

December 10, 2020

Mr. Kome Ajise, Executive Director
Southern California Association of Governments (SCAG)
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017

RE: Comment on the City of Fullerton's Appeal of Its Share of the Regional Housing Needs Assessment Allocation

Dear Director Ajise,

The Public Law Center ("PLC") is a 501(c)(3) legal services organization that provides free civil legal services to low-income individuals and families across Orange County. We provide services across a range of substantive areas of law, including consumer, family, immigration, housing, and health law. Specifically, the mission of our Housing and Homelessness Prevention Unit includes preserving and expanding affordable housing.

I write on behalf of individuals in need of affordable housing in Orange County to comment on the City of Fullerton's ("the City") appeal of its allocated share of the regional housing need as part of the Southern California Association of Government's ("SCAG") Draft Regional Housing Needs Assessment ("RHNA") Allocation Plan.

Pursuant to Government Code Section 65584.05, a jurisdiction can only appeal its RHNA allocation based on failure to determine the allocation in accordance with the methodology, failure to consider local planning factors and information affirmatively furthering fair housing ("AFFH"), or significant and unforeseen change in circumstances. Here, the City has appealed based on alleged failure to determine the allocation in accordance with the methodology.

An appeal based on methodology addresses SCAG's failure to determine the share of the regional housing need: (1) in accordance with the information described in Section 65584.04, (2) in accordance with the methodology established in Section 65584.04, and (3) in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d).¹

The City argues that SCAG has failed to determine the share of the regional housing need in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d)(4). This provision states that the regional housing needs allocation plan shall further the objective of "allocating a lower proportion of housing need to an income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey."² The City contends that the Final RHNA Methodology is flawed because it uses the California Tax Credit Allocation Committee ("TCAC")/Department of Housing and Community Development ("HCD") Opportunity Index Scores instead of the most recent American Community Survey. As a result, SCAG should reduce its RHNA allocation by 3,850 units.

¹ Cal. Gov. Code § 65584.05(b)(2).

² Cal. Gov. Code § 65584(d)(4).

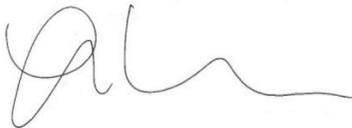
Here, the City is not claiming that SCAG failed to determine its allocation in accordance with the adopted methodology, but is objecting to the adopted methodology itself, claiming the methodology does not satisfy the objectives of Section 65584(d)(4). However, on January 13, 2020, HCD sent SCAG a letter reviewing SCAG's Draft RHNA Methodology.³ HCD specifically noted that the objective listed in Section 65584(d)(4) is furthered by the social equity adjustment factor included in the draft RHNA Methodology and found that the draft RHNA Methodology furthers all of the five statutory objectives of RHNA.⁴ HCD's finding directly contradicts the City's only basis of appeal.

Further, a jurisdiction cannot appeal its RHNA allocation based on any other criteria other than those listed in Section I.C. of the published 6th RHNA Cycle Appeals Procedures.⁵ A flawed methodology is not included in that list.

Maintaining the City's share of the RHNA allocation as drafted is imperative to increase a diverse housing supply, promote development and socioeconomic equity, improve the relationship between jobs and housing, encourage affordable housing, and affirmatively further fair housing. To promote these objectives, SCAG should consider the information provided and deny the City's appeal. To promote these objectives and in light HCD's review of the SCAG's Draft RHNA Methodology and the limited permitted bases of appeal, the City's appeal should not be granted.

Sincerely,

THE PUBLIC LAW CENTER, BY:



Alexis Mondares, Housing and Homelessness Prevention Unit, Legal Fellow
Richard Walker, Housing and Homelessness Prevention Unit, Senior Staff Attorney

³ HCD Letter to SCAG Regarding Review of Draft Regional Housing Need Allocation (RHNA) Methodology (January 13, 2020).

⁴ HCD Letter to SCAG Regarding Review of Draft Regional Housing Need Allocation (RHNA) Methodology, 3 (January 13, 2020).

⁵ Cal. Gov. Code § 65584.05(b); 6th RHNA Cycle Appeals Procedures, I.D.1.