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January 6, 2020

*Hand Delivered and Emailed to
Seth.Litchney@sandag.org*

Seth Litchney
Senior Regional Planner
San Diego Association of Governments
401 B Street, Suite 800
San Diego, CA 92101

RE: City of Lemon Grove Appeal of Draft Housing Unit Allocation for 2021-2029 Housing Cycle

Dear Mr. Litchney:

The City of Lemon Grove (City) hereby submits its appeal to the San Diego Association of Governments (SANDAG) of SANDAG's Draft Housing Unit Allocation (Draft Allocation), released November 22, 2019, which is based on the Final Regional Housing Needs Assessment (RHNA) Methodology for the Sixth Housing Element Cycle (2021-2029) for the San Diego Region (referred to herein as the Sixth Cycle) also adopted by the SANDAG Board of Directors on that date.

Introduction

The RHNA methodology results in an increase in the number of housing units allocated to the City from 309 units in the previous Fifth Housing Element cycle to 1,359 units in the current Sixth Housing Element cycle. The proposed increase is sizable and inequitable and based on a flawed methodology that must be reconsidered.

Pursuant to Government Code (Govt. Code) § 65584.05 the first opportunity for the City to lodge an administrative appeal arises after distribution of the Draft Allocation, which occurred on November 22, 2019.

As you know, the City provided its comments to SANDAG, objecting to the Draft RHNA Methodology, prior to SANDAG's adoption of the Draft RHNA Methodology as the Final RHNA Methodology, in a letter dated November 5, 2019. A copy of the letter is attached hereto as Exhibit A and incorporated herein by this reference. A presentation was also provided to SANDAG's Board of Directors by Councilmember Jones at its meeting on September 6, 2019 at which time

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several deficiencies in the draft RHNA Methodology were identified, which were also included in a letter from Councilmember Jones to the Chairman of the Board dated September 1, 2019. A copy of Councilmember Jones' letter is attached hereto as Exhibit B and incorporated herein by this reference. The same objections identified in the above-referenced letters and the presentation apply to the Draft Allocation, which is based on that Methodology.

In its November 5, 2019 letter (Exhibit A) the City expressed two primary concerns regarding the Draft RHNA Methodology. As will be more thoroughly discussed herein, the City now appeals the Draft Allocation based on the same objections/concerns, which are summarized as follows:

1. The Draft Allocation disproportionately allocates housing units to jurisdictions based on the existence of transit stations within their boundaries regardless of whether those stations are used by neighboring jurisdictions and the extent of the use by neighboring jurisdictions and their populations; and
2. The proposed equity adjustment in the Draft Allocation does not adequately account for established higher density small cities with low income populations higher than the region average, which will have the effect of displacing low-income families that rely on transit services effectively undermining the objectives identified in Govt. Code § 65584.

Background

The California Department of Housing and Community Development (HCD) provided SANDAG with a regional housing needs number of 171,685 units distributed to four income categories: very low (24.7%); low (15.5%); moderate (17.3%); and above-moderate (42.5%) for the Sixth Cycle.

SANDAG thereafter developed a Draft Methodology to distribute HCD's housing allocation throughout the region for all affected jurisdictions.

On July 26, 2019 the SANDAG Board of Directors released for public comment the Draft Sixth Cycle RHNA Methodology.

On September 6, 2019, the SANDAG Board of Directors conducted a public hearing at which time it received oral and written communications on the Draft Methodology and closed the public comment period. It was at this hearing that the Councilmember Jones presented the City's objections to the Draft Methodology. On the same day, the SANDAG Board of Directors authorized the transmittal of the RHNA Draft Methodology to HCD for its 60-day review period.

On November 1, 2019, HCD determined that the RHNA Draft Methodology meets state standards.

On November 22, 2019, the SANDAG Board of Directors, through a weighted vote, adopted the RHNA Draft Methodology without any change, over the objections of the region's smaller communities, including the City of Lemon Grove. On November 22, 2019 the SANDAG Board

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of Directors also released the Draft Allocation, which is calculated based on the RHNA Methodology.

Discussion

1. Authority and Procedure for Appeal of the Draft Allocation

The City hereby submits its appeal of the Draft Allocation, pursuant to Govt. Code § 65584.05, within forty-five (45) days of receipt thereof. (Govt. Code § 65584.05(b).) Appeals of the Draft Allocation are limited to challenging the following three (3) issues identified in Govt. Code § 65584.05(b):

- Govt. Code § 65584.05(b)(1): SANDAG failed to adequately consider the information submitted pursuant to Section 65584.04(b).
- Govt. Code § 65584.05(b)(2): SANDAG 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 Section 65584(d).
- Govt. Code § 65584.05(b)(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 Section 65584.04(b).

Further, Govt. Code § 65584.05 requires that an appeal of the Draft Allocation meet the following criteria; the appeal must:

- Be based on comparable data available for all affected jurisdictions;
- Be based on accepted planning methodology;
- Be supported by documentation;
- Include a statement as to why revision is necessary to further the five RHNA objectives in Govt. Code § 65584(d)¹; and

¹ Per Govt. Code § 65584(d) RHNA shall further the following five objectives:

1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low-and very low-income households.
2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

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- Be consistent with the 2015 Regional Plan/Sustainable Communities Strategy.

2. City of Lemon Grove's Grounds for Appeal

Pursuant to Govt. Code § 65584.05(b)(2), the City appeals the Draft Allocation based on SANDAG's failure to determine the City's share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Govt. Code § 65584.04 and in a manner that furthers, and does not undermine, the intent of the objectives listed in Govt. Code § 65584(d).

- (a) The Draft Allocation disproportionately allocates housing units to jurisdictions based on the existence of transit stations within their boundaries

The objectives identified in Govt. Code § 65584(d) are undermined by the flawed allocation of housing units because the methodology used to determine the allocation of the housing units at issue incorporates a flawed mechanism to distribute those housing units based on transit stations located within the boundaries of the subject jurisdictions. Lemon Grove has two trolley stops that increase the housing allocation to the City even though those trolley stops serve Lemon Grove's neighbors as well.

The methodology used incorporates transit stations by allocating 75% of the housing units in areas with rail and rapid bus stations because such stations are typically located on fixed routes that require significant capital investment and are not amended or eliminated on a regular basis.

The Draft Allocation disproportionately allocates housing units to jurisdictions based on the existence of transit stations within their boundaries regardless of whether those stations are used by neighboring jurisdictions and the extent of the use by neighboring jurisdictions and their populations, which undermines the intent of the objectives listed in Govt. Code § 65584(d).

The City recommended refinements to the RHNA Methodology to take into consideration the unique jurisdictional boundary issues associated with rail stations that serve multiple jurisdictions. The RHNA Methodology, and the Draft Allocation, do not take into consideration the populations that are served by various transit stations throughout the region and, thus, the Draft Allocation

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3. Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
 4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
 5. Affirmatively furthering fair housing. For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

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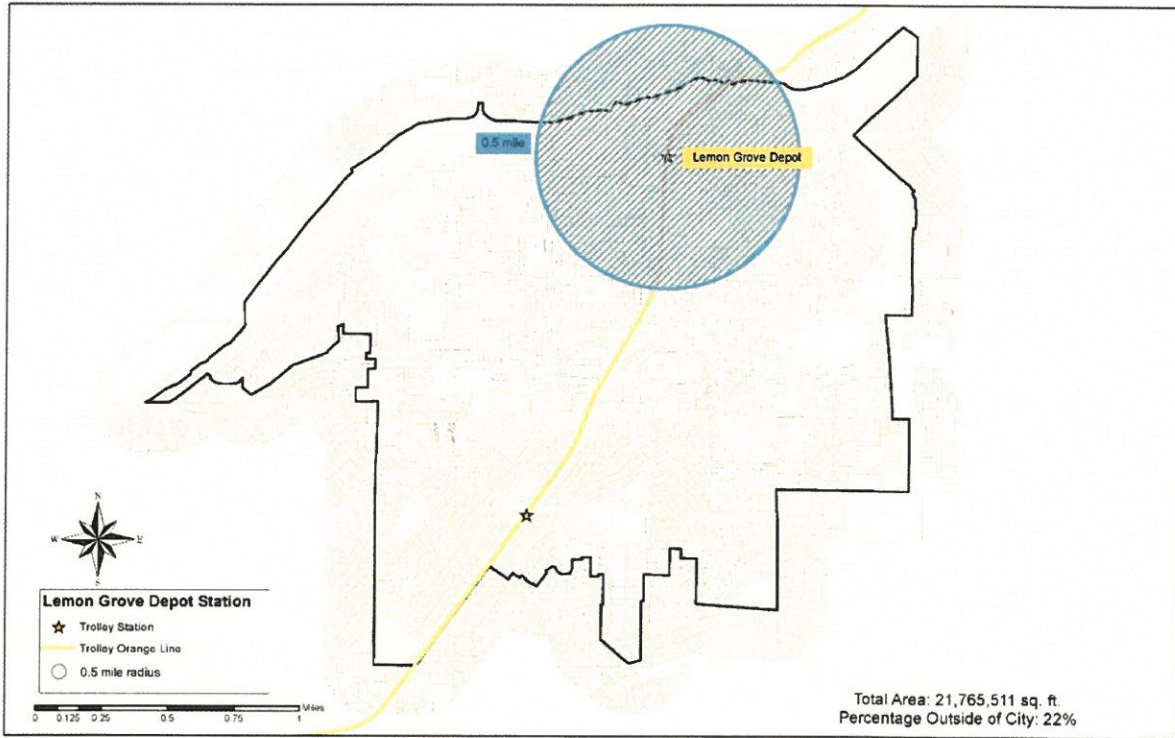
disproportionately allocates housing units to those jurisdictions that host a transit station, but does not account for the entirety of its use. Yet, the host jurisdiction is allocated the entire burden of the housing allocation associated with those transit stations due to the flawed methodology used to determine the allocation.

This demonstrates a failure to implement the five objectives identified in Govt. Code § 65584 by forcing jurisdictions with transit stations that service multiple jurisdictions to provide future housing to the populations that use the transit stations, but that the data indicates do not live within its boundaries. This not only deprives those that live in neighboring jurisdictions that use the transit stations the benefit of additional housing in their home town, but increases the burden on the host City when that housing is not necessarily tied to any reliable data showing that the housing is needed in the host City. The practical effect of this flawed approach is that Lemon Grove will be forced to accommodate additional housing even though the data shows that the populations using the transit stations do not necessarily reside in Lemon Grove, but, rather, reside in neighboring jurisdictions. Thus, SANDAG is creating a void of housing where it is actually needed and over burdening jurisdictions that may otherwise have sufficient housing for its residents, like Lemon Grove. SANDAG can, should and must do better by revising the methodology to account for the disparity created by the weight given to the location of transit stations in the region.

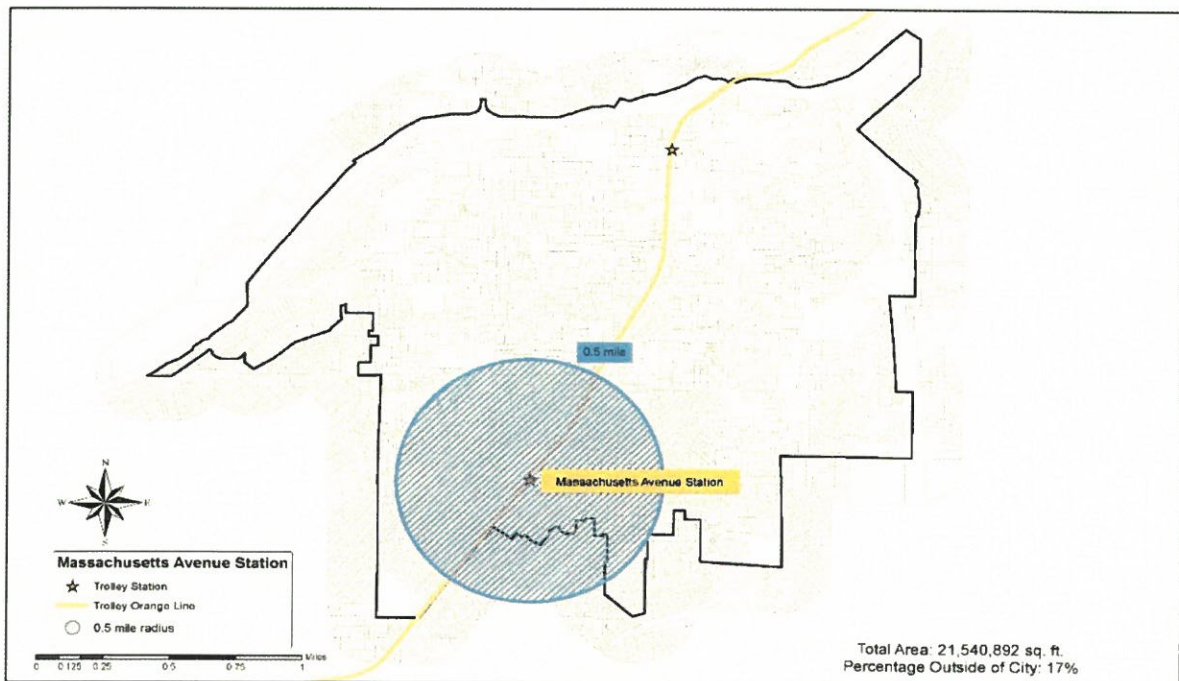
The City has two rail stations (Lemon Grove Depot and Massachusetts Avenue) that serve populations in the City of San Diego and the City of La Mesa, which are within a half-mile radius of the stations. The unincorporated County also has a Sprinter Station that serves multiple jurisdictions. The Draft Allocation does not account for unique circumstances and fails to allocate units to all jurisdictions within a half-mile radius of a rail station. This failure in the allocation is evident in Lemon Grove where 17%-22% of the areas within a half-mile radius of each transit station are outside of the City, which are demonstrated in the diagrams below.

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1. Lemon Grove Depot:



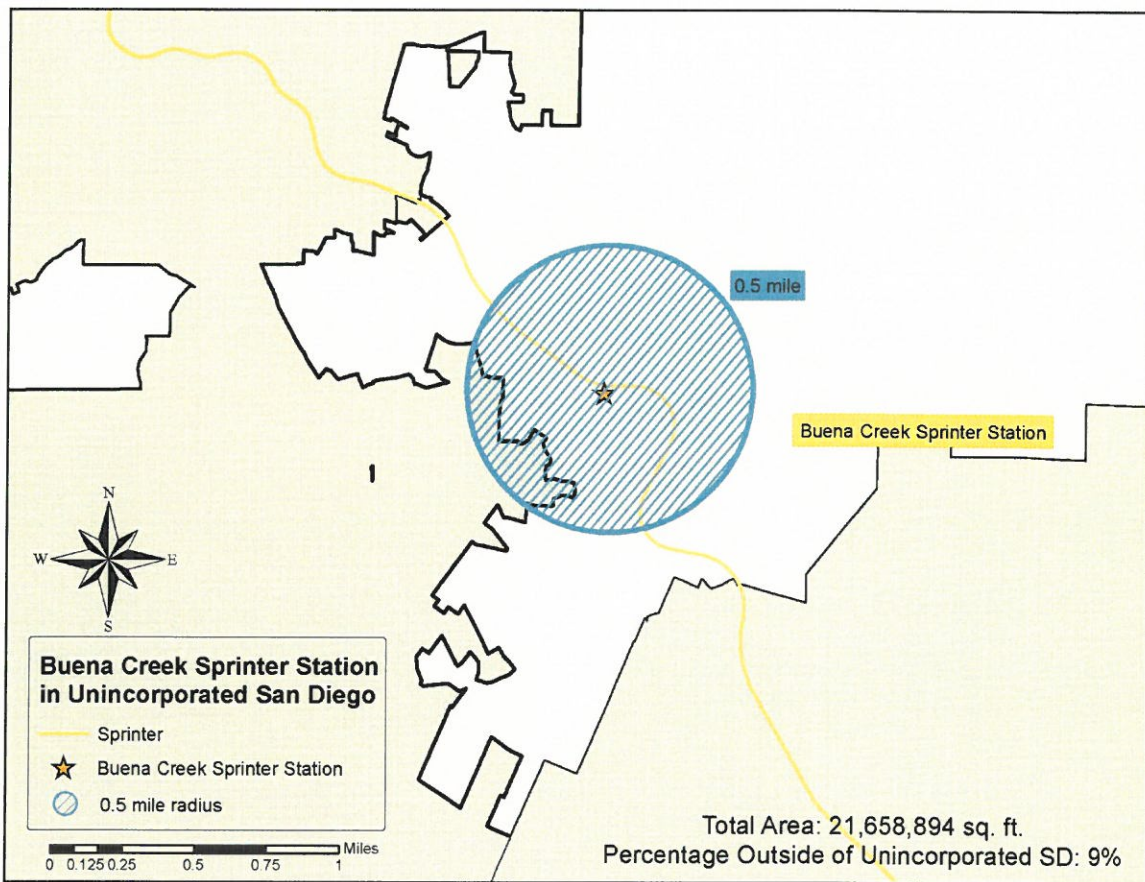
2. Massachusetts Avenue:



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The failure to account for jurisdictional boundaries is also evident in the unincorporated area of the County. The Buena Creek Sprinter Station includes 9% of the area within a half-mile in the City of Vista. By not accounting for this jurisdictional boundary, SANDAG allocates more units to the unincorporated area which will result in increases to vehicle miles traveled and GHG emissions.

2. Buena Creek Sprinter Station:



The objectives identified in Govt. Code § 65584 are undermined by the flawed allocation of housing units because the methodology used to determine the allocation of the housing units at issue incorporates a flawed mechanism to distribute those housing units based on transit stations in the jurisdictions. Accordingly, the methodology should be reconsidered and amended.

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(b) The Draft Allocation fails to address portions of several objectives in the area of socioeconomic equity

The proposed equity adjustment in the Draft Allocation does not adequately account for established higher density small cities with low income populations higher than the region average, which will have the effect of displacing low-income families that rely on transit services undermining the fair housing objective set forth in Govt. Code § 65584(d)(5).

According to the City's General Plan Housing Element, the City has a limited supply of vacant residential land of 71 acres or 2.8% of the City's total land area. The City also has an older housing stock, with 46% of the dwellings built before 1960, which contributes to lower rental rates in the City. 2018 inflation adjusted median household income estimates for Lemon Grove are approximately \$57,000, compared to more than \$68,000 for the region or 17.06% lower than the regional average. For the Fifth Housing Element Cycle the region was allocated 36,450 very-low and low income units, yet only produced 2,868 or 7.9% of the goal.²

The City lacks sufficient vacant land to accommodate the Draft Allocation. Existing older housing stock that is available at lower rental rates will be demolished to make way for above moderate income housing, which account for almost 1/3 of the Draft Allocation or 32.8%. SANDAG's Regional Housing Progress Report shows that lower income housing goals are not being met and this policy decision will only serve to displace lower income households without generating replacement housing.³

The Draft Allocation also fails to address portions of several objectives in the area of equity, socioeconomic equity, the encouragement of efficient development patterns and lacks a clear nexus to the "affirmatively furthering fair housing" objective. Specifically, since dense, low income communities tend to require more transit infrastructure and services there is a natural trend for transit agencies to concentrate resources in those communities. Using station and stop counts alone (as is done in the current adopted methodology) for the assignment of transit-oriented growth, only compounds segregated living patterns, limits housing type and tenure, and discourages integrated and balanced living patterns. This failure of the Draft Allocation enhances ethnic and socioeconomic division in direct defiance of the objectives identified in Govt. Code § 65584(d).

In addition, rapid and concentrated growth in already dense, low income communities of color, like Lemon Grove, can displace low-income families without providing alternatives and can over stress a community's resources like schools, parks and open space. To prevent this pattern in the current methodology it is necessary to analyze and adjust station and stop assignments in a more equitable way in order to further fair housing in affected cities.

² Source of data from City's Housing Element Needs Assessment (<https://www.lemongrove.ca.gov/Home/ShowDocument?id=1684>).

³ Source of data from SANDAG's Regional Housing Progress Report (https://www.sandag.org/uploads/publicationid/publicationid_2132_22605.pdf)

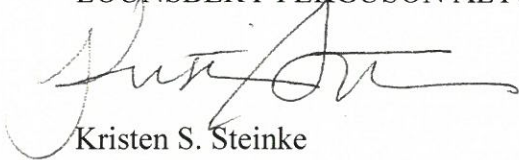
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Thus, the Draft Allocation violates § 65584(d) in that it fails to further the goals identified therein. The Draft Allocation and the underlying RHNA Methodology that manufactures its distribution should be reworked in a matter that better fulfills the objectives outlined in the Government Code.

Please feel free to reach out to me directly with any questions or concerns regarding the matters contained in this letter.

Respectfully,

LOUNSBERY FERGUSON ALTONA & PEAK, LLP

A handwritten signature in black ink, appearing to read 'Kristen S. Steinke', is written over the typed name. The signature is fluid and cursive, with a large initial 'K' and 'S'.

Kristen S. Steinke

EXHIBIT A



CITY OF LEMON GROVE

"Best Climate On Earth"

Office of the City Manager

November 5, 2019

SANDAG
Attn: Seth Litchney, Regional Planner
401 B Street, Suite 800
San Diego, CA 92101

SUBJECT: Regional Housing Needs Assessment Methodology

Mr. Litchney:

Thank you for the opportunity to comment on the Regional Housing Needs Assessment (RHNA) Draft Methodology (Methodology) that is currently under consideration by the SANDAG Board of Directors. The City of Lemon Grove (City) recommends the following refinements to the RHNA Methodology:

1. Rail Stations serving more than one jurisdiction should have their associated housing units allocated to each jurisdiction.
2. The proposed equity adjustment should be refined to account for established higher density small cities with low income populations higher than the region average to prevent the displacement of low income families that rely on transit services.

The City recommends refinements to the Methodology to take into consideration the unique jurisdictional boundary issues associated with rail stations that serve multiple jurisdictions. The City has two rail stations that serve populations in the City of San Diego and the City of La Mesa within a ½ mile radius. The Methodology should account for unique circumstances by allocating units to all jurisdictions within ½ mile radius of a rail station.

The City also recommends refinements to the Methodology to address the equity adjustment and the "affirmatively furthering fair housing" objective. As proposed, the equity adjustment will only serve to displace existing low-income households in existing higher density small cities. The Methodology indicates that allocating a higher proportion of low-income housing units to jurisdictions with a lower share of low-income income households in resource rich areas will provide opportunities for people of all income levels, but this is unlikely to occur without inclusionary zoning requirements. As proposed, the equity adjustment does not account for historical patterns of development in low-income communities where residents rely on transit services and will result in the displacement of low-income households, fail to generate replacement low-income housing opportunities, and exacerbate the housing crisis. The proposed equity adjustment should be refined to prevent the



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displacement of low income families that rely on transit services in small cities with low income populations higher than the region average.

Please feel free to contact Noah Alvey, Community Development Manager at (619) 825-3812 or email at nalvey@lemongrove.ca.gov if you have any questions.

Sincerely,

Lydia Romero
City Manager

EXHIBIT B

Jerrold L Jones
Council Member, City of Lemon Grove
Lemon Grove CA
September 1, 2019

Chair Steve Vaus
401 B Street, Suite 800
San Diego, CA 92101

RE: RHNA Cycle 6 Methodology

Chair Vaus and SANDAG Board;

The regional housing needs assessment process is based in the 5 objectives of state housing law section 65584. Section 65584 says that “the regional housing needs allocation plan shall further all of the following objectives”. The current SANDAG 6th cycle methodology fails to completely address the first and second objective and completely fails to address the 5th objective that calls for “affirmatively furthering fair housing”.

The 6th cycle draft methodology is deeply flawed and stacks disproportionate increases of population into the county's most diverse, dense, and poorest communities. The use of Station (Rail & Rapid) and Major Transit Stop (Bus) counts for the assignment of housing allocation will compound and perpetuate segregated living patterns, limit housing type and tenure, and discourage integrated and balanced living patterns in the region. Since low income communities tend to require more transit infrastructure and services there is a natural trend for transit agencies to concentrate resources in those communities. In fact, the 2050 regional transportation plan objectives demands it. Further, SANDAG data shows a link between low income communities and minority communities of concern in the cities of Lemon Grove, National City, and Imperial Beach. Rapid, concentrated growth and gentrification in already dense, low income communities of color can displace low income families without providing alternatives, exacerbating the regions homeless problem. This continued pattern will overstress these communities' services and resources like schools, parks, and open space.

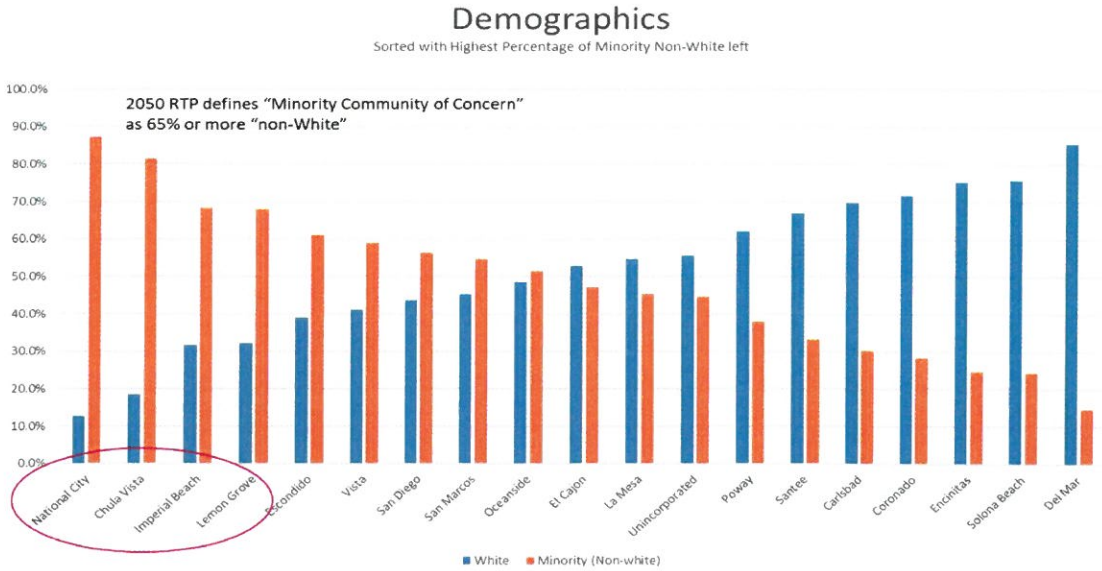
State law allows individual regional agencies to determine their own allocation methodology as long as it meets all of the RHNA objectives. Methodology can vary from cycle to cycle as an agency changes priorities. When comparing cycle to cycle it is still important to view allocations from some sort of baseline in order to analyze trends, especially in the area of equity and fair housing. When comparing cycle 4, 5 and draft 6 in units/square-mile/year, apart from Chula Vista, there is a clear pattern of disproportionate allocation in the county's most diverse, most dense, and poorest communities. Intentional or unintentional, a pattern of segregation and social economic inequity exists and does not meet RHNA objectives.

The use of “income category allotment” in the fourth objective of Section 65584 does not satisfy the “affirmatively furthering fair housing” of the 5th objective. Current law and trends in the state legislature tend to ignore moderate and above-moderate housing, instead focusing on low and very low housing production. Every day we march toward a system that removes local control or punishes municipalities for not producing their allotment. Regardless of the income category assignment, it is the disproportionate, over allocation that has the potential to remove the most disenfranchised communities from control of their communities and further separates them from the elected representatives that control their quality of life. As the region moves to a more dense way of life, the impacts of that density must be shared by all communities in the region not just the most vulnerable.

The recommended methodology is not only flawed, it fails to meet RHNA objectives, may violate federal fair housing laws and is, quite frankly, immoral. The trend mentioned above is not new and has been addressed in previous comment letters on record for cycle 5. In a recent meeting I heard Mr. Ikhata state that there was no time to change the methodology. We should never hear that there’s no time to get it right from any elected or appointed public official! Ever! The trend described above must stop with this cycle! The SANDAG board must send this back to staff and demand that all of the objectives be addressed, and the pattern of segregation stopped with this cycle.

Included below are charts and graphics that show the pattern described in the body of my letter. The letters are from 2011 and are as relevant to today as they were then. Some things haven’t changed.

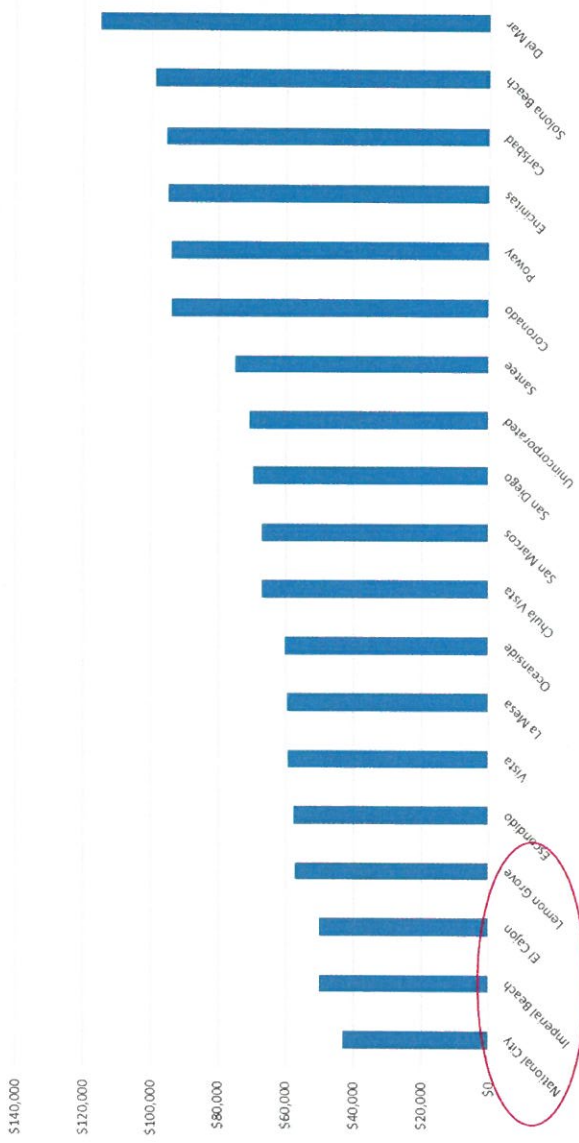
Jerrold L Jones
 Council Member, Lemon Grove CA



Source: SANDAG Data Surfer (2018 Census Estimate)

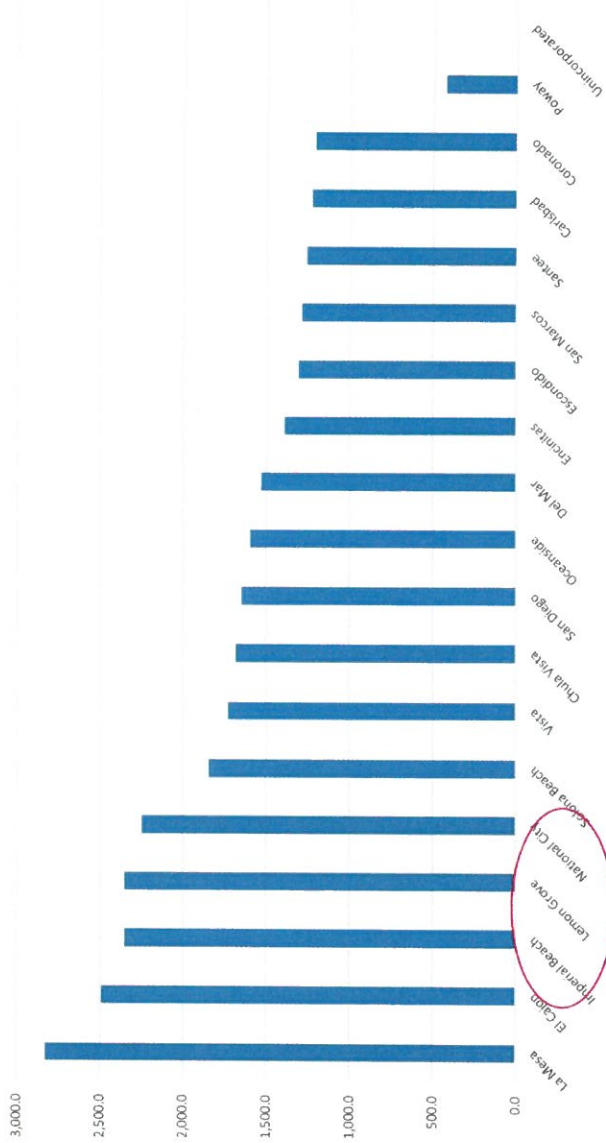
Median Income

(2017 SANDAG Estimate) Adjusted for Inflation)



Source: SANDAG Data Surfer (2018 Census Estimate)

Density (Units/Square Mile)

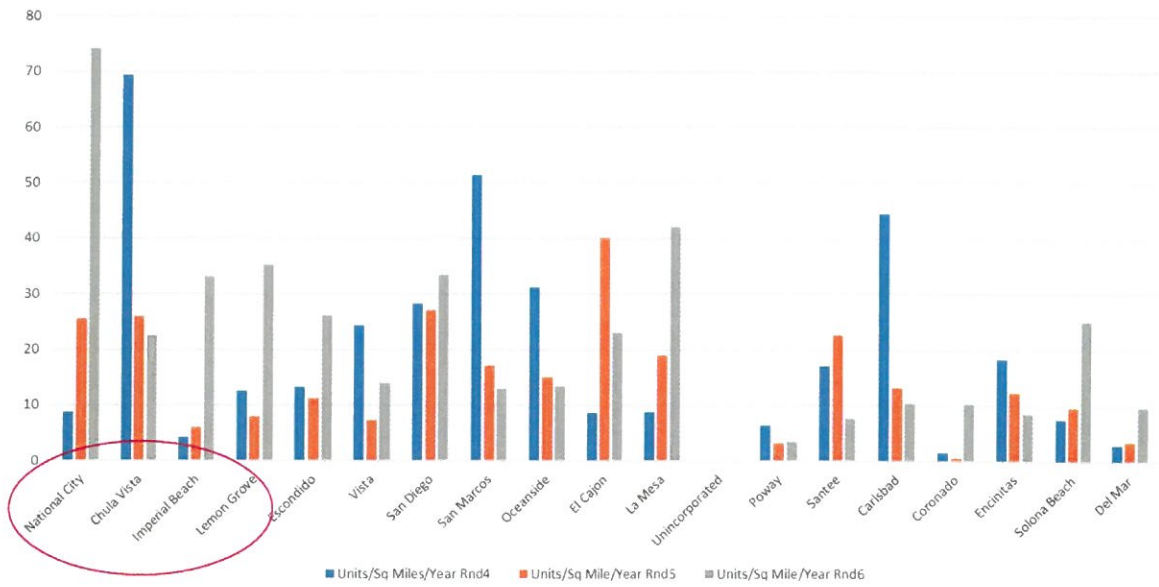


Data Source: SANDAG Regional Housing Progress Report

Note: County data not recorded due to difficulty in calculating unincorporated areas available for development.

RHNA History

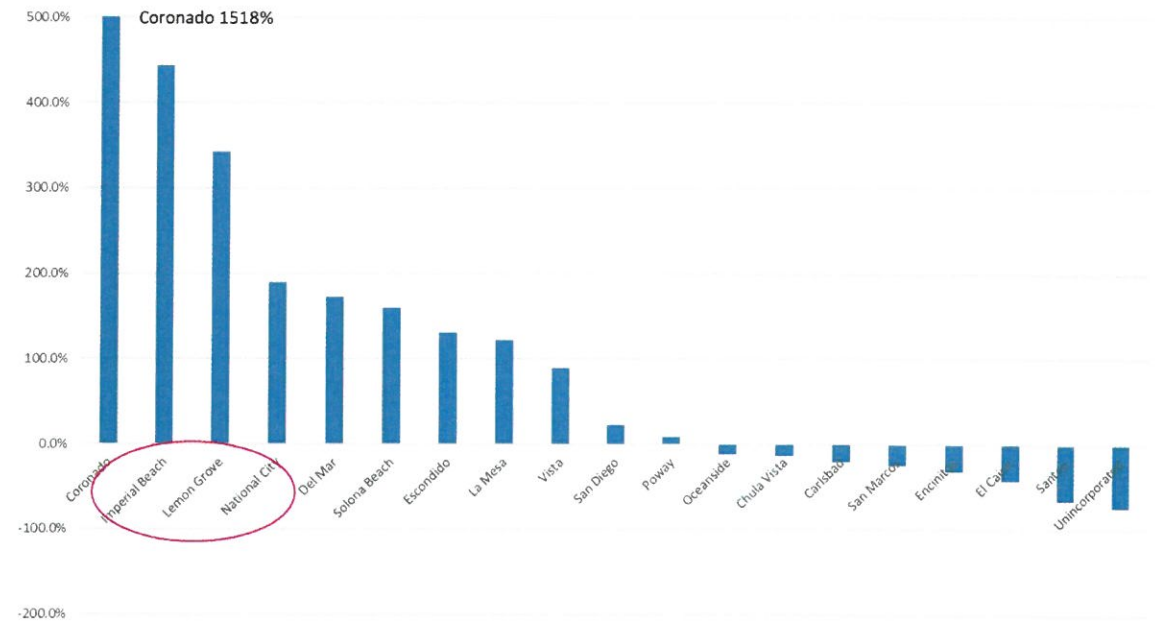
In Units Allotted Per Square Miles Per Year
Sorted With Most Diverse Cities to Left



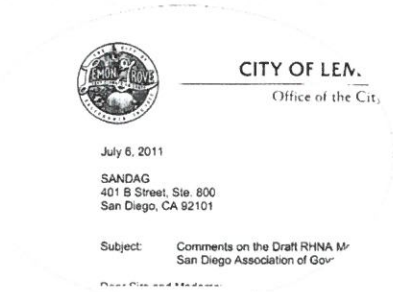
Data Source: SANDAG Regional Housing Progress Report

Note: County data not recorded due to difficulty in calculating unincorporated areas available for development.

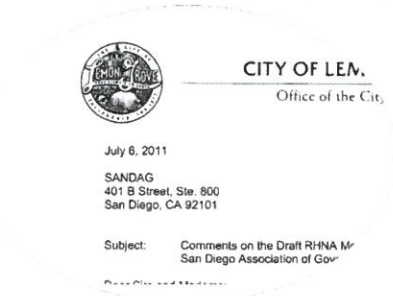
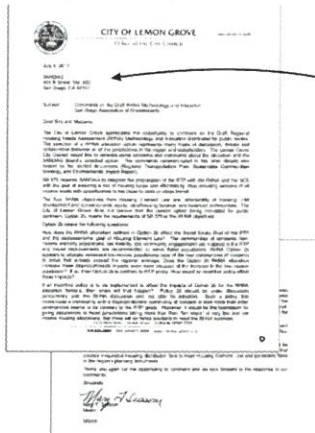
Percentage Increase from Round 5 to Round 6



Data Source: SANDAG Draft RHNA Methodology



How does the RHNA allocation outlined in Option 2b affect the Social Equity Goal of the RTP and the socioeconomic goal of Housing Element Law? The communities of concerns (low-income, minority populations, low mobility, low community engagement) are mapped on the RTP and transit improvements are recommended to serve these populations. RHNA Option 2b appears to allocate increased low-income populations (one of the communities of concern) to areas that already exceed the regional average. Does this option 2b RHNA allocation increase these disproportionate impacts even more because of the low-income population? If so, then Option 2b is contrary to RTP policy. How would an incentive policy offset those impacts.



The City of Lemon Grove believes that the Regional Housing Needs Assessment must be reconsidered based on the analytical studies conducted by SANDAG staff. Any option that creates inequitable housing distribution fails to meet Housing Element Law and generates flaws in the region's planning documents.

Thank you again for the opportunity to comment and we look forward to the response to our comments.

Sincerely,

 Mary T. Sassom
 Mayor

