



**SPUR**

SPUR REPORT  
JANUARY 2024

# Structured for Success



Reforming housing  
governance in  
California and the  
Bay Area



# Acknowledgments

The SPUR Executive Board adopted this report on October 3, 2023.

## **Author**

Sarah Karlinsky, SPUR

The findings and recommendations of this report are SPUR's and do not necessarily reflect the views of any reviewer or interviewee. Any errors are the author's alone.

## **Reviewers**

Robert Chun, Kate Gordon, Heather Hood, Ben Metcalf, Egon Terplan, Geeta Rao, Daniel Saver, Dave Vautin, and Terry Watt

## **Data Research**

The Concord Group

This report was generously funded by Salesforce.

Edited by Valerie Sinzdak  
Designed by Shawn Hazen  
Copy edited by Melissa Edeburn



# Contents

---

4	<b>Executive Summary</b>
---	--------------------------

---

8	<b>Introduction</b> <b>What Does Governance Have to Do With Housing Production?</b>
---	--

---

11	<b>Chapter 1</b> <b>What Is Housing Governance?</b>
----	--

---

15	<b>Chapter 2</b> <b>What Is the Bay Area’s Form of Housing Governance?</b>
----	---

---

26	<b>Chapter 3</b> <b>Findings</b>
----	-------------------------------------

---

31	<b>Chapter 4</b> <b>Recommendations</b>
----	--

---

49	<b>Appendix A</b> <b>Local Officials and Agencies With Authority Over Housing Production</b>
----	---

---

51	<b>Appendix B</b> <b>Executive Branch Organizational Chart</b>
----	---

---

52	<b>Appendix C</b> <b>Interviewees</b>
----	--

---

# Executive Summary

Home to almost 39 million people, California is the most populous state in America. As headlines about the challenges of housing unaffordability and the crisis of homelessness make clear, it's also the state with some of the country's most expensive housing. The National Low Income Housing Coalition has found that California has all of the five most expensive jurisdictions in the country.<sup>1</sup>

High housing costs are the direct result of our failure to build enough housing. And yet one of the central causes of this failure — our decentralized and fragmented housing governance system — has received neither the attention it needs, nor the reform it demands.

What is housing governance? SPUR defines it as the governmental system that regulates, incentivizes, impedes, and publicly funds the production of housing. California's system is vast and sprawling. Through three layers of government — state, regional, and local — many agencies, offices, departments, and systems are responsible for planning and funding housing. Other agencies plan and operate public transit, water delivery, and other infrastructure that supports housing. There are two state-mandated but misaligned regional planning processes for housing. The multiple state departments and agencies that fund affordable housing are run by two constitutional officers (the governor and the treasurer). Add to these agencies and processes the hundreds of cities (101 in the Bay Area alone), each with its own "home rule" authority to zone for housing within its boundaries, and the complexity of housing governance in the Golden State becomes dizzying.

This report explains how our current housing governance system works, describes its challenges, and lays out recommendations to improve it so that California can produce a sufficient quantity of housing units.

SPUR's recommendations stem from one central insight: Despite the fact that zoning and planning are local actions, the only way to move California forward is through state-level reform. The state sets the planning framework within which regional and local governments function. The state has the funding power to deliver infrastructure where it is needed and to withhold infrastructure from places that should not be supporting intensive development. The state can pass laws that supersede local zoning regulations, as it has been doing with greater frequency over the past several years. The state also has more tools than regional and local governments to solve the large-scale problems facing California today — housing scarcity, inequality, and climate change — and the ability to ensure that regional and local planning actions contribute to the solutions. Simply put, the Bay Area cannot solve its governance problems on its own.

This is not to say that the Bay Area's regional and local governments are powerless or inessential. Far from it. Given the size of California, the role of regional governments in developing more detailed plans for housing is critical. And cities that want to say yes to housing have enormous power to do so.

---

<sup>1</sup> National Low Income Housing Coalition, "How Much Do You Need to Earn to Afford a Modest Apartment in Your State?," <https://nlhdc.org/oor>.

This report puts forward 11 recommendations that, when taken together, could set California and the Bay Area on the path to produce the housing we need. The recommendations are organized into three categories: state, regional, and local.

## State Recommendations

### **1 Create a stand-alone state housing agency and develop a stronger housing leadership function within the executive branch.**

This newly created state housing agency would integrate many of the existing housing functions within state government. It also would develop a new policy function with the necessary data and tools to advance housing policy in the state, including the capacity to analyze and describe the impacts on housing production of various policy trade-offs being made by other state agencies.

### **2 Create a new California planning agency that would consolidate and integrate the state's various land use planning efforts.**

A new state planning agency would replace the current Office of Planning and Research and be responsible for developing a long-range land use plan for the state, providing guidance about how to address land use conflicts, reforming the California Environmental Quality Act (CEQA) to allow for infill housing (housing built on vacant or poorly utilized land in cities), and approving regional Sustainable Community Strategies.

### **3 Reform the Sustainable Communities Strategies (SCS) process to better integrate with the Regional Housing Needs Allocation (RHNA) process so that the SCS and RHNA collectively function as the regional plan for housing.**

Currently, California has two state-mandated regional planning processes for housing, each with different goals. SPUR recommends that the SCS define where regional growth should and should not occur, prioritize the same objectives as the RHNA, and rely on a coordinated methodology. In addition, the state should establish a requirement that local plans be consistent with the SCS and should create an appeals process for developments that align with regional and local plans but that have been denied approval or that remain unapproved after a certain amount of time.

### **4 Create a one-stop shop for affordable housing financing.**

California has multiple agencies and departments responsible for financing affordable housing, each with its own funding requirements. Reforming this system would simplify the process of financing affordable housing, creating more efficiency and reducing wasteful processes that add unnecessary time and complexity to the development of affordable housing. The state should create a single application for all state affordable housing funds (including tax credits, bonds, and soft loans/grants), which would be awarded by a single committee.

### **5 Align state funding with state and regional plans and goals.**

Infill housing is critical to enabling the state to meet its climate goals. To the greatest extent possible, funding should encourage local governments to build a sufficient amount of infill housing and ensure that infrastructure funding is aligned to support this growth. SPUR recommends that the state conduct an inventory of all state funding sources and analyze how these funding sources can be better aligned to support the state's land use goals, including the development of infill housing. Programs that support regional planning for infill housing should be extended.

## **Regional Recommendations**

### **6 Coordinate the actions of regional agencies to support implementation of the RHNA and SCS processes.**

All regional agencies and special districts should be required to analyze whether their actions impact the cost and feasibility of constructing the types of housing contemplated by the SCS and RHNA processes.

### **7 Fund the Bay Area Housing Finance Authority (BAHFA) and expand its capacity and scope.**

The Bay Area's newly created regional housing finance authority, BAHFA, has the potential to secure the funding it needs to be successful through a November 2024 bond campaign and other mechanisms. BAHFA should play a stronger regional coordination role and be charged with developing a strategic funding plan to achieve the region's housing goals.

## **Local Recommendations**

### **8 Make housing that conforms with zoning requirements ministerial.**

A local planning agency should determine whether or not a housing project meets the zoning code and other requirements. This ministerial process should be straightforward: if a project conforms with zoning, it may move forward without additional processes and approvals.

### **9 Ensure that post-entitlement practices are streamlined to support housing production.**

Post-entitlement permits can include building permits, public works permits for sidewalk encroachments or public realm improvements, and fire department sign-offs. Cities should ensure that the various departments have coordinated requirements and that project permitting can be tracked online.

### **10 Analyze the local fee and requirement load and cap it at a certain level of feasibility.**

Many local governments seek to address the need for infrastructure funding by placing exactions and expensive requirements on new housing. Yet these fees and requirements impact the financial

feasibility of projects. Before adopting any new fee or requirement, cities should be required to analyze its impact on the financial feasibility of a project. The state should set a ceiling on fees, building on housing element law on fees and requirements to prevent these costs from acting as constraints on housing production.

**11 Design effective processes to get input from groups that have historically been underrepresented, unable to use traditional tools to protect their interests, or both.**

Local governments should find ways to solicit input that do not privilege the loudest voices with the time and energy to attend meetings. Potential tools include focus groups, polling, surveys, and online comments as well as developing relationships with hard-to-reach groups.

## Abbreviations Key

<b>ABAG</b>	Association of Bay Area Governments
<b>BAAQMD</b>	Bay Area Air Quality Management District
<b>BAHFA</b>	Bay Area Housing Finance Authority
<b>BART</b>	Bay Area Rapid Transit
<b>BCDC</b>	Bay Conservation and Development Commission
<b>BCSH</b>	Business, Consumer Services, and Housing
<b>CalEPA</b>	California Environmental Protection Agency
<b>CalHFA</b>	California Housing Finance Authority
<b>CalSTA</b>	California State Transportation Agency
<b>CARB</b>	California Air Resources Board
<b>CDLAC</b>	California Debt Limit Allocation Committee
<b>CEQA</b>	California Environmental Quality Act
<b>CHA</b>	California Housing Agency (proposed)
<b>CPA</b>	California Planning Agency (proposed)
<b>CTCAC</b>	California Tax Credit Allocation Committee
<b>HCD</b>	Housing and Community Development
<b>JPA</b>	Joint powers authorities
<b>MPO</b>	Metropolitan planning organization
<b>MTC</b>	Metropolitan Transportation Commission
<b>OPR</b>	Office of Planning and Research
<b>REAP</b>	Regional Early Action Planning
<b>RHNA</b>	Regional Housing Needs Allocation
<b>RHND</b>	Regional Housing Needs Determination
<b>RTP</b>	Regional transportation plan
<b>SCS</b>	Sustainable Communities Strategies
<b>SGC</b>	Strategic Growth Council
<b>VMT</b>	Vehicle miles traveled

## Introduction

# What Does Governance Have to Do With Housing Production?

California is not producing enough housing for its current and future residents. Over the next eight years, California is required to plan for 2.5 million new housing units as part of its regional housing planning efforts. And yet the state continues to underproduce housing.<sup>2</sup> In the Bay Area, SPUR has estimated that between 2000 and 2018, the region failed to build 700,000 homes needed to keep up with demand.<sup>3</sup> Over the next eight years, the Bay Area is required by state law to plan for the creation of 441,176 new homes,<sup>4</sup> an amount that is more than double its last round of housing targets.<sup>5</sup>

Are we set up to meet these housing goals? If past is prologue, the answer is no. Working with real estate economics firm The Concord Group, SPUR compared housing production in the San Francisco Bay Area to that of 25 similar U.S. metropolitan areas over the period 2010 to 2020. The Bay Area ranked last on nearly all indicators, including housing units produced per capita and housing units produced per job.<sup>6</sup>

The reasons for the failure of our state and region to produce enough housing are numerous. But one core reason is clear: We have created a housing governance system that is tailor-made to underproduce housing in our state and region. SPUR defines housing governance as the governmental system or set of systems that regulates, incentivizes, impedes, and publicly funds the production of housing. This system comprises local, regional, and state agencies and officials with oversight of the zoning, permit approval, and funding of housing as well as those agencies and departments whose actions can encourage — or stall — housing production. It also includes the laws that are passed at the local and state level that govern housing planning as well as laws that dictate which entity decides whether housing can move forward and under what conditions.

Why is the Bay Area's housing system such a problem? For starters, it is largely composed of a set of highly fractured and decentralized local governments, each of which is making decisions forged by its own internal political logic. When all of these individual decisions are taken together, they create an ever-deepening housing affordability crisis.

---

<sup>2</sup> Dan Walters, "California Housing Crisis Unchanged by Political Efforts — So Far," Cal Matters, March 13, 2023, <https://calmatters.org/commentary/2023/03/housing-crisis-california-defies-politics/>.

<sup>3</sup> Sarah Karlinsky and Kristy Wang, *What It Will Really Take to Create an Affordable Bay Area*, SPUR, April 2021, page 14: [https://www.spur.org/sites/default/files/2021-05/SPUR\\_What\\_It\\_Will\\_Really\\_Take\\_To\\_Create\\_An\\_Affordable\\_Bay\\_Area\\_Report.pdf](https://www.spur.org/sites/default/files/2021-05/SPUR_What_It_Will_Really_Take_To_Create_An_Affordable_Bay_Area_Report.pdf).

<sup>4</sup> Department of Housing and Community Development, Letter to ABAG, "Re: Final Regional Housing Needs Determination," June 9, 2020, [https://www.hcd.ca.gov/community-development/housing-element/docs/ABAGRHNA-Final060920\(r\).pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/ABAGRHNA-Final060920(r).pdf).

<sup>5</sup> The Bay Area's Regional Housing Needs Determination for 2015 to 2022 was 187,900. See [https://abag.ca.gov/sites/default/files/2015-23\\_rhna\\_plan.pdf](https://abag.ca.gov/sites/default/files/2015-23_rhna_plan.pdf).

<sup>6</sup> Defined as the San Francisco Metropolitan Statistical Area, which includes Alameda, Contra Costa, Marin, San Francisco, and San Mateo counties.



For many decades, the 101 cities of the Bay Area have had almost total authority to zone for and permit housing within their boundaries.<sup>7</sup> Each city is governed by officials who are elected by and responsive to local citizens, many of whom do not want to see new housing built in their community. When the developers of new housing bring forward projects, the planning commissioners and city councilmembers must take difficult votes to support them — and in doing so face the wrath of their constituents. Even if these officials do make the hard votes to support housing, local citizens can appeal these decisions under the California Environmental Quality Act (CEQA) and, in some cases, sue to challenge the CEQA determination, tying projects up for years in court battles. Some citizens even put forward local initiatives (ballot measures) to stop projects (i.e., they gather signatures to put rules on the ballot that halt certain types of projects in certain places), and if the majority of local voters agree, their decision can only be overturned by another vote of the people.

This fractured, decentralized system exacerbates inequality in the Bay Area. It is over-responsive to people with entrenched power (existing wealthy homeowners in exclusive communities) and under-responsive to people who are vulnerable to the vagaries of a market system dependent on housing production to hold prices in check (lower-income people who don't yet have the opportunity to live in the communities where future housing could be built).

Adding to these challenges is the reality that regional institutions are relatively weak despite the fact that the housing market is regional. The regional bodies responsible for planning for housing cannot, with very limited exception, compel local governments to issue permits to build housing or issue those permits themselves.

A key counterbalance to this decentralized local and regional system is the power and authority of California's state government. The state has the legal and regulatory authority to set the framework for housing policy and land use planning as well as infrastructure and affordable housing funding in California. Yet to date this power has not been fully utilized. The California State Legislature has passed laws that strengthen the state's planning framework for new housing, limit the power of local governments to stall housing that conforms with existing zoning, and enable affordable housing and housing on commercial corridors to move forward under certain circumstances. However, there's much more work to be done in these areas.

In some of the areas where reform is most needed — for instance, reining in abuses of California's environmental review processes and reforming taxation systems that undermine housing production — progress has been severely limited.

One of the core problems facing the state is that California has no land use planning agency with the authority and capacity to grapple with the many competing interests impacting land use planning. Instead, the state has separate agencies for transportation, housing, environmental regulation, energy, and other policy areas that touch on land use. Each of these agencies has its own statutory authorities, and many produce their own plans related to their policy area, review or regulate various plans required of regional and local governments, or both.

---

<sup>7</sup> Some state housing laws passed in recent years have reined in this authority under certain circumstances, which are explored later in this report.

At the same time, the state governmental institutions for housing are relatively weak and are themselves fractured. The state agency responsible for housing also includes a wide variety of other unrelated departments and commissions, diluting the focus on housing, one of the central issues facing California today. Those departments that do work on housing may not be equipped to demonstrate how various state policies can negatively impact housing production. Lastly, the state has a highly complex and fragmented affordable housing funding system, which creates costly inefficiencies in the production of badly needed subsidized housing units.

What can and should be done about this sprawling system that so impedes the creation of new homes in our state and region?

This report describes California's existing housing governance system and why it is so flawed. It then offers a set of recommendations for actions at the state, regional, and local levels that can help California and the Bay Area successfully build more housing in sustainable places.

Although this report largely focuses on the Bay Area, the state-level recommendations are equally applicable across the other regions of California, where housing production is also lagging.

# Chapter 1

## What Is Housing Governance?

SPUR defines housing governance as the governmental system or set of systems that **regulates, incentivizes, impedes, and publicly funds** the production of housing.

### Regulations

Many governmental agencies regulate housing production. They include local governments (city councils, planning commissions, and planning and building departments) that create the rules for development in the form of zoning and building regulations, general plans, inclusionary zoning ordinances, and impact fee requirements, among other things. The state government and its agencies also play a vital role, creating the framework in which those local rules are made and overseeing the system that regions must use to plan for new housing production.

### Incentives

Generally, the incentives to build housing in California are limited. Density bonus law incentivizes developers to add more affordable housing in exchange for approval to build more housing units overall. The Metropolitan Transportation Commission has attempted to incentivize cities to zone for more housing by providing some additional transportation and infrastructure funding for cities that meet certain thresholds. The state has provided funding to regions to help implement their regional plans as well as some funding to create infrastructure that supports infill development. However, this funding has not yet been enough to fundamentally change growth patterns. Incentives remain an underused governance tool in California.

### Impediments

There are numerous impediments to housing production in the Bay Area. First, local jurisdictions often fail to zone for enough housing — particularly multifamily housing — approve enough housing, or both, in part because local elected officials rely on the support of local residents, who frequently oppose housing in their communities. Second, local governments sometimes place too many requirements on new development, including fees and exactions, labor requirements, and community benefit requirements. Although these requirements support important policy goals, the cumulative cost of meeting them can be too much for projects to bear,<sup>8</sup> resulting in few housing developments being built.

---

<sup>8</sup> Ezra Klein referred to such requirements as “everything-bagel liberalism.” See Ezra Klein, “The Problem With Everything-Bagel Liberalism,” *New York Times*, April 2, 2023, <https://www.nytimes.com/2023/04/02/opinion/democrats-liberalism.html>.

Moreover, local, regional, and state governmental agencies focused on other purposes can inadvertently impede housing production. Overly prescriptive planning, building, and fire codes make it more expensive to build housing, leading to construction of less, and not necessarily safer, housing. Similarly, too stringent or inflexible clean air and water requirements that housing projects must meet can increase costs for housing construction, particularly in infill locations with site constraints. As a result, sprawling, low-density development becomes relatively cheaper than infill housing. Compounding the problem, government agencies fund infrastructure that supports low-density greenfield development (housing and other development built in areas outside of cities on what might have been agricultural or unimproved land). In effect, this practice subsidizes sprawl at the expense of infill housing, which would benefit from further infrastructure investments in denser locations that have already experienced some growth.

Lastly, laws passed by the California State Legislature have created obstacles. Such laws have well-meaning origins, but over time they have become powerful tools to stop housing production. These laws include the California Environmental Quality Act (CEQA), which originally applied only to public projects but has since expanded to private projects as well. Voter-adopted initiatives that constrain California's tax system have created significant impediments to housing production. At the local level, these initiatives have halted housing construction in certain communities.

## Funding

Public funding is critical to the production of housing in two ways. First, it enables subsidized affordable housing to be built. Without public funding, housing with rents affordable to lower-income households would not be financially feasible to construct. Second, public funding pays for infrastructure — public transportation to parks to sidewalks to new roadways — that enables housing projects to move forward.

## What Would Good Housing Governance Achieve in the Bay Area?

This report describes the current state of the Bay Area's housing governance system. But what would a “good” housing governance system look like? One way to answer this question is to consider what outcomes a good system would produce. SPUR's *Housing the Region* report series defines three critical outcomes for housing production in the Bay Area.<sup>9</sup>

- 1. Build enough housing in the right places to moderate pricing without exacerbating sprawl.** *Meeting the Need: The Path to Building 2.2 Million New Homes in the Bay Area by 2070* calls for the creation of 2.2 million new housing units in infill locations.<sup>10</sup>
- 2. Build housing that low- and middle-income households can afford.** *Housing as Infrastructure: Creating a Bay Area Housing Delivery System That Works for Everyone* shows how the Bay Area could sufficiently fund affordable and middle-income housing, as well as create a regulatory framework that supports the creation of unsubsidized middle-income housing.<sup>11</sup>
- 3. Protect existing low-income residents and communities.** *Rooted and Growing: SPUR's Anti-Displacement Agenda for the Bay Area* describes the steps that would enable low-income households to remain and flourish in their communities.<sup>12</sup>

An ideal housing governance system would achieve all three of these goals.

<sup>9</sup> *Housing the Region*, SPUR, April 2021, <https://www.spur.org/publications/spur-report/2021-04-23/housing-region>.

<sup>10</sup> Sarah Karlinsky and Kristy Wang, *Meeting the Need: The Path to 2.2 Million New Homes in the Bay Area by 2070*, SPUR, April 2021, [https://www.spur.org/sites/default/files/2021-05/SPUR\\_Meeting\\_The\\_Need\\_Report.pdf](https://www.spur.org/sites/default/files/2021-05/SPUR_Meeting_The_Need_Report.pdf).

<sup>11</sup> Sarah Karlinsky and Kristy Wang, *Housing as Infrastructure: Creating a Bay Area Housing Delivery System That Works for Everyone*, SPUR, April 2021, <https://www.spur.org/publications/spur-report/2021-04-20/housing-infrastructure>.

<sup>12</sup> Kristy Wang and Sarah Karlinsky, *Rooted and Growing: SPUR's Anti-Displacement Agenda for the Bay Area*, SPUR, April 2021, [https://www.spur.org/publications/spur-report/2021-04-22/rooted-and-growing?utm\\_medium=redirect&utm\\_source=rootedandgrowing](https://www.spur.org/publications/spur-report/2021-04-22/rooted-and-growing?utm_medium=redirect&utm_source=rootedandgrowing).

## The Bay Area Produces the Least Housing of All Comparable U.S. Regions

Even for a high-cost coastal metropolitan region, the San Francisco Bay Area is an outlier in terms of its inability to produce enough housing. Working with The Concord Group, a real estate economics firm, SPUR compared the housing production of the San Francisco Metropolitan Statistical Area to that of 25 similar U.S. metro areas from 2010 to 2020.<sup>13</sup> These metros all shared the following characteristics: a population greater than 1 million people, a population density greater than 100 people per square mile, an average commute less than 40 minutes, an annual job growth rate more than 1% per year, and residents who mostly voted for Joe Biden. Among these areas, San Francisco ranked last in the creation of new housing units per new job and per capita from 2010 to 2020.

### EXHIBIT 1

#### Housing Production in Mid-Size U.S. Cities

The San Francisco Bay Area was the lowest producer of per capita and per-new-job housing relative to comparable U.S. metropolitan areas from 2010 to 2020.

Source: Analysis completed by The Concord Group using U.S. Census data.

METRO	NEW HOUSING UNITS PER NEW JOB	NEW HOUSING UNITS PER 2010 POP	NEW MULTI-FAMILY UNITS	NEW SINGLE-FAMILY UNITS
CHARLOTTE, NC MSA	1.193	0.124	57,996	222,122
GRAND RAPIDS, MI MSA	1.092	0.074	7,841	65,443
HOUSTON, TX MSA	0.838	0.059	114,973	238,515
INDIANAPOLIS, IN MSA	0.774	0.054	21,461	81,028
LAS VEGAS, NV MSA	0.684	0.037	19,018	53,544
RALEIGH, NC MSA	0.651	0.073	31,327	51,536
COLUMBUS, OH MSA	0.601	0.045	38,928	47,720
AUSTIN, TX MSA	0.549	0.096	78,006	87,457
SAN DIEGO, CA MSA	0.524	0.024	28,799	47,070
ORLANDO, FL MSA	0.518	0.050	49,792	56,962
DALLAS, TX MSA	0.505	0.058	169,858	201,860
NASHVILLE, TN MSA	0.495	0.071	46,210	71,034
DENVER, CO MSA	0.464	0.048	65,967	57,135
ATLANTA, GA MSA	0.439	0.035	68,234	117,662
PHOENIX, AZ MSA	0.424	0.043	53,282	127,792
SAN JOSE, CA MSA	0.354	0.039	30,761	41,044
FRESNO, CA MSA	0.349	0.022	2,675	17,693
TAMPA, FL MSA	0.339	0.029	36,425	43,554
PORTLAND, OR MSA	0.330	0.024	45,443	7,999
SAN ANTONIO, TX MSA	0.323	0.026	52,506	148,244
SEATTLE, WA MSA	0.307	0.027	83,254	11,288
SACRAMENTO, CA MSA	0.296	0.019	6,017	34,668
SALT LAKE CITY, UT MSA	0.192	0.026	24,093	4,609
MIAMI, FL MSA	0.179	0.011	39,073	22,865
SAN FRANCISCO, CA MSA	0.117	0.009	21,448	18,963

Although many of these metros produced more housing by relying on cheap land and sprawling development patterns, other metros were able to build a substantial amount of multifamily housing, often in infill locations. The latter metros have more to offer the Bay Area in terms of lessons.

<sup>13</sup> The San Francisco Metropolitan Statistical Area includes Alameda, Contra Costa, Marin, San Francisco, and San Mateo counties.

## Chapter 2

# What Is the Bay Area's Form of Housing Governance?

California has four layers of governance: local, regional, state, and federal. This report focuses on the local, regional, and state levels, the areas in which SPUR does its work. The judiciary also plays an important role in governance because the court system adjudicates land use and environmental review disputes and because court rulings establish precedents that shape law, but this report makes no recommendations for judicial reforms.

### EXHIBIT 2

#### Bay Area Housing Governance Today

Governance decisions are made at four levels of government: local, regional, state, and federal.

Each level has its own regulatory and housing finance authority and responsibility.

LEVEL OF GOVERNMENT	WHO?	WHAT TYPES OF DECISIONS?
Local	For each of the 101 cities in the Bay Area, a combination of the following: city councils, mayors, planning commissions, county boards of supervisors, planning departments, building inspection departments, other departments that impact housing (such as public works and fire departments), and funding offices (such as the Mayor's Office of Housing)	Zoning and general plan changes, CEQA determinations, planning entitlements, housing element adoption and implementation, building permits and other permits necessary to build (such as encroachment permits), funding for affordable housing, and tenant protections
Other local agencies that impact housing	School districts, transit districts, public utility districts, and other special districts	Decisions regarding the availability of resources (such as water or electricity for new housing developments), the location of transit, or the level of impact fees charged to new housing
Regional	The Metropolitan Transportation Commission, the Association of Bay Area Governments, the Bay Area Housing Finance Authority, the Bay Area Air Quality Management District, the San Francisco Bay Regional Water Quality Control Board, and the Bay Conservation and Development Commission	Sustainable Community Strategy plans, policy development, transportation funding plans, funding for affordable housing, rules and regulations regarding air quality that form the bases for CEQA analyses, and regulations that govern bay lands (including the level of mitigation needed to build on environmentally sensitive sites)
State	The governor (including the Governor's Office of Planning and Research), the state legislature, departments and agencies (such as the Department of Housing and Community Development and the California Air Resources Board), funding entities (such as the Tax Credit Allocation Committee and the Debt Limit Allocation Committee), and other agencies and departments that impact housing (such as the various transportation agencies, the State Lands Commission, and the Coastal Commission)	State laws that impact the production of housing (including allowing certain types of development to move forward regardless of the perspective of local governments), regulatory oversight of certain planning activities, development of future plans, funding for affordable housing, funding for infrastructure, and enforcement of existing laws
Judicial system	Courts	Interpretation of state and local laws, including CEQA
Federal	The President, the U.S. Congress, departments and agencies (such as the Department of Housing and Urban Development, the Department of Transportation, and the Environmental Protection Agency), and government-sponsored entities (such as Fannie Mae and Freddie Mac)	Affordable housing funding, infrastructure funding, environmental regulation, and regulation of the private housing finance system and the federal tax structure

## A. Local Governments

As mentioned above, local governance in the Bay Area is highly fragmented — many small local governments make their own decisions independently, with limited regard for the cumulative impacts of those decisions on the region’s housing market. The Bay Area is home to roughly 8 million people and comprises 101 cities, nine counties, and between 200 and 400 special districts.<sup>14</sup> The median population of Bay Area cities is just more than 30,000 people; 63 of the 101 cities have populations of less than 50,000.<sup>15</sup> The majority of developable land in the region is located within city boundaries.

Under California law, cities may be organized either as general-law cities or charter cities. Broadly, general-law cities have less authority to choose their own form of governance because they are obligated to conform their governmental structure to state law. Charter cities, on the other hand, have the authority to define their own governmental structure. The three largest cities in the Bay Area (San Francisco, San José, and Oakland) are all charter cities, each with its own form of government and each capable of exercising additional authority over land use.

In California, cities are an extremely important level of governance from a land use perspective because they have almost total authority to pass general plan amendments, zone for housing, and issue planning entitlements and building permits. Without these approvals, housing cannot be built.

Although the U.S. Constitution gives states the power to regulate land use, the California Constitution further delegates this authority to local governments, making California a very strong “home rule” state.<sup>16</sup> However, the land use powers of local governments are also subordinate to matters of statewide concern. As a result, in recent years the California State Legislature has been able to pass legislation that limits local authority in order to encourage housing production.<sup>17</sup> Additionally, local and regional governments are required to plan for housing as part of a statewide planning framework called the Regional Housing Needs Allocation (RHNA) process, in which the state Department of Housing and Community Development provides regions with a housing growth target. The regions then distribute the housing units represented by that target among individual cities. The cities must update their housing element (part of their general plans) every eight years to accommodate their housing allocations and then align their zoning with their housing allocation. This process is one of the few that knits local, regional, and state governments together to plan for housing.

Exhibits 3 and 4 show the tools that local jurisdictions use to enable or slow down housing production. Please see Appendix A for more detailed information about the local officials and agencies that are typically involved in approving housing.

---

<sup>14</sup> California State Controller, Government Compensation in California, “Special Districts in County,” <https://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistrictCounty.aspx?county=Sonoma&year=2019>. SPUR analysis of the data shows roughly 400 special districts. *Regional Governance and the Politics of Housing in the San Francisco Bay Area* (see next note) calculates 200 special districts.

<sup>15</sup> Paul G. Lewis and Nicholas J. Marantz, *Regional Governance and the Politics of Housing in the San Francisco Bay Area*, Temple University Press, 2023, page 6, <https://tupress.temple.edu/books/regional-governance-and-the-politics-of-housing-in-the-san-francisco-bay-area>.

<sup>16</sup> The California Constitution (Article XI, Section 7) reads, “A county or a city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.”

<sup>17</sup> State housing law preempts local housing law for general-plan cities. If the California State Legislature makes a finding that the legislation addresses a matter of statewide concern and the issue is not a municipal affair, the legislation would also apply to charter cities. Per phone conversation with Chris Micheli, September 28, 2023.



## EXHIBIT 3

**Tools of Local Housing Permitting**

Local governments have different regulatory tools and powers that govern where and how housing is approved. These tools and powers can be aligned to support or discourage housing development.

**General plan amendments**

The general plan is the building block of local planning. It is the city's plan for all physical matters within its jurisdiction. It includes chapters, commonly called "elements." By state law, the housing element of every general plan includes a sites inventory, which shows where new housing will be incorporated. Housing elements need to be updated and adopted every eight years. General plans also usually include a land use element, which typically outlines which types of uses (residential, commercial, industrial) at which intensity (high density, low density) can go where within a city's boundaries.

**Zoning**

Zoning dictates precisely what is allowed to be built on a parcel-by-parcel basis within a city. It covers allowable uses and can include height, bulk, setback, density, and parking requirements. Zoning can also outline which uses are permitted principally and which are permitted conditionally (requiring discretionary approval at the planning commission). Under state law, zoning and general plan designations are supposed to align.

**Planning entitlements**

All developments require planning approval to build. Some approvals can be provided by planning staff (known as ministerial approvals). Other approvals need to be given by a discretionary body, typically a planning commission. Projects that require a conditional use permit, a zoning change, a general plan amendment, or some combination thereof must be heard by the planning commission. These discretionary approvals are accompanied by a CEQA review that can be appealed to the city council or, in the case of a county, the board of supervisors.

**Building permits and other post-entitlement permits**

Once a project has secured its planning entitlements, it must get building permits and other post-entitlement permits. These are non-discretionary permits, meaning that they can be provided administratively, without the project being voted on by a commission. City officials in the building department, public works department, and other relevant departments provide these permits. Any one of these agencies with permitting authority can enable or prevent housing from moving forward.

## EXHIBIT 4

**Local Tools Used to Stifle Housing Production**

Housing development in California is a complex process. The many tools used to regulate housing production can be utilized to stop housing. For example, the environmental review process known as the California Environmental Quality Act is frequently used to delay or halt development, even in infill locations.

TOOL <sup>a</sup>	HOW IT'S USED TO SLOW OR STOP HOUSING
<b>Restrictive zoning</b>	Local governments can adopt zoning that only allows for the development of single-family homes. <sup>b</sup> They can require minimum lot sizes for homes, which can lead to each home being very expensive. Local governments can also create setback requirements, height limits, and design requirements that add to the cost of homes.
<b>CEQA abuse</b>	Any project opponent can file a lawsuit, including anonymously. <sup>c</sup> The opponent can question the CEQA determination for a project, effectively delaying a project for years. <sup>d</sup>
<b>Politicization of the entitlements process</b>	Many housing projects require approvals by the local planning commission, which acts as a quasi-judicial body. Project opponents can appeal to the commission, requesting that projects be denied. The public comment process is structured in such a way as to benefit those who have the time to participate in lengthy hearings or who are paid to do so.
<b>Complex post-entitlement requirements</b>	Once a project secures its planning entitlements, it still requires review and sign-off from various departments, including building departments, fire departments, departments of public works, and others. These approvals can be clear-cut and coordinated, or they can each provide their own degree of challenge, creating costly delays and impeding construction.
<b>Local anti-infill ballot measures</b>	Some locally adopted ballot measures preclude cities from raising height limits or otherwise taking steps to create more infill housing. These measures can only be changed by another vote of the people.

Source: SPUR analysis.

<sup>a</sup> This list of tools is not exhaustive but is illustrative.

<sup>b</sup> State law in recent years allows for the addition of an accessory dwelling unit on residentially zoned parcels. A separate state law, Senate Bill 9, allows for single-family lots to be split under certain circumstances and for homes to be built on each lot along with an accessory dwelling unit. However, SB 9 is challenging to use, and single-family zoning is pervasive in California.

<sup>c</sup> Leanna Sweha, "Bill That Would Have Shone Light on 'Anonymous' CEQA Plaintiffs Fails in Committee," *The Davis Vanguard*, April 2016, <https://www.davisvanguard.org/2016/04/bill-shone-light-anonymous-ceqa-plaintiffs-fails-committee/>.

<sup>d</sup> M. Nolan Gray, "How Californians Are Weaponizing Environmental Law," *The Atlantic*, March 2021, <https://www.theatlantic.com/ideas/archive/2021/03/signature-environmental-law-hurts-housing/618264/>.

## B. Regional Governments

None of the Bay Area's many regional governments has the authority to ensure that the Bay Area produces a sufficient amount of housing. Indeed, most regional agencies have weak regulatory powers over land use.<sup>18</sup> With the exception of Bay Area Rapid Transit (BART), which was recently given land use authority over most BART-owned land, no regional agency has the power to say yes to

<sup>18</sup> See Lewis and Marantz, *Regional Governance and the Politics of Housing in the San Francisco Bay Area*, page 32: "None of the regional entities has sufficient visibility, authority, political legitimacy, or budgetary capacity to effectively guide growth patterns in the region. Furthermore, until recently the compartmentalization of regional agencies by single-purpose function — with separately constituted regional entities for transportation, land-use planning, and air-quality, among others — has hindered the ability of these agencies to offer a compelling alternative vision for the region's development."

housing.

The two agencies with the most direct responsibility for thinking regionally about housing are the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG). The Bay Area Housing Finance Authority is a related regional entity focused on housing that shares a board with MTC.

ABAG is the Bay Area's council of governments. ABAG serves as a forum for the cities within the region to better coordinate their efforts, including those related to land use and housing. It also functions as a financing authority for affordable housing and other local efforts.

ABAG has the authority, within guardrails provided by the California State Legislature, to implement the Regional Housing Needs Allocation (RHNA) process, which apportions the region's eight-year housing requirement to the cities and counties of the Bay Area, providing each city with its own housing target. However, ABAG does not have the authority to compel cities to entitle housing or provide building permits for housing, even housing that is proposed in the housing element. ABAG also approves the region's Sustainable Communities Strategy that's developed by MTC (see below).

The other major regional agency focused on housing is MTC, the Bay Area's metropolitan planning organization (MPO). Each region is required by the federal government to create an MPO in order to receive transportation funding. MTC receives both federal funding and other sources of revenue, including bridge toll funding. Due to a partial merger with ABAG in 2017, MTC and ABAG share planning staff even though they are governed by separate boards.

MTC is responsible for developing the Bay Area's Sustainable Communities Strategy (SCS). Part of the Regional Transportation Plan, the SCS is a land use plan that shows how the region will achieve its required reduction in greenhouse gas emissions (as provided for by Assembly Bill 32) and how the region will plan for its projected housing growth. Land use and housing planning is an essential component for reducing greenhouse gas emissions because dense housing that is clustered near transit or in walkable and bikeable configurations can decrease trips by motor vehicle.<sup>19</sup> Additionally, multifamily housing uses less energy on a per-person basis than larger single-family homes.<sup>20</sup>

In 2019, the California State Legislature created the Bay Area Housing Finance Authority (BAHFA), which has the power to raise, administer, and allocate money for affordable housing and to provide technical assistance in order to strengthen tenant protections, preserve affordable housing, and produce new affordable housing. Although it is a separate legal entity from MTC, BAHFA has the same governing board as MTC and is guided by MTC and ABAG's executive board.<sup>21</sup>

---

<sup>19</sup> Nadja Popovich et al., "The Climate Impact of Your Neighborhood, Mapped," *New York Times*, December 13, 2022, <https://www.nytimes.com/interactive/2022/12/13/climate/climate-footprint-map-neighborhood.html>.

<sup>20</sup> Jonathan Rose Companies, *Location Efficiency and Housing Types: Boiling It Down to BTUs*, March 2011, [https://www.epa.gov/sites/default/files/2014-03/documents/location\\_efficiency\\_btu.pdf](https://www.epa.gov/sites/default/files/2014-03/documents/location_efficiency_btu.pdf).

<sup>21</sup> Sarah Karlinsky and Kristy Wang, *Housing as Infrastructure: Creating a Bay Area Housing Delivery System That Works for Everyone*, SPUR, April 2021, <https://www.spur.org/publications/spur-report/2021-04-20/housing-infrastructure>.

## SB 375 and the Sustainable Communities Strategy

In 2006, the California State Legislature passed Assembly Bill 32, which enables the state to regulate greenhouse gas emissions and set targets to reduce those emissions by a certain date. Senate Bill 375, passed in 2008, requires regional metropolitan planning organizations (MPOs) to develop combined transportation and land use plans to reach the more stringent greenhouse gas targets identified in AB 32. These regional transportation plans (RTPs) include a land use plan, called the Sustainable Communities Strategy (SCS), and most metropolitan regions think of RTP/SCS plans as a unit. Regions must adopt the RTP/SCS in order to be eligible for federal transportation funding.

SCS plans are approved by the California Air Resources Board (CARB) at the state level. CARB reviews methodologies developed by the MPOs to show how greenhouse gas emissions will be reduced under the plan. Many factors, not just changes in land use patterns, may be inputs into these methodologies. When an SCS has met the region's greenhouse gas reduction targets and has been approved by CARB, the region becomes eligible for some state funds, such as transportation funds provided by Senate Bill 1.

Even though the SCS process is theoretically the most holistic approach to ensuring that housing and transportation policy is consistent with broader state goals to address climate change, SCS plans have been criticized for having little implementation power.<sup>22</sup> Local jurisdictions are not required to adhere to the SCS when adopting their own land use plans or zoning changes. Although some projects that conform with the SCS are theoretically exempt from CEQA review, historically there has not been enough detail provided in the SCS to effectively determine whether a project does or does not conform with the SCS, so the CEQA exemptions for SCS-conforming projects are difficult to use.<sup>23</sup>

<sup>22</sup> Sarah Mawhorter et al., *California's SB 375 and the Pursuit of Sustainable and Affordable Development*, Turner Center, July 2018, [https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/SB375\\_July\\_2018\\_Final.pdf](https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/SB375_July_2018_Final.pdf).

<sup>23</sup> SCAG, "SB 375 CEQA Streamlining," [https://scag.ca.gov/sites/main/files/file-attachments/senate\\_bill\\_375\\_-\\_ceqa\\_streamlining.pdf?166786017](https://scag.ca.gov/sites/main/files/file-attachments/senate_bill_375_-_ceqa_streamlining.pdf?166786017).

## The Regional Housing Needs Allocation (RHNA) Process

Every eight years, the state, regions, and local governments plan for California's housing needs, based primarily on population estimates and statewide equity goals, in the state-mandated RHNA process. Relying on population projections from the California Department of Finance, the Department of Housing and Community Development (HCD) develops housing targets for each region in California. These housing targets, known as the Regional Housing Needs Determination, are then distributed to each local jurisdiction within the region on the basis of a state-mandated methodology. This methodology differs from that used by CARB to review and approve SCS plans. It must meet the five statutory objectives of the RHNA process:

1. Increase housing supply and the mix of housing types, with the goal of improving housing affordability and equity in all cities and counties within the region.
2. Promote infill development and socioeconomic equity, protect environmental and agricultural resources, encourage efficient development patterns, and achieve greenhouse gas reduction targets.
3. Improve the intraregional jobs-to-housing relationship, including the balance between low-wage jobs and affordable housing units for low-wage workers in each jurisdiction.
4. Balance disproportionate household income distributions (more high-income allocation to lower-income areas, and vice versa).
5. Affirmatively further fair housing.

Once the RHNA methodology has been approved by the state, each local government must plan for its RHNA allocation by updating the housing element of its general plan. The housing element must include a housing needs analysis, a plan for how housing at various income levels will be accommodated within the city in ways that meet the statutory objectives of the RHNA process, a site inventory of where housing can be built, and an analysis of the constraints that could limit housing production in the city and how those constraints will be addressed.

Once a city has developed its housing element, the housing element must be submitted to HCD for approval. If HCD does not approve the housing element, the city is out of compliance, which means that it is no longer eligible for certain state funds and is vulnerable to lawsuits. In addition, cities that are not in compliance are subject to the Builder's Remedy, which requires cities to entitle projects, even those that do not meet local zoning requirements, as long as those projects meet certain affordability thresholds.<sup>24</sup>

<sup>24</sup> ABAG, "The 'Builder's Remedy' and Housing Elements," <https://abag.ca.gov/sites/default/files/documents/2022-10/Builders-Remedy-and-Housing-Elements.pdf>.

Four other regional agencies impact housing production.

The San Francisco Regional Water Control Board is one of nine regional water control boards in California, all overseen by the California Water Control Board. The San Francisco Regional Water Control Board has regulatory authority over the water basins in the region and can make rules regarding how development manages rainwater in order to protect water quality.

The Bay Area Air Quality Management District (BAAQMD) is the first regional air pollution control agency in the nation. A state-chartered entity with the authority to regulate air pollutants, BAAQMD issues guidance regarding how air pollution should be analyzed under CEQA for new projects and issues regulations regarding air quality standards for appliances.

Bay Area Rapid Transit plans, builds, and operates the Bay Area's rapid transit rail network. With the passage of Assembly Bill 2923 in 2018, BART has land use authority on BART-owned land.

The Bay Conservation and Development Commission (BCDC) plans for and enhances San Francisco Bay. The agency has some permitting authority on bayshore lands and develops plans to mitigate the impacts of sea level rise.

Each regional regulatory entity is focused on its chartered purposes (for example, ensuring clean air or protecting the bay). In their efforts to fulfill their mission, these agencies can create well-meaning regulations and proposed mitigations that inadvertently make it harder to build housing, particularly in infill locations.

## C. State Government

California's state government is enormously large and complex, employing nearly 220,000 people full time.<sup>25</sup> State government includes both an executive and legislative branch. The California State Legislature has extraordinary power to impact housing production in California. In recent years, it has declared that housing is an issue of statewide importance, writing new laws that increase zoning capacity for certain types of housing and that streamline approvals for housing that meets certain affordability thresholds. Passed in 2008, SB 375 requires regions to jointly plan for growth and transit to reduce greenhouse gas emissions. Recently, the legislature reformed the RHNA process to require certain factors to be taken into account in determining the methodology for distributing housing allocations both from the state to regions and within regions to cities.

The California State Legislature can give agencies and departments new powers, require studies of certain issues, and call for greater coordination and collaboration among parts of government. In some areas, it has been bold, increasing zoning capacity for housing on commercial corridors and allowing certain types of housing to move forward without conditional approval. Yet the legislature has been slower to rein in CEQA abuses and to reform the tax systems that undermine housing production.<sup>26</sup>

Headed by the governor, the executive branch includes numerous agencies, departments, and

---

<sup>25</sup> California State Controller, "State Employee Demographics," [https://sco.ca.gov/ppsd\\_empinfo\\_demo.html](https://sco.ca.gov/ppsd_empinfo_demo.html).

<sup>26</sup> Patrick Atwater et al., *Does State Tax Policy Discourage Housing Production?*, SPUR, September 2020, <https://www.spur.org/publications/white-paper/2020-09-23/does-state-tax-policy-discourage-housing-production>.

offices responsible for carrying out the work of the state.<sup>27</sup> The governor's cabinet is comprised of 11 cabinet secretaries<sup>28</sup> and the three heads of the major offices within the Governor's Office: the Office of Planning and Research, the Office of Business and Economic Development (known as GOBiz), and the Office of Emergency Services.

California's state government also includes multiple state agencies and departments that directly or indirectly impact housing production. These agencies finance affordable housing; have planning authority, regulatory authority, or both that directly governs housing production; or have planning, financing, or regulatory authority that indirectly impacts housing production.

## State entities that finance affordable housing

Four major state entities are responsible for funding affordable housing (defined here as housing that is affordable to households earning 80% of the area median income): the Department of Housing and Community Development (HCD), the California Housing Finance Authority (CalHFA), the California Debt Limit Allocation Committee (CDLAC), and the California Tax Credit Allocation Committee (CTCAC).

HCD is responsible for both funding affordable housing and regulating planning processes such as the RHNA. CalHFA is a housing finance agency that lends low-interest debt for affordable housing development. Both entities sit under a cabinet-level agency called Business, Consumer Services, and Housing (BCSH). BCSH also oversees many other functions unrelated to housing, including the Civil Rights Department, the Department of Consumer Affairs, and the Alcoholic Beverage Control Appeals Board.

CDLAC and CTCAC are part of the California State Treasurer's Office, which is headed by a constitutional officer who is not the governor. These entities are headed by a committee comprised of the treasurer, the controller (also a separate constitutional officer), the director of finance (reporting to the governor), and the heads of HCD and CalHFA.<sup>29</sup> CDLAC issues tax-exempt bond debt, and CTCAC issues tax credits. Both tax-exempt bond debt and tax credits are typically used to finance affordable housing.

A recent state audit of the state's affordable housing functions found significant inefficiencies in the state's housing finance system. Developers of affordable housing frequently have to apply for four or more sources of funding for housing projects, all from different agencies with different eligibility requirements. This complexity adds additional time and cost to the process of developing affordable housing, wasting scarce public resources. The audit also noted that most projects apply to both CDLAC for tax-exempt bonds and CTCAC for tax credit allocations, yet these two agencies remain separate and require separate application processes.

---

<sup>27</sup> State of California, "California State Government – The Executive Branch," [https://www.gov.ca.gov/wp-content/uploads/2021/12/Exec-Branch-Org-Chart-1.14.22\\_fully-remediated.pdf](https://www.gov.ca.gov/wp-content/uploads/2021/12/Exec-Branch-Org-Chart-1.14.22_fully-remediated.pdf).

<sup>28</sup> Georgetown Law Library, "More on California's Executive Branch," <https://guides.ll.georgetown.edu/c.php?g=275786&p=6904274>.

<sup>29</sup> The heads of HCD and CalHFA are non-voting members for CDLAC and voting members for CTCAC. The other three members are voting members of both bodies.

---

## **State entities that directly plan for housing, regulate housing, or both**

State government has enormous power to shape planning outcomes, even without adopting new laws through the legislature. Although local governments have the power to adopt plans and zone for housing, the state sets the overall planning framework for local and regional governments. As mentioned earlier, the state requires every local government to have a general plan, including a housing element that must be updated every eight years. The state requires each city's zoning to be consistent with the general plan and mandates that each city apply various rules and regulations to development, including CEQA review.

Numerous state agencies have both direct and indirect authority over housing. As stated above, BCSH is the cabinet-level agency with responsibility for housing; it includes HCD, CalHFA, the California Interagency Council on Homelessness, and the California Department of Real Estate.

HCD has one of the strongest sets of regulatory powers over local governments. The department provides the Regional Housing Needs Determination to each region, which must allocate the planned housing units among its member cities. If a region develops its own projections and those projections are more than 3% different from HCD's projections, HCD may reject the region's projections. Additionally, HCD reviews drafts of each city's housing element and ultimately has the authority to approve or reject these elements. HCD also develops the Statewide Housing Plan, which describes the state's housing crisis and incorporates a data tool to track progress toward statewide housing goals.

The Office of Planning and Research (OPR) is an arm of the Governor's Office responsible for long-range planning in the state, including integration of the state's housing, transportation, and climate goals. OPR also has the authority to issue CEQA guidance, which is enormously impactful for determining how CEQA is applied to projects. As mentioned above, CEQA is one of the primary barriers to infill housing production. The Strategic Growth Council (SGC), which falls under the purview of OPR, is structured to ensure coordination among agencies on major land use matters. The board of the SGC is composed in part of eight agency directors with responsibility for various aspects of land use in the state. Although SGC has no formal regulatory authority over land use, it can convene agencies to solve shared problems.

The California Air Resources Board (CARB) also has regulatory authority over land use. As mentioned earlier, each region's SCS must include transportation and land use planning and must demonstrate how the region is meeting the greenhouse gas reduction targets set out in CARB's Scoping Plan.<sup>30</sup> CARB has the authority to review and approve these plans by reviewing the methodology each region uses to determine how it will meet the emission reduction targets.

## **Other agencies that impact housing**

Numerous other agencies impact housing in a variety of ways.

The California State Transportation Agency (CalSTA) is the state-level agency for transportation. CalSTA includes the California High-Speed Rail Authority, Caltrans (which has responsibility over

---

<sup>30</sup> CARB, "AB 32 Climate Change Scoping Plan," <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/about>.



state roads, including highways), and the California Transportation Commission (which programs all of the state's transportation funds).

The Coastal Commission has land use jurisdiction over California's coastal lands. Its purview intersects with housing policy mainly in Southern California, where the commission exercises jurisdiction over wide swaths of cities, including San Diego.

The California Environmental Protection Agency (CalEPA) includes the Department of Toxic Substances, which oversees the cleanup of hazardous waste on toxic sites and impacts brownfield development (where new buildings are developed on land that previously was used for industrial purposes and therefore requires environmental remediation). CalEPA also includes the Air Resources Board (which oversees air quality management through a set of regional boards) and the State Water Resources Board (which oversees water quality through a set of regional boards).

The State Lands Commission manages submerged and tidal lands throughout California, including waterfront and coastal lands that the state has given in trust to various local jurisdictions.

The Department of General Services identifies state-owned excess property and pursues affordable housing development on these properties.<sup>31</sup>

This list of agencies and commissions is by no means exhaustive. Any agency that is responsible for planning or funding infrastructure in some way impacts housing production in California.

---

<sup>31</sup> State of California, Real Estate Services Division, "Executive Order N-06-19 Affordable Housing Development," <https://www.dgs.ca.gov/RES/Projects/Page-Content/Projects-List-Folder/Executive-Order-N-06-19-Affordable-Housing-Development>.

## Chapter 3

# Findings

SPUR's research yields six findings.

**1 Action at the state level has the biggest potential to change the course of California's housing future.**

Despite California's "home rule" system, state government has enormous power to alter the course of California's housing future, a power that it is just in the process of learning how to use effectively. State government sets the framework in which California's cities and regions plan for, zone, and entitle housing. Although historically the state's involvement in housing has been more limited, in recent years the severity of California's housing crisis has compelled state leaders to play a more interventionist role, often with significant success.

The many high-profile examples include Senate Bill 743, which changes how transportation impacts are measured under CEQA to support more infill development;<sup>32</sup> Senate Bill 35, which allows projects with a certain percentage of affordable units to move forward by right in certain jurisdictions; and Assembly Bill 2011, which increases the zoned capacity for housing in commercial corridors and allows development that meets certain labor and affordability requirements. But many other lesser-known pieces of legislation have had a significant impact in the past few years. For example, Senate Bill 828, authored by Senator Scott Wiener in 2018, changes the RHNA process, prohibiting councils of government from taking underperformance on prior RHNA cycles into account as a rationale for providing lower RHNA targets and requiring regions and local jurisdictions to affirmatively further fair housing (by placing more affordable homes in wealthier communities and ensuring that households in lower-income communities have access to opportunities). SB 828 has led to substantial changes in the location and amount of housing that local governments are required to plan for and has made the current, sixth cycle of housing elements far more impactful than prior cycles. Additionally, Governor Gavin Newsom has put significant new resources toward staffing HCD to review and enforce housing element law. Although these reforms may seem modest, they have altered the actions of local governments in substantial ways. More focused and coordinated state action could build on these types of successes.

**2 However, there is no agreed statewide vision for California's land use to guide state action.**

Despite many efforts to create a statewide vision for land use, the last formally adopted vision was published in 1978 (see "What Is California's Land Use Vision?"). Since then, aligning

<sup>32</sup> Governor's Office of Planning and Research, "Transportation Impacts (SB 743)," <https://opr.ca.gov/ceqa/sb-743/>.

state government agencies on a shared vision for land use has been enormously difficult and politically fraught.

Why is this a problem? For starters, significant policy conflicts arise between different agencies and departments, and without a comprehensive state vision, departments and agencies must adjudicate the conflicts themselves. Instead of resolving conflicts, different agencies and departments tend to develop discordant plans, and local and regional governments are left to sort through competing requirements themselves. Plans that have no regulatory weight are ignored, and those that do are prioritized. At best, this process wastes public resources at all levels of government, and at worst it gives those local and regional governments that do not want to prioritize housing or sustainability an excuse to throw up their hands and continue on with business as usual.

## What Is California's Land Use Vision?

Since 1978, California's land use vision, such as it is, has been shaped by the following efforts:

*An Urban Strategy for California:*<sup>33</sup> In 1978, the Office of Planning and Research (OPR) released this environmental goals and policy report, the last formally adopted land use plan published by the state.

*Vibrant Communities and Landscapes:*<sup>34</sup> In 2016, multiple agencies within state government jointly developed a long-range vision for land use in California. Unfortunately, this vision was never formally adopted because it was viewed as too politically contentious. However, it was released as an addendum to the California Air Resources Board's 2017 Scoping Plan.

*A Strategy for California @ 50 Million:*<sup>35</sup> In 2015, OPR informally released another environmental goals and policy report. This report was never formally adopted as state policy.

*CARB Scoping Plan:*<sup>36</sup> Every four years, the California Air Resources Board produces a scoping plan for achieving carbon neutrality. Although not a land use plan, it does have major implications for state and regional planning.

<sup>33</sup> Office of Planning and Research, *An Urban Strategy for California*, February 1978, [https://opr.ca.gov/docs/20190325-urban\\_strategy-ocr.pdf](https://opr.ca.gov/docs/20190325-urban_strategy-ocr.pdf).

<sup>34</sup> *Vibrant Communities and Landscapes (draft)*, September 2016, [https://www.counties.org/sites/main/files/file-attachments/state\\_level\\_vision\\_for\\_ca\\_land\\_use\\_in\\_2050.pdf?1473976309](https://www.counties.org/sites/main/files/file-attachments/state_level_vision_for_ca_land_use_in_2050.pdf?1473976309).

<sup>35</sup> Office of Planning and Research, *A Strategy for California @ 50 Million*, November 2015, [https://opr.ca.gov/docs/EGPR\\_Nov\\_2015.pdf](https://opr.ca.gov/docs/EGPR_Nov_2015.pdf).

<sup>36</sup> CARB, "2022 Scoping Plan Documents," <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>.

**3 The state has relatively weak and fragmented institutions focused on housing production compared with other state policy goals such as addressing climate change.**

Numerous environmental and energy regulatory bodies actively work to address climate change and environmental issues, including CARB, the California Energy Commission, and others, all of which have tools for quantifying the impact of decisions on climate change. Transportation has a dedicated and powerful state agency. In contrast, the executive branch's approach to housing is still relatively underdeveloped. Housing sits within the Business, Consumer Services, and Housing Agency (BCSH), where it is one of many competing priorities. No statewide tools calculate the impacts of various governmental decisions on statewide housing production and no mechanisms ensure that infill housing is prioritized. At the same time, affordable housing funding entities are balkanized in a variety of agencies, departments, and programs in two constitutional officers: the governor and the treasurer.

**4 The state has an effective example of a planning process that combines state, regional, and local efforts to coordinate action on housing. This process can be a model for future change.**

Although California has no agreed vision for its future land use, it has an effective planning process to coordinate action by all three levels of government: the RHNA process. Recent changes in state law and enforcement of the RHNA process, as described above, have resulted in demonstrable changes in local actions.

The RHNA process is effective for two reasons.

First, the state Department of Housing and Community Development (HCD) is responsible for developing the allocation of housing units that each region must plan to accommodate. The regions then must work with local governments within a specific framework to allocate those units. Local governments are then required to create their own plans for the units they have been allocated. HCD reviews drafts along the way and provides comments. HCD also has the authority to approve or deny housing elements.

Second, local governments are required to zone for the units contemplated in their housing elements within a certain period of time. Local governments without a compliant housing element face consequences, including the loss of state funds and the threat of lawsuits.

Although the housing element process is not perfect, it does create a coherent and effective framework for action that integrates the various levels of government in ways that play to the strength of each. Local government does have the most insight into local conditions and should get to determine, within reason, where growth should go within a local community. Regional government has the best vantage point to determine, within a clear regulatory framework, where regional growth should occur in order to meet various policy goals. And the state is in the best position to determine regional growth targets and to follow up in an ongoing way in order to ensure that regions and local governments are living up to regulatory requirements. The roles of each level of government are clearly articulated in the RHNA process.

**5 The two state-required regional land use planning processes are misaligned and duplicative, and only one currently results in direct housing outcomes.**

The RHNA process is an increasingly effective process to plan for growth, but the utility of the SCS process is less clear. The original intent of the SCS was a good one: to marry regional transportation and land use planning. Yet unlike the RHNA process, the SCS process cannot compel local governments to act on housing.

Although some regions, such as the Bay Area, have used their SCS process to better define where growth should and should not occur, the statutory requirements to integrate the SCS and RHNA processes are weak.

The process of reviewing and approving the SCS plans has its own set of difficulties. By law, metropolitan planning organizations (MPOs) must prove to CARB through a detailed methodology that their land use plans reduce greenhouse gas emissions. And yet the models used to derive these conclusions are opaque, and it is difficult for CARB, as an oversight agency, to know if the methodologies employed by MPOs are accurate. Oversight then focuses on the assumptions in the modeling rather than on the outcomes the plan is seeking to achieve.

In its 2022 progress report, the California Air Resources Board (CARB) described how the goals of SB 375 are currently not being met through the SCS process. CARB's first key metric finds that "California is still not reducing [greenhouse gas] emissions from personal vehicle travel as needed to meet climate commitments and as targeted under SB 375. Per capita [greenhouse gas] emissions and per capita [vehicle miles traveled] continued to increase," though more slowly than documented in CARB's previous report.<sup>37</sup>

The SCS process focuses solely on reducing greenhouse gas emissions, but the RHNA process is focused on five objectives, only some of which are directly aligned with emissions reduction (promoting infill development and protecting environmental and agricultural resources) while others achieve other important housing objectives (affirmatively furthering fair housing). Currently, the State of California provides no guidance to regions about how to proceed when SCS and RHNA goals conflict.

**6 The Bay Area's fragmented, polycentric local and regional governance structure would be best served by a clearer state planning framework, a more robust housing function within state government, continued state oversight over local and regional action, and better mechanisms for resolving conflicts among regional agencies.**

As described above, the Bay Area includes 101 cities, nine counties, and multiple regional governments, each with its own chartered purpose and each beholden to its own political pressures. Getting these governments to row in the same direction is a herculean challenge. Without a strong and clear state planning framework, cooperation will not happen. And the result is a failure to address the housing needs of Bay Area residents.

---

<sup>37</sup> CARB, 2022 Progress Report: California's Sustainable Communities and Climate Protection Act, <https://ww2.arb.ca.gov/sites/default/files/2023-05/2022-SB150-MainReport-FINAL-ADA.pdf>.

To tackle these challenges, state government must articulate and enforce the boundaries of appropriate local and regional action. This effort includes clarifying how much housing jurisdictions must plan for and in what types of locations, what types of transportation projects and other types of infrastructure are appropriate to build, and what types of discretionary authority are appropriate to use when considering new housing developments.

This is not to say that local governments should have no input into how cities grow. Local governments have a strong role to play in understanding where and how growth can support neighborhoods and communities and what community assets need to be preserved. But local governments, especially in wealthier communities located near transit access, should not be allowed to shut their doors to housing.

## Chapter 4

# Recommendations

SPUR has 11 recommendations to accelerate housing production.

### State Recommendations

State-level reforms could have the biggest impact on California's housing production. Yet it is important to be realistic — California's entire system of governance will not be changed easily, or overnight. The recommendations below build on the existing governance structure, making targeted proposals for reform that support coordination across agencies and systems. The purpose of these recommendations is manifold: to create an integrated long-range planning function with sufficient power to lead land use planning for the state, to elevate housing production as a goal in state decision making, to reconcile the state's dueling regional housing planning processes, to streamline affordable housing funding, and to align state funding with the goal of supporting infill housing production in order to reach the state's housing production goals.

#### Recommendation 1

#### **Create a stand-alone state housing agency and develop a stronger housing leadership function within the executive branch.**

As mentioned above, numerous large and robust agencies focus intently on addressing environmental issues in California. The role of housing within state government is comparatively weak, with one agency, the Business, Consumer Services and Housing Agency (BCSH) responsible for housing among many other priorities. The secretary of BCSH is responsible for the Department of Consumer Affairs, the California Civil Rights Department, the Department of Cannabis Control, the Alcoholic Beverage Control Appeals Board, and the California Horse Racing Board, among other agencies. This broad portfolio dilutes the amount of time the secretary can spend focusing on housing policy.

At the same time, the state has limited tools to analyze the impacts of various policy decisions on housing feasibility, which would help determine whether a policy proposal furthers or undermines the state's goal of producing 2.5 million units over the next eight years. Nor is there a tool to help analyze whether various decisions would lead to more sprawling development patterns with higher greenhouse gas emissions or to more compact development patterns with lower greenhouse gas emissions.

To help strengthen housing functions within state government, SPUR recommends the following:

**A. Create a stand-alone California housing agency.**

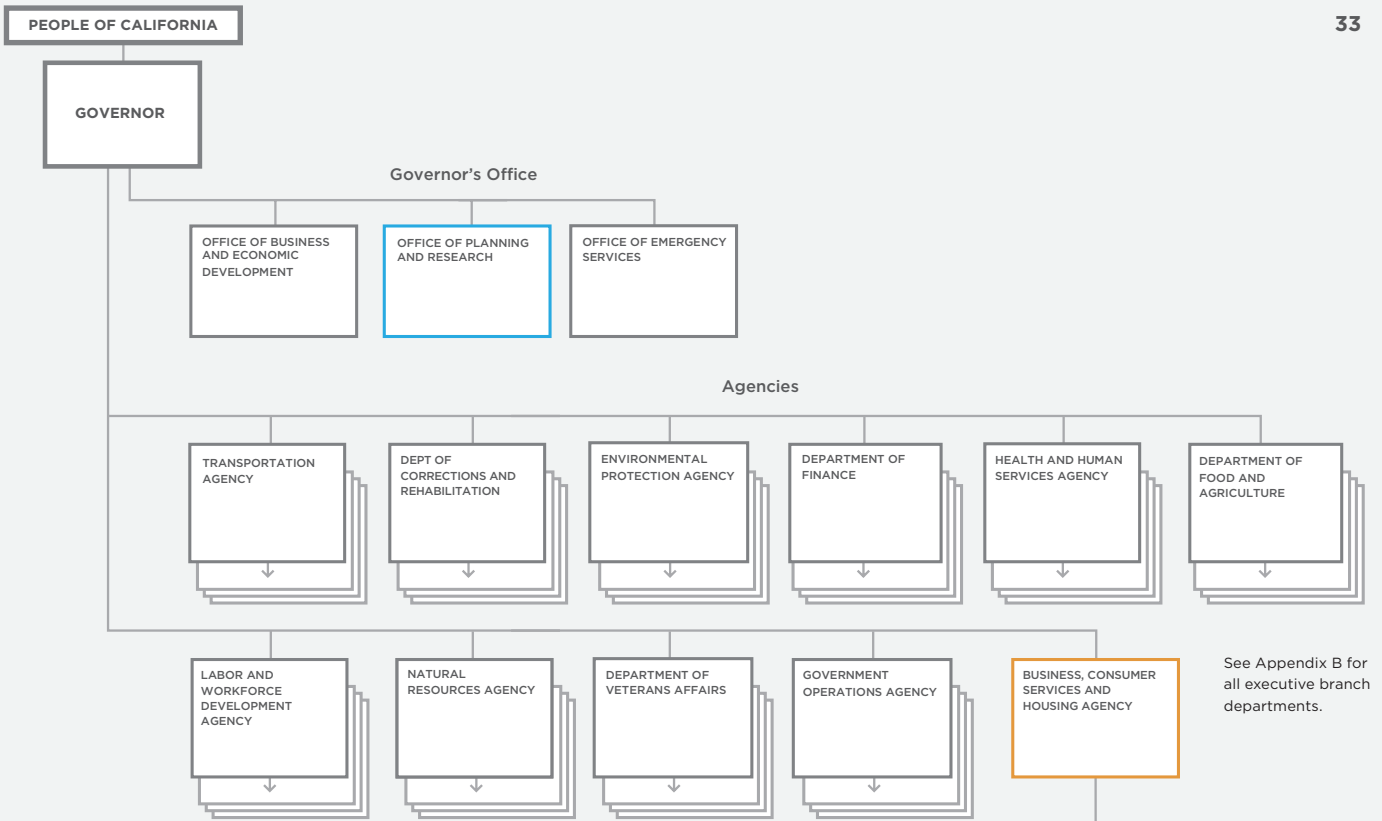
SPUR recommends that the governor reorganize the current BCSH to create a stand-alone California housing agency (CHA) devoted specifically to housing. The existing agency would become solely a business and consumer services agency and would focus on those functions. The housing agency should subsume and replace Housing and Community Development (HCD), the California Housing Finance Agency (CalHFA), and the Department of Real Estate (all currently housed within BCSH), and it should incorporate California's Interagency Council on Homelessness. Responsibilities within this agency should include a regulatory function focused on the Regional Housing Needs Allocation and housing element compliance, a financing function that includes both grant programs and the housing financing currently provided by CalHFA, and a policy function that both develops policy and liaisons with other departments.

**B. Within the CHA, develop a robust policy function with strong data capabilities.**

The proposed CHA should have the necessary data and tools to advance housing policy in the state, including a focus on innovations and policy changes that increase the financial feasibility of infill housing, with mechanisms to quantify the climate impacts of infill housing production compared with those of greenfield development. The agency should be able to analyze and describe how the various policy trade-offs being made by other state agencies are affecting the state's housing production goals.

**C. Ensure that the Governor's Office has dedicated cabinet, legal, and legislative staff focused exclusively on housing.** Currently, the deputy secretaries in the Governor's Office (e.g., in Cabinet, Legislative Affairs, and Legal) who advise the governor on housing address many issues other than housing, such as transportation and broadband access. It would be helpful to have dedicated staff in the Governor's Office who focus exclusively on housing.





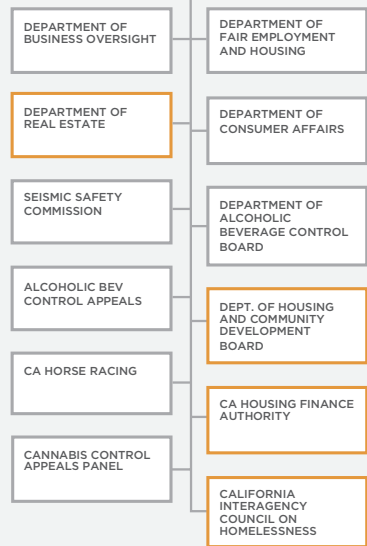
See Appendix B for all executive branch departments.

**EXHIBIT 5  
Existing Executive Branch Organizational Chart**

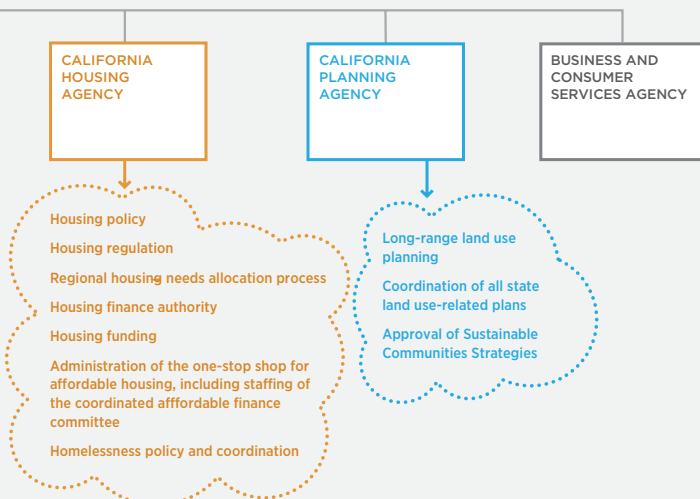
California's executive branch includes three offices within the Governor's Office, one of which is the Office of Planning and Research. The executive branch also includes cabinet-level agencies, of which the Business, Consumer Services and Housing Agency (BCSH) is one. While housing is a critical issue for

the State of California, it sits within an agency that includes many disparate functions, diluting the attention that the secretary can give to housing.

**Source:** California State Government: The Executive Branch, <https://www.gov.ca.gov/wp-content/uploads/2020/06/Exec-Branch-Org-Chart-6.1.20.pdf>



**EXHIBIT 6  
New Proposed Cabinet Level Agencies**



SPUR recommends adding two cabinet-level agencies. The proposed California Housing Agency (CHA) would incorporate the work of the Department California Housing and Community Development and the California Housing Finance Agency and would handle other new housing functions. The remaining functions of BCSH would become a new business

and consumer services agency. The proposed California Planning Agency would subsume the long-range planning and environmental review functions of the Office of Planning and Research. The remaining functions of that former office would remain within the Governor's Office in a new office of programs.

**Source:** SPUR analysis

## Recommendation 2

### **Create a new California planning agency that consolidates and integrates the state's various land use planning efforts.**

To develop streamlined, coordinated long-range land use planning, the state should create a new California planning agency (CPA) with structural requirements for integration with related departments. The CPA would subsume and replace the existing Office of Planning and Research (OPR), assuming its existing authorities while adding additional authorities and required actions. The non-planning portions of OPR could be distributed to other agencies or remain in the Governor's Office as part of a newly constituted office of programs. The Strategic Growth Council and the Integrated Climate Adaptation and Resilience Program would become part of the new CPA.

The CPA should be a cabinet-level agency, not an entity within the Governor's Office. Under the current configuration, with OPR falling under the Governor's Office, there can be some confusion as to whether the OPR director is operating as the head of an office or as a member of the governor's senior leadership team. Creating a cabinet-level agency would put the CPA on par with the other state agencies. Agency secretaries, while appointed by the governor, are confirmed by the legislature, which builds stronger ties between those two areas of government and can lead to more effective laws and regulatory structures.

In addition to a cabinet secretary, several other senior positions should be created in the CPA: a deputy director for community development, who would coordinate with the Housing Agency and other agencies that work on community development; a deputy director for climate and resilience; and a deputy director for economic development. Each of these positions would have statutorily defined responsibilities for liaising with the various departments and agencies that focus on their respective policy areas.

CPA should have statutory responsibility to undertake the following actions:

#### **A. Develop a long-range land use plan for the state.**

State law requires the governor to develop a statewide environmental goals and policy report.<sup>38</sup> However, as mentioned above, the last time the state actually adopted a long-range land use plan was in 1978. Since then, OPR has attempted to put forward various visions for land use planning in the state, but none have been formally adopted, and most have been released only in draft form — leading OPR to issue specific land use guidance and recommendations piecemeal rather than through a comprehensive plan.

SPUR recommends that the new CPA be required to produce a long-range plan for the state, perhaps every six years so it would not coincide with any gubernatorial term, and that the legislature review this plan at regular intervals, such as every two years at the beginning of the legislative cycle, to determine how to implement the plan.

The long-range land use plan should be a policy document that articulates a statewide land use vision. Its purpose should be to lay out the land use priorities for the state and to provide

---

<sup>38</sup> California Legislative Information, "Article 5," [https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1&title=7&part=&chapter=1.5&article=5](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1&title=7&part=&chapter=1.5&article=5)

guidance about how to address numerous land use conflicts. Such conflicts include tensions between greenhouse gas reductions and affirmatively furthering fair housing, between wildfire risk and housing demand, between environmental cleanup requirements for toxic substances and infill housing production, and between water availability and housing demand. The land use plan should include scenarios in which such conflicts occur and recommendations for resolving them.

Additionally, the long-range land use plan should develop an agreed definition of what constitutes infill housing. The definition could be used to support modeling for Sustainable Communities Strategy (SCS) plans as well as future policy setting and legislation.

Metropolitan planning organizations (MPOs) developing SCS plans, councils of government developing RHNA plans, and local governments developing housing elements and other relevant land use plans should be required to use this guidance. If their plans deviate from the guidance, they should be required to explain the reasons.

Lastly, the state's long-range land use plan should provide more detailed land use guidance for parts of the state not covered by an MPO.

The other agencies that have land use jurisdiction — including the proposed CHA, the California State Transportation Agency (CalSTA), the California Air Resources Board (CARB), the California Energy Commission, and the California Public Utilities Commission — should be consulted in the development of this plan.

## **B. Ensure coordination among various statewide plans.**

Various state agencies have developed statewide plans, with no formal requirement to integrate them with other plans. These plans include the Statewide Housing Plan<sup>39</sup> (developed by HCD), the California Transportation Plan<sup>40</sup> (developed by Caltrans), the AB 32 Climate Change Scoping Plan<sup>41</sup> (developed by CARB), and the SB 100 Joint Agency Report.<sup>42</sup> The new CPA should have responsibility to ensure that these plans coordinate both with one another and with the statewide land use plan.

Oregon has a robust statewide planning framework that focuses on coordination of agencies with statewide land use goals.<sup>43</sup> Each state agency is required to create a state agency coordination program to “assure that its ‘rules and programs affecting land use’ comply with the statewide planning goals and are compatible with acknowledged city and county comprehensive plans and land use regulations.”<sup>44</sup> These programs are submitted to Oregon’s Department of Land Conservation and Development for approval.

---

<sup>39</sup> Statewide Housing Plan, *A Home for Every Californian*, March 2022, <https://statewide-housing-plan-cahcd.hub.arcgis.com/>.

<sup>40</sup> Caltrans, “California Transportation Plan Updates,” <https://dot.ca.gov/programs/transportation-planning/division-of-transportation-planning/state-planning-equity-and-engagement/california-transportation-plan>.

<sup>41</sup> CARB, “AB 32 Climate Change Scoping Plan,” <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan>.

<sup>42</sup> California Energy Commission, *SB 100 Joint Agency Report*, 2021, <https://www.energy.ca.gov/sb100>.

<sup>43</sup> Oregon Planning, “History of Land Use Planning,” <https://www.oregon.gov/lcd/OP/Pages/History.aspx>.

<sup>44</sup> Oregon Planning, “Oregon’s Statewide Land Use Planning Goals,” <https://www.oregon.gov/lcd/OP/Pages/Goals.aspx>, and State of Oregon, “State Agency Coordination,” <https://www.oregon.gov/lcd/about/pages/state-agency-coordination.aspx#:~:text=Each%20state%20agency%20is%20required,plans%20and%20land%20use%20regulations>.

### **C. Approve Sustainable Community Strategies.**

Currently, CARB approves SCS plans. CARB's Climate Change Scoping Plan creates greenhouse gas emission reduction targets for the state, and CARB accepts or rejects SCS plans on the basis of the plans' capacity to reduce greenhouse gas emissions. To do so, CARB reviews complex and sometimes opaque methodologies developed by MPOs, which can lead the agency to focus on factors that do not change land use patterns.

SPUR recommends that the CPA become the agency to approve SCS plans and that the approval process include an analysis of greenhouse gas reduction while also addressing the five objectives of the RHNA (see "The Regional Housing Needs Allocation (RHNA) Process" on page 21). Approval of an SCS should only be given if it accommodates the applicable Regional Housing Needs Determination in a way that helps the state meet its carbon reduction goals. The CPA should use the statewide land use plan to provide guidance to regions about how to address potential conflicts between RHNA goals and carbon reduction goals.

### **D. Reform CEQA to streamline infill housing development.**

SPUR views CEQA as perhaps the single biggest barrier in the state to the production of infill housing. At the same time, CEQA is a relatively weak tool to stop sprawling development in greenfields. SPUR has long advocated for the reform of CEQA to enable infill development to move forward more easily. In past reports, SPUR has recommended that CEQA apply only to rezoning and general plan amendments, that CEQA be done away with entirely in infill locations (given that the environmental impact of projects in these areas has already been evaluated, at the time of initial construction), or both.<sup>45</sup> It has also argued that CEQA be replaced within a stronger land use planning framework.<sup>46</sup>

SPUR admires the reforms instituted by the Washington State Legislature, which recently exempted housing projects in incorporated areas from environmental review as long as those projects conform with a local jurisdiction's comprehensive plan.<sup>47</sup> This option should be considered by the California State Legislature.

Under current law, OPR has the authority to issue guidelines for implementation of CEQA. These extremely powerful guidelines are binding on local governments and form the basis for "categorical exemptions" from CEQA. Although OPR has looked to the California State Legislature to provide CEQA guidance in the form of statutory exemptions, OPR could, under its own authority, issue guidelines to increase the effectiveness of categorical exemptions for infill development.

SPUR recommends that the CPA assume this authority and use it to enable the production of infill housing. Although OPR has sometimes been loath to exercise its authority in this manner, doing so is essential to achieving the state's housing goals and climate goals.

---

<sup>45</sup> Sarah Karlinsky and Kristy Wang, *Meeting the Need: The Path to 2.2 Million New Homes in the Bay Area by 2070*, SPUR, April 2021, [https://www.spur.org/sites/default/files/2021-05/SPUR\\_Meeting\\_The\\_Need\\_Report.pdf](https://www.spur.org/sites/default/files/2021-05/SPUR_Meeting_The_Need_Report.pdf).

<sup>46</sup> Paul Sedway, *Form and Reform: Fixing the California Environmental Quality Act*, SPUR, February 2006, <https://www.spur.org/publications/spur-report/2006-02-01/form-and-reform>.

<sup>47</sup> LegiScan, "Washington Senate Bill 5412," <https://legiscan.com/WA/text/SB5412/id/2810141>.

## The Governor's Authority to Restructure the Executive Branch of Government

Prior to 2013, California's housing and transportation departments were housed within the same agency, the California Business, Transportation and Housing Agency. This agency included the California Department of Transportation, the California Department of Housing and Community Development, and the California Housing Finance Authority, among other agencies.

More than a decade ago, then Governor Jerry Brown initiated the Governor's Reorganization Plan 2 of 2012, which created a stand-alone transportation agency.<sup>48</sup> Many of the remaining departments were transferred to a new agency overseeing business, consumer services, and housing, while other departments moved to the Governor's Office of Business and Economic Development.

Under the California Constitution, the governor has the authority to reorganize the various functions of the executive branch, including the transfer of functions within state agencies, the consolidation of agencies, and the establishment of new agencies to carry out governmental purposes. However, the governor may not create new authorities or functions for these various agencies; only the California State Legislature can do so.

To undertake a reorganization, the governor first delivers a reorganization plan to the Little Hoover Commission for review and then submits the plan to the California State Legislature for consideration.<sup>49</sup> The commission reviews the plan and submits a report to the legislature. Unless either the Assembly or the Senate rejects the reorganization plan, it becomes law. Typically, the legislature adopts implementation legislation the year following the reorganization plan.

### Recommendation 3

#### **Reform the SCS process to better integrate with the RHNA process so that the SCS and RHNA collectively function as the regional plan for housing.**

A significant challenge facing the state is that the SCS and RHNA processes are misaligned. This recommendation focuses on mechanisms to focus and strengthen the SCS process while better marrying the SCS and RHNA outcomes.

After many rounds of reform, the RHNA process is significantly more effective at ensuring housing production at the local level. The SCS should be reformed to help bolster and strengthen the RHNA process while also including the transportation planning that helps meet the core SCS

<sup>48</sup> *Governor's Reorganization Plan 2: Reorganization of the Executive Branch of State Government*, May 2012, <https://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/May%2023%202012%20Background%20Governor%27s%20Reorganization%20Plan%202.pdf>.

<sup>49</sup> Little Hoover Commission, "Governor's Reorganization Plan," <https://lhc.ca.gov/about/governors-reorganization-plan>.

goal of reducing greenhouse gas emissions. The SCS process should be amended to achieve the following:

**A. Define where growth should and should not occur.**

SB 375 should be amended to require the regional MPO to determine where development (including housing) should be built (i.e., growth zones) and where development (including housing) should be prohibited or not intensified (i.e., conservation zones). The boundary of these zones should then be used to shape the RHNA allocation methodology.

ABAG/MTC successfully navigated this process for Plan Bay Area 2050 and the RHNA. In Plan Bay Area 2050, the Regional Growth Forecast was used as the baseline for the RHNA process. A RHNA methodology committee modified the Regional Growth Forecast baseline using a set of policy factors to achieve the final RHNA distribution.<sup>50</sup>

The Sacramento Area Council of Governments used the SCS process to help define “Green Means Go” areas for infill development, by enabling local governments to nominate infill locations for the SCS and then providing state funding to support the locations.<sup>51</sup> Although some have complained that this process enables local governments to define infill locations regardless of whether the locations are best for growth, the idea of defining infill areas and then funding infrastructure to support housing development in those locations is a good one.

A small but important additional recommendation is that the proposed CPA should adopt a common nomenclature for infill zones that can be used across regions. Currently, MTC/ABAG refers to priority development areas, the Southern California Association of Governments refers to priority growth areas, and the Sacramento Area Council of Governments refers to “Green Means Go” zones. Developing some common nomenclature to be utilized by MPOs across California would help the state better understand and compare regional plans.

**B. Prioritize the same five objectives as the RHNA process in addition to greenhouse gas reduction.**

As mentioned earlier, the SCS is designed to reduce greenhouse gases, and the RHNA process must meet five statutory objectives, including increasing the housing supply and mix of housing types, promoting infill development and socioeconomic equity, protecting environmental resources, and affirmatively furthering fair housing. If the SCS incorporated the same five objectives as the RHNA in addition to analyzing the impact of greenhouse gas reduction, both processes could align on the same goals. The CPA should work with the new CHA to ensure that they do and that regions are using the statewide land use plan to understand trade-offs among various policy goals.

---

<sup>50</sup> ABAG, *Regional Housing Needs Assessment Draft Methodology: San Francisco Bay Area, 2023-2031*, February 2021, [https://abag.ca.gov/sites/default/files/documents/2021-02/ABAG\\_Draft\\_RHNA\\_Methodology\\_Report\\_2023-2031.pdf](https://abag.ca.gov/sites/default/files/documents/2021-02/ABAG_Draft_RHNA_Methodology_Report_2023-2031.pdf).

<sup>51</sup> SACOG, “Green Means Go,” <https://www.sacog.org/greenmeansgo>.

---

**C. Create a coordinated methodology for arriving at the SCS projections and the Regional Housing Needs Determination (RHND).**

The SCS and RHND should use a compatible methodology. Housing and Community Development should be required to issue both an 8-year and a 25-year RHND consistent with each other. The regions could then use the 25-year RHND as the minimum baseline for their SCS forecasts.

**D. Establish a requirement that local planning be consistent with the SCS.**

One of the biggest shortcomings of SB 375 is that local governments are not required to adhere to the SCS when adopting new land use plans and zoning. Without this mandate, each SCS becomes mainly a land use modeling and policy exercise rather than a binding document. In contrast, local governments must adopt housing elements that accommodate their RHNA and zoning that conforms with their housing element. Local governments without a compliant housing element face consequences, including the Builder's Remedy,<sup>52</sup> loss of certain types of state funding, and the threat of lawsuit.<sup>53</sup>

A recent analysis prepared for the Strategic Growth Council on MPO planning processes calls for a greater focus on regional and local plan consistency, including requirements that local governments report on how they are implementing the SCS, that MPOs identify local governments whose actions conflict with the SCS, and that the state reward local governments that take actions to conform with the SCS.<sup>54</sup> SPUR agrees with all of these recommendations. However, we do believe in the necessity of an additional step: SB 375 should be amended to require that city and county land use plans demonstrate consistency with both the SCS and RHNA.<sup>55</sup>

If the state adopts all of the SPUR recommendations in this section, SCS conformity should not differ dramatically from implementation of the RHNA for housing. Beyond the RHNA, meeting an SCS consistency requirement would involve local governments planning for the compact growth of land use types in addition to housing (office, retail, industrial) as well as planning for the conservation of lands not appropriate for growth.

If the SCS is to evolve beyond a planning exercise, local plans must be required to conform with it.

**E. Create additional state authority to implement SCS and RHNA plans.**

Other mechanisms can also be deployed to ensure local land use compliance with SCS and RHNA plans. First, the state could create an appeals process for building entitlements that align with regional plans, local plans, or both. Developers should be able to ask the state for entitlements for housing projects that conform with a local housing element but that have been denied or not been approved within a certain timeline by the local government. They should also be able to ask

---

<sup>52</sup> Hanson Bridgett, "The Builder's Remedy: What Every Developer Should Know," March 7, 2023, <https://www.hansonbridgett.com/publication/230307-2100-builders-remedy-faq>.

<sup>53</sup> Silicon Valley at Home, "Builder's Remedy & Other Consequences of a Noncompliant Housing Element," February 17, 2023, <https://siliconvalleyathome.org/builders-remedy-other-consequences-of-a-noncompliant-housing-element/>.

<sup>54</sup> Elisa Barbour et al., *MPO Planning and the Implementation of State Policy Goals*, December 2021, <https://escholarship.org/uc/item/7p8096mh>.

<sup>55</sup> This recommendation also is referenced in Paul G. Lewis and Nicholas J. Marantz, *Regional Governance and the Politics of Housing in the San Francisco Bay Area*, Temple University Press, 2023, <https://tupress.temple.edu/books/regional-governance-and-the-politics-of-housing-in-the-san-francisco-bay-area>.



for entitlements in SCS-defined growth zones in jurisdictions that do not have a compliant housing element. Although the Housing Accountability Act enables developers to sue cities in order to receive approvals for projects that conform with the general plan, zoning, and other objective criteria, an appeals process could offer developers greater certainty without the challenges and costs of initiating a lawsuit.

This concept builds on recent proposals in the California State Legislature,<sup>56</sup> as well as on a well-established law in Massachusetts, 40B,<sup>57</sup> that enables developers to appeal for entitlements to a state Zoning Board of Appeals for projects in jurisdictions that do not meet certain affordability thresholds.

Second, the state could create joint powers authorities (JPAs)<sup>58</sup> with the authority to develop certain types of housing in locations that have not adopted a housing element. This entity could benefit from the power of the state to override local zoning. The CPA could have the authority to permit this housing.

Lastly, the state should consider adopting a vehicle-miles traveled (VMT) tax that would tax development in high-VMT locations and use that funding to support infrastructure in infill locations. SPUR proposed this type of tax in the 2021 report *A Civic Vision for Growth*.<sup>59</sup>

## Recommendation 4

### Create a one-stop shop for affordable housing financing.

In addition to the many challenges that stem from California's decentralized planning and zoning framework, the state's complex system for financing affordable housing presents its own problems. As mentioned earlier, California has multiple agencies and departments responsible for financing affordable housing, each with its own funding requirements. Reforming this system would simplify the process of financing affordable housing, increasing efficiency, and reducing wasteful practices that add unnecessary time and complexity.

Many organizations have been working to create a one-stop shop for state affordable housing funds. In 2021, the California Housing Partnership recommended creating a single application for all state affordable housing resources (including tax credits, bonds, and soft loans/grants) that would be awarded by a coordinated affordable housing finance committee.<sup>60</sup> SPUR agrees with this approach. Projects could apply for funding from various funding categories developed by the committee. SPUR recommends that the categories include projects that support anti-displacement efforts in Equity Priority Communities<sup>61</sup> (areas of the region that have a high concentration of people of color with low incomes), projects that affirmatively further fair housing, projects that

---

<sup>56</sup> California Legislative Information, "AB-989 Housing Accountability Act," [https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220AB989](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB989).

<sup>57</sup> Carolina K. Reid, Carol Galante, and Ashley F. Weinstein-Carnes, *Borrowing Innovation, Achieving Affordability: What We Can Learn From Massachusetts Chapter 40B*, Terner Center, August 2016, [https://ternercenter.berkeley.edu/wp-content/uploads/pdfs/California\\_40B\\_Working\\_Paper.pdf](https://ternercenter.berkeley.edu/wp-content/uploads/pdfs/California_40B_Working_Paper.pdf).

<sup>58</sup> Ben Metcalf, Sarah Karlinsky, and David Garcia, *The ABCs of JPAs*, SPUR and the Terner Center, June 2022, <https://www.spur.org/publications/white-paper/2022-06-27/abcs-jpas>.

<sup>59</sup> SPUR, "Technical Notes (Appendix)," *A Civic Vision for Growth*, May 2021, [https://www.spur.org/sites/default/files/2021-06/SPUR\\_A\\_Civic\\_Vision\\_for\\_Growth\\_Appendix.pdf](https://www.spur.org/sites/default/files/2021-06/SPUR_A_Civic_Vision_for_Growth_Appendix.pdf).

<sup>60</sup> Matt Schwartz, "Creating a Unified Process to Award All State Affordable Rental Housing Funding," California Housing Partnership, February 16, 2021, <https://chpc.net/creating-a-unified-process-to-award-all-state-affordable-rental-housing-funding/>.

<sup>61</sup> MTC, "Equity Priority Communities," <https://mtc.ca.gov/planning/transportation/access-equity-mobility/equity-priority-communities>.



target the lowest-income households, and projects that use affordable housing funding in the most efficient manner. Funds should be distributed equitably across the state.

Staff for the proposed coordinated affordable housing finance committee should develop both a unified underwriting criteria and a unified loan agreement for all projects.

Membership in the committee could include the head of HCD, the state treasurer, the state controller, the head of CalHFA, and the head of a merged California Debt Limit Allocation Committee (CDLAC) and California Tax Credit Allocation Committee (CTCAC).

CDLAC and CTCAC are currently governed by the same committee, so their merger could be relatively simple to implement. The non-housing portions of CDLAC's portfolio could stay within the Treasurer's Office as a separate entity. Ideally, the new joint CDLAC/CTCAC would sit within the new CHA to facilitate coordination among the funding agencies.

## Recommendation 5

### **Align state funding with state and regional plans and goals.**

Funding is a powerful incentive for regional and local governments. Some current funding sources already support state goals for more compact development. Other funding sources do not take state land use goals into consideration. To the greatest extent possible, funding should ensure that local governments are building a sufficient amount of housing in infill locations and that infrastructure funding supports this growth as described in the future state land use plan.

**A. Conduct an inventory of all state funding sources and analyze how they can be better aligned to support the state's land use goals and regional SCS goals, including development of infill housing.** The CPA, working with the Department of Finance and other agencies, should conduct an inventory of all state funding sources that could impact land use. The inventory should analyze how each funding source supports or undermines infill housing development and make recommendations for how the funding source could better achieve statewide housing goals. This effort should inform the five-year infrastructure plan that the Governor's Office is required to develop.<sup>62</sup> Additionally, it could help the Department of Finance align its capital outlays accordingly.

### **B. Extend and enhance the Regional Early Action Planning (REAP) Program.**

REAP is a successful state funding program designed to support MPOs in implementing the RHNA and in supporting infill housing production. REAP provided \$125 million of funding in fiscal year 2019–2020 and \$600 million in fiscal year 2021–2022. This program should be increased and made permanent. To receive REAP funds, each MPO should have an implementation plan for the SCS and RHNA that includes an analysis of the infrastructure funds needed to support new growth in the growth zones and that prioritizes use of REAP funds for projects that best support infill housing construction. If local governments were able to rely on consistent REAP funding, they would be encouraged to hire permanent staff in order to increase their capacity to do necessary planning work.

---

<sup>62</sup> Chapter 1016, Assembly Bill No. 857, [http://leginfo.ca.gov/pub/01-02/bill/asm/ab\\_0851-0900/ab\\_857\\_bill\\_20020928\\_chaptered.pdf](http://leginfo.ca.gov/pub/01-02/bill/asm/ab_0851-0900/ab_857_bill_20020928_chaptered.pdf).

## Regional Recommendations

SPUR's state recommendations focused on the structural reforms needed to ensure that regional planning is effective and meaningful and that local actions are aligned with that planning. The following two recommendations further support these efforts and aim to achieve two goals: to ensure that all regional agencies and resources are aligned to implement the RHNA and SCS and to ensure that the Bay Area's regional housing authority, BAHFA, has the funding and authority necessary to coordinate and implement affordable housing efforts across the region.

### Recommendation 6

#### **Coordinate the actions of regional agencies to support implementation of the RHNA and SCS.**

##### **A. Align resources to support implementation of the RHNA and SCS.**

In addition to the state resources outlined in Recommendation 5, regional resources should support the RHNA and SCS. These resources include funding for new transit projects, operations funding for transit operators that support locations with high populations and high numbers of trips, and any federal funding that comes to the region for projects that support infill construction.

##### **B. Coordinate the actions of all regional agencies to support infill housing.**

Although the actions of ABAG and of MTC are tightly coordinated (this body has one staff that serves both the ABAG and MTC boards), the work of other regional agencies such as the Bay Area Air Quality Management District (BAAQMD) and the Water Resources Board is loosely coordinated with that of ABAG/MTC. This is for good reason. The role of BAAQMD is to manage air quality, and the role of the Water Resources Board is to manage water quality in the Bay Area. However, in focusing on these important goals, these agencies may create rules or regulations that make it more challenging to implement the RHNA and SCS.

For example, BAAQMD recently developed environmental guidance regarding construction dust that would significantly affect the environmental evaluations of infill projects in dense cities but have limited impact in low-density suburbs where developments are spaced far apart. At other times, BAAQMD has disincentivized housing development near freeways to help ensure that households do not live close to the air pollution from cars but making it hard for households to live near transit because BART stations are often located in freeway medians or in urban areas, many of which are adjacent to freeways. To take another example, the California Coastal Commission limits housing development in wealthy coastal communities. State legislators have recently been wading into the conflict between coastal preservation and the high cost of housing that comes from curtailing development in these areas.

SPUR recommends that all regional agencies and special districts be required to study whether their actions affect the cost of construction of the types of housing contemplated by the SCS and RHNA. Their analysis should include determining whether the actions have a negative impact on implementation of the SCS and RHNA and specifically on the feasibility of building housing at the

density and scale called for in the SCS and RHNA.

Actions that impact the SCS should require consultation with the MPO. To the greatest extent possible, the agency proposing the conflicting requirement must modify its policy to avoid harming implementation of the SCS and RHNA.

## Recommendation 7

### **Fund the Bay Area Housing Finance Authority (BAHFA) and expand its capacity and scope.**

#### **A. Ensure that BAHFA has the funding it needs to be successful.**

As of December 2023, two efforts were underway to secure funding for BAHFA. First, affordable housing leaders were working to reduce the voter threshold for affordable housing bonds from two-thirds to 55%. SPUR recommended this change in the report *Housing as Infrastructure: Creating a Bay Area Housing Delivery System That Works for Everyone*.<sup>63</sup> Second, BAHFA, along with regional affordable housing leaders, is working on a regional general obligation bond measure to provide \$10 billion to \$20 billion in affordable housing funds for the nine-county Bay Area, a measure to be placed on the November 2024 ballot. BAHFA has the authority to place such a measure on the ballot through its enabling legislation, Assembly Bill 1487.

BAHFA should continue to identify additional sources of funding. BAHFA was originally modeled on the New York Housing Development Corporation (NYHDC), a self-funding agency that issues bonds for the construction of housing. Between 2017 and 2021, NYHDC issued between \$1.5 billion and \$2.7 billion in bonds annually, funding the production and preservation of nearly 10,000 to 14,000 units every year.<sup>64</sup> BAHFA could follow a similar model by issuing revenue bonds and lending those bonds for both construction and permanent mortgage debt for affordable housing developments. BAHFA could raise funds both through fees and through the difference between the interest rate at which BAHFA borrows funds and the slightly higher interest rate at which BAHFA could lend the money to affordable housing developers, which could allow it to become a self-funded agency.

#### **B. Increase the capacity of BAHFA to support local jurisdictions where needed and to play a stronger regional coordination role.**

In the 2017 report *The Elephant in the Region: Charting a Path for Bay Area Metro to Lead a Bold Regional Housing Agenda*, Enterprise Community Partners laid out a vision for a future regional housing agency that would eventually become BAHFA.<sup>65</sup> That report recommended three categories of actions: Build and resource regional housing capacity with a focus on local

<sup>63</sup> Sarah Karlinsky and Kristy Wang, *Housing as Infrastructure: Creating a Bay Area Housing Delivery System That Works for Everyone*, SPUR, April 2021, page 13, <https://www.spur.org/publications/spur-report/2021-04-20/housing-infrastructure>.

<sup>64</sup> NYHDC, "Performance Measurements—HDC and REMIC," <https://www.nychdc.com/sites/default/files/2023-01/PERFORMANCE%20MEASUREMENTS%20%20HDC%20and%20REMIC%20FY%202022.pdf>.

<sup>65</sup> Heather Hood and Geeta Rao, *The Elephant in the Region: Charting a Path for Bay Area Metro to Lead a Bold Regional Housing Agenda*, Enterprise Community Partners, January 2018, [https://www.enterprisecommunity.org/sites/default/files/2022-02/Elephant\\_in\\_the\\_Region.pdf](https://www.enterprisecommunity.org/sites/default/files/2022-02/Elephant_in_the_Region.pdf).

implementation; establish, capitalize, and manage regional land coordination; and develop and implement new regional finance tools. Although enormous progress has been made in some of these areas, more work could be done. For example, Enterprise recommended creating a database of public land, vacant land, and underutilized land and developing a strategy to manage that land. SPUR strongly agrees with this recommendation. Because BAHFA is now legally authorized to take title to land, it could function as a regional land bank, holding and disposing of land as needed to develop affordable housing, and it could continue to provide technical assistance to local jurisdictions seeking to redevelop their public lands, as is being done in MTC's Priority Sites Program.<sup>66</sup>

Additionally, BAHFA could increase the capacity of local and county governments to produce affordable housing. Although larger cities typically have a housing department that has the expertise to administer funds and dispose of lands for affordable housing, smaller jurisdictions do not. BAHFA, working in partnership with MTC/ABAG, could be part of a strategic, coordinated approach to building local capacity on housing-related issues. BAHFA could provide resources and expertise to counties that want to support small jurisdictions within their boundaries, and it could provide resources and expertise directly to local governments. Moreover, BAHFA could make governance recommendations on the basis of its own study of how small jurisdictions can most effectively achieve their affordable housing goals. For example, should small jurisdictions consolidate their housing functions within their county housing departments rather than trying to develop local expertise city by city? Should counties have "on-call" consulting contacts with firms that can provide needed expertise to local governments? Should BAHFA have such contacts?

Lastly, BAHFA should answer this question: What should be done when recalcitrant local governments do not want to support affordable housing but a developer wants to build an affordable housing project within that jurisdiction's boundaries? The specific role that BAHFA funding can and should play in that instance should be outlined more clearly.

### **C. Charge BAHFA with developing a strategic funding plan to achieve the region's housing goals.**

Part of implementing the RHNA and SCS is understanding not only the amount and possible sources of needed funding but also figuring out how that funding should be prioritized. As mentioned earlier, conflicts can arise between the two important goals of reducing greenhouse gases and affirmatively furthering fair housing. How should regional funding be apportioned to support one or the other of these goals? Clearly, funding is needed in both instances and should be used to support affordable housing in Equity Priority Communities and in well-resourced communities that have committed to building more affordable housing. But BAHFA should develop a framework to help regions understand how much funding is needed to further these goals; whether that funding should be used for new construction, acquisition/rehabilitation, or both; and where current funds are most needed at certain points in time.

---

<sup>66</sup> MTC, "Priority Sites," <https://mtc.ca.gov/planning/land-use/priority-sites>.

## Local Recommendations

This report has noted that California is a “home rule” state where cities currently have almost total authority to determine whether housing developments can move forward. Even if every state and regional recommendation in this report were adopted, cities would still have some power to determine where housing developments occur within their boundaries, and they could make planning entitlements and permits that are needed for units to actually get built more or less challenging to secure.

This section describes the steps that local governments could take to enable housing to be built as quickly as possible under rules that are clear, straightforward, and easy to administer. Even if no other recommendations in this report were implemented, cities could say yes to housing by making these changes. Other cities across the country, such as San Diego, Houston, Denver, and Seattle, have taken many of the steps outlined below.

### Recommendation 8

#### **Make housing that conforms with zoning requirements ministerial.**

In many jurisdictions, new housing development needs to be approved by the planning commission before moving forward, regardless of whether it meets zoning requirements. Even if projects are exempt under CEQA, they may require a conditional use permit or other discretionary approval. Although requiring discretionary permits may make sense for very large or complex projects that require a zoning code variance or general plan amendments, such permits should not be needed for most projects that largely conform with the zoning code. These projects should be approved ministerially (i.e., “by right”) by a planner who determines whether the project meets the zoning code and other requirements. These ministerial processes should be straightforward: If a project conforms with zoning, it should move forward. If it doesn’t, either a discretionary process is warranted, or the project should be denied.

In order for projects to be approved ministerially, local jurisdictions could update their zoning codes to provide clarity about conditional use requirements, setbacks, and other aspects of development that add discretion to the process because variances are typically required. They would also need to ensure that certain types of zoning, such as planned developments (or PD permits), are reserved only for projects at a scale that warrants discretion by a planning commission. Allowing housing to be approved ministerially would significantly lower risk in the process and should reduce the cost of producing housing. Higher risk creates higher financial hurdles for investors. As risk declines, so should the cost of capital. At the same time, carrying costs (the cost of insuring, caring for, and paying taxes on land during the entitlement process) should also fall due to time savings.<sup>67</sup>

---

<sup>67</sup> This recommendation was put forward by SPUR in *Meeting the Need: The Path to 2.2 Million New Homes in the Bay Area by 2070*, Recommendation 2C, pages 27–28. See note 45.

Other cities have taken strides to make housing by right possible. Denver adopted a new form-based zoning code in 2010.<sup>68</sup> If a proposed development complies with this zoning code, it is approved through administrative review. Projects that do not conform with zoning are rejected. Denver planning experts attribute the large housing boom in 2016 and 2017 to the zoning code reforms and the fact that most projects no longer require public hearings.<sup>69</sup>

### Recommendation 9

#### **Ensure that post-entitlement practices are streamlined to support housing production.**

Even if projects successfully secure entitlements, they still need to obtain the permits needed for construction. These permits can include building permits, public works permits for sidewalk encroachments or public realm improvements, and fire department sign-offs. Under the best of circumstances, the relevant departments work together to develop efficient and coherent systems, such as “one-stop shop” permitting in which project sponsors receive input from the departments all at once. Under the worst of systems, each department has its own lengthy process, and its standards and requirements conflict with those of other departments, leaving project sponsors to reconcile the needs of different agencies. Although recent legislation has created time frames for determining whether post-entitlement permits are complete and for approving these permits,<sup>70</sup> cities should ensure that the various departments in charge of post-entitlement permitting have coordinated requirements and that project permitting can be tracked online.

### Recommendation 10

#### **Analyze the local fee and requirement load and cap it at a certain level of feasibility.**

One of the most bedeviling issues facing local governments is how to fund infrastructure. This report does not address the challenges posed by California’s flawed tax system, but chief among them is that local governments are starved for the resources to provide parks, libraries, transit, schools, public realm improvements, and the other infrastructure needed to support healthy communities.

Many local governments address the need for infrastructure funding by placing expensive requirements on new housing. New housing is asked to pay for schools, parks, transit, community facilities, affordable housing, and other community services. All of these services are important resources, but the greater the load of fees and requirements, the less likely projects are to be financially viable. Adding to the challenge is that many greenfield developments have either lower fees and requirements or different options for financing infrastructure (for example, through the

---

<sup>68</sup> Research and reporting on Denver was conducted by Emily Jacobson for SPUR in 2022.

<sup>69</sup> Interview conducted by Emily Jacobson with Don Elliott, senior consultant, Clarion Associates, on August 4, 2022.

<sup>70</sup> Allen Matkins, “AB 2234 — Mandatory Timeframes for Issuance of Post-Entitlement Permits,” May 1, 2023, <https://www.allenmatkins.com/real-ideas/ab2234--mandatory-timeframes-for-issuance-of-post-entitlement-permits.html>.

use of Mello-Roos districts or other mechanisms in which debt can be paid off over time by new residents who weren't living in the community at the time the mechanism was enacted). These lower fees and requirements further tilt development math toward expanding housing outward rather than inward to infill locations.

SPUR's recommendation here is twofold. First, cities should be required to analyze the impact of any proposed fee or requirement on a project's financial feasibility. The total amount of fees and requirements (i.e., the fee load) should be found to be feasible for new housing development before any new fee is added. Second, the state should set a maximum fee load. This fee cap could be a per-unit or per-square-foot cap based on regional development costs relative to rents and home prices, or it could be based on some other measure. The cap could build on current housing element law, which requires cities to analyze housing production constraints, including fees and requirements.<sup>71</sup> If the constraints are deemed to be too high, HCD can find the city's housing element to be out of compliance.

SPUR believes that California's taxation and infrastructure funding system as a whole should be reexamined to ensure that cities have the funding they need to be successful and to pay for the infrastructure communities need to thrive. Unfortunately, recommendations for how to accomplish that goal are outside the scope of this report.

## Recommendation 11

### **Design effective processes to get input from groups that have historically been underrepresented, unable to use the traditional tools to protect their interests, or both.**

Local governments should find ways to solicit input that does not privilege only the loudest voices with the time and energy to attend meetings. So often those who attend meetings are those who have flexible work schedules, are retired, or are paid to attend meetings and express a particular point of view — typically, those who are wealthier and whiter. Wealthier individuals are also able to hire experts or attorneys to represent their interests and further those interests through the legal process.

People who have inflexible jobs, people who don't speak English as their primary language, people who don't track land use changes in their limited free time, people with small children, people who work in a community but don't have an opportunity to live there yet, and people who may not want to spend hours attending a hearing so that they can speak for two or three minutes are still members of the community with critical perspectives to share. Their views are just as important as the opinions of those who show up to testify at every planning commission hearing. These unheard voices may support new housing, may have concerns about new development that extends beyond the aesthetics of the building, or may have some other wish or desire for their community that goes beyond the question at hand in a public hearing.

And yet, the common tools of public input — the community meeting, the planning commission

---

<sup>71</sup> HCD, "Fees and Exactions," <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/fees-and-exactions>.



hearing, the appeals process — are not well suited to capture the sentiments of many. Rather, they are tailored for those few who understand and can access those tools and who currently live in the community.

Several mechanisms ensure that a broader swath of the public can access meetings and hearings. They include providing language translation, accessibility for disabled individuals, and child care and holding meetings outside of standard work hours. One example: San Mateo facilitated family-friendly events such as the annual Eggstravaganza and Dia de los Muertos, which provided engagement for children so that parents could participate in planning discussions.<sup>72</sup>

In addition to pursuing efforts to make public meetings more accessible, local governments should continue to innovate in their efforts to capture additional input.

- **Focus groups:** Focus groups with individuals who are not part of an organized group can help planners understand the broader sentiment of a community. They can also be helpful for delving deeper into a particular topic or understanding a particular perspective in a more nuanced way.
- **Polling:** Polling can be helpful in understanding the broader sentiment of the community as well as any differences within the community. The City of San Mateo hired a consulting firm to conduct a citywide poll to help understand community needs as part of its housing element process.<sup>73</sup>
- **Online comment tools:** Various online tools can help solicit input from a wide range of community members. The San Francisco Planning Department used a digital participation platform as part of its recent housing element process.<sup>74</sup> Salt Lake City used an online platform to understand public sentiment on a wide range of topics and to identify groups not accessing the platform so that officials could enable more targeted outreach.<sup>75</sup>
- **Surveys:** The City of San Mateo used intercept surveys to collect feedback in both Spanish and English at popular community gatherings and venues in neighborhoods with the lowest incomes and highest levels of overcrowding.<sup>76</sup> The City of San Francisco used surveys as part of its housing element outreach.
- **Relationships with hard-to-reach groups:** Another way to increase participation is for city officials to develop trusting relationships with groups that are harder to reach. Doing so might involve identifying community leaders or others who don't traditionally speak for their communities. It might also include paying low-income households for their time to participate in planning efforts.

---

<sup>72</sup> HCD, "Fees and Exactions."

<sup>73</sup> Email correspondence with Nicholas Hamilton, senior planner, Good City Company, August 24, 2023.

<sup>74</sup> San Francisco Planning, *Housing Element Update 2022*, January 2023, <https://sfplanning.org/project/housing-element-update-2022#engagement>.

<sup>75</sup> Allison Platt and BreAnne Gale, "Inclusive and Equitable Engagement: Case Studies, Lessons Learned and Best Practices," *Western Planner*, <https://www.westernplanner.org/2021/2021/4/9/inclusive-and-equitable-engagement-case-studies-lessons-learned-and-best-practices>.

<sup>76</sup> Email correspondence with Nicholas Hamilton, senior planner, Good City Company, August 24, 2023.



## Appendix A

# Local Officials and Agencies With Authority Over Housing Production

Within cities, many different officials and agencies have the power to support or hinder the creation of housing.

**Mayors:** Charter-city mayors may have certain powers such as the ability to nominate or appoint planning commissioners and hire and fire department heads (such as the planning director or public works director). Charter-city mayors can also issue executive directives. General-law city mayors are much weaker; in essence, they are simply members of the city council who have the power to set council agendas and preside over city council meetings.

**City councils:** City councils take legislative actions, such as passing zoning regulations and general plan amendments. City councils also act as the appeal body for decisions made by the planning commission, including conditional use permit authorizations and CEQA appeals. In San Francisco, the board of supervisors functions as the city council, because San Francisco is both a city and a county. In unincorporated parts of counties, the board of supervisors makes land use decisions.

**Planning commissions:** Planning commissions make recommendations to city councils regarding zoning changes and general plan amendments. Planning commissions also make approval decisions for individual projects, which are binding unless appealed.

**Planning departments:** Planning departments issue ministerial approvals, which are nondiscretionary acts. Staff can also be empowered to conduct discretionary reviews, subject to appeal to city councils or boards of supervisors. Planning departments develop zoning and general plan changes to bring to the planning commission and the city council or board of supervisors. Typically, they are responsible for the development of the housing element in the general plan.

**Building departments:** Building departments issue building permits, inspect construction, and provide sign-offs on completion (sometimes called “temporary certificate of occupancy” and “final certificate of occupancy,” both of which are necessary to rent or sell the home, secure permanent financing for the property, or both).

**Housing departments:** Housing departments fund affordable housing developments within a city. They may support the planning department in developing the housing element. Typically, only larger cities have housing departments.

Other local governments related to housing production include counties and special districts.

**Counties** are instruments of the state; they implement “state policy on a regional basis.”<sup>77</sup> They have land use authority for the portions of the county that have not been incorporated as cities.

**Special districts** are formed to fulfill a specific purpose, such as transit service, water delivery, and fire protection. School districts can charge additional fees on new housing construction.

---

<sup>77</sup> William Fulton, *A Guide to California Planning*, 6th edition, Solano Press Books, <https://solano.com/products/guide-to-california-planning-6th-edition>.

# Appendix B

## Existing Executive Branch Organizational Chart



## Appendix C

# Interviewees

SPUR thanks the following people for sharing their time and expertise. The findings and recommendations in this report are SPUR's and do not necessarily reflect the views or opinions of any interviewee.

Ken Alex, Former Director, Governor's Office of Planning and Research; Former Senior Policy Advisor on Climate to Governor Jerry Brown

Louise Bedsworth, Former Executive Director, California Strategic Growth Council

Allison Brooks, Executive Director, Bay Area Regional Collaborative

Tyrone Buckley, Assistant Deputy Director of Fair Housing, California Department of Housing and Community Development

Claudia Cappio, Former Director, California Department of Housing and Community Development; Former Director, California Housing Finance Agency

Robert Chun, Fellow, Office of Governor Gavin Newsom

Stuart Cohen, Former Executive Director, TransForm

Jason Elliott, Deputy Chief of Staff, Governor Gavin Newsom

Chris Elmendorf, Martin Luther King Jr. Professor of Law, University of California, Davis

Chris Ganson, Sustainable Communities and Transportation Division, California Air Resources Board

Jack Gardner, President and CEO, The John Stewart Company

Kate Gordon, Former Director, Governor's Office of Planning and Research; Former Senior Policy Advisor on Climate to Governor Gavin Newsom

M. Nolan Gray, Research Director, California YIMBY

Kate Hartley, Director, Bay Area Housing Finance Authority

Heather Hood, Vice President and Market Leader, Northern California Enterprise Community Partners

Whitney Jones, Deputy Director of Operations, Chinatown Community Development Center

Nick Josefowitz, Vice Chair, Metropolitan Transportation Commission

---

Sasha Kergan, Deputy Secretary of Housing, Business, Consumer Services, and Housing Agency

Megan Kirkeby, Deputy Director, Housing Policy Development, California Department of Housing and Community Development

Katie Lamont, Chief Operating Officer, Tenderloin Neighborhood Development Corporation

Jeannie Lee, Assistant Chief Counsel, California Air Resources Board

Rebecca Long, Director, Legislation and Public Affairs, Metropolitan Transportation Commission and Association of Bay Area Government Relations

Therese McMillan, Former Executive Director, Metropolitan Transportation Commission and Association of Bay Area Governments

Ben Metcalf, Former Director, California Department of Housing and Community Development

Darwin Moosavi, Deputy Secretary for Environmental Policy and Housing Coordination, California State Transportation Agency

Moira O'Neill, Senior Research Fellow, Center for Law, Energy and the Environment, UC Berkeley

Ed Parillion, Director of Real Estate Development, Berkeley Food and Housing Project

Geeta Rao, Deputy Director, Northern California Enterprise Community Partners

Daniel Saver, Assistant Director for Housing and Local Planning, Metropolitan Transportation Commission

Jenny Schuetz, Senior Fellow, Brookings Institution

Mark Stivers, Director of Legislative and Regulatory Advocacy, California Housing Partnership

Egon Terplan, Former Senior Advisor for Economic Development and Transportation to the Governor's Office of Planning and Research and the Strategic Growth Council

Dave Vautin, Assistant Director of Major Plans, Metropolitan Transportation Commission and Association of Bay Area Governments

Terry Watt, Terry Watt Planning Consultants

Amy Worth, Past Chair, Metropolitan Transportation Commission



San Francisco | San José | Oakland

Through research, education, and advocacy, SPUR works to create an equitable, sustainable, and prosperous region.

We are a member-supported nonprofit organization. Join us.

---

**Ideas + action for a better city**

[spur.org](http://spur.org)