



DISCUSSION ITEM
AGENDA ITEM # 12

AGENDA REPORT SUMMARY

Meeting Date: June 22, 2021

Subject: Regional Housing Needs Allocation RHNA: Consider appeal of the City’s ABAG RHNA allocation and provide appropriate direction and share information regarding other legal actions challenging the RHNA number

From: Vice Mayor Enander

The following can each potentially affect the final RHNA for Los Altos. This report updates council on each item and asks council to consider action regarding item 1 and possibly to give direction to staff for 2.

1. RHNA appeal process

The City of Los Altos received its draft RHNA from ABAG. There now follows a formal appeals period, after which the numbers may be adjusted and will then be finalized. Based on appeals from other cities, the numbers for Los Altos may change as well – irrespective of our appeal. If the city chooses to appeal, the filing must be done by July 9, 2021.

The official process for a jurisdiction to appeal the RHNA from ABAG is at:

https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_RHNA_Appeals_Procedures.pdf

The form which shows the basis/bases for appeal is on p. 10 of the document. Some of the bases refer to the Local Jurisdiction Survey, which Los Altos did not submit. Nevertheless, we believe the data relied on are in the report, “Housing Needs Data Report: Los Altos” dated April 2, 2021.

Copies of the Local Jurisdiction Survey as completed by other cities are available at:

https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_RHNA_Local_Jurisdiction_Surveys_Received.pdf

Possible bases for appeal include the significantly changed circumstances arising from the pandemic and/or further analysis of the data relied on.

Action: Does Council want to direct staff to file an appeal?

2. Litigation against California Department of Housing and Community Development (HCD) regarding RHNA methodology.

A suit was filed in Superior Court, Alameda County by two non-profit corporations and five individual against HCD and Does 1-25. The suit challenges the method used by HCD to determine the numbers for the 6th housing element cycle for ABAG. Some jurisdictions are discussing the issue that the cities and counties, which would be most impacted by the suit, are not parties. Therefore, there is believed to be potential for HCD to negotiate a settlement to the suit without involving the affected jurisdictions. Some cities are considering filing amicus briefs, raising the issue that cities would be affected but are not parties to the suit.

Question: Does Council wish to agendaize this matter for possible action, meanwhile directing the City Attorney to evaluate the matter?

3. Litigation by the Orange County Council of Governments against HCD.

On May 27, 2021, the Orange County Council of Governments voted to direct staff to file a writ of mandamus against HCD. The writ is not yet available for review. It is too soon to know whether or to what extent the action might impact Los Altos, given that the 6th cycle process is much farther along in southern California than for ABAG jurisdictions.