

**ASSOCIATION OF BAY AREA GOVERNMENTS**

Representing City and County Governments of the San Francisco Bay Area

**Transmitted via facsimile**

March 11, 2005

Paula Higashi  
Executive Director  
Commission on State Mandates  
980 9<sup>th</sup> Street, Suite 300  
Sacramento, CA 95814

Re: Regional Housing Needs Determination: Councils of Governments  
Case No. 04-RL-3929-05

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Dear Ms. Higashi:

Please consider this an appeal pursuant to the Commission on State Mandates (Commission) regulation 1181(c). The Commission is scheduled to hear the above-referenced matter at its March 30, 2005 meeting.

The "Notice of Hearing on Final Staff Analysis and Proposed Statement of Decision" dated March 10, 2005 states:

With the exception of section 1188.4 of the Commission's regulations, the hearing procedures in article 7 of the Commission's regulations in affect at the time of the hearing will apply. Since this reconsideration was not requested pursuant to Government Code section 17559, the hearing procedures in section 1188.4 do not apply in this case.

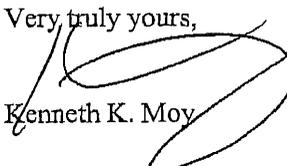
First, please be apprised that the above-quoted paragraph is wrong on its face. Section 1188.4(a) states:

This provision does not apply when the court exercises its authority under Government Code section 17559 and orders the Commission to rehear a claim.

This is exactly the opposite of what the Notice states. Since this rehearing occurs pursuant to SB 1102 and not as a result of a court order, section 1188.4 does apply.

The Association of Bay Area Governments (ABAG) is a Council of Governments charged with the responsibility for conducting the regional housing needs determination for the San Francisco Bay Area and will be directly affected by the Commissions decision on the rehearing. As legal counsel to ABAG, I request that you reconsider your decision regarding section 1188.4 and find that it does apply. In particular, I request that the requirement of sections 1188.4 (f), (g), (h) and (j) apply to the Commission's consideration of the above-referenced matter.

Very truly yours,

  
Kenneth K. Moy