



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** May 12, 2020

---

Approved

*D. OSYL*

Date

5/13/2020

---

## INFORMATION

**SUBJECT: STATE REGIONAL HOUSING NEED ALLOCATION AND HOUSING ELEMENT REFORMS FOR THE SIXTH CYCLE**

This information on the State Regional Housing Need Allocation (RHNA) and Housing Element reforms for the sixth cycle was to be shared with City Council at a meeting in spring 2020. However, due to the City's response to COVID-19 emergency, it was decided that an information memorandum be provided instead.

## BACKGROUND

Since 1969, the State of California has required local governments to adequately plan to meet the housing needs of everyone in their communities through the development of Housing Elements. The laws that govern this process are collectively known as the State Housing Element Law. The Regional Housing Need Allocation (RHNA) process is part of the State Housing Element Law used to determine how many new homes, and the affordability of those homes, local governments must plan for in their Housing Elements.

The State Department of Housing and Community Development (HCD) first determines each region's housing need by income level for the planning period. The regional council of governments (in the Bay Area, the council of governments is ABAG – the Association of Bay Area Governments) then allocates RHNA shares to each jurisdiction using a methodology developed by the regional council and required by state law to include specific variables.

Local governments participate in the development of the allocation methodology and are required to update their Housing Elements to show how they will accommodate their share of the RHNA. They are required to demonstrate they have enough land, vacant or feasible for redevelopment and zoned to accommodate their assigned housing units at all income levels.

Local governments are also required to list programs they will implement to address identified housing needs and goals. The City's [current certified Housing Element](#) was adopted in January 2015 and plans for 35,080 new homes from 2014 to 2022 and is applicable from 2015 to 2023.

The Bay Area is currently heading into its sixth RHNA cycle, which will last from 2022 to 2030. ABAG convened its Housing Methodology Committee in October 2019. The Committee is comprised as follows:

- Nine elected officials (one from each Bay Area county)
- Twelve (12) jurisdiction housing or planning staff (at least one from each county)
- Sixteen (16) regional stakeholders representing diverse perspectives, from equity and open space to public health and public transit
- One partner from state government

Deputy Planning Director Michael Brilliot is a member of the Committee. In the spring of 2020, HCD is expected to issue its RHNA number for the Bay Area. The Housing Methodology Committee is expected to have a methodology recommendation finalized before July 2020, with adoption by the ABAG Executive Board expected in March 2021. Once the final methodology is adopted, ABAG will issue a draft housing needs allocation required by category to local governments. The City will need to submit its Housing Element update for certification by December 15, 2022.<sup>1</sup>

In 2017 and 2018, several bills were adopted that substantially reform RHNA and local housing elements going forward. Collectively, they aim to promote housing production and ensure a more equitable distribution of housing within regions and local jurisdictions. The bills are summarized below.

### ***RHNA***

**SB 828 (2018)**<sup>2</sup>: SB 828 adds or adjusts the following variables to HCD's RHNA methodology:

- The "overcrowd[ing] rate of a comparable housing market" is defined relative to comparable regions throughout the country.
- The "vacancy rate for a healthy rental housing market" is defined as at least 5%.
- "Cost burdened" households are defined as the share of households by income level that are paying more than 30% of their income for housing.
- The "rate of housing cost burden for a healthy housing market" is defined relative to the average rate of cost burdened households in comparable regions throughout the country.

---

<sup>1</sup> "Housing Element Update Schedule for Regional Housing Needs Assessment (RHNA)," Department of Housing and Community Development, December 6, 2019, <https://www.hcd.ca.gov/community-development/housing-element/docs/6th-web-he-revised-duedate.pdf>, 3.

<sup>2</sup> SB 828, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB828](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB828).

AB 1771 (2018)<sup>3</sup>: AB 1771 adds or adjusts the following objectives for regions to advance in their allocation plans (additions are italicized):

- Promoting jobs-housing fit, including balancing the number of low-wage jobs and the amount of housing affordable to low-wage workers in each jurisdiction.
- Affirmatively furthering fair housing (AFFH), which is defined as meaningful actions that overcome segregation and foster inclusive communities and access to opportunity regardless of protected classes.

The bill also adds or adjusts the following factors that regions must incorporate into their methodology:

- Existing and future relationship between jobs and housing, particularly low-wage jobs and affordable housing
- Rate of overcrowding
- Regional greenhouse gas targets

### ***Housing Elements***

SB 166 (2017)<sup>4</sup>: SB 166 adds a “no net loss” provision for housing element site inventories. If an approved project on a housing element site has fewer units by income category than what was identified in a local government’s housing element, the remaining sites in the housing element must be adequate to meet the unmet RHNA requirements, or the local government is required to identify and rezone additional sites to fully accommodate the unmet need within 180 days.

AB 1397 (2017)<sup>5</sup>: AB 1397 increases eligibility requirements for housing element inventory sites. Sites in the inventory must now be both suitable and available. Sites smaller than half-acre or larger than 10 acres are not considered adequate for lower income housing unless the jurisdiction provides examples of sites of equivalent size that were successfully developed during the prior planning period for an equivalent number of lower income housing units or other supporting evidence. Vacant sites cannot be used for more than two consecutive planning periods, and non-vacant sites for consecutive planning periods, unless the site is rezoned to allow at least 30 units per acre and by-right development if at least 20% of the units are affordable to lower income households.

In addition, non-vacant sites must have realistic and demonstrated potential for redevelopment. If a local government uses non-vacant sites to accommodate most of its lower income housing need, existing uses are presumed impediments absent substantial findings that the use is likely to be discontinued during the planning period. Finally, non-vacant sites with rent-controlled units, deed-restricted units, or units with lower income residents within the past five years must be replaced at the same or a lower income level.

---

<sup>3</sup> AB 1771, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB1771](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1771).

<sup>4</sup> SB 166, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB166](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB166).

<sup>5</sup> AB 1397, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180AB1397](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1397).

AB 686 (2018)<sup>6</sup>: AB 686 adds a fair housing requirement for housing elements that includes:

- A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.
- An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.
- An identification of the jurisdiction's fair housing priorities and goals and identifying the metrics and milestones for determining what fair housing results will be achieved.
- Strategies and actions to implement those priorities and goals, which may include enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, including preservation of existing affordable housing, and protecting existing residents from displacement.

## **ANALYSIS**

### ***Impact on the City***

RHNA: SB 828's changes to HCD's methodology are likely to substantially increase the Bay Area's total housing needs allocation and San José's by extension. For the Southern California Association of Governments (SCAG), which represents Southern California except for San Diego County, adjustment factors for existing and projected need, overcrowding, and cost burden resulted in the region's total allocation more than tripling.<sup>7,8</sup> The severity of the regional housing crisis and its impacts on projected need, overcrowding, vacancy rates, and cost burden mean that the Bay Area can expect a similar increase in RHNA. The City can expect a much higher numerical allocation consistent with a significant regionwide increase. As an illustration, if the Bay Area's regional housing need increased in proportion to SCAG's increase, and the same methodology used in the fifth cycle was used for the sixth cycle, the City would be assigned 52,082 units, a 49% increase from the fifth cycle. It should be noted that a majority of the increase in allocation is intended to mitigate existing overcrowding and cost-burdened households, and not necessarily to accommodate an increase in population.

Accommodating a substantial increase in residential units will necessitate General Plan changes and could trigger the need for a new Environmental Impact Report to add capacity. It could necessitate re-evaluating or modifying the City's jobs to employed resident (J/ER) goal; for

---

<sup>6</sup> AB 686, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB686](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB686).

<sup>7</sup> "RE: Final Regional Housing Need Assessment," Douglas R. McCauley, Department of Housing and Community Development, October 15, 2019, <http://www.scag.ca.gov/programs/Documents/RHNA/HCD-SCAG-RHNA-Final-Determination-101519.pdf>, 1.

<sup>8</sup> "With Southern California Needing 1.3 Million Homes, State Attempts to Add Teeth to Housing Law," Ryan Leaderman and Paloma Perez-McEvoy, Holland & Knight LLP, September 3, 2019, <https://www.jdsupra.com/legalnews/with-southern-california-needing-1-3-53116/>.

example, if the new RHNA allocation requires the City to add more housing capacity, then it may be necessary to reduce the J/ER goal or add more jobs capacity. The City's current J/ER of 0.82 indicates that San José continues to be a bedroom-community, where more San José residents leave San José for work in other cities than workers from other communities commute into San José. The City will need to consider how it can achieve a balanced community, that is, planning for an adequate number of housing units, consistent with economic development and land use goals and policies that promote a healthy, sustainable jobs-to-employed resident ratio.

Housing Element: Changes in the State Housing Element Law compound the difficulty presented by a higher RHNA. The current site inventory illustrates the impact of these tightened standards. Of the current 24,023 units of lower income housing capacity identified on 118 sites:

- 17,764 units (74%) are planned on non-vacant sites, triggering the requirement for findings that existing uses in non-vacant parcels are likely to be discontinued.
- 6,078 units (25%) are planned on sites smaller than half-acre or larger than 10 acres and require evidence of equivalent sites being developed.
- 8,117 units (34%) are planned on non-vacant sites reused from the previous housing element, and 2,934 units (12%) are on reused vacant sites. Had AB 1397 been in effect during the last Housing Element cycle, the reused non-vacant sites would have had to allow by-right development with at least 20% affordable units.

AB 686's requirement to approach the site inventory with an AFFH lens will add more complexity to the work for the sixth cycle. Once again, the current site inventory illustrates the challenge the City faces in achieving compliance in the upcoming cycle. Most lower income housing units are not sited in higher opportunity areas, and the 7,547 units (31%) that are in higher opportunity areas are disproportionately more likely to trigger additional requirements under state law:

- Of the lower income housing units in higher opportunity areas, 4,062 units (54%) are on sites smaller than half-acre or larger than 10 acres.
- 3,838 units (51%) are on sites that do not allow residential densities of 30 units per acre.

Addressing these disparities will likely require planning for more affordable housing in high opportunity/resource areas. These areas are defined by HCD and the California Tax Credit Allocation Committee, which uses them in evaluating financing for affordable housing projects. In San José, these areas are on the City's periphery and West and South San José more broadly; see attached map.

### ***New Staff Work in Response to State Reforms***

Between the need to plan for more residential units, fewer eligible sites on which to put them, enhanced fair housing requirements, and increased HCD oversight, the City will need to expand the range of sites it considers for its upcoming inventory and rezone accordingly. Several high-level strategies that would help the City achieve compliance with State law include a broader

HONORABLE MAYOR AND CITY COUNCIL

**Subject: State RHNA and Housing Element Reforms for the Sixth Cycle**

May 12, 2020

Page 6

base of inventory sites, a focus on higher-opportunity areas, and developing a probabilistic site inventory.

Staff is preparing a work program for the Housing Element Update process, identifying needed resources, and is considering applying for HCD grant funding to support some of the activities noted above. The work will be led by the Planning Division Housing team with assistance from Housing Department staff and the citywide Housing Catalyst Team, as well as staff of the Planning Division Ordinance/Policy and Citywide teams. The importance of having a certified Housing Element cannot be understated. The update will need to be the highest priority work item in the next 2.5 years as several important housing, community development, and infrastructure funding programs include housing element compliance as a rating and ranking or threshold requirement.

Over the coming months, staff will continue to provide input into the development of the RHNA methodology for the Bay Area and San Jose, as part of its role on the Housing Methodology Committee. Staff will also provide briefing materials to the Councilmembers who serve on the ABAG Executive Board as representatives and alternates.

/s/

ROSALYNN HUGHEY, Director  
Planning, Building and Code Enforcement

For additional information, please contact Jared Hart, Division Manager, at (408) 535-7896.

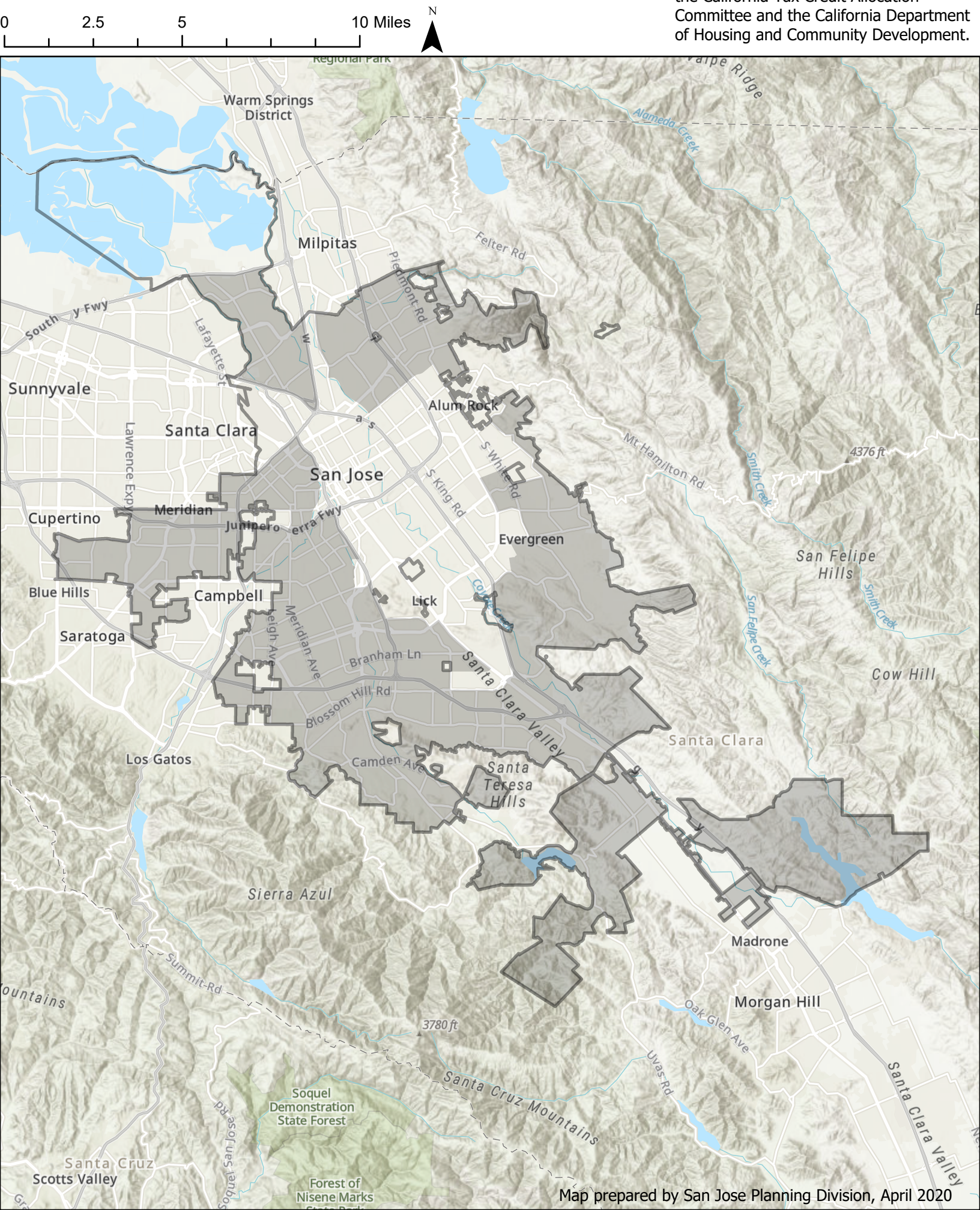
Attachment: Map of Higher Opportunity Areas  
Housing Methodology Committee Roster



0 2.5 5 10 Miles

Legend:  
Incorporated Area  
Higher-Resource Areas

Higher-resource areas are census tracts designated High or Highest Resource by the California Tax Credit Allocation Committee and the California Department of Housing and Community Development.





## Housing Methodology Committee

### Local Jurisdiction Elected Officials – 9 members

County	Representative
Alameda	<b>Mayor Jesse Arreguín*</b> , City of Berkeley
Contra Costa	<b>Vice Mayor Julie Pierce*</b> , City of Clayton
Marin	<b>Councilmember Pat Eklund*</b> , City of Novato
Napa	<b>Supervisor Diane Dillon*</b> , County of Napa
San Francisco	<b>TBD</b>
San Mateo	<b>Councilmember Rick Bonilla*</b> , City of San Mateo
Santa Clara	<b>Councilmember Neysa Fligor*</b> , City of Los Altos
Solano	<b>Supervisor Monica Brown*</b> , Solano County <i>Supervisor John Vasquez, Solano County (Alternate)</i>
Sonoma	<b>Councilmember Susan Adams*</b> , City of Rohnert Park

### Local Jurisdiction Staff – 12 members

County	Representative
Alameda	<b>Ellen Clark</b> , Planning Manager, City of Pleasanton <b>Darin Ranelletti</b> , Policy Director for Housing Security, City of Oakland
Contra Costa	<b>Forrest Ebbs</b> , Community Development Director, City of Antioch <b>Mindy Gentry</b> , Planning Manager, City of Concord
Marin	<b>Elise Semonian</b> , Planning Director, Town of San Anselmo
Napa	<b>Vin Smith</b> , Community Development Director, City of Napa
San Francisco	<b>Paolo Ikezoe</b> , Senior Planner, City and County of San Francisco
San Mateo	<b>Josh Abrams</b> , Baird + Driskell Community Planning, Staff to 21 Elements
Santa Clara	<b>Michael Brilliot</b> , Deputy Dir. for Citywide Planning, City of San Jose <b>Aarti Shrivastava</b> , Assistant City Manager/Community Development Director, City of Mountain View <i>Jennifer Carman, Development Services Director, City of Morgan Hill (Alternate)</i> <i>Andrew Crabtree, Community Development Director, City of Santa Clara (Alternate)</i>
Solano	<b>Matt Walsh</b> , Principal Planner, Solano County <i>David Feinstein, Principal Planner, City of Fairfield (Alternate)</i>
Sonoma	<b>Jane Riley</b> , Comprehensive Planning Manager, Sonoma County <i>Milan Nevajda, Deputy Planning Director, Sonoma County (Alternate)</i> <i>Noah Housh, Community Development Director, City of Cotati (Alternate)</i>



## Regional Stakeholders – 16 members

Interest Area	Representative
Social Equity	<b>Victoria Fierce</b> , California Renter Legal Advocacy and Education Fund (CaRLA) <b>Jeffrey Levin</b> , East Bay Housing Organizations (EBHO) <b>Fernando Marti</b> , Council of Community Housing Organizations
Business Community	<b>Russell Hancock*</b> , Joint Venture Silicon Valley <b>Matt Regan*</b> , Bay Area Council
Non-Profit Housing	<b>Welton Jordan</b> , EAH Housing <b>Rodney K. Nickens, Jr.</b> , Non-Profit Housing Association of Northern California (NPH)
For-Profit Housing	<b>Paul Campos*</b> , Building Industry Association of the Bay Area (BIA) <b>Jonathan Fearn</b> , Greystar Development
Open Space/Agriculture	<b>Amanda Brown-Stevens</b> , Greenbelt Alliance
Public Education	<b>Brandon Kline</b> , San Francisco State University
Public Health	<b>Anita Addison</b> , La Clinica de la Raza
Philanthropy	<b>Rupinder (Ruby) Bolaria Shifrin</b> , Chan Zuckerberg Initiative
Public/Alternative Transportation	<b>Bob Planthold</b> , Government and Community Advocates Strategies, Inc.
RPC Housing Subcommittee	<b>Carlos Romero*</b> , Urban Ecology
Labor	<b>Scott Littlehale</b> , Senior Research-Analyst, Northern California Carpenters Regional Council

## State Partner – 1 member

<b>Megan Kirkeby</b> , Assistant Deputy Director for Fair Housing, California Department of Housing & Community Development (HCD)
---

*\* Member of ABAG Regional Planning Committee. The number of RPC members on the HMC was limited to no more than 15 to avoid having a quorum of the RPC at the meetings.*