

Playing the Housing Numbers Game

How California's sixth-cycle RHNA was rigged

Catalysts for Local Control

Michael Barnes August 24, 2022

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OVERVIEW

- 1) What is RHNA and what are the issues?
- 2) The HCD RHNA audit
- 3) Where do we go from here?

What is RNHA?

According to the California Department of Housing and Community Development (HCD):

“Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community.

In order to create a housing plan (aka housing element) showing it could meet the local housing needs, a jurisdiction must first know how much housing it must plan for. ...This is determined by a process called the regional housing needs assessment (RHNA).”

- We are now in the beginning of the sixth 8-year RHNA cycle.

RNHA has been a policy failure for 50 years

2003 Public Policy Institute of California study:

California's Housing Element Law: The Issue of Local Noncompliance

- Compliance with RHNA had no effect on how much housing was built.
- Developers typically exceeded the RNHA targets for market rate housing—but they chose their own sites.
- Growing income inequity tends to make market-rate housing even further out of reach for low-income households.
- “RHNA is broken.”

2017—the year RHNA was weaponized

- In 2017 the state legislature passed Senate Bill 35, authored by San Francisco Sen. Scott Wiener.
- The bill streamlined multifamily housing project approvals **ministerially** in cities that failed to issue building permits for their share of the RHNA housing allocations.
- “Ministerially” means by-right. If a developer applies for an approval, the city must approve it without public comment or oversight as long as it conforms to a narrow set of “object standards.”

SB 35 contained a poisoned pill

- As the League of California Cities pointed out in its veto request letter to Governor Brown, a better bill would:

“Require the trigger for ministerial approval of housing projects to be based on the number of entitled and approved applications, a process that a local agency actually controls, rather than building permits, which a developer controls and will not pull until they are ready to construct a project.”

- Under SB 35, developers can delay pulling permits until approvals become ministerial. The bill takes control away from the public and hands it to developers.

SB 828 finished what SB 35 started

- Most cities met their RHNA goals for market-rate housing, so SB 35 streamlining of approvals was rarely invoked.
- Wiener and his allies needed a way to jack up the RNHA targets to unrealistic levels, guaranteeing that most cities would fail to meet the targets.
- SB 828 was the bill that allowed HCD to make sloppy and redundant adjustments to the RHNA goals. The bill was sponsored by the Bay Area Council and the Silicon Valley Leadership Group.

SB 828 created another carrot for developers

- Wildly inflated RHNA mandates require cities to change zoning to allow bigger, taller projects on lots. This is known as “upzoning.”
- By creating a bigger development envelope, upzoning allows more apartments to be built, raising the economic value of the upzoned lot.
- Upzoning creates windfall increases in property values, especially for undeveloped commercial and multi-family residential lots.

HCD's 6th cycle RHNA targets are absurd

- In California there are four main planning regions—Bay Area, Southern California, Sacramento and San Diego. These four regions contain 82 percent of state population.
- RHNA targets call for 870,400 new affordable units for low- and very-low income households. The required subsidies for this amount of housing would be \$400-500 billion.
- RHNA targets call for a total of 2,108,200 new affordable and market-rate units. This would require building more than 250,000 units every year for eight years.
- Cities are being set up to fail.

The State Auditor slammed HCD's RHNA work

- In September 2021 State Senator Steven Glazer requested an emergency audit of the RHNA process. In response to Glazer's request, in March 2022 Michael S. Tilden, the Acting California State Auditor, issued a blistering critique of RHNA.
- “Overall, our audit determined that HCD does not ensure that its needs assessments are accurate and adequately supported. ...This insufficient oversight and lack of support for its considerations risks eroding public confidence that HCD is informing local governments of the appropriate amount of housing they will need.”

But there's a catch

- The State Auditor has no power of enforcement. The auditor's reports are often ignored.
- This is true even though Auditor concluded that HCD “must improve its processes to ensure the communities can adequately plan for housing.”
- The Auditor's report made strong recommendations and created a timeline for their completion. Several tasks must be undertaken between June 2022 and February 2023.
- It is up to citizens like us to insure the shortcomings of the RHNA process are addressed by HCD.

Comply with RNHA, but organize

- Write to your state legislators to urge them to support the findings of the State Auditor and to require HCD to comply with the audit.
- These letters will remove the excuse of “plausible deniability.” Your legislators won’t be able to claim they weren’t notified.
- If the audit is completed and finds egregious errors, we need to fight to adjust the RHNA targets. There is no adjustment process built into RHNA.

Out of the frying pan and into the fire

- City councils and county supervisors are now busy working on their RHNA plans. They may assume that once HCD approves their plans their work is done. That would be a big mistake.
- Midway through the 6th RHNA cycle if developers haven't pulled permits for at least half your city's RHNA targets then approvals become ministerial and the public loses the right to influence the projects.
- California's city councils and county supervisors will need fight back. A two-pronged approach would support the State Auditor's work but also consider becoming one of the plaintiffs in the HCD/RHNA lawsuit.

A photograph of a modern, multi-story residential building with a mix of light blue, white, and terracotta-colored siding. The building features several balconies with glass railings and large windows. The text "And now to Q&A..." is overlaid in a dark blue serif font. The background is a clear blue sky.

And now to Q&A...