

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 Tustin'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 Tustin'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 based its appeal on changed circumstances. A jurisdiction may appeal its RHNA allocation if it has experienced a significant and unforeseen change in circumstances after April 30, 2019 that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04.¹ Only the jurisdiction where the change occurred may appeal its RHNA on this basis.²

The City claims its circumstances have changed due to COVID-19 and the virus's negative effects on current employment rates and expected employment growth. The City's current employment rate has dropped by 10% and future employment growth has dropped by 33% since March 2020. The City argues that SCAG should reduce its RHNA allocation by 1,718 units because of these changes. The employment data the City provides specifically mentions that "the UCLA Economic Forecast released in September 2020 suggests a full recovery to pre-recession levels of economic activity is not expected until after 2022."³ However, the UCLA study applies statewide and is not specific to the city of Tustin. If SCAG were to approve a reduction of unites allocated to the City on this basis, it would have to make similar considerations for all jurisdictions throughout the region that are also experiencing decreases in

¹ Cal. Gov. Code § 65584.04(b)(3); SCAG, 6th RHNA Cycle Appeals Procedures, I.C.3.

² Cal. Gov. Code § 65584.04(b)(3).

³ Tustin RHNA Appeal Letter, 3 (October 26, 2020).

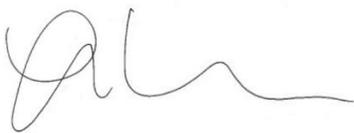
current employment rates and expected employment growth.⁴ While the impact of the COVID-19 pandemic cannot be understated, the duration or lasting nature of those impacts cannot be predicted at this time and may not even last the term of the housing element cycle, as was the case with the previous economic downturn and the 5th Cycle. Without evidence that the COVID-19 pandemic will continue to restrict the population's movement and employment in the same manner for the next eight (8) years, it would be unreasonable to use current data as a justification for the reduction of the City's RHNA allocation for the entire 6th Cycle. Additionally, while the pandemic has changed circumstances for cities, it has also amplified and exacerbated the state's housing crisis. Therefore, SCAG should consider the impact of COVID-19 across the entire region and should not grant the City's appeal on this basis.

Conclusion

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 this information and deny the City's appeal.

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

⁴ A determination that the pandemic constitutes a change in circumstances justifying a reduction in RHNA would be futile, as all jurisdictions would be eligible for this reduction and the reduced units from all of the jurisdictions would simply be redistributed back to the same jurisdictions resulting in substantially no net change in the allocation.