



Cover Memo

RHNA Transfer Workgroup

To: **RHNA Transfer Work Group Meeting Participants**

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Date: February 24, 2017

Subject: **RHNA Transfer Work Group Meeting Summary and Follow-up**

Thank you all so much for your participation in last week's meeting to discuss options for RHNA transfer. Attached is a summary of the meeting, including PDF versions of the PowerPoint presentations. For copies of the original PowerPoint presentations, please go to the 21 Elements website at <http://21elements.com/Download-document/875-RHNA-sharing-powerpoint.html>.

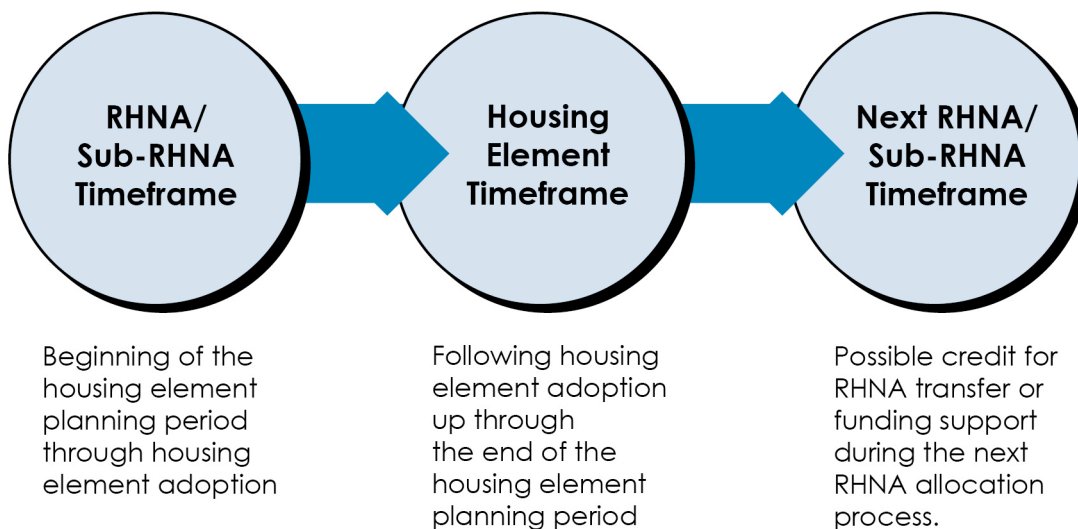
Interest in Conducting a Second Meeting — There was significant interest at last week's meeting to convene a second RHNA Transfer workgroup meeting after additional materials are collected (such as information on the bills being introduced during this session of the State legislature). In addition, it seemed there was direction to begin to sort strategies by what can we do now as compared to longer-term changes we think should be made. Another important topic is to identify where the various organizations might collaborate in effectuating change.

Possible Topics for the Second Meeting — In general, we would propose that the second meeting cover the following topics: (1) identification of clear and concise common goals to identify exactly what we are trying to achieve; (2) fine tuning of possible strategies (near-term and longer-term); (3) contents and approach to the white paper to be prepared on RHNA transfer options, which was also suggested at the meeting; (4) collaboration and coordination opportunities; and, (5) follow-up actions and responsibilities.

Fine-Tuning the Second Meeting Approach and Agenda: As we did for the first meeting, we will reach out to Duane Bay (ABAG) and Armando Sanchez (HEART) to fine-tune the proposed approach and agenda for the second meeting. If you want to be involved in these conversations, please let us know. In the meantime, if anyone has any follow-up comments or suggestions, please don't hesitate to phone or email Josh Abrams or Jeff Baird at 21 Elements. We will contact everyone with possible dates, topics and other information for the meeting.

Food for Thought: Based on the discussion and ideas generated at the first meeting, we are thinking it might helpful to group possible strategies into timeframes during the housing element/RHNA process. Also, within each timeframe, it may be useful for us to differentiate strategies as to whether it is something we can do now, something we can do with minor changes, and longer-term strategies that are more complex to accomplish. Below is an illustration of the timeframes we may want to use to group possible strategies

Possible Timeframes for RHNA Transfer Considerations



We will keep in touch with everyone as we schedule the next meeting. Again, thank you all for participating in this process and for the great discussion.

Summary of the RHNA Transfer Workgroup Meeting Conducted on February 15, 2017

Silicon Valley Community Foundation
1300 South El Camino Real, San Mateo

Introduction

The purposes of the Regional Housing Needs Allocation (RHNA) Transfer workgroup meeting conducted on February 15th, 2017 were to (1) provide participants an opportunity to share their interests and current work related to opportunities for RHNA transfer, (2) review previous RHNA transfer efforts, (3) have an initial conversation to identify what might be possible under current State Law and if the law were changed, and (4) identify next steps and follow-up. The meeting was sponsored by SV@home, Home for All, HEART of San Mateo County, The Cities Association of Santa Clara County and 21 Elements.



*Special thank you to the
Silicon Valley Community
Foundation for providing
lunch and their meeting
facilities!*

This summary has been prepared by 21 Elements to document the comments and ideas from the meeting, and to identify next steps. Below is a list of meeting participants and a summary of meeting comments.

Attendees

1. Melinda Coy, California Department of Housing and Community Development (HCD)
2. Paul McDougall, HCD
3. Devon King, HCD
4. Vu-Bang Nguyen, Silicon Valley Community Foundation

5. Gillian Adams, Association of Bay Area Governments (ABAG)
6. Duane Bay, ABAG
7. Pilar Lorenzana-Campo, SV@Home and Cities Association of Santa Clara County
8. Leslye Corsiglia, SV@Home and Cities Association of Santa Clara County
9. Nicole Montojo, SV@Home and Cities Association of Santa Clara County
10. Jeffery Baird, 21 Elements
11. Joshua Abrams, 21 Elements
12. Armando Sanchez, HEART
13. Janet Stone, San Mateo County Department of Housing
14. Jessica Mullin, San Mateo County Office of Sustainability/Home for All
15. Barbara Kautz, Goldfarb & Lipman LLP
16. Rebecca Rabovsky, staff to the California State Assembly Committee on Housing and Community Development
17. Matt Regan, Bay Area Council

Meeting Overview

There is significant interest in policies that allow cities to contribute money to a regional pool or to another city and, in exchange, receive credit that can be used to meet future Housing Element obligations or be credited toward the jurisdiction during the review of their Housing Element's effectiveness. The RHNA Transfer workgroup meeting focused on developing an understanding about what is possible under current law and to generate ideas about the ways the law could be changed to facilitate cooperation and achieve greater effectiveness in meeting housing needs.

Joshua Abrams of 21 Elements opened the meeting and, after brief introductions, participants provided their insights as to why RHNA transfer/sharing is important and the work the various organizations are doing around the issue (see below for summary of comments). Josh then provided an overview of the RHNA process an explanation for how RHNA and annual housing element reporting works under current requirements.

Following that, Barbara Kautz, Goldfarb & Lipman, provided an overview of the legal environment — what is the current legal environment and how does it shape what is possible? Then, presentations were provided by Jeffery Baird, 21 Elements, on the Napa County/City of Napa/American Canyon transfer of RHNA; Duane Bay, ABAG, on the San Mateo County sub-region RHNA process; Joshua Abrams, 21 Elements, on previous legal efforts (2006 Evans Bill); Gillian Adams, ABAG, on the Palo Alto / Santa Clara County RHNA transfer; and Melinda Coy, HCD, on the Ventura County efforts.

Comments from the meeting were recorded on a large wall-graphic that has been reduced and included as part of this meeting summary (see page 6). Also attached to this summary are the PowerPoint presentations in PDF file format. For copies of the original PowerPoint presentations, please go to the 21 Elements website at http://21elements.com/Download-document/874-Powerpoint_2_15_17.

Key Themes

Several key themes emerged from the meeting.

Address Cities' Primary Concerns

Generally, cities are looking for some type of credit or recognition for loaning or donating money to other jurisdictions within the same county. The credit can take different forms, but must result in cities either avoiding being perceived as a bad actor in the RHNA process or being subject to punitive action.

Use the RHNA/Housing Element Process Timeframes to Organize Strategies

It may be helpful to organize various solutions depending on the timing during the housing element/RHNA process. The different opportunities seem to map well onto the timeframes in the RHNA cycle. The timeframe immediately before housing elements are adopted has the most potential for some type of deal to transfer units under current law, but that is a relatively time-limited opportunity.

Recognize the Ease Local Actions Compared to State Legislation

Another factor to consider when categorizing possible strategies would be to look at both local and regional changes we can make, as well as statewide opportunities. There may be near-term, local opportunities with One Bay Area Grants, for instance, as compared to state legislation that is a much longer process and would have implications throughout the state. Alternatively, legislation could limit changes to San Mateo and Santa Clara Counties if it can be justified to do so.

Potential Challenges and Opportunities

Previous efforts for RHNA sharing have run into opposition from the development community and low income advocates. The compromises needed to address these concerns often have resulted in restrictions that discourage jurisdictions from making deals with their neighbors. However, San Mateo and Santa Clara county jurisdictions might be able to work within these limitations in developing approaches to sharing.

Summary of Meeting Comments

Overall Intentions and Objectives for RHNA Transfer

- (1) Make HEART more dynamic by facilitating ease of funding for projects.
- (2) Encourage the movability of money to effectively fund housing.
- (3) Recognize that RHNA sharing/transfer is a "Home for All" objective.
- (4) Consider that "SV @Home" has established workgroups in Santa Clara County, with ABAG assisting, to possibly establish a sub-RHNA.
- (5) Identify possible revenue sharing opportunities.
- (6) Consider that ABAG wants to make the RHNA process work better. The spirit of RHNA is to appropriately distribute units.
- (7) Recognize the challenges of building affordable housing in the Bay Area and the transfer of RHNA should not be an impediment.
- (8) Provide an opportunity for jurisdictions to be recognized positively for regional housing needs contributions and not perceived as "the bad guys."

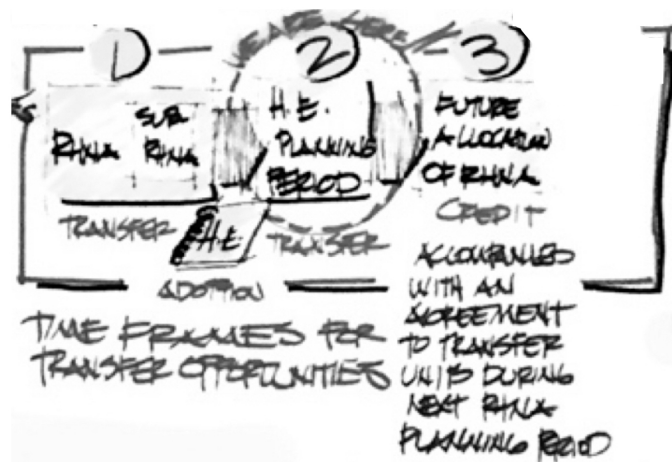
Background Examples of RHNA/Unit Transfers

- (1) Investigate examples of transfers, such as Palo Alto/Santa Clara County and Ventura County's use of housing funds in the cities.
- (2) Review Sacramento County and Ventura County actions where they developed units in cities through annexation.

RHNA Transfer and Funding Opportunities

- (1) Consider putting some RHNA units in a pool for sharing when opportunities arise.
- (2) Allow for income sharing (with requirements) for housing successor agencies.
- (3) Apply to Boomerang funds.
- (4) Create an opportunity for loans/funding to be available on call.
- (5) Consider a larger geographic area for possible RHNA transfer and not just adjacent jurisdictions.
- (6) Investigate with HCD the creation of a unique Annual Housing Element report content for Bay Area jurisdictions that provides a discussion and allowance for use of housing funds to support affordable housing elsewhere in the county.
- (7) Identify ways for jurisdictions to be able to get credit in future RHNA allocations when they accept transferred RHNA units.
- (8) Review SB2 (homeless facilities requirements) and the criteria for establishing a cooperative agreement as a possible model for transfer of RHNA to an adjacent city.

- (9) Identify opportunities during the three timeframes for RHNA Sharing: (1) transfer before housing Element adoption when RHNA is confirmed either by ABAG or through a sub-RHNA process; (2) transfer during the housing element implementation and planning period; and, (3) future credit for RHNA transfer.



- (10) Identify ways that future RHNA credit can be accompanied with an agreement to transfer future RHNA units during the next RHNA planning period.
- (11) Enable multiple community goals to be addressed, including balancing fair housing with RHNA, traffic congestion, etc.
- (12) Review the OBAG allocation credit opportunities.
- (13) Consider that whatever changes are made to state law affects the entire state, unless a specific geographic area is identified.

Possible Follow-up Actions

- (1) Convene a second RHNA Transfer workgroup meeting, after additional materials are collected, to identify and/or confirm: (1) common goals; (2) agreed upon strategies; (3) other ideas; (4) coordination needs and responsibilities; and (5) collaboration opportunities and follow-up actions.
- (2) Prepare a white paper identifying the options for RHNA transfer.
- (3) Undertake an analysis of new bills being considered in the state legislature.
- (4) Consider a pilot program.
- (5) Get creative and fine-tune the issue(s) and the goals for RHNA transfer changes to identify exactly what we are trying to achieve.
- (6) Consider two tracks
 - a. What can we do now?
 - b. What are longer-term changes we should make?
- (7) Coordinate with others jurisdictions and entities to gather support for changes.



Wall-Graphic Summary of Comments from the RHNA Transfer Workgroup Meeting conducted on February 15, 2017

Feb 15, 2017
RHNA SHARING

LEGAL OVERVIEW

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RHNA SHARING WORKSHOP
SILICON VALLEY COMMUNITY FOUNDATION MEETING
WEDNESDAY, FEBRUARY 15, 2017

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1300 CLAY STREET, 11TH FLOOR
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RHNA SHARING IN CURRENT LAW

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- COUNTY TO CITIES I (G.C. 65584.07(a))
 - ▣ Between adoption of RHNA by ABAG and due date of housing element
 - ▣ Only from county to cities in county
 - ▣ Must transfer lower, moderate, and above moderate RHNA in same proportion (e.g., 5% reduction in each income level)
 - ▣ “Shall” be approved if meet conditions

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RHNA SHARING IN CURRENT LAW

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- COUNTY TO CITIES II (G.C. 65584.07(d))
 - ▣ Upon annexation
 - ▣ If a DA, transfer must be based on DA; units cannot have already been assigned to city
 - ▣ Mutually acceptable agreement must be accepted by ABAG and HCD
 - ▣ City must amend housing element within 180 days

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RHNA SHARING IN CURRENT LAW

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- COUNTY TO CITIES III - NAPA COUNTY PROVISION (G.C. 65584.6) (EXPIRED 6-30-07)
 - ▣ 15% of current lower income share for \$\$ but no more than 40% of lower income units actually built in the county
 - ▣ City receives no credit; must have certified housing element; must have sites for additional units; must build 20% of very low income RHNA
 - ▣ Detailed HCD review

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RHNA SHARING IN CURRENT LAW

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- SUBREGIONAL ENTITIES (G.C. 65584.03)
 - ▣ Can effectively transfer RHNA among cities and the county

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OTHER RHNA ALTERNATIVES

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- PRESERVATION AND CONVERSION (G.C. 65583.1(c))
 - Up to 25% of lower income RHNA
 - Must ID in housing element; enter into agreement between beginning of 'projection period' and 2 years after due date (1-14 to 1-17)
 - City must have constructed at least some lower income housing in previous housing element period

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FAIR HOUSING ISSUES

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- DISPARATE IMPACT (Fair Housing Act & FEHA)
 - Any action that increases, reinforces, or perpetuates segregated housing patterns
 - **May** be justified if **necessary** to achieve other legitimate goals; which could not be served by practice with less discriminatory effect

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FAIR HOUSING ISSUES

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- “AFFIRMATIVELY FURTHERING FAIR HOUSING”
 - ▣ Must take affirmative steps if receiving federal funds (CDBG and HOME)
 - ▣ Applicable to most communities over 50,000 population and “urban counties”
 - ▣ Goals are to: overcome patterns of segregation; foster inclusive communities; increase housing choice

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LIMITS ON FUND EXPENDITURES

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- IMPACT FEES BASED ON NEXUS STUDIES (COMMERCIAL AND RENTAL)
 - ▣ Must be used to mitigate impacts of the development (employees who need affordable housing)
 - ▣ Joint nexus studies looked at countywide impacts
 - ▣ Existing examples of regional impact fees

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LIMITS ON FUND EXPENDITURES

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□ IN LIEU FEES AND FEES FROM DEVELOPMENT AGREEMENTS

- ▣ Would depend on provisions in local ordinances and each development agreement
- ▣ In general, could be more difficult to spend outside the city

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LIMITS ON FUND EXPENDITURES

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□ HOUSING SUCCESSOR PROGRAM INCOME (H & S 34176.1(c)(2); SB341)

- ▣ May be shared only among housing successors; max \$1M per year
- ▣ Only for rental transit priority projects, supportive, farmworkers & special needs projects serving 60% median & below
- ▣ Certified housing elements; not in area 50% very low income unless near transit

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LIMITS ON FUND EXPENDITURES

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- 'BOOMERANG' FUNDS (H & S 34191.30; AB2031)
 - ▣ Allows communities to bond their 'boomerang' funds
 - ▣ But – must be spent within the jurisdiction

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SOME OBSERVATIONS

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- Advocates very resistant to allowing cities to buy out of lower income obligations
- If bills pass, have provisions making them unworkable
- Usually trading must be done before element adoption
- Transferring city must have built affordable housing

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SOME OBSERVATIONS

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- Can't increase segregation or concentrate poverty
- Nexus fees may be easiest to transfer

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LEGAL OVERVIEW

RHNA SHARING WORKSHOP
SILICON VALLEY COMMUNITY FOUNDATION MEETING
WEDNESDAY, FEBRUARY 15, 2017

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2004 Napa County RHNA Transfer

(1999-2006 Housing Element Planning Period)

PROBLEM: Napa County could not obtain certification of its Housing Element (2003)

- **Insufficient housing sites** (already accounted for 15% in cities (102 units in City of Napa), second units, known sites, potential sites, etc.)
- **Constrained by voter initiatives**
- **County needed to transfer 1,058 units**

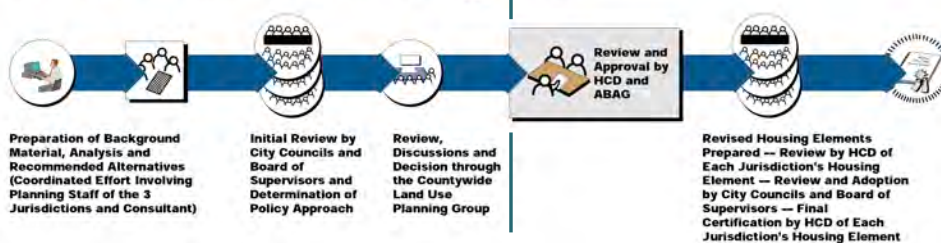
UNIQUE TO NAPA: At that time, 15% of Napa County's RHNA allocation for very low and low income housing could be met in the cities (since expired)

- Only county in California
- “World-famous vineyards”
- Housing Trust Fund to assist affordable housing



Steps in the Napa County RHNA Transfer Process

Transfer Process Overview



- ## 1 Local review and signed agreements (MOUs)

- ## 2 ABAG and HCD approval and certification of three updated housing elements by HCD

Technical Analysis

Identify housing sites and future capacity

- Long-and short-term housing sites potential
- Scenarios for future development

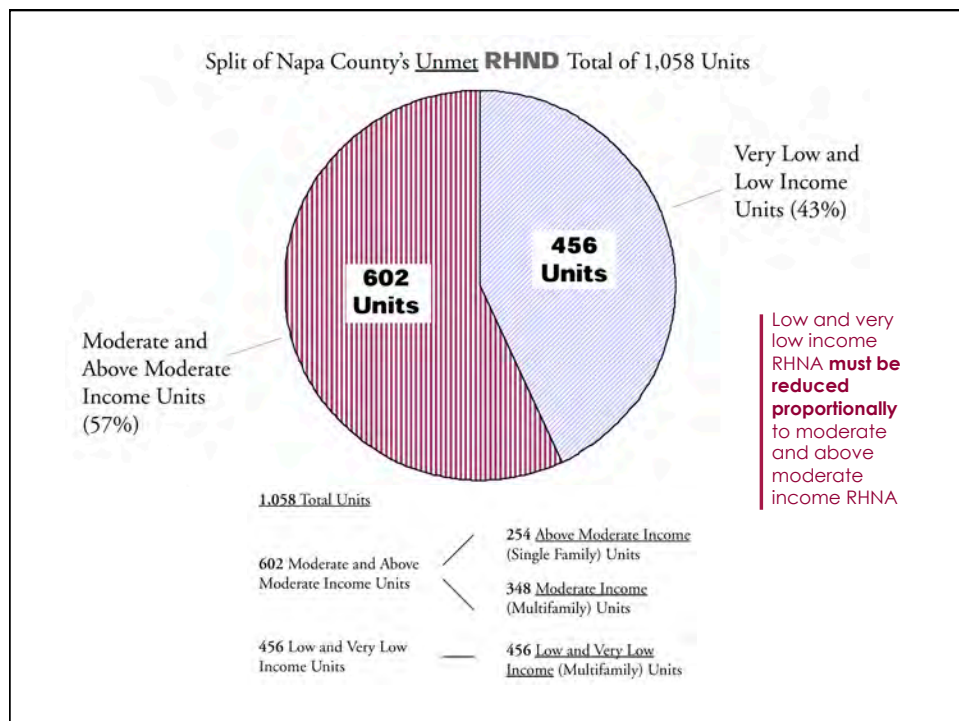
Establish affordability levels for sites (before default densities)

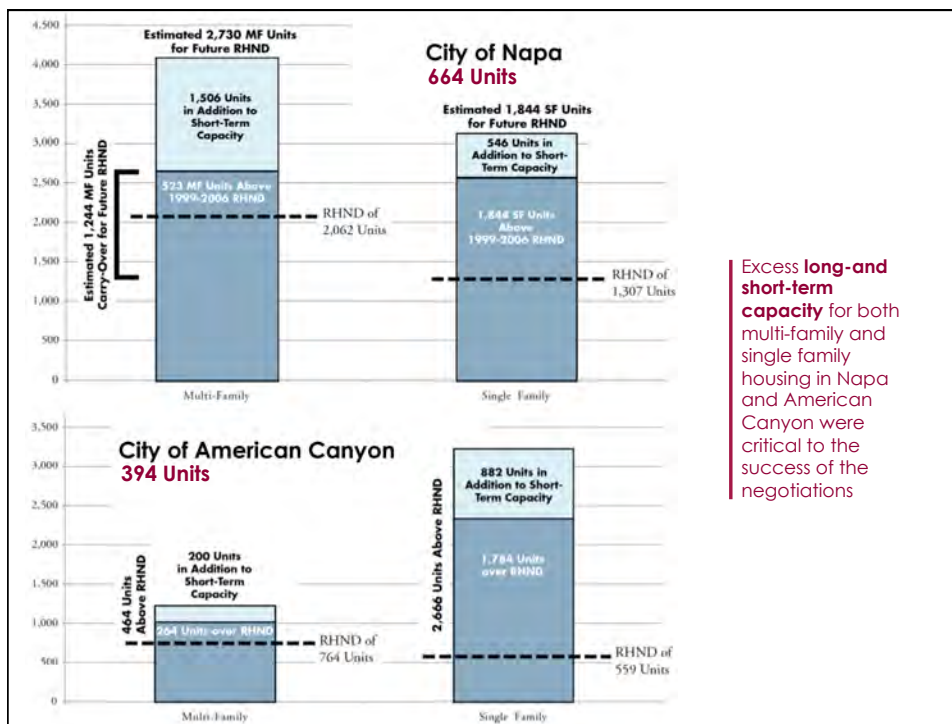
Support ABAG RHNA factors

- Commuting patterns, market demand for housing and employment opportunities
- Type and tenure of housing, suitable sites and public facilities
- Special needs housing (farmworker housing need, assisted housing)

Ensure a proportional transfer of the County's RHNA to the cities for very low and low income units (43%) and moderate and above moderate income units (57%)

- Affordability split of units by affordability levels
- Proportional split between Napa and American Canyon





Summary — Two Track Local Process

Local Track A: TECHNICAL/LEGAL ANALYSIS by Staff

- Make the RHNA numbers work for all
- Achieve HCD/ABAG approval



Local Track B: NEGOTIATIONS by Decision-Makers

- Reach agreement to accept the County's remaining RHNA
- Reach agreement on the value of the RHNA transfer



End Results

- (1) Local transfer agreement finalized
- (2) Updated Housing Elements prepared and adopted
- (3) Updated Housing Elements certified by HCD

Basics of the Local Transfer Agreement

Napa County

- 1,058 units transferred
- 456 very low/low
- 602 units moderate and above moderate

City of Napa (664 Units)

- Construct new parking garage on County land for employees and new retail, hotel, and office development in the area (shared the cost)
- Agreed to pay a certain amount per incremental unit that was permitted and built, above and beyond City of Napa's original RHNA for extra service costs
- First right of refusal on County-owned buildings, should they be put on the market for sale

Both Cities Received

- Limit on certain uses (retail, for example) in **Airport Industrial Area (AIA)**; mostly benefited Napa
- Gave both cities input into AIA land use decisions

City of American Canyon (394 Units)

- Extend Devlin Rd to take pressure off Hwy 29
- Allow certain properties to be annexed
- Agreed to pay a certain amount per incremental unit that was permitted and built, above and beyond City of American Canyon's original RHNA for extra service costs
- Support the creation of a By-Pass road through unincorporated Ag land to take pressure off Hwy 29

AB 3042

The Death and Life of Great California Bills

AB 3042 (2006)



- Allows payments for transfer of RHNA
- Must be consistent with regional growth plan
- Same region (e.g. ABAG)
- Public hearing

Support



- City of Lakewood
- Marin County

Oppose



Amendments

Original

- Allows payments for transfer of RHNA
- Must be consistent with regional growth plan
- Same region
- Must transfer all income levels
- Public hearing

Revised

- Cities must be close to each other (same county or same commute/10 miles)
- Must transfer all income levels
- Will not cause racial, ethnic, or economic segregation.
- One transfer per city per cycle
- No more than 30% of RHNA
- Sunset clause (2018)

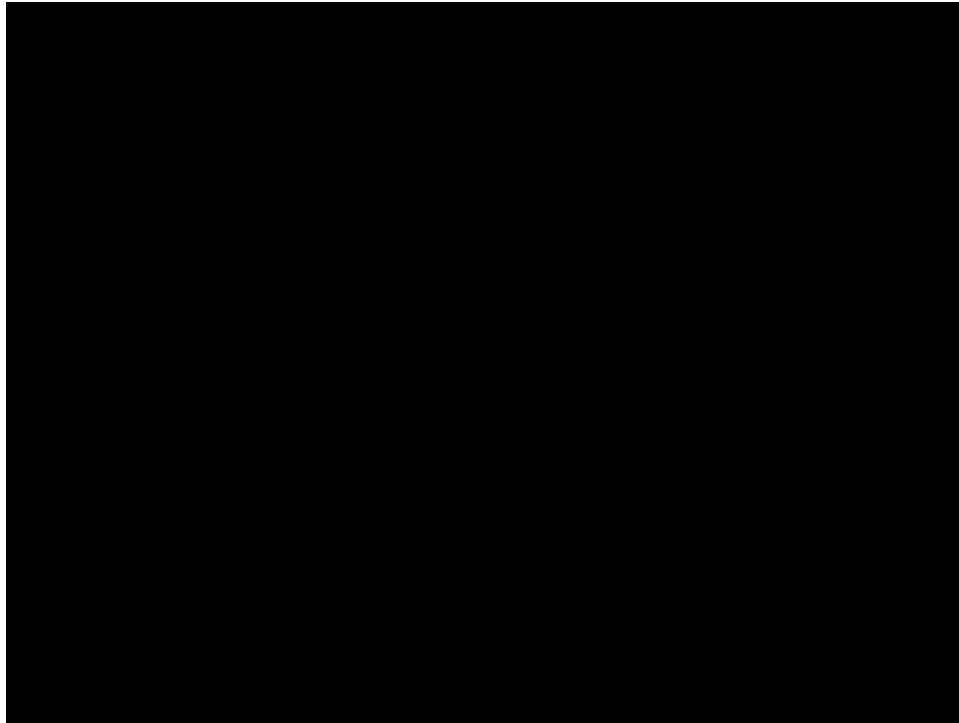
Support



- City of Lakewood
- Marin County

Oppose





Discussion Questions

- What are the pros and cons of reducing Housing Element obligations in exchange for financial contributions?
- What is possible under current law, now and during the pre-RHNA period?
- What are potential ways of changing the law?