

ABAG Report to MCCMC¹

September/October 2022

EXECUTIVE SUMMARY:

- 1) **Status of 6th Cycle Housing Elements:** HCD is still working on certification of Housing Elements submitted over a year ago; and, has started reviewing some Housing Elements submitted informally from 16 jurisdictions within ABAG. Attachment: ABAG Regional Housing Technical Assistance Program Updates
- 2) **PDA AND PPA GRANTS AVAILABLE:** ABAG will be announcing the availability of PDA and PPA grants.

STATUS OF 6TH HOUSING ELEMENTS:

In California, there are 23 Councils of Governments (COGs) that are voluntary organizations of local governments within a specific region. They are organized as joint powers authorities (JPAs) and are funded by dues from their member governments, grants and other funding sources. They play a number of official roles in state governmental processes such as developing regional housing need allocations (RHNA).

Each of the 23 Council of Governments in the State of California has different schedules for getting their Housing Elements approved by HCD. The jurisdictions within the COGs listed on the adjacent chart were required to have submitted housing elements over a year ago. In late September, only 29% of the Housing Elements had been certified by HCD. However, by October 13th, SCAG had 32% certified which drove up the statewide numbers to 40%. Even with this recent surge of approvals by HCD, as shown in the adjacent chart, many jurisdictions that submitted housing elements over a year ago are still dealing with getting the Housing Elements approved by HCD. This 6th cycle is the most difficult given that these housing elements were due over a year ago!

STATEWIDE: 29% CERTIFIED

| COG | TOTAL SUBMITTED | HCD CERTIFIED |
|------------------------|-----------------|---------------|
| SLOCOG Due 12/31/20 | 8 | 100% |
| SANDAG Due 4/15/21 | 19 | 42% |
| SACOG Due 5/15/21 | 28 | 79% |
| SCAG Due 10/15/21 | 197 | 17% |

For ABAG, only one jurisdiction (City of Alameda) has been found to be in substantial compliance with State law. 60 draft housing elements have been submitted to HCD; and, HCD has sent comment letters to 16 jurisdictions in ABAG including: Redwood City, San Francisco, Orinda, Calistoga, Alameda, Dublin, Colma, City of San Mateo, Mountain View, San Bruno, Clayton, Oakland, Foster, Lafayette, Antioch and Sunnyvale. Since HCD is still dealing with those jurisdictions that submitted Housing Elements over a year ago, getting informal HCD comments for our jurisdictions have been delayed.

To help jurisdictions with their Housing Elements, ABAG has updated the technical assistance available which is an attachment to this report.

Meanwhile, in May 2021, the Orange County Council of Governments Board of Directors — a sub-regional planning organization made up of elected city officials — voted 15-0 to “authorize legal counsel to file a petition for writ of mandate” against the California Department of Housing and Community Development (HCD) over the matter.

¹ Marin County Council of Mayors and Councilmembers (MCCMC)

Lastly, given the delays on many of the Housing Elements submitted over a year ago, the State Legislature adopted AB 1398 which was chapter on September 28, 2021, which requires expedited rezoning for local jurisdictions that fail to adopt a legally compliant housing element within 120 days of the statutory deadline, and adds expedited rezoning to the list of pro-housing policies. Specifically, this bill:

- 1) Provides, starting with the sixth revision of the housing element, that if a local jurisdiction has not adopted a housing element within 120 days of the applicable statutory deadline that the Department of Housing Community Development (HCD) has found to be in substantial compliance with state law, then:
 - a) The time-period for the jurisdiction to complete its rezoning program is shortened from three years and 120 days from the applicable statutory deadline to one year from the applicable statutory deadline;
 - b) Failure to complete the required rezoning within one year of the statutory deadline will make the jurisdiction’s housing element subject to specified enforcement provisions, including potential action by the Attorney General; and,
 - c) HCD must not find the jurisdiction’s housing element to be in substantial compliance until all required rezoning is complete.

- 2) Removes the existing requirement on local jurisdictions that fail to adopt a compliant housing element within 120 days of the statutory deadline, such that they no longer need to revise their housing element every four years until they have adopted at least two consecutive revisions by the statutory deadline. The removal of this existing requirement would occur upon the jurisdiction’s adoption of a sixth revision housing element that HCD finds to be in substantial compliance with state law; and,
- 3) Adds, to the list of policies that HCD may consider to be a pro-housing policy, having identified adequate sites for housing within one year of the statutory deadline for adoption of the housing element.

Lastly, as directed by the Joint Legislative Audit Committee of our State Legislature, the California State Auditor issued a report in March of 2022 on the Regional Housing Needs Assessment (needs assessment) process that the Department of Housing and Community Development (HCD) uses to provide key housing guidance for the State’s local governments. The availability of sufficient housing is of vital statewide importance, and HCD’s needs assessments are what allow jurisdictions to plan for the development of that housing. Overall, the audit determined that HCD does not ensure that its needs assessments are accurate and adequately supported.

PDA GRANTS:

PDA AND PPA GRANTS AVAILABLE:

ABAG will be announcing the availability of planning grants for both Priority Development Areas (PDAs) and a Priority Production Area (PPA) Pilot Program. For the PDA grant program, ABAG has \$7.8M available of the requested \$23M for grants in 2 separate funding rounds are described in the adjacent chart. An additional \$2M is being set aside for PPA planning grants to be announced later.

| Funding Round | Anticipated Funding* | Eligible Geographies | Focus |
|---------------------------------|---|---|--|
| Round 1 December 2022 | <ul style="list-style-type: none"> \$15 million total ➢ A goal to invest a minimum of \$4 million in Connected Community PDAs | <ul style="list-style-type: none"> PDAs** | <ul style="list-style-type: none"> Address outstanding need from unplanned PDAs Integrate TOC Policy into plans Ensure Connected Community PDAs are adequately funded |
| Round 2 Summer 2023 | <ul style="list-style-type: none"> \$8 million | <ul style="list-style-type: none"> PDAs** TOCs outside PDAs | <ul style="list-style-type: none"> Implement TOC Policy, Housing Element updates through plan amendments, plans Fully leverage complementary regional TA |

UPCOMING MEETINGS²

- **October 26, 2022 --** **Metropolitan Transportation Commission, 9:35 am**
 MTC Bay Area Toll Authority, 9:40 am
 MTC Bay Area Headquarters Authority, 9:45 am
 MTC Bay Area Infrastructure Financing Authority, 9:50 am
 Executive Committee, 10:00 am
- **October 28, 2022 –** **ABAG Executive Board, 9:30 am**
- **November 4, 2022 --** **MTC Operations, 9:35 am**
 Joint MTC Planning and ABAG Administrative Committees, 9:40 am
 Joint MTC/ABAG Legislative Committee, 9:45 am
- **November 10, 2022-** **ABAG Executive Board, 10:05 am**
 A **BAG Housing Committee, 1:00 pm**
- **November 16, 2022-** **MTC Audit Committee, 9:05 am**
 MTC Commission, 9:35 am
 Bay Area Toll Authority, 9:40 am
 Bay Area HQ Authority, 9:45 am
 Bay Area Infrastructure Financing Authority, 9:50 am
- **November 17, 2022-** **ABAG Power Executive Committee, 11:00 am**
- **November 18, 2022-** **Bay Area Regional Collaborative, 10:05 am**
- **December 9, 2022 –** **MTC Operations, 9:35 am**
 Joint MTC Planning and ABAG Administrative Committees, 9:40 am
 Joint MTC/ABAG Legislative Committee, 9:45 am
- **December 14, 2022-** **Bay Area Toll Authority Oversight Committee, 9:35 am**
 MTC Administrative Committee, 9:40 am
- **December 15, 2022 –** **ABAG Executive Committee, 5:00 pm**

ATTACHMENT: Regional Housing Technical Assistance Program Updates

² All meetings are 'hybrid' which means that some Board/Committee members will be in person at 375 Beale Street, SF; and, others will be participating via Zoom, webcast and/or teleconference, unless noted otherwise. <https://mtc.legistar.com/> If you have questions, contact Pat Eklund, Councilmember, City of Novato at 415-883-9116 or via email at: pateklund@comcast.net.



Regional Housing Technical Assistance Program Updates

(Updated as of 9/15/22)

An analysis of HCD comments on Housing Elements from Southern California and the Sacramento region identified the following as top concerns: Affirmatively Furthering Fair Housing (AFFH), site selection, realistic capacity and inadequate public engagement. Of the new resources identified in the following pages of this document, there are several designed to assist Bay Area communities in addressing these issues to meet HCD requirements for housing elements. These resources are briefly described below and in more detail on the following pages.

The [Affirmatively Furthering Fair Housing Policies and Programs Toolkit](#) can assist local jurisdictions with completing the crucial step of establishing AFFH goals, policies and actions in the Housing Element. The toolkit highlights 15 key strategies Bay Area jurisdictions can implement to further fair housing. The AFFH Policies and Programs Toolkit was reviewed by HCD staff and incorporates their feedback.

Inadequate public engagement for both AFFH and general outreach are also issues identified by HCD comments. Two guides for engagement can assist with addressing these comments.

- The [Best Practices for Equitable Engagement Primer](#) provides recommendations, guidelines and other resources to help Bay Area cities, towns and counties engage with all segments of their communities in productive dialogue on housing issues. This document focuses on how to engage with communities that are or historically have been underserved and faced disadvantage due to their background or socioeconomic status, the populations HCD calls “special needs”
- The [Housing Communications Guide](#) uses research conducted in the Bay Area to help local policymakers and government staff hold productive conversations with residents about planning for housing.

*****NEW***** [HESS Tool 2.0](#) updates to the Bay Area’s web-based mapping platform include:

- **AFFH layers** which allows local planners to visualize the site inventory distribution with key AFFH data. AFFH attributes have also been added to the site inventory form and local staff can produce their own pivot tables.
- **Realistic Capacity Calculations** for sites included in jurisdictions’ housing inventories HESS now uses Annual Progress Reports, Zoning Ordinances, and General Plans to provide preliminary realistic capacity estimates for further analysis by local staff. Users can generate realistic capacity reports prepopulated with this data, which can be submitted to HCD as supportive documentation to supplement the local analysis.

Index of Regional Housing Technical Assistance Products

This document outlines all the resources developed by the Regional Housing Technical Assistance (RHTA) Program to date. Newly added items are marked

*****NEW*****.

Affirmatively Furthering Fair Housing

*****NEW***** Recently, the [Affirmatively Furthering Fair Housing Policies and Programs Toolkit was released](#) to assist local jurisdictions with completing the crucial step of establishing AFFH goals, policies and actions in the Housing Element. The toolkit highlights 15 key strategies Bay Area jurisdictions can implement to further fair housing. The AFFH Policies and Programs Toolkit was reviewed by HCD staff and incorporates their feedback. HCD has emphasized in recent comments on Bay Area jurisdictions' draft Housing Elements that AFFH should be central to the Housing Element's overarching goals and inform all objectives and policies.

- *****NEW***** An Affirmatively Furthering Fair Housing Policy Resources [Annotated Bibliography also summarizes](#) existing housing policy resources which help identify goals, policies and actions to address a range of fair housing issues.

During the summer of 2021, staff hosted two webinars and launched the first set of AFFH resource products . The first webinar, *AFFH: The Nuts and Bolts with HCD*, was held June 22, 2021 and covered the basics of AB 686 and outlined new requirements for the Housing Element. The second webinar, *AFFH: Data Deep Dive*, was held July 13, 2021 and served as a more focused look into the analysis required for the Assessment of Fair Housing (AFH), and specifically the segregation and integration patterns analysis, which featured ABAG's work with UC Merced via the [STIR Labs partnership](#). Both webinar recordings and presentation materials can be found on ABAG's Regional Housing Technical Assistance Training [website](#).

As a follow up to the July 2021 webinar, the AFFH template [staff report](#) and [slide deck](#) were released for jurisdiction staff to use in introducing the new requirements to their local decisionmakers. Additionally, staff disseminated a [AFFH Data Guidance Checklist](#) which provides sources to data points outlined in the AFH. The final version of this checklist is in development and pending release this fall.

Additional AFFH TA includes:

- AFFH layer added to HESS tool, allowing visualization of site inventory distribution with key AFFH data.
- [Segregation and Land Use Reports](#): Each jurisdiction's report and accompanying dataset provide segregation measures for both the local jurisdiction and the region using several indices, as required by the AFFH guidance issued by the California Department of Housing and Community Development (HCD). Local jurisdiction staff can use the segregation report and dataset to complete a component of the Assessment of Fair Housing, which requires analysis of segregation patterns related to race, other protected characteristics, and lower-income households.
- [AFFH Tips Memo](#): This document provides a summary review of HCD comments on Housing Elements submitted from other jurisdictions throughout the state to identify common pitfalls and make recommendations about how Bay Area jurisdictions can craft policies to meet AFFH goals -streamlining the path towards certification.
- Leading with Equity Working Group. Launched in March 2022 with 15 planning and housing department staff who have self-selected to advance racial and housing equity policies and programs within their Housing Element work. the work group focuses on promoting leadership development, capacity building toward understanding and navigating institutional change, peer-support and one-on-one coaching.

Webinars

Since the RHTA program began, 22 webinars have provided information on a variety of topics. All webinar materials are available on this [webpage](#)

- *****NEW***** **Turner Center and ABAG Present: Best Practices to Implement SB 9 and Missing Middle Housing in the Bay Area**
- *****NEW***** **Leveraging Your Land: Best Practices for Reusing Public Land for Housing**
- *****NEW***** **Transforming Aging Malls and Office Parks: Reuse Challenges and Opportunities**
- Housing Planning: For the Future
- Planning Innovations Webinar: Regional Data Tools for the Housing Element
- Housing Element 101 - Overview and New Laws + Tips
- Creating Capacity: An Overview of the Sites Inventory
- Using Data Effectively in Housing Element Updates – ABAG’s Housing Needs Data Packets and Accessing the US Census
- How to Talk About Housing – Data-Driven Lessons on Housing Communications that Work and Those that Backfire
- Incorporating Environmental Justice and Safety into your Housing Element
- Housing Sites Inventory - Deep Dive
- Engage How To! Introduction to Remote Meeting Tools
- Affirmatively Furthering Fair Housing: The Nuts and Bolts with HCD
- Affirmatively Furthering Fair Housing: Data Deep Dive
- Integrating Climate Adaptation/Resilience into Your Housing Element
- Context of SB 9 and Potential Impacts
- HESS Tool 1.0 Tutorial Webinar
- Surplus Public Land: webinar and presentation
- New Housing Law: webinar and presentation
- Keep Calm and Certify On: Tips from Early Adopters
- New Annual Progress Report Requirements with HCD
- Webinar for Elected Officials: Learn About Available Assistance for Housing Element Updates

Upcoming

- Bay Area Priority Sites Pilot Program
- How to Address HCD Comments for Certification

Communications, Messaging & Community Engagement

Recent products include:

- *****NEW***** ["Let's Talk About Housing:" Communications Guide for Local Government](#)
This document is a data-driven communications guide for use by staff and elected officials to foster productive conversations with residents about housing. The guide is based on existing and new research and includes consistent, clear language for discussions about affirmatively furthering fair housing (AFFH) legislation.
- *****NEW***** [Best Practices for Equitable Engagement Primer](#)
This document shares effective ways to engage communities and stakeholder organizations that traditionally are underrepresented in local government processes. It is designed to provide local jurisdictions with a range of tools, strategies and best practices for engaging all community members.

- *****NEW***** [Consultant support](#) (communications coaching, meeting facilitation services, meeting materials).
- *****NEW***** [508 compliance guidelines](#)
- *****NEW***** [Missing Middle photo gallery with density information](#)
- *****NEW***** [CBO and media contact lists](#)

Previously released information:

- Housing Element Webinar: [How to Talk About Housing](#) – Data-Driven Lessons on Housing Communications that Work and Those that Backfire (4/27/2021)
- Housing Element Webinar: [Engage How To! Introduction to Remote Meeting Tools](#) (5/25/2021)
- Balancing Act online public engagement housing simulation tool available for 25 jurisdictions and reduced rate negotiated for additional jurisdictions
- [Access to template survey](#) for jurisdictions to send to community members to gather information about housing issues and concerns
- [Access to tool kit](#), including messaging guide to provide assistance in discussing housing and AFFH with community members. Several items of the tool kit have already been produced and are available on the website, including [Consequences of Non-Compliance with Housing Element Update](#).
- [Housing TA portal](#), allowing ease of access to range of relevant materials
- [Guide to Housing Element + AFFH Public Participation](#)
- [Assistance with translation and interpretation](#)
- [Best practices for engaging multilingual constituents](#)
- An analysis of [HCD comments on Housing Elements](#) from other regions showed that two-thirds of communities had inadequate public engagement. These new tools are designed to help kickstart Housing Element public engagement and to address HCD comments made on jurisdiction housing outreach activities.

Upcoming

- Guidance on outreach to farmworkers
- AFFH outreach after comment letters
- REAP 2.0 outreach

Housing Data Tools

[Housing Needs Data Packets](#) for all 109 Bay Area jurisdictions contain tables, figures, and accompanying text for over 60 data points that can be placed directly into the Housing Needs section of each jurisdiction's housing element. The data packets were [pre-reviewed by HCD for consistency with state requirements](#) to create predictability during the Housing Element review process.

[Housing Element Site Selection "HESS" Tool](#), launched in Fall 2020, is a web-based mapping platform that assists Bay Area jurisdictions with site identification for Housing Element site inventories and flags sites that will likely require rezoning to be used under new state laws. In Fall 2021, ABAG launched a [1.0 update](#) to the HESS Tool based on feedback received from local planning staff, consultants, subject-matter experts and HCD. Updates included more granular screening categories, additional filters, an editing module to update underlying local land use data, and more.

*****NEW***** **HESS Tool 2.0 Modules** were released in April 2022. The first module is an **AFFH Map** which allows local planners to visualize the distribution of their site inventories alongside key AFFH data layers. The

second module supports jurisdictions with the **Realistic Capacity Calculations** for sites included in their inventories. ABAG has collected and analyzed data from local jurisdictions' Annual Progress Reports, Zoning Ordinances, and General Plans to adjust the theoretical maximum capacity of sites to reflect historical building trends more accurately. Users can generate realistic capacity reports prepopulated with this data, which can be submitted to HCD as supportive documentation. AFFH attributes have also been added to the site inventory form and local staff can produce their own pivot tables.

HESS Office Hours are available on an ongoing basis – staff can request office hour and make other data requests by emailing Heather Peters at hpeters@bayareametro.gov.

Webinar Recordings

- 10/29/2020: [Planning Innovations Webinar: Regional Data Tools for the Housing Element: Webinar video recording](#) and [Webinar presentation](#)
- 3/9/2021: ABAG Housing Element Series: [Creating Capacity: An Overview of the Sites Inventory: Webinar video recording](#) and [Webinar presentation](#)
- 3/23/2021: ABAG Housing Element Series: [Using Data Effectively in Housing Element Updates: Webinar video recording](#) and [Webinar presentation](#). Introduces the ABAG housing needs data packets and provides information on accessing the U.S. Census.
- [HESS Tool 1.0 Tutorial Webinar](#)

Peer Cohorts and Work Groups

- Missing Middle Workgroup
 - a. Products
 1. Slide templates and talking points for use by staff
 2. Market report and interactive feasibility analysis tool
 3. Zoning guidebook
 4. Affordability strategies guidebook
 5. RHNA guidance memo
 6. [Middle Market Housing Development Tool](#)
 - b. Links
 - [Session 1: What is the Missing Middle?](#)
 - [Session 2: The Middle Housing Market](#)
 - [Session 3: Making Middle Housing Happen](#)
 - [Session 4: Making Middle Housing Affordable](#)
 - [Session 5: Projecting Middle Housing Production](#)
- Wildfire: all four sessions including webinar recordings, presentations, and resource guides are on [this website](#).
- “Big 3” Cohort (Oakland, San Francisco and San Jose)
- Leading with Equity Work Group
- *****NEW***** [Malls & Office Parks Transformation Work Group](#)

Upcoming

- Leading with Equity Work Group resources and products
- Agricultural Communities Cohort

Other Regional Products

- [SB 9 materials:](#)
 - Webinar, slide deck, memo templates, Summaries, FAQ and Other References
 - Model ordinance
 - Objective Design and Development Standards (ODDS)
 - SB 9 application checklist for two-unit developments and urban lot splits
 - Sample deed restrictions for two-unit development and lot splits
 - Sample Affidavit regarding owner-occupancy
- [ADU Affordability Safe Harbor](#) – counting towards RHNA
- *****NEW***** [Farm Labor Housing Guidebook](#)
- [Consequences of Non-Compliance with Housing Element Update](#)
- Pilot of Symbium Plancheck software to streamline permitting ([see announcement](#))
- Parking TA:
 - [Parking toolbox and handbook](#)
 - [Parking presentation and webinars](#)
 - Future parking assistance [sign up form](#)

Upcoming

- Regional Objective Development and Design Standards (RODDS)
- Round 2 legal products under way (draft in a month)
 - Regulator agreements checklist
 - New laws cheat sheet
 - Affordable housing replacement requirements/tenant relocation

Templates

- [Jurisdiction Housing Element RFP Template](#) a request for Proposals (RFP) template for local jurisdictions to hire consultants to assist with Housing Element updates
- [Housing Element Staff Report Template](#)
- [Housing Element Timeline Template](#)
- [What is a Housing Element? Briefer Template](#)
 - [What is a Housing Element? Briefer Template \(Word version\)](#)
 - [What is a Housing Element? Briefer Template \(Spanish translation version\)](#)
 - [What is a Housing Element? Briefer Template \(Chinese translation version\)](#)
- [Housing Element FAQs Template](#)
- [AFFH Template Staff Report](#)
- [AFFH Template Staff Slide Deck](#)
- [AFFH Data Guidance Checklist](#)

Resilience Technical Assistance

- [Briefer on Integrated Planning – Environmental Justice and Safety Element Updates](#)
- [Sample Agenda for Integrating Planning](#)
- [Safety Element New Requirements](#)
- [Status of Resilience and Environmental Justice Planning in the Bay Area](#)
- ABAG webinar co-hosted by California Office of Planning & Research: [Incorporating Environmental Justice and Safety into your Housing Element: Webinar video recording](#) and [Webinar presentation](#)

Regional Planning Consulting Bench

ABAG has established a Regional Planning Bench with 92 consultants in 11 service categories. The Bench is available to all jurisdictions in the Bay Area to use in accordance with their local procurement rules.

ABAG launched a labor-saving online tool from City Innovate that allows jurisdictions to easily search bench consultant profiles and compare consultants' qualifications and rates. The tool also facilitates informal solicitations of quotes for work when applicable procurement rules allow.

Related Links

- [Frequently Asked Questions](#) regarding the Grants and Regional Planning Consulting Bench
- [Request for Qualifications](#) used to select the Regional Planning Consulting Bench

Local Grants

Funding amounts can be found in this [Grant Amounts spreadsheet](#). Draft funding agreements were sent to all Bay Area jurisdictions in July offering each the option of receiving reimbursements for eligible expenses, or the option of electing to have ABAG hold the funds and administer consulting contracts on behalf of the recipient jurisdiction. [REAP Non-competitive Allocation: Eligible Activities](#)

County Planning Collaboratives

County-based groups staffed by a paid coordinator who provides technical assistance and facilitates cross-jurisdiction engagement for the Housing Element updates and other housing-related topics.

Collaborative Contacts:

1. Alameda: Alexia Rotberg, UPP, arotberg@up-partners.com
2. Contra Costa: Mark Hoffheimer, MIG, mhoffheimer@migcom.com
3. Marin: Jillian Zeiger, Marin County, jzeiger@marincounty.org
4. Napa/Sonoma: Jane Riley, 4Leaf, jriley@4leafinc.com
5. Santa Clara: Paul Peninger, Baird + Driskell, peninger@bdplanning.com
6. San Mateo: Josh Abrams, Baird + Driskell, abrams@bdplanning.com
7. Solano: Robert Guerrero, Solano Transportation Authority, rguerrero@sta.ca.gov

Recording of Planning Collaboratives Kick-Off April 13, 2021. This webinar introduces the County Planning Collaboratives.

- [Planning Collaboratives Kick-Off: Webinar video recording](#)
- [Planning Collaboratives Kick-Off: Presentation](#)
- Additional resource from the webinar: [A Collaborative Approach to Addressing our Housing Challenges](#)

HCD TA

- [Housing Planning Hub Site](#) is a repository of statewide and regional toolkits, factsheets, and guidance on a variety of housing policy areas with a specific focus on [priority policy areas](#). HCD will continually update the resource center as new tools become available.
- [Prohousing Designation](#) free technical assistance to gain designation and bonus points for state funding programs.
- [Housing Element Educational Video](#) for the 6th cycle housing element update targeting local elected officials, stakeholders, and the public. This video is available for free in English and Spanish with closed captioning. Local governments can embed links to the video on their websites.