

Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form
All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.
Appeals and supporting documentation should be submitted to housing@scaq.ca.gov.
Late submissions will not be accepted.

Date: _____ Jurisdiction Subject to This Appeal Filing:
(to file another appeal, please use another form)

Filing Party (Jurisdiction or HCD)

Filing Party Contact Name _____ Filing Party Email: _____

APPEAL AUTHORIZED BY:

Name: _____

PLEASE SELECT BELOW:

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: _____

BASES FOR APPEAL

- Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
 - Existing or projected jobs-housing balance
 - Sewer or water infrastructure constraints for additional development
 - Availability of land suitable for urban development or for conversion to residential use
 - Lands protected from urban development under existing federal or state programs
 - County policies to preserve prime agricultural land
 - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
 - County-city agreements to direct growth toward incorporated areas of County
 - Loss of units contained in assisted housing developments
 - High housing cost burdens
 - The rate of overcrowding
 - Housing needs of farmworkers
 - Housing needs generated by the presence of a university campus within a jurisdiction
 - Loss of units during a state of emergency
 - The region's greenhouse gas emissions targets
 - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

FOR STAFF USE ONLY:

Date _____ Hearing Date: _____ Planner: _____

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Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):

Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.

Brief Description of Appeal Request and Desired Outcome:

Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):

Reduced _____ Added _____

List of Supporting Documentation, by Title and Number of Pages
(Numbers may be continued to accommodate additional supporting documentation):

- 1.

- 2.

- 3.

FOR STAFF USE ONLY:

Date _____

Hearing Date: _____

Planner: _____

City of Cerritos – Sixth Cycle RHNA Appeal Request Form**Date:** October 19, 2020**Filing Party:** City of Cerritos**Filing Party Contact Name:** Assistant City Attorney Pam K. Lee**Filing Party Contact Email:** plee@awattorneys.com**Appeal Authorized By:** Art Gallucci, City Manager**SECTION 1: BASES FOR APPEAL**

- Application of the Adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing
 - Availability of land suitable for urban development or for conversion to residential use

SECTION 2: BRIEF STATEMENT ON WHY THIS REVISION IS NECESSARY TO FURTHER THE INTENT OF THE OBJECTIVES LISTED IN GOVERNMENT CODE SECTION 65584.**I. Introduction**

SCAG's Draft Regional Housing Needs Assessment (RHNA) Allocation Plan (Draft RHNA Plan) formulated a RHNA methodology to determine each jurisdiction's RHNA allocation. The RHNA methodology consists of two main categories: (1) projected need and (2) existing need. Projected need is based on three factors: (i) projected household growth from 2020-2030, (ii) future vacancy need, and (iii) replacement need. The region's projected need is calculated to be 504,970 units. Based on the RHNA allocation to SCAG by the California Department of Housing and Community Development (HCD) of 1,341,827 units, the remaining 836,857 units constitute existing need. Per SCAG's RHNA methodology, existing need is based on two factors: (i) transit accessibility, and (ii) job accessibility.

The City of Cerritos (City) appeals the City's proposed allocated share of the regional housing need included as part of SCAG's Draft RHNA Plan. The City's draft allocation is 1903 units, and the City is requesting a reduction to **1774 units**. This revision is necessary to further the intent of the objectives listed in Government Code Section 65584(d) for the following reasons:

- A. The allocation fails to apply the adopted final RHNA methodology for the 6th Cycle RHNA, particularly with respect to existing need due to job accessibility.
- B. The allocation fails to apply the adopted final RHNA methodology, as the allocation percentages for each income category is incorrect, when based on the social equity adjustment formula.
- C. SCAG failed to consider local planning factors, namely the availability of land suitable for urban development or for conversion to residential use.

Finally, the City believes that HCD's RHNA determination for SCAG is incorrectly calculated, being twice as much as it should be. Due to Senate Bill 828 (2018), HCD's incorrect vacancy rate and double counting of existing need has resulted in a SCAG RHNA allocation

of 1,341,827 units, when it should have been allocated 651,000 units, which is much nearer the region's actual projected need of 504,970 units.

II. Bases For Appeal

A. The allocation fails to apply the adopted final RHNA methodology, particularly with respect to existing need due to job accessibility.

With respect to the region's existing housing need, SCAG's RHNA methodology assigns 50% of the need to job accessibility. According to SCAG:

Job accessibility is based on the share of the region's jobs accessible by a thirty (30) minute commute by car in 2045. Importantly, the RHNA methodology's job access factor is **not** based on the number of jobs within a jurisdiction from SCAG's Connect SoCal Plan or any other data source. Rather, it is a measure based on how many jobs can be **accessed** from that jurisdiction within a 30-minute commute, which includes jobs in other jurisdictions.

(SCAG Final RHNA Methodology, p. 10.)

According to SCAG, job accessibility data are derived at the transportation analysis zone (TAZ) level from travel demand modelling output from SCAG's final Connect SoCal Plan. A jurisdiction's median TAZ was found to be the best available measure of job accessibility for that jurisdiction.

According to the RHNA methodology data, the City's median TAZ and percentage of regional jobs accessible within a 30-minute commute is 21.29%. This means that of all the available jobs within the SCAG region, 21.29% of those jobs are accessible to the average Cerritos resident within a 30-minute commute. (See attachments 1 and 2.)

The assignment of 21.29% of job accessibility to the City is erroneous for several reasons. First, SCAG estimated the City's 2016 employment data to be 38,953 jobs and a projected 2045 employment data of 39,183 jobs, which is approximately 4,350 jobs per square mile. This is reflected in the Connect SoCal Plan as 39,000 jobs in 2016 and 39,200 jobs in 2045. (See attachments 3 and 4.) Such employment density is only seen in highly industrialized or commercialized areas or within areas designated by Connect SoCal as "Job Centers". The City, however, is neither highly commercialized or industrialized and is not a designated "Job Center". The City is mostly made up of residential zones, with only a few small industrial parks. Although the City does have well-known commercial/retail areas such as the Los Cerritos Mall and the Cerritos Auto Square, such commercial areas are similar to the commercial areas within the surrounding communities (e.g., Lakewood Mall). Notably, all of the cities and communities surrounding the City of Cerritos have much lower employment densities of 1,000 to 2,500 jobs per square mile. (See attachments 5 and 6.)

In fact, the American Community Survey (ACS) 5-year estimate (2012-2016) indicates that the **City employed approximately 34,850 workers**, or roughly 3,900 jobs per square mile. (See attachment 7.) The City believes the ACS estimate reflects the City's true employment data, which is in line with the City's neighboring communities that have similar commercial, retail, industrial, and residential land use proportions. (See attachment 6.) Based on Connect SoCal Plan's 2016 projections, SCAG overestimated the number of jobs in the City by 4,103. (Compare attachments 3 and 7.) Because the Connect SoCal 2016 employment data was incorrect and overinflated to begin with, the 2045 projection is

consequently grossly overinflated as well, by at least 4,200 jobs, which is roughly 10.5% of the estimate.

Second, although the RHNA methodology for job accessibility is based on how many jobs can be accessed from a jurisdiction within a 30-minute commute, rather than how many jobs are located within a jurisdiction, the fact that SCAG and the Connect SoCal Plan so grossly overinflated the employment data within the City, such information necessarily adversely affects the job accessibility data within the City. If, according to SCAG and the Connect SoCal Plan, there are supposedly more jobs within the City, then more people within the City would be able to access those jobs with a commute time of less than 30 minutes. If, however, there are less jobs, as presented by accurate data from the ACS, then less jobs are accessible by people living within the City via a 30-minute commute.

Accordingly, the City’s assignment of 21.29% of job accessibility should be lowered to a more accurate and equitable percentage. If the percentage were lowered by 1.5% to 19.79% to reflect a reduction in approximately 4,200 jobs, then 9,907 people within the City would have 30-minute or less commutes to their jobs, or approximately 0.36% share of the region’s job accessibility (population weighted). That, in turn, would equal an assignment of **1507 units as existing need due to job accessibility** rather than the 1636 units originally assigned.

B. The allocation fails to apply the adopted final RHNA methodology, as the allocation percentages for each income category is incorrect, when based on the social equity adjustment formula.

In addition to the 150% social equity adjustment, the City was allocated an additional 10% adjustment due to significant populations that are defined as very low or very high resource areas, for a total of 160% social equity adjustment, or a factor of 1.6. In determining the jurisdiction’s income distribution by category, the percentage of the jurisdiction’s income distribution by category is compared to that of the county’s. According to the RHNA methodology, the formula to calculate an income category percentage is as follows:

Jurisdiction’s income distribution percentage – [(Jurisdiction’s income distribution percentage – County’s income distribution percentage) X social equity adjustment factor]

(SCAG Final RHNA Methodology, p. 14.)

The City’s existing household income distribution, compared with the County’s, is as follows:

Existing Household Income Distribution		
	City of Cerritos	LA County
Very Low Income	12.6%	26.1%
Low Income	10.4%	15.2%
Moderate Income	13.9%	16.1%
Above Moderate Income	63.2%	42.6%

(SCAG Final RHNA Data Appendix)

Based on the formula, the City’s income distribution by category, including the social equity adjustment factor of 1.6, should be as follows:

Household Income Distribution with Social Equity Adjustment	
	City of Cerritos
Very Low Income	34.2%
Low Income	18.1%
Moderate Income	17.5%
Above Moderate Income	30.2%

However, SCAG stated that the regional final RHNA allocation plan must be the same as the regional determination, by income category, provided by HCD. So SCAG applied a “normalization adjustment” to the draft allocation to ensure the regional total by income category is consistent with HCD’s allocation. This noticeably skewed the percentages and the number of units assigned to the City, as follows.

SCAG’s Household Income Distribution with Social Equity Adjustment + “Normalization Adjustment”	
	City of Cerritos
Very Low Income	35.6%
Low Income	18.1%
Moderate Income	17.4%
Above Moderate Income	28.9%

It is not clear from SCAG’s Final RHNA methodology how it determined and assigned the “normalization adjustment”, and whether all jurisdictions received a certain number or percentage of the residual unassigned units to align with HCD’s allocation. Also, it is unclear whether the formulation of the “normalization adjustment” of the methodology was ever communicated to the jurisdictions or whether the jurisdictions were given an opportunity to comment prior to finalization of the final RHNA methodology.

Accordingly, the City requests that its distribution by income category be calculated utilizing the formula that was discussed, adopted, and implemented by SCAG, including the social equity adjustment factor of 1.6, as follows:

City of Cerritos Household Income Distribution with Social Equity Adjustment			
	SCAG Determination	City’s Proposed Revisions	Change
Very Low Income	35.6%	34.2%	-1.4%
Low Income	18.1%	18.1%	0%
Moderate Income	17.4%	17.5%	+0.1%
Above Moderate Income	28.9%	30.2%	+1.3%

This revision is more in line with what is provided for in Government Code Section 65584(d)(4).

C. SCAG failed to consider local planning factors, namely the availability of land suitable for urban development or for conversion to residential use.

Most of the City, which was incorporated in 1956, has been built out and developed, with very few vacant sites that are suitable for land development within the City. The City has a vibrant and well-planned mix of residential, commercial, and industrial uses. Most of the existing residential uses are single family homes and parcels, with several multi-family residential uses. The existing commercial and industrial uses are mostly occupied with fairly low vacancy rates.

SCAG had previously identified 8 sites within the City of Cerritos, as reflected in the City's 2013-2021 Housing Element, as suitable for development, specifically potential housing development. (See attachment 8.) However, all but one of the sites identified as vacant or refill/infill parcels by SCAG have either (i) approved plans for further development as other uses, (ii) already have "inhabitable structures or buildings" as defined by SCAG Data/Map book, or (iii) are roadway infrastructure parcels that are unable to be developed. The remaining site continues to be potential refill/infill parcels suitable for reuse as a housing development. (See attachment 9.)

There are very few under-utilized parcels within the City. Thus, it would be difficult for the City to convert such parcels for residential uses without displacement of current residents from their homes or revenue-generating businesses and without the loss of existing jobs to accommodate additional housing.

Furthermore, the City anticipates that the rising popularity of e-commerce, coupled with the displacement of existing commercial, office, and industrial uses to accommodate housing will negatively impact job growth within the City and will invariably lead to a net reduction in employment within the City over the next several decades to 2045. This factor needs serious consideration in order for meaningful development of housing to actually occur, not just within the City, but within the region as a whole.

Accordingly, the City requests that its allocation be revised downward to reflect this local planning factor and constraint on development of housing, as previously identified above in Section II(B).

III. These Revisions Further The Government Objectives Under Government Code Section 65584.

The City's proposed revisions above serve to further the five RHNA objectives under Government Code Section 65584(d), more so than the current allocation. With respect to the first objective of increasing the housing supply and mix of housing types, tenure, and affordability within the region in an equitable manner, the City's proposed revisions ensure that the consideration of actual employment data and projections (as opposed to output modelling) promotes an equitable distribution of housing where the jobs are accessible. It is clear that job accessibility has been overinflated with SCAG's Connect SoCal Plan, so placement of housing where there are not as many accessible jobs as originally calculated does not achieve equity or distributes housing in an equitable manner in any way to the City or to the surrounding communities whose residents may commute to the City. Rather, revising the City's share of the region's job accessibility (population-weighted) downward from 21.29% to 19.79% will increase the supply of housing in a more equitable and realistic manner. Also, the distribution of income categories as revised by the City actually promotes social equity based on the formula promulgated and adopted by SCAG.

With respect to the second objective, the proposed revisions encourage efficient development patterns and achieve the region's greenhouse gas targets better than the current allocation, because the revisions are more accurate in reflecting actual travel patterns and demands between jobs and housing. By continuing to use the current allocation, the City's residents will actually be travelling farther to access the number of jobs purported to exist within the City (which they do not). This, in turn actually increases the use of greenhouse gas from the increased commute time. With the revisions, the number of housing units that will be built will accurately reflect the actual existing and projected number of jobs between now and the end of the planning period that are accessible within a 30-minute commute, and it will provide a reduction in trips and greenhouse gases.

With respect to the third objective, the proposed revisions will promote an improved intraregional relationship between jobs and housing, as the more accurate data and projections will lead to more housing closer to where the jobs are or will be located. Using the current projections overinflates the number of jobs in or near the City and will create housing that is not necessarily near where the jobs will be located.

With respect to the fourth and fifth objectives, the revisions, and particularly the proposed distribution of income categories, will allocate the appropriate percentage and number of housing per income category that will promote social equity within the City by strictly using the formula created and implemented by SCAG. This will also affirmatively further fair housing by giving the City the correct percentage and number of very-low and low income units.

Overall, the City's proposed revisions are necessary to ensure success in planning for and actually developing housing to meet the needs and demands of the future. Denying the appeal and moving forward with the allocation as-is would ignore the actual real world constraints on employment and development that exists within the City and the surrounding communities. The City's proposed revisions also further the housing objectives in a more meaningful way by adhering to the RHNA methodology while incorporating actual data and information as well as promoting social equity.

IV. Additional Issues

HCD improperly calculated the wrong RHNA allocation and gave SCAG twice as many housing units than it should have. SB 828, which made changes to Government Code Sections 65584, 65584.01, and 65584.04, wrongly assumed overcrowding and cost-burdening were not considered in the housing needs projections calculated by the California Department of Finance (DOF), which (prior to SB 828) was tasked with developing methodology for household forecasts. According to a report by the Embarcadero Institute, *Double Counting in the Latest Housing Needs Assessment*, September 2020, "unknown to the authors of SB-828, the DOF has for years factored overcrowding and cost-burdening into their household projections. These projections are developed by multiplying the estimated population by the headship rate (the proportion of the population who will be head of a household). The DOF, in conjunction with 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." (See attachment 10, *Double Counting in the Latest Housing Needs Assessment*, p. 3.) In other words, the resulting legislation of SB 828 counted overcrowding and high housing costs twice, once as part of the household projections when multiplying estimated population by the headship rate, and then again a second time as an adjustment factor. This has resulted in an additional 734,000 housing units being assigned to regional planning bodies throughout California,

with SCAG absorbing a vast majority of the units. (See attachment 10, *Double Counting in the Latest Housing Needs Assessment*, p. 4.)

Moreover, SB 828 assumed a 5% vacant rate in owner-occupied housing is representative of a healthy housing market, when in fact, the rate should be 1.5%. As a result, more housing units would be required to be built to achieve a higher 5% vacancy rate for owner-occupied housing. This will result in an oversupply of such housing. The Embarcadero Institute estimates this error results in an overproduction requirement of 229,000 housing units throughout California, the majority of which was again assigned to SCAG. (See attachment 10, *Double Counting in the Latest Housing Needs Assessment*, pp. 3-4.)

Overall, the double counting has required regional planning bodies throughout California to absorb over 941,000 additional housing units than it would have otherwise been required to produce, with SCAG being assigned to produce 691,000 of those units, which is 100% more than the actual projected household growth for the Southern California region.

SECTION 3: BRIEF DESCRIPTION OF APPEAL REQUEST AND DESIRED OUTCOME

1. Reduce the City's share of the region's job accessibility (populated weighted) from 21.29% to 19.79%, thereby reducing the City's allocation from 1903 to 1774 units.
2. Redistribute the City's allocated income categories from 35.6% for very-low income, 18.1% for low income, 17.4% for moderate income, and 28.9% for above moderate income to 34.2% for very-low income, 18.1% for low income, 17.5% for moderate income, and 30.2% for above moderate income.

SECTION 4: NUMBER OF UNITS REQUESTED TO BE REDUCED OR ADDED TO THE JURISDICTION'S DRAFT RHNA ALLOCATION:

Reduced: 129 units

SECTION 5: LIST OF SUPPORTING DOCUMENTATION, BY TITLE AND NUMBER OF PAGES:

1. SCAG Final RHNA Methodology Worksheet (City of Cerritos), September 3, 2020
2. SCAG Final RHNA Data Appendix: Job Accessibility (City of Cerritos), March 5, 2020
3. SCAG Final RHNA Data Appendix: Number of Jobs (City of Cerritos), March 5, 2020
4. Connect SoCal Plan, Demographics & Growth Forecast Technical Report, p. 33.
5. Connect SoCal Plan, Demographics & Growth Forecast Technical Report, p. 33-35, 37.
6. Connect SoCal Plan, Demographics & Growth Forecast Technical Report, Exhibit 7.
7. American Community Survey 2012-2016 5-year estimates for workers within a workplace (City of Cerritos)
8. City of Cerritos 2013-2021 Housing Element – Potential Housing Sites
9. City of Cerritos potential refill-infill parcels (submitted to SCAG), September 2018
10. *Double Counting in the Latest Housing Needs Assessment*, September 2020, Gab Layton, Embarcadero Institute