



**CITY OF HUNTINGTON BEACH**  
**CITY COUNCIL MEETING – COUNCIL MEMBER ITEMS REPORT**

TO: THE HONORABLE MAYOR AND CITY COUNCIL

FROM: CASEY MCKEON, CITY COUNCILMEMBER

DATE: DECEMBER 20, 2022

**SUBJECT: OPPOSE RHNA MANDATE AND ADOPT AN ORDINANCE TO BAN BUILDER'S  
REMEDY DEVELOPMENTS**

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Since 2018, the State has passed a flurry of housing laws that not only seek to commandeer the City's local ability (local control and discretion) to zone its territory, but the State also imposes a host of heavy burdens, unfunded State mandates, and zoning mandates. This includes the 2021 Regional Housing Needs Assessment (RHNA) mandate for Huntington Beach to zone 13,368 units via the 6<sup>th</sup> Cycle Housing Element Update. Many have expressed that the "fix" to fight these State mandates is in Sacramento, i.e., to fix State laws by the Legislature. While this is not untrue, the fight for local control can still, also be had in the courts.

For perspective, if the City were to honor this 13,368 RHNA by zoning for, and eventually building for that quota at a 20% affordable threshold, then that would mean that approximately 30,000 new total units of high density housing would be built. This would increase the City's current housing inventory by approximately 36 percent. These mandates, and the State's intrusion and commandeering are reckless and unsustainable - both for the City's residents' livability and the tax and strain on its infrastructure that is all designed and maintained for its current housing levels.

The 13,368 RHNA is really no mandate at all. It is flawed. While the State claims that its housing laws have preemptive effect, even over Charter cities, no preemptive effect can be upheld by laws that are demonstrably flawed and unsupported by evidence, supported by a rational basis. Earlier this year the California State Auditor released a scathing report that the "The Department of Housing and Community Development Must Improve Its Processes to Ensure That Communities Can Adequately Plan for Housing". This scathing report indicates that HCD's methodology is flawed. This is precisely what the City Attorney had argued to City Council in 2020, that when SCAG/HCD made its RHNA determination for Huntington Beach of 13,368 units, the State agencies violated their own State laws in their methodology and their application to Huntington Beach. Huntington Beach is a Charter City and according to the California Constitution, local zoning has historically been a "municipal affair" subject to Home Rule Charter City authority. While that local right has eroded over the years with additional invasive State legislation and unfavorable court rulings, the California Constitution remains and Huntington Beach's Charter City status must be defended and asserted.

## **RECOMMENDED ACTION**

Authorize the City Attorney to:

1. Challenge the State's RHNA mandate for Huntington Beach, including its validity and any laws in support of such a mandate over the City as a Charter City, by taking whatever legal action is required; and
2. Return to City Council at the City Attorney's earliest convenience with an ordinance banning "Builder's Remedy" developments from taking place in Huntington Beach. Development without proper approvals is already not legal in the City, but this Ordinance is essential to make it clear to the entire community that Huntington Beach will fight any developer that seeks to develop pursuant to "Builder's Remedy" laws.

