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**SENT VIA E-MAIL:** hilda.sousa@hcd.ca.gov

Hilda Sousa  
Housing and Policy Division  
Housing and Community Development  
1800 3<sup>rd</sup> Street  
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Sacramento, CA 94252-2053

**Re: Comments on Cupertino's Housing Element**

Dear Ms. Sousa:

The following comments on the City of Cupertino's ("City") Draft 2015-2023 Housing Element ("Housing Element") are offered by the Public Interest Law Firm and the Fair Housing Law Project (programs of the Law Foundation of Silicon Valley), Urban Habitat, West Valley Community Services, and Neighborhood Housing Services of Silicon Valley, on behalf of low-income residents of Cupertino. We also support the comments provided by Non-Profit Housing to HCD regarding Cupertino's Housing Element. We appreciate your willingness to consider these comments during your review.

**The Housing Element fails to analyze Cupertino's failure to produce affordable units during the past planning period.**

The draft Housing Element does not adequately analyze the progress and outcomes from the prior Housing Element, which was quite disappointing in some respects. Most prominently, during the prior planning period, production of affordable homes lagged far behind Cupertino's RHNA for very low-, low- and moderate-income families. This failure was by a very large margin; only 25 of the 341 VLI units allocated to Cupertino—a woeful 7.3%—were created. The percentages are not substantially better for other lower-income categories; the City only met 10% of its allocation for low-income units, and 11.1% of its obligation for moderate income units<sup>1</sup>.

There is no analysis as to why housing production in Cupertino for low-income individuals and families fell nearly 90% short of its affordable housing allocations under the past planning period's RHNA.<sup>2</sup> The Housing Element does not list the locations and addresses of the units that were developed during the planning period. HCD should require the City to do a better analysis of the progress and outcomes from the prior Housing Element and require that the City to analyze the reasons for the small number of units created during the last planning period, and to recommend programs that will encourage the development of affordable housing.

**The Housing Element should address non-governmental constraints on housing development.**

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<sup>1</sup> Revised Public Draft Housing Element, 177.

<sup>2</sup> Id.

## **Economic Displacement & Rent Burden**

We are greatly concerned with the economic displacement of low-income residents from the City of Cupertino. With no policies protecting low-income residents from rent increases or displacement, many low-income residents are being forced out of the City. As described in its Housing Element, the City has some of the highest rents in the area.<sup>3</sup> The Housing Element has no analysis of the economic displacement of low-income individuals in Cupertino. We believe that this economic displacement is a pressing issue that is only superficially addressed in the Housing Element. The Housing Element should do a deeper analysis of the economic displacement and recommend policies that will prevent displacement of low-income residents.

## **Community Resistance to Affordable Housing**

The Housing Element should include a program to address community resistance (NIMBYism --“Not-in-My-Back-Yard”) to the development of affordable housing in the City, and resistance to new housing in general. Many residents have spoken out against new development, and specifically against affordable housing.<sup>4</sup> Although the City acknowledges NIMBYism as a constraint, the Housing Element does not contain any programs to address it. The City should adopt a program to address NIMBYism and educate the public about the benefits of affordable housing.<sup>5</sup>

## **The Housing Element’s quantified objectives and housing programs require additional specificity.**

To meet its obligations in an admittedly challenging environment for affordable housing development, we encourage the City to engage in robust, creative, and strategic programs that will encourage the development of affordable housing. In general, the quantified objectives and housing programs currently in the Housing Element lack specific time frames or actions, and require changes to make them effective tools for development.

The Draft’s **programs lack meaningful timeframes**, which makes it difficult to determine whether the programs will have beneficial impacts during the planning period. State law requires that the Draft contain programs that set forth a schedule of actions during the planning period, each with a timeline for implementation, such that there will be beneficial impacts of the programs within the planning period. (Government Code § 65583(c).)

Cupertino’s **programs also lack clarity and specificity**, which makes it extremely difficult for members of the public to understand what steps Cupertino will take to achieve its goals and how and when the public can engage with Cupertino staff. Per HCD, “programs must include a specific time frame for implementation, identify the agencies or officials responsible for implementation and describe the jurisdiction’s specific role in implementation.” (Housing Programs: Conserve and Improve the Existing Housing Stock, Required Components of Program Actions, [http://www.hcd.ca.gov/hpd/housing\\_element2/PRO\\_conserve.php](http://www.hcd.ca.gov/hpd/housing_element2/PRO_conserve.php).) Some of the suggested activities are described below:

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<sup>3</sup> Revised Public Draft Housing Element, HE-9.

<sup>4</sup> Donato-Weinstein, Nathan, “Cupertino plans for housing, adds office capability to Vallco,” Silicon Valley Business Journal, December 5, 2014, available at

<http://www.bizjournals.com/sanjose/news/2014/12/05/cupertino-plans-for-housing-adds-office-capability.html?page=all>

<sup>5</sup> Revised Public Draft, B-114.

- **Include Affordable Housing Goals in the Heart of the City Specific Plan**

HCD should encourage the City to include affordable housing goals in the Heart of City Specific Plan.<sup>6</sup> The Heart of the City Specific Plan guides the City’s commercial development during the next planning period. Much of the housing identified in the sites inventory is in the Heart of City Specific Plan. Given the low affordable housing production numbers during the last planning period, the City should adopt an affordable housing goal for the Specific Plan. For example, the City could have a goal that 15 or 20 percent of the units developed in the Heart of the City Specific Plan be affordable. As this goal applies to a plan, and not a specific project, the plan designation would not be restricted by the *Palmer* decision.

- **Strengthen Strategy 8 – Nexus Study to update Mitigation Fees**

We support the City’s Strategy 8—which is to update its Nexus Study for the Housing Mitigation Plan—and encourage the City to consider raising its impact fees. Cupertino’s impact fees are among the lowest in Santa Clara County, and many other jurisdictions (for example, Sunnyvale and Mountain View) have recently increased their fees or are seriously considering doing so. We also would encourage the City to update its Nexus Study within the first year of the planning period, as opposed to by the end of 2016 as currently stated in the Housing Element, and consider collaborating taking part in a county-wide “grand nexus” study which is under development.

We would be happy to speak with you to discuss these comments further. If you have any questions, please feel free to contact Nadia Aziz at (408) 280-2453.

Sincerely,

/s/

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<sup>6</sup> Revised Public Draft, B-83.

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