

The RHNA Appeals Process

This is the statutory language that allows local governments to appeal their COG's RHNA allocation.

Government Code Section 65584.05:

Within 45 days following receipt of the draft allocation, a local government within the region or the delegate subregion, as applicable, or the department may appeal to the council of governments or the delegate subregion for a revision of the share of the regional housing need proposed to be allocated to one or more local governments. Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584. An appeal pursuant to this subdivision shall be consistent with, and not to the detriment of, the development pattern in an applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Section 65080. Appeals shall be limited to any of the following circumstances:

☐ The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.

(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.

(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

SCAG case study:

SCAG received 48 appeals during its 6th cycle RHNA plan development. Over the course of several public hearings, SCAG recommended denying 47 out of 48 appeals. SCAG staff only recommended partially approving one appeal filed by the County of Riverside. This appeal would reduce the County's allocation by 215 units, for a total draft RHNA allocation of 40,553 units. The staff recommend approving this appeal because the RHNA methodology inadvertently included projected growth from March Joint Powers Authority.

SCAG has consistently recommended denying appeals based on the availability of land suitable for urban development and appeals that argue COVID-19 represents an unforeseen change in circumstances. SCAG has also consistently recommended denying appeals based on water / sewage limitations and flood risk, citing the jurisdiction's failure to demonstrate limitations based on other agency actions like water districts, for example. Pico Rivera, however, was granted a partial appeal because the Army Corps of Engineers documented a potential "loss of life" in the case of a heavy rain event. The allocation was reduced from 3,939 units to 1,022 units (26% of initial allocation).