# CITY OF SUNNYVALE

*The Heart of Silicon Valley*

456 WEST OLIVE AVENUE SUNNYVALE, CALIFORNIA 94086 (408) 730-7480


February 15, 2013

ABAG Executive Board
Appeals Subcommittee
Attn: Mirion Chion, Interim Planning Director

**RE: Sunnyvale Appeal of Draft ABAG Regional Housing Needs Allocation (RHNA)**

The City respectfully submits the attached appeal of its 2014-2022 Draft RHNA due to ABAG's use of erroneous data in the formula used to calculate each jurisdiction's fair share of regional housing need. As mentioned in the City's September 18, 2012 request for revision letter, Sunnyvale is committed to doing our fair share of housing, and is an acknowledged leader with our housing programs. Sunnyvale has a decades-long track record of consistently having a certified housing element with adequate sites zoned and planned for residential development; providing assistance to numerous affordable housing developments; and implementing effective affordable housing policies such as inclusionary zoning, density bonus, and linkage fees. However, the City is concerned about our housing needs allocation for the following reasons:

- Staff was not adequately informed by ABAG during the Housing Methodology Committee and other technical committee review processes that ABAG was using dated and inaccurate data from a 2007 report which compiled unofficial staff estimates regarding local production of affordable housing units, when the official, most current data was available in most jurisdictions' adopted housing elements. Sunnyvale's housing element, adopted in 2009, as well as its annual progress reports submitted to HCD in subsequent years, included the correct numbers of very low and low income housing units produced during the 1999-2006 cycle. These reports and the housing element itself are prepared pursuant to state law specifically for the purpose of recording each jurisdiction's progress in meeting its objectives under state housing element law.

- ABAG reported that the City had only produced **10%** of its affordable unit allocation for 1999-2006, while in reality, as reported in the City's state-certified 2009 Housing Element, the City had produced **87%** of its allocation, a difference of **842 units**, as explained in detail in Attachment 3 to our appeal form.

We believe ABAG's failure to give the City credit for 842 new affordable units built during this timeframe constitutes a serious error, and a real injustice to the hard work and accomplishments of City residents, officials, and housing providers during the prior cycle. Furthermore, perpetuating this error by continuing to use this information in published reports, in data shared with regional transit agencies, advocacy groups, and others, harms the City by reducing its competitiveness for regional and statewide grants, and by including it among those cities that have not contributed their fair share of housing to the region. In fact the City is widely

considered a regional leader in housing production, based on its long track record of accommodating a larger share of growth than many jurisdictions in the Bay Area, as evidenced by its rapid growth during the past several decades and its rise to become the fifth largest city in the Bay Area.

We respectfully request that ABAG staff recalculate Sunnyvale's "fair share" using the correct numbers as provided in our housing element. ABAG adjusted the RHNA to significantly reduce the allocations to San Jose, Newark and Oakland without any detailed explanation of the reasons for this adjustment, and without providing any real opportunity for advance review by the public or other jurisdictions. A number of smaller cities were adversely impacted by those reductions, including Sunnyvale, which received an additional 404 units, consisting of 240 very low income, 121 low income, and 157 moderate income units, (and an inexplicable decrease in above-moderate units) as a result of that adjustment. This is a very costly adjustment for Sunnyvale. We believe it would be highly inconsistent and extremely unfair to reject our appeal which is based on an error in applying the agreed-upon RHNA formula, which is a reasonable basis for appeal according to state law.

Given the very large number of factors used in the RHNA formula, we understand this correction may not result in a dramatic reduction in Sunnyvale's RHNA, and that is all the more reason why we feel it is a reasonable request and not likely to significantly impact other jurisdictions.

We urge you to give serious consideration to our request, and to grant our appeal.

Thank you,

Gary M. Luebbers
City Manager

ASSOCIATION OF BAY AREA GOVERNMENTS
Representing City and County Governments of the San Francisco Bay Area

ABAG

# 2014-2022 Regional Housing Need Assessment (RHNA) Appeal Request

*All appeal requests must be received by ABAG February 18, 2013, 5 p.m. Late submissions will not be accepted.*
*Send requests to Gillian Adams, ABAG Regional Planner:*
*GillianA@abag.ca.gov or P.O. Box 2050, Oakland, CA 94604-2050*

Date: February 15, 2013
Jurisdiction: City of Sunnyvale
Contact: Suzanne Ise
Title: Housing Officer
Phone: 408-730-7698
Email: sise@ci.sunnyvale.ca.us

**APPEAL AUTHORIZED BY:**
Name: Gary J. Luebbers

**PLEASE CHECK BELOW:**
☐ Mayor ☐ Chair, County Board of Supervisors
☒ City Manager ☐ Chief Administrative Officer
☒ Other: Hanson Hom, Community Development Director

**BASES FOR APPEAL [Government Code Section 65584.05(d)]***

☒ Misapplication of RHNA Methodology
☒ Failure to Adequately Consider Information Submitted in the Survey Regarding RHNA Factors:
- ☐ Existing or projected jobs-housing relationship
- ☐ Sewer or water infrastructure constraints for additional development
- ☒ Availability of land suitable for urban development or for conversion to residential use
- ☐ Lands protected from urban development under existing federal or state programs
- ☐ County policies to preserve prime agricultural land
- ☐ Distribution of household growth assumed for purposes of comparable Regional Transportation Plan
- ☐ Market demand for housing
- ☐ County-city agreements to direct growth toward incorporated areas of county
- ☐ Loss of units contained in assisted housing developments
- ☐ High housing cost burdens
- ☐ Housing needs of farmworkers
- ☐ Housing needs generated by the presence of a university campus within a jurisdiction

☐ Significant and Unforeseen Change in Circumstances

**Brief Description of Basis for Appeal Request and Desired Outcome:**

City staff found out, after ABAG released the Draft RHNA, that ABAG had included erroneous data on the City's affordable housing performance during the 1999-2006 cycle. ABAG used data obtained from a 2007 report (Attachment 1) which stated that the City produced just 10% of its very low and low-income unit allocation for that cycle, while the City actually produced 87% of those units, as reported in its 2009 state-certified Housing Element (Attachment 2), the official record of the City's housing accomplishments for that period. This is a difference of 842 new affordable units. The City believes it would be highly inconsistent with state housing element law to deny the City's production of these units. Furthermore, not only does this error increase the City's new RHNA for the 2014-2022 cycle, but it severely reduces the City's competitiveness for OBAG grants, since VTA has insisted on using the same data ABAG used in the RHNA methodology on this factor, and is therefore scoring the City based on a 10% past performance rating, rather than the correct 87% rating. The City reiterates its prior request for revision: that ABAG correct the data in the new RHNA formula, and recalculate the City's RHNA based on the City's actual affordable unit production for that period. ABAG staff has repeatedly denied the City's request for this correction.

**List of Supporting Documentation Included in Submittal:**

1. Page 39 of ABAG's 2007 Focus Report entitled "A Place to Call Home"
2. Pages 90-92 of City of Sunnyvale 2009-2014 Housing Element
3. Table comparing ABAG data (Item 1) with City of Sunnyvale data (Item 2) compiled by City staff

**Per Government Code Section 65584.05(d), appeals to the draft RHNA can only be made by jurisdictions that have previously filed a revision request and do not accept the revision request findings made by ABAG.*

# List of Supporting Documentation

**City of Sunnyvale**
**2014-2022 RHNA Appeal to ABAG Executive Board**
**February 15, 2013**

1. Page 39 of "A Place to Call Home" published by ABAG, 2007
2. Pages 90-92 of City of Sunnyvale 2009-2014 Housing Element, published by City of Sunnyvale, September 2009 (1999-2006 data provided on Table 46, p. 91).
3. Table comparing ABAG data with City of Sunnyvale data, compiled by City staff.

**Attachment 1**

## Bay Area Affordable Housing, 1999 to 2006

| | Very Low | | | Low | | | Moderate | | | Above Moderate | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RHNA Allocation | Permits Issued | Percent of Allocation Permitted | RHNA Allocation | Permits Issued | Percent of Allocation Permitted | RHNA Allocation | Permits Issued | Percent of Allocation Permitted | RHNA Allocation | Permits Issued | Percent of Allocation Permitted | Total Permits Issued |
| Santa Clara County* | | | | | | | | | | | | | |
| Campbell[a] | 165 | 23 | 14% | 77 | 14 | 18% | 214 | 98 | 46% | 321 | 482 | 150% | 617 |
| Cupertino[a] | 412 | 36 | 9% | 198 | 12 | 6% | 644 | 79 | 12% | 1,466 | 1,212 | 83% | 1,339 |
| Gilroy[a] | 906 | 189 | 21% | 334 | 327 | 98% | 1,030 | 425 | 41% | 1,476 | 1,636 | 111% | 2,577 |
| Los Altos[a] | 38 | 24 | 63% | 20 | 16 | 80% | 56 | 2 | 4% | 147 | 705 | 480% | 747 |
| Los Altos Hills[a] | 10 | 26 | 260% | 5 | 6 | 120% | 15 | 5 | 33% | 53 | 195 | 368% | 232 |
| Los Gatos[a] | 72 | 13 | 18% | 35 | 73 | 209% | 97 | 16 | 16% | 198 | 505 | 255% | 607 |
| Milpitas[a] | 698 | 524 | 75% | 351 | 177 | 50% | 1,146 | 464 | 40% | 2,153 | 2,153 | 100% | 3,318 |
| Monte Sereno[a] | 10 | 12 | 120% | 5 | 7 | 140% | 13 | 15 | 115% | 48 | 59 | 123% | 93 |
| Morgan Hill[a] | 455 | 258 | 57% | 228 | 298 | 131% | 615 | 313 | 51% | 1,186 | 1,466 | 124% | 2,335 |
| Mountain View[a] | 698 | 118 | 17% | 331 | 5 | 2% | 991 | 128 | 13% | 1,403 | 1,233 | 88% | 1,484 |
| Palo Alto[a] | 265 | 214 | 81% | 116 | 130 | 112% | 343 | 134 | 39% | 673 | 1,955 | 290% | 2,433 |
| San Jose[a] | 5,337 | 4,415 | 83% | 2,364 | 3,886 | 164% | 7,086 | 776 | 11% | 11,327 | 18,184 | 161% | 27,261 |
| Santa Clara[a] | 1,294 | 279 | 22% | 590 | 479 | 81% | 1,786 | 665 | 37% | 2,669 | 3,340 | 125% | 4,763 |
| Saratoga[a] | 75 | 60 | 80% | 36 | 1 | 3% | 108 | 108 | 100% | 320 | 455 | 142% | 624 |
| Sunnyvale[a] | 736 | 55 | 7% | 361 | 57 | 16% | 1,075 | 194 | 18% | 1,664 | 1,861 | 112% | 2,167 |
| Unincorporated[a] | 325 | 325 | 100% | 158 | 158 | 100% | 651 | 152 | 23% | 312 | 786 | 252% | 1,421 |
| **Total** | **11,496** | **6,571** | **57%** | **5,209** | **5,646** | **108%** | **15,870** | **3,574** | **23%** | **25,416** | **36,227** | **143%** | **52,018** |

* *Data was updated in August 2007, based on corrections to the permits issued by the City of Campbell.*

**Attachment 2**

# HOUSING PLAN

The prior sections of the Housing and Community Revitalization Sub-element establish the housing needs, opportunities and constraints in Sunnyvale. This final Housing Plan section begins by evaluating accomplishments under the City's adopted 2002 Sub-element and then presents Sunnyvale's goals, policies and programs for the 2009-2014 period.

## Evaluation of Accomplishments under the Adopted Housing and Community Revitalization Sub-element

Under State Housing Element law, communities are required to assess the achievements under their adopted housing programs as part of the five-year update to their housing elements. These results should be quantified where possible (e.g. the number of units rehabilitated), but may be qualitative where necessary (e.g. mitigation of governmental constraints). The results should then be compared with what was projected or planned in the earlier element. Where significant shortfalls exist between what was planned and what was achieved, the reasons for such differences must be discussed.

This section reviews the City's progress to date in implementing these housing programs and their continued appropriateness for the 2009-2014 Housing and Community Revitalization Sub-element. Table C-1 contained in Appendix C of the Element details the City's specific accomplishments under each of the prior Element's 89 program actions, and indicates the continued appropriateness of these actions in the updated Element. The discussion which follows draws from this analysis to highlight Sunnyvale's major housing accomplishments during the prior 1999-2006 planning period, followed by a review of the City's progress in meeting its overall quantified objectives for housing production, rehabilitation, and preservation. The results of these analyses provide the basis for developing the comprehensive housing program strategy for the 2009-2014 planning period.

Sunnyvale's major housing accomplishments during the 1999-2006 period include:

- Development of Moulton Plaza by Mid-Peninsula Housing Coalition, a 66 unit housing complex for lower income families located on the same site as Mid-Peninsula's Homestead Park complex. A common community building links the two properties.
- Development of 62 affordable BMR ownership units and 58 affordable BMR rental units. Revision of the BMR Ordinance in 2003 to increase the percentage of BMR units required, extend the term of affordability, and other program enhancements.
- Assistance to Christian Church Homes in acquiring, rehabilitating and preserving the 101 unit Plaza de las Flores as long term affordable housing.
- Provision of affordable housing density bonus incentives for development of Kensington Place Apartments (45 du/acre), and Encinal apartments (38 du/acre).
- Contribution of $1.6 million to the Housing Trust Fund of Santa Clara County, providing leverage to support development of Moulton Plaza, preservation of Plaza de las Flores, and downpayment assistance loans to 88 households.

- Update of the Downtown Specific Plan (DSP), increasing permitted densities to an excess of 55 units/acre and providing for a net increase in 1,000 multi-family units. Entitlement of DSP Block 18 for mixed-use development, with 292 units under construction.
- Provision of increased residential densities near transit stops and along commercial corridors through rezonings in Truman/Fair Oaks, East Sunnyvale ITR, and El Camino, providing for over 1,500 units. Development of 671 residential units within ITR designated areas within the 1999-2006 planning period.
- Issuance of 145 single-family rehabilitation loans to lower income households, 18 paint loans and grants, and 173 Home Access Grants to owners and renters.
- Rehabilitation of 278 multi-family units in cooperation with non-profit owners: Homestead Park (211 units), Orchard Gardens (32 units), Eight Trees Apartments (24 units), Moulton Plaza (11 existing units).
- Establishment of the Neighborhood Enhancement Program, improving the physical condition of over 480 residential properties.
- Establishment of the Public School, City and Childcare Employees (HPCC) Program, providing homebuyer loans to 8 households, rental security deposits to 33 households, and City-sponsored homebuyer classes to hundreds.
- Provision of 49 Mortgage Credit Certificates to first-time buyers.
- Update of the Zoning Code to allow an administrative process for Accessory Living Units (ALU), facilitating the construction of 11 ALUs.
- Expansion of the E-Onestop to provide on-line permitting and zoning information
- Provision of funding support for special needs housing, including the 50 unit transitional Sobrato Family Living Center (located in Santa Clara), the 24 unit Eight Trees Apartments supportive housing project, and the 23 unit Stoney Pines Apartments for persons with developmental disabilities.
- Provision of ongoing rental assistance to over 600 extremely low and very low income households through the County-administered Section 8 program.

Table 46 summarizes the quantified objectives contained in Sunnyvale's 1999-2006 Housing and Community Revitalization Sub-element, and compares the City's progress in fulfilling these objectives.

**Table 46: Summary of Quantified Objectives**

| Income Level | New Construction* | | Rehabilitation** | | Preservation*** | |
|---|---|---|---|---|---|---|
| | Goal | Progress | Goal | Progress | Goal | Progress |
| Very Low | 736 | 108 | 135 | 343 | | |
| Low | 361 | 846 | 175 | 98 | 150 | 100 |
| Moderate | 1,075 | 692 | 100 | n/a | | |
| Above Moderate | 1,664 | 1,338 | | | | |
| **Totals** | **3,836** | **2,984** | **410** | **441** | **150** | **100** |

* New construction goal reflects RHND for 1/1999-12/2006 period.

** Rehabilitation progress reflects owner-occupied rehabilitation (145 units), paint loans/grants (18 units) and rental rehabilitation on non-profit owned projects: Homestead Park (211 units), Moulton Plaza (11 units), Orchard Gardens (32 units), Eight Trees Apartments (24 units)

*** Preservation progress refers transfer of ownership on Plaza las Flores (100 units) to a non-profit, and extension of affordability controls.

As illustrated in Table 46, based on review of residential building permits finaled between January 1999-December 2006, Sunnyvale fulfilled 78 percent of its total regional housing construction needs, or "RHNA". However, given the nature of the real estate market in the Bay Area, housing to meet the needs of very low, low and moderate income households was not produced without public subsidy and/or incentive.

The City provided funding support for development of 108 very low income rental units during the planning period, including 55 new units in Moulton Plaza, 30 new units in Orchard Gardens, and 23 new units in Stoney Pine Apartments. Housing affordable to low income households was provided both through market rate apartments and restricted BMR units. As illustrated earlier in Table 23, market rate rents in Sunnyvale are well within the level of affordability to low income households; with 1,384 new apartment units developed during the period, staff conservatively estimates half of these (692 units) fall within low income rent thresholds. The eleven accessory living units developed during this period also provide rents within low income limits. Finally, Sunnyvale's BMR ordinance provided 58 rental and 85 ownership units deed-restricted to low income households. Housing for moderate income households was primarily provided through development of market-rate apartments, although many condominiums developed during this period sold at prices near moderate income thresholds, with downpayment assistance providing affordability to these households.

In terms of housing rehabilitation, Sunnyvale exceeded its overall goal to assist 410 households, achieving the rehabilitation of 441 units. Over half of the City's progress involved assisting non-profit owners in the rehabilitation of multi-family units, including the following projects: Homestead Park (211 units), Orchard Gardens (32 units), Eight Trees Apartments (24 units), Moulton Plaza (11 existing units). In addition, Sunnyvale provided 145 rehabilitation loans to single-family and mobilehome owners, and 18 paint loan and grants.

Finally, the City's 2002 Housing Sub-element established a preservation goal of 150 units based on the use of County-issued Mortgage Revenue Bonds. While Mortgage Revenue Bonds were not used, the City worked with Christian Church Homes and the County to acquire, preserve and rehabilitate Plaza de las Flores, a 20 year old, 100-unit senior housing project, using CalHFA tax-exempt bond proceeds, HCD MHP funds, a new 20-year Section 8 Contract, City HOME and CDBG funds, and County Housing Trust funds. The nearly $2 million renovation included building system modernization, accessibility, energy efficiency, and other improvements, and was completed without relocation.

**Attachment 3**

Attachment 3

Comparison of ABAG vs. City of Sunnyvale Past Performance Numbers

**Sunnyvale Accomplishments in Past Cycle**

| | | New Units Permitted, as reported in: | | | | |
|---|---|---|---|---|---|---|
| **1999-2006 RHNA** | **Goal** | **ABAG's 2007 "Focus" Report** | | **Sunnyvale's Adopted 2009 Housing Element** | | Difference (SV - ABAG) |
| | | **#** | **% of Goal** | **#** | **% of Goal** | |
| Very Low | 736 | 55 | 7% | 108 | 15% | 53 |
| Low | 361 | 57 | 16% | 846 | 234% | 789 |
| Moderate | 1,075 | 194 | 18% | 692 | 64% | 498 |
| Above Moderate | 1,664 | 1,861 | 112% | 1,338 | 80% | (523) |
| **Total** | **3,836** | **2,167** | **56%** | **2,984** | **78%** | 817 |
| *Affordable Units Subtotal (VLI + LI)* | *1,097* | *112* | ***10%*** | *954* | ***87%*** | 842 |