



**SOUTHERN CALIFORNIA  
LEADERSHIP COUNCIL**



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COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
SoCAL CHAPTER

**CIAQC**



September 13, 2019

Southern California Association of Governments  
Via electronic mail to: [housing@scag.ca.gov](mailto:housing@scag.ca.gov)

**Re: Comments Concerning SCAG's Proposed Alternative Methodologies for Distributing to Local Jurisdictions their Respective Shares of the Pending Sixth Cycle Regional Housing Needs Assessment (RHNA).**

Ladies and Gentlemen:

On behalf of the Southern California Leadership Council (SCLC), the Building Industry Association of Southern California (BIASC) and the other business/industry associations subscribing to this letter, we appreciate this opportunity to comment on the three alternative methodologies which were publicized by the Southern California Association of Governments ("SCAG") in connection with the state's Regional Housing Needs Assessment ("RHNA") land use planning law. SCAG's three alternative methodologies indicate how SCAG may decide to "disaggregate" – or distribute among its local jurisdictions – the SCAG region's RHNA number for the upcoming sixth cycle. Once finalized, the sixth cycle SCAG region RHNA number will combine with SCAG's chosen disaggregation methodology to strongly influence regional and local land use planning for new housing development throughout the SCAG region for the time period October 2021 to October 2029.

As active Southern California stakeholders, our organizations have been involved with SCAG's activities for many years, especially since the passage of Senate Bill 375 (2008). For example, we were actively involved in SCAG's formulation and adoption of its inaugural, 2012 Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS") and its 2016 RTP/SCS. We continue to be involved in the planning for the 2020 RTP/SCS, known as "Connect SoCal". In addition, we have been closely following the recent developments – both those which are legislative and directives from the California Department of Housing and Community Development ("HCD") – concerning the state's pending sixth cycle RHNA process.

Having done so, we are keenly aware of the growing sense of urgency and concern that many stakeholders have about the substantial procedural, planning and political burdens which are imposed by the state's RHNA process. We are also well aware of the fact that, historically, the RHNA process has not resulted in sufficient housing production – either here in our region or generally throughout the state. Instead, California as a whole and the SCAG region remain plagued by a persistent and increasing undersupply of reasonably affordable market-rate housing. Homelessness is prevalent and growing; homeownership (as a percentage of households) has been declining; and market-rate affordable housing opportunities are lacking for far too many households within the SCAG region.

We believe that SCAG now has the opportunity, as it decides upon a methodology by which to distribute its sixth cycle RHNA, to make the RHNA process work much better as a mechanism by which to both spur housing production and increase the affordability of new housing. Our comments below are aimed at assisting SCAG in achieving such outcomes.

To set the context for our comments, our group appreciates the difficult challenges that SCAG's staff faces concerning regional land use and transportation. As we have worked with SCAG's staff over the last decade, we have espoused certain principles that we believe are essential to the effective and successful growth and development of the SCAG region. To restate them for this context, we support sound regional planning that does the following:

- Provides positive economic impacts and is a plan that is conducive to economic growth and job creation – Our organizations and our members are extremely aware of the economic implications of the spatial dispersion of homebuilding. When viewed at all scales (at the regional, the local, and the neighborhood levels), missteps and mistakes concerning how best to distribute land uses can profoundly impact economic vibrancy and stability.
- Respects local governments' prerogatives – Policymakers need to respect the essential role of local government in sound land use decision-making, because local governments (much more than relatively central governments) have the best understanding of local needs, pressures, and aspirations of their growing and evolving communities. Maintaining local control of land use is essential to maintaining so-called “small d” democracy.
- Appreciates the organic nature of land use and development – Policymakers must appreciate the organic and dynamic nature of land development over time. Given this reality, land use planning must reflect continuous balancing and rebalancing of possible growth alternatives such as urban redevelopment and densification, and new town or greenfield development.
- Does not impose unrealistic, inflexible land use prescriptions on diverse jurisdictions – Our respective members constitute the businesses and individuals who know how to actually build new homes and communities. Accordingly, we see the many varying opportunities and challenges that are inherent in providing necessary housing throughout the SCAG region. Because of the widespread work that our members regularly undertake, we see the

need for local governments to continue to entitle for new housing development or redevelopment on many diverse sites. Local governments must retain and exercise the necessary flexibility to take into account diverse local conditions of all types when making sound land use and entitlement decisions.

- Assures that new revenue sources are put in place to allow local governments to plan for achievable densification, while appreciating the beneficial primacy of market forces – Our group has noted in other contexts (such as pertaining to SCAG’s RTP/SCS development) that many of the desired changes in existing land uses are unlikely to occur unless there are put in place new and sufficient financial tools benefiting local government and public infrastructure. For example, in recent years, California dispensed with its erstwhile favorable urban redevelopment agency policies. Such helpful policies and tools must be restored and improved upon if local governments are required to spur positive community development and, especially, redevelopment.
- Anticipates and, where possible, overcomes legal and procedural roadblocks to housing construction – For years, our group has been calling for meaningful CEQA reform and other changes which would allow homebuilding to proceed more quickly when faced with NIMBYism and community resistance against change. In this environment, CEQA can be misused to halt progress toward housing goals. Sound regional planning, therefore, should meet all CEQA requirements and, more importantly, facilitate all related streamlining.

Whereas the principles set forth above are stated as positive characteristics, we have also shared our views about the negative effects of some of the unhelpful policy directives that have been applied in California and the SCAG region. To a large extent, we remain disappointed by the existence of far too many regulatory and legal impediments to homebuilding. Several persistent regulatory trends are actually working against meaningful increases in housing production, and especially production at the scale needed to alleviate our state’s housing crisis.

First, there is a strong, ever-growing regulatory preference for fostering transit-oriented, urban infill, and increasingly dense, multi-family development and redevelopment. While we support such efforts and the increased production of higher density housing within the urban core, this housing type should be deployed in reasonable volume and in appropriate locations. With that in mind, we do not support an over-reliance on increased urban densification to the exclusion of more affordable, common and available community types. The regulatory trend toward an over-emphasis on urban renewal and densification is particularly problematic from an affordability standpoint because the costs of building urban housing is often several times higher (on a square foot basis) than are the costs of other available and potential housing types – particularly less dense, suburban type development that is variously called relative “greenfield,” “new town”, “edge” or “fringe” development.

Because the costs of developing and constructing dense urban housing is much higher than other types of homebuilding, fewer households can afford to buy or even to rent such new urban housing in comparison to the other types of new housing, at least not without significant

government subsidies or housing assistance programs. As a consequence, the strong regulatory preference for more intense urbanization and the broad disfavoring of greenfield development are leading to sharp cost and price increases, which worsen the undersupply of housing, and decrease both home ownership and living standards. These trends should be especially alarming to those who are concerned about social equity and economic mobility – because home ownership has long provided a critical pathway for working class households to both secure housing and to accumulate family wealth and financial security.

The excessive regulatory preference for urban densification and redevelopment has been accompanied by complementary regulations aimed at curbing homebuilding activities of all types that do not constitute high-density, urban, “transit-oriented” or so-called “centripital” (i.e., moving toward the center) development. The best example of this is the recently-imposed requirement to apply the California Environmental Quality Act (“CEQA”) to effectively tax and disincentivize vehicle miles traveled (“VMT”) – which is a costly attack on individual mobility alone, with profound implications for millions of prospective households. At a minimum, these new CEQA requirements related to VMT add further disincentives, costs, and hurdles to greenfield and new town development.

Concerning these new VMT mandates, everyone can agree on the need for efficiency, smart, safe and well-functioning regional transportation solutions. Rather than focusing excessively on reducing VMT and individual vehicular mobility, however, new housing opportunities should be promoted, considered and pursued with proper attention to all of the following:

- (i) the relative costs of construction and infrastructure,
- (ii) the public demand for different housing types and at different prices (to accommodate social equity for working households),
- (iii) the relative costs of providing different housing types in different areas (e.g., urban versus greenfield or edge), and
- (iv) the complicated relationships among housing and job locations (e.g., achieving a jobs-housing balance sometimes requires putting more housing where jobs are, even when jobs are located outside of the urban core).

Similarly, rather than uncritically pursuing exclusively high-density, urban, transit-oriented and centripital development, SCAG’s decisions concerning the dispersion of new housing opportunities must take into account the real-life, existing, affordable, and dominant housing choices that are made by today’s regional workforce. Failure to do so will have negative implications for social equity especially for vulnerable communities.

Lastly, we have seen continuing increases in the costs of entitlement and construction. New and increasing fees and exactions continue to place a disproportionately large fiscal burden

on homebuilding activities. Growing mandates for project developers and homebuilders to provide rental or ownership subsidies for the less advantaged, and/or homeless housing funding, will not achieve promised levels of housing production unless such mandates are accompanied by a suite of policies that will expedite entitlement approvals, reduce construction costs, and reduce other fees and exactions. Achieving the level of homebuilding activity necessary to address the current housing crisis will require the circumspect review of and substantial relief from the fiscal and regulatory cost burdens that impede the production of new housing.

Against this regulatory background and turning now specifically to the SCAG region's sixth cycle RHNA process, SCAG has proposed three different options for the public's consideration concerning the disaggregation or distribution to local jurisdictions of the sixth cycle RHNA. All three options were shaped and defined before SCAG learned that HCD is proposing that SCAG's RHNA number will be 1,344,700 new housing units, which is a very large number – nearly three times SCAG's number from the last RHNA cycle.

We wish to underscore that our group comments herein are not targeting the large size of HCD's proposed RHNA for the SCAG region, even though it is substantially larger than most constituents had foreseen. HCD's proposed number of 1,344,700 new units is, in fact, small in comparison to the Governor's call for even more ambitious statewide homebuilding activity over the next six or seven years (whereby the Governor hopes to see the level of homebuilding rise quickly to more than five times the level of production experienced in recent years). As we noted above, we see clearly and have long felt the effects of the constraints on homebuilding activities. We have seen that demand for housing remains very far ahead of available supply. We therefore believe that a true assessment of SCAG's regional housing needs might indeed be a very large number – one that would be very difficult for the region to digest and accommodate consistent with current legislative mandates.

We also understand that SCAG's staff will be working with HCD in an effort to persuade the latter to impose ultimately a lower RHNA number (perhaps reduced by as much as one-third from the tentative determination). Although we believe that SCAG possesses some viable legal arguments which should point to a somewhat lower final number from HCD, we nonetheless anticipate that the final sixth cycle RHNA number for SCAG will approach or possibly even exceed one million housing units. Importantly, however, our comments below concerning SCAG's three proposed disaggregation methodologies apply with similar force regardless of what final number HCD decides to promulgate for the SCAG region.

Having stated that our complaint is not about the proposed size of the SCAG region's RHNA, our concern is instead about exactly how the finally determined amount of new housing can best be distributed amongst the nearly 200 local jurisdictions within the SCAG region. SCAG's proposed RHNA distribution methodology should be revisited to determine whether there is now – especially in light of the size of HCD's proposed RHNA – a need to allocate a significantly greater share of the ultimately finalized SCAG region RHNA to the local jurisdictions that have a relatively meaningful supply of vacant land available. As we explain below, the foreseeable size of the SCAG region's RHNA obligation strongly suggests the need to

disaggregate the sixth cycle RHNA number more toward jurisdictions where vacant land exists. While SCAG's three proposed methodologies prioritize allocation based on important factors such as transit orientation and existing population, not enough emphasis is placed on land availability. The size of the RHNA burden points toward substantially greater allocation to our region's as-yet vacant, unincorporated county land areas, and to incorporated communities that have available and reasonably developable vacant land.

The need to disaggregate more of the region's RHNA toward vacant land is particularly acute given that the RHNA process has been changing in recent years to effectively make available more building sites for lower income housing. If HCD's tentative allocation of the sixth cycle SCAG RHNA were to be finalized as HCD has tentatively determined, SCAG will then need to disaggregate 1,344,700 new housing units, of which HCD has tentatively designated 557,336 to be "lower income housing" (as defined in California Government Code section 65863(g), which includes and aggregates three strata: low income housing, very low income housing, and extremely low income housing).

If one were then to assume that these 557,336 lower income housing units could be distributed throughout the SCAG region at the metropolitan, urban "default density" of 30 units per acre (indicated by Government Code section 65583.2(c)), the region's local jurisdictions would then need to identify and make available a total of about 29.03 square miles of land merely to accommodate the RHNA's lower income housing allocation alone. This much land is roughly equivalent to a city the size of Glendale or Santa Ana. It is unlikely that our region's existing and relatively mature communities can internally identify and make available for redevelopment very much of the required 29.03 square miles of land for lower income housing at 30 units per acre. Moreover, it is virtually certain that the more mature and built-out jurisdictions cannot internally identify and make available very much urban land without using extreme police power measures – such as by using the power of eminent domain (condemning existing uses).

Further, because the state's RHNA law needs to be considered in the broader context of the many other laws related to land planning, zoning, and development rights, the practical reality is that – under the scenario described above – far more than 29.03 square miles of land would need to be identified and made available at the densities that would qualify as lower income housing for purposes of satisfying RHNA. It could in theory be five or six times such an amount of land. This is due to the combination of (i) the effect of the relatively new Senate Bill 166 (2017), which requires local governments to assure that – over time – there will remain a constant supply of available lower income housing sites identified, and (ii) the fact that the building sites which are zoned or planned at the aforementioned default densities (which are then deemed to be available for lower income housing) for the most part will be developed with only a fraction of the units actually being lower income housing.

For example, the local jurisdictions that have inclusionary housing ordinances typically require that no more than 20% of the units be built and deed-restricted as lower income housing; and any local jurisdiction's insistence that all units on a specific project must be lower income

housing would be legally and constitutionally problematic (e.g., a taking). As a consequence, the proposed RHNA number (which HCD has tentatively set forth) of 557,336 lower income housing units could foreseeably result in the eventual designation – over time – of perhaps 150 or 180 square miles of land identified and made available at the so-called default densities that are recognized as available for lower income housing under RHNA law. To put this into perspective, the city of Denver’s land area is approximately 150 square miles.

Realistically, many of the incorporated cities within the SCAG region cannot possibly, within their respective boundaries, identify and make available their allocated share of the perhaps 150 to 180 square miles of vacant or readily-redevelopable land for such high-density housing. In order for the SCAG region’s jurisdictions, taken as a whole, to identify such a large quantity of vacant and developable (or readily-redevelopable) land, they collectively must instead look more to areas where land is relatively vacant, developable and affordable, and where new and additional infrastructure can be added at relatively affordable cost.

Simply put, SCAG needs to be thinking about a more responsible and achievable balance between (i) urban infill and redevelopment – on the one hand, and (ii) development of vacant land in areas that are reasonably close to, but outside of, existing communities (so called greenfield, new town, edge or fringe development) – on the other hand. The latter (the greenfield development opportunities) can constitute the most promising opportunities to provide very substantial numbers of market-rate affordable housing units. While many may suppose that greenfield and new town developments must have both relatively negative environmental consequences and negative consequences in terms of jobs-housing balances, such suppositions are provably incorrect. Recently approved, well-planned greenfield projects have been able to achieve environmental benefits such as net-zero overall energy consumption, net-zero overall greenhouse gases (GHG) emissions, and – in one recent case – an excellent 3:1 jobs to housing units ratio away from the urban center. Such new town and greenfield achievements can be accomplished while also allowing creative community design and an impressive range of housing affordability. Because such projects start with a blank canvas and are usually of larger scale, they are able to more easily incorporate green building and smart growth practices. Indeed, the modern greenfield and new town projects can compare favorably in many ways to the infill and urban redevelopment options that are now being over-prescribed.

Concerning the specifics of and differences among the three alternative methodologies which SCAG has proposed for public comment: In our view, all three have the same fundamental infirmity. Each of the proposed three methodologies would distribute the RHNA predominantly to those jurisdictions that have the least available vacant or readily available land for homebuilding. Two of the alternatives would allocate a substantial percentage of the RHNA right off the top to already quite populous transit areas. Indeed, all three options seemingly would result in the excessive jamming of much more population and density where the most population and density already exist. Therefore, each of the three proposed methodologies is squarely at odds with the more balanced approach that we believe is needed, whereby a more substantial portion of the RHNA disaggregation should be aimed toward jurisdictions with reasonably developable vacant land.

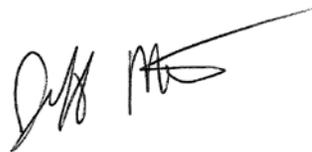
We appreciate both the need for increased high-density urban development and the ongoing need for improved transit infrastructure planning and development. Even so, the urgency of our housing crisis should compel us to look circumspectly at all of our present, practicable homebuilding opportunities. When doing so, no viable options should be ruled out; and all interested constituents should consider the potential to meet a fair portion of our region's homebuilding needs by utilizing – as wisely as we can – a reasonable amount of the presently vacant land. In short, well-planned greenfield and new town developments simply must be part of the region's solution alongside higher density infill and more transit-oriented projects. Further, we are confident that if SCAG were to use its full array of housing options (ranging from high-density infill to well-planned greenfield), then SCAG will be able to rework its disaggregation methodology such that it can wisely and effectively allocate its sixth cycle RHNA number in a way that can actually achieve HCD's desired housing production goals, delivered in a way that best provides the prescribed strata of affordability.

SCAG's many planning challenges are daunting. We recognize that SCAG's planning decisions concerning RHNA and where many new housing units might realistically be sited must cohere with SCAG's RTP/SCS. SCAG's staff is always commendable for its ability to meet new challenges. Our group remains willing and able to join in the analyses and discussions that are needed to improve our region. We appreciate how important it is to get this plan right, so that the housing goals envisioned in the sixth cycle RHNA can substantially come to fruition. Given our longstanding involvement with SCAG and the depth of our concerns, we look forward to participating in the discussions that remain; and we respectfully ask for your meaningful consideration of these comments.

Sincerely,



Richard Lambros  
Managing Director  
Southern California Leadership Council



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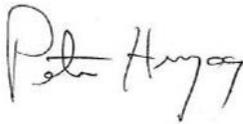




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