

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Palo Alto RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated 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.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Palo Alto requests the reduction of its Draft RHNA Allocation by 1,500 units. The City of Palo Alto's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The City of Palo Alto, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Palo Alto's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189250&GUID=10CC5C5C-B043-490B-823F-755CBCAB9C11&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Palo Alto had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Palo Alto presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Palo Alto's appeal. The Administrative Committee considered the documents submitted by the City of Palo Alto, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Palo Alto and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Palo Alto, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- Regarding Issue #1: Issues with Final Blueprint Growth Pattern* – Households on the parcels in question are all related to Final Blueprint baseline data from the baseline analysis year of 2015, and no growth is forecasted on any of the parcels between 2015 and 2050. Because year 2015 conditions are confirmed at the jurisdiction level, the location of the approximately 27,000 existing households within the city has no impact on the jurisdiction's total households in 2015. The Bay Area has millions of parcels and identifying a potential data issue on specific parcels is not a valid case for a RHNA appeal. The RHNA allocation is at the jurisdiction level and does not dictate where a jurisdiction sites housing. While the City's arguments fall outside the scope of a RHNA appeal, ABAG-MTC staff reviewed each of them to better understand the specifics of the eight sites in the Final Blueprint. For Site 1, Palo Alto identified 77 housing units at Herbert Hoover Elementary School. ABAG-MTC staff review indicates that the units are not located on the school site, but rather are located on a parcel adjacent to the school. For Site 2, Palo Alto identified 16 housing units at Frank Greene Middle School and argues these units represent an error since Palo Alto lacks jurisdictional control of this site. These units should have been located elsewhere in Palo Alto but do not affect the jurisdiction's total households, and thus have no impact on the City's RHNA as described previously. For Sites 3 to 8, Palo Alto identified six more sites which it argues have unrealistic numbers of units in 2050 based on the size of the parcels. Although these households might be attributed to the wrong parcel – or in some cases, assigned to single parcel instead of being distributed across multiple adjacent parcels – it does not change the total number of 2015 households or Palo Alto's RHNA.
- Regarding Issue #2: Jobs-Housing Relationship* – This argument challenges the Plan Bay Area 2050 Final Blueprint land use forecasting methodology, and critiques of the Plan Bay Area 2050 land use forecasting methodology fall outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG's methodology does further the objectives. ABAG-MTC staff incorporated Palo Alto's office cap in forecasting assumptions for the Plan Bay Area 2050 Final Blueprint. The land use modeling for Plan Bay Area 2050 showed that some sites that were not available for office development because of the cap would still be attractive to developers for residential use instead. While ABAG-MTC staff recognize how the City's office development cap can help make headway on the City's jobs-housing imbalance by limiting job growth, the Final RHNA Methodology would enable further headway on this key policy issue by requiring the City to identify sites to increase housing opportunities for persons at all income levels.
- Regarding Issue #3: RHNA-Plan Bay Area Consistency* – The RHNA Methodology considers both the distribution of household growth assumed for regional transportation plans as well as opportunities to maximize use of public transportation by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the

baseline allocation. Housing Element Law requires RHNA to be consistent with the Plan Bay Area 2050 development pattern, but statute does not specify how to determine consistency, giving ABAG discretion to define its own approach. The approach used throughout the RHNA methodology development compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. Using this approach, RHNA is consistent with Plan Bay Area 2050 if the 8-year growth from RHNA does not exceed the Plan's 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the Northwest Santa Clara County and North Santa Clara County superdistricts where Palo Alto is located.

- *Regarding Issue #4: Impacts of COVID-19* – HCD's comment letter on Bay Area jurisdictions' appeals indicates RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute. HCD states, "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." Additionally, potential impacts of COVID-19, including an accelerated shift toward telecommuting and associated economic boom/bust cycle, are incorporated into the RHNA methodology through integration of the Plan Bay Area 2050 Final Blueprint. Impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate Palo Alto's housing need has been disproportionately impacted relative to the rest of the Bay Area. The pandemic is not cause for a reduction in RHNA for any particular jurisdiction. Furthermore, critiques of the Plan Bay Area 2050 land use forecasting methodology fall outside the scope of RHNA appeals process.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Palo Alto's appeal and finds that the City of Palo Alto's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).