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# CITY OF HUNTINGTON BEACH

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March 21, 2016

California Department of Housing and Community Development  
2020 West El Camino Avenue  
Sacramento, CA 95833  
Ben Metcalf, Director  
Tad Egawa, General Counsel

Southern California Association of Governments  
818 West 7<sup>th</sup> Street, 12<sup>th</sup> Floor  
Los Angeles, CA 90017  
Hon. Cheryl Viegas-Walker, President  
Hasan Ikhata, Executive Director  
Joann Africa, Chief Counsel

Orange County Regional Office  
OCTA Building  
600 South Main Street, Suite 406  
Orange, CA 92868  
Kevin Gilhooley, Regional Affairs Officer

Re: Disproportionate and Excessive RHNA for the City of Huntington Beach

Dear Messrs. Metcalf, Gilhooley, Ikhata, and Hon. Viegas-Walker,

The City Council of Huntington Beach has authorized me to write this letter to inform you that the City believes the State has used flawed data in calculating, and then allocating, a disproportionately high Regional Housing Need Allocation (RHNA) numbers to the City of Huntington Beach for the planning cycle of 2013-2021. The flawed data and disproportionately high RHNA numbers has caused the City of Huntington Beach great difficulty in meeting these exceedingly high demands while trying to balance other State law(s),<sup>1</sup> other necessary zoning considerations, and community needs.

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<sup>1</sup> In 2015, the State of California made findings with regard to Statewide water supplies and imposed drought-related restrictions Statewide in order to reduce consumption and increase conservation. The State's conservation program resulted in a mandate of a 26% water consumption

California Government Code Sections 65583(a)-(c) set forth an extensive list of the analyses, information, and programs that are required to be included in a city's Housing Element component of its General Plan. Among other things, and most importantly to the issues at hand, the HCD-compliant Housing Elements must contain an analysis of population and employment trends, and documentation of projections and quantification of the locality's existing and projected housing needs, for all income levels. These projected needs shall include the locality's share of the regional housing need. (Government Code Section 65583(a)(1)).

The Department of Housing and Community Development (HCD) through Council of Governments (COG) and/or Southern California Association of Governments (SCAG) purports to identify certain existing and projected regional housing needs for alleged projected State population and household growth. (Government Code § 65584, *et seq.*) SCAG covers the six-county Southern California region counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura. The COG develops a Regional Housing Need Allocation Plan (RHNA-Plan) allocating the region's share of the Statewide need to cities and counties within the region." The typical scenario is that HCD, in consultation with each COG, such as SCAG, determines the existing and projected housing needs for each region. (Government Code § 65584.01 (describing the manner in which the needs determination shall be made).)<sup>2</sup>

According to HCD, "the RHNA-Plan process requires local governments to be accountable for ensuring that projected housing needs can be accommodated and provides a benchmark for evaluating the adequacy of local zoning and regulatory actions to ensure each local government is providing sufficient appropriately designated land and opportunities for housing development to address population growth and job generation."

However, in apparent contravention with these principles, it appears that HCD and COG/SCAG, all unelected and politically unaccountable bodies, have been unilaterally

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reduction for Huntington Beach for 2015/2016. Now at the same time the Southern California Association of Governments (SCAG) is requiring Huntington Beach to *increase* its housing to meet affordable housing needs, thereby increasing demand for water usage and consumption. This creates two competing State-mandates.

<sup>2</sup> The allocation plan must be consistent with the following objectives: (1) increasing the housing supply and the mix of housing types, tenure, and affordability within the region in an equitable manner, which must result in each jurisdiction receiving an allocation for low- and very low-income units; (2) promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns; (3) promoting an improved intraregional relationship between jobs and housing; and (4) allocating a lower proportion of housing needs to an income category when a jurisdiction already has a disproportionately high share of households in that category. (Government Code § 65584(d).)



determining each jurisdiction's share of the regional housing needs through an arbitrary (and seemingly capricious) formula that is entirely subjective and unreliable.

For the planning cycle 2013-2021, SCAG has determined that the RHNA numbers for the City of Huntington Beach is 1,353. Although Huntington Beach has undertaken to reach the RHNA goal, the City has experienced great difficulty in balancing its work to comply with competing State law(s), other necessary zoning considerations, and the needs of the community.

This RHNA number of 1,353 allocated to Huntington Beach appears to be based upon faulty, unjustified population projections. For instance, it appears that SCAG relied upon population growth studies from the DOF, yet a study of the DOF's population growth projections over time reveals internal inconsistencies. For example, in the DOF's May 2008 population growth study<sup>3</sup>, the projected population for the City of Huntington Beach was 189,627 in the year 2000, and projected to grow to 201,993 by the year 2008.

However, in a subsequent study<sup>4</sup>, the DOF stated that the population of Huntington Beach was 189,992 in 2010, projected to grow to 198,389 by 2015. Note, the 2015 population figure is considerably lower than the earlier, 2008 figure.

A plain comparison of these DOF projections studies shows that Huntington Beach's 2015 population projections (198,389) were *the very same* as were projected eleven years earlier, in 2004. In other words, comparing the DOF's projection studies suggests that Huntington Beach's **population did not grow from 2004 to 2015.**

In another example, the DOF's actual population for 2000 is *nearly the same* as the DOF actual population for the year 2010 (189,594 and 189,992, respectively).<sup>5</sup>

Furthermore, SCAG apparently relying on DOF numbers, projected population growth for Huntington Beach to be 200,349 in 2005; 212,957 in 2010; and 217,822 in 2015.<sup>6</sup> However, as discussed, the 2008 DOF study of actual population clearly shows that the population for Huntington Beach was 189,992 in 2010 and 198,389 in 2015. Comparing DOF's actuals with SCAG's projections show that SCAG's projections are *overstated by 10% over actual. Applying SCAG's methods of correlating a City's population growth*

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<sup>3</sup> State of California, Department of Finance, E-4 Population Estimates for Cities, Counties and the State, 2001-2008, with 2000 Benchmark. Sacramento, California, May 2008.

<sup>4</sup> State of California, Department of Finance, E-4 Population Estimates for Cities, Counties, and State, 2011-2015 with 2010 Benchmark, found at <http://www.dof.ca.gov/research/demographic/reports/estimates/e-4/2011-20/view.php>

<sup>5</sup> State of California, Department of Finance, E-5 (Revised) Population Estimates for Cities, Counties, and State, May 2015

<sup>6</sup> SCAG 2008, Growth Forecast

*with an appropriate allocation for housing, the City of Huntington Beach's housing stock for 2015 would be, or should be, the same as 2004*, to wit, it should not have increased at all since 2004.

Just weeks ago, a California Superior Court called into question the use of SCAG population projections as a basis for making legal determinations as to environmental impacts. The Superior Court concluded that certain SCAG projections are "entirely discredited." The Superior Court's unabashed characterization of SCAG population projections calls into question the use of these numbers as a basis in fact to make any sort of legal determination.

It is apparent to the City that the State, through COG/SCAG, has relied on faulty housing data and population projections concerning population growth to create and then require cities to implement components of their Housing Elements. In addition, the data used by the State to calculate these numbers is flawed and there appears no rational basis to calculate the RHNA numbers for Huntington Beach.

The City of Huntington Beach has relied upon SCAG's RHNA analysis in good faith for years had made every effort to meet RHNA goals for each and every planning cycle. However, after recent Superior Court decision(s), and further research, the City of Huntington Beach has recently concluded that the basis for the RHNA for Huntington Beach is flawed, unjustified, and therefore provides no rational basis in law or fact to compel Huntington Beach to comply with the 2013-2021 RHNA of 1,353.

Finally, there is no evidence that the State conducted an adequate constraints analysis such that projects built to accommodate the City's additional RHNA numbers would be in conflict with the new State law and regulation regarding water conservation. (Government Code Section 65584.04 (d)(2).)

In recent years, the State has made findings to support imposing drought-related restrictions on residents and municipalities. Those same findings resulted in a 26% water consumption *reduction* for Huntington Beach (2015). Now at the same time the Southern California Association of Governments (SCAG) is requiring Huntington Beach to *increase* its housing to meet affordable housing needs. The City of Huntington Beach simply cannot be required to accept higher RHNA numbers to account for lower RHNA numbers allocated to surrounding cities.

The City recognizes that there is a fairly complicated statutory scheme in place that delegates to unelected administrative agencies such as HCD and COG's/SCAG the task of quantifying housing needs based on the statutory formula. The City also recognizes that population growth is not the only component of the formula and that HCD is to meet with each COG to determine a formula to determine what household dynamics (such as children moving out of parents households) appears to be what the State is attempting to measure.



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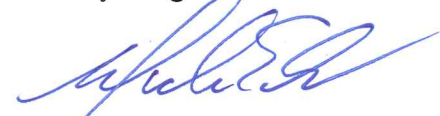
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However, because the State process is arbitrary with regard to creating, and then allocating to, the City of Huntington Beach its share of the regions housing needs, the City has sustained damages. The City formally request that HCD consult with and instruct the COG/SCAG to eliminate and/or suspend any remaining RHNA of the 1,353 for the City of Huntington Beach for the remainder of the current housing cycle planning period.

Based upon the recent revelations of the City of Huntington Beach, we believe this inquiry/challenge to the RHNA for 2013-2021 is timely. Please notify my office of your position by close of business on April 8, 2016. If my office does not hear from you by then, the City will assume that you disagree and will consider other options accordingly.

I look forward to your response and please notify me immediately if you have any questions before my receipt of your response.

Thank you again and I look forward to hearing from you.



MICHAEL E. GATES  
CITY ATTORNEY

CC: Fred Wilson, City Manager  
Mayor, Jim Katapodis  
City Council Members  
Scott Hess, Director of Planning and Building  
Travis Hopkins, Director of Public Works