



September 18, 2020

The Honorable Rex Richardson,
President
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

RE: Request to Reconvene the SCAG President's RHNA Litigation Study Team to Re-Assess State HCD's RHNA Allocation of 1.34 Million Housing Units to the SCAG Region

Dear President Richardson:

On behalf of thirty-two cities in Orange County, we, the mayors respectfully support the request of our colleague – City of Yorba Linda Council Member Peggy Huang – that the SCAG President promptly reconvene the SCAG President's RHNA Litigation Study Team.

We have a deep respect for Council Member Huang and her stewardship of the SCAG RHNA Subcommittee these past two years. We all agree with Council Member Huang that the starting point – the 1.34 million RHNA housing units that the State Department of Housing and Community Development (State HCD) issued for the 6-county SCAG region – must be re-examined.

At the September 3, 2020 SCAG Regional Council meeting, Council Member Huang explained that new and recent housing shortage information has been issued by Freddie Mac, which states that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units (Attachment 1: Page 6, February 2020 Freddie Mac Insights Report: "The Housing Supply Shortage: State of the States."). Further, the Embarcadero Institute, a non-profit policy analysis organization, just released a September 2020 Report – "Double Counting in the Latest Housing Needs Assessment" – that questions whether State HCD's use of an incorrect vacancy rate and double counting has exaggerated the RHNA for the SCAG region, San Diego, the Bay Area and Sacramento area by more than 900,000 units (Attachment 3).

Clearly, this new and credible data should be explored with the members of the President's RHNA Litigation Study Team. It is our hope that upon examination of the new data, that the President's RHNA Litigation Study Team could deliberate on options to require State HCD to:

- 1) consider this and other new information from credible agencies;
- 2) justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and,
- 3) justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

A prompt assessment of this information, and options to pursue resolution with State HCD, would be invaluable and timely to SCAG's member agencies, many of which are currently exploring appeals of their individual RHNA allocations.

Moreover, if the SCAG President's RHNA Litigation Study Team is reconvened, we would strongly urge SCAG to revisit the critical issue that State HCD did not follow housing statute, when it determined SCAG's 1.34 million housing units need. We appreciate that SCAG raised this concern to State HCD. We object, however, that State HCD has chosen to not adhere to the provisions of our Government Code, and we have provided a detailed, technical assessment of such noncompliance in Attachment 2.

We thus respectfully seek your support and follow-through of your verbal commitment to Council Member Huang, that the President's RHNA Litigation Study Team be reconvened to undertake this important discussion. We look forward to your response, with the desire that the RHNA Litigation Study Team be reconvened prior to the next SCAG Regional Council meeting, October 1, 2020.

With sincere respect and appreciation,



Mike Munzing
Mayor
City of Aliso Viejo



Harry Sidhu
Mayor
City of Anaheim



Marty Simonoff
Mayor
City of Brea



Fred Smith
Mayor
City of Buena Park



Katrina Foley
Mayor
City of Costa Mesa



Rob Johnson
Mayor
City of Cypress



Cheryl Brothers
Mayor
City of Fountain Valley



Jennifer Fitzgerald
Mayor
City of Fullerton



Steven R. Jones
Mayor
City of Garden Grove



Lyn Semeta
Mayor
City of Huntington Beach



Christina Shea
Mayor
City of Irvine



Tom Beamish
Mayor
City of La Habra



Peter Kim
Mayor
City of La Palma



Bob Whalen
Mayor
City of Laguna Beach



Janine Heft
Mayor
City of Laguna Hills



Laurie Davies
Mayor
City of Laguna Niguel



Noel Hatch
Mayor
City of Laguna Woods



Neeki Moatazedi
Mayor
City of Lake Forest



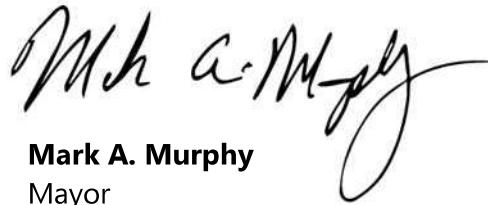
Richard D. Murphy
Mayor
City of Los Alamitos



Brian Goodell
Mayor
City of Mission Viejo



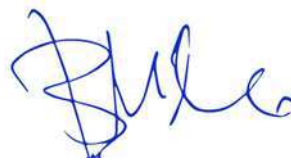
Will O'Neill
Mayor
City of Newport Beach



Mark A. Murphy
Mayor
City of Orange



Ward Smith
Mayor
City of Placentia



Bradley J. McGirr
Mayor
City of Rancho Santa Margarita



Troy Bourne
Mayor
City of San Juan Capistrano



Miguel A. Pulido
Mayor
City of Santa Ana



Schelly Sustarsic
Mayor
City of Seal Beach



David J. Shawver
Mayor
City of Stanton



Allan Bernstein
Mayor
City of Tustin



Robbie Pitts
Mayor
City of Villa Park



Tri Ta
Mayor
City of Westminster



Beth Haney
Mayor
City of Yorba Linda

Attachments:

1. Freddie Mac Economic and Housing Research Insight: February 2020
2. Orange County Technical Analysis: State Government Code Requirements to Calculate Regional Housing Need
3. Embarcadero Institute Report: Updated September 2020

cc: Council Member Peggy Huang, City of Yorba Linda and SCAG RHNA Subcommittee Chair
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors
Mayor Pro Tem Michael Carroll, OC Representative SCAG's RHNA Litigation Study Team
Orange County Representatives on SCAG Policy Committees and Regional Council
Kome Ajise, SCAG Executive Director
Orange County City Managers Association
Orange County Mayors
Marnie O'Brien Primmer, OCCOG Executive Director
Nate Farnsworth, OCCOG TAC Chair

Orange County Technical Analysis of SCAG's Regional Determination from HCD

Government Code Section 65584.01(a) states: "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....".

As outlined in SCAG's September 18, 2019 objection letter to the California Department of Housing and Community Development (HCD) (see Exhibit B), SCAG's regional population forecast for its Regional Transportation Plan (RTP) differs from the State Department of Finance (DOF) projection by **1.32%**, which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG's population projections.

However, HCD's October 15, 2019 response letter to SCAG (see Exhibit C) cites two reasons for not using SCAG's total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF's household projection.
- 2) The age cohort of under 15-year old persons from SCAG's population projections differ from DOF's projections by 15.8%.

A careful reading of Government Code Section 65584.01(a) demonstrates that HCD's interpretation and rejection of the use of SCAG's regional population forecast is incorrect for the following two reasons:

- 1) The law clearly states that that the 1.5% range is based on the total regional **population** forecast and not the regional **household** projection forecast.
- 2) The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.

While Government Code 65584.01 provides a significant level of discretion to HCD over many of the factors used for the regional determination (i.e., vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments, etc.), this one issue is clearly written into the law without any discretion from HCD. Therefore, even though we support all of the arguments SCAG outlined in their September 18, 2019 objection letter, we also recognize that state law grants HCD the final determination for those specific factors. However, there is no discretion in HCD's decision to ignore SCAG's regional population forecast. Had HCD adhered to Government Code 65584.01(a), we estimate that the regional determination should have been at least approximately 133,000 housing units lower (see Exhibit A), or no more than approximately 1.2 million housing units.

We would hope that HCD would reconsider the other SCAG's recommendations as noted in their September 18, 2020 objection letter, especially in light of the change in circumstances related to the current COVID-19 pandemic, as well as the recent studies and reports stating that California's statewide housing shortfall is significantly lower than even SCAG's entire RHNA obligation.