiction score
on AHOAs factor

Jurisdiction score
on JPA factor

Jurisdiction score
on JPT factor

Jurisdiction score
on AHOAs factor

Jurisdiction score
on JPA factor

JURISDICTION BASELINE ALLOCATION

Share of households in Year 2050 from Plan Bay Area 2050 Final Blueprint

Allocation of VERY LOW
and LOW Units

Allocation of MODERATE and
ABOVE MODERATE Units

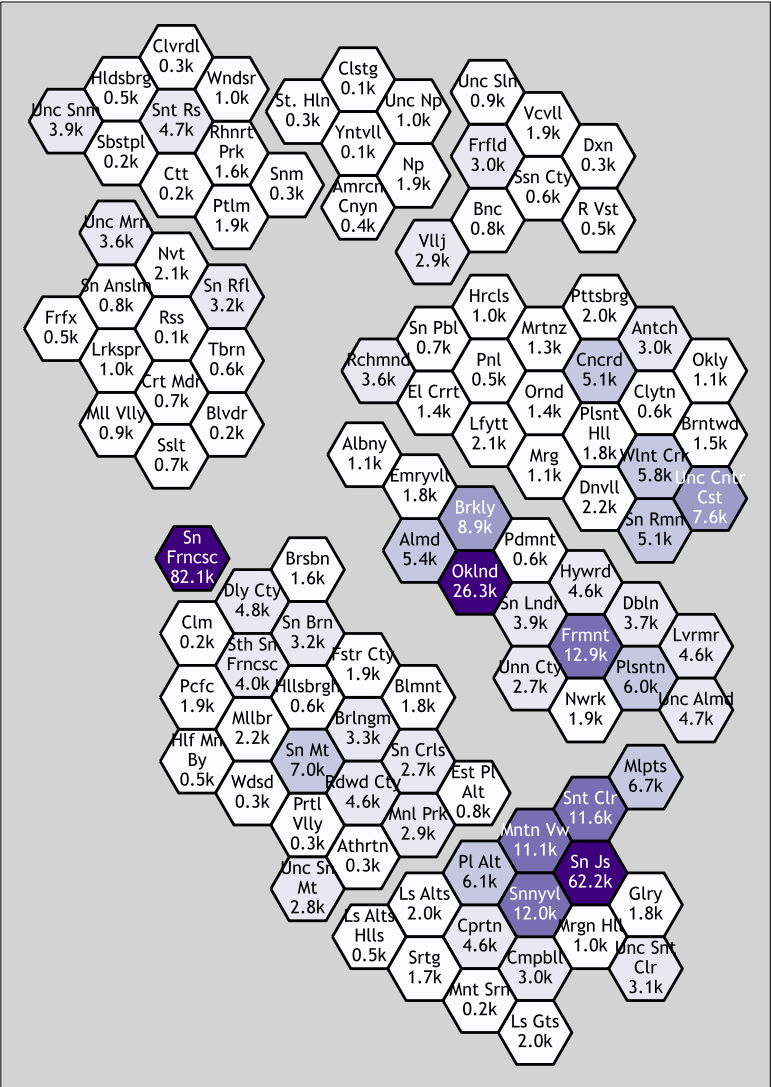
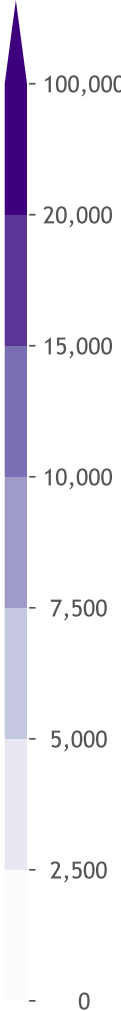
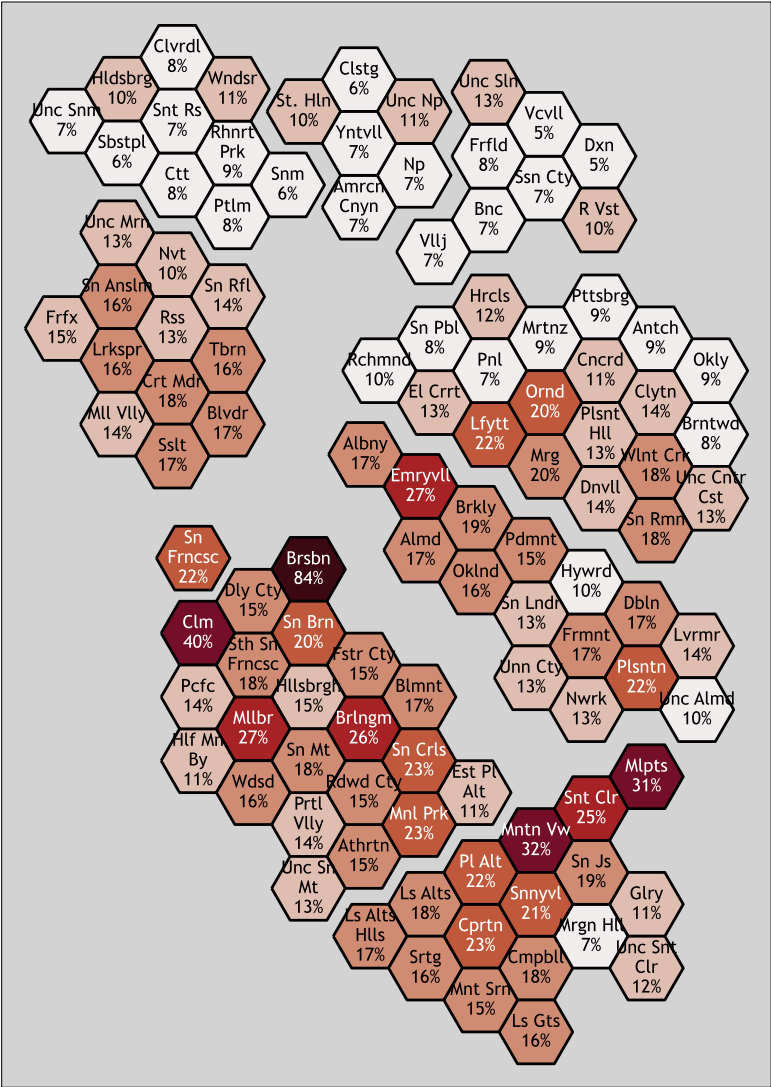
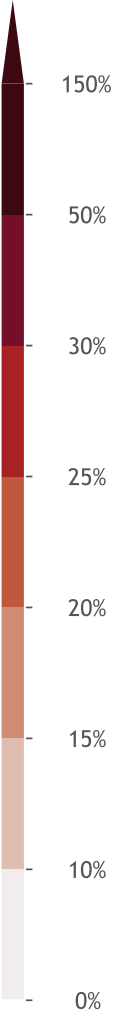
STEP 4:
Apply equity
adjustment

Equity Adjustment redistributes lower-income units to ensure all 49 jurisdictions identified as exhibiting above average racial and economic exclusion receive an allocation of lower-income units that is at least proportional to its share of households in 2020

TOTAL
JURISDICTION
ALLOCATION

Review of Final Methodology:
Draft RHNA Allocations

Jurisdiction
Growth
Rate
Compared
to 2020
Households



Jurisdiction
Growth in
Units



Part 2: Statutory Requirements for an Appeal

Statutory Requirements for an Appeal: RHNA Appeals Process Overview

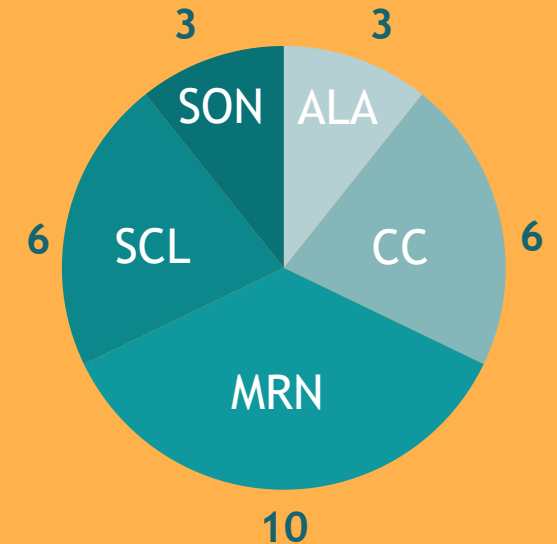
- A jurisdiction or HCD can appeal any jurisdiction's draft allocation.
- 27 jurisdictions submitted a RHNA appeal (with one jurisdiction submitting two separate appeals); these appeals generated almost 450 comments from the public and other stakeholders.
- Under state law, ABAG must conduct a public hearing to consider appeals and comments.
- Goals for appeals public hearing:

Strict
adherence to
statutes

Fair and
transparent
procedures and
outcomes

Consistent
decision-making

ABAG received 28 appeals by the July 9, 2021 deadline:



Appeals and comments are on the ABAG website:

<https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation/2023-2031-rhna-appeals-process>

Statutory Requirements for an Appeal:

Allowable Reasons for an Appeal

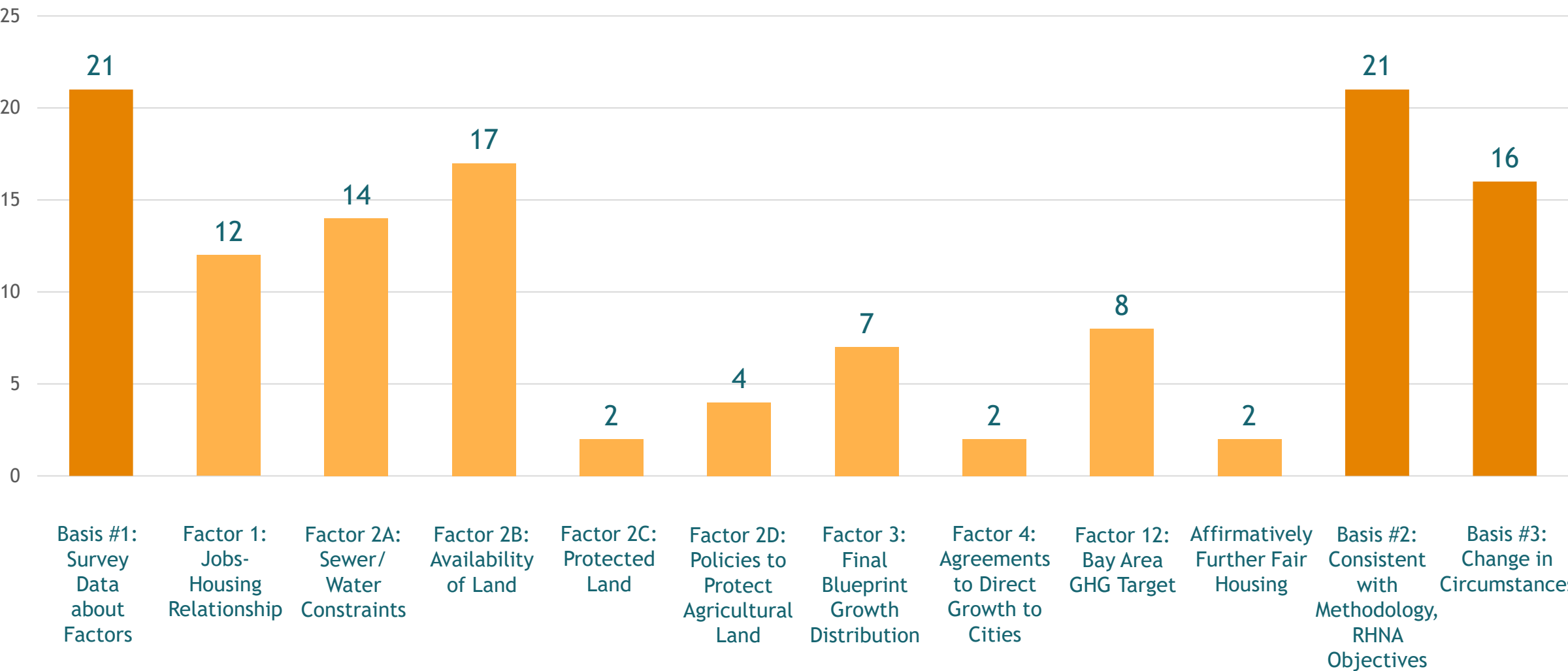
An appeal can be filed only if:

1. ABAG failed to adequately consider information submitted in the local jurisdiction survey.
2. ABAG failed to determine the jurisdiction's allocation in accordance with the information described in, and methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the RHNA objectives.
3. A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits revision of information submitted in the local jurisdiction survey. *Appeals on this basis shall only be made by the jurisdiction(s) where the change in circumstances occurred.*

By law, appeals cannot be based on:

- Any local ordinance, policy, voter-approved measure or standard limiting residential development.
- Underproduction of housing from the last RHNA cycle.
- Stable population numbers in a jurisdiction.

Statutory Requirements for an Appeal: Appeal Bases Cited by Jurisdictions



Statutory Requirements for an Appeal:

Basis #1: Jurisdiction Survey Data About Factors

- Focuses on whether ABAG adequately considered information about methodology factors that a jurisdiction provided in the Local Jurisdiction Survey
 - Appeal on this basis can only be brought by a jurisdiction that completed survey.
- Government Code Section 65584.04(e) identifies 12 factors that ABAG shall include in developing the RHNA methodology to the extent sufficient data is available.
- ABAG is required to survey local jurisdictions for information about these factors.
 - The survey was conducted in January/February 2020 and received 72 responses.
 - Data collected was shared with Housing Methodology Committee for its consideration during development of the methodology.
 - Draft RHNA Plan describes how factors are addressed in the methodology.

Statutory Requirements for an Appeal:

Basis #1: Statutory Background for Methodology Factors

Factors are in Government Code 65584.04(e). Only factors cited in appeals included here.

1. Each member's existing and projected jobs and housing relationship, including comparison of low-wage jobs and affordable housing.
- 2A. Lack of capacity for sewer or water service due to decisions outside jurisdiction's control that preclude jurisdiction from providing necessary infrastructure for additional development during RHNA planning period.
- 2B. Availability of land for urban development or conversion to residential use, availability of underutilized land, and opportunities for infill and increased residential densities.
 - ABAG may not limit consideration of available land to jurisdiction's existing zoning and land use restrictions, but shall consider potential for increased residential development under alternative zoning and land use restrictions.
 - Available land may exclude lands where Federal Emergency Management Agency (FEMA) or Department of Water Resources has determined flood management infrastructure to protect that land is not adequate.

Statutory Requirements for an Appeal:

Basis #1: Statutory Background for Methodology Factors *(continued)*

- 2C. Lands protected from urban development under existing federal or state programs to protect open space, farmland, environmental habitats, and natural resources including land subject to a local ballot measure to restrict conversion to nonagricultural uses.
- 2D. County policies to preserve prime agricultural land within unincorporated area.
 - 3. Distribution of household growth assumed in Plan Bay Area 2050 and opportunities to maximize use of public transportation and existing transportation infrastructure.
 - 4. Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.
- 12. The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.

Statutory Requirements for an Appeal:

Basis #2: Consistent with Methodology, Furthers RHNA Objectives

- A valid appeal must show an error in the *application* of the methodology; a critique of the adopted methodology itself is outside the scope of the appeals process.
- The final RHNA methodology was developed over 20 months with significant deliberation and opportunities for input and adopted by the ABAG Executive Board in May 2021.
- Government Code Section 65584.04(i) provides HCD with the authority to determine whether the methodology furthers the RHNA objectives; on April 12, 2021, HCD confirmed that ABAG's methodology furthered the RHNA objectives.

Statutory Requirements for an Appeal:

Refresher: Statutory Objectives of RHNA

Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households.

Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

Affirmatively furthering fair housing.

Statutory Requirements for an Appeal:

Basis #3: Change in Circumstance

- If a jurisdiction experienced a significant and unforeseen change in circumstances that affects information provided in the Local Jurisdiction Survey conducted in early 2020.
 - Appeal on this basis can only be brought by a jurisdiction that completed survey.
- In its comment letter on appeals, HCD responded to issues raised as changed circumstances:
 - *“The **COVID-19 pandemic** has only increased the importance of ensuring that each community is planning for sufficient affordable housing as essential workers, particularly lower income ones, continue to commute to their places of business.”*
 - ***Drought and wildfire risk** “do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”*

More Comments from HCD on Appeals Submitted

- **Statutory factor related to availability of land for housing:** *ABAG “may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and land use restrictions. . . . In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out or limited due to other natural constraints such as fire and flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.”*
- **Whether ABAG’s methodology furthers the RHNA objectives:** *“HCD reviewed ABAG’s draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.”*



Part 3: Procedures for Considering Appeals

Procedures for Considering Appeals: Redistributing Units from Successful Appeals

- ABAG will redistribute units to all local governments in the region in proportion to a jurisdiction's share of the RHND after appeals are determined and prior to the required distribution.
- Applicants whose appeals are upheld are not excluded from redistribution.
- When appropriate, the Committee can make a determination on an appeal that adjusts the allocation for a jurisdiction that is not the subject of the appeal. These adjustments may be excluded from the cumulative total to be reallocated proportionally to all jurisdictions in the region (*e.g., in situations where an annexation only affects a limited number of jurisdictions, including the applicant*).

Procedures for Considering Appeals:

Appeal Hearing Procedures

- ABAG must hold a public hearing to consider appeals. The hearing will occur over multiple days.
- Appeals will be heard by the ABAG Administrative Committee, which will have final authority for decisions on appeals.
- A committee member must recuse him/herself on an appeal affecting his/her jurisdiction.
- The Administrative Committee will issue a preliminary determination on each appeal and then ratify final decisions at a meeting after close of the public hearing to ensure uniform decision-making.

Procedures for Considering Appeals: **Appeal Hearing Structure**

1. Applicant presentation (5 min).
2. Staff response (5 min).
3. Rebuttal by applicant. Limited to arguments/evidence presented by staff (3 min).
4. Public comment (2 min per speaker, or as adjusted by the Chair).
5. Committee questions/discussion.
6. Committee motion for a determination on appeal.
7. Committee vote.

Procedures for Considering Appeals: **Appeal Hearing Schedule**

Day 1: September 24, 9:00-5:00 (by zoom)

1. ALA - Alameda
2. ALA - Dublin
3. ALA - Pleasanton

Lunch Break

4. CC - Clayton
5. CC - Danville
6. CC - Lafayette
7. CC - Pleasant Hill

Day 2: September 29, 9:00-1:00 (by zoom)

8. CC - San Ramon
9. CC - Unincorporated Contra Costa County
10. MRN - Belvedere
11. MRN - Corte Madera

Day 3: October 8, 2:00-5:00

12. MRN - Fairfax
13. MRN - Larkspur
14. MRN - Mill Valley

Day 4: October 15, 1:00-5:00

15. MRN - Ross
16. MRN - San Anselmo
17. MRN - Sausalito
18. MRN - Tiburon

Day 5: October 22, 9:00-5:00

19. Unincorporated Marin County
20. SCL - Los Altos
21. SCL - Los Altos Hills

Lunch Break

22. SCL - Monte Sereno
23. SCL - Palo Alto
24. SCL - Saratoga
25. SCL - Unincorporated Santa Clara County

Day 6: October 29, 9:00-5:00

26. & 27. SON - Unincorporated Sonoma County
28. SON - Windsor
 - *Appeals Carried Over*
 - *Final Deliberations*

For More Information

Contact: RHNA@bayareametro.gov

Visit ABAG's RHNA website: <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation>

Review the Final RHNA Methodology Report:
https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf

Review the RHNA Appeals Procedures:
https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_RHNA_Appeals_Procedures.pdf