



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.



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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