

**[Exempt From Filing Fee  
Government Code § 6103]**

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COUNCIL OF GOVERNMENTS

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 ORANGE COUNTY COUNCIL OF  
GOVERNMENTS, a Joint Powers Agency,

13  
14 Petitioner,

15 v.

16 GUSTAVO VELASQUEZ, Interim Director of  
Department of Housing and Community  
17 Development; CALIFORNIA DEPARTMENT  
OF HOUSING AND COMMUNITY  
DEVELOPMENT; and DOES 1 through 50,  
18 inclusive,

19 Respondents.

20 SOUTHERN CALIFORNIA ASSOCIATION  
OF GOVERNMENTS, a Joint Powers Agency,

21  
22 Real Party in Interest.  
23

Case No. **21STCP01970**

**VERIFIED PETITION FOR WRIT OF  
MANDATE**

24 This Verified Petition for Writ of Mandate (“Petition”) is brought by Petitioner and Plaintiff  
25 Orange County Council of Governments and directed to Respondents Gustavo Velasquez, in his  
26 official capacity as Interim Director of the California and the California Department of Housing and  
27 Community Development.

28 ///





**PARTIES**

1  
2 1. Petitioner Orange County Council of Governments (“OCCOG”) is a joint powers  
3 public agency organized and existing pursuant to the Joint Exercise of Powers Act (Chapter 5 of  
4 Division 7 of Title 1 (commencing with Section 6500) of the California Government Code), which  
5 authorizes two or more public agencies to exercise any power common to them pursuant to a joint  
6 powers agreement. OCCOG serves as a sub-regional planning organization on behalf of its thirty-  
7 four members, which include incorporated cities within its boundaries. In conjunction with the  
8 Southern California Association of Governments, OCCOG assists in the development and analysis  
9 of planning documents prepared as part of the allocation of its members’ regional housing needs  
10 assessment under statewide land use laws. OCCOG’s members are beneficially interested in the  
11 determination and allocation of regional housing needs made pursuant to Government Code section  
12 65580 *et seq.* OCCOG brings this Petition as a representative for the benefit of its members.

13 2. Respondent Gustavo Velasquez (“Velasquez”) is the Director of the California  
14 Department of Housing and Community Development, an agency of the State of California, and is  
15 named herein at all times in his official capacity as such.

16 3. Respondent California Department of Housing and Community Development  
17 (“HCD”) is and at all times mentioned herein was a department of the State of California, within the  
18 California Business, Consumer Services and Housing Agency, and tasked with, among other things,  
19 determining the regional housing needs assessment for each regional planning body (known as a  
20 ‘council of governments’) in the State, and reviewing and approving housing elements of local  
21 governments to meet the housing needs of their communities.

22 4. Velasquez and HCD are charged with statutory duties pursuant to the terms of  
23 Government Code section 65580 *et seq.* and SB 828 (2018). Velasquez and HCD are referred to  
24 collectively herein as “HCD.”

25 5. Real Party in Interest Southern California Association of Governments (“SCAG”) is  
26 a joint powers authority organized and existing pursuant to the Joint Exercise of Powers Act  
27 (Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government  
28 Code), which authorizes two or more public agencies to exercise any power common to them





1 22 Cal.App.4th 974, 981. The housing element is a highly detailed element of the general plan,  
2 designed to ensure that each local government recognizes its responsibility in contributing to the  
3 attainment of state housing goals. Gov't Code § 65581(a); *Committee for Responsible Planning v.*  
4 *City of Indian Wells* (1989) 209 Cal.App.3d 1005, 1013. Housing elements are required to be  
5 updated every five to eight years as part of the general plan update. Gov't Code § 65588.

6 10. Every five to eight years, HCD oversees a process known as the regional housing  
7 needs assessment (“RHNA”). At least two years before scheduled housing element updates within  
8 a region of the state are to occur, HCD will assign that region its share of the state’s housing needs,  
9 in consultation with the council of governments (“COG”) located within that region. Gov't Code  
10 §§ 65584(b), 65584.01. SCAG is the regional COG for several southern California counties,  
11 including Imperial County, Los Angeles County, Orange County, Riverside County, San Bernardino  
12 County, and Ventura County, and the incorporated cities within each of those counties.

13 11. HCD and the regional COG must meet to determine the RHNA for each region in  
14 the state. Gov't Code § 65584.01(b)(1). Factors that must be considered in the methodology include  
15 the existing and projected jobs-housing relationship, constraints on and opportunities for the  
16 development of additional housing, regional transportation plans, the rate of overcrowding, and  
17 numerous other factors. Gov't Code § 65584.04.

18 12. HCD must then submit its regional RHNA determination to the COG (i.e., SCAG)  
19 for review. Gov't Code § 65584.01(c)(1). If the regional COG disagrees with HCD’s RHNA  
20 determination for the region, there is a procedure for objecting on the basis of improper population  
21 projections or improper application of the RHNA methodology. Gov't Code § 65584.01(c).

22 13. Once the final RHNA determination has been provided to the regional COG, at least  
23 eighteen months before a scheduled housing element update, each regional COG must (i) formulate  
24 a methodology to distribute the number of dwelling units provided in the RHNA determination (also  
25 known as the “regional housing need allocation”) among the local governments (i.e., cities and  
26 counties) located within the regional COG; (ii) distribute the draft regional housing need allocations  
27 to each local government in the region; (iii) explain the methodology on which the allocations are  
28 based; (iv) include a statement as to how the allocations further the objectives set forth



1 in Government Code section 65584(d); and (v) publish the draft allocations on its website. Gov't  
2 Code § 65584.05(a). A copy of the draft allocations are also provided to HCD.

3 14. Within forty-five days after receipt of the draft RHNA, a local government or HCD  
4 may appeal to the regional COG for a revision of the share of the regional housing need proposed  
5 to be allocated to one or more local governments. Under a specific appeal process, the regional COG  
6 may adjust the RHNA shares of one or more local governments, regardless of whether each  
7 government is the subject of any appeal. Gov't Code § 65584.05(b).

8 15. Once each local government's allocation has been finalized upon the conclusion of  
9 the appeal process, that government's planning agency must then submit drafts of proposed housing  
10 elements containing the finalized RHNA allocation for that local government to HCD for  
11 review. HCD then has ninety days (for adoptions) or sixty days (for amendments) to provide written  
12 comments to the local government, which the local government must consider before final adoption  
13 of the housing element. Gov't Code § 65585(b), (d), (e). If HCD finds that a draft housing element  
14 does not substantially comply with statutory requirements, the local government must either revise  
15 the element in accordance with HCD's recommendations or adopt findings explaining why the local  
16 government believes the housing element substantially complies with the statute despite HCD's  
17 comments. Gov't Code § 65585(f). Once the local government adopts the new or amended housing  
18 element, the local government must again submit the same to HCD for review. Gov't Code §  
19 65585(g). HCD will then determine whether the housing element is in substantial compliance with  
20 state law. Gov't Code § 65585(h).

21 16. If a local government is found to be noncompliant with its RHNA requirements, it  
22 can face significant penalties.

23 a. If a local government fails to submit a valid housing element, it is subject to a 4-year  
24 review cycle, rather than an 8-year cycle. Gov't Code § 65588(b).

25 b. Under certain conditions, if a local government fails to complete a required rezoning  
26 within the time frame, the local government is prohibited from disapproving a  
27 housing development project (that is located on property that is required to be  
28 rezoned and objectively consistent with the general plan policies and design



standards) or from taking certain other actions. Gov't Code § 65583(g)(1).

- c. A court may suspend a local government's authority to issue any building or zoning permit or any subdivision map approval. Gov't Code § 65755(a)(1)-(3). Conversely, a court may mandate that a local government approve certain housing projects. Gov't Code § 65755(a)(4)-(6). Local governments also may be precluded from denying certain affordable developments even if such developments are inconsistent with the zoning and general plan. See Gov't Code § 65589.5(d)(5), (d)(5)(B).
- d. Local governments also become open to lawsuits by both the California Attorney General and interested parties, subject to financial penalties. Gov't Code § 65583(g)(3).
- e. In addition, local governments can become ineligible for state grant funds for state-required tasks and bonds.

**FACTUAL ALLEGATIONS**

17. OCCOG is informed and believes, and on that basis alleges, that, in 2019, SCAG and HCD began developing the RHNA determination for SCAG's region for the 2021-2029 planning period (also known as the 6<sup>th</sup> cycle). Concurrently, SCAG began to develop its methodology for allocating the projected regional RHNA determination among the local governments within SCAG's jurisdiction.

18. On August 22, 2019, HCD provided SCAG a letter informing it of HCD's draft RHNA determination for the SCAG region. HCD assigned a total of 1,344,740 dwelling units, based on existing and projected housing needs, as SCAG's RHNA determination to be distributed among the local governments located within the SCAG region. Attachment 1 to the letter identified HCD's RHNA determination of 1,344,740 total units, categorized among four income categories. Attachment 2 to the letter provided the methodology and explanation and data sources for HCD's determination. Attached as Exhibit "A" is a true and correct copy of the HCD letter, dated August 22, 2019, including Attachments 1 and 2.

19. Also on August 22, 2019, OCCOG sent a letter to SCAG regarding proposed RHNA methodology options to distribute the number of dwelling units from HCD's anticipated RHNA



1 determination for the SCAG region. Among other points, OCCOG advised that it believed local  
2 input was the most important factor in selecting a RHNA methodology and requested the adoption  
3 of a RHNA methodology only after HCD provides its RHNA determination to SCAG. OCCOG  
4 also advised that it opposed the reallocation of “above moderate” housing category to other income  
5 categories, and raised other issues to be addressed in SCAG’s allocation of HCD’s RHNA  
6 determination. Attached as Exhibit “B” is a true and correct copy of OCCOG’s letter, dated August  
7 22, 2019.<sup>1</sup>

8 20. On September 18, 2019, within the requisite 30-day period to object under  
9 Government Code section 65584.01(c), SCAG submitted a formal objection to HCD of HCD’s draft  
10 RHNA determination for the SCAG region. SCAG objected to HCD’s determination on the  
11 following grounds:

- 12 a. HCD did not base its RHNA determination on SCAG’s regional population forecast  
13 as stated in its Regional Transportation Plan/Sustainable Community Strategy  
14 (RTP/SCS), which is inconsistent with Government Code section 65584.01(a).  
15 Government Code section 65584.01(a) states, in part, “If the total regional population  
16 forecast for the projection year, developed by the council of governments and used  
17 for the preparation of the regional transportation plan, is within a range of 1.5 percent  
18 of the total regional population forecast for the projection year by the Department of  
19 Finance, then the population forecast developed by the council of governments shall  
20 be the basis from which the department determines the existing and projected need  
21 for housing in the region.” *Despite the fact that SCAG’s total regional population*  
22 *forecast differed from the Department of Finance (“DOF”) projection by only*  
23 *1.32% and was, thus, within the statutory tolerance of 1.5%, HCD did not utilize*  
24 *SCAG’s regional population forecast in its determination, as required under*

25  
26  
27 <sup>1</sup> It is unknown to OCCOG whether the other COGs or local governments not served by a COG faced  
28 or objected to the same issues as raised herein; thus, the claims raised in the instant Petition are limited  
to HCD’s regional housing determination for SCAG’s members.



1                    *Government Code section 65584.01(a). Instead, HCD utilized the DOF's*  
2                    *projection, in violation of statutory law.*

3                    b. HCD did not use comparable regions when evaluating household overcrowding<sup>2</sup> and  
4                    cost-burden rates,<sup>3</sup> instead utilizing national averages, which is inconsistent with the  
5                    statutory language of SB 828, empirical data, and HCD's own internal practice. SB  
6                    828 requires COGs to provide data on the overcrowding rate for a comparable  
7                    housing market, as well as data on the percentage of households that are cost  
8                    burdened.<sup>4</sup>

9                    c. HCD utilized unreasonable comparison points to evaluate healthy housing market  
10                    vacancy rates, in that it utilized a 5% total vacancy rate, rather than a 5% rate for the  
11                    rental housing market and a more realistic standard for the for-sale housing vacancy  
12                    rate (say, 1.5%, which has been the average for for-sale housing since the 1970s)<sup>5</sup>.  
13                    SB 828 also requires COGs to provide the vacancy rates in existing stock, as well as  
14                    the vacancy rates for healthy housing market functioning and regional mobility.

15                    21. SCAG also objected to four other technical shortcomings in HCD's evaluation:

16                    a. HCD's evaluation of replacement housing needs was based on an arbitrary internal  
17                    standard, rather than housing demolition data provided by DOF.<sup>6</sup>

18                    b. HCD did not exclude anticipated household growth on tribal land, despite the fact  
19                    that tribal lands are sovereign nations and not subject to state land use law.

20 \_\_\_\_\_  
21 <sup>2</sup> Household overcrowding is defined as "more than one resident per room in each room in a dwelling."

22 <sup>3</sup> Cost-burdened households are defined as the share of households by income level paying more than  
23 30% of household income on housing costs.

24 <sup>4</sup> SB 828,  
[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=201720180SB828&showMends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB828&showMends=false).

25 <sup>5</sup> Source: U.S. Census Bureau, current population survey/housing vacancy survey, March 9, 2021,  
26 <https://www.census.gov/housing/hvs/data/charts/fig04.pdf> (accessed on June 4, 2021).

27 <sup>6</sup> This is contrary to HCD's prior position regarding population forecasts for which it incorrectly  
28 adopted DOF's total regional population forecast.





1 c. HCD utilized an unreasonable adjustment for cost burden statistics.

2 d. HCD's data and use of data were not current.

3 22. Pursuant to Government Code section 65584.01(c)(2)(b), SCAG provided a  
4 proposed alternative RHNA determination, as well as an analysis of why the proposed alternative  
5 would be a more reasonable application of the methodology and assumptions to be used by HCD to  
6 determine SCAG's RHNA. According to SCAG's proposed alternative determination, the RHNA  
7 determination for the SCAG region should be between 823,808 and 920,772 dwelling units.  
8 Attached as Exhibit "C" is a true and correct copy of SCAG's written objection, dated September  
9 18, 2019.

10 23. On October 15, 2019, HCD provided SCAG with its final RHNA determination for  
11 the region. HCD advised that it had not altered its RHNA approach based on SCAG's objection,  
12 with the exception of an update to the cost-burden data because it had obtained more recent data.  
13 As a result of this, HCD determined that SCAG's housing need was 1,341,827 total dwelling units  
14 among the four income categories for SCAG to distribute among local governments.

15 a. With respect to SCAG's objection to HCD's use of the DOF's total regional  
16 population forecast, HCD acknowledged that SCAG's "overall population estimates  
17 for the end of the projection period exceed [DOF's] population projections by  
18 1.32%." HCD, however, claimed that SCAG's household projection (derived from  
19 the population projection) is 1.96% lower than DOF's household projection. HCD  
20 claimed this is due to SCAG's population forecast having a greater population for  
21 under 15-year olds than the DOF. As a result, HCD maintained its use of the DOF  
22 projection.

23 b. With respect to SCAG's objection to HCD's failure to use comparable regions for  
24 evaluating household overcrowding and cost-burden rates, HCD failed to adequately  
25 explain why it utilized a national average; instead, HCD stated, "[a]s the housing  
26 crisis is experienced nationally, even the national average does not express an ideal  
27 overcrowding or cost burden rate."

28 ///



- 1           c. With respect to SCAG’s objections regarding the vacancy rate used by HCD, HCD  
2           simply stated that no changes had been made to the vacancy rate standard used by  
3           HCD.  
4           d. HCD also advised that it was making no changes with respect to SCAG’s remaining  
5           objections.

6           The 1,341,827 total dwelling units represents more than twice the number of projected  
7           housing units needed by the end of the 6<sup>th</sup> Cycle in 2029, which is estimated to be only 651,000  
8           housing units. Thus, more than half of HCD’s RHNA determination for the SCAG region is due to  
9           HCD’s use of the wrong population forecast, comparable region, and vacancy rates, as well as new  
10          methodology that includes overcrowding and cost burdening factors that HCD did not previously  
11          consider in its typical methodology for prior housing cycles. Attached as Exhibit “D” is a true and  
12          correct copy of HCD’s final regional housing need assessment, dated October 15, 2019.

13          24. Shortly thereafter, on October 21, 2019, SCAG formed a Litigation Study Team to  
14          examine the response of the State in order to analyze the legal ramifications of their final regional  
15          determination letter. The Litigation Study Team subsequently had a coordinating phone call to  
16          discuss several issues and determined that litigation was not SCAG’s preferred approach at that  
17          time. However, President Jahn stated that staff was directed to prepare a letter to HCD outlining  
18          SCAG’s frustration and concerns with the process and to arrange for SCAG to meet with state  
19          representatives to discuss and partner on realistic approaches to housing. It is not known, however,  
20          whether this meeting with state representatives ever occurred or what came from that meeting.

21          25. Over the course of 2019, SCAG encouraged public involvement in the development  
22          of its RHNA methodology, and OCCOG participated in and contributed to the development of  
23          SCAG’s RHNA methodology during this time. On November 5, 2019, OCCOG sent another letter  
24          to SCAG regarding its RHNA methodology and regional determination, and reiterated its strong  
25          support for the inclusion of local factors (including growth forecast) as part of the ultimately selected  
26          methodology for the allocation of HCD’s regional housing need assessment to SCAG’s  
27  
28



1 jurisdictions.<sup>7</sup> OCCOG also noted that HCD ignored the language in Government Code section  
2 65584.01(a) when it used the DOF’s total regional population forecast, and urged SCAG to take  
3 whatever legal means necessary to address the misapplied aspect of the regional determination.  
4 Attached as Exhibit “E” is a true and correct copy of OCCOG’s letter, dated November 5, 2019.

5 26. On November 7, 2019, however, during a meeting of the SCAG Regional Council,  
6 SCAG introduced a substitute methodology, which had not previously been disclosed to the public.  
7 The substitute methodology was later used by SCAG in its RHNA allocation to each local  
8 government in its jurisdiction.

9 27. OCCOG is informed and believes, and on that basis alleges, that SCAG subsequently  
10 submitted its draft 6th Cycle RHNA Methodology for HCD’s review. On December 19, 2019,  
11 SCAG sent HCD a letter regarding HCD’s final RHNA determination and advised that it had  
12 incorporated the determination in the development of SCAG’s RHNA allocation methodology  
13 under review by HCD. SCAG reiterated its earlier objections that HCD did not base its  
14 determination on SCAG’s total regional population forecast, as required by Government Code  
15 section 65584.01(a). SCAG also objected to HCD’s failure to meet with SCAG, as also required by  
16 Government Code section 65584.01(a). SCAG ultimately requested a meeting with HCD to discuss  
17 realistic ways to increase housing for the SCAG region. Attached as Exhibit “F” is a true and correct  
18 copy of SCAG’s letter, dated December 19, 2019.

19 28. On January 13, 2020, HCD sent SCAG a letter, in which it advised that it had  
20 completed its review of SCAG’s RHNA methodology and found that it furthered the five statutory  
21 objectives of RHNA. Attached as Exhibit “G” is a true and correct copy of HCD’s letter, dated  
22 January 13, 2020.

23 29. On February 18, 2020, OCCOG sent SCAG a letter expressing disappointment that  
24 SCAG has not continued to forcefully oppose HCD’s RHNA determination for the SCAG region,  
25 despite its legal standing to do so. OCCOG strongly urged SCAG to continue to insist that HCD  
26

27 <sup>7</sup> OCCOG’s letter was in rebuttal to an October 11, 2019 letter from the Abundant Housing LA  
28 organization, which objected to the use of growth forecast as a factor.



1 follow state statutes in calculating its determination. Attached as Exhibit “H” is a true and correct  
2 copy of OCCOG’s letter, dated February 18, 2020.

3 30. On April 27, 2020, OCCOG sent a similar letter to Doug McCauley, as the Acting  
4 Director of HCD, regarding HCD’s RHNA determination for the SCAG region, strongly urging  
5 HCD to reconsider the determination made in light of the statutory irregularities and “current  
6 economic circumstances that will add significant impediments to [OCCOG’s] ability to meet the  
7 RHNA.” In its letter, OCCOG referenced HCD’s initial determination and reiterated SCAG’S  
8 objection to HCD’s failure to use SCAG’s RTP/SCS growth forecast, as well as the methodology  
9 and assumptions utilized by HCD. . Attached as Exhibit “I” is a true and correct copy of OCCOG’s  
10 letter, dated April 27, 2020.

11 31. On or about September 3, 2020, SCAG notified each local government within the  
12 SCAG region of their share of the RHNA allocation. Also on September 3, 2020, Councilmember  
13 Peggy Huang (Chair of the RHNA Subcommittee) requested that SCAG President Rex Richardson  
14 reconvene the Litigation Study Team. President Richardson stated that he would reconvene the  
15 Litigation Study Team if there was sufficient support to do so.

16 32. On September 18, 2020, the OC Mayor Group, consisting of the Mayors of thirty-  
17 two cities in Orange County, sent a letter to SCAG regarding HCD’s determination of SCAG’s  
18 regional housing needs, advising that new and credible data should be explored with HCD in its  
19 assessment of SCAG’s regional housing needs. The Mayors also urged SCAG to revisit HCD’s  
20 failure to follow statute when it issued its housing determination. Attached as Exhibit “J” is a true  
21 and correct copy of the OC Mayor Group’s letter, dated September 18, 2020.

22 33. OCCOG is informed and believes, and on that basis alleges, that SCAG received 52  
23 appeals of its RHNA allocation from various local governments within the SCAG region, including  
24 appeals from some of OCCOG’s members.

25 34. OCCOG is further informed and believes, and on that basis alleges, that SCAG  
26 reconvened a closed session of its RHNA Litigation Study Team on November 2, 2020, in response  
27 to OCCOG’s September 18, 2020 letter. On November 5, 2020, during the SCAG Regional Council  
28 meeting, SCAG reported that the RHNA Litigation Study Team had considered the new data



1 available, but that the consensus was to not recommend pursuing litigation.

2 35. On December 1, 2020, the OC Mayor Group sent SCAG another letter, requesting  
3 that a special closed session meeting of the SCAG Regional Council be convened in order to discuss  
4 the SCAG RHNA Litigation Study Team’s recommendation to not pursue litigation and to  
5 determine the appropriate action to pursue for the entire SCAG region. Attached as Exhibit “K” is  
6 a true and correct copy of the OC Mayor Group’s letter, dated December 1, 2020.

7 36. On December 10, 2020, HCD sent SCAG a letter providing its comments on the 52  
8 appeals of SCAG’s draft RHNA allocation. Attached as Exhibit “L” is a true and correct copy of  
9 HCD’s letter, dated December 10, 2020.

10 37. After considering the 52 appeals at a number of appeal hearings in January and  
11 February, 2021, SCAG denied all but two of the appeals and upheld its RHNA allocation for each  
12 local government within its jurisdiction.

13 38. To illustrate the impact of HCD’s exaggerated RHNA determination, OCCOG  
14 provides a sampling of SCAG member cities with excessive RHNA allocations:

- 15 a. Buena Park has a total projected need<sup>8</sup> of 1,533 housing units, yet it was assigned a  
16 total RHNA of 8,899 units.
- 17 b. Costa Mesa has a total projected need of 411 housing units, yet it was assigned a total  
18 RHNA of 11,733 units.
- 19 c. Cypress has a total projected need of 112 housing units, yet it was assigned a total  
20 RHNA of 3,927 units.
- 21 d. Fountain Valley has a total projected need of 177 housing units, yet it was assigned  
22 a total RHNA of 4,827 units.
- 23 e. Garden Grove has a total projected need of 1,512 housing units, yet it was assigned  
24 a total RHNA of 19,122 units.

25 ///

27 <sup>8</sup> Total projected need includes forecasted household for the RHNA period, vacancy adjustment, and  
28 replacement need.



- 1 f. Irvine has a total projected need of 7,690 housing units, yet it was assigned a total
- 2 RHNA of 23,610 units.
- 3 g. Laguna Niguel has a total projected need of 62 housing units, yet it was assigned a
- 4 total RHNA of 1,204 units.
- 5 h. Newport Beach has a total projected need of 320 housing units, yet it was assigned a
- 6 total RHNA of 4,834 units.
- 7 i. Seal Beach has a total projected need of 112 housing units, yet it was assigned a total
- 8 RHNA of 1,239 units.
- 9 j. Tustin has a total projected need of 49 housing units, yet it was assigned a total
- 10 RHNA of 6,765 units.
- 11 k. Yorba Linda has a total projected need of 34 housing units, yet it was assigned a total
- 12 RHNA of 2,415 units.

13 39. Again, OCCOG believes that the foregoing discrepancies between the projected  
14 housing needs of a local government and the number of dwelling units assigned to it in the RHNA  
15 allocation are due to HCD's use of the wrong population forecast, regions that are not comparable  
16 to Southern California, and inaccurate and unattainable vacancy rates, as well as new methodology  
17 that grossly overestimates the projected housing needs by including overcrowding and cost-  
18 burdening factors that result in double counting the number of required dwelling units for the 6<sup>th</sup>  
19 Cycle. Such factors were not included in prior methodologies and such calculations are in violation  
20 of statutory law.

21 **FIRST CAUSE OF ACTION**

22 **(Petition for Writ of Mandate – Code of Civil Procedure § 1085)**

23 40. OCCOG hereby re-alleges paragraphs 1 through 39, inclusive, and incorporates them  
24 herein by reference as if fully set forth below.

25 41. As set forth in this Petition, HCD's RHNA determination for the SCAG region  
26 violated the state local planning laws. Therefore, OCCOG seeks a peremptory writ of mandate  
27 under Code of Civil Procedure section 1085, compelling HCD to set aside its RHNA determination  
28 for the SCAG region and make a determination as provided herein.



1           42.       Respondents have a clear, present, and ministerial duty to administer the laws of the  
2 State of California, including state land use laws, without violating either those laws or the  
3 provisions of the California Constitution. HCD’s determination of SCAG’s regional housing needs  
4 (which in turn implicates the regional housing needs of OCCOG’s members) was incorrect and  
5 lacking in substantial evidentiary support for at least three reasons.

6           43.       First, HCD was required to use SCAG’s RTP/SCS population forecast in reaching  
7 its determination, as SCAG’s regional population forecast only differed from the forecast of the  
8 DOF projection by 1.32%, which falls within the statutory range of 1.5% outlined in Government  
9 Code section 65584.01(a). The language of Government Code section 65584.01(a) is not  
10 discretionary, but mandatory. Therefore, by statute, the regional determination should be based on  
11 SCAG’s population projections, and HCD’s use of the DOF projection was an incorrect application  
12 of the law. HCD’s claimed basis for using the DOF projection, i.e., that SCAG’s *household*  
13 projection is 1.96% lower because SCAG had a greater population of under 15-year olds than DOF,  
14 is not found within Government Code section 65584.01(a) as a basis for rejecting the local  
15 population projection.

16           44.       Second, HCD did not use comparable regions when evaluating household  
17 overcrowding and cost-burden rates, instead utilizing national averages, which was inconsistent  
18 with the statutory language of SB 828, empirical data, and HCD’s own internal practice. In fact,  
19 HCD utilized comparable regions for other COGs, but refused to do so for SCAG. SB 828 requires  
20 councils of government to provide data on the overcrowding rate for a comparable housing market,  
21 as well as data on the percentage of households that are cost burdened. This is especially significant,  
22 considering overcrowding and cost-burdening are already factored into the DOF household  
23 projections, leading to a double counting of overcrowding and cost-burdening.

24           45.       Third, HCD utilized unreasonable comparison points to evaluate healthy market  
25 vacancy, in that it utilized a 5% total vacancy rate, rather than a 5% rate for the rental housing market  
26 and a more realistic standard for the for-sale housing vacancy rate. HCD’s 5% total vacancy rate  
27 contradicts Government Code section 65584.01(b)(1)(E), which specifically states that “the vacancy  
28 rate for a healthy *rental housing market* shall be considered no less than 5 percent.” (Emphasis



1 added.) In addition, a 5% vacancy rate for owner-occupied homes is an unhealthy rate, as  
2 homeowner vacancy in the U.S. has been around 1.5% since the 1970s. Thus, HCD's use of a 5%  
3 total vacancy rate is both contrary to the law and unreasonable.

4 46. Based on the foregoing errors, HCD's RHNA determination that SCAG's regional  
5 housing need totals 1,341,827 units is erroneous and based on an incorrect application of the law.  
6 HCD's failure to comply with Government Code section 65584.01(a) and SB 828, as well as its use  
7 of an unreasonable vacancy rate, was arbitrary and capricious.

8 47. OCCOG and its members are beneficially interested in HCD's performance of its  
9 duties and have no adequate remedy at law to redress the statutory violations described herein other  
10 than through a petition for writ of mandate. HCD's actions taken as outlined herein constitute an  
11 abuse of discretion. An exaggerated housing needs assessment not only subjects cities to the various  
12 penalties discussed above if it fails to comply, but forces cities to rezone and accommodate increased  
13 residential housing, which can be particularly difficult in regions with little or no vacant land  
14 suitable for housing development.

15 48. Therefore, OCCOG requests and prays that a writ of mandate be issued by this Court  
16 to order HCD to vacate and set aside its RHNA determination for the SCAG region, change the  
17 input of information utilized in calculating its RHNA determination as described herein, and conduct  
18 a new assessment for the SCAG region in compliance with state local planning laws under  
19 Government Code section 65580 *et seq.*

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Petitioner Orange County Council of Governments prays for judgment as  
22 follows:

23 1. For a peremptory writ of mandate directing HCD to vacate and set aside its RHNA  
24 determination for the SCAG region, change the input of information utilized in calculating its  
25 RHNA determination as described herein, and conduct a new assessment for the SCAG region in  
26 compliance with state local planning laws under Government Code section 65580 *et seq.*;

27 2. For Petitioner's costs of suit;

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- 3. For an award of attorneys' fees pursuant to Code of Civil Procedure section 1021.5 or other applicable law; and
- 4. For such other and further relief as the Court may deem just and proper.

DATED: June 21, 2021

ALESHIRE & WYNDER, LLP  
FRED GALANTE  
JUNE S. AILIN  
PAM K. LEE  
ALISON S. FLOWERS

By: *June Ailin*  
JUNE S. AILIN  
Attorneys for Petitioner ORANGE COUNTY  
COUNCIL OF GOVERNMENTS

ALESHIRE &  
WYNDER<sup>LLP</sup>  
ATTORNEYS AT LAW



# EXHIBIT A

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



August 22, 2019

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Blvd., Ste. 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Regional Housing Need Determination**

This letter provides the Southern California Association of Governments (SCAG) its determination of the Regional Housing Need Determination. Pursuant to Government Code (Gov. Code) section 65584.01, the Department of Housing and Community Development (HCD) is required to provide the determination of SCAG's existing and projected housing need.

In assessing SCAG's regional housing need, HCD and SCAG staff completed an extensive consultation process starting in March 2017 through August 2019 covering the methodology, data sources, and timeline. HCD also consulted with Walter Schwarm of the California Department of Finance (DOF) Demographic Research Unit.

Attachment 1 displays the minimum regional housing need determination of **1,344,740** total units among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) 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.
- (2) 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.
- (3) 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.

- (4) 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.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology, and pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Government Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. Pursuant to Government Code section 65584.01(c)(1), HCD may accept or reject the information provided by the council of governments or modify its own assumptions based on this information.

The Department especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson. The Department looks forward to its continued partnership with SCAG and its member jurisdictions and assisting SCAG in its planning efforts to accommodate the region's share of housing need.

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,



Megan Kirkeby  
Assistant Deputy Director for Fair Housing

## ATTACHMENT 1

### HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.1%	350,998
Low	15.3%	206,338
Moderate	16.7%	225,152
Above-Moderate	41.8%	562,252
<b>Total</b>	<b>100.0%</b>	<b>1,344,740</b>
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

*Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*

## ATTACHMENT 2

### HCD REGIONAL HOUSING NEED DETERMINATION SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

#### Methodology

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need				
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>			20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029			-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>			20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>
		20,079,930		6,801,760
	under 15 years	3,292,955	n/a	n/a
	15 – 24 years	2,735,490	6.45%	176,500
	25 – 34 years	2,526,620	32.54%	822,045
	35 – 44 years	2,460,805	44.23%	1,088,305
	45 – 54 years	2,502,190	47.16%	1,180,075
	55 – 64 years	2,399,180	50.82%	1,219,180
	65 – 74 years	2,238,605	52.54%	1,176,130
	75 – 84 years	1,379,335	57.96%	799,455
	85+	544,750	62.43%	340,070
4.	<b>Projected Households (Occupied Unit Stock)</b>			6,801,760
5.	+ Vacancy Adjustment (2.63%)			178,896
6.	+ Overcrowding Adjustment (6.76%)			459,917
7.	+ Replacement Adjustment (.50%)			34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)			-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			120,418
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>				<b>1,344,740</b>

#### Explanation and Data Sources

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.
8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $70.83\% - 60.20\% = 10.63\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $20.48\% - 11.20\% = 9.28\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2011-2015 Comprehensive Housing Affordability Strategy (CHAS).

# EXHIBIT B





August 22, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Blvd., Suite 1700  
Los Angeles, CA 90017  
SENT VIA EMAIL: [housing@scag.ca.gov](mailto:housing@scag.ca.gov)

**SUBJECT: PROPOSED REGIONAL HOUSING NEEDS ASSESSMENT (RHNA)  
ALLOCATION METHODOLOGY**

Dear Mr. Ajise:

On behalf of the Orange County Council of Governments (OCCOG), I extend our thanks for the Southern California Association of Government's decision to release multiple methodologies for consideration by the public as part of the 2020 Regional Housing Needs Assessment (RHNA) cycle.

OCCOG is comprised of 34 diverse local jurisdictions, much like the region overall, and we understand that no one methodology will provide optimal results for all. Thus, we seek to work with SCAG to develop an allocation methodology that is equitable, addresses the requirements of RHNA, and results in our member jurisdictions being able to have their housing elements certified by the Department of Housing and Community Development (HCD) within the timeframe required by law. A methodology that does not respect local input, fails to understand the constraints imposed on local jurisdictions in this RHNA cycle for siting new housing, or results in a RHNA allocation that is unattainable by jurisdictions, jeopardizes our region's ability to address the housing crisis head on.

We therefore respectfully submit these comments, with the intent to surface issues and unintended consequences from a local jurisdiction perspective, that SCAG may not be aware of, with the methodologies as currently proposed.

**1. OCCOG believes local input should underpin the selected RHNA methodology allocation option**

Local input has always been a foundational component of SCAG's RHNA planning process, and for good reason. Local input provides a real-world perspective of local housing opportunities and constraints at an individual, jurisdiction level; a perspective that is not present in a one-size-fits-all proposed RHNA allocation factor, such as a jurisdiction's share of the regional population. Local input provides the backbone, linking the RHNA to the RTP/SCS by supporting the Sustainable Communities Strategy in identifying areas within the region sufficient to house an eight-year projection of the regional housing need, as called forth with the adoption of SB 375.

We support the bottoms-up approach SCAG used to derive local input over a 1.5-year long process in which SCAG solicited input from all 197 local jurisdictions on population, housing and employment for 2016-2045; parcel level General Plan land uses, existing 2016 land uses, and zoning; and the extensive surveys collecting information on policies and best



practices incorporated into local planning. This information is also utilized by the local transportation commissions in their planning and programming of major transportation and infrastructure projects and SCAG in its regional planning. By utilizing local input, the Regional Transportation Plan/Sustainable Communities Strategy, known as Connect SoCal, integrates transportation and land use planning.

**2. OCCOG supports using local input as the floor for any RHNA allocation of projected need**

Each jurisdiction submitted projected housing development numbers to SCAG as part of the Connect SoCal process, which is linked with the RHNA process. The selected RHNA methodology therefore should ensure that any number assigned to a jurisdiction captures, at minimum, the number of units a jurisdiction identified through the local input process. For example, if a jurisdiction projected it would build 8,000 units, but the selected RHNA methodology only gives that jurisdiction 5,000 units, there should be an adjustment to provide that missing 3,000 units to the jurisdiction, rather than distribute the 3,000 to other jurisdictions. This respects local input, and ensures equity for other jurisdictions not to be overburdened.

**3. SCAG should allow time for review of new factors or methodologies**

While OCCOG appreciates the expanded public comment period for the methodology, SCAG has made it clear that the recommended methodology could be a combination of the proposed, or an entirely new methodology that is developed from public comments received. For any new factors or methodologies that are introduced as potential inputs or approaches for disaggregating the regional determination to jurisdictions, as a result of the public comment period ending September 13, 2019, we respectfully request adequate time, of no less than one week, be allocated to assess these new inputs and methods prior to any SCAG committee selecting a preferred methodology. This will ensure that SCAG member jurisdictions and other stakeholders have the ability to review the new methodology and provide input to SCAG that can help ascertain optimal outcomes and avoid technical flaws.

**4. Adopt a RHNA methodology only after HCD provides the regional determination number.**

Adopting a methodology prior to receipt of a regional determination would not allow the jurisdictions, SCAG, and the public to properly assess potential disparate and unintended effects on jurisdictions and those they serve throughout the region.

**5. Align the definition of HQTAs with Cap and Trade for RHNA purposes**

Page 7, Option 1 Step 1b: Share of Regional HQTA Population:

OCCOG supports improving the linkage between new, higher density housing and frequent, reliable transit service, and affirm this could also help the region in meeting mobility and air quality goals. However, we recognize that how the new housing numbers and associated income distribution is allocated to jurisdictions could raise concerns regarding the potential



over-concentration of particular income groups and/or the potential to displace existing residents. Additionally, HQTAs are not evenly distributed across the region.

Given the significant repercussions for cities and counties to site the units allocated, it is important that the process results in a distribution that is achievable. Thus, an allocation approach that emphasizes the factors that are critical for agencies being able to achieve (“build”) the allocated housing units should be heavily-weighted in one or more of the alternatives—and hopefully in the selected approach.

OCCOG therefore encourages SCAG to align the criteria for RHNA allocations at major transit stops with the definition of a HQTA in the Affordable Housing and Sustainable Communities Program Round 4 FY 2017-2018 Program Guidelines to both avoid overlapping terms/definitions and to better provide potential funding by ensuring HQTA's are within already-defined areas.

“High Quality Transit” means a Qualifying Transit line with high frequencies AND permanent infrastructure as follows: (1) Frequency: High Quality Transit must have Peak Period headway frequency of every 15 minutes or less and service seven days a week. (2) Permanent Infrastructure: High Quality Transit must operate on a railway or be transit service with Bus Rapid Transit features that either fully or partially operate on a dedicated bus-only lane, or uses High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lanes.

**5. OCCOG opposes the reallocation of the “Above Moderate” category housing**

Page 8, Option 1 Step 1d: Social Equity Adjustment for Existing Need:

OCCOG opposes the elimination of and redistribution of the Above Moderate category described in Option 1. Above Moderate units are the only housing type as a whole category that can be built without some form of subsidy, tax break or incentive provided to the builder. Without redevelopment funding and other financial tools in place, providing the needed subsidies has become ever more challenging for jurisdictions, even as we all face the challenge to build more housing at every socio-economic level to meet the needs of our communities. Jurisdictions must be able to find adequate sites for their allocated housing units in their housing element in order for it to be certified by HCD. Without a certified housing element, fines and other penalties can accrue to a jurisdiction, which then further reduces a jurisdiction's available resources to provide funding for very low- and low-income housing.

Our analysis of reassigning the Above Moderate units to the three lower-income categories, as proposed in Option 1, shows that it in fact further burdens those jurisdictions that are already impacted and have higher shares of lower-income units. In addition, by using the relative share of lower income categories, this further exacerbates those jurisdictions that already have higher concentrations of very-low income units and those that are already receiving higher allocations of lower-income units due to the social equity adjustments.



**6. Utilize share of growth for household population not total population**

Page 16 Option 3.

Per statute, once the region's growth forecast for total population is established, the population living in group quarters is removed from the subsequent calculations to establish the total regional housing need. Option 3 describes the use of the share of total population growth to allocate housing need. By definition, households are those housing units that are occupied by people and that population is called "household population". Group quarters population, by definition, are those people not living in households, i.e., those sheltered in facilities and structures that are not defined as housing units. Since the RHNA calculations are based off household population, if Option 3, or any other methodology that is selected utilizes the share of population growth, this should be changed to the share of household population growth. Another suggestion is to use the share of household growth instead of the share of total or household population growth.

**7. Remove land areas not compatible with residential uses from density calculation**

Page 54 of Technical Appendix Table: Share of 2019 Population in 2016 HQTAs.

This table contains a calculation showing 'Density (Population per acre)' which is defined as "Acre size and density calculation is for total area within jurisdictional boundaries". Though density is not currently used as an input into any of the current methodologies and OCCOG is not supporting the use of density as an input, if SCAG ultimately incorporates density into the selected methodology, some land uses should be removed from the total area within the jurisdiction so the density calculation properly reflects population density in developable/useable areas. For example, areas and land uses that are permanently protected open space, such as Cleveland National Forest; military bases; flood channels; local parks and HOA open space; and other lands unsuitable or unavailable for residential uses, should not be included in the area denominator.

**8. Allow for vetting and corrections to CIRB units permitted data**

Page 59 of Technical Appendix Table: Number of Residential Units Permitted, Construction Industry Research Board (CIRB) and SCAG Local Profiles.

The CIRB data used in Option 1 has not been vetted by all jurisdictions for accuracy. Though the information is reported to have also been contained in the SCAG Local Profiles, the charts displayed in the Local Profiles only report every other year's data. If the CIRB data is to be utilized, any corrections or amendments submitted to SCAG and/or CIRB should be incorporated into the RHNA Technical Data Appendix and RHNA calculations.

**9. OCCOG supports the technical comments provided by The Center for Demographic Research.**

OCCOG works closely with the Center for Demographic Research at California State University, Fullerton (CDR). CDR has provided detailed comments for SCAG's use in



## Orange County Council of Governments

strengthening all three proposed methodologies. OCCOG stands behind the comments issued by CDR in the spirit of making the methodologies as accurate and flawless as possible before adoption.

Once again, OCCOG thanks you and the SCAG team for the partnership in developing an equitable RHNA methodology for our region that will lead to certified housing elements and ultimately to more housing options for Southern Californians. We stand ready to support you during the evaluation period and look forward to working together throughout the remainder of the 2020 RHNA cycle.

Sincerely,

A handwritten signature in black ink that reads "Marnie O. Primmer". The signature is written in a cursive style with a large, stylized initial "M".

Marnie O. Primmer  
Executive Director  
Orange County Council of Governments

# EXHIBIT C



SOUTHERN CALIFORNIA  
ASSOCIATION OF GOVERNMENTS  
900 Wilshire Blvd., Ste. 1700  
Los Angeles, CA 90017  
T: (213) 236-1800  
www.scag.ca.gov

September 18, 2019

Mr. Doug McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave.  
Sacramento, CA 95833

Subject: SCAG's Objection to HCD's Regional Housing Need  
Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)'s formal objection to HCD's Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

---

REGIONAL COUNCIL OFFICERS

President  
**Bill Jahn, Big Bear Lake**

First Vice President  
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Energy & Environment  
**Linda Parks, Ventura County**

Transportation  
**Cheryl Viegas-Walker, El Centro**

*I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.*

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

## **BASIS FOR SCAG OBJECTION**

### **Use of SCAG's Population Forecast**

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. **If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.** If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*



SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6<sup>th</sup> cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. [http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS\\_DemographicsGrowthForecast.pdf](http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf)). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

### **Use of Comparable Regions**

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6<sup>th</sup> cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6<sup>th</sup> cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

### **Improved Vacancy Rate Comparison**

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.<sup>1</sup>

### **Additional Considerations**

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6<sup>th</sup> cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

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<sup>1</sup> See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.

statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

4. From our review, HCD's data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6<sup>th</sup> cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region's future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG's originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD's current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,



Kome Ajise  
Executive Director

#### Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

**Attachment 1**  
**SCAG Alternative Determination**

1	<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	<i>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			<b>-327,879</b>
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>			
		<b>20,397,998</b>		<b>6,668,498</b>
	<b>under 15 years</b>	3,812,391		n/a
	<b>15 - 24 years</b>	2,642,548		147,005
	<b>25 - 34 years</b>	2,847,526		864,349
	<b>35 - 44 years</b>	2,821,442		1,304,658
	<b>45 - 54 years</b>	2,450,776		1,243,288
	<b>55 - 64 years</b>	2,182,421		1,116,479
	<b>65 -74 years</b>	1,883,181		1,015,576
	<b>75 - 84 years</b>	1,167,232		637,415
	<b>85+</b>	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	<b>+ Vacancy</b>	<b>Owner</b>	<b>Renter</b>	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	<b>1.50%</b>	<b>5.00%</b>	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.37%	1.70%	
	Vacancy Adjustment	12,953	53,815	66,768
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (Actual DOF Demolitions)		<b>0.14%</b>	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	<i>- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)</i>			<b>-6,250,261</b>
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			<b>23,969</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>823,808</b>

1	<b>OPTION B: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)			-327,879
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>	<b>20,397,998</b>		<b>6,668,498</b>
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 -74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	+ Vacancy	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	2.00%	6.00%	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.87%	2.70%	
	Vacancy Adjustment	30,433	85,540	115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (HCD minimum standard)		0.50%	33,340
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			47,724
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>920,772</b>

1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. <b>SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for fore-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis.</b> These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. <b>While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.</b>
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). <b>SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.</b>

**Option A: Regional Housing Need Allocation (RHNA) Determination**

**SCAG Region**

**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	212,284
Low	15.1%	124,375
Moderate	17.1%	140,601
Above-Moderate	42.1%	346,547
<b>Total</b>	<b>100.0%</b>	<b>823,808</b>
* Extremely-Low	14.6%	included in Very-Low Category

**Option B: Regional Housing Need Allocation (RHNA) Determination**

**SCAG Region**

**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	231,084
Low	15.1%	135,390
Moderate	17.1%	159,982
Above-Moderate	42.1%	394,316
<b>Total</b>	<b>100.0%</b>	<b>920,772</b>
* Extremely-Low	14.6%	included in Very-Low Category

*Income Distribution : Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*



# EXHIBIT D

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

#### Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

#### Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

#### Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

#### Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

#### Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

#### Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

### Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

### Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

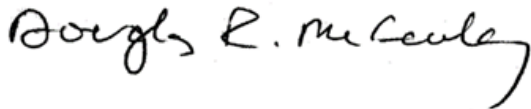
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink that reads "Douglas R. McCauley". The signature is written in a cursive style with a large, sweeping "D" and "M".

Douglas R. McCauley  
Acting Director

Enclosures

## ATTACHMENT 1

## HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION  
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

**Methodology**

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need					
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>				20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029				-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>				20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>	
		20,079,930		6,801,760	
	under 15 years	3,292,955	n/a	n/a	
	15 – 24 years	2,735,490	6.45%	176,500	
	25 – 34 years	2,526,620	32.54%	822,045	
	35 – 44 years	2,460,805	44.23%	1,088,305	
	45 – 54 years	2,502,190	47.16%	1,180,075	
	55 – 64 years	2,399,180	50.82%	1,219,180	
	65 – 74 years	2,238,605	52.54%	1,176,130	
	75 – 84 years	1,379,335	57.96%	799,455	
	85+	544,750	62.43%	340,070	
4.	<b>Projected Households (Occupied Unit Stock)</b>				6,801,760
5.	+ Vacancy Adjustment (2.63%)				178,896
6.	+ Overcrowding Adjustment (6.76%)				459,917
7.	+ Replacement Adjustment (.50%)				34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)				-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)				117,505
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>					<b>1,341,827</b>

**Explanation and Data Sources**

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).



# EXHIBIT E



Orange County Council of Governments

Orange County Council of Governments (OCCOG)  
3972 Barranca Parkway, Ste. J127  
Irvine, CA 92606

[www.occog.com](http://www.occog.com)

November 5, 2019

Mr. Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

**Subject: Regional Housing Needs Assessment (RHNA) Methodology and Regional Determination**

*Sent Via Email*

Dear Mr. Ajise,

The Southern California Association of Governments (“SCAG”) is responsible for developing the Regional Housing Needs Assessment (“RHNA”) Allocation Methodology for its region. The purpose of the RHNA is to allocate the region’s existing and projected housing demands among the jurisdictions within the region, based on a formula established by the local council of governments, in this case SCAG. SCAG’s staff-recommended RHNA methodology includes “local factors” as part of its larger methodology. ***OCCOG strongly supports the inclusion of local factors, including the RTP/SCS/Connect SoCal growth forecast as part of any ultimately selected methodology.***

In a letter to SCAG dated October 11, 2019 David Bonaccorsi of Bernard, Balgley & Bonaccorsi, LLP on behalf of the Abundant Housing LA organization (“AHLA”) objected to the use of the growth forecast as a factor. As an interested party in the SCAG region, OCCOG would like to offer the following rebuttal to this letter.

The AHLA letter asserts, as best we can tell, two distinct grounds for invalidating the RTP/SCS growth forecast in the RHNA:

1. SCAG does not have the appropriate data set to establish the growth forecast , as required by Gov. Code § 65584.04.
2. The growth forecast as a factor does not further the objectives of Gov. Code § 65584(d).



We disagree with both of these grounds for invalidating the growth forecast, as follows.

### ***Appropriate Data***

Gov. Code § 65584.04 requires the local council of governments to conduct a survey of the jurisdictions within its region, to gather information which will allow the council of governments to establish the relevant factors within its methodology. (Gov. Code § 65584.04(b).) The council of governments is given discretion to establish the relevant factors, and may even include other factors based on their data. (Gov. Code § 65584.04(e).) Further, if the council of governments fails to conduct this survey, a jurisdiction may submit relevant information to the council of governments. (Gov. Code § 65584.04 (b)(5).)

The AHLA letter objects to the growth forecast as one factor on the basis that SCAG only received a 55% response rate from the jurisdictions within its region. However, this attack has no basis in the statute. Nowhere in Gov. Code 65584.04 is there a requirement that the council of governments reach a threshold prior to utilizing the data from the survey. SCAG has no control over the jurisdiction's response rate, and can only accept the results as given. SCAG conducted a lengthy survey process, held public hearings, and allowed public input on its website. There is no basis to object to the growth forecast as a factor based on a lack of public input, especially as that is not statutorily required nor under SCAG's control.

### ***Objectives of Gov. Code § 65584(d).***

As noted in the AHLA letter, the factors chosen by the council of governments as the basis of its methodology must be accompanied by an explanation of how the growth forecast furthers the objectives listed in Gov. Code § 65584(d). (Gov. Code § 65584.04(f).)

SCAG, as part of the process for the release of the RHNA methodology, released a 42-page explanation of the methodology. On page 24 of this document, SCAG begins a section titled "Meeting the Objectives of RHNA," in which it explicitly states that the following section "provides an analysis of how the proposed methodology furthers these objectives." Nine pages of this explanation, pages 28-36, are dedicated to explaining the connection between the local planning factors and the five requirements laid out in Gov. Code § 65584(d). The letter correctly notes that this section does not directly quote each of the five factors found in Gov. Code § 65584(d). However, it is disingenuous to suggest that SCAG has not attempted to explain, in great detail, the



connection between the objectives of Gov. Code § 65584(d) and the growth forecast.

The development of RHNA methodologies is a complex affair, and it will always produce a certain amount of disagreement. However, to suggest that the lengthy process undertaken by SCAG to develop the RTP/SCS growth forecast is invalid due to mere technicalities or demands for strict reliance to the statute is incorrect. SCAG included the growth forecast in an attempt to accurately distribute the housing demands of the region amongst its local jurisdictions, and it satisfies the requirements of Gov. Code § 65584 and § 65584.04.

### ***OCCOG Supports SCAG's Staff Recommended Methodology***

We therefore strongly encourage SCAG to reject the assertions made in the AHLA letter and retain local factors, including the RTP/SCS growth forecast, as part of the ultimately selected RHNA methodology for the SCAG region. OCCOG expresses support for the staff recommended option, not because it delivers the lowest overall RHNA allocation for our member jurisdictions, in fact in many cases it does not, but because it supports all five objectives of the RHNA statute, affirmatively furthers fair housing, incorporates the feedback provided by local jurisdictions, as well as the advocate community during the comment period, and equitably allocates the final regional housing determination of 1,341,827 units provided by the California Department of Housing and Community Development (HCD) on October 16, 2019, all while including local factors, such as the RTP/SCS growth forecast.

### ***HCD Regional Determination Does Not Follow Statute***

With regard to the final determination by HCD, OCCOG notes that HCD ignored the language in the Gov. Code § 65584.01(a) that specifies if the total regional population forecast is within the 1.5% range, the COG's forecast should be used. The law does not specify that the threshold applies to the different age cohorts, thus HCD's reasoning does not follow the law:

“If the ***total regional population forecast*** for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the ***total regional population forecast*** for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region...” [Gov. Code § 65584.01(a), *emphasis added*]



Orange County Council of Governments

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Standing by and allowing HCD to ignore or misinterpret the statute when making a regional determination sets a dangerous precedent, not only for SCAG, but for other COGs as well, that OCCOG cannot abide. We encourage SCAG to reach out to other COGs across the state to support this position to require HCD to properly follow the statute. We further urge SCAG to take whatever legal means necessary to address this misapplied aspect of the regional determination, and will support SCAG in taking such actions up to and including litigation, to protect your member jurisdictions from overreach by HCD in its application of the RHNA.

Sincerely,

***Marnie O'Brien Primmer***

Executive Director

Orange County Council of Governments

# EXHIBIT F



December 19, 2019

Via Electronic and U.S. Mail

Mr. Douglas R. McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave., Suite 500  
Sacramento, CA 95833

Subject: Concerns with HCD's rationale for SCAG's Regional Housing Need Determination and Request to Meet

Dear Mr. McCauley,

As you are aware, the Southern California Association of Governments (SCAG) received its final Regional Housing Need Determination of 1,341,827 units from HCD on October 15, 2019. SCAG incorporated this regional number in its development of SCAG's Draft Regional Housing Need Assessment (RHNA) allocation methodology currently under review by HCD. That said, this letter is to express SCAG's frustration and concerns with the manner by which HCD derived the regional housing need determination for SCAG.

To provide some context for the specific concerns raised below, I note that SCAG and HCD have a long history of cooperation and collaboration on the RHNA process. Indeed, over the past six RHNA cycles (some with distinct and complex challenges), SCAG has taken its responsibility as the largest metropolitan planning organization in the country very seriously, and has always sought to interface with HCD staff in a manner that all our 191 jurisdictions would be proud of. Although the elected officials on the SCAG Regional Council represent nearly 20 million people living and working in our region, and one would expect divergent opinions on most topics, the strong consensus on the current RHNA process is disappointment and frustration with HCD.

Our members realize that the statewide housing problem can be addressed only with meaningful and honest dialogue and reliable information sharing with the State. To that end, and as we have for many cycles, SCAG partnered with renowned academic institutions to support our research and methodology. We have had nationally prominent centers and demographers substantiate our population growth methodologies, and thus, we are

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Transportation  
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extremely confident of our work. Additionally, our thoughtful development of the draft Connect SoCal (SCAG's 2020-2045 Regional Transportation Plan/Sustainable Community Strategy) results in over half a trillion dollars brought to California to upgrade the transportation system. We continue to reduce greenhouse gas emissions and will reach 19 percent reduction levels by 2035. Significantly, the Plan's investments and strategies will result in major economic benefits for the region, creating over 350,000 jobs and \$1.54 of economic output for every dollar invested, benefiting not only our region but the State as a whole.

Further, our members will view the State's inflexibility and the perceived violation of state law as an unreasonable use of power. We all understand our respective responsibilities to incentivize the private sector to build more housing. For the long term, we hope to work with you in creating a realistic RHNA need determination, relying not on data from other states or regions, but our own for which we have been responsible stewards since 1965.

With that said, we set forth below some specific and urgent issues for your consideration and, hopefully, our discussion in the near future:

First, HCD did not base its determination on SCAG's total regional population forecast and acted contrary to the requirements in Government Code §65584.01(a). This provision in RHNA law specifically states that HCD is to compare the total population projections of the respective council of governments and the Department of Finance (DOF) in making the determination and ***"If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments."*** (Emphasis added).

It is clear that the focus of the statute is on the total regional population forecast. In our objection, we explained that SCAG's total regional population forecast by 2029 was 20,725,878. When compared to the total regional population forecast of 20,455,355 projected by DOF, the difference is 1.32 percent. Because this is within a range of 1.5 percent, Government Code §65584.01(a) explicitly states that SCAG's total regional population forecast developed as part of its 2020 RTP/SCS Growth Forecast shall be used by HCD for its regional housing need determination.

However, HCD appears to have deviated from the law and taken extra steps to reach its conclusion that it would use instead the DOF population projection in the State's final regional housing need determination for SCAG. Specifically, while acknowledging that SCAG's overall population does differ from DOF's projection by 1.32 percent, HCD describes that SCAG's household projection derived from



the population forecast is 1.96% lower than DOF's household projection. HCD further notes that this is due to the SCAG's population forecast having a greater population for under 15-years olds than DOF. HCD summarily concludes that "Due to a greater than 1.5% difference in the population forecast assessment of under 15-years olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA."

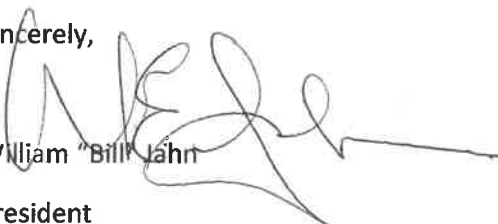
Additionally, SCAG is concerned with HCD's application of the law as the rationale used by HCD is not within the language of Government Code §65584.01(a). The 1.5 percent variance is be applied to the total regional population projection, not a subset (i.e., in this case, the under 15 age category) of that total regional population projection. Arguably, HCD acted outside of its discretion. Moreover, even if HCD had questions regarding SCAG's projection for under 15-year olds and the resulting difference in household projections, Government Code §65584.01(a) further states that HCD was to meet with SCAG regarding these variances and "seek agreement on a population projection for the region." This did not happen, and it is troubling because we have worked well with HCD over the last year.

SCAG's intent throughout this 6th cycle RHNA process has been to provide and utilize the most technically sound data and to comply with the law. SCAG is concerned that the rationale used by HCD in issuing its final regional housing need determination to SCAG undermines this intent. Unfortunately, because of this, there is a perception by many in the SCAG region that HCD may have acted inappropriately and outside of its authority. This perception has generated a lot of frustration in our region which has manifested in various ways.

Nevertheless, SCAG remains committed to seeing the 6th cycle RHNA process through and partnering with the State in finding ways to solve the housing crisis. While there is a high level of frustration about the determination process, we do not see a need to distract from the urgency in dealing with the housing crisis in our region. It is in this spirit of obligation and collaboration, that on behalf of SCAG leadership, I am requesting a meeting with you and members of your team to discuss realistic ways to increase housing for the SCAG region. I believe this is to be an important step for both SCAG and HCD.

I would really appreciate meeting with you soon to discuss further. As always, please let me know if you have questions.

Sincerely,

  
William "Bill" Jahn

President

# EXHIBIT G

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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January 13, 2020

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Review of Draft Regional Housing Need Allocation (RHNA) Methodology**

Thank you for submitting the draft Southern California Association of Governments (SCAG) Sixth Cycle Regional Housing Need Allocation (RHNA) Methodology. Pursuant to Government Code Section 65584.04(i), the California Department of Housing and Community Development (HCD) is required to review draft RHNA methodology to determine whether the methodology furthers the statutory objectives described in Government Code Section 65584(d).

In brief, the draft SCAG RHNA methodology begins with the total regional determination provided by the California Department of Housing and Community Development (HCD) and separates it into two methodologies to allocate the full determination: projected need (504,970) and existing need (836,857).

For projected need, the household growth projected in SCAG's Connect SoCal growth forecast for the years 2020-2030 is used as the basis for calculating projected housing need for the region. A future vacancy and replacement need are also calculated and added to the projected need.

The existing need is calculated by assigning 50 percent of regional existing need based on a jurisdiction's share of the region's population within the high-quality transit areas (HQTAs) based on future 2045 HQTAs. The other 50 percent of the regional existing need is based on a jurisdiction's share of the region's estimated jobs in 2045 that can be accessed within a 30-minute driving commute. For high segregation and poverty areas as defined by [HCD/TCAC Opportunity Maps](#),<sup>1</sup> referred to by SCAG as extremely disadvantaged communities (DACs), existing need in excess of the 2020-2045 household growth forecast is reallocated to non-DAC jurisdictions within the same county.

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<sup>1</sup> Created by the California Fair Housing Task Force and commissioned by HCD and the California Tax Credit Allocation Committee (TCAC) to assist public entities in affirmatively furthering fair housing. The version used in this analysis is the 2019 HCD/TCAC Opportunity Maps available at [treasurer.ca.gov/ctcac/opportunity.asp](http://treasurer.ca.gov/ctcac/opportunity.asp).

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Within both the projected and existing need methodologies the four RHNA income categories (very low, low, moderate, and above moderate) are assigned to each jurisdiction by the use of a 150 percent social equity adjustment, which inversely adjusts based on the current incomes within the jurisdiction. An additional percentage of social equity adjustment is made for jurisdictions that have a high concentration of DACs or Highest Resource areas as defined by the HCD/TCAC Opportunity maps. Overall, the social equity adjustments result in greater shares of lower income RHNA to higher income and higher-resource areas.

**HCD has completed its review of the methodology and finds that the draft SCAG RHNA Methodology furthers the five statutory objectives of RHNA.<sup>2</sup>**

HCD acknowledges the complex task of developing a methodology to allocate RHNA to 197 diverse jurisdictions while furthering the five statutory objectives of RHNA. This methodology generally distributes more RHNA, particularly lower income RHNA, near jobs, transit, and resources linked to long term improvements of life outcomes. In particular, HCD applauds the use of objective factors specifically linked the statutory objectives in the existing need methodology.

Below is a brief summary of findings related to each statutory objective described within Government Code Section 65584(d):

*1. 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.*

The methodology generally allocates increased shares of lower income RHNA to jurisdictions that have higher housing costs. In support of a mix of affordability, the highest housing cost cities generally receive higher shares of lower income RHNA. Under this methodology the 15 cities with the highest median housing costs all receive greater than 50 percent of the RHNA as lower income RHNA. Beverly Hills with the 18<sup>th</sup> highest median housing costs receives the 25<sup>th</sup> highest share of lower income RHNA; Westlake Village with the 14<sup>th</sup> highest median housing costs receives the 12<sup>th</sup> highest share of lower income RHNA; Aliso Viejo with the 23<sup>rd</sup> highest median housing costs receives the 38<sup>th</sup> highest share of lower income RHNA; and Villa Park with the 10<sup>th</sup> highest median housing costs receives the 31<sup>st</sup> highest share of lower income RHNA.

*2. 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.*

The draft SCAG RHNA methodology furthers the environmental principles of this objective as demonstrated by the transportation and job alignment with the RHNA allocations.

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<sup>2</sup> While HCD finds that this particular methodology furthers the objectives of RHNA, HCD's determination is subject to change depending on the region or cycle, as housing conditions in those circumstances may differ.

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*3. 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.*

Half of the existing need portion of the draft SCAG RHNA methodology is set based on the jurisdiction's share of the region's estimated jobs in 2045. While future looking job projections are important for housing planning, and housing built in the next decade will likely exist for 50-100 years or more, it is also critical to plan for the needs that exist today. This objective specifically considers the balance of low-wage jobs to housing available to low-wage workers. As part of HCD's analysis as to whether this jobs-housing fit objective was furthered by SCAG's draft methodology, HCD analyzed how the percentage share of the region's lower income RHNA compared to the percentage share of low-wage jobs.

For example, under the draft SCAG RHNA methodology Irvine would receive 1.84 percent of the region's lower income RHNA, and currently has 2.07 percent of the region's low-wage jobs, .23 percent less lower income RHNA than low-wage jobs for the region. Pomona would receive .71 percent of the region's lower income RHNA, and currently has .57 percent of the region's low-wage jobs, .13 percent more lower income RHNA than low-wage jobs for the region. Across all jurisdictions there is generally good alignment between low-wage jobs and lower income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower income RHNA for the region and their percentage low-wage jobs for the region.

HCD is aware there has been some opposition to this current methodology from jurisdictions that received lower allocations under prior iterations; however it is worth noting that even if it is by a small amount, many of the jurisdictions that received increases are still receiving lower shares of the region's lower income RHNA compared to their share of the region's low-wage jobs. HCD recommends any changes made in response to appeals should be in the interest of seeking ways to more deeply further objectives without compromising other objectives.

*4. 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.*

This objective is furthered directly by the social equity adjustment factor included in the draft SCAG RHNA methodology. Jurisdictions in the SCAG region range from as little as 10.9 percent lower income households to 82.7 percent lower income households. The 20 jurisdictions with the greatest share of lower income households, 67.2-82.7 percent lower income households, would receive an average of 31.6 percent lower income share of their RHNA; compared to the 20 jurisdictions with the lowest share of lower income households, 10.9-25.1 percent lower income households, would receive an average of 59.1 percent lower income share of their RHNA. While the social equity adjustment explicitly responds to objective four, it also assists in the methodology furthering each of the other objectives.

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*5. Affirmatively furthering fair housing, which means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.*

HCD applauds the inclusion of the affirmatively furthering fair housing adjustment factor in the methodology. This factor directs more lower income RHNA to higher opportunity areas and reduces allocations in segregated concentrated areas of poverty, as defined in the [HCD/TCAC Opportunity Maps](#), which evaluate access to opportunity, racial segregation, and concentrated poverty on 11 dimensions, which are all evidence-based indicators related to long term life outcomes. 14 of the top 15 highest shares of lower income RHNA are in regions over 99.95 percent High and Highest Resource areas. These include: Imperial, La Habra Heights, Rolling Hills Estates, Hermosa Beach, La Cañada Flintridge, Palos Verdes Estates, Manhattan Beach, Rolling Hills, Agoura Hills, Rancho Palos Verdes, Westlake Village, San Marino, Eastvale, and Hidden Hills. With the exceptions of the cities of Vernon and Industry, the 31 jurisdictions with the highest share of lower income RHNA are all over 95 percent High and Highest Resource areas.

HCD appreciates the active role of SCAG staff in providing data and input throughout the draft SCAG RHNA methodology development and review period. HCD especially thanks Ping Chang, Kevin Kane, Sarah Jepson, and Ma'Ayn Johnson for their significant efforts and assistance.

HCD looks forward to continuing our partnership with SCAG to assist its member jurisdictions to meet and exceed the planning and production of the region's housing need.

Support opportunities available for the SCAG region this cycle include, but are not limited to:

- SB 2 Planning Technical Assistance (Technical assistance available now through June 2021)
- Regional and Local Early Action Planning grants (25 percent of Regional funds available now, all other funds available early 2020)
- SB 2 Permanent Local Housing Allocation (Available April – July 2020)

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Assistant Deputy Director for Fair Housing

# EXHIBIT H



February 18, 2020

Mr. Bill Jahn  
President, Southern California Association of Governments (SCAG)  
900 Wilshire Blvd. Suite 1700  
Los Angeles, CA 90017

***Subject: Regional Determination Objection to HCD***

Dear Mr. Jahn,

I am writing today on behalf of the Orange County Council of Governments (OCCOG) to express our disappointment that SCAG has not continued to forcefully oppose the regional determination provided by the Department of Housing and Community Development (HCD), despite having sound legal standing to do so. Part of SCAG's purview is to represent the local governments and agencies within its jurisdiction during the RHNA process. This process is long, complex, and has lasting effects on the future character and development of cities throughout California. SCAG plays an important role as the broker between the many local governments and agencies within its jurisdiction and the decision making body in HCD. SCAG represents these local governments and agencies during the RHNA process, and advocates for their best interests. We urge you to continue in this advocacy by re-asserting SCAG's objections to HCD's Regional Housing Need Determination.

After receiving an original Regional Determination that was 1.37M units, SCAG determined that HCD had not followed RHNA statute in calculating that number. On September 18, 2019, SCAG sent a letter to HCD asserting objections to the Regional Housing Need Determination ("Determination") calculated by HCD for the SCAG region. The letter specifically stated that its purpose was to "ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible." The letter went on to outline SCAG's specific objections to the Determination, including, but not limited, to the following:

- HCD did not base the Determination on SCAG's Growth Forecast. Pursuant to Government Code 54484.01(a), HCD is required to use SCAG's Growth Forecast when it is within a range





of 1.5% of the **total** regional population forecast projected by the Department of Finance (“DOF”). SCAG’s Growth Forecast was within 1.5% of the total DOF projection, but HCD still did not use SCAG’s Growth Forecast.

- The Determination was based on a comparison of household overcrowding and cost-burden rates in the SCAG region to national averages, rather than rates in comparable regions. Government Code 65584.01(c)(2)(B) requires that this comparison be based on similar regions, not national averages. HCD’s Determination used national averages as the comparison benchmark.

In both cases, SCAG’s objections were firmly grounded in clear interpretations of the applicable state statutes. SCAG’s letter contained several additional objections not listed here but equally well grounded in state housing law.

On October 15, 2019, HCD responded to SCAG’s September 17 objection letter. HCD’s letter stated that the Determination was correct, and HCD was rejecting each of SCAG’s objections. Specifically, HCD explained as follows:

- HCD chose not to use SCAG’s Growth Forecast because HCD based the comparison between the SCAG and DOF projections on a difference found in certain age cohorts, rather than on the total population forecast. This allowed HCD to utilize the DOF projections with certain as yet to be disclosed modifications.
- While HCD acknowledged that SCAG was correctly following state statute by utilizing comparable regions for household overcrowding and cost-burden rates, HCD determined that this comparison was not an effective benchmark, and decided to reject SCAG’s input.

This pattern continues across the entirety of SCAG’s objections. SCAG attempted to urge HCD to follow state statutes in order to ensure the establishment of “the most technically and legally credible basis for a regional determination.” HCD chose not to, in favor of HCD’s own, previously-approved Determination.

The precedent set by HCD in ignoring RHNA statute in developing the regional determination, is extremely concerning to OCCOG, and the impact on our region is significant enough to warrant continued pressure on HCD to resolve the issue. Therefore, OCCOG strongly urges SCAG to continue to insist that HCD follow state statutes in calculating the Determination.



Orange County Council of Governments (OCCOG)  
3972 Barranca Parkway, Ste. J127  
Irvine, CA 92606

Orange County Council of Governments

info@occog.com

As this letter demonstrates, a significant portion of the local governments and agencies within SCAG's jurisdiction feel HCD's casual disregard a transparent and credible Determination directly affects them. As such, it is SCAG's responsibility to act as their representative, and continue to present the objections to the best of SCAG's ability.

Thank you for your attention to this matter and please feel free to contact me with any questions or if you wish to discuss further.

Sincerely,

Marnie O'Brien Primmer  
Executive Director  
Orange County Council of Governments

# EXHIBIT I



April 27, 2020

Mr. Doug McCauley  
Acting Director  
California Department of Housing and Community Development  
2020 West El Camino Avenue  
Sacramento, CA 95833

**Subject: 6th Cycle Regional Housing Needs Assessment (RHNA)**

Dear Mr. McCauley:

During this time of worldwide crisis, the Orange County Council of Governments is focused on planning activities that will help our communities recover and will give all of our residents housing options in the years to come. We would be remiss if we did not point out that the regional determination that has been assigned to our region by the Department of Housing and Community Development (HCD) will have severe and lasting consequences for our region, and despite our collective best efforts is unlikely to be achievable, especially with the recent sharp economic downturn. We strongly urge you to reconsider the regional determination that was made in light of both statutory irregularities in reaching the determination and current economic circumstances that will add significant impediments to our region's ability to meet the RHNA.

On August 22, 2019, HCD provided SCAG with its determination of the Regional Housing Need of 1,344,740 housing units. SCAG rightly objected to this regional determination in a letter dated September 18, 2019. On October 15, 2019, HCD rejected every point of objection by SCAG.

Respectfully, OCCOG disputes HCD's interpretation of statute which resulted in rejecting SCAG's objection. Further, we object to the process used to determine the regional housing need and urge HCD to reevaluate the outcome based on adherence to state housing law. Our goal is to establish a regional determination that is credible, attainable, and legally defensible in order to support the local jurisdictions responsible for implementing the regional housing plan.

We support SCAG's concerns from their September 18, 2019 objection letter that HCD did not base its regional determination on SCAG's RTP/SCS Growth Forecast, which is inconsistent with Government Code 65584.01(c)(2)(A). Also, HCD's regional determination for the SCAG region was not a reasonable application of the methodology and assumptions as required in Government Code 65584.01(c)(2)(B).

Since the regional determination was made, Governor Newsom has stated that his commitment to building 3.5 million homes by 2025 was in fact a "stretch goal" and that the state would soon be releasing a more pragmatic estimate of the housing needs by region. Therefore, the SCAG regional



determination of 1.34 million housing units should be revised. This inflated number combined with an inequitable RHNA methodology is setting up local jurisdictions for failure to comply with state housing law which will lead to delays in getting housing built across our region.

The remainder of this letter further outlines our specific concerns with the regional determination and its consistency with state housing law.

### **Regional Determination**

#### ***Growth Forecast***

Government Code Section 65584.01(a) states: *“If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region....”*

As outlined in SCAG’s September 2019 objection letter, SCAG’s regional population forecast for its Regional Transportation Plan (RTP) differs from the Department of Finance (DOF) projection by 1.32%, which falls within the range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG’s population projections. However, HCD’s October 2019 response letter cites two reasons for not using SCAG’s total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF’s household projection.
- 2) The age cohort of under 15-year old persons from SCAG’s population projections differ from DOF’s projections by 15.8%.

HCD’s rejection of SCAG’s population growth projections is not consistent with the state housing law, which clearly states that the 1.5% range is based on the total regional population forecast, not household projections or age-cohort projections. We urge HCD to update the regional determination based on SCAG’s population growth projections.

#### ***Comparable Regions***

Government Code 65584.01(b)(1) allows for SCAG to determine an overcrowded rate and rate of housing cost burden for a healthy housing market based on averages of comparable regions throughout the nation. SCAG had proposed a robust analysis to provide a more refined rate of overcrowding and cost-burdenedness; however, HCD stated that it “did not find the proposed comparable regions an effective benchmark to compare SCAG’s overcrowding and cost burden metrics to.” Therefore, HCD used the national average as the comparison benchmark. However,



when the Sacramento Area Council of Governments (SACOG) made a similar request for use of comparable regions, HCD applied an adjustment based on the amount of that region's overcrowding and cost-burdenedness. Why is HCD allowing the use of comparable regions in Sacramento, but not in other regions in the state?

### ***Vacancy Rates***

Government Code 65584.01(b)(1)(E) states that vacancy rates for a healthy rental housing market shall be considered no less than 5 percent. However, the law does not establish a healthy market vacancy rate for owner occupied housing. Furthermore, it is important to point out that the American Communities Survey (ACS), which was used to determine vacancy rates, include multiple categories for vacant units beyond just vacant rental units and vacant for-sale units. Other categories include units rented but not occupied, units sold but not occupied, units vacant for seasonal, recreational, or occasional use (i.e., vacation homes, short-term rentals), vacant units for migrant workers, and other vacant units. These additional vacant units amount to an additional 353,517 vacant units in the SCAG region (ACS 2013-2017 5-year estimates), increasing the total vacancy rate to 7.72%. These additional vacant units should be included when calculating the regional determination.

### **Conclusion**

In conclusion, we sincerely appreciate the hard work and dedication of HCD staff. OCCOG is requesting that HCD update the regional determination through the method prescribed in Government Code 65584. This should result in a regional determination in the SCAG region in the approximate range of 820,000 to 920,000. We anticipate that this would significantly increase the number of jurisdictions who will be able to certify their housing elements during the 6<sup>th</sup> Cycle RHNA, and put us well on the path towards our ultimate shared goal: providing housing for all Californians.

Sincerely,

**Trevor O'Neil**  
**Chair, Orange County Council of Governments**

cc: Zach Olmstead, Deputy Director  
Gustavo Velasquez, Incoming Director  
OCCOG Board of Directors  
Orange County City Managers

# EXHIBIT J



September 18, 2020

The Honorable Rex Richardson,  
President  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

RE: Request to Reconvene the SCAG President's RHNA Litigation Study Team to Re-Assess State HCD's RHNA Allocation of 1.34 Million Housing Units to the SCAG Region

Dear President Richardson:

On behalf of thirty-two cities in Orange County, we, the mayors respectfully support the request of our colleague – City of Yorba Linda Council Member Peggy Huang – that the SCAG President promptly reconvene the SCAG President's RHNA Litigation Study Team.

We have a deep respect for Council Member Huang and her stewardship of the SCAG RHNA Subcommittee these past two years. We all agree with Council Member Huang that the starting point – the 1.34 million RHNA housing units that the State Department of Housing and Community Development (State HCD) issued for the 6-county SCAG region – must be re-examined.

At the September 3, 2020 SCAG Regional Council meeting, Council Member Huang explained that new and recent housing shortage information has been issued by Freddie Mac, which states that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units (Attachment 1: Page 6, February 2020 Freddie Mac Insights Report: "The Housing Supply Shortage: State of the States."). Further, the Embarcadero Institute, a non-profit policy analysis organization, just released a September 2020 Report – "Double Counting in the Latest Housing Needs Assessment" – that questions whether State HCD's use of an incorrect vacancy rate and double counting has exaggerated the RHNA for the SCAG region, San Diego, the Bay Area and Sacramento area by more than 900,000 units (Attachment 3).

Clearly, this new and credible data should be explored with the members of the President's RHNA Litigation Study Team. It is our hope that upon examination of the new data, that the President's RHNA Litigation Study Team could deliberate on options to require State HCD to:



- 1) consider this and other new information from credible agencies;
- 2) justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and,
- 3) justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

A prompt assessment of this information, and options to pursue resolution with State HCD, would be invaluable and timely to SCAG's member agencies, many of which are currently exploring appeals of their individual RHNA allocations.

Moreover, if the SCAG President's RHNA Litigation Study Team is reconvened, we would strongly urge SCAG to revisit the critical issue that State HCD did not follow housing statute, when it determined SCAG's 1.34 million housing units need. We appreciate that SCAG raised this concern to State HCD. We object, however, that State HCD has chosen to not adhere to the provisions of our Government Code, and we have provided a detailed, technical assessment of such noncompliance in Attachment 2.

We thus respectfully seek your support and follow-through of your verbal commitment to Council Member Huang, that the President's RHNA Litigation Study Team be reconvened to undertake this important discussion. We look forward to your response, with the desire that the RHNA Litigation Study Team be reconvened prior to the next SCAG Regional Council meeting, October 1, 2020.

With sincere respect and appreciation,



**Mike Munzing**  
Mayor  
City of Aliso Viejo



**Harry Sidhu**  
Mayor  
City of Anaheim



**Marty Simonoff**  
Mayor  
City of Brea



**Fred Smith**  
Mayor  
City of Buena Park



**Katrina Foley**  
Mayor  
City of Costa Mesa



**Rob Johnson**  
Mayor  
City of Cypress



**Cheryl Brothers**  
Mayor  
City of Fountain Valley



**Jennifer Fitzgerald**  
Mayor  
City of Fullerton



**Steven R. Jones**  
Mayor  
City of Garden Grove



**Lyn Semeta**  
Mayor  
City of Huntington Beach



**Christina Shea**  
Mayor  
City of Irvine



**Tom Beamish**  
Mayor  
City of La Habra



**Peter Kim**  
Mayor  
City of La Palma



**Bob Whalen**  
Mayor  
City of Laguna Beach



**Janine Heft**  
Mayor  
City of Laguna Hills



**Laurie Davies**  
Mayor  
City of Laguna Niguel



**Noel Hatch**  
Mayor  
City of Laguna Woods



**Neeki Moatzedi**  
Mayor  
City of Lake Forest



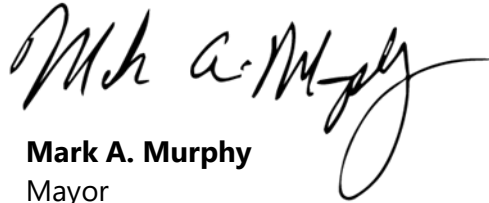
**Richard D. Murphy**  
Mayor  
City of Los Alamitos



**Brian Goodell**  
Mayor  
City of Mission Viejo



**Will O'Neill**  
Mayor  
City of Newport Beach



**Mark A. Murphy**  
Mayor  
City of Orange



**Ward Smith**  
Mayor  
City of Placentia



**Bradley J. McGirr**  
Mayor  
City of Rancho Santa Margarita



**Troy Bourne**  
Mayor  
City of San Juan Capistrano



**Miguel A. Pulido**  
Mayor  
City of Santa Ana



**Schelly Sustarsic**  
Mayor  
City of Seal Beach



**David J. Shawver**  
Mayor  
City of Stanton



**Allan Bernstein**  
Mayor  
City of Tustin



**Robbie Pitts**  
Mayor  
City of Villa Park



**Tri Ta**  
Mayor  
City of Westminster



**Beth Haney**  
Mayor  
City of Yorba Linda

Attachments:

1. Freddie Mac Economic and Housing Research Insight: February 2020
2. Orange County Technical Analysis: State Government Code Requirements to Calculate Regional Housing Need
3. Embarcadero Institute Report: Updated September 2020

cc: Council Member Peggy Huang, City of Yorba Linda and SCAG RHNA Subcommittee Chair  
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors  
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors  
Mayor Pro Tem Michael Carroll, OC Representative SCAG's RHNA Litigation Study Team  
Orange County Representatives on SCAG Policy Committees and Regional Council  
Kome Ajise, SCAG Executive Director  
Orange County City Managers Association  
Orange County Mayors  
Marnie O'Brien Primmer, OCCOG Executive Director  
Nate Farnsworth, OCCOG TAC Chair



FEBRUARY 2020

## The Housing Supply Shortage: State of the States

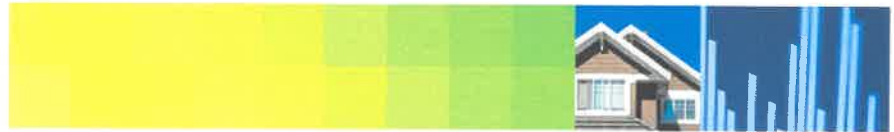
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The United States suffers from a severe housing shortage. In a recent study, [The Major Challenge of Inadequate U.S. Housing Supply](#), we estimated that 2.5 million additional housing units will be needed to make up this shortage. Our earlier study used national statistics, treating the United States as a single market. What happens when we look closer, basing the analysis at the state level?

When we account for state-level variations, the estimated housing deficit is even greater in some states because housing is a fixed asset. A surplus of housing in one area can do little to help faraway places. For example, vacant homes in Ohio make little difference to the housing markets in Texas. We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.

Unsurprisingly, the states with the most severe housing shortage are the states that have recently attempted to loosen zoning policy regulations. States like California, Oregon, and others have undertaken policy action to address this issue. California, for example, has been working on chipping away at single-use zoning while Texas has passed a density bonus program, an ordinance which amends the city code by loosening site restrictions and promoting construction of more units in affordable and mixed-income housing developments. Oregon was one of the first states to pass legislation to eliminate exclusive single-family zoning in much of the state. The Minneapolis City Council voted to get rid of single-family zoning and started allowing residential structures with up to three dwelling units in every neighborhood. We took a deep dive into the supply/demand dynamics to analyze state-level variations.

We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.



## Accounting for housing supply/demand conditions

To estimate housing supply, we rely on U.S. Census Bureau estimates of the total number of housing units in each state. These estimates include single-family homes, apartments, and manufactured housing. We compare supply to our estimates of housing demand. We first focus on static estimates of housing demand, and then we consider the impact of interstate migration.

Our estimate of housing demand relies on two components. First, we need an estimate of long-term vacancy rates ( $v^*$ ). Second, we need an estimate of the target number of households ( $h^*$ ).<sup>1</sup> The estimates of  $v^*$  and  $h^*$  give an estimate of housing demand ( $k^*$ ) using the formula:

$$k^* = \frac{h^*}{1 - v^*} \text{ Eq(1)}$$

### Vacancy rates

As we discussed in our earlier [study](#), for the housing market to function smoothly, year-round vacant units are needed. Vacancy rates are often used to track the vitality of the housing market. Too high of a vacancy rate reflects a moribund market, while too low of a rate means demand is outstripping supply. Our previous research estimated the average U.S. vacancy rate to be around 13%.

For long-term vacancy rates ( $v^*$ ), we use historical estimates of vacancy rates in each state as well as the share of the state in the housing stock to obtain the state weight. We compute the weighted average national vacancy rate for the U.S. and then estimate the deviation of the state vacancy rate from the average national vacancy rate (see **Appendix 1.1** for a detailed methodology). We use each state's average from 1970 to 2000 as the estimate for  $v^*$  because this was the period before the boom and the bust in the housing market began. Historical vacancy rates vary dramatically by state. States like Vermont and Maine tend to have high vacancy rates because a large fraction of the housing stock serves as vacation/second homes. On the other hand, states like California tend to have very low vacancy rates.

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<sup>1</sup> The target number of households is the number of unconstrained households that would have formed if households did not face any constraints related to housing costs.

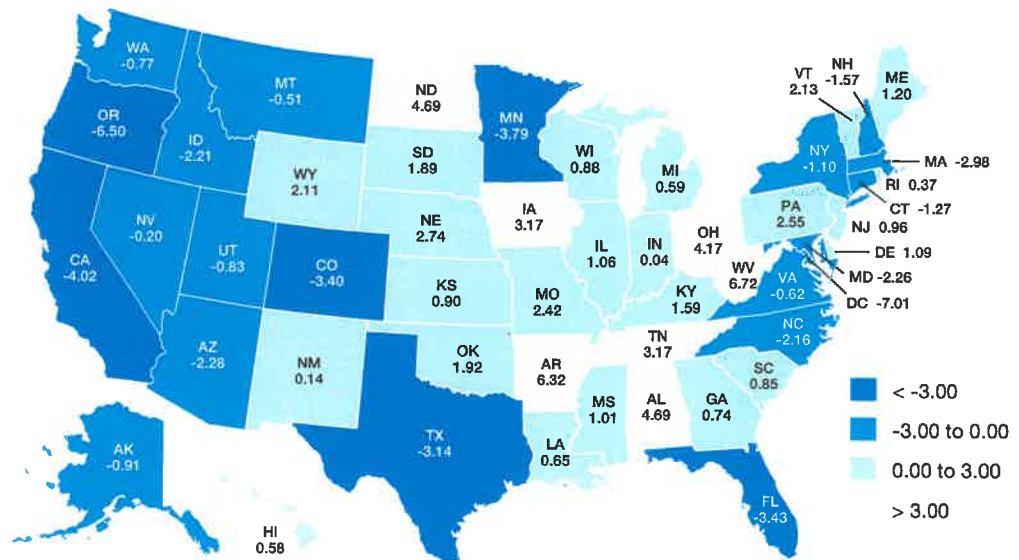


It is interesting to compare each state's long-term vacancy rate ( $v^*$ ) to recent estimates ( $v$ ). This measure estimates the number of housing units needed to close the gap between the current vacancy rate and long-term average rates. **Exhibit 1** shows the difference between the estimated vacancy rate in 2018 and the long-term vacancy rate for each state. States like Oregon, California, and Minnesota have much lower current vacancy rates compared to their historical averages, while states like West Virginia, Alabama, North Dakota, and Ohio have witnessed an increase in the vacancy rates as the populations of these states have decreased.

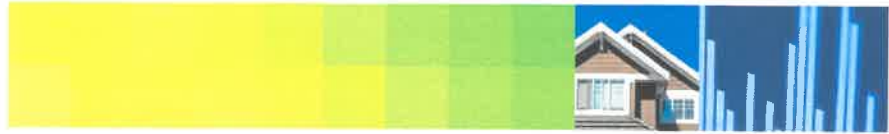
**Exhibit 1**

**Difference between 2018 vacancy rate and historical vacancy rate**

States that are losing (gaining) population have high (low) vacancy rates.



Source: Author's calculations based on CPS, HVS, and Moody's Analytics estimated data.



### Target households

Our previous [research](#) has shown that high housing costs have constrained household formation. These high housing costs have hit the Millennial generation particularly hard. To overcome these cost barriers, some young adults have turned to shared living arrangements. Others have moved back home with parents. As a result, there are more than 400,000 missing households headed by 25- to 34-year-olds (households that would have formed except for higher housing costs).

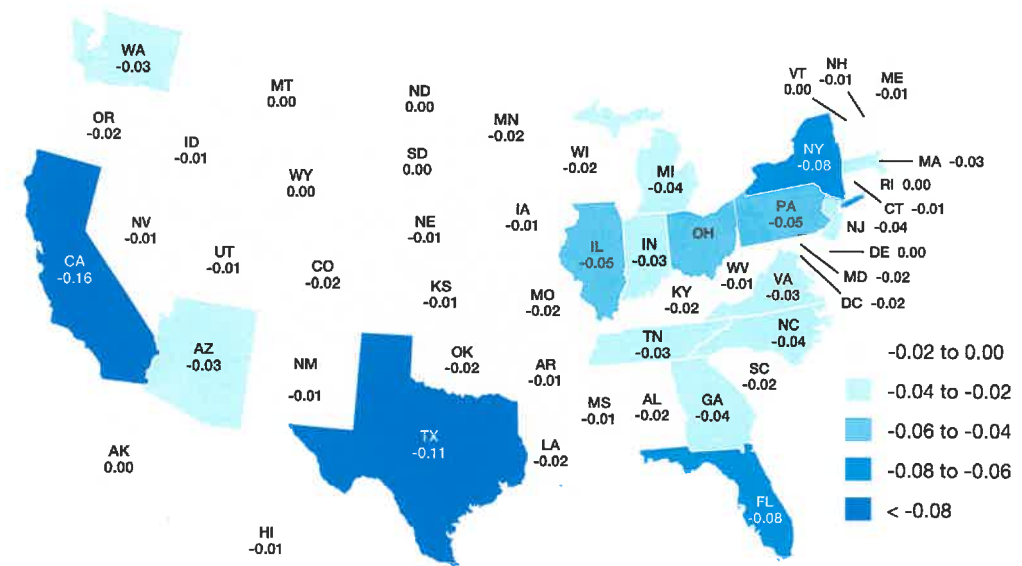
While high housing costs have hit young adults hardest, they have affected all age groups. If housing costs were lower, more households would form. We use our model estimates of the number of households reduced due to unusually high housing costs and add them back. We do this for each age group (see **Appendix 1.2** for more details.)

Due to different age profiles, the share of missing households varies by state. **Exhibit 2** plots the share of missing households due to housing costs for each state. In general, states with relatively lower vacancy rates have proportionally more missing households.

### Exhibit 2

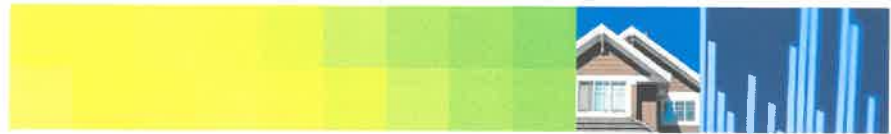
#### Missing households due to high housing costs (millions)

States with relatively lower (higher) vacancy rates have proportionally more (fewer) missing households.



Source: Author's calculations based on American Community Survey data.





### Static estimate of housing deficit

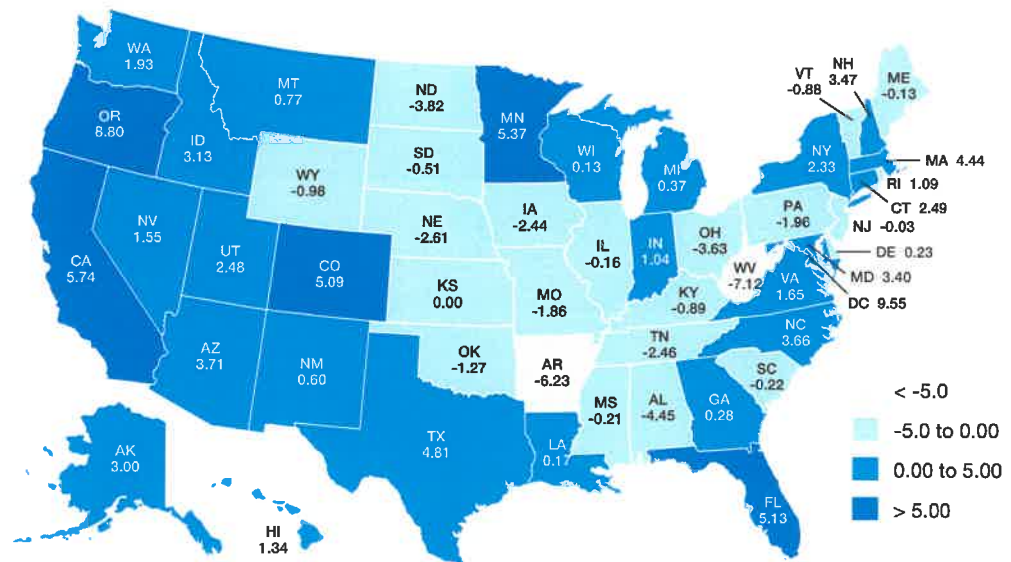
We combine our target vacancy rate and target households to estimate housing demand. Subtracting our estimated housing demand from the Census estimate of housing supply gives us the estimated housing deficit. **Exhibit 3** shows our results by state.

As a percent of the housing stock, the state housing supply deficit varies from -7 to 10%. Excluding the District of Columbia, Oregon has the largest deficit (nearly 9%) followed by California (nearly 6%).<sup>2</sup> Some states have a negative deficit, meaning they are oversupplied. According to our estimate, 21 states are oversupplied, the largest being West Virginia, at more than 7%.

### Exhibit 3

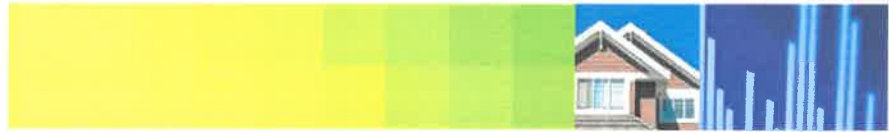
#### Housing stock deficit as proportion of a state's housing stock (static estimate not considering interstate migration flows)

A static view suggests that 29 states have a housing undersupply.



Source: Author's calculations.

<sup>2</sup> The District of Columbia had the highest deficit as a share of the existing housing stock at 9.7%.



### Impact of migration on the housing deficit of the states

While houses stay in place, people do not. Job growth attracts in-migrants, while a dearth of opportunity drives out-migration. High housing costs also contribute to migration patterns. When the rents get too high, people move away. This dynamic can impact our estimates.

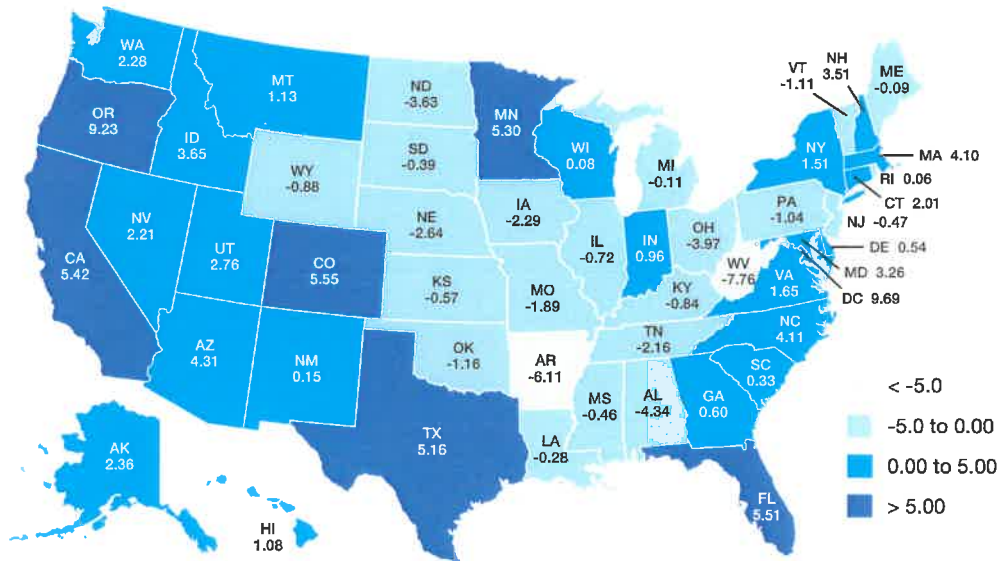
It's helpful to consider the case of California. Our estimates indicate that California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered. For more than four decades, California's state population has grown, but this increase has been driven primarily by international migration. High housing costs have driven many U.S. citizens and households out of California, driving housing demand higher in their destination states.

A robust model of domestic migration flows between states is beyond the scope of this study. But we can approximate how migration may affect our estimates. We can use the historical average of state-to-state migration flows as a forecast of future flows. If the future interstate migration exactly matches past flows since 2001, we can create a rough, but useful approximation (Exhibit 4).<sup>3</sup>

Exhibit 4

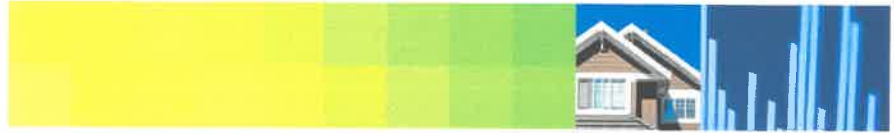
#### Housing stock deficit as proportion of state's housing stock (dynamic estimate considering interstate migration flows)

A dynamic view indicates that some states' deficit is overestimated, like California, while others' is underestimated, like Texas. Some states, like Michigan, move from a deficit to a surplus.



Source: Author's calculations.

3 We used the average net migration flows between states from 2001 to 2017 for the past flows.



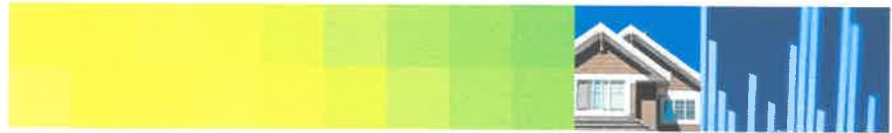
For example, when considering migration flows, the estimated housing demand in Michigan changes from deficit to surplus; Ohio's surplus increases; and Florida's deficit increases (see **Appendix 1.3** for details on our estimation method).

Given the severity of the problem, states have started addressing the issue of supply shortages by taking legislative action. Some of these states such as California, Oregon, Minnesota, and North Carolina have passed legislation to eliminate exclusive single-family zoning. Removing these zoning restrictions will provide builders with the flexibility to build a range of housing options which could help alleviate some of the shortage.

### Conclusion

A shortage of housing remains a major issue for the United States. Years of underbuilding has created a large deficit, particularly for states with strong economies that have attracted a lot of people from other states. The issue of undersupply will be further exacerbated as Millennials and younger generations enter the housing markets, especially as housing costs become more favorable.

Dynamic estimates suggest that contrary to expectations, it isn't only the larger states that have a higher housing supply shortage. Some of the smaller states, which have been attracting a lot of migrants from other states, also need to build more housing units to accommodate the needs of their growing population.



## Appendix

### 1.1 Vacancy rate calculations

We calculate the vacancy rate based on the historical vacancy rate. For this purpose, we obtain the historical vacancy rates by state from Moody's analytics for the period from 1970 to 2000<sup>4</sup> and estimate the average vacancy rate for this period for each state.

$$VR_i = \text{average}(VR_i) \text{ for } 1970\text{--}2000,$$

where  $i$  is the state.

We then obtain the housing stock information by state from the Housing Stock (HVS) ('000s) U.S. Census Bureau (BOC): Housing Vacancies and Homeownership—Table 8—Quarterly Estimates of the Housing Inventory. From these data, the share of the state in the total housing stock is calculated to get the state weights.

$$w_i = \frac{K_i}{\sum_i K_i}.$$

The sum product of the vacancy rate of the state and the state's weight in the housing stock gives us the U.S. average vacancy rate.

$$\text{U.S. average vacancy rate: } VR = \sum_i VR_i * w_i.$$

We then compute the difference between the state vacancy rate and the average U.S. vacancy rate to see how far away the state is from the U.S. average.

$$D_i = VR_i - VR.$$

This deviation for the states is then applied to the long-run vacancy rate for the United States (which we estimated earlier to be 13%) to get the state-wise vacancy rate.

$$\text{State-wise Vacancy Rate} = 13\% + D_i \text{ for each state.}$$

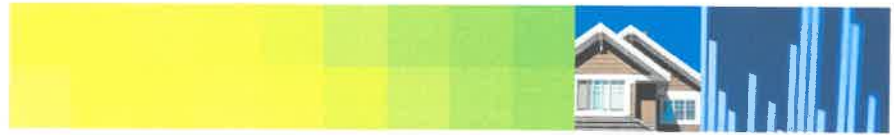
### 1.2 Estimating target households

We obtain the headship rates<sup>5</sup> for the year 2018 by state and by age for all the 50 states and District of Columbia.<sup>6</sup> We then estimate target households using this headship rate and adding back housing

4 Data is available from 1970:Q2 onward. We estimate the average for the period up to 2000:Q4. This corresponds to the period before the boom and bust in the housing market began.

5 Headship Rate = Number of Head of Households/Total Households.

6 Data source: Current Population Survey—Annual Social and Economic Supplement (CPS-ASEC) using the Integrated Public Use Microdata Series (IPUMS) (Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019.)



costs assuming that housing costs become more favorable for household formation. The target headship rate would be

$$hr_{i,j}^* = hr_{(i,2018)} + \alpha_{(\text{housing costs}, i)}$$

We then use this target headship rate and the population by five-year age buckets to compute the households in each state.

$$hh_i^* = \sum_j hr_{i,j}^* * pop_{i,j}$$

where  $i$  is the state and  $j$  is the five-year age buckets.

The product of headship rate and population by age gives the households by age group. Summing it up over all the ages gives the total households in the state.<sup>7</sup>

### 1.3 Domestic migration flows between states

For the estimate of the states' share of the deficit, we need to obtain the share of the migration flows between states by age. To get detailed age-wise distribution of population, we use the ACS data from 2001 to 2017. We obtain the population by age and by state for these years. We identify people who had a different state of residence from a year ago, which indicates that they migrated to a different state. We then get estimates of the in-migrants and out-migrants by state and age.

We then estimate the net domestic migrants for each state as the difference between the in-migrants and out-migrants.

$$NM_{i,j} = I_{i,j} - O_{i,j}$$

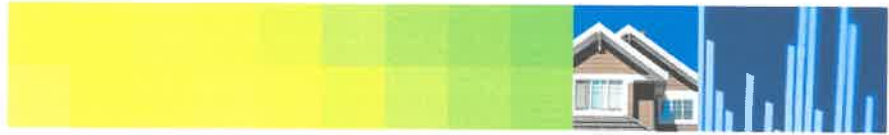
where  $i$  is the state,  $j$  is the five-year age buckets,  $I$  is the in-migrants, and  $O$  is the outmigrants.

To estimate the net outmigrants from states that have a  $NM < 0$ , we obtain the Moody's historical net domestic migration data. We then apply these shares by state and age to the net migration data for 2018 to obtain the number of people leaving a state by the five-year age bucket.

$$\Delta P_{i,j,out}^* = \frac{NM_{i,j}}{\sum_{i,j} NM_{i,j}} * P_{m,j}$$

where  $P_{i,j,out}^*$  is the total change in population (net out-migrants) for states that have net outmigration,

<sup>7</sup> These households would be based on the Current Population survey (CPS). To make them consistent with estimates of housing supply from HVS, we apply a multiplier to this gap that is proportional to the gap between the CPS-ASEC and HVS household counts. The CPS-ASEC household estimate for 2018 was 127.6 million. The HVS estimate for that year was 121.3 million. We deflate our target households by a factor equal to 121.3/127.6, or 0.95.



$NM_{i,j}$  is the net out-migrants by age group and state,

$\sum NM_{i,j}$  is the sum of the total out-migrants for the state, and

$P_{m,j}$  is the historical net domestic migration data from Moody.

The ratio of  $NM / \sum NM$  gives the share of the five-year age group in the total out-migrants from the state.

This pool of out-migrants ( $P_{i,j,out}^*$ ) is then divided among the in-migrating states, given that the net flows for the country are 0.

We distribute these migrants according to the share of the state in the total in-migrants as well as by the share of the age group in the total in-migrants to the state.

$$\Delta P_{i,j,in}^* = SI_i * SA_{i,j} * \Delta P_{i,j,out}^*$$

where  $\Delta P_{i,j,in}^*$  is the in-migrants to the state i from the outmigrants pool,

$SI$  is the share of the state in total in-migrants,

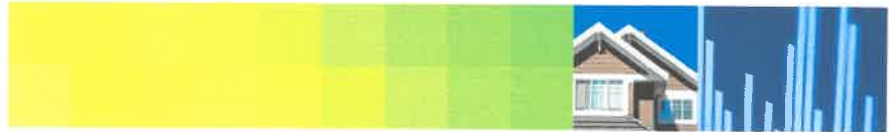
$SA$  is the share of the five-year age bucket in the total in-migrants, and

$\Delta P_{i,j,out}^*$  is the total out-migrants.

The population of each state is then adjusted according to the change in the population estimated above.

$$\begin{aligned} Population_i^* &= P_{i,j} + \Delta P_{i,j,out}^* \text{ if } NM < 0. \\ &= P_{i,j} + \Delta P_{i,j,in}^* \text{ if } NM > 0. \end{aligned}$$

The households are then computed based on this adjusted population for each state by applying the headship rates by age group. Then the housing stock is estimated as per equation (1).



## Economic & Housing Research **Insight**

### Prepared by the Economic & Housing Research group

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### Orange County Technical Analysis of SCAG's Regional Determination from HCD

Government Code Section 65584.01(a) states: "If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region....".

As outlined in SCAG's September 18, 2019 objection letter to the California Department of Housing and Community Development (HCD) (see Exhibit B), SCAG's regional population forecast for its Regional Transportation Plan (RTP) differs from the State Department of Finance (DOF) projection by **1.32%**, which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG's population projections.

However, HCD's October 15, 2019 response letter to SCAG (see Exhibit C) cites two reasons for not using SCAG's total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF's household projection.
- 2) The age cohort of under 15-year old persons from SCAG's population projections differ from DOF's projections by 15.8%.

A careful reading of Government Code Section 65584.01(a) demonstrates that HCD's interpretation and rejection of the use of SCAG's regional population forecast is incorrect for the following two reasons:

- 1) The law clearly states that that the 1.5% range is based on the total regional **population** forecast and not the regional **household** projection forecast.
- 2) The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.

While Government Code 65584.01 provides a significant level of discretion to HCD over many of the factors used for the regional determination (i.e., vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments, etc.), this one issue is clearly written into the law without any discretion from HCD. Therefore, even though we support all of the arguments SCAG outlined in their September 18, 2019 objection letter, we also recognize that state law grants HCD the final determination for those specific factors. However, there is no discretion in HCD's decision to ignore SCAG's regional population forecast. Had HCD adhered to Government Code 65584.01(a), we estimate that the regional determination should have been at least approximately 133,000 housing units lower (see Exhibit A), or no more than approximately 1.2 million housing units.

We would hope that HCD would reconsider the other SCAG's recommendations as noted in their September 18, 2020 objection letter, especially in light of the change in circumstances related to the current COVID-19 pandemic, as well as the recent studies and reports stating that California's statewide housing shortfall is significantly lower than even SCAG's entire RHNA obligation.



## Exhibit A

OPTION A: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)				
1	Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)			20,725,878
2	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)			-327,879
3	Household (HH) Population, Oct 1, 2029			20,397,998
	Household Formation Groups	SCAG Projected HH Population	Headship rate - see Table 2	Projected Households
		20,397,998		6,668,498
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 - 74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
4	Projected Households (Occupied Unit Stock)			6,668,498
5	+ Vacancy Adjustment (2.63%)			178,896
6	+ Overcrowding (6.76%)			459,917
7	+ Replacement Adjustment (0.50%)			34,010
8	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
9	+ Cost-burden Adjustment ((Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
	6 <sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)			1,208,565



September 18, 2019

Mr. Doug McCauley  
Acting Director  
Housing & Community Development (HCD)  
2020 W. El Camino Ave.  
Sacramento, CA 95833

Subject: SCAG's Objection to HCD's Regional Housing Need Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)'s formal objection to HCD's Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

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*I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.*

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

## **BASIS FOR SCAG OBJECTION**

### **Use of SCAG's Population Forecast**

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. **If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.** If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*

SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6<sup>th</sup> cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. [http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS\\_DemographicsGrowthForecast.pdf](http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf)). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

### **Use of Comparable Regions**

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6<sup>th</sup> cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6<sup>th</sup> cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

### **Improved Vacancy Rate Comparison**

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.<sup>1</sup>

### **Additional Considerations**

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6<sup>th</sup> cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

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<sup>1</sup> See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.

statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

4. From our review, HCD's data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6<sup>th</sup> cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region's future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG's originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD's current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,



Kome Ajise  
Executive Director

#### Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

**Attachment 1**  
**SCAG Alternative Determination**

1	<b>OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	<b>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</b>			<b>-327,879</b>
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>			
		<b>20,397,998</b>		<b>6,668,498</b>
	<b>under 15 years</b>	3,812,391		n/a
	<b>15 - 24 years</b>	2,642,548		147,005
	<b>25 - 34 years</b>	2,847,526		864,349
	<b>35 - 44 years</b>	2,821,442		1,304,658
	<b>45 - 54 years</b>	2,450,776		1,243,288
	<b>55 - 64 years</b>	2,182,421		1,116,479
	<b>65 -74 years</b>	1,883,181		1,015,576
	<b>75 - 84 years</b>	1,167,232		637,415
	<b>85+</b>	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	<b>+ Vacancy</b>	<b>Owner</b>	<b>Renter</b>	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	<b>1.50%</b>	<b>5.00%</b>	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.37%	1.70%	
	Vacancy Adjustment	12,953	53,815	66,768
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (Actual DOF Demolitions)		<b>0.14%</b>	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			<b>23,969</b>
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>823,808</b>



1	<b>OPTION B: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)</b>			
2	<b>Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)</b>			<b>20,725,878</b>
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)			-327,879
4	<b>Household (HH) Population, Oct 1, 2029</b>			<b>20,397,998</b>
		<b>SCAG Projected HH Population</b>	<b>Headship rate - see Table 2</b>	<b>Projected Households</b>
	<b>Household Formation Groups</b>	<b>20,397,998</b>		<b>6,668,498</b>
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
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	55 - 64 years	2,182,421		1,116,479
	65 -74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
5	<b>Projected Households (Occupied Unit Stock)</b>			<b>6,668,498</b>
6	+ Vacancy	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	2.00%	6.00%	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.87%	2.70%	
	Vacancy Adjustment	30,433	85,540	115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (HCD minimum standard)		0.50%	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			47,724
	<b>6th Cycle Regional Housing Need Assessment (RHNA)</b>			<b>920,772</b>

1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. <b>SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for fore-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis.</b> These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. <b>While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.</b>
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). <b>SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.</b>

**Option A: Regional Housing Need Allocation (RHNA) Determination**

**SCAG Region**

**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	212,284
Low	15.1%	124,375
Moderate	17.1%	140,601
Above-Moderate	42.1%	346,547
<b>Total</b>	<b>100.0%</b>	<b>823,808</b>
* Extremely-Low	14.6%	included in Very-Low Category

**Option B: Regional Housing Need Allocation (RHNA) Determination**

**SCAG Region**

**June 30, 2021 through October 1, 2029**

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	231,084
Low	15.1%	135,390
Moderate	17.1%	159,982
Above-Moderate	42.1%	394,316
<b>Total</b>	<b>100.0%</b>	<b>920,772</b>
* Extremely-Low	14.6%	included in Very-Low Category

*Income Distribution : Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.*

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 15, 2019

Kome Ajise  
Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise,

**RE: Final Regional Housing Need Assessment**

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6<sup>th</sup> cycle Regional Housing Needs Assessment (RHNA) as compared to the 5<sup>th</sup> cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6<sup>th</sup> cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5<sup>th</sup> and 6<sup>th</sup> cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5<sup>th</sup> cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4<sup>th</sup> cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

#### Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

#### Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6<sup>th</sup> cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

#### Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6<sup>th</sup> cycle RHNA methodology.

#### Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

#### Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

#### Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

### Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

### Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

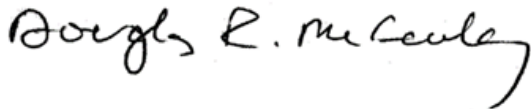
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink that reads "Douglas R. McCauley". The signature is written in a cursive, flowing style.

Douglas R. McCauley  
Acting Director

Enclosures

## ATTACHMENT 1

## HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
<b>Total</b>	<b>100.0%</b>	<b>1,341,827</b>
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.



## ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION  
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

**Methodology**

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need					
1.	<b>Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</b>				20,455,355
2.	<i>- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029</i>				-363,635
3.	<b>Household (HH) Population: October 15, 2029</b>				20,079,930
	<b>Household Formation Groups</b>	<b>HCD Adjusted DOF Projected HH Population</b>	<b>DOF HH Formation Rates</b>	<b>HCD Adjusted DOF Projected Households</b>	
		20,079,930		6,801,760	
	under 15 years	3,292,955	n/a	n/a	
	15 – 24 years	2,735,490	6.45%	176,500	
	25 – 34 years	2,526,620	32.54%	822,045	
	35 – 44 years	2,460,805	44.23%	1,088,305	
	45 – 54 years	2,502,190	47.16%	1,180,075	
	55 – 64 years	2,399,180	50.82%	1,219,180	
	65 – 74 years	2,238,605	52.54%	1,176,130	
	75 – 84 years	1,379,335	57.96%	799,455	
	85+	544,750	62.43%	340,070	
4.	<b>Projected Households (Occupied Unit Stock)</b>				6,801,760
5.	+ Vacancy Adjustment (2.63%)				178,896
6.	+ Overcrowding Adjustment (6.76%)				459,917
7.	+ Replacement Adjustment (.50%)				34,010
8.	<i>- Occupied Units (HHs) estimated (June 30, 2021)</i>				-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)				117,505
<b>6<sup>th</sup> Cycle Regional Housing Need Assessment (RHNA)</b>					<b>1,341,827</b>

**Explanation and Data Sources**

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

*Continued on next page*

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ( $69.88\% - 59.01\% = 10.88\%$ ) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ( $18.65\% - 9.94\% = 8.70\%$ ) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).



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# Double Counting in the Latest Housing Needs Assessment



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**Do the Math: The state has ordered more than 350 cities to prepare the way for more than 2 million homes by 2030.**

But what if the math is wrong?

Senate Bill 828, co-sponsored by the Bay Area Council and Silicon Valley Leadership Group, and authored by state Sen. Scott Wiener in 2018, has inadvertently doubled the “Regional Housing Needs Assessment” in California.

Use of an incorrect vacancy rate and double counting, inspired by SB-828, caused the state’s Department of Housing and Community Development (HCD) to exaggerate by more than 900,000 the units needed in SoCal, the Bay Area and the Sacramento area.

The state’s approach to determining the housing need must be defensible and reproducible if cities are to be held accountable. Inaccuracies on this scale mask the fact that cities and counties are surpassing the state’s market-rate housing targets, but falling far short in meeting affordable housing targets. The inaccuracies obscure the real problem and the associated solution to the housing crisis—the funding of affordable housing.

# **Do the Math: The state has ordered more than 350 cities to prepare the way for more than 2 million homes by 2030. But what if the math is wrong?**

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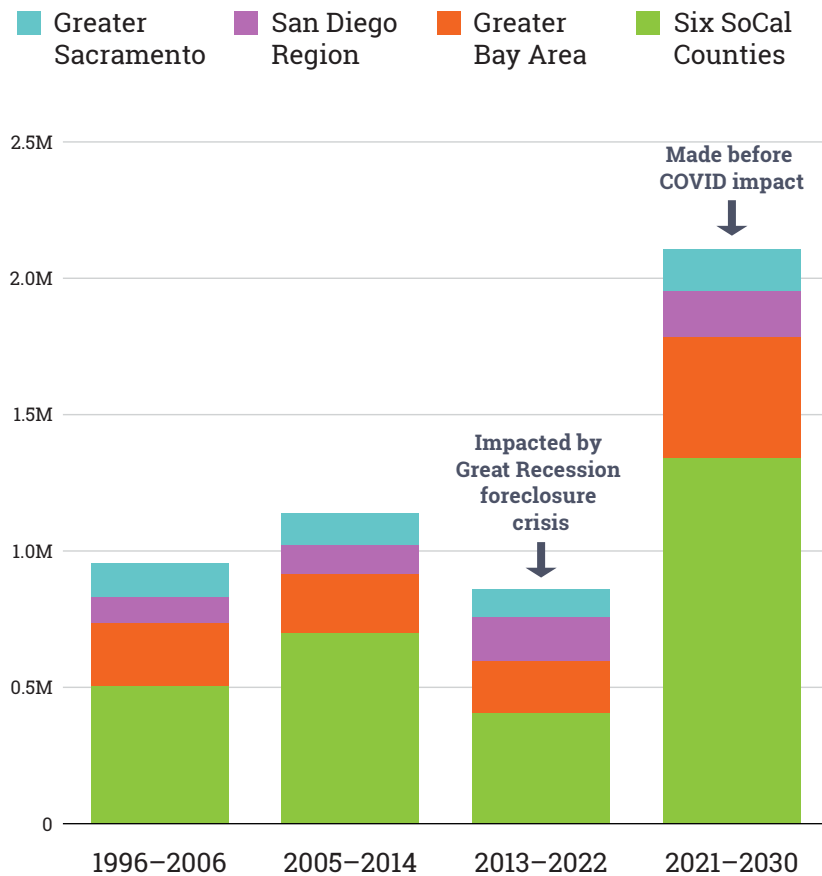
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# Double counting (not surprisingly) doubled the assessed housing need for the four major planning regions.

Every five to eight years the Department of Housing and Community Development (HCD) supervises and publishes the results of a process referred to as the Regional Housing Needs Assessment (RHNA). Four regional planning agencies cover the 21 most urban counties and account for 80% of California’s housing. All four regions saw a significant jump in the state’s assessment of their housing need for the years 2021 to 2030.

### Housing Units Needed According to the State, (1996–2030)

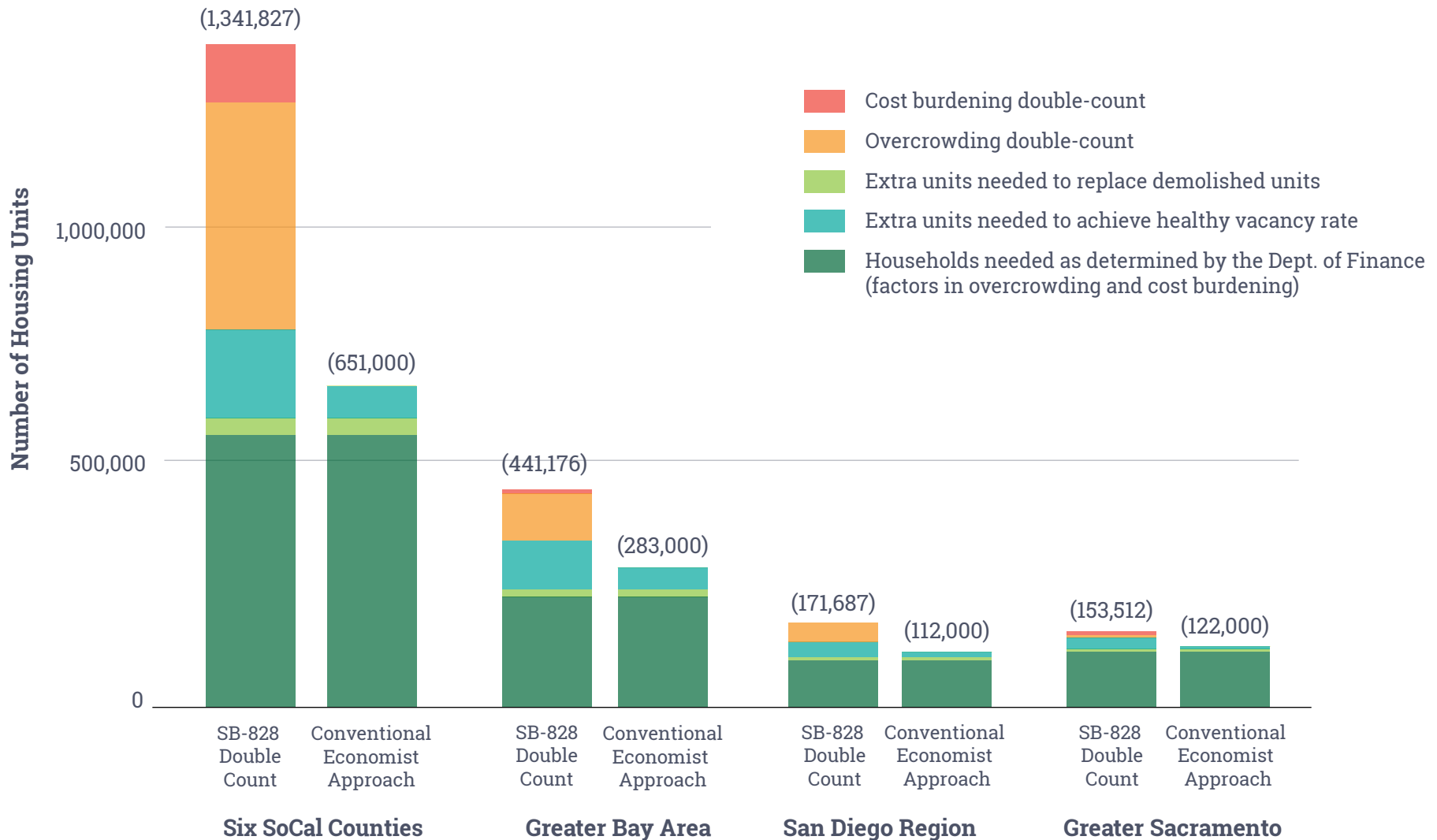


### Four Regions Contain 80% of the State’s Housing



# The double count, an unintended consequence of Senate Bill 828, has exaggerated the housing need by more than 900,000 units in the four regions below.

California plans for its housing needs in “cycles.” The four regions are on cycles that last roughly eight years with staggered start dates. In the 2021–2030 housing cycle, errors introduced by language in SB-828 nearly equal the entire 1.15M units of new housing required during the 2013–2022 “cycle.” As illustrated, Southern California and the Bay Area are the most impacted by the state’s methodology errors.



# Senate Bill 828 was drafted absent a detailed understanding of the Department of Finance’s methodology for developing household forecasts, and absent an understanding of the difference between rental and home-owner vacancies. These misunderstandings have unwittingly ensured a series of double counts.

## SB-828 MISTAKENLY ASSUMED:

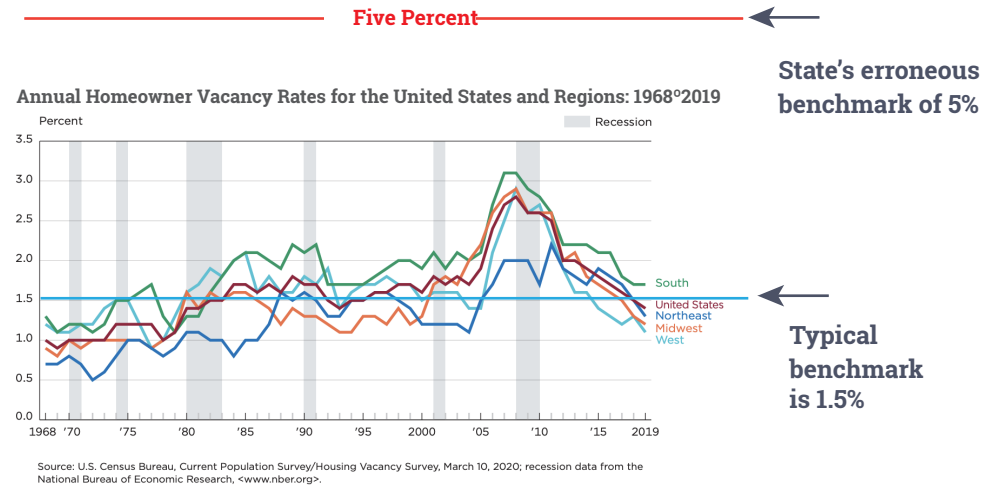
## THE REALITY IS:

1. SB-828 wrongly assumed ‘existing housing need’ was not evaluated as part of California’s previous Regional Housing Need Assessments, or RHNA. There was an assumption that only future need had been taken into account in past assessments. (In fact, as detailed in The Reality section, the state’s existing housing need was fully evaluated in previous RHNA assessment cycles).

1. Existing housing need has long been incorporated in California’s planning cycles. It has been evaluated by comparing existing vacancy rates with widely accepted benchmarks for healthy market vacancies (rental and owner-occupied). The difference between actual and benchmark is the measure of housing need/surplus in a housing market. Confusion about the inclusion of “existing need” may have arisen because vacancy rates at the time of the last assessment of housing need (“the 5th cycle”) were unusually high (higher than the healthy benchmarks) due to the foreclosure crisis of 2007–2010, and in fact, the vacancy rates suggested a surplus of housing. So, in the 5th cycle the vacancy adjustment had the effect of lowering the total housing need. Correctly seeing the foreclosure crisis as temporary, the state Department of Finance did not apply the full weight of the surplus, but instead assumed a percentage of the vacant housing would be absorbed by the time the 5th cycle began. The adjustment appears in the 5th cycle determinations, not as ‘Existing Housing Need’ but rather as “Adjustment for Absorption of Existing Excess Vacant Units.”

2. SB-828 wrongly assumed a 5% vacancy rate in owner-occupied housing is healthy (as explained in the column on the right, 5% vacancy in owner-occupied homes is never desirable, and contradicts Government Code 65584.01(b)(1)(E) which specifies that a 5% vacancy rate applies only to the rental housing market).

2. While 5% is a healthy benchmark for rental vacancies, it is unhealthy for owner-occupied housing (which typically represents half of existing housing). Homeowner vacancy in the U.S. has hovered around 1.5% since the ‘70s, briefly reaching 3% during the foreclosure crisis. However, 5% is well outside any healthy norm, and thus does not appear on the Census chart (to the right) showing Annual Homeowner Vacancy Rates for the United States and Regions: 1968–2019.



3. SB-828 wrongly assumed overcrowding and cost-burdening had not been considered in Department of Finance projections of housing need. The bill sought to redress what it mistakenly thought had been left out by requiring regional planning agencies to report overcrowding and cost-burdening data to the Dept. of Housing and Community Development (as explained in the right column).

3. Unknown to the authors of SB-828, the Department of Finance (DOF) has for years factored overcrowding and cost-burdening into their household projections. These projections are developed by multiplying estimated population by the headship rate (the proportion of the population who will be head of a household). The Department of Finance (DOF) in conjunction with the Department of Housing and Community Development (HCD) has documented its deliberate decision to use higher headship rates to reflect optimal conditions and intentionally “alleviate the burdens of high housing cost and overcrowding.” Unfortunately, SB-828 has caused the state to double count these important numbers.



# The forced double-counting errors are significant.\*

---

## 1. Incorrect use of a 5% benchmark vacancy rate for owner-occupied housing.

The vacancy rate was incorrectly used for both existing and projected owner-occupied households.

**+ 229,000**  
housing units

---

## 2. Current vacancies were assumed to exist in household projections.

This error is unrelated to SB-828, but is an accounting error introduced by HCD methodology.

**- 22,000**  
housing units

---

## 3. Overcrowding and cost-burdening were double counted.\*\*

In addition to the household projection methodology outlined by the Department of Finance (shown to account for overcrowding and cost-burdening), the matter is also mentioned in meeting notes available on the Association of Bay Area Government's (ABAG) website.\*\*\*

Quote from ABAG's Housing Methodology Committee Agenda Packet for the 4th RHNA Cycle, July 2006

"There was also a lot of discussion about the headship rates used by HCD/DOF. Several people commented that headship rates in the Bay Area are generally lower than the State's estimates because the region's high housing costs limit household formation. In response, Mr. Fassinger noted that HCD uses these higher headship rates because the RHNA process is intended to alleviate the burdens of high housing cost and overcrowding."

Despite this, overcrowding and cost-burdening were counted a second time as adjustment factors required by SB-828.

**+ 734,000**  
housing units

---

**TOTAL: + 941,000**  
housing units

\* All errors are rounded to the nearest thousand.

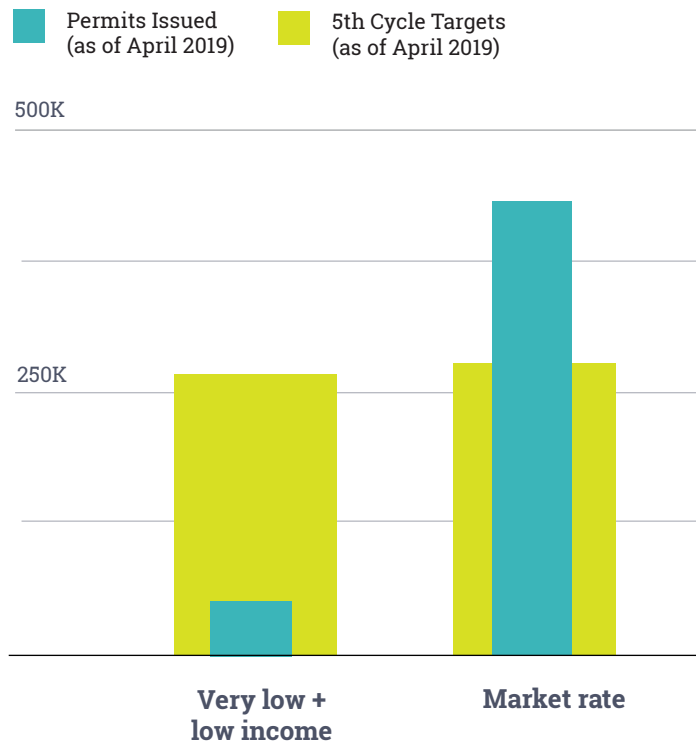
\*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels – extremely low, very low, low, moderate, above moderate

\*\*\* P-4 tables are created by the Department of Finance–Household Projection table 2020–2030 and their methodology is fully explained in 'read me' notes that accompany the table.

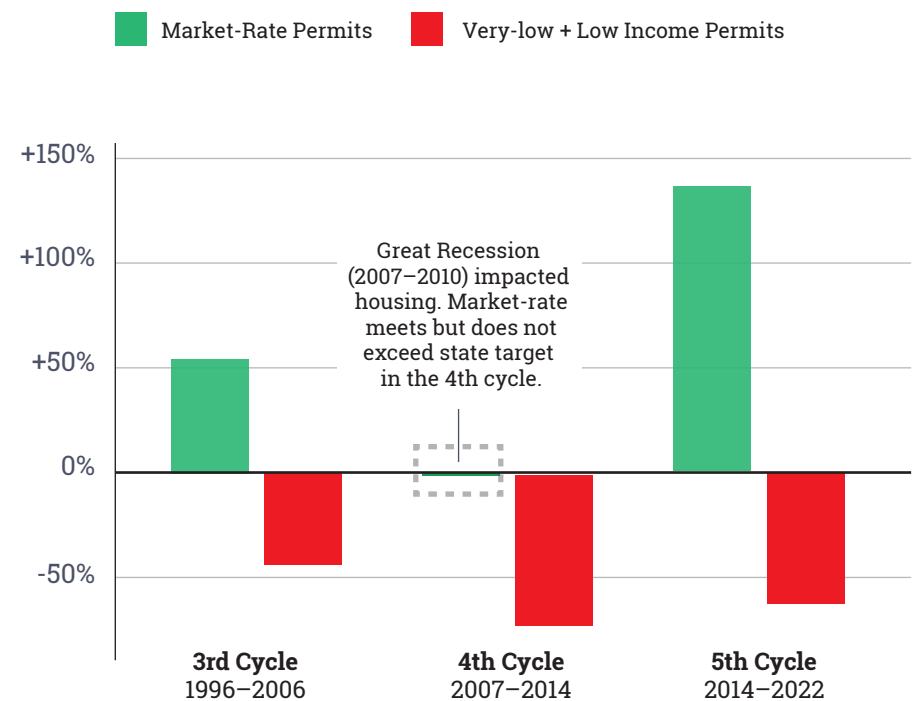
# The state's exaggerated targets unfortunately mask the real story: Decades of overachieving in market-rate housing has not reduced housing costs for lower income households.

The state has shown, with decades of data, that it cannot dictate to the market. The market is going to take care of itself. The state's responsibility is to take care of those left behind in the market's wake. Based on housing permit progress reports published by the Dept. of Housing and Community Development in July 2020, cities and counties in the four most populous regions continue to strongly outperform on the state's assigned market-rate housing targets, but fail to achieve even 20% of their low-income housing target. In the Bay Area where permit records have been kept since 1997, there is evidence that this housing permit imbalance has propagated through decades of housing cycles.

## Permit Progress in the 5th Cycle (2013-2022)\* (all 4 regions)



## Affordable Housing Languishes as Market-Rate Housing Overachieves (Bay Area only)\*



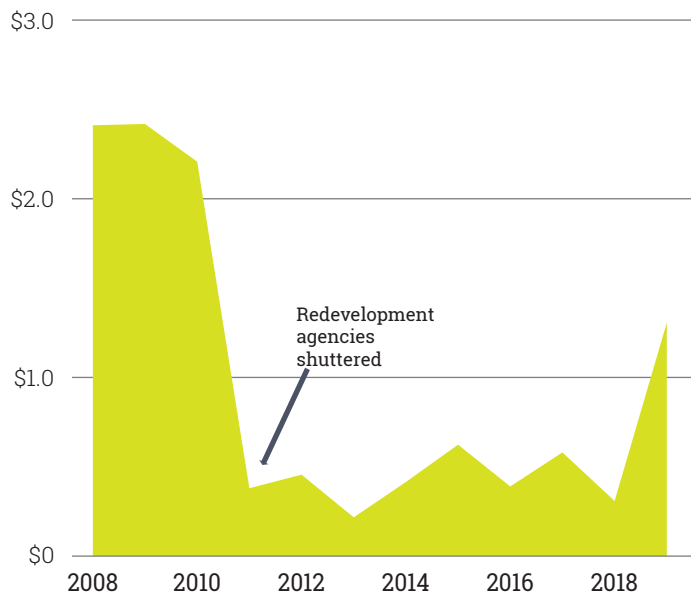
\* Based on permit progress reports published by the Dept of Housing and Community Development and updated July 2020, reporting progress through April 2019.

\*\* Only the Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles.

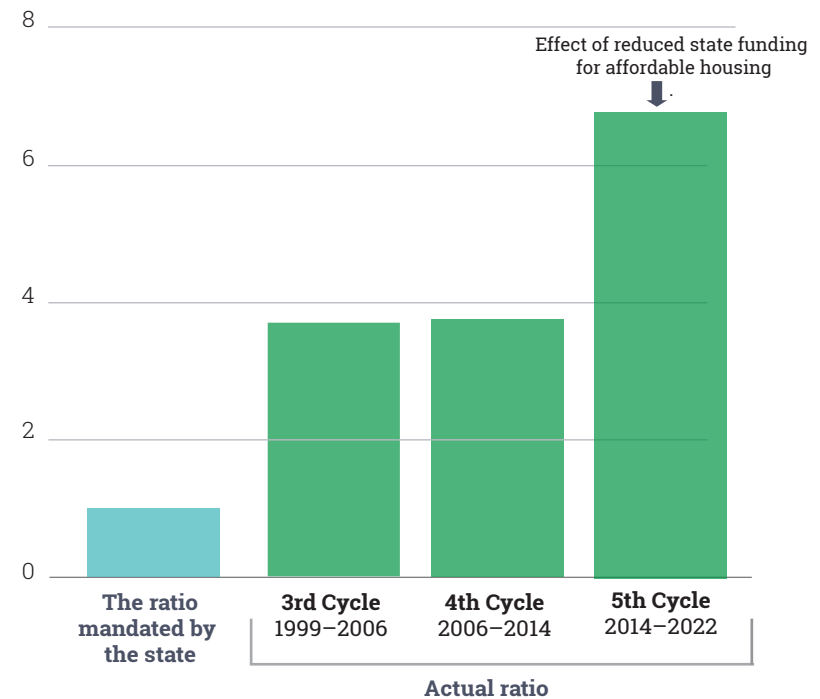
# It's clear. Market-rate housing doesn't need state incentives. Affordable housing needs state funding.

Cities are charged by the state to build one market-rate home for every one affordable home. But state laws, such as the density bonus law, incentivize developers to build market-rate units at a far higher rate than affordable units. As a result, California has been building four market-rate units for every one affordable unit for decades. And with the near-collapse of legislative funding for low-income housing in 2011, that ratio has grown to seven to eight market-rate units to each affordable unit. Yet we need one-to-one. This worsening situation can't be fixed by zoning or incentives which are the focus of many recent housing bills and only reinforce or worsen the ever-higher market-rate housing ratios. From the data it appears that the shortage of housing resulted not from a failure by cities to issue housing permits, but rather a failure by the state to fund and support affordable housing. Future legislative efforts should take note.

**State Funds for Affordable Housing, 2008–2019\***  
\$ Billion



**Market-Rate to Low-Income Housing Permits in the Bay Area has grown from a ratio of 4 : 1 to 7 : 1**  
(Bay Area only)\*\*



\* "The Defunding of Affordable Housing in California", Embarcadero Institute, update June 2020 [www.embarcaderoinstitute.com/reports/](http://www.embarcaderoinstitute.com/reports/)

\*\* Only Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles. Data is from ABAG's permit progress reports for 3rd and 4th cycle and Dept. of Housing and Community Development's 5th cycle Annual Progress Report.

## Finally, since penalties are incurred for failing to reach state targets for housing permits, the methodology for developing these numbers must be transparent, rigorous and defensible.

Non-performance in an income category triggers a streamlined approval process per Senate Bill 35 (2017). These exaggerated 6th cycle targets will make it impossible for cities and counties to attain even their market-rate targets, ensuring market-rate housing will qualify for incentives and bonuses meant for low income housing. **Yet again low-income housing will lose out.** The state needs to correct the errors in the latest housing assessment, and settle on a consistent, defensible approach going forward.

### At Least Four Different Methodologies Have Been Used Simultaneously by the State to Discuss Housing Need: We Only Need One

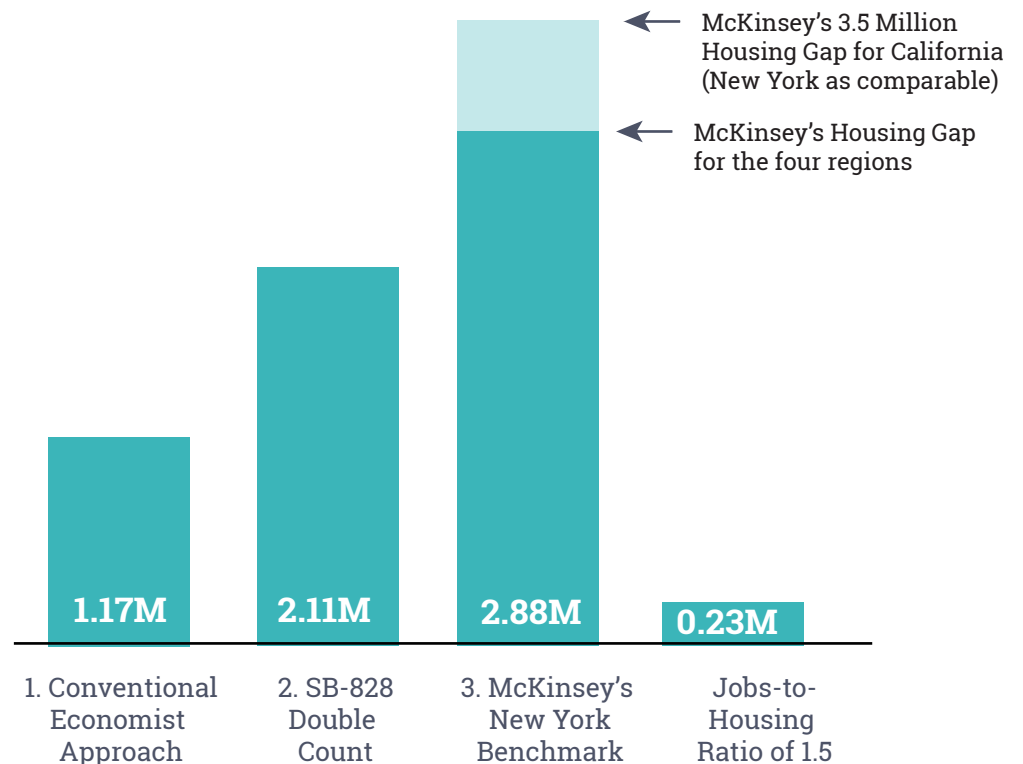
**1. The Conventional Economist Approach:** uses goldilocks (not too big, not too small, just right) benchmarks for vacancies - 1.5% for owner-occupied and 5% for rental housing.

**2. SB-828 Double Count:** incorrectly uses a benchmark of 5% vacancy for owner-occupied housing. It also double counts overcrowding and cost-burdening

**3. McKinsey's New York Benchmark:** the over-simplified approach generated an exaggerated housing gap of 3.5 Million for California. McKinsey multiplied California's population by New York's housing per capita to get 3.5M. New York is not a proper benchmark for California and NY's higher housing per capita is more reflective of NY's declining population rather than a healthy benchmark for housing

**4. Jobs-to-housing ratio of 1.5:** according to state planning agencies 1.5 is the optimal benchmark. Employment in the four regions is estimated to grow to 17 million by 2030 (job growth estimates prepared before COVID).\*\*

### Forecast 2030 Housing Need for the Four Regions



\* California's Employment Development Department (EDD) estimates employment by county through 2026. Using annualized growth (2016 to 2026) as a basis for future growth 2030 employment is estimated for the four regions.

\*\* The 17 million includes estimates of self employed, private household workers, farm and nonfarm employment. Occupations with employment below 100 in 2016 are excluded.

**How it Works : A multi-agency collaborative effort has generated past state housing targets. However, in 2018, SB-828 annointed the Dept. of Housing and Community Development with final veto powers.**

**STEP 1**

The Dept. of Finance (DOF) generates household forecasts by county based on population growth and headship rates. This is the step where overcrowding and cost-burdening are factored in .

Dept. of Finance (DOF)



**STEP 2**

The Dept. of Housing and Community Development (HCD) then takes the DOF household projections and adds in a healthy vacancy level (1.5% for owner-occupied, 5% for rental housing) to determine the number of housing units needed to comfortably accommodate the DOF household projections.

dept. of Housing and Community Development (HCD)



**STEP 3**

The regional agencies allocate housing targets to cities and counties in their jurisdiction. These allocations collectively meet their RHNA assessments, and are based on algorithms that may include employment, transit accessibility and local housing patterns



**STEP 4**

Cities and Counties report annual progress on housing permits to the Dept. of Housing and Community Development (HCD)



## SB-828 introduced errors in Step 2 (when the Dept. of Housing and Community Development made adjustments to the Dept. of Finance's household projections).

Southern California and the Bay Area were most impacted by the double counting. San Diego was not assessed for cost-burdening although it is more cost-burdened than the Bay Area. It was perhaps overlooked because its assessment cycle began in July, 2018, a few months before SB-828 passed into law.

### The Department of Housing and Community and Development

#### 1. Used a benchmark of 5% vacancy rate for BOTH owner-occupied and rental housing.

Six SoCal Counties	=	+126,000	<b>+ 228,000</b> housing units
Greater Bay Area	=	+59,000	
San Diego Area	=	+23,000	
Greater Sacramento	=	+21,000	

#### 2. Assumed vacancies in household projections \*

Six SoCal Counties	=	-13,000	<b>- 22,000</b> housing units
Greater Bay Area	=	-4,000	
San Diego Area	=	-2,000	
Greater Sacramento	=	-3,000	

#### 3. Double counted overcrowding and cost-burdening

Six SoCal Counties	=	+578,000	<b>+ 734,000</b> housing units
Greater Bay Area	=	+104,000	
San Diego Area	=	+39,000	
Greater Sacramento	=	+13,000	

\* P-4 tables are created by the Department of Finance—Household Projection table 2020–2030 and their methodology is fully explained in 'read me' notes that accompany the table

\*\* Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels—extremely low, very low, low, moderate, above moderate.

## Detailed explanation of the errors using SoCal Counties as an example: First—the correct approach.

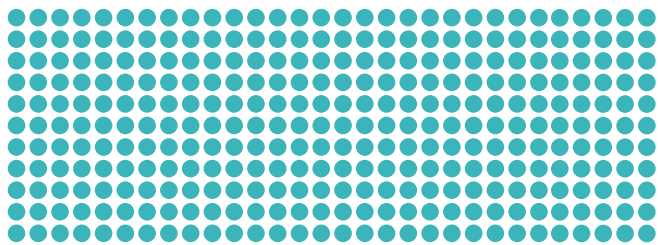
The Department of Housing and Community Development (HCD) have traditionally arrived at a number for pent-up demand or housing shortfall by comparing vacancy rates in owner-occupied and rental housing to healthy benchmarks (1.5% for owner-occupied\* and 5% for rental housing). The largest of the four regions, six SoCal Counties (covering Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties) is considered in the example below\*\*.

### EXISTING HOUSING: Six SoCal Counties

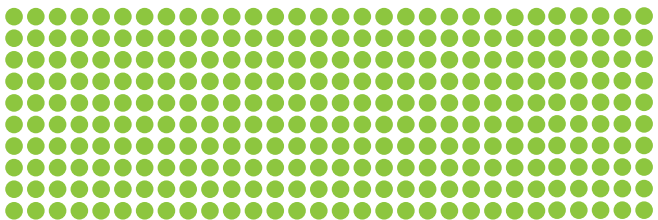
1 circle = 10,000 households

#### Occupied Housing Units

##### Home-owned (3.3 Million)



##### Rentals (3 Million)



#### Vacant Housing Units

Actual Vacancies (40,000)



1.2%

Healthy Benchmark (50,000)



1.5%

#### Existing Need

(10,000)



Actual Vacancies (111,000)



3.7%

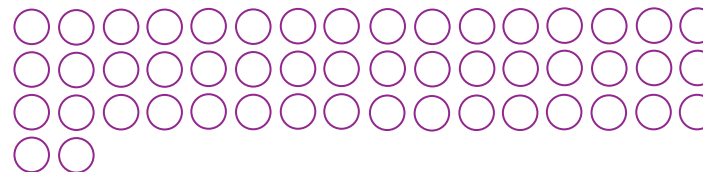
Healthy Benchmark (150,000)



5.0%

(39,000)

Seasonal Vacancies (500,000)\*\*\*



\* Owner-occupied has a lower healthy vacancy rate because it is usually only vacant while a house is for sale

\*\* All numbers are rounded to the nearest thousand.

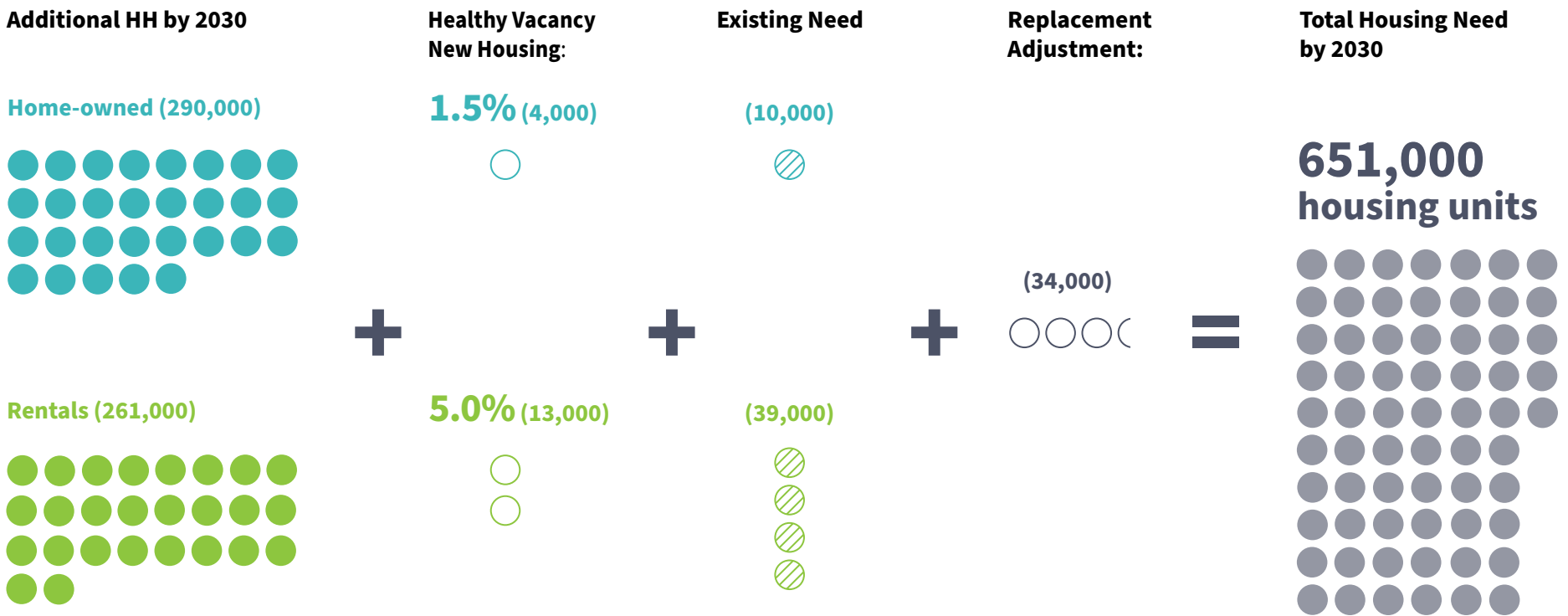
\*\*\* Seasonal Vacancies represent second homes, corporate housing, and short-term rentals such as AirBnBs

## The housing need also takes into account for future growth.

The Dept. of Finance (DOF) supplies the Dept. of Housing and Community Development (HCD) with an estimate of additional households (HH) needed by the end of the cycle. The DOF forecast the 2030 population and using an optimal household formation rate determine the number of households needed to comfortably house that population\*. The DOF also supply the HCD with the number of existing households at the start of the cycle. The HCD adds to the base number of additional households needed, factoring in vacancies for a healthy market, and adding a replacement adjustment (also supplied by the DOF)\*\*.

### PROJECTED HOUSING NEED: Six SoCal Counties

1 circle = 10,000 households



\* Households represent occupied housing units. The number of housing units is always higher as at any given time than the number of households because some housing will be vacant or unutilized. The DOF is responsible for the base projection because they manage population projections for the state, and determine those by analyzing births, deaths and net migration.

\*\* Replacement represents houses that may be demolished or replaced during the cycle\*.



**However, the Dept. of Housing and Community Development has adopted an unusual methodology in evaluating existing need in the 6th housing cycle.**

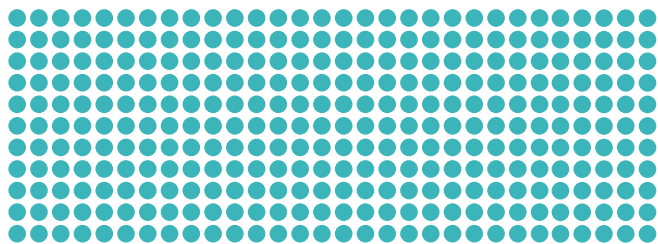
Instead of the typical 1.5% benchmark for owner-occupied housing, they used a 5% vacancy rate usually reserved for rental housing. A 5% vacancy in owner-occupied housing is indicative of a distressed housing market. At 5%, SoCal's existing housing need is increased by 115,000 housing units. Existing need for rental housing is unchanged.

**EXISTING HOUSING: Six SoCal Counties**

1 circle = 10,000 households

**Occupied Housing Units**

**Home-owned (3.3 Million)**



**Vacant Housing Units**

**Actual Vacancies (40,000)**

**1.2%**



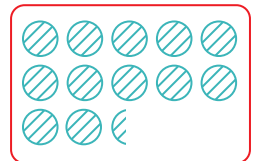
**Healthy Benchmark (165,000)**

**5.0%**



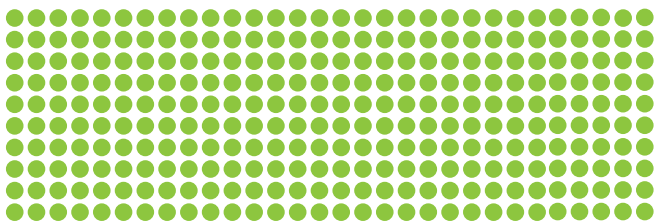
**Existing Need**

**(125,000)**



**=**

**Rentals (3 Million)**



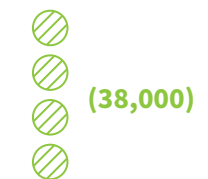
**Actual Vacancies (110,000)**

**3.7%**

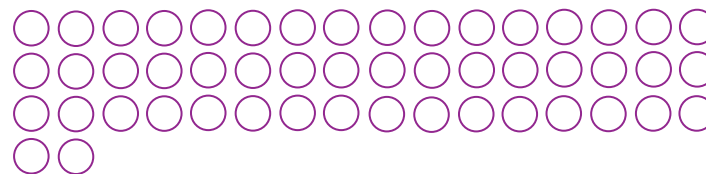


**Healthy Benchmark (149,000)**

**5.0%**



**Seasonal Vacancies (500,000)**

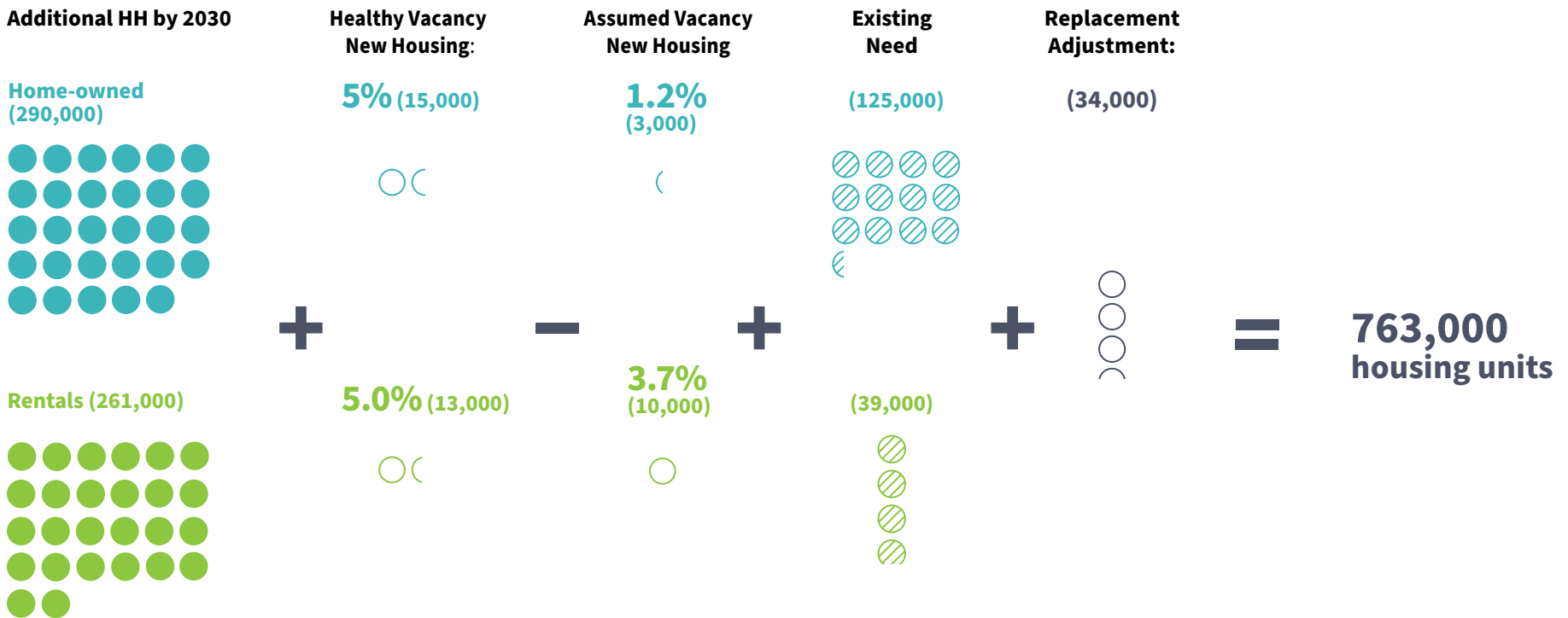


**The Dept. of Housing and Community Development have also taken an unusual approach in evaluating projected housing need.**

Again, instead of using the separate benchmark of 1.5% for owner-occupied housing, 5% was used for all housing. It was also assumed that new projected households had existing vacancies. The full benchmark was not applied to new households. Instead, the difference between the benchmark and the current vacancy rate was applied. The replacement adjustment was applied as it has been in the past.

**PROJECTED HOUSING NEED: Six SoCal Counties**

1 circle = 10,000 households



**Lastly, the Dept. of Housing and Community Development double counted by adding two new factors that had already been factored into household forecasts made by the Dept. of Finance (DOF).**

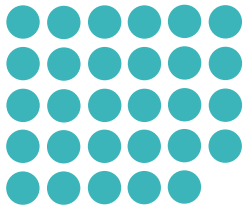
Two new factors were introduced into the 6th assessment – overcrowding and cost burdening. These factors had already been rolled into the DOF’s household projections. The DOF explicitly recognized that regional household formation rates might be depressed (a symptom of overcrowding and cost-burdening) because of the affordable housing crisis. The household formation rate used by the DOF is higher than the actual rate experienced. As such it generates a higher housing target meant to relieve overcrowding and cost-burdening.

**PROJECTED HOUSING NEED: Six SoCal Counties**

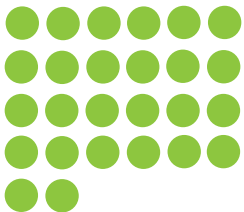
1 circle = 10,000 households

**Additional HH by 2030**

Home-owned  
(290,000)



Rentals (261,000)



**Projected Households already factors in overcrowding and cost-burdening**

From the Department of Finance

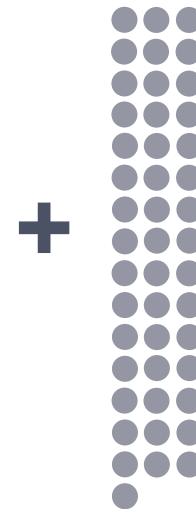
“The argument was that the Great Recession and the affordability crisis which impact recent trends in headship should not be allowed to solely dominate the projection, rather some return to underlying socio-cultural norms of homeownership/fewer roommates is a beneficial assumption”



**A DOUBLE COUNT**

Overcrowding Adjustment\*

(460,000)



Cost Burdening Adjustment\*\*

(118,000)



\* In addition to double counting, HCD incorrectly calculated the overcrowding factor. They assumed that for every house that was overcrowded another house would be required to relieve overcrowding. The more accurate analysis would be to assess the number of extra people to be housed and divide by the average household size.  
 \*\* HCD only applied cost-burdening adjustments to future households not existing households. It is unclear why cost-burdening would only be considered an issue for future households, as the data is for current households.

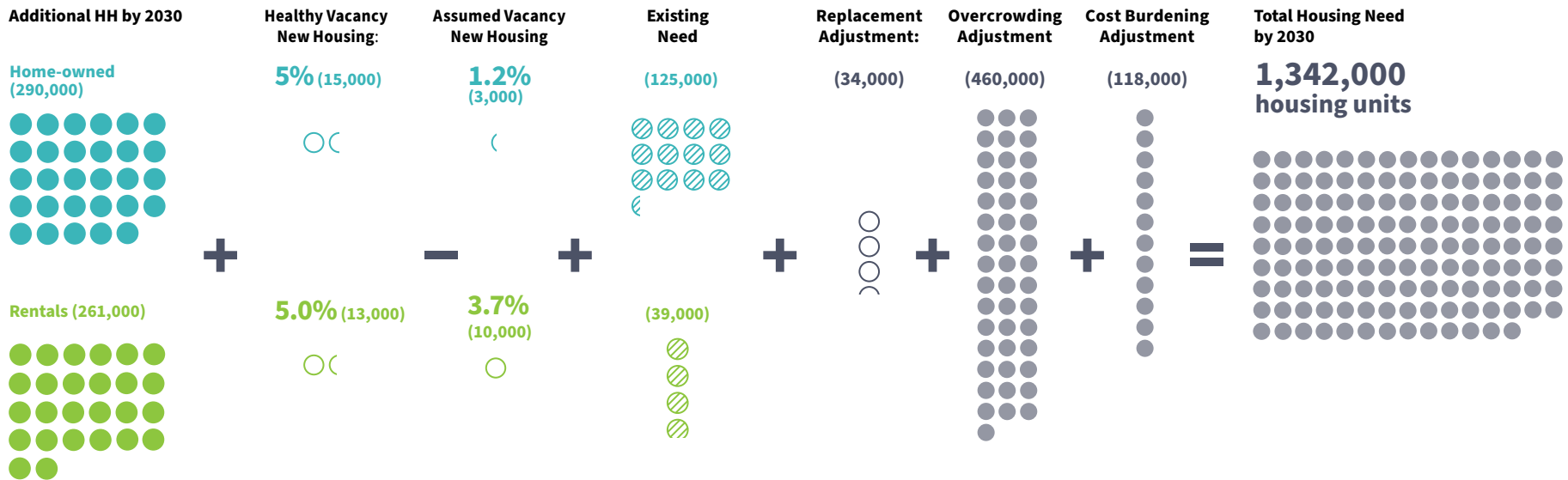
# The vacancy errors and double counting resulted in a doubling of the housing needs assessment for the six counties of SoCal.

## TYPICAL METHODOLOGY

1 circle = 10,000 households



## HCD 6TH CYCLE METHODOLOGY



Complete data tables: *RHNA Data and Models 6th cycle*, [www.embarcaderoinstitute.com](http://www.embarcaderoinstitute.com)

**References used in the analysis :**

**Dept. of Housing and Community Development (HCD)** <https://www.hcd.ca.gov>

**Regional Housing Needs Allocation and Housing Elements**

**Regional Housing Needs**

**Allocations for 6th Cycle Housing Elements:**

- Association of Bay Area Governments Regional Housing Need Determination Plan for the Sixth Housing Element Update
- Sacramento Area Council of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- Southern California Association of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- San Diego Association of Governments Regional Housing Need Determination and Plan for the Sixth Housing Element Update

**Allocations for 5th Cycle Housing Elements:**

- Association of Bay Area Governments (February 24, 2012)
- Sacramento Area Council of Governments (September 26, 2011)
- San Diego Association of Governments (November 23, 2010)
- Southern California Association of Governments (August 17, 2011)

**Annual Progress Reports**

Annual Progress Report APR: 5th Cycle Annual Progress Report Permit Summary (updated 7/30/2020)

**Allocations for Earlier Cycles and Housing Element**

- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06
- Regional Housing Needs Plan 2006 to 2013 SACOG February 2008
- 3rd and 4th Cycle RHNA allocations (data sent in personal communication with the Department of Housing and Community Development)

**Department of Finance Methodology for Household Forecasts**

- "Read Me" P4 Tables : Household Projections 2020 to 2030
- Association of Bay Area Governemnets Digital Library: RHNA Documents, Regional Housing Neeed Allocation Documents
- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06, Regional Housing Need Allocation p 2

**Other Housing Assessment Methodologies**

**"Mckinsey & Company:** A TOOL KIT TO CLOSE CALIFORNIA'S HOUSING GAP: 3.5 MILLION HOMES BY 2025", October 2016

**Jobs to Housing**

Employment Development Department, State of California, Employment Projections : Long Term Projections  
<https://www.labormarketinfo.edd.ca.gov/data/employment-projections.html>

# EXHIBIT K



December 1, 2020

The Honorable Rex Richardson,  
President  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

RE: Request to Convene a Special Meeting of the SCAG Regional Council to Consider the Information and Recommendations of the SCAG President's RHNA Litigation Study Team

Dear President Richardson,

Thank you for honoring our September 18, 2020 request (attached) and reconvening a closed meeting of the SCAG RHNA Litigation Study Team on November 2, 2020.

The OC Mayor Group requested this meeting to allow the RHNA Litigation Study Team to consider:

- a) whether the State Department of Housing and Community Development (State HCD) failed to follow housing law in calculating the SCAG regional housing need number of 1.34 million units for the 6<sup>th</sup> cycle RHNA; and,
- b) new 2020 information released after State HCD's October 2019 regional housing determination, which question the accuracy of the 1.34 million housing units assignment and identify significantly lower numbers in the order of 650,000 housing units or less for the SCAG region.

At the 11/05/2020 meeting of the SCAG Regional Council, you reported out that the RHNA Litigation Study Team:

- 1) considered the February 2020 Freddie Mac report; and,
- 2) determined, via a consensus majority, that litigation against State HCD was not the path to pursue, and that other options could be pursued. You also stated that an option is for subregional Councils of Government to separately pursue litigation, if they are so concerned.

Upon hearing your verbal report, our colleagues – City of Mission Viejo Councilmember Wendy Bucknum and City of Anaheim Councilmember Trevor O'Neil – sought clarifying information to understand the recommendation of the RHNA Litigation Study Team.

The Honorable Rex Richardson,  
RE: Request to Convene a Special Meeting of the SCAG Regional Council to Consider the Information and Recommendations of the SCAG President's RHNA Litigation Study Team  
December 1, 2020  
Page 2 of 4

Given and respecting the closed session nature of the RHNA Study Team discussions, they requested that a separate meeting of the SCAG Regional Council be convened, to allow the entire Regional Council to receive and discuss the same information that was presented to the SCAG RHNA Litigation Study Team, and thereby better understand the reasoning and factors that led to the Litigation Study Team's recommendation to not pursue litigation. SCAG Executive Director Kome Ajise also clarified that it is the prerogative of the SCAG Regional Council to consider litigation.

We believe our colleagues' request is sensible, worthwhile and deserving of the opportunity for further discussion.

**We would therefore respectfully request that a special closed meeting of the SCAG Regional Council be convened, to thoughtfully discuss the recommendation of the SCAG RHNA Litigation Study Team to not pursue litigation, and determine, for the entire SCAG region, the appropriate actions to pursue.**

With sincere appreciation,



**Harry Sidhu**  
Mayor  
City of Anaheim



**Marty Simonoff**  
Mayor  
City of Brea



**Katrina Foley**  
Mayor  
City of Costa Mesa



**Cheryl Brothers**  
Mayor  
City of Fountain Valley



**Jennifer Fitzgerald**  
Mayor  
City of Fullerton



**Steven R. Jones**  
Mayor  
City of Garden Grove






**Lyn Semeta**  
Mayor  
City of Huntington Beach



**Christina Shea**  
Mayor  
City of Irvine



**Bob Whalen**  
Mayor  
City of Laguna Beach



**Janine Heft**  
Mayor  
City of Laguna Hills



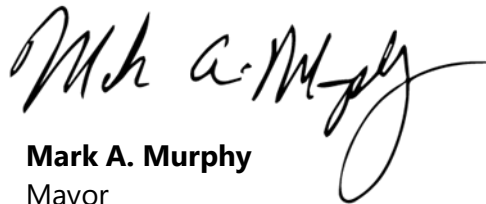
**Richard D. Murphy**  
Mayor  
City of Los Alamitos



**Brian Goodell**  
Mayor  
City of Mission Viejo



**Will O'Neill**  
Mayor  
City of Newport Beach



**Mark A. Murphy**  
Mayor  
City of Orange



**Ward Smith**  
Mayor  
City of Placentia



**Bradley J. McGirr**  
Mayor  
City of Rancho Santa Margarita

The Honorable Rex Richardson,  
RE: Request to Convene a Special Meeting of the SCAG Regional Council to Consider the Information and  
Recommendations of the SCAG President's RHNA Litigation Study Team  
December 1, 2020  
Page 4 of 4



**Laura Ferguson**  
Mayor Pro Tem  
City of San Clemente



**Miguel A. Pulido**  
Mayor  
City of Santa Ana



**Allan Bernstein**  
Mayor  
City of Tustin



**Tri Ta**  
Mayor  
City of Westminster



**Beth Haney**  
Mayor  
City of Yorba Linda

Enclosure:  
Orange County Mayors Letter dated September 18, 2020

cc: Kome Ajise, SCAG Executive Director  
Orange County Mayors  
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors  
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors  
Orange County Representatives on SCAG Policy Committees and Regional Council  
Orange County City Managers Association  
Marnie O'Brien, OCCOG Executive Director  
Nate Farnsworth, OCCOG TAC Chair

# EXHIBIT L

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Ave  
Sacramento, CA 95833-1829  
916) 263-2911 FAX: (916) 263-7453  
www.hcd.ca.gov



December 10, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

Dear Executive Director Ajise:

**RE: Comment on Appeals of the Draft Regional Housing Need Allocation (RHNA) Plan**

Thank you for the opportunity to comment on the 52 appeals Southern California Association of Governments (SCAG) has received regarding the draft RHNA plan. The appeal process is an important phase in the development of a RHNA plan that ensures that all relevant factors and circumstances are considered.

The only circumstances under which a jurisdiction can appeal are:

- 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.
- 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.
- 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04.

The California Department of Housing and Community Development (HCD) urges SCAG to only consider appeals that meet these criteria.

Per Government Code section 65584.05(e)(1), SCAG's final determination on whether to accept, reject, or modify any appeal must be accompanied by written findings, including how the final determination is based upon the adopted RHNA allocation methodology, and how any revisions are necessary to further the statutory objectives of RHNA described in Government Code section 65584(d).

Among the appeals based on Government Code section 65584.05(b)(1), several appeals state that SCAG failed to consider the factor described in Government Code section 65584.04(e)(2)(B), citing the lack of land suitable for development as a basis for the appeal. However, this section states the council of governments 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. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.

With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584.

Among the appeals based on Government Code section 65584.05(b)(2), several contend that the cap on units allocated to extremely disadvantaged communities (DACs) does not further RHNA's statutory objectives. This cap furthers the statutory objective to affirmatively further fair housing by allocating more units to high opportunity areas and fewer units to low resource communities, and concentrated areas of poverty with high levels of segregation. Due to the inclusion of this factor, as well as the use of TCAC/HCD Opportunity Maps, SCAG's methodology allocates 14 of the top 15 highest shares of lower-income RHNA to jurisdictions with over 99.95 percent High and Highest Resource areas. With the exceptions of two jurisdictions, the 31 jurisdictions with the highest share of lower-income RHNA are all over 95 percent High and Highest Resource areas. Any weakening of these inputs to the methodology could risk not fulfilling the statutory objective to affirmatively further fair housing.

Several appeals argue that SCAG's RHNA allocation methodology does not adequately promote access to jobs and transit, as required in objectives two and three. HCD's review of SCAG's RHNA methodology found the allocation does further the environmental principles of objective two. SCAG's overall allocation includes significant weight related to the location of high-quality transit areas and the regional distribution of jobs that can be accessed within a 30-minute driving commutes. Regarding objective three, HCD's analysis as to whether jobs-housing fit was furthered by SCAG's draft methodology found that across all jurisdictions there is generally good alignment between low-wage jobs and lower-income RHNA, with all but 15 jurisdictions within a half percent plus or minus difference between their share of lower-income RHNA for the region and their percentage low-wage jobs for the region.

Several appeals are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.

Lastly, several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large. SCAG submitted an objection to the RHND at the appropriate time and through the appropriate process. HCD considered those objections and [determined the final RHND for 6<sup>th</sup> Housing Element Cycle for the SCAG region on October 15, 2019](#). There are no further appeal procedures available to alter the SCAG region's RHND for this cycle. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation.

HCD acknowledges that many local governments will need to plan for more housing than in the prior cycle to accommodate a RHND that more fully captures the housing need and as the statutory objectives of RHNA shift more housing planning near jobs, transit, and resources. The Southern California region's housing crisis requires each jurisdiction to plan for the housing needs of their community and the region. In recognition of this effort there are more resources available than ever before to support jurisdictions as they prepare to update their 6<sup>th</sup> cycle housing elements:

- SB 2 Planning Grants – \$123 million one-time allocation to cities and counties
- SB 2 Planning Grants Technical Assistance offered to all jurisdictions
- Regional and Local Early Action Planning Grants – \$238 million one-time allocation for local and regional governments
- SB 2 Permanent Local Housing Allocation – approximately \$175 million annually in ongoing funding for local governments to increase affordable housing stock

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Deputy Director, [megan.kirkeby@hcd.ca.gov](mailto:megan.kirkeby@hcd.ca.gov).



Megan Kirkeby  
Deputy Director