



Housing and Policy Framework Frequently Asked Questions



February 2019

TRI-VALLEY CITIES HOUSING PAPER AND POLICY FRAMEWORK FREQUENTLY ASKED QUESTIONS

How is Affordable Housing Developed

1. What is a Housing Element, who approves it and when does it get updated?

The Housing Element is one of nine mandated elements in a city's General Plan and implements the declaration of State law that "the availability of housing is a matter of vital statewide importance and the attainment of decent housing and a suitable living environment for all Californians is a priority of the highest order" (Gov. § Code 65580)

Among other things, a Housing Element allows each community to take a local approach to identifying "how" and "where" their fair share of the region's housing needs should be accommodated. A community's Housing Element must be updated every eight years to demonstrate that an adequate amount of land (called "opportunity sites") is available to accommodate its fair share housing assignment.

The current Housing Element planning period is from 2015 to 2023. During the next update to the Housing Element, each city will likely need to identify new "opportunity sites" to meet future housing assignments. This update could begin in 2021 or 2022, and will require review and approval by each city's elected council through a public hearing process that allows for community input.

2. What is a community's "fair share" housing assignment and how is it calculated?

All California cities and counties are required to accommodate their "fair share" of its region's housing needs through a Regional Housing Need Allocation (RHNA) process. The "RHNA assignment" is comprised of four income categories: *very low*, *low*, *moderate*; and *above moderate*-income housing units.

At the state level, based on population projections, the Department of Housing and Community Development (HCD) determines each region's share of the state's housing need. In turn, each region's council of governments (COG) allocates the regional share among its member cities and counties. The San Francisco Bay Area region's COG is the Association of Bay Area Governments (ABAG).

Each city or county must demonstrate how they can accommodate their fair share RHNA assignment in its Housing Element. RHNA assignments are made approximately every eight years and are based on a formula that factors in the size of the community, its potential for housing and job growth, infrastructure and environmental constraints, and availability of public transit.

The RHNA process is not new and has been in effect since the early 1980s.

3. What is the relationship between multi-family housing and “affordable/low income” housing? Will these sites be developed with low income housing?

The RNHA process attempts to encourage development of housing at all income levels, with a focus on affordable housing. There is a presumed correlation between density (i.e. the number of housing units per acre) and affordability (i.e., housing built to higher densities is affordable to a greater segment of the population). However, it should be noted that RNHA process does not establish rental rates or sales prices. Ultimately, the type of housing built on these sites will depend on the housing market and local economy.

4. What is affordable or below market rate housing; and what are the definitions of *very low, low, moderate and above moderate* income?

This is housing that is offered at a price lower than the market rate. This is usually possible because of government subsidies and other programs that help lower the price or rent of housing. Affordable housing is usually limited to individuals and families that fit into a specific income category (ranging anywhere from less than 30% of area median income to 120% of area median income).

Below is an example of the maximum income limits that were used by all cities including Dublin, Livermore, and Pleasanton in Alameda County in 2018 for a family of four to qualify to buy an affordable home:

- Very Low: 50% of Area Median Income (AMI) or \$58,100
- Low: 80% of AMI or \$89,600
- Moderate: 120% of AMI or \$125,300
- Above Moderate: Anything above 120% AMI

5. Does the State require cities and counties to produce housing units?

Under current State law, a jurisdiction is *not* required to build these housing units. Rather, it is required to ensure that there are lands available (called “opportunity sites”) that have the appropriate General Plan and Zoning designation to accommodate these housing units under market-driven conditions.

6. Where will this housing be located and does all affordable housing have to be higher density rental housing?

Currently, the location of the housing is at the community’s discretion, but some of the current and pending state laws aim to facilitate higher density housing near fixed rail stations (e.g. BART and ACE Stations), high frequency bus routes, or in “jobs rich” areas. The density of the housing can vary depending on its location and local land use policies. Affordable housing can be either for-sale or rental housing. It is the goal of local jurisdictions to meet state and regional mandates in a manner that is compatible with its community character.

7. What is the State doing about the housing shortage?

In 2017, as a response to the statewide housing shortfall, State legislators crafted 15 new housing bills known as the “2017 Housing Package.” Collectively, the focus of these bills has been focused largely on holding local governments accountable (increased reporting and monitoring), reducing public process (permit streamlining), and identifying new funding sources. Despite the outright objection of many communities, the bills became law in late 2017.

8. How do State housing laws affect cities?

Cities are required by State law to ensure that sufficient lands are available to accommodate their “fair share” of housing units. This means that there must be a sufficient amount of land that is designated for all housing types.

As a part of the required Housing Element update, cities must determine whether enough land is available to accommodate its RHNA assignment. If not, then the city is required to designate new “opportunity sites” for this purpose – usually through amending the General Plan and Zoning designation to allow for multifamily housing development.

Under current state law, cities are not required to build housing units. Housing construction is still driven by the private market. Instead, a city’s obligation is to allow these units to be built (through General Plan and Zoning designations). Generally, new housing projects are still required to go through local land use entitlement review and public hearings. New legislation, in some cases, proposes to streamline this review process.

9. What happens if a city doesn’t comply with State housing laws?

Non-compliance could have a number of immediate impacts. First, any RHNA assignment that is not accommodated in one housing cycle will likely be rolled over to the next, increasing the amount of units, and potential land a city is required to designate for multi-family housing during the next cycle. Second, a city would become vulnerable to lawsuits for non-compliance. Third, a city would risk loss of significant transportation funding and become ineligible for a number of state and federal grants.

If sued for non-compliance, a city’s ability to regulate and influence the design and planning of future multifamily housing proposals could be compromised, further diminishing local decision making over what gets built in the future.

10. What is CASA and the CASA Compact?

In July 2017, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) convened the *Committee to House the Bay Area*,

also known as CASA. CASA was charged with developing a “bold plan” to tackle the Bay Area’s housing challenges.

In December 2018, CASA released the “*CASA Compact: A 15-Year Emergency Policy Package to Confront the Housing Crisis in the San Francisco Bay Area.*” The CASA Compact (“Compact”) is a wide-ranging 10-point plan that sets out to achieve three overarching goals for the Bay Area:

- *Produce* 35,000 housing units per year
- *Preserve* 30,000 affordable units
- *Protect* 300,000 lower-income households

The Compact is comprised of 10 “elements” intended as a package of actions to be implemented in its entirety. These elements include tenant protections, housing production mandates, diversion of local community funds and new taxes, as well as the creation of a new regional authority to implement these ideas.

Representatives on CASA include major employers (Google, Facebook, Genentech), for-profit and non-profit housing developers, housing advocates, charitable foundations and elected officials from large cities and counties.

Details about the CASA Compact can be found at MTC’s website:

<https://mtc.ca.gov/our-work/plans-projects/casa-committee-house-bay-area/about>

11. How or why was CASA created and will it become State law?

CASA was created as a response to the statewide housing concerns, described in a report published in 2017 by the State of California titled, “*California’s Housing Future: Challenges and Opportunities.*” However, much of the CASA analysis and recommendations are focused on the San Francisco Bay Area.

CASA is not an actual legislative bill. However, it is recommended to be used as the framework for another round of state legislation in 2019, aimed at further expanding housing mandates at the expense of local government control.

12. What are the Tri-Valley Cities doing to influence pending state legislation?

With over 100 housing bills likely to be introduced by State legislators in 2019, the Tri-Valley Cities (Danville, Dublin, Livermore, Pleasanton and San Ramon) are working together on a proactive and nuanced approach to advocacy and engagement. In addition to educating the public and stakeholders on these issues, the Tri-Valley Cities’ goals are to influence the legislative process and create a shared Tri-Valley position on key topics. The Tri-Valley Cities have prepared a “Housing Paper and Policy Framework” which will guide our efforts. While this approach provides common areas of concern, each city continues to pursue their own individual areas of concern that are unique to their needs.