



Orange County Council of Governments

Orange County Council of Governments (OCCOG)
3972 Barranca Parkway, Ste. J127
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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*]



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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