



CITY OF CERRITOSSM

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VIA E-MAIL (housing@scag.ca.gov, block@scag.gov)

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SUBJECT: Request To Deny the SCAG/HCD RHNA Methodology and Consider and Approve the Cerritos-proposed RHNA Methodology

Dear Honorable Jahn, Ajise, and Huang:

The City of Cerritos urges the Regional Council of the Southern California Association of Governments (SCAG) to consider and approve the RHNA methodology proposed by the City of Cerritos and other member cities to reintroduce projected household growth between 2030-2045 as an equal factor (33.3%), along with job accessibility (33.3%) and population within HQTAs (33.3%), in determining the existing housing needs component of the methodology. For the reasons stated below, the Cerritos-proposed Methodology advances all of the statutory objectives of the RHNA better than, and should be adopted in lieu of, the SCAG/HCD Methodology. Because the SCAG/HCD Methodology does not fully comply with state law, and the process by which it was considered for approval by SCAG violates state and due process laws, that methodology should be rendered invalid. Lastly, contrary to the claims that the State does not allow for any further delays regarding the RHNA methodology approval process, approval of the Cerritos-proposed Methodology would still allow SCAG to meet its RHNA allocation deadline of October 2020.

The Cerritos-proposed Methodology Furthers All Five RHNA Objectives More Than the SCAG/HCD-Approved Methodology

The Cerritos-proposed Methodology is identical to the SCAG/HCD Methodology in every respect regarding the factors making up the projected needs and income category components. However, with respect to the existing housing needs component, the Cerritos-proposed Methodology includes, as three equal factors, projected household growth

between 2030-2045, alongside jobs accessibility and populations within HQTAs. The SCAG/HCD Methodology, however, eliminates the household growth factor and uses only jobs and HQTAs accessibility.

Contrary to the assertion that the Cerritos-proposed Methodology constitutes a "backslide" when compared to the SCAG/HCD Methodology, the Cerritos-proposed Methodology furthers all five RHNA objectives under Government Code Section 65584(d), and does so more than the SCAG/HCD-approved Methodology.

Objective 1: Increase the housing supply and mix of housing types, tenure, and affordability 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 Cerritos-proposed Methodology serves to increase the housing supply and the mix of housing types, tenure and affordability in all cities and counties within the SCAG region in an equitable manner and ensures that each jurisdiction receives its fair share of low and very-low income housing units. In order to equitably distribute the region's existing housing need, one third (33.3%) of the need will be assigned based on each jurisdiction's share of projected household growth between 2030–2045. This one-third distribution factor effectively reduces the reliance on projected growth tied to existing zoning capacity, when compared to the original SCAG-recommended Methodology and prior RHNA Cycles. Additionally, the Cerritos-proposed Methodology assigns existing housing need based on a share of household growth to ensure that no single jurisdiction is over-burdened with the region's existing housing needs. This approach accommodates the fact that existing need indicators, such as overcrowding and cost burdened households, are not confined to jurisdictional boundaries. This distribution promotes an equitable approach to housing need and emphasizes that the housing crisis is a regional problem. Also, under the Cerritos-proposed Methodology, the use of "objective factors" (job and HQTa accessibility) represents two-thirds (66.7%) of the existing need and ensures that any allocation will be done on a quantitative, data-driven basis. The SCAG/HCD Methodology claims to allocate increased shares of lower income to jurisdictions having higher housing costs, thus promoting a greater mix of housing types and affordability, but fails to consider any actual real-world developmental constraints that prevent or hinder housing development as part of the equation. Such failure renders the SCAG/HCD Methodology fatally flawed.

Furthermore, consistency between RHNA methodology and the SCAG's 2020 Connect SoCal Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) is a requirement under SB 375 (Gov. Code § 65080(b)(2)(B)) and State housing law (Gov. Code § 65584.04(m)). SB 375 requires the development of a RTP/SCS that, among others, identifies (i) the general location of residential densities, (ii) areas within the region sufficient to house the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth, (iii) areas within the region sufficient to house RHNA allocation, and (iv) a transportation network to service the transportation needs of the region. The inclusion of the household growth factor in existing needs ensures that the RHNA Methodology, and ultimately, RHNA allocation, is consistent with the 2020 Connect SoCal RTP/SCS Growth Forecast and its development patterns. Excluding the household growth factor from the existing needs component of the RHNA Methodology while using it as part of the 2020 Connect SoCal RTP/SCS will render the ultimate RHNA allocations inconsistent with the 2020 Connect SoCal RTP/SCS and create confusion for jurisdictions that need to rely on

both as a roadmap for future development of infrastructure, land use, transit, and housing projects.

Moreover, the use of projected household growth between 2030-2045 and other local planning factors in determining RHNA Methodology and allocation is a requirement under Government Code Section 65584.04(e), and failure to do so violates state law. Practically speaking, failure to include household growth from the existing needs component ignores relevant jurisdictional concerns and real physical and developmental constraints that cannot be codified or actualized in the job accessibility or HQTAs accessibility factors. This will result in RHNA allocations that are unrealistic and wholly unattainable for many jurisdictions. In particular, projected household growth is an important factor for jurisdictions within the region that are fully urbanized with dense populations and close to maximally intensified land uses. As a result, such jurisdictions will have lower projected household growth. At the same time, job and HQTAs accessibility will be higher in those jurisdictions. To ignore the lower projected household growth as part of the existing needs component is to assume these jurisdictions have infinite room to grow and no physical, developmental, or legal constraints on land use or housing development.

The Cerritos-proposed Methodology of including household growth, job accessibility, and HQTAs accessibility on an equal basis provides the most equitable outcome for RHNA allocation in a region that is one of the most diverse in the United States. This methodology assumes all three factors as equally important, provides for local input from jurisdictions that best understand their unique development constraints, while still emphasizing the importance of objective, quantitative factors that promote RHNA allocations within the region's most transit-and job-rich locations.

Objective 2: Promote 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.

With the inclusion of job accessibility and HQTAs accessibility as factors in determining existing need, the Cerritos-proposed Methodology emphasizes urbanized areas where land is built out but may not necessarily be with the highest and best use and provides more opportunities for infill development. The linkages also promote 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. The Cerritos-proposed Methodology's inclusion of job and HQTAs accessibility in equal factors with projected household growth will also ensure consistency with the development pattern of the 2020 Connect SoCal RTP/SCS and allow more meaningful and efficient transit-oriented developments.

Objective 3: Promote 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.

The Cerritos-proposed Methodology's inclusion of job and HQTAs accessibility in equal factors at almost 67% of existing needs will directly provide for an improved relationship between jobs and housing, particularly low wage jobs and affordable housing. It also encourages more efficient development of housing closer to areas of higher employment and reduce commute times within the region.

Furthermore, the inclusion of redistribution of "residual housing needs" across all jurisdictions based on the equal factors of HQTAs and job accessibility further encourages the tandem development of housing, particular affordable housing, near transit areas and near high employment areas.

Objective 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.

The Cerritos-proposed Methodology also takes into consideration disadvantaged communities and does not allocate additional residual housing needs in these communities, as well as having a social equity adjustment, which will redistribute income categories across the entire region. Also, the social equity adjustments require areas that have a high concentration of higher income households to also accommodate lower income households, promoting integration and access to jobs and other opportunities.

Objective 5: Affirmatively further fair housing.

The social equity adjustment and the inclusion of the California Tax Credit Allocation Committee's opportunity indices further this objective by increasing access to housing and reducing patterns of segregation and gentrification and encourages a mix of income categories, household types, and various socioeconomic households within a community and jurisdiction.

Projected Household Growth Between 2030-2045 Is Based on Accurate Data, and Failing to Include It as a Factor In the Existing Needs Component of the SCAG/HCD Methodology Violates State Law.

The local input process in developing the household growth factor is a requirement of statutory law in developing RHNA Methodology under Government Code Sections 65584.04(d) and (e). In fact, SCAG "*shall* include the following factors to develop the methodology that allocates regional housing needs":

- opportunities and constraints to development of additional housing, such as availability of land suitable for urban development or conversion to residential use and the potential for increased residential development under alternative zoning ordinances and land use restrictions;
 - lands preserved from urban development through federal or state programs, contractual obligations, local voter initiatives, etc.;
 - distribution of household growth assumed for purposes of a comparable period of RTPs;
 - percentages of existing households at each income category;
 - rate of overcrowding; and
 - other factors.
- (Gov. Code § 65584(e).)

Accordingly, the issue is not whether to include the projected household growth between 2030-2045, but rather to what extent household growth between 2030-2045 is included as part of the RHNA Methodology. Therefore, SCAG's wholesale exclusion of projected household growth between 2030-2045 effectively removes local input and public participation from the methodology process and is in violation of statutory law.

Moreover, Government Code Section 65584.04(m) states that the RHNA methodology shall be consistent with a RTP/SCS. If the local input process and the projected household growth factor are not included in whichever RHNA methodology is adopted, then such factor should also not be used in the 2020 Connect SoCal RTP/SCS because they would not be consistent as parallel roadmaps and development tools for the region. In this case, by removing household growth between 2030-2045, the SCAG/HCD Methodology is not consistent with the 2020 Connect SoCal RTP/SCS, which does include such projected household growth, and therefore a violation of state law.

As previously stated, the Cerritos-proposed Methodology's inclusion of the projected household growth between 2030-2045 as a factor in determining existing need and RHNA allocation is consistent with the 2020 Connect SoCal RTP/SCS, since the latter included the same information for use in the development pattern for the region. Information collected from cities during the local input process was used as the basis for forecasting household growth in the 2020 Connect SoCal RTP/SCS.

The City of Los Angeles and several other jurisdictions incorrectly assume that the introduction of projected household growth between 2030-2045 allows for local jurisdictions to manipulate their own data and emphasize prior underproduction of housing or stable populations to justify small allocations in violation of state law. However, such assumptions are wholly unfounded.

The household growth factor was developed as part of the 2020 Connect SoCal RTP/SCS. Such process required vetting, verification, and approval by SCAG in order to prevent local jurisdictions from establishing caps based on local zoning for the purpose of limiting the capacity for housing. Essentially, the information provided by cities that actively participated in the public input process is accurate and does not cap residential development based on existing zoning, but rather identifies opportunities to convert existing developed commercial, industrial and office properties for reuse as multi-family residential. Furthermore, as the SCAG Executive Director has also stated, "local input is more than an aggregation of thoughts and needs from across the region, but is rather a complex foundational database developed by SCAG...local input cannot simply be disregarded as a factor in the proposed methodology because of its importance and presence in a variety of other regional planning elements developed by SCAG."¹ ***As a result, local input accurately reflects opportunities and constraints at the jurisdictional level, including preserving open space and agricultural resources and strategies to help reduce regional greenhouse gas emissions.***

Cities like Los Angeles and others within the Inland Empire that did not actively participate in the public input process are attempting to eliminate household growth in determining existing need as a component of the RHNA Methodology for the purpose of reassigning units to job-rich communities without any regard or consideration for opportunities and/or constraints to the development of additional housing as required by State housing law.

The Process By Which The SCAG/HCD Methodology Was Approved Violates State Law.

Government Code Section 54953(c)(2) prohibits any secret action, whether preliminary or final, outside an open meeting. Yet, at the November 7, 2019 SCAG Regional Council meeting, the SCAG/HCD Methodology was being recommended for consideration and

¹ SCAG, RHNA Subcommittee October 7, 2019 Meeting Minutes, p. 4.

approval, despite that methodology not being formally presented at any prior committee or subcommittee meeting, and despite staff's presentation of the original SCAG-recommended Methodology for approval at the November 7, 2019 meeting and all prior committee and subcommittee meetings.

At the October 7, 2019 RHNA Subcommittee meeting, staff presented in detail the original SCAG-recommended Methodology for approval. A motion was made to recommend approval of the SCAG-recommended Methodology. However, at the last minute, an ex-officio member introduced the SCAG/HCD Methodology for consideration, which had not previously been considered or presented. A substitute motion was made to recommend approval of the SCAG/HCD Methodology, without any further research, data, or analysis, and the motion was narrowly defeated by a 4-3 vote.

Next, at the October 21, 2019 Community, Economic, and Human Development (CEHD) Committee meeting, the original SCAG-recommended Methodology was again presented in great detail for approval. Again, there was no mention of the SCAG/HCD Methodology, let alone any written research, data, or analysis of the same. The CEHD Committee then voted to recommend approval of the original SCAG-recommended Methodology.

Then, only several days before the November 7, 2019 Regional Council meeting, staff received direction to present the SCAG/HCD Methodology as an alternative to the original SCAG-recommended Methodology, while still recommending approval of the latter. At the same time, the City of Los Angeles circulated a draft City of Los Angeles Resolution supporting the SCAG/HCD Methodology to SCAG Colleagues. Both methodologies were presented at the November 7, 2019 meeting. The Regional Council then voted 43-19 to approve the SCAG/HCD RHNA Methodology, despite being given less than one week to consider that methodology.

Clearly, no committee, subcommittee, or regional council officially gave any order or direction to SCAG staff at an open meeting to present the SCAG/HCD Methodology, and there was certainly no recommendation for approval by any committee or subcommittee for the SCAG/HCD Methodology. This demonstrates the process to include and recommend approval of the SCAG/HCD Methodology was the action of several SCAG members of the decision-making body providing direction to staff behind closed doors. Furthermore, the results of the vote indicate that individual contacts between decision-makers were made prior to the November 7, 2019 meeting such as to constitute a "meeting" in violation of the requirements of Section 54953(a).

In addition, the fact that SCAG members had less than one week to review and consider the ramifications of the SCAG/HCD Methodology prior to the November 7, 2019 meeting is a violation of due process and a deprivation of a fair hearing. The process by which the original SCAG-recommended Methodology was presented included nine months of disseminating information and receipt of public comments, 18 public meetings, and four public hearings. Yet, the abrupt presentation and recommendation of the SCAG/HCD Methodology, which drastically changed the RHNA allocations among jurisdictions by removing the projected household growth factor, allowed affected jurisdictions less than five days to make any assessments or comments. Government Code Section 65584.04(d) requires public participation in the development of the methodology that is sent to HCD for review, and in the process of drafting and adoption of the allocation of the RHNA. Section 65584.04(d) also requires any draft methodology to be distributed to all jurisdictions in the region prior to being considered and forwarded to HCD for their 60-day review. These actions were not taken; accordingly, member jurisdictions, particularly the coastal cities

were not given a fair hearing or due process to adequately consider the draft SCAG/HCD Methodology before it was approved by HCD. In essence, SCAG prevented its members from being able to fully vet the SCAG/HCD Methodology.

Review And Consideration of the Cerritos-proposed Methodology Will Still Allow For A Timely Approval Process To Meet the October 2020 Deadline.

SCAG staff maintains that consideration and approval of the Cerritos-proposed Methodology is not permitted under statutory law and would jeopardize the statutory deadlines to adopt a RTP/SCS and finalize the RHNA allocations by October 2020. Specifically, it is alleged that a second review by HCD of draft methodology is not provided under the law and would likely trigger another 60-day review period by HCD. However, under Government Code Section 65584.04, the Legislature contemplated that HCD would not be able to complete a review within 60 days of an initial submission and that additional revisions would be made to the draft methodology subsequent to HCD's initial review, such that the council of governments could adopt a final allocation methodology different from the initial submission in order to further the RHNA objectives. (Gov. Code § 65584.04(i) & (j).) Thus, it is possible for the Cerritos-proposed Methodology to be approved at the March 5, 2020 Regional Council meeting or a subsequent special meeting, and subsequently sent to HCD for review after final adoption for a 90-day period. (Gov. Code § 65584.04(l).) HCD would be able to report its findings to SCAG within such 90 day period.

Even if adoption of the draft Cerritos-proposed Methodology occurs on March 5, 2020, SCAG will still have time to follow the timelines imposed by the RHNA allocation appeals procedure under Government Code Section 65584.05 and meet the October 2020 deadline. For example, if adopted on March 5, 2020, the Cerritos-proposed Methodology could be transmitted to HCD for review and approval on March 9, 2020. HCD's 90-day period would commence on March 9, 2020 and run through June 6, 2020. The RHNA Subcommittee, CEHD Committee, and Regional Council would then be able to adopt the HCD-approved City of Cerritos Methodology during the week of June 8 – 12, 2020. After adoption, the Draft RHNA Allocation could be distributed and released on June 15, 2020, with a 45-day appeal period ending on July 29, 2020. A 45-day public comment period on the appeals will end on September 12, 2020, with public hearings on the appeals being held within 30 days, or by October 12, 2020. The RHNA Subcommittee, CEHD Committee, and Regional Council would then be able to review the allocation plan, with a final adoption by the Regional Council in October 2020.

Additionally, a RHNA methodology does not have to be finalized and approved prior to the anticipated adoption of the 2020 Connect SoCal RTP/SCS on April 2, 2020. In fact, HCD has previously stated that "if the actual RTP adoption date significantly differs from the estimated date, the RHNA determination and project period will not change, however the housing element due date, and implicitly the planning period, would change."² Statutory law merely requires that the final RHNA allocation plan proposed to be adopted in October 2020 be consistent with the RTP/SCS. (Gov. Code § 65584.04(m).) Thus, SCAG is not statutorily mandated to approve a final RHNA methodology prior to the adoption of the RTP/SCS.

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² Letter from G. Campora, Asst. Deputy Director of HCD, to H. Ikhata, Executive Director of SCAG, dated August 17, 2011, p. 2

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For the foregoing reasons, the City of Cerritos urges that SCAG consider the adoption of the Cerritos-proposed Methodology in lieu of the SCAG/HCD Methodology. The City thanks SCAG in advance for taking into consideration the recommendations considered in this letter to move the RHNA process forward in a legally just and equitable manner for all of the member jurisdictions. Please contact Senior Assistant City Manager Torrey Contreras at (562) 860-0311 or tcontreras@cerritos.us if you would like to discuss any aspect of this letter.

Sincerely,



Art Gallucci
CITY MANAGER

cc: Cerritos City Council (via email)
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