



# RHNA Appeals Process

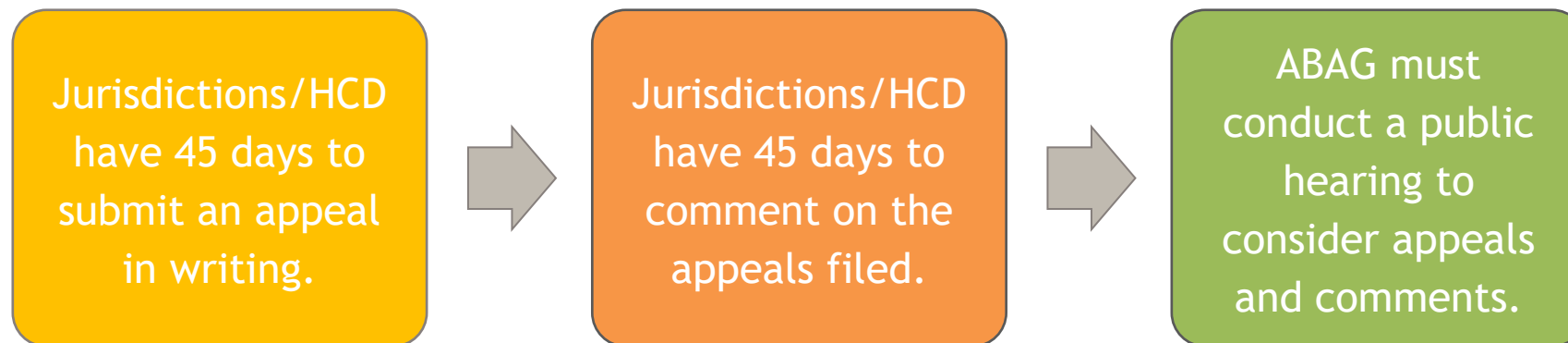
Cities Association of  
Santa Clara County

June 10, 2021

## Key Milestones & Timeline:

# RHNA Appeals Process Overview


- Who can file an appeal? A jurisdiction or HCD can appeal a jurisdiction's Draft RHNA Allocation.
  - A jurisdiction can appeal its own allocation and/or another jurisdiction's allocation.
- What are the major steps in the appeals process?



- A jurisdiction that is the subject of an appeal filed by another jurisdiction/HCD will have the opportunity to challenge the appeal at the appeal public hearing.

Key Milestones & Timeline:

# What is the Anticipated Appeals Schedule?

<p>May 25, 2021</p>	<p>Following action by ABAG Executive Board, ABAG notifies jurisdictions/HCD about adoption of Final RHNA Methodology and Draft Allocations.</p>
<p> July 9, 2021</p>	<p>Deadline for a jurisdiction or HCD to submit appeals to ABAG; ABAG notifies jurisdictions, HCD, and interested parties about appeals submitted.</p>
<p>August 30, 2021</p>	<p>Deadline for comments on appeals submitted; ABAG notifies jurisdictions, HCD, and interested parties about comments received.</p>
<p>September and/or October</p>	<p>ABAG conducts public hearing to consider appeals and comments received; ABAG must notify jurisdictions at least 21 days prior to hearing.</p>
<p>October or November</p>	<p>ABAG ratifies written final determination on each appeal and issues Final RHNA Allocations that include adjustments resulting from successful appeals.</p>
<p>November or December</p>	<p>ABAG Executive Board conducts public hearing to adopt Final RHNA Plan.</p>

## Filing an Appeal:

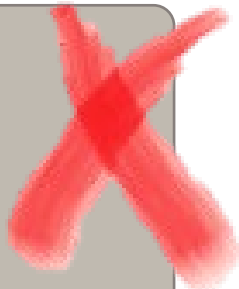
# What are the Allowable Reasons for an Appeal?



An appeal can be filed only if:





1. ABAG failed to adequately consider information submitted in the local jurisdiction survey.
2. ABAG did not determine the jurisdiction's allocation in accordance with its adopted methodology and in a manner that furthers, and does not undermine, the RHNA objectives.
3. A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits revision of information submitted as part of the local jurisdiction survey.  
*Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.*

By law, appeals cannot be based on:

- Any local ordinance, policy, voter-approved measure or standard limiting residential development.
  - Underproduction of housing from the last RHNA cycle.
  - Stable population numbers in a jurisdiction.
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## Filing an Appeal:

# What are the Requirements for an Appeal?

By statute, appeals shall:	
Be based on comparable data available for all affected jurisdictions and accepted planning methodology.	
Be supported by adequate documentation.	
Include a statement as to why the revision is necessary to further the RHNA objectives.	
Be consistent with, and not to the detriment of, the development pattern in Plan Bay Area.	

- ABAG-MTC staff have developed a form for jurisdictions to use to submit an appeal

## ABAG Consideration of Appeals: What Have Other COGs Experienced?

### Sacramento Region (SACOG) — 2020

- Zero appeals

### San Diego Region (SANDAG) — 2020

- 4 appeals
- 1 partially upheld (affecting 135 units)
- Public hearing conducted in one day

### Los Angeles Region (SCAG) — 2021

- 48 appeals
- 2 partially upheld (affecting 3,132 units)
- 46 hours of hearings held on 8 days, plus final meeting for ratifying decisions

### ABAG — 2013 (*prior cycle*)

- 8 appeals
- 3 upheld (affecting 674 units)
- Public hearing conducted in one day

## ABAG Consideration of Appeals: Hearing Procedures

- Appeals will be heard by the ABAG Administrative Committee, which will have final authority for decisions on appeals.
- ABAG must hold a public hearing to consider appeals. Depending on number of appeals, the hearing could occur over multiple days.
- The Administrative Committee will issue a preliminary determination on each appeal and then ratify final decisions at a meeting after close of the public hearing to ensure uniform decision-making.
- A committee member must recuse him/herself on an appeal affecting his/her jurisdiction.

## ABAG Consideration of Appeals: Hearing Structure

1. Applicant presentation. If multiple appeals for a jurisdiction, subject jurisdiction goes first if it filed an appeal. Can present jointly; 5 min per applicant.
2. Response by subject jurisdiction if it did not file appeal on its own behalf, (5 min if one appeal, 8 min if multiple).
3. Staff response (5 min).
4. Rebuttal by applicants and subject (if it did not file appeal). Limited to arguments/evidence presented by staff, (3 min for each applicant and subject).
5. Public comment (2 min per speaker, or as adjusted by the Chair).
6. Committee questions/discussion.
7. Committee motion for a determination on appeal.
8. Committee vote.

*\* The Chair may elect to grant additional time for any presentation, staff response, or rebuttal in the interest of due process and equity.*



## ABAG Consideration of Appeals:

# Redistribution of Units from Successful Appeals

- ABAG will redistribute units to all local governments in the region **in proportion to a jurisdiction's share of the RHND** after appeals are determined and prior to the required distribution.
- Applicants whose appeals are upheld are not excluded from redistribution.

# For More Information

Contact: [RHNA@bayareametro.gov](mailto:RHNA@bayareametro.gov)

Visit ABAG's RHNA website: <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation>

Review the Final RHNA Methodology Report:  
[https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_Draft\\_RHNA\\_Plan.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf)

Review the RHNA Appeals Procedures:  
[https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_RHNA\\_Appeals\\_Procedures.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_RHNA_Appeals_Procedures.pdf)