

Association of Bay Area Governments, Administrative Committee

Subject: RHNA Appeals

October 15, 2021

Via Email: rhna@bayareametro.gov

Dear Committee Members:

I am a professional planner and a life-long housing advocate. I serve as the Director of Housing Policy for 4LEAF, Inc. where I assist cities around the state in preparing their 6th cycle housing elements. Prior to accepting my position at 4LEAF, I served as Sonoma County's Housing Planner and then as their Comprehensive Planning Manager. I also served on ABAG's Housing Methodology Committee (HMC) for the 6th cycle RHNA allocation. As coordinator of the Napa-Sonoma Housing Collaborative, I provide technical assistance on housing matters to the 16 jurisdictions within those counties. I have worked on Housing Elements for multiple jurisdictions in the ABAG region since the 2nd RHNA cycle. I provide this background to demonstrate my knowledge and experience around housing policy, comprehensive planning, and the RHNA process.

I am writing today to support the appeals of ABAG's unincorporated jurisdictions. While each county's situation and appeal are unique, there is one underlying rule that applies across ABAG jurisdiction and across the State: ***boundary changes, including the extension of sewer needed to serve new development, are under the authority of the Local Agency Formation Commissions (LAFCOs), and NOT under the authority of individual counties.*** This includes city limit lines, Spheres of Influence (SOI), and special district boundaries including sewer districts. During previous RHNA cycles this fact was recognized,¹ and the RHNA responsibility for lands that lie outside of cities but within the SOI was assigned to the respective cities unless there was an agreement otherwise. This is because only cities may annex and develop those lands. Counties do not have the ability to annex land, nor to extend services to build housing on them. Only cities can annex land; counties can only lose it. This is a fundamental planning reality that has been overlooked by ABAG for this 6th cycle RHNA allocation. This is not the fault of the HMC; the decision to allocate responsibility for areas within city SOI to the unincorporated counties had already been made by ABAG staff when the HMC began its work in 2019.

LAFCO rules

The State legislature delegates the responsibility for orderly growth and development to the LAFCOs, finding that orderly growth is essential to the social, fiscal, and economic well-being of the state, as well as to providing housing for persons and families of all incomes. For these reasons, the State grants the authority to determine urban boundaries and the extension of urban services, such as the sewer necessary to build at higher densities, to the LAFCOs. (Government Code §56001) Counties lack the authority to make such extensions of sewer, even

¹ From the 2015-2023 RHNA Plan: Sphere of Influence Adjustments.

"Spheres of Influence (SOI) must be considered in the RHNA methodology if there is projected growth within a city's SOI. Most SOI in the Bay Area are anticipated to experience growth. Every city in the Bay Area has a SOI which can be either contiguous with or go beyond the city's boundary. The SOI is considered the probable future boundary of a city ***and that city is responsible for planning within its SOI.*** The SOI boundary is designated by the county's Local Area Formation Commission (LAFCO)." (emphasis added)

to serve badly-needed housing. The Administrative Committee will find additional information about this in the letters that it has received from several LAFCOs within the ABAG region.

In addition to granting LAFCOs the authority in matters of boundaries, statutes (§56133) provide that LAFCOs must restrict the extension of services outside of boundaries, unless needed to serve an existing public health hazard; extensions to serve new housing developments are not allowed. Sonoma LAFCO, for example, has adopted a policy that restricts the extension of sewer services outside of existing city limits prior to annexation by the City, unless to serve an existing public health hazard. If lands must be annexed into cities to be provided with sewer and developed, then why are unincorporated counties being made responsible for the RHNA associated with those lands? ***This can be remedied, and the HMC's RHNA Methodology left intact, by assigning the RHNA associated with lands in city SOI to the cities, and not to the unincorporated counties.***

Environmental Justice, Equity, and Fair Housing

By ignoring the above LAFCO rules and instead making unincorporated counties responsible for the RHNA associated with lands immediate outside of city limits, ABAG leaves unincorporated counties with no choice but to upzone lands for affordable housing on city fringes. Historically, these are areas that are already low income and that lack the best schools, parks, and urban amenities. Many of these lands are classified as "Disadvantaged Unincorporated Communities" by the State; cities have avoided annexing them because of their problems and the expense of providing services to them. This is not only an equity issue, but an environmental justice issue as well. Upzoning these fringe lands outside of cities at high enough densities to support affordable housing would conflict with AB 686, Affirmatively Furthering Fair Housing, which requires local jurisdictions to ensure that they zone lands for higher-density housing in high opportunity areas - those with the best neighborhoods and schools and parks - and avoid putting it in areas that are already predominantly low-income. Those high opportunity areas are in the cities themselves, and not on their forgotten fringes. ***Assigning the RHNA responsibility for lands within city SOI to those cities will relieve the pressure on unincorporated counties to zone more land in fringe areas for low-income housing.***

Unsustainable Growth Pattern

By assigning large RHNAs to unincorporated counties, ABAG violates its own Plan Bay Area objectives by putting growth outside of cities, far from transit, jobs, and the daily needs of residents. This results in an increase, not a decrease, of vehicle miles traveled (VMT) and the resultant Greenhouse Gas Emissions (GHG).

One reason that the RHNAs for unincorporated areas are so high in the 6th cycle is because of the baseline established by the HMC, which used existing housing units and projected 2050 households to provide the required consistency with Plan Bay Area. This is a serious flaw in the RHNA Methodology, but that methodology has been approved. The other reason that the unincorporated areas have such a high RHNA this cycle is because the RHNA responsibility for unincorporated lands was assigned to unincorporated counties, rather than to the cities who oversee planning for those areas. ***Assigning the RHNA responsibility for lands within city SOI to the cities will move at least some of the projected growth into cities where it belongs.***

Thank you for considering the facts in this letter as you consider the appeals of the Bay Area's unincorporated counties. The requested change to assign the RHNA responsibility for lands within SOI to the cities will better meet the objectives of Plan Bay Area, VMT and GHG reduction objectives, and fair housing and equity goals. I regret that I am traveling out of the country at this time and unable to participate personally in the hearing process, but trust that this letter and those from LAFCOs around the region will suffice to inform.

Sincerely,

Jane Riley

Jane Riley, AICP
Director of Housing Policy