

## **Law Foundation of Silicon Valley Letter**

### **Comment 1: The HE Fails to Analyze Cupertino's Failure to Produce Affordable Units During the Past Planning Period.**

Local jurisdictions are obligated to identify adequate sites with appropriate densities and development standards to accommodate the RHNA. State Housing Element law recognizes that cities and counties do not have control over market conditions and often do not have adequate resources to produce the number of lower income units identified in the Regional Housing Needs Allocation (RHNA). The RHNA is a planning goal and not a production obligation for local jurisdictions.

Despite the challenges with funding limitations, market conditions, and legal constraints, the City of Cupertino remains committed to affordable housing. The City has added additional information to address this comment on page B-179 of the Housing Element Appendix.

### **Comment 2: The HE Should Address Non-Governmental Constraints on Housing Development**

While the Housing Element law specifies that local jurisdictions must evaluate non-governmental constraints on housing development, the law is also clear that local jurisdictions must "address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" [Gov't Code 65583(c)(3)], but the same is not required for nongovernmental constraints.

#### **Economic Displacement**

As a built out community, housing development in Cupertino has primarily occurred through recycling of existing underutilized commercial/mixed use properties. During the last Housing Element period, no housing project involving the demolition of existing multi-family housing occurred, resulting in no direct displacement of existing residents.

For the 2014-2022 Housing Element, future housing is expected to occur primarily on mixed use properties and by infilling existing residential developments. The Hamptons site is the only site with the potential to displace some existing tenants. The Hamptons has a total of 34 Below Market Rate (BMR) units within its development and has expressed to the City that they intend to maintain and preserve the 34 BMR units. Additionally, Strategy 18, Housing Preservation Program, provides that if a proposed development would cause a loss of multifamily housing, the development must comply with the City's BMR program, provide at least as much housing in the new development as currently exists, and mitigate adverse impacts on displaced tenants.

The City's housing policies are designed to increase the supply of housing in the City so that the supply of housing can better meet the demand, and costs will, over time, be moderated. Strategy 7, the City's Housing Mitigation program, will ensure that each new residential and commercial development will either provide affordable housing or pay housing mitigation fees to increase the supply of affordable housing. The City has added additional information to address this comment on page HE-39 of the Housing Element, under Strategy 18 (Housing Preservation Program).

### **Community Resistance to Affordable Housing**

The 2014-2022 Housing Element was developed with extensive consultation with the community. The overall residential sites strategy, including priority and opportunity sites, was vetted through the public participation process and provides adequate capacity for the City's new RHNA.

Opposition to affordable housing typically focuses on concentration, density, and quality. The 2014-2022 Housing Element includes a program to address community opposition to affordable housing – the City's well-received Housing Mitigation Program. With the funding generated by this program, the City has been able to provide assistance to the underserved segments of the community, including the elderly, disabled, and first-time buyers. The City is in the process of updating the Nexus Study that supports the implementation of the Housing Mitigation Program. This update will enhance the effectiveness of the program and expected to be completed in 2015.

### **Comment 3: The HE's Quantified Objective and Programs Require Additional Specificity**

#### **Programs Lack Meaningful Timeframes**

The Draft 2014-2022 Housing Element has been revised to provide additional specificity:

- Strategy 8 (Below Market-Rate (BMR) Affordable Housing Fund (AHF): clarified the time frame to solicit projects annually and updated the time frame for the Nexus Study (from 2016 to 2015).
- Strategy 11 (Incentives for Affordable Housing Development): clarified the time frame to solicit projects annually.
- Strategy 15 (Residential Rehabilitation): clarified the time frame to solicit projects annually.
- Strategy 16 (Preservation of At-Risk Housing Units): added language related to conducting outreach to tenants of any potential conversion and available affordable housing assistance programs.

The Housing Element has an eight-year planning period, with many programs to be implemented on an ongoing basis. Annually, through the City's reporting to the State HCD on the implementation of the Housing Element, the City also makes necessary adjustments to ensure more effective implementation of Housing Element programs.

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

Strategy 7, the Residential Housing Mitigation Program, already establishes a citywide affordable housing goal of 15 percent.

#### **Strengthen Strategy 8 – Nexus Study to Update Mitigation Fees**

The City is expending significant resources in implementing its housing programs and commitments. Specifically, the City is fast tracking the update to the Nexus Study for the Housing Mitigation Program, with an anticipated adoption in 2015, and Strategy 8 has been revised to show that the Study will be completed in 2015.