

January 4, 2022

Mike Tilden, Acting State Auditor
Tammy Lozano, Principal Auditor
Office of the California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Re: Background Paper for Audit of Regional Housing Needs Determination Process

Dear Auditors Tilden and Lozano,

We are writing to provide background and suggestions for you to consider in relation to the audit commissioned by the Joint Legislative Audit Committee at the request of Members Glazer, Newman, Bauer-Kahan, Portantino, Muratsuchi, Stern, and Bates.

We are professors who study land-use law and housing markets (see bios below). Our primary goal is to provide big-picture context, in the hopes that this will help to organize and focus the audit on matters of consequence. Our main points are as follows.

- 1. California's framework for accommodating needed housing has long suffered from three fundamental problems, which the Legislature and HCD have addressed only partially and equivocally. The audit should highlight these problems and propose solutions.**

Problem number one is that the determination of regional housing need has traditionally been based on forecasted growth in households. Yet severe governmental restrictions on housing supply – the problem the RHNA framework is meant to solve – have the effect of suppressing household growth. This biases downward the estimate of need in places where additional housing is most needed.

Problem two is that the framework relies on an accounting standard that ignores the indirect and beneficial effect of new market-rate housing on the availability of naturally affordable units elsewhere in the region. The “chains of moves” induced by market-rate developments represent a major source of relatively affordable housing within regions, by making older housing units available to households that cannot afford new units. Yet California ignores this in setting housing targets and measuring progress toward the targets.

The third problem is that adequacy of a city's "housing element" vis-a-vis the city's RHNA has traditionally been assessed on the assumption that every site included in the housing element's inventory of sites will be developed during the planning period. In reality, the likelihood of a typical inventory site's development during the period is closer to 1-in-10. Meanwhile, a substantial amount of development occurs on non-inventory sites, yet cities that have done a good job accommodating development beyond their inventory sites get no credit for it in the next planning period.

2. HCD's determinations of regional housing needs for the 6th cycle were based on reasonable applications of the statutory criteria. In the aggregate, the department's adjustments for "present needs" are at the low end of the range of independent estimates of those needs.

SB 828 (2018) tackled the first fundamental problem of California's planning framework, by authorizing HCD to "top off," as it were, the forecasted-households standard of need with adjustments for overcrowding and cost-burden, as well as vacancy.

Applying the statutory factors, the department charted a middle course. It targeted a somewhat higher-than-typical vacancy rate, but implemented the cost-burden adjustment conservatively, and ultimately arrived at numbers on the low end of the range of independent estimates of California's housing shortage.

Certain anti-housing critics have questioned whether the department improperly "double counted" or "adjusted twice" for overcrowding. We show that there is no merit to this critique. Indeed, targets for coastal regions rich in long-distance commuters (principally ABAG) probably should have been higher.

3. The societal costs of overestimating housing need in the RHNA process are minimal, whereas the costs of underestimating need are severe, given California's housing crisis. Because the costs of overshooting are minimal, there would be no need for the Legislature to adjust cities' 6th-cycle targets even if they had been set "too high."

If a city receives a too-small target, the city is likely to retain its restrictive zoning and development regulations. This is so because the annoyances caused by development (noise, blocked views, congestion) are experienced locally, while the benefits of dense development (equity and access to opportunity, greenhouse gas mitigation, and economic growth) accrue to the region, state, and nation. Conversely, if a city receives a too-high target, it needn't fear any injury as a result. Yes, the city would have to rezone, but California provides generous planning grants to pay for this, and if a city zones for housing and there's no demand for it, nothing will change on the ground. Moreover, if housing needs were to be allocated where it's not safe to build or where the city lacks resources for necessary infrastructure, the Housing Element Law provides relief: it expressly authorizes cities to set "quantified objectives" that are smaller than

the city's assigned target if the city lacks "available resources" to reach the target. The law also stipulates that cities need not spend local revenue on affordable housing. And cities may deny any housing project that violates an objective health or safety standard.

The only tangible consequence if a city receives a too-high target is that, under SB 35, the city will probably have to allow development of a narrow class of zoning-compliant, multifamily housing projects. But this won't result in a rush of development where growth is not market-feasible, both because SB 35 projects must comply with the local government's own standards (including health and safety standards), and because if a city truly lacks redevelopable sites, a zoning change that allows multifamily housing won't induce the development of multifamily projects.

The fact that the societal costs of overestimating housing need in the RHNA process are minimal means that there would be no need for urgent Legislative action even if targets had been set too high. Conversely, the Legislature should be quite concerned about the possibility that the targets are too low, particularly in high-cost coastal markets.

4. In 6th-cycle housing elements to date, cities are using wildly disparate approaches to assess the capacity of their site inventory to accommodate the city's RHNA. Only a small minority of cities have realistically accounted for economic conditions and site development rates.

Many cities continue to rely on the old, patently false assumption that every site which is good enough for the inventory will be developed during the planning period. This assumption allows the city to claim that the capacity of its housing element is nearly equal to the zoned density of the sites. A few cities, most notably Los Angeles, have instead used empirical evidence about parcel development rates, and have concluded that their actual capacity is less than a tenth of the nominal zoned capacity that exists on paper.

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The enclosed background paper explains these points. In preparing this paper, we have consulted with a number of other professors and housing researchers. They are listed below. We would be happy to answer any questions you may have, and we encourage you to reach out to these other scholars too. You might also reach out to Ian Carlton of [Mapcraft Labs](#) and [ECONorthwest](#), who has audited housing elements for economic feasibility and whose firm has served as a housing element consultant.

Please note we are submitting this letter and background paper in our personal capacity, not on behalf of the University of California or any other institution with which we are affiliated. None of us has received compensation for the letter or report.

Thank you for considering our submission.

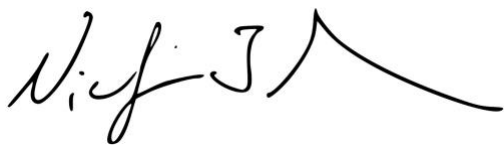
Regards,



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Paavo Monkkonen, Associate Professor of Urban Planning & Public Policy, UCLA Luskin School of Public Affairs. Professor Monkkonen's teaching and research interests include housing policy and planning, urban land markets, and social segregation. His research has been published widely in top urban planning and development journals and he has worked on several papers and issue briefs about the role of planning in California's housing crisis.

Nicholas J. Marantz, Associate Professor of Urban Planning & Public Policy, UC Irvine School of Social Ecology. Professor Marantz's teaching and research interests include land-use & environmental law, housing, transportation, and local government. His research on local governance, land-use regulation, and housing affordability has been published in top urban planning journals and he has received funding from sources including the National Science Foundation, the Hellman Fellows Program, and the California Air Resources Board.

Professors and researchers consulted in preparing the background paper

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