

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee**

February 14, 2025

Agenda Item 3d

Regional Housing Needs Allocation Credit for Preservation

Subject:

Co-sponsor a bill by Assemblymember Sharon Quirk-Silva to allow cities and counties to earn credit toward their Regional Housing Needs Allocation (RHNA) targets by preserving “naturally occurring affordable housing” with long-term deed restrictions.

Background:

Preservation and the Statewide Working Group

The phrase “naturally occurring affordable housing” or NOAH is used to describe apartment buildings, often older stock, with market-rate rents that are affordable to low-to-moderate income households. NOAH “preservation” refers to a growing practice by mission-driven organizations of buying these properties and attaching to them long-term deed restrictions that prevent displacement and preserve their affordability for low-income households for 55 years. Without such intervention to pull these homes off the speculative market, private equity and gentrification can drive up rents and displace long-time residents. Since 2020, California communities have lost an estimated 163,000 NOAH units for low-income households, according to the California Housing Partnership Corporation. In the Bay Area, more than 60,000 additional homes are at high risk of conversion.

Preservation is a core component of MTC and ABAG’s “3Ps” (housing production, preservation and protection) approach to housing issues. Many Bay Area jurisdictions through their housing elements have also identified preservation as a piece of their overall affordable housing and anti-displacement strategies. However, state housing element law disincentivizes cities from investing in those preservation strategies because preserved NOAH homes do not contribute to meeting their RHNA targets for low-income households.

For the past eight months, staff have co-led a working group of local jurisdiction staff, nonprofit developers, and housing advocates to develop options for allowing localities to earn RHNA credit for NOAH preservation. The working group’s goal was to acknowledge the critical role

that preservation plays in addressing our region's affordable housing crisis and incentivize investments in affordable housing preservation.

Existing law

Current state law allows localities to claim credit on their housing element Annual Progress Report (APR) for preserving a very narrow list of properties. For example, the only NOAH properties that qualify for APR credit are those preserved as affordable to moderate-income households. Credit for preservation of housing affordable to lower-income households requires the property to *already* be deed-restricted - i.e., not NOAH - and facing the imminent expiration of that restriction.

Separately, various state housing laws require developers to replace demolished housing if it was deed-restricted, occupied by lower-income tenants, or rent-controlled within the last five years. While the law requires jurisdictions to report these demolitions on the APR, it does not provide clear guidance about what must be reported.

Lastly, the Housing Crisis Act requires developers to pay relocation assistance to lower-income renters directly displaced by a development project and to offer them a right of return. However, without any reporting requirement, it is challenging to determine whether these tenant protections are being followed.

This bill

Assemblymember Quirk-Silva's legislation will allow jurisdictions to claim credit on their APR for NOAH properties affordable to *low-income* households and preserved with public assistance, for up to 25 percent of their RHNA allocation in the relevant income category. To qualify, the properties must be deed-restricted for at least 55 years and protect existing tenants against displacement. The bill will also clarify for jurisdictions their reporting obligation related to demolished homes. Finally, it will add a minor APR reporting requirement to track developers' compliance with replacement housing and relocation assistance requirements.

The Public Interest Law Project and Enterprise Community Partners are co-sponsoring the bill.

Recommendation:

Co-sponsor / ABAG Executive Board Approval

Co-sponsor / MTC Commission Approval

Discussion:

State, regional and local policymakers increasingly recognize preservation of NOAH properties as a cost-effective strategy for increasing housing stability and locking in long-term affordability. BAHFA launched two preservation programs in the past two years, the Housing Preservation Loan Pilot and the Welfare Tax Exemption Preservation Program. Combined, they have preserved more than 820 homes for Bay Area residents.

Additionally, focusing on NOAH preservation for low-income households can advance fair housing goals. Approximately half of the lost low-income NOAH stock statewide is located in high resources areas, according to the California Housing Partnership Corporation. These areas provide enhanced access to opportunity via excellent schools and job centers.

This bill would provide jurisdictions with increased flexibility to achieve their RHNA goals – a policy that the ABAG Executive Board has supported for years – and incentivize investments in preservation, in line with MTC/ABAG’s longstanding policy goals and with BAHFA pilot programs, described above. Given this, and that the policy proposal was developed through discussions of a staff-led working group, staff recommends MTC and ABAG co-sponsor the bill.

Known Positions:

Enterprise Community Partners (co-sponsor)

Public Interest Law Project (co-sponsor)

Attachments:

None



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