



# ABAG-MTC Staff Response to *City of Larkspur* RHNA Appeal

ABAG Administrative  
Committee

October 8, 2021

# Overview of City of Larkspur Appeal

## Appeal Request:

- Reduce allocation by 236 units (24%) from 979 units to 743 units.

## Staff Recommendation:

- Deny the appeal.

## Appeal basis cited:

- 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.

*Note: The City of Larkspur did not submit a Local Jurisdiction Survey.*

# Issue #1: Lack of Available Land

*Jurisdiction Argument: ABAG did not adequately consider constraints in availability of land related to natural hazard risks and lack of undeveloped land in Transit-Rich Areas and High-Resource Areas identified in Plan Bay Area 2050 Final Blueprint.*

## **ABAG-MTC Staff Response:**

- 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.
- Areas at risk of natural hazards not identified in Housing Element Law as constraint to housing except when FEMA or Department of Water Resources has determined flood management infrastructure to protect land is inadequate.
- 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. Larkspur has authority to plan for housing in places with lower risk.
- Larkspur does not provide evidence it is unable to consider underutilization of sites, increased densities, and other planning tools to accommodate its assigned need.

# Issue #2: Methodology Does Not Further RHNA Objectives

*Jurisdiction Argument: RHNA methodology does not promote socioeconomic equity and encouragement of efficient development patterns and improved intraregional relationship between jobs and housing, as required by Government Code Section 65584(d).*

## **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.
- HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the 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.”
- Housing Element Law requires RHNA methodology to improve *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. South Marin is near many of the region’s jobs, so adding housing can lead to shorter commutes, helping to reduce VMT and GHG.



# Issue #3: Drought

*Jurisdiction Argument: ABAG failed to adequately consider water service capacity due to decisions made by a water service provider. Population growth associated with draft RHNA allocation exceeds growth analyzed in Urban Water Management Plan (UWMP) adopted by Marin Municipal Water District (MMWD) on June 15, 2020.*

## **ABAG-MTC Staff Response:**

- Government Code Section 65584.04(e)(2)(A) states:
  - ABAG must consider opportunities and constraints to development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”
- Difference in assumptions about expected growth does not represent a determination that the City of Larkspur will not have sufficient water capacity in the future. Even if moratorium on new water connections is implemented in future, there is no indication it would extend until end of the RHNA planning period in 2031.
- Larkspur has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider.

# Recommended Action for City of Larkspur Appeal

**Deny** the appeal filed by the City of Larkspur to reduce its Draft RHNA Allocation by 236 units.

- The jurisdiction's Draft RHNA Allocation is in accordance with the Final RHNA Methodology adopted by the ABAG Executive Board and approved by HCD and furthers the RHNA Objectives identified in Government Code Section 65584(d).