



Legislation Text

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FROM:

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SUBJECT:

Presentation from County of Marin Staff on Racially Restrictive Covenant Modification Program and AB686 AFFH Housing Element Requirements

RECOMMENDATION

Receive report and provide any direction to staff.

BACKGROUND

This report provides an overview about the work that will be undertaken over the next year to fulfill the Town of San Anselmo's duty to affirmatively further fair housing as part of the Housing Element update, as mandated by Assembly Bill 686 (2018). This is an informational item and no action is needed.

This staff report, based on a model prepared by the Association of Bay Area Governments, summarizes the 90-page Housing and Community Development Department (HCD) AFFH guidance memo.

Assembly Bill 686 (AB 686), passed in 2018, created new requirements for jurisdictions to affirmatively further fair housing. According to AB 686, affirmatively furthering fair housing means to take "meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics" and is Federally mandated by the 1968 Fair Housing Act.

The four main goals are to:

1. Address significant disparities in housing needs and in access to opportunity.
2. Replace segregated living patterns with truly integrated and balanced living patterns.
3. Transform racially and ethnically concentrated areas of poverty into areas of opportunity, and
4. Foster and maintain compliance with civil rights and fair housing laws.

AB 686 sets forth the duty to affirmatively further fair housing (AFFH) in two broad categories:

1. **Public Agencies-** All public agencies, departments and programs are required to administer programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with this obligation.
2. **Housing Elements-** New requirements for Housing Elements due on or after January 1, 2021 direct the

Town Council to incorporate fair housing into the Housing Element, create land-use and funding opportunities to increase affordable housing in high resource neighborhoods, and bring additional resources to traditionally under-resourced neighborhoods.

This memo focuses on the incorporation of fair housing in the Housing Element update only. However, as noted above, all Town departments are required to Affirmatively Further Fair Housing. For example, it was recently brought to the Town's attention that the newly adopted leaf blower ordinance allows noise as early as 7:00 a.m. at multifamily residential sites but limits noise to 9:00 a.m. for single family residential sites. Since the majority of the Town's BIPOC population are renters, this policy decision could exacerbate social inequities by subjecting certain racial and ethnic groups to more noise (and associated stress and anxiety) than others and could be viewed as an unfair housing practice and should be corrected.

Fair Housing and the Duty to Affirmatively Further Fair Housing

Fair housing laws aim to ensure that people have access to housing and the resources attached to place of residence regardless of their race, national origin, family status, religion, sex or disability, often referred to as protected classes. The 1968 Fair Housing Act attempted to remedy and prevent policies and practices that are discriminatory as well as those that promote or maintain racially segregated communities. Yet, over 50 years later, the Department of Housing and Community Development (HCD) acknowledges that "historic patterns of segregation persist in California despite the long-standing federal mandate." Assembly Bill 686 (AB 686), passed in 2018 requires jurisdictions to "explicitly address, combat, and relieve disparities resulting from past and current patterns of segregation to foster more inclusive communities."

San Anselmo is part of one of the most prosperous regions in the world. The Bay Area is also the second most diverse of the 150 largest metro regions in the country, but the prosperity is not evenly shared among this diverse population. In 2019, White workers in the Bay Area at the middle of the income range earned over double the income of Latinx workers and 70% more than Black workers. Some of these disparities are related to the segregated and unequal neighborhood environments and housing system. In 2019, over three quarters of White and Asian Bay Area residents lived in moderate and high resourced neighborhoods as classified by the State, in contrast less than half of Latinx and Black residents.

The racial inequities seen today developed through historical policies and practices enacted at federal, state, regional and local levels and across the public and private sectors. Though many of the explicit forms of discrimination have been outlawed, the results of these systems have left a lasting imprint on both the region and San Anselmo. Racially explicit practices (e.g., racial covenants) have been replaced with race-neutral land use policies that continue to exclude people of color from predominantly white neighborhoods. Furthermore, increasing housing costs have deepened racial and economic segregation, displacing many low income and people of color to the peripheries of the region or out of the Bay Area all together.

The effects of segregation affect all Bay Area residents. As noted in *Momentum for Lasting Solutions*: "the Bay Area's inability to adequately house all its residents, especially close to job centers, has led to a host of other challenges such as crippling traffic, attendant greenhouse gas emissions, and labor shortages." Today, there is an opportunity to address segregation and racial inequities in California's communities and the Bay Area region. To meet this moment, the State is requiring that jurisdictions address the persistent housing inequities

by affirmatively furthering fair housing.

Snapshot of Segregation and Fair Housing in San Anselmo

Segregation can exist at various scales. It is possible to be segregated within the jurisdiction (different neighborhoods with different compositions) or within a regional context (the jurisdiction looks different than the Bay Area as a whole). According to the [Othering and Belonging Institute](https://belonging.berkeley.edu/most-segregated-and-integrated-cities-sf-bay-area) <https://belonging.berkeley.edu/most-segregated-and-integrated-cities-sf-bay-area> at UC Berkeley San Anselmo has a high level of racial/ethnic segregation when compared to the rest of the region.

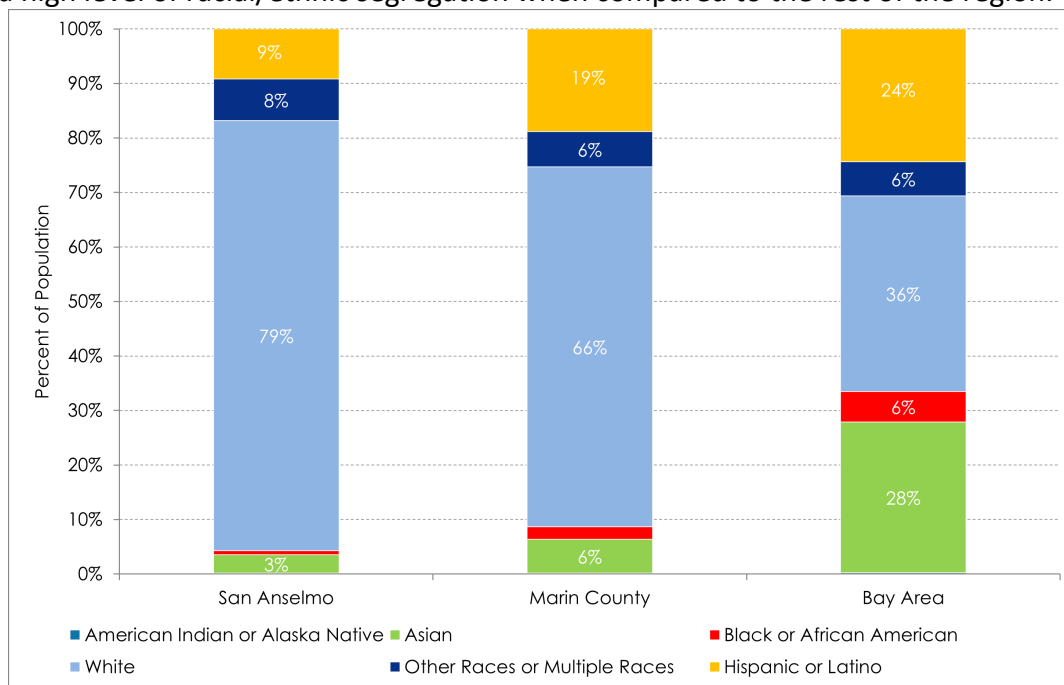


Figure 1 Racial/Ethnic Composition of San Anselmo, Marin and Bay Area 2020 Census

	San Anselmo		Marin County		Bay Area	
	2010	2020	2010	2020	2010	2020
White	86.4%	78.9%	72.8%	66.0%	42.4%	35.8%
Hispanic or Latino	5.8%	9.2%	15.5%	18.8%	23.5%	24.4%
Asian alone	3.5%	3.4%	5.4%	6.2%	23.0%	27.7%
Black or African American	0.8%	0.8%	2.6%	2.3%	6.4%	5.6%
American Indian and Alaska Native	0.2%	0.2%	0.2%	0.2%	0.3%	0.2%
Two or more races	2.7%	6.7%	2.9%	5.5%	3.5%	5.1%
Native Hawaiian and Other Pacific Islander	0.2%	0.1%	0.2%	0.2%	0.6%	0.6%
Some Other Race alone	0.3%	0.8%	0.4%	0.8%	0.3%	0.6%

Figure 2 Racial/Ethnic Composition of San Anselmo, Marin and Bay Area, 2010 and 2020, US Census
 ABAG has developed a Racial Dot Map that illustrates areas of racial clustering in the Bay Area. This selection shows pockets of racial clustering near the University of the Redlands campus where they have South Korean students and shows how San Anselmo is primary low density and white while the Canal area of San Rafael has a dense Latinx population.

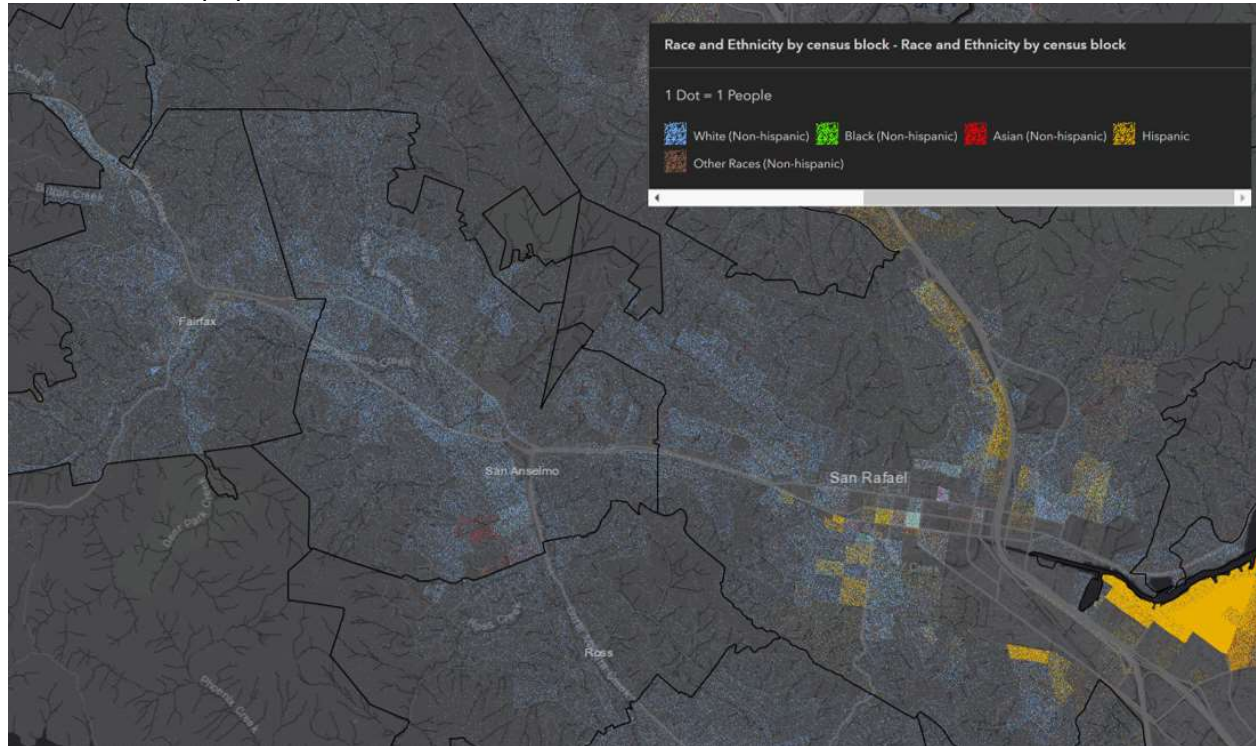


Figure 3 ABAG Racial Dot Map of Bay Area, San Anselmo

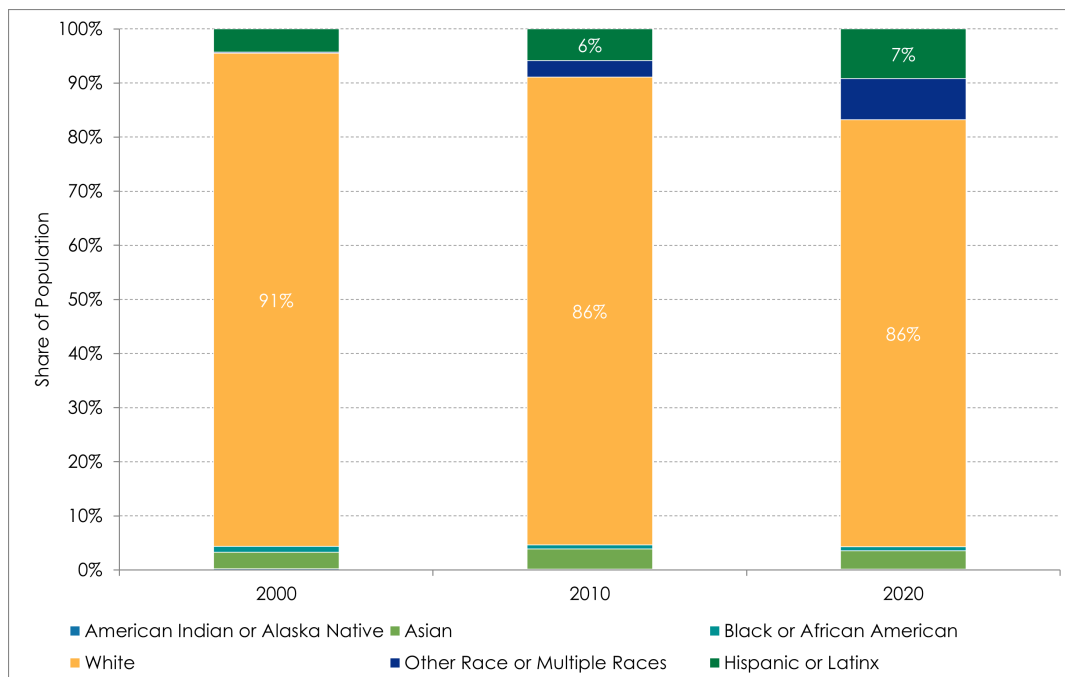
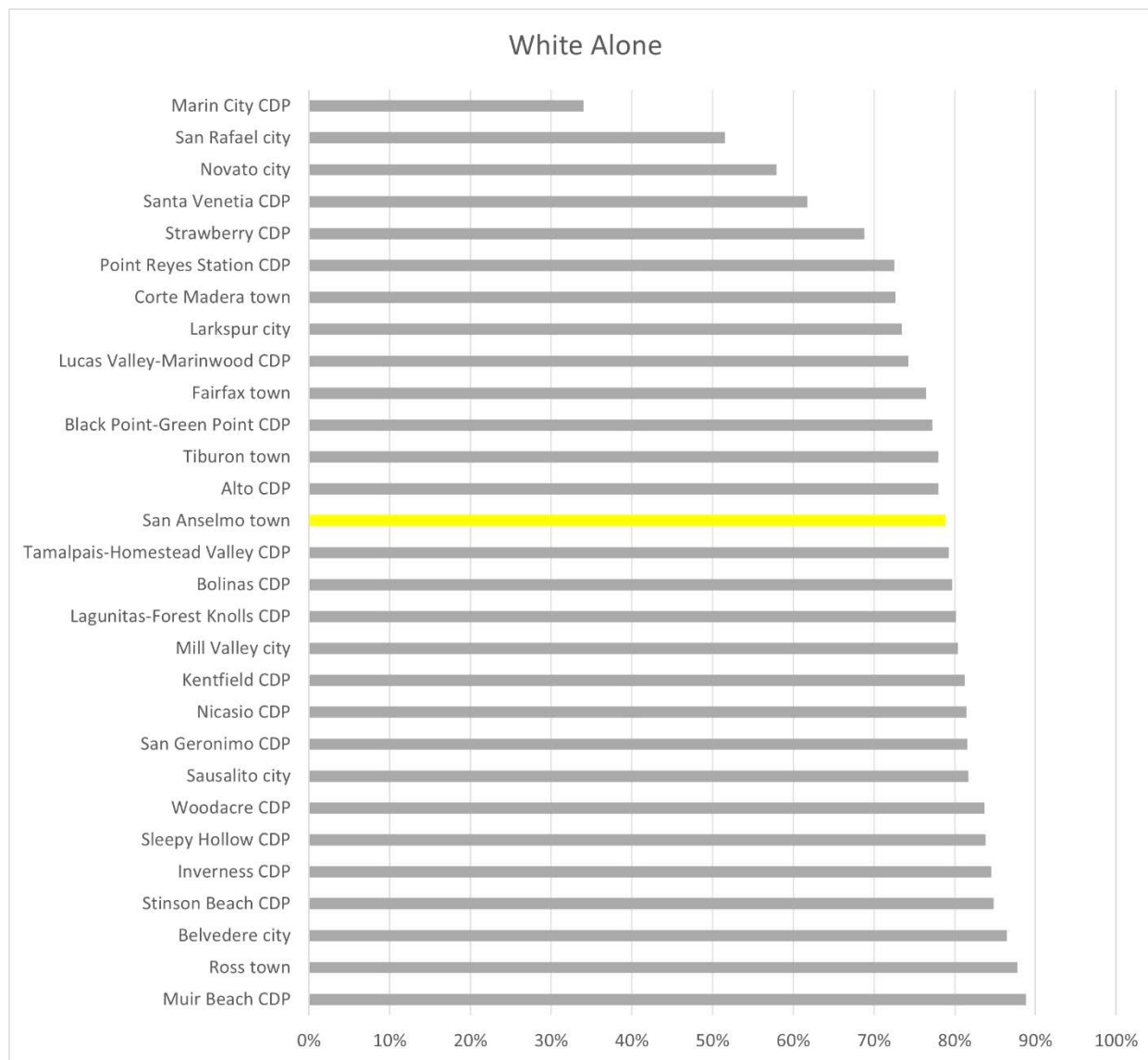


Figure 4 Racial/Ethnic Composition of San Anselmo 2010-2020

According to decennial 2020 Census data, the most racially diverse places in Marin continue to be Marin City, San Rafael and Novato.

*Figure 5 2020 US Census P2 Data*

What are the AFFH requirements for Housing Element Updates?

The five main elements that all jurisdictions will need to incorporate AFFH into Housing Element updates are: (1) Targeted Community Outreach, (2) Assessment of Fair Housing, (3) Site Inventory, (4) Identification and Prioritization of Contributing Factors, and (5) Goals Policies and Actions.

1. Targeted Community Outreach

In addition to the traditional housing element outreach, AB 686 requires “meaningful, frequent, and ongoing community participation, consultation and coordination” to ensure that input has been received from groups most impacted by fair housing

issues and that local knowledge is incorporated. To meet these requirements, it is recommended that:

- Outreach be made accessible via language translation
- Engagement is conducted in various locations and venues and during non-working hours
- A wide set of stakeholders that serve and represent protected classes are engaged
- Assess outreach effectiveness by monitoring and comparing demographics of who participates for representativeness.

National best practices recommend creating equity advisory committees to provide input and oversight, as well as offering mini-grants to community-based organizations and other stakeholders to assist with engagement of low-income households and protected classes.

HCD will be reviewing a summary of the fair housing outreach to ensure compliance.

Staff has proposed an outreach plan as Attachment 2.

2. Assessment of Fair Housing

The Assessment of Fair Housing describes the jurisdiction's unique fair housing circumstances and must include a summary and analysis of:

- 1) Fair housing outreach capacity and enforcement,
- 2) Segregation and integration patterns,
- 3) Racially and/or ethnically concentrated areas of poverty (RE/CAPs) and Racially Concentrated Areas of Affluence (RCAs),
- 4) Disparities in access to opportunity (e.g., education, transportation, economic and environmental), and
- 5) Disproportionate housing needs (e.g., overpayment, overcrowding, and displacement risk) for low-income households and protected classes.

Jurisdictions must include input and stories from community outreach efforts in the assessment, as well as the existence or lack of local policies and programs such as local rental assistance programs, code enforcement activities, homeless services, foreclosure prevention, planned affordable housing development, etc. and how these may address or exacerbate the situation.

Planning Department staff has started a map of subdivisions that had racially restrictive covenants that may be viewed at the Town website <https://www.townofsananselmo.org/1480/Racial-Covenant-Modification>. Staff has been reviewing the San Anselmo Herald and minutes for any evidence of racially explicit zoning practices but thus far has only found one example related to building code requirements to exclude Chinese laundries. Daily Independent Journal (San Rafael) newspaper articles describe housing discrimination in Marin.



Figure 6 Daily Independent Journal January 20, 1959



Also voicing opposition to the fair housing bill passed by the state legislature is the Marin County Apartment Owners Assn.

Mrs. Hazel Thole, a director of the association, puts it this way:

"You have a 42-unit apartment building. You have loan payments and utility bills to meet each month. If you rent to a Negro you will have 41 vacant apartments. Who is going to pay the bills?"

Mrs. Thole said that she had polled apartment houses and found that "better than 50 per cent of the tenants" would have moved out if the apartment had been rented to a Negro.

She said it was the fear of some apartment owners that if one Negro family moved in an apartment, others would follow and there would "be an influx and a downgrading of the property."

Racial integration, Mrs. Thole said, "is not for the landlord to shove down the throats of his tenants. He doesn't want an empty building."

Figure 7 Daily Independent Journal 1963

3. Site Inventory

The site inventory in the housing element update now requires an analysis of how sites identified to accommodate new housing can improve or exacerbate existing conditions (e.g., segregation and access to opportunity). This step will require answering questions like:

- Are sites concentrated in specific geographies (e.g., are all sites to accommodate low-income households are clustered in specific area)?
 - What are the demographics and resources in those geographies?
 - What policies and plans are in place to transform these areas?
- How do the sites address disproportionate housing needs, including displacement?

This step also requires the identification of policies and programs needed to address the availability of adequate sites.

4. Identification and Prioritization of Contributing Factors

Based on the results of the first three steps, factors that have created, perpetuate, or increase the severity of one or more fair housing issues must be identified. These factors are referred to as “contributing factors.”

- HCD requires that contributing factors be prioritized to an actionable list (of 4-6 factors) based on those that most limit or deny fair housing choice and access to opportunity.
- The [AFFH guidance <https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf>](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf) provides a list of over 70 common contributing factors (p. 68- 70) as a first step.
- ABAG has partnered with UC Merced to produce an AFFH segregation analysis report for each jurisdiction. A separate report at a regional scale will detail existing land use policies in cities throughout the region that have been shown to have a positive correlation with segregation.
- Community input will be important to help identify and prioritize these factors and tie them to meaningful actions.

5. Goals, Policies and Actions

Identification of goals and policies with concrete steps, timelines, and outcomes for the specific actions are required and must be linked to the fair housing issues and contributing that they are designed to address. These may include different types of actions utilizing: 1.) human resources: outreach, education, marketing, collaboration; 2.) land use resources: general plans, zoning, specific plans, ordinances and procedures, and 3.) financial resources.

FISCAL IMPACT

No fiscal impact to receive report. Staff has one proposal to assist with AFFH housing element work for approximately \$80,000 as part of the racial equity audit. If that project is not funded, staff would conduct the work in-house using resources outlined above and seek contract assistance for public outreach work

GENERAL PLAN CONSISTENCY

State law requires the Housing Element to incorporate the duty to AFFH.

CEQA AND CLIMATE ACTION PLAN CONSISTENCY

Housing element update environmental review process is unknown at this time. Actions to AFFH are likely to lead to more affordable housing in the Town and a reduction in Vehicle Miles Traveled as more local workers can live in the town and will not have to drive in from other jurisdictions, which would reduce Greenhouse Gas emissions in the Town.

CONCLUSION

Incorporating the duty to affirmatively further fair housing into the Housing Element update is required to be in compliance with state housing laws, which are being enforced with [new penalties <https://abag.ca.gov/sites/default/files/documents/2021-06/Consequences%20of%20Non-Compliance%20with%20Housing%20Laws.pdf>](https://abag.ca.gov/sites/default/files/documents/2021-06/Consequences%20of%20Non-Compliance%20with%20Housing%20Laws.pdf). This new requirement adds several analyses and steps onto the traditional Housing Element update process.

Numerous resources are being developed to help jurisdictions meet these new requirements including:

- [HCD has a webinar <https://youtu.be/2LbbdRwLKxA>](https://youtu.be/2LbbdRwLKxA) and the [Association of Bay Area Governments \(ABAG\) webinar <https://www.youtube.com/watch?v=JLzXafVsyHo>](https://www.youtube.com/watch?v=JLzXafVsyHo), and [guidance <https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf>](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf) memo, and other tools available to assist local jurisdictions to meet these new requirements.
- The County of Marin has retained a consultant to prepare some of the materials (See Attachment 1) for Marin jurisdictions.

As ABAG/MTC continue to support this work, they encourage us to send questions and suggestions for new products and assistance to [housingTA@bayareametro.gov <mailto:housingTA@bayareametro.gov>](mailto:housingTA@bayareametro.gov).