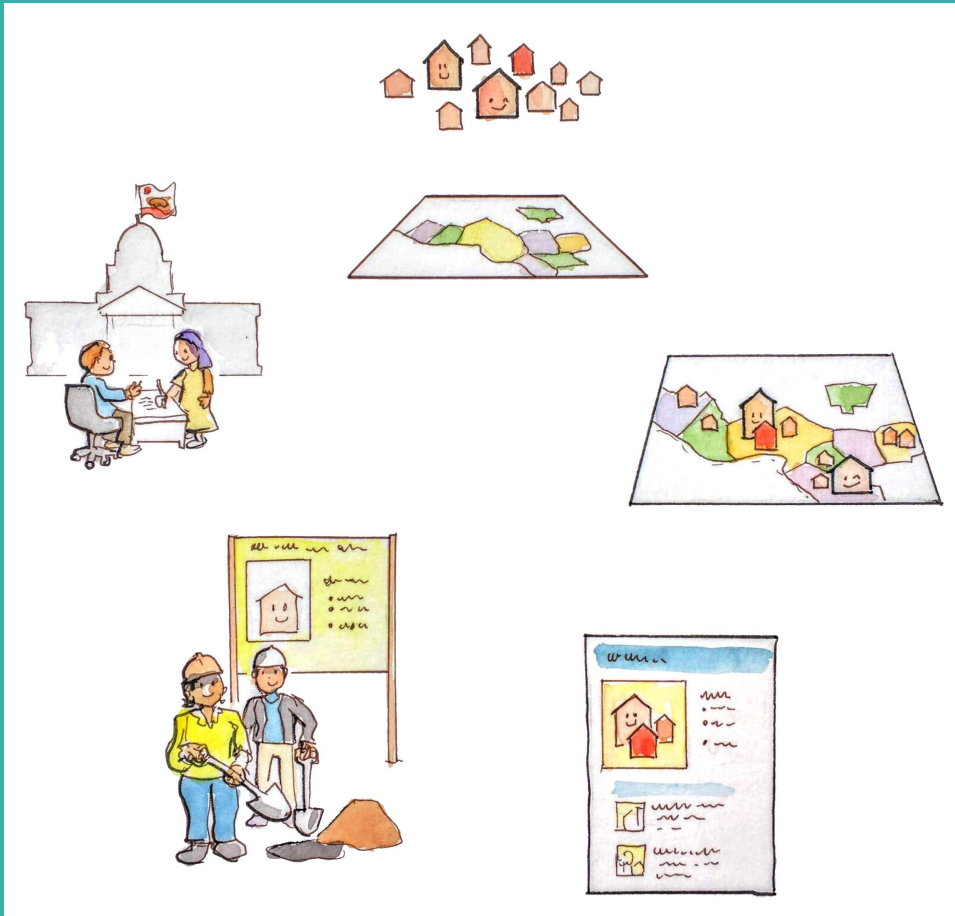


RHNA & HOUSING ELEMENTS, EXPLAINED



Or, How To Build More Housing In CA with this One Weird Trick

The RHNA / Housing Element process is the most important California administrative process that you've never heard of.

It represents our best chance to build dramatically more homes statewide...but only if you get involved.

Here's how you can make a difference.

Illustrations by Alfred Twu



YIMBY ACTION

History of RHNA

Civil Rights Legislation that Got Ignored... Until Now

In 1969, California passed a law that calls on each California city to regularly plan for the housing their community will need at all income levels. This legislation was a success of the civil rights movement: it was designed to prevent local communities from perpetuating racial segregation by zoning out affordable housing. The law requires that every city must include a *Housing Element* in its comprehensive plan (it's "General Plan"). Thus the RHNA / Housing Element process was born: a complicated interplay between the state government, regional associations called councils of governments (COGs), and local governments (cities and counties), designed to make California an integrated state with enough homes for everyone.

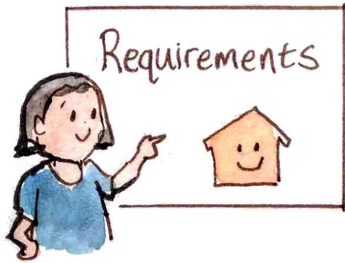
But for decades, this process did next to nothing! The goals were too low, and there were no consequences for ignoring them. Cities were able to "cheat" by identifying sites for new housing that had little chance of ever being developed. In one example, the City of Orinda designated all of its low-income housing for a single parcel, which was already occupied by a church. RHNA became an elaborate shell game. The result: since the 1970s, California cities have built less and less housing relative to population growth, resulting in today's staggering shortage of millions of homes.

However, starting in 2016, YIMBY activism produced milestone state laws that have strengthened this process. Today, the RHNA / Housing Element process might be our best chance to achieve the YIMBY vision of abundant housing statewide.

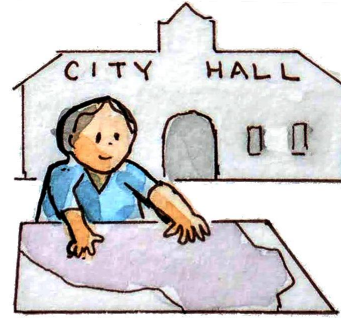
To make this happen, YIMBY activists need to make their voices heard in the RHNA / Housing Element process at the right times. Below is your How-To Guide for Housing Element activism.



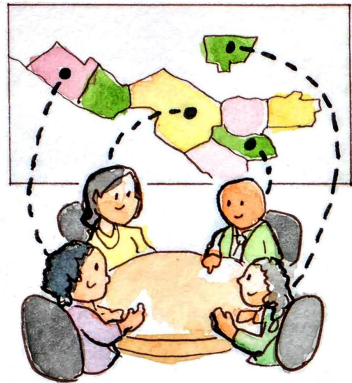
Glossary: A Guide to Acronyms



The Department of Housing and Community Development (HCD): This is the state department that provides guidelines and oversight for the RHNA / Housing Element process.



Municipal Planning Departments: City and county governments include planning departments, which are responsible for creating local plans including “Housing Elements” that align with the guidance handed down from HCD and from that city’s regional COG.



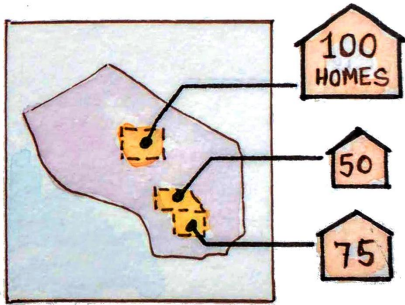
Councils of Governments (COGs): California’s local governments are organized into [twenty-three Councils of Governments](#), or COGs, for the purposes of transportation and housing planning. COGs are committees of elected city council members who represent the region. In the Bay Area, the COG is called the Association of Bay Area Governments (ABAG). In Southern California, it is called the Southern California Association of Governments (SCAG). San Diego County has its own COG called San Diego Association of Governments (SANDAG).



RHNA (pronounced “Ree-Nah”) Regional Housing Needs Allocation: This is a target number of housing units that a municipality must plan for. The number comes from the COG and is based on a number that HCD assigned to the region called the **RHND (Regional Housing Needs Determination)**. A city’s RHNA allocation is divided into four categories based on income and affordability levels: Very Low Income, Low Income, Moderate Income, and Above Moderate Income. The income thresholds are percentages of the median income of the region’s residents, called AMI or **Area Median Income**.



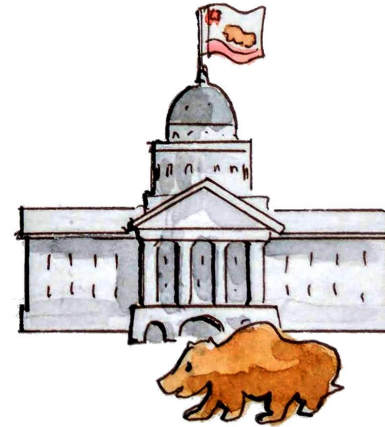
Glossary: A Guide to Acronyms



Housing Element: This is the component of a municipality's General Plan (a [state-required document](#) that lays out the long-term vision for that locality) that plans for the housing allocated to their city by the RHNA. The Housing Element becomes the guide to make changes to the zoning code.

It is important to note that the Housing Element is a plan for zoning, not a plan for housing development. It does not say: "this lot must have a 100-unit apartment." It says, "this lot should be zoned for up to 100 units."

Housing Elements must include a **Site Inventory**; a list of sites (parcels of land) identified as suitable for housing development.



California State Legislature: The CA Legislature (Senate and Assembly) is not involved in the RHNA / Housing Elements process on a regional level, but the Legislature makes laws that govern how the process is carried out, and what the consequences are if municipalities do not comply with the law. If there are problems with the process, advocates and activists can work with legislators to pass laws to strengthen the process.



California State Courts: If any party within the RHNA / Housing Element process violates state law, the state or outside entities (such as YIMBY Law) can sue them, by taking the matter to California state courts.

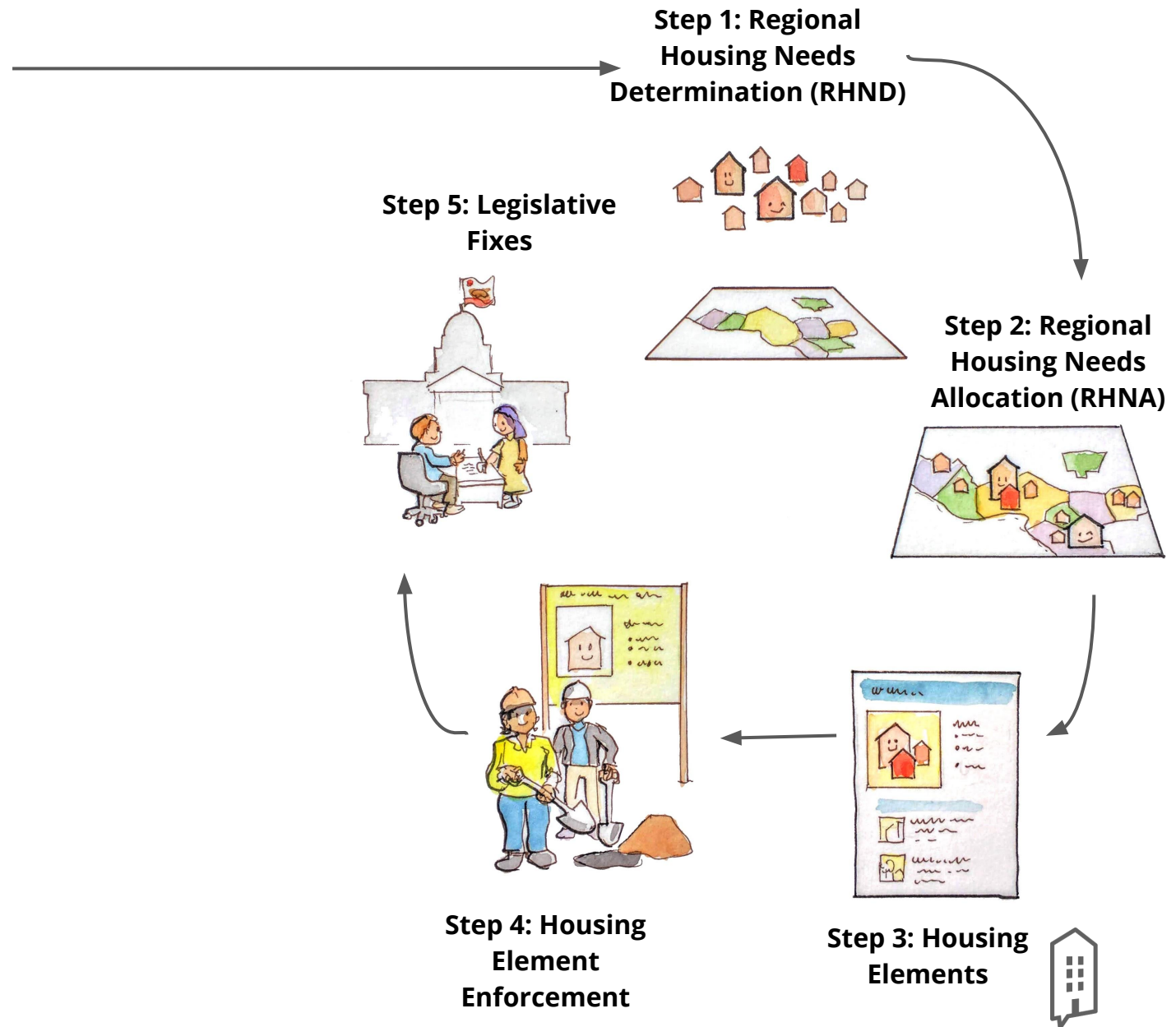


Where To Start

The RHNA is a five step process that occurs on a staggered timeline depending on your region in California. Across the state, municipalities are reaching the end of their 5th RHNA Cycle and entering their 6th Cycle. (The first RHNA cycle started in 1969.)

Activism is needed every step of the way, but that activism works differently depending on what step of the process your region has reached.

[Read on or click here to learn how to find the specific step your region is on.](#)



What step is my city at?

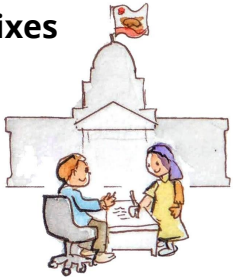
Step 1: Regional Housing Needs Determination (RHND)



Step 2: Regional Housing Needs Allocation (RHNA)



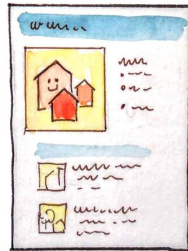
Step 5: Legislative Fixes



Step 4: Housing Element Enforcement



Step 3: Housing Elements



How do you find out which specific step your city is on and the specific activism your region needs?

Option 1:

Call your city's planning department and ask! Google for your city planning department, call the number and say:

Hi, I am ___ and I am interested in getting involved in my city's Housing Element process for the 6th RHNA Cycle. Which stage of the process are we on? Do we have RHNA numbers yet? If not, how do I get in touch with our Council of Governments to influence that process? If so, how can I be involved in the creation of our city's Housing Element?

Option 2:

Join an activist community that is working on this. The best way is to [become a member of YIMBY Action](#) and join the [#ca-housing-element-watchdog](#) Slack channel. Post your region and say you want to get involved. The activist community is friendly and will loop you in!

Most municipalities are currently at Steps 3-4. We also recommend that you read Steps 1 and 2 for background and additional context.

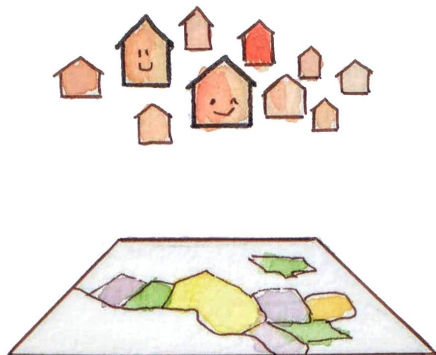


Step 1

Regional Housing Needs Determination (RHND)

Players: HCD and each COG

Once every 5-8 years, depending on the region, the California Department of Finance provides demographic projections to the Department of Housing and Community Development (HCD), which then uses a detailed formula (or “methodology”) to turn those statistics into the number of new housing units needed in the region. This is called the “**Regional Housing Needs Determination**” (RHND). The RHND provides housing needs by income category: Extremely Low Income, Very Low Income, Low Income, Moderate Income, and Above Moderate Income, based on State and Federal Income Limits.



The successes of prior YIMBY activism, like passing SB828, changed the formula that HCD uses to determine housing need. For example, the new methodology includes current rates of overcrowding, recognizing that housing should not only accommodate population growth but should alleviate overcrowding. It also includes cost burden, recognizing that housing should alleviate very high housing costs. The changes of SB828 and other legislation will raise required regional housing targets by **double, triple, or even more**. For example, in Southern California, the 5th Cycle’s projected household growth was 420,000, and in the 6th Cycle, it went up to 1,341,827 (3.2 times bigger!).

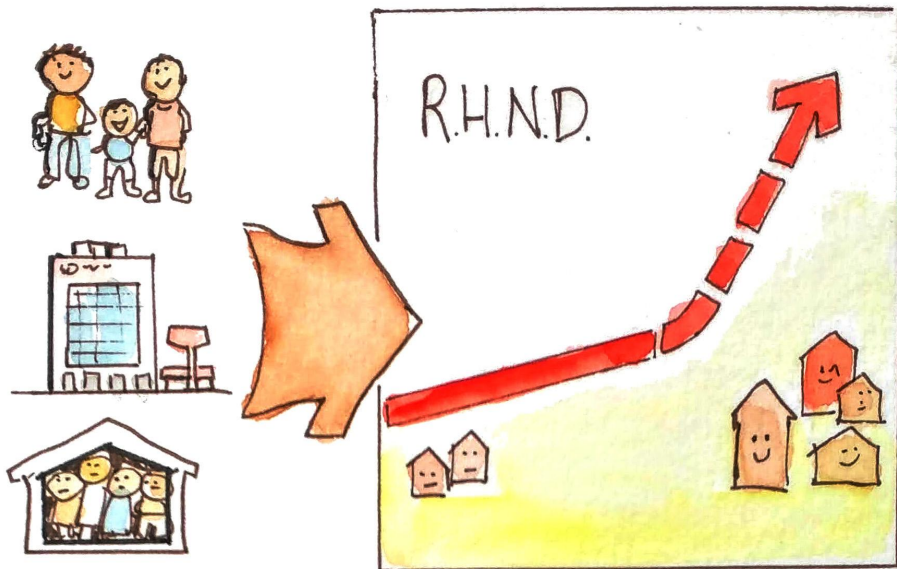
Because of past YIMBY wins, state law also requires the COG to develop its own set of inputs to the formula. State law requires that HCD and the Council of Governments (COG) consider both sets of inputs, and work together to determine the final RHND.



Step 1

Regional Housing Needs Determination (RHND)

What success looks like: RHND numbers that fully reflect realistic population growth in a region, and help reduce current overcrowding and cost-burden. For example, [as explained here](#), ABAG in the Bay Area was considering a formula that accounts for healthy population growth and results in an RHND of 1 million homes, vs a formula that accounts only for current population growth which is unhealthy, supply-constrained, and results in an RHND of 440,000



Call to Action: Tell COGs to use formula inputs that result in adequate housing numbers.

If your COG does not yet have its RHND, **write to the Board and ask them to work with HCD to set numbers that are high enough to catch up on the housing deficit and account for realistic growth.** Share why you value the opportunity to live in your region. Share why you want more people to be able to live here. Share why you think overcrowding is a serious problem and should be appropriately accounted for. Share why you think the cost burden of housing is a serious problem and should be appropriately accounted for.

If your COG has announced its RHND, confer with other YIMBYs about the inputs to the numbers (easiest way: [become a member](#) and join our Slack). Are the inputs appropriate? If yes, **make sure you contact your COG to thank them for the higher numbers.** If not, ask the **Board of your COG to appeal the numbers to be higher.** You can do this by writing to your COG's staff, lobbying members of the COG regional council (made up of local elected officials), and by showing up to give public comment. Ideally, you should do all three!



Step 2

Regional Housing Needs Allocation (RHNA)

Players: Each COG, with their constituent cities and counties

Once the RHND is set, the Council of Governments determines how the RHND numbers are distributed across each city in the region. In previous RHNA cycles, this step has been an ugly segregationist power play, with affluent, opportunity-rich cities successfully pushing housing away from their leafy communities. Costa Mesa in Orange County, for example, had a low-income RHNA target in the 5th cycle of two (2) housing units over the entire 8-year period. In the 6th cycle, Costa Mesa's RHNA estimate (as of March 2020) is more than 10,000! This is a result of the direct advocacy and activism of SoCal YIMBY orgs and other stakeholders in the region.

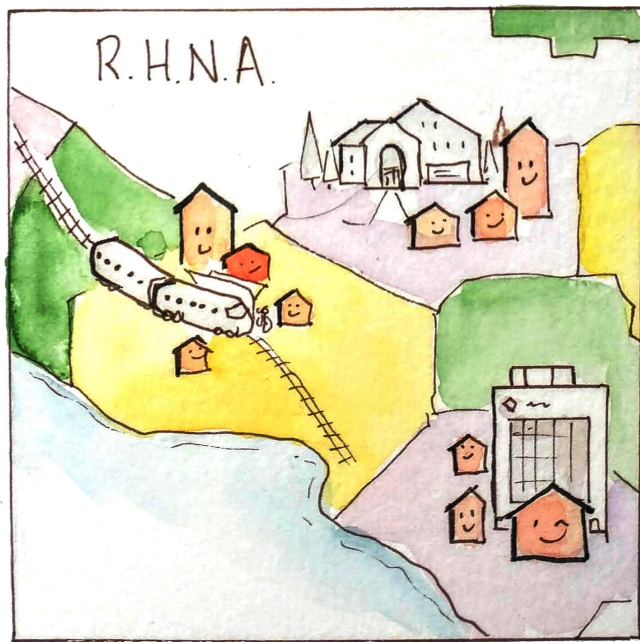
State law now requires COGs to “affirmatively further fair housing,” which means that the process must consider the impacts of segregation, both racial/ethnic and income/class, and aim to create more integrated communities. State law also now requires COGs to consider the amount of traffic generated, or VMT (vehicle miles traveled), in their distributions, which means that regions can't place housing far away from job centers in a way that would require residents to drive farther and farther distances to get from their home to their job



Step 2

Regional Housing Needs Allocation (RHNA)

What success looks like: An allocation that calls for significantly more housing of all income levels near jobs, near public transportation, and in previously white-majority and affluent neighborhoods that have used low-density zoning to perpetuate segregation.



Call to Action: COGs determine their allocation in public meetings, and it is helpful for constituents to show up and voice support for equitable distributions that concentrate housing in high-opportunity neighborhoods. **Testify at public meetings or write your COG** and share why we need more homes near jobs, near great schools, near public transportation, and in opportunity-rich communities. Share why you believe in integrated communities. If you live in a neighborhood that is low density but offers access to great opportunities, COGs and your local city council and mayor will particularly benefit from hearing you call for more homes in your own neighborhood. [Become a member of YIMBY Action](#) to stay abreast of the process!



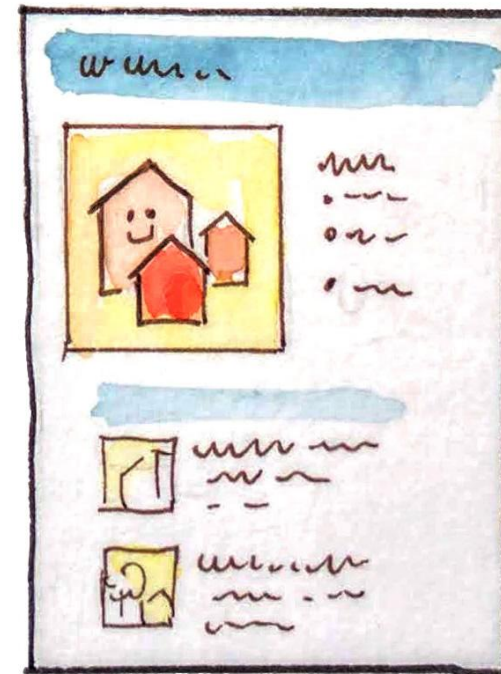
Step 3

Housing Elements

Player: Each local planning department, planning commission, and city or county legislature

Once the RHNA is determined, each jurisdiction has to create a Housing Element, the component of their General Plan that details how the number of housing units allocated (the municipality's "RHNA number") will be accommodated within the city or county, and be implemented through the zoning code. The Housing Element describes zoning, but it does not mandate development; therefore there are some limitations in translating a RHNA number into actual homes. However, the thoughtful design of Housing Elements can work around these limitations to ensure homebuilding in line with RHNA occurs. The planning department leads the Housing Element creation process, but they are required to engage the public.

In the past, municipalities have had two types of violations: their Housing Elements are noncompliant, or their Housing Elements are infeasible. Activists can help prevent both types of problems.



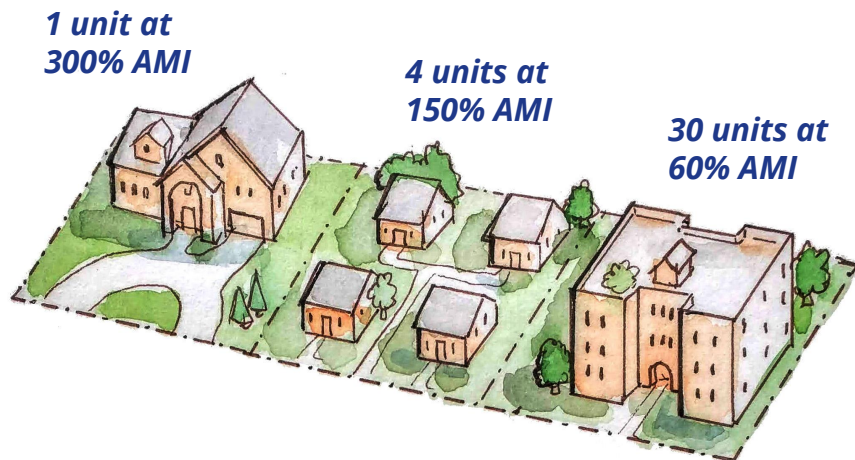
Step 3

Housing Elements

Noncompliant Housing Elements - Watchdogs needed!

First, many municipalities have produced noncompliant Housing Elements. They don't actually plan for all the housing the COG asks them to plan for in their RHNA target. In particular:

- Municipalities may be unlikely to plan for enough Very Low and Low Income housing. What this looks like in practice is a lack of density: below-market-rate units are only financially feasible if they are part of high density projects, because density is necessary to share the cost of land and construction across those units.



If you see only low density residential uses in Housing Elements, it likely means Very Low and Low Income housing will not be financially feasible, and the Housing Element will not produce enough homes for these populations.

- Municipalities may be unlikely to “affirmatively further fair housing.” This is a [new requirement](#) as of 2019 and requires municipalities to take meaningful action to “overcome patterns of segregation.” What this will mean in practice is that high-density parcels (that can accommodate a range of affordability levels) will need to be placed near low-density parcels (that can only accommodate higher income housing). This is antithetical to past planning process, and is likely to be very difficult for municipalities to enact because of resident push-back. (NIMBYism!)

New state laws make it harder for municipalities to use noncompliant Housing Elements to avoid increasing density. HCD now has the authority to issue fines to cities or counties with noncompliant Housing Elements. That said, California has a lot of municipalities and often noncompliant plans slip through the cracks. Activists are needed to be “Housing Element Watchdogs” and engage with planning commissions and city or county legislatures in their development of Housing Elements to make sure they include enough sites at sufficient densities to meet the city's RHNA target.



Step 3

Housing Elements

Noncompliant Housing Elements - Ground Truthers needed!

Second, many municipalities may produce Housing Elements that are superficially compliant, but with no intent to ever build enough housing at the income levels prescribed by RHNA.

The most common way this occurs is that municipalities zone for housing on sites where it is not feasible to build. A Housing Element may put a whole bunch of housing on a swamp, for example, or on an already-used parcel, as in the Orinda example described earlier. See [this appalling admission](#) by the City of Cupertino. Municipalities have pulled the most shenanigans when it comes to low-income housing. This type of housing requires dense apartment buildings, as described above, but municipalities have zoned for affordable housing on steep slopes or near toxic waste sites, where it would be impossible, costly, and/or unsafe to build.

Fortunately, state law requires a municipality's "Site Inventory"—the sites included in its Housing Element—to be analyzed for the likelihood that they will actually result in new homes. This requirement gives power to a new type of activist: "Ground Truthers." Ground Truthers are needed to review sites in a Site Inventory and help make sure that what the municipality says can be developed there is actually possible. (e.g: A site for low-income housing is large enough and flat enough to accommodate an apartment building, is free of major problems such as environmental contaminants, which are costly to clean up, *and* is zoned for sufficient density to make the financing of an affordable housing development possible.)



Step 3

Housing Elements

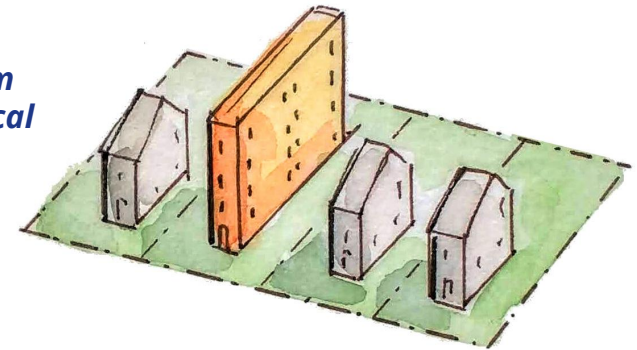
Another Good Bet - Overplanning

Another way Housing Elements don't result in actual building is that municipalities put so many restrictions on development that even feasible sites don't get built on. Municipalities may require ridiculous amounts of parking, excessive environmental reviews, elaborate permitting processes, or even have local ordinances in place that require voter approval for every development. Many of these problems need to be addressed with separate legislation (Step 5). However, a way to forestall these problems is to create Housing Elements that OVER-plan for housing. If a city planned for 30,000 units of housing last RHNA cycle and only built 15,000, maybe this cycle the city should plan for twice the amount of housing that RHNA says is needed, assuming they will only build half.

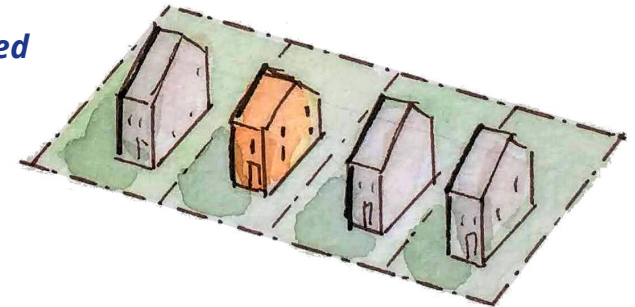
Housing Element Watchdogs can push municipalities to overplan in their process. The terms activists are using are "expected yield" and "maximum theoretical yield." Municipalities should plan for their "Expected Yield," the housing their Housing Element will actually translate into, based on past performance; and *not* their "Maximum Theoretical Yield," the housing their Housing Element could translate to but which would require performance well beyond what has happened in past years.

Excitingly, HCD [released a memo](#) that encouraged this type of overplanning, so activists have legitimate grounds to push for it.

Maximum Theoretical Yield



Expected Yield



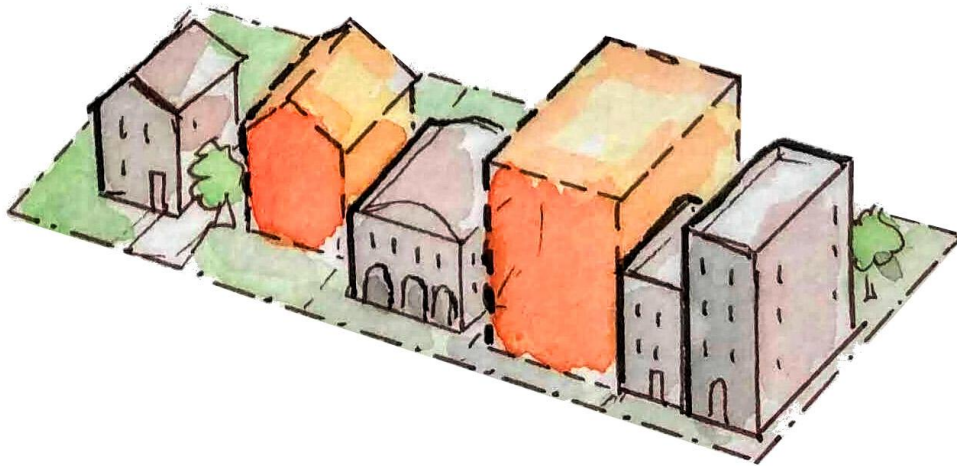
Municipalities should plan for their "expected yield," the housing their Housing Element will actually translate to based on past performance; and not their "maximum theoretical yield," the housing their Housing Element could translate to but would require performance well beyond what has happened in past years.



Step 3

Housing Elements

What success looks like: Housing Elements that plan for all the housing in the city or county's RHNA and include sites that can actually be built on. Ideally, Housing Elements should overplan by using Expected Yield and not Maximum Theoretical Yield.



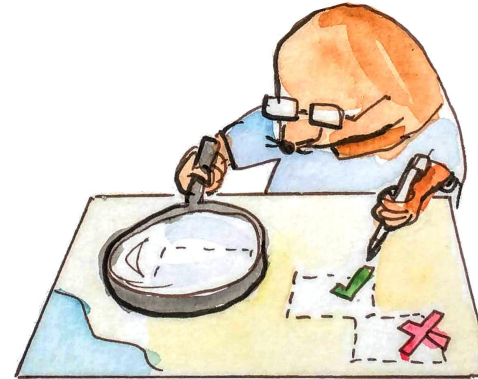
Step 3

Housing Elements

Call to Action:



Become a Housing Element Watchdog. Call your planning department (sometimes called “Community Development Department”) and ask for the person who is heading up the Housing Element. Tell that person you would like to be considered for a spot on the advisory committee and also placed on the list of interested parties to receive email updates about the process. Once you’re on the list, join public meetings and push planning staff to zone sites at densities that would allow income targets to pencil. Go to your planning commission meetings and advocate for high density zoning to accommodate Low and Moderate Income housing. State publicly that you support affirmatively furthering fair housing. Push on Expected Yield vs. Maximum Theoretical Yield. Find out what your city’s shortfall was in the 5th RHNA Cycle and suggest that the city overplan in line with that shortfall.



Become a Ground Truther. Sign up to be an [official YIMBY Law Ground Truther](#). These are the activists that review municipalities’ Site Inventory to ensure feasibility. Even before 6th Cycle Site Inventories are released, you can go to your city’s website and pull down the most recent Housing Element from the 5th RHNA Cycle. You can likely find it by going to Google and searching for “Housing Element [Your City’s Name] CA.” Find the inventory of sites and cross reference that list with the current status of development in your city. You can examine individual sites using Google Maps or Google Earth or visiting the site in person. Many municipalities also post development activity on their websites, so you can look there for projects that may be in-process. Notice which sites did and did not get built on. When your city releases its 6th Cycle inventory, you will want to flag if there are sites that did not get built in the last cycle (5th) but still are included in this (6th) one. That likely means those sites aren’t feasible. YIMBY Law can guide you and other Ground Truthers through this process.



Step 4

Housing Element Enforcement

Players: Local planning commissions and legislatures, state courts, YIMBY Law

After they have Housing Elements, municipalities then update their zoning codes to reflect the changes in their Housing Elements. This adds another layer of process that can slow down homebuilding.



Fortunately, with enforcement help from YIMBYs, housing can still be built if it aligns with the Housing Element, regardless of whether or not the zoning code has been updated. SB330, passed in 2019, allows developers to follow the guidelines in the Housing Element if the zoning code does not match. Additionally, recent reforms to the California Housing Accountability Act now allow a municipality to be sued if it refuses to permit a Housing Element compliant project, even if the project is not zoning compliant. YIMBY Law has taken advantage of this and won approvals for 655 new homes in just the first half of 2020, just by contacting municipalities and letting them know they can be sued.

Activists are needed on an ongoing basis to let planning commissions, city councils, and developers know that the Housing Element trump zoning codes, and that developers who comply with local Housing Elements have a right to build under SB330 and the Housing Accountability Act. Activists should [flag violations](#) for YIMBY Law.

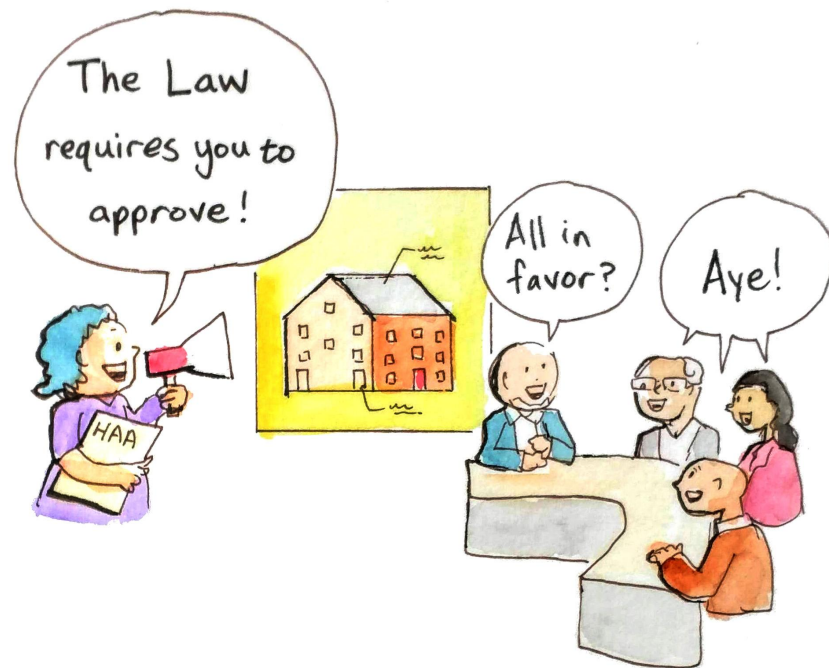


Step 4

Housing Element Enforcement

What success looks like: Projects that follow the guidelines of the Housing Element are approved quickly. Municipalities turn their Housing Element into reality by quickly updating their zoning codes, permitting new development, and enabling groundbreaking on abundant housing at all income levels.

Call to Action: Monitor projects in your neighborhood. If projects are compliant with the Housing Element, they cannot be denied. You can let stakeholders know as much at project hearings. If a project is denied, you can [contact YIMBY Law](#). Becoming a [YIMBY Action member](#) and joining your neighborhood's YIMBY chapter or connecting to other locals on the YIMBY Slack is a great way to stay on top of projects.

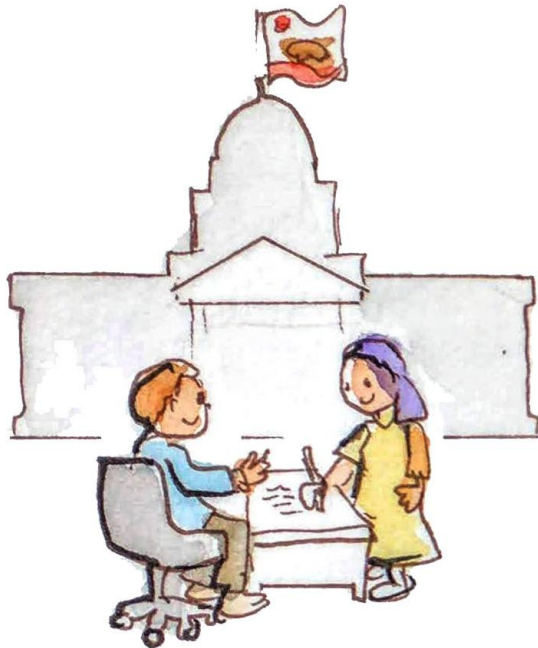


Step 5

Legislative Cleanup

Player: CA State Legislature

YIMBY activism has worked in creating state laws that make it easier than ever for activists to push for a much bigger determination of housing need (RHND), a much more equitable housing allocation (RHNA), and much more realistic Housing Elements. Congrats to YIMBY activists!



However, gaps remain. The Housing Element doesn't always efficiently turn into zoning code, which slows down the process. Municipalities can institute excessive requirements that block development of even compliant projects.

Every stage of the process could also use stronger enforcement. Municipalities are fined for noncompliance and delays, but many activists think enforcement requires more "fallback" mechanisms, where state overrides kick in if a local government is out of compliance (in the model of SB35, which automatically approves certain projects if a city is not meeting RHNA targets).

Fixing these gaps will require new state legislation.

Further, legislation is often proposed that makes the RHNA process weaker. For example, [AB1063](#) (successfully defeated by YIMBYs!) would have allowed cities to count accessory dwelling units (ADUs) towards their low-income housing targets. ADUs are very rarely affordable in practice, so this law would have just let cities off the hook for meeting the housing needs of their most vulnerable community members.

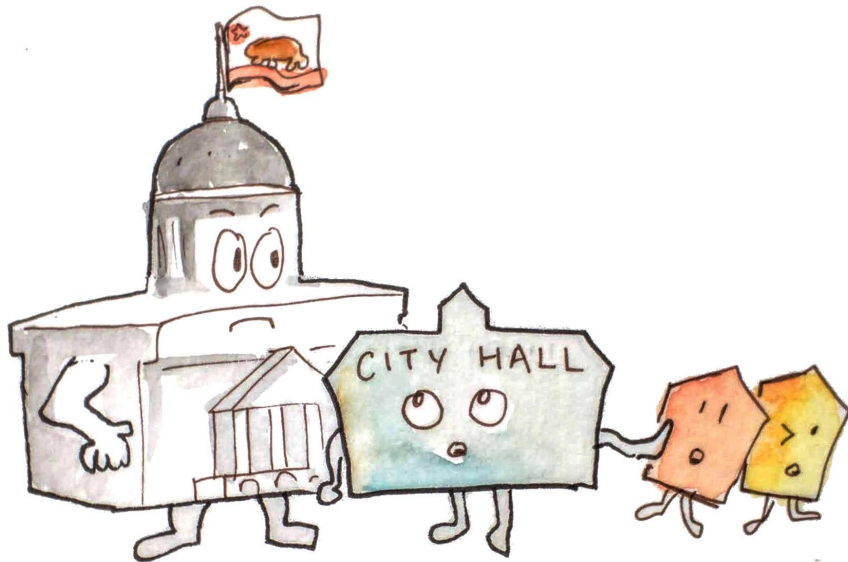


Step 5

Legislative Cleanup

What success looks like: State legislation passes that allows the RHNA / Housing Element process to fulfill its purpose - ensuring that California builds enough homes for all who live here, now and in the future.

Call to Action: Stay on top of legislation that affects RHNA by subscribing to [YIMBY newsletters](#), following [YIMBY Action](#) and [YIMBY Law](#) on Twitter, or joining the [YIMBY Slack](#). If you see legislation that strengthens RHNA or Housing Elements, contact your legislator and tell them to vote "Yes!" If you see legislation that gives municipalities loopholes to dodge building enough housing, like AB1063, contact your legislator to encourage them to vote "no!"



The RHNA / Housing Element process can help us build welcoming communities across California.

Thank you for being part of this with us!



This explainer is produced by YIMBY Action and supported by a grant from Yes In My Back Yard, our affiliated 501(c)(3) organization.

Yes In My Back Yard includes YIMBY Law, the legal enforcement arm of the YIMBY movement.



YIMBY ACTION



YIMBY LAW