

C/CAG AGENDA REPORT

Date: September 12, 2019

To: City/County Association of Governments of San Mateo County Board of Directors

From: Sandy Wong, C/CAG Executive Director

Subject: Determination on Formation of a Sub-Region for the Cycle 6 Regional Housing Needs Allocation (RHNA) Process.

(For further information, contact Susy Kalkin at 650-599-1467)

RECOMMENDATION

That the C/CAG Board of Directors determine whether to pursue formation of a Sub-Region for the Cycle 6 Regional Housing Needs Allocation (RHNA) Process.

BACKGROUND

The next RNHA cycle is set to kick-off this fall for the next eight-year period, 2023-2031. At the July C/CAG Board meeting, Board members were briefed on the steps involved in the update, advised of key changes in state legislation that will affect this next cycle, and were requested to discuss the issue within their individual jurisdictions and be prepared at the September Board meeting to make a decision about whether to pursue formation of a Sub-Region for the RHNA process as we have done in the past two cycles. Staff forwarded additional information to individual jurisdictions to facilitate these discussions at the local level.

Attached is a memo prepared by 21 Elements presenting the background, considerations and options for forming a Sub-Region.

ATTACHMENTS

1. Forming a Sub-Region for the 6th Cycle RHNA– 21 Elements, September 5, 2019



Forming a Sub-Region for the 6th Cycle RHNA¹

Prepared September 5, 2019 for September 12, 2019 C/CAG Board Meeting

The purpose of this memo is to review the background, considerations and options for forming a sub-region to address the upcoming Regional Housing Needs Allocation (RHNA) numbers for the Bay Area and San Mateo County.

Overview

Options for forming a Sub-Region

1. **Undertake full sub-region effort** — Form a sub-region and undertake the detailed analysis required to comply with state law, including develop the methodology to distribute the RHNA, and allocate the RHNA to the 21 jurisdictions in San Mateo County.
2. **Form a sub-region but rely on ABAG/MTC** — Form a sub-region but rely on ABAG/MTC to develop the methodology and allocate the RHNA. However, if opportunities arise, the sub-region can still make changes.
3. **Don not form a sub-region** — Rely on individual jurisdictions, 21 Elements and Home for All.

Key Considerations

1. **Limited “trading” expected** — “Trading” of RHNA amongst the county’s jurisdictions is expected to be minimal at best, if at all.
2. **RHNA 6 is anticipated to be much higher** — It is anticipated that the upcoming 6th cycle RHNA (2023-2031) will be significantly higher than the 5th cycle RHNA (2015-2023), ranging from 50%-225% higher (or more) based on

¹ The upcoming RHNA (Regional Housing Needs Allocation) will be for the 6th cycle of housing element updates, covering the 2023-2031 housing planning period. The 6th cycle RHNA projection period is from June 30, 2022 to January 15, 2031; — meaning housing units built or approved after June 30, 2022 may be counted toward a jurisdiction’s 6th cycle RHNA.

discussions with stakeholders and a review of the RHNA determinations elsewhere in California, as shown in the attachments.

3. **Fewer housing sites** — It will be more difficult to have potential housing sites count towards the RHNA land inventory due to recent changes in state law limiting many sites that were previously eligible to be counted toward a jurisdiction's RHNA.
4. **Sense of Urgency** — Development of the County's RHNA will occur between now and July of 2021. Housing elements must be adopted by January 15, 2023. So, between now and then there is a 3¼-year time period to undertake all the related housing element work, land use changes and approvals. Significant land use changes often take 1-2 years and housing element updates take a year, leaving little extra time.
5. **Importance of on-time housing element certification** — Each jurisdiction must adopt an updated housing element in compliance with state law requirements (certified by HCD as complying with state law). If a jurisdiction does not achieve certification or adoption in time, their next housing element update will be required in four years and they may be ineligible for state funding when housing element certification is required — such as SB2 planning grants and technical assistance, One Bay Area Grants (OBAG), Affordable and Sustainable Communities program, among others. There are also implications for increased RHNA, legal liability, etc. if a jurisdiction does not comply with state law.
6. **Land use re-zoning and general plan amendments will likely be needed to add more high density housing sites.** Land use changes will require CEQA review, all zoning changes must be consistent with each jurisdiction's general plan, and each element of a jurisdiction's general plan (land use, circulation, open space, housing, etc.) must be consistent with one another. Land use related amendments will require extensive technical work, community outreach and involvement and challenging political decisions.

What is RHNA and how is it developed?

- **Role of HCD and ABAG in determining the regional housing needs determination.** Housing element law requires local governments to adequately plan to meet their existing and projected housing needs, including their share of the regional housing needs allocation. The California Department of Housing and Community Development (HCD) is responsible for determining the regional housing needs for

each region's planning body or “council of governments” (COG) — in the Bay Area the COG is ABAG/MTC. Each COG then coordinates with HCD to arrive at a final figure for the region. This final figure is the region's housing needs determination that the COG distributes to the jurisdictions.

- **How will the Bay Area region's housing needs be determined?** HCD starts with population projections in coordination with the Department of Finance (DOF) and then subtracts population living in “group quarters” to determine an HCD adjusted DOF projected number of households for a region. HCD then makes adjustments for vacancy rates, overcrowding, replacement for anticipated demolitions and cost-burdened households.

The resulting housing need numbers are provided in total and by income category for distribution by the COG to all the jurisdictions — in the Bay Area it will be done using the methodology developed by ABAG/MTC.



Rich Napier, C/CAG, Duane Bay, County of San Mateo Department of Housing, and Paul McDougall and Cathy Creswell of HCD with 21 Elements award in 2011.

- **Allocation — Divvying up the need amongst cities and counties.** Once HCD and the COG have agreed to the region's RHNA determination (the amount of housing that must be planned for), the COG takes over and is responsible for divvying up (allocating) the housing need amongst all of the jurisdictions (cities/counties) within that region. The COG does this in a Regional Housing Need Allocation Plan (RHNA Plan). The methodology to prepare the ABAG RHNA plan must further the following state objectives:

1. Increasing the housing supply and mix of housing types, tenure, and affordability
2. Promoting infill development and socioeconomic equity, protecting environmental and agricultural resources, and encouraging efficient development patterns
3. Promoting an improved intraregional relationship between jobs and housing

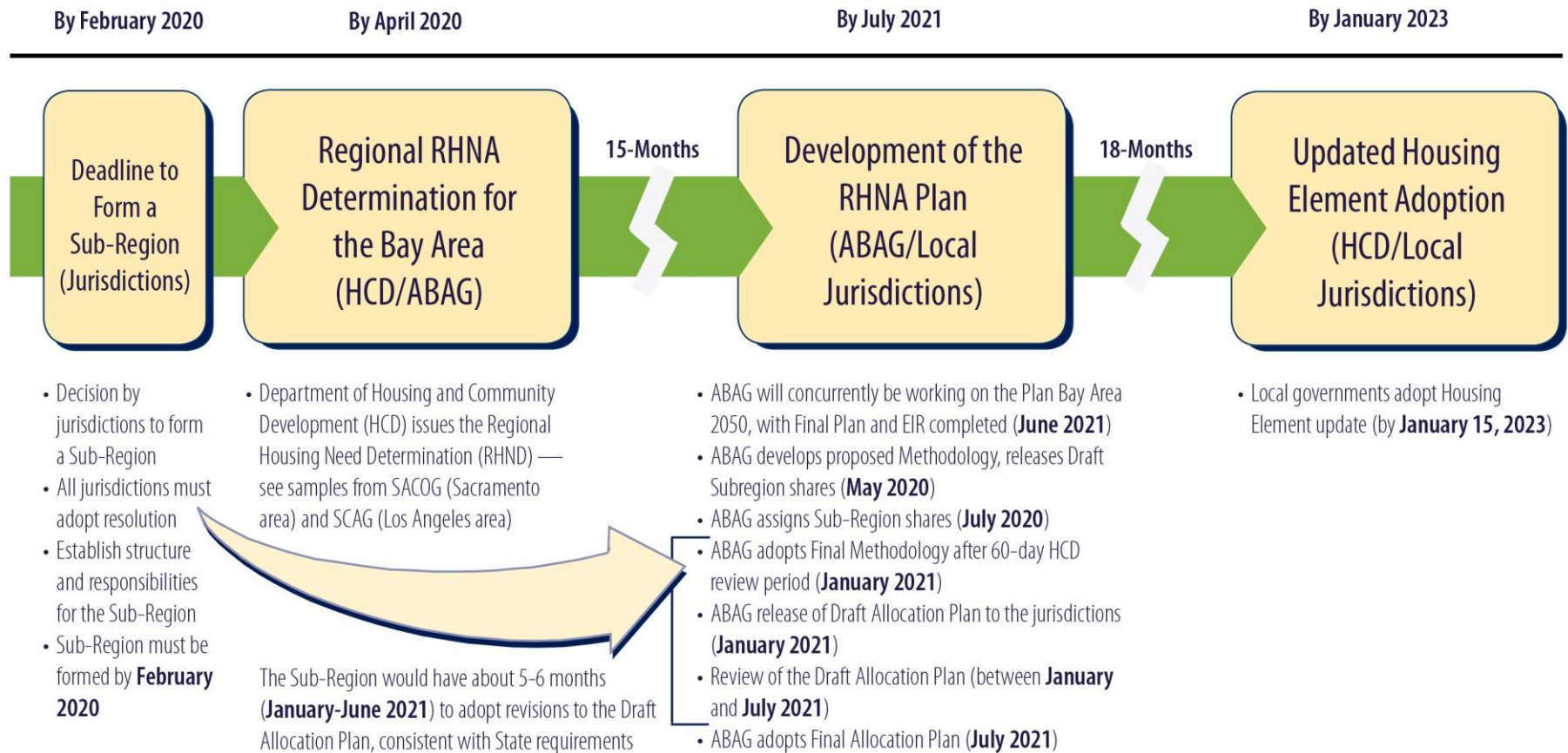
4. Balancing disproportionate household income distributions

5. Affirmatively furthering fair housing.

- **What is a RHNA sub-region?** Counties can form a sub-region to allocate the RHNA determined for the sub-region (San Mateo County). The sub-region cannot change the overall number, but can develop a methodology, consistent with state law, to distribute the total number amongst the jurisdictions in the sub-region. The sub-region can also accept the ABAG RHNA. San Mateo County jurisdictions formed a sub-region for both the 4th and 5th RHNA cycles that resulted in a 3% and 5% redistribution of the ABAG RHNA amongst the jurisdictions in the County accordingly. The initial sub-region process provided a forum for collaboration and resulted directly in the formation of 21 Elements more than 10 years ago and other collaborative efforts around housing.
- **Timing.** The graphic on the next page shows the major activities and timeline for the 6th cycle RHNA and housing element adoption. A more specific timeline developed by ABAG for RHNA 6 is included as an attachment.

6th Cycle RHNA and Housing Element Adoption

Major Activities and the Anticipated Timeline



How has state law changed for RHNA and Housing Elements?

- **Beginning with the *Housing Package of 2017*, the legislature has annually focused on ways to address California's "housing crisis."** Recent legislation has mandated requirements to incentivize new housing construction and require local governments to enact regulations to encourage more housing. The package included AB 72 (Chapter 370, Statutes of 2017), which provides HCD with broad authority to review any action or inaction by a city or county that it determines is inconsistent with an adopted housing element. This includes failure to implement specified program actions included in the housing element and non-compliance with housing element law, the Housing Accountability Act, "no net loss" law, density bonus law or anti-discrimination law.
- **The RHNA distribution methodology has more requirements.** SB 828 and AB 1771 contained significant changes to the RHNA requirements. For instance, the methodology for the next RHNA must cover existing and projected jobs and housing relationship, land availability, infrastructure constraints, land use policies, household growth, market demand for housing, loss of assisted housing developments, high-housing cost burdens, etc. — AND — it must further state housing objectives and address "fair housing" requirements.
- **There will be fewer sites eligible to be counted towards a jurisdiction's RHNA.** There are now limitations on sites and greater scrutiny of sites as part of the jurisdiction's housing sites inventory of eligible sites. Changes include:
 1. **New limits on reuse of sites included in previous housing elements.** State law limits jurisdictions' ability to reuse the following types of sites used in previous Housing Elements to accommodate lower-income housing need if those sites have not been approved for housing.²
 - A vacant site identified in two or more consecutive housing element planning periods.
 - A non-vacant site identified in one prior planning period.

² To be eligible as lower income sites, sites must be rezoned to default density and development must be allowed by right if 20% of the units are affordable.

2. **Increased scrutiny of small sites, large sites and non-vacant sites — as they are presumed unlikely to develop.**³

3. **The definition of “vacant” sites is much more strict.** Many sites that were considered vacant will no longer be considered as such. This includes parking lots, partially vacant but not subdivided sites, sites containing power lines, etc.

■ **There are other general changes to state law impacting the next round of housing element updates.** These include requirements that:

1. Jurisdictions must maintain enough sites throughout the planning period for all income levels.
2. New rules are intended to ensure sites are affirmatively furthering fair housing.
3. One-for one replacement of lower income housing must be provided.
4. All sites must have adequate utilities or an approved plan for provision of utilities.
5. Jurisdictions must examine impact fees as a potential constraint to housing production,
6. Jurisdictions must do a review of densities of similar developments and affordability levels when making assumptions about sites counted at various income levels.

Other considerations and activities of the sub-region

■ **Sub-region activities.** Different from past RHNA cycles, there may be limited desire on the part of jurisdictions to trade numbers as we anticipate the RHNA determinations will be significantly higher and fewer sites will be eligible to be counted towards a jurisdiction's RHNA. However, there are other benefits to collaboration related to RHNA, including shared messaging, public perceptions, providing a coordinated local response to a state mandate, etc. Other activities include:

1. **Provide a clearinghouse function in RHNA discussions at the regional level.**

Jurisdiction staffs have supported 21 Elements staff (Josh Abrams) participating in the ABAG/MTC discussions that will occur about the methodology for distributing the Bay Area regional housing need to the jurisdictions. Key tasks include:

³ Non-vacant sites are only presumed unlikely to develop if non-vacant sites are used to meet 50%+ of the lower income housing need. If a jurisdiction does not meet the 50% lower income threshold, more justification is needed than previous cycles, though not as high as for jurisdictions that are more heavily dependent on non-vacant sites.

Information will be distributed to City staffs. 21 Elements will facilitate the flow of information and feedback to/from the jurisdictions in providing comments to ABAG/MTC.

2. **Use the ABAG derived RHNA Numbers.** Unless opportunities arise, the San Mateo County sub-region can use the RHNA developed through the ABAG methodology. If opportunities arise, the sub-region can redistribute numbers consistent with the schedule shown in the major activities timeline graphic below.
 3. **Provide a clearinghouse for county collaboration on RHNA.** Establish a structure for collaboration to occur at the staff and decision-maker levels on messaging, peer-learning, best practices, countywide positions on issues, coordination with ABAG and HCD, etc.
- **Develop a strategic community messaging approach to consistently inform the community, staff and decision-makers about the process, needs, etc.** This will enable people to participate in the process in an informed way. Involve staff and decision-makers from Home for all, C/CAG and 21 Elements in developing the strategic community-messaging program.
 - **Implement a jurisdiction awareness program.** Develop a community-awareness and messaging campaign for distribution at multiple levels to enhance understanding and provide feedback mechanisms. The purpose of the materials and outreach efforts will be to ensure that accurate information is communicated easily and so that people can participate in an informed manner.

Materials would be prepared for technical staff, Community Development/Planning Directors, City Managers, Planning Commissioners, City Council and Board members, stakeholders and the community as a whole. Examples include:

1. Assisting staff with presentations
 2. Handouts
 3. PowerPoint
 4. Presentations at C/CAG, Home for All, Community Development Directors Forum and other meetings.
- **Encourage jurisdictions to undertake an analysis of housing sites NOW.** Understanding land development capacity and the availability of housing sites under the new state law requirements will enable jurisdictions to participate effectively in the RHNA sub-region process, share findings and needs, and identify strategies to achieve compliance with RHNA and housing element law. 21 Elements can facilitate and support jurisdiction efforts in this regard.

- **Consider initiating housing element updates as soon as possible.**

Attachments

- (1) Comparison of 5th and 6th Cycle Regional Housing Needs Allocations (RHNA)
- (2) ABAG Schedule for RHNA 6
- (3) Excerpt from memo from Ken Kirkey, ABAG/MTC, on new housing laws

Comparison of 5th and 6th Cycle Regional Housing Needs Allocations (RHNA)

Prepared September 5, 2019 by 21 Elements

Jurisdiction	Total RHNA	Numerical Change RHNA 5 to RHNA 6	Percent Change RHNA 5 to RHNA 6
Calaveras County RHNA 6 (2018-2027)	1,340		
RHNA 5 (2014-2019)	1,240	+100	+8.1%
Colusa County RHNA 6 (2018-2028)	1,235		
RHNA 5 (2014-2019)	1,160	+75	+6.5%
Humboldt County Association of Governments RHNA 6 (2018-2027)	3,390		
RHNA 5 (2014-2019)	2,060	+1,330	+64.6%
Lake County-City Area Planning Council RHNA 6 (2018-2027)	1,905		
RHNA 5 (2014-2019)	2,070	-165	-8.0%
Mendocino Council of Governments RHNA 6 (2018-2027)	1,845		
RHNA 5 (2014-2019)	250	+1,595	+638.0%
Mono County RHNA 6 (2018-2027)	240		
RHNA 5 (2014-2019)	120	+120	+100.0%
Shasta County RHNA 6 (2018-2028)	3,675		
RHNA 5 (2014-2019)	2,200	+1,475	+67.0%
San Diego Association of Governments (SANDAG) RHNA 6 (2020-2029) *	171,685		
RHNA 5 (2010-2020)	161,980	+9,705	+6.0%
Sacramento Area Council of Governments (SACOG) RHNA 6 (2018-2028)	153,512		
RHNA 5 (2013-2021)	104,970	+48,542	+46.2%
San Luis Obispo Association of Governments (SLOCOG) RHNA 6 (2018-2028)	10,810		
RHNA 5 (2014-2019)	4,090	+6,720	+164.3%
Southern California Association of Governments (SCAG) RHNA 6 (2021-2029)	1,344,740		
RHNA 5 (2014-2021)	412,137	+932,603	+226.3%

Source: 21 Elements as derived from the California Department of Housing and Community Development website accessed August 9, 2019 — <http://www.hcd.ca.gov/community-development/housing-element/index.shtml>

* The **SANDAG** increase was so much lower, on a percentage increase basis, than the others, due to the following reasons: (1) the need to include existing demand for underhoused persons became effective after the SANDAG numbers were already determined; and, (2) the SANDAG numbers for the fifth cycle were adopted before the 2008 recession and did not account for the reduced demand. So their fifth cycle numbers did not have the kind of dropoff as the Bay Area had for the 5th cycle (2014-2022).

ABAG 2022-2030 RHNA and Plan Bay Area 2050 Key Milestones

Per Government Code §65588(e)(3)(A), the Housing Element Due Date is 18 months after adoption of the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). Plan Bay Area 2050, the next regional plan, is scheduled to be adopted in June 2021, with the Housing Element Due Date in December 2022. This schedule assumes that there are subregions. Dates are tentative and subject to change.

	Key Milestones	Deadline
1	Plan Bay Area 2050 and RHNA Kickoff	September 2019
2	Release Draft Plan Bay Area 2050 Regional Growth Forecast, Adopt Growth Framework Update	September 2019
3	Jurisdiction Survey on RHNA factors, Fair Housing ¹	December 2019
4	Deadline for Subregions to Form ²	February 2020
5	Adopt Final Plan Bay Area 2050 Regional Growth Forecast; Release Plan Bay Area 2050 Draft Preferred Scenario	April 2020
6	Dept. of Housing and Community Development (HCD) Issues RHND ³	April 2020
7	Release Proposed Methodology, ⁴ Release Draft Subregion Shares	May 2020
8	Public Hearing on Proposed Methodology, Subregion Shares	June 2020
9	Adopt Plan Bay Area 2050 Preferred Scenario	July 2020
10	Assign Subregion Shares ⁵	July 2020
11	Release Draft Methodology and Submit to HCD for Review ⁶	September 2020
12	Release Plan Bay Area 2050 Draft Plan and EIR	January 2021
13	Adopt Final Methodology after 60-day HCD Review Period ⁷	January 2021
14	Release Draft Allocation ⁸	January 2021
15	Deadline for Appeals to Draft Allocation ⁹	March 2021
16	Comment Period on Appeals Received ¹⁰	April 2021
17	Public Hearing on Local Appeals ¹¹	May 2021
18	Decision on Appeals, Issue Final Allocation ¹²	May 2021
19	Adopt Plan Bay Area 2050 Final Plan and EIR	June 2021
20	Public Hearing to Adopt Final Allocation Plan ¹³	July 2021
21	HCD Determination of Consistency with Housing Element Law ¹⁴	August 2021
22	Local Governments Adopt Housing Element Update	December 2022

Glossary of Acronyms

ABAG – Association of Bay Area Governments
 EIR – Environmental Impact Report
 HCD – California Department of Housing and Community Development
 RHNA – Regional Housing Need Allocation
 RHND – Regional Housing Need Determination
 RTP – Regional Transportation Plan
 SCS – Sustainable Communities Strategy

¹ GC §65584.04(b). No more than 6 months before draft methodology release.

² GC §65584.03(a). No later than Aug 2020.

³ GC §65584.01(b)(1). No later than Oct 2020.

⁴ GC §65584.04. ABAG/Subregion must conduct at least one public hearing prior to releasing draft methodology. No later than Dec 2020.

⁵ GC §65584.03(c). No later than Nov 2020.

⁶ GC §65584.04(h).

⁷ GC §65584.04(i).

⁸ GC §65584.05(a). No later than Jun 2021.

⁹ GC §65584.05(b). Within 45 days of draft allocation.

¹⁰ GC §65584.05(c). Within 45 days of appeal deadline.

¹¹ GC §65584.05(d) Hearing must be no later than 30 days after the appeals comment period ends, with 21 days prior notice.

¹² GC §65584.05(e). No later than 45 days after public hearing.

¹³ GC §65584.05(g). Within 45 days after final allocation issued.

¹⁴ Within 30 days after HCD receives Final Plan.

Overview of Recent Changes to Housing Element Law

Housing Element Site Inventory Reporting Requirements

- Sites must be listed by Assessor Parcel Number (APN) and include the number of units that can be “realistically accommodated” on each site.
- Parcels included in the inventory must have sufficient access to utilities, including “dry utilities.” The term “dry utilities” is not defined in the statute.

Reuse of Sites Included in Previous Housing Elements

State law limits jurisdictions’ ability to reuse the following types of sites used in previous Housing Elements to accommodate lower-income¹ housing need if those sites have not been approved for housing:

1. A vacant site identified in two or more consecutive planning periods
2. A non-vacant site identified in one prior planning period

Unless they meet the following criteria:

1. The site is or will be rezoned to the minimum lower-income household density for the jurisdiction within three years; **and**
2. The zoning allows for residential development by right if at least 20% of the units are affordable to lower-income households

Use of Non-Vacant Sites in the Housing Element Site Inventory

- According to HCD, underutilized sites (e.g., a vacant/abandoned use, a parking lot, a blighted site) are not considered to be vacant. Jurisdictions will have to provide evidence that the non-vacant site is suitable for lower-income development during the RHNA period.
- If a jurisdiction uses non-vacant sites to accommodate 50% or more of its lower-income housing need, the jurisdiction must provide “substantial” evidence that the existing use on a non-vacant site that is identified for lower-income housing is likely to be discontinued during the planning period. Absent substantial evidence, the existing use is deemed an impediment to additional residential development.
- If a site was subject to affordability agreements for lower-income households, subject to a rent control policy, or had housing units occupied by a lower-income resident within the past five years, the jurisdiction must require replacement of that housing at the same or lower income level.

Use of Small and Large Sites in the Housing Element Site Inventory

- Sites smaller than 1/2 acre and those larger than 10 acres are deemed inadequate to accommodate lower-income housing need unless the jurisdiction provides examples of lower-income development on equivalent sites (equivalent number of units at an equivalent affordability level on a site of equivalent size) or other evidence for why the site is appropriate.