

From: [Beth Ebben](#) on behalf of [City of Cupertino Planning Dept.](#)
To: [Planning Dept.](#); [Alan Takahashi](#); [Don Sun](#); [Geoff Paulsen](#); [Margaret Gong](#); [Winnie Lee](#)
Subject: FW: comments on Housing Commission's approval of the Housing Element
Date: Wednesday, April 15, 2015 9:51:59 AM

From the Planning Department's general mailbox:

From: Randy Shingai [mailto:randyshingai@gmail.com]
Sent: Tuesday, April 14, 2015 9:22 PM
To: City of Cupertino Planning Dept.
Cc: City Council; nadia.aziz@lawfoundation.org; Naomi Nakano-Matsumoto; better-cupertino-work-group@googlegroups.com
Subject: comments on Housing Commission's approval of the Housing Element

The Housing Commission met on April 9, to approve Resolution 15-04, the commission's recommendation to the City Council on housing mitigation fees. The range of fees proposed by the City's consultant, Keyser Marston Associates, Inc. were extensive, and City staff to their credit didn't low ball their recommendations.

<http://www.cupertino.org/files/managed/Document/484/Summary%20%26%20Recommendations%20Report.pdf>

<http://cupertino.legistar.com/gateway.aspx?M=F&ID=29c8157e-de49-42c7-86ef-912b00698c23.doc>

The Planning Commission just met to vote on a recommendation to the City Council to approve the draft Housing Element.

It is bad government to approve a Housing Element that does not contain the changes to housing mitigation fee structures that are in process, but that the City Council has yet to approve. It is bad government because decoupling the setting of housing mitigation fees from the approval of the Housing Element could for instance allow the Council to approve a Housing Element that purports to support RHNA goals with no assurance that the means to support the achievement of those goals will be forthcoming.

The steps in the process should be:

- Housing Commission recommends new housing mitigation fees
- Council adopts new housing mitigation fees
- Changes to housing mitigation fees are incorporated into draft Housing Element
- Planning Commission recommends draft Housing Element for approval by Council
- Council adopts Housing Element

To even consider a Housing Element without having any idea on what sort of housing mitigation funds will be available to support progress on RHNA goals calls the entire process into question. You as a body kept mentioning that your overarching concern was to approve a Housing Element according to schedule. Put another way, "Rubber stamping the Housing Element was your task for this evening." Mission accomplished!

Well done!

Randy Shingai
San Jose 95129

From: [Beth Ebben](#) on behalf of [City of Cupertino Planning Dept.](#)
To: [Planning Dept.](#); [Alan Takahashi](#); [Don Sun](#); [Geoff Paulsen](#); [Margaret Gong](#); [Winnie Lee](#)
Subject: FW: Government Code 65588(a) should trump use of Government Code 65583.2(c)(3)(B)
Date: Monday, April 13, 2015 8:40:29 AM

From the Planning Department's general mailbox:

From: Randy Shingai [mailto:randyshingai@gmail.com]
Sent: Sunday, April 12, 2015 6:07 PM
To: City of Cupertino Planning Dept.
Cc: nadia.aziz@lawfoundation.org; City Council; better-cupertino-work-group@googlegroups.com
Subject: Fwd: Government Code 65588(a) should trump use of Government Code 65583.2(c)(3)(B)

Dear Cupertino Planning Commission members,

I would like to call your attention to a Dec. 1, 2014 e-mail that I sent to the Cupertino City Council. The City of Cupertino's response to the letter sent from Nadia Aziz of the Law Foundation of Silicon Valley commenting on the City's draft Housing Element. It is follows below.

I think the City's contention that there is community resistance to the development of affordable housing is disingenuous. I think the proper characterization is that there is **community resistance to the development of housing in general**. Given that, I think **most people would like to see a good faith attempt by the City to meet its RHNA goals**. Failure to meet RHNA goals will likely result in litigation that could force the City of Cupertino to provide low cost housing units in the future. If this were to occur after the housing units approved in the City's proposed Housing Element are built, this would almost certainly result in more overall housing units being built.

If the City approves housing units then these units should have a reasonable expectation of meeting the City's RHNA goals so that additional units do not have to be built over and above what is already planned in the Housing Unit.

Thank you,
Randy Shingai

----- Forwarded message -----

From: **Randy Shingai** <randyshingai@gmail.com>
Date: Mon, Dec 1, 2014 at 11:48 AM
Subject: Government Code 65588(a) should trump use of Government Code 65583.2(c)(3)(B)
To: City Council <citycouncil@cupertino.org>, City Clerk <cityclerk@cupertino.org>, "dapaul@darcypaul.org" <dapaul@darcypaul.org>, Savita Vaidhyanathan <savita4council@gmail.com>
Cc: "better-cupertino-work-group@googlegroups.com" <better-cupertino-work-group@googlegroups.com>

Dear Sirs:

This is regarding the draft Housing Element for 2014-2022 that was made available for the

December 2, 2014 Regular Council Meeting, and follows up an earlier email.

Here is Government Code 65588(a):

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

I believe the use of Government Code 65583.2(c)(3)(B) is inconsistent with Government Code 65588(a) because it can be demonstrated that the use of 65583.2(c)(3)(B) produces consistently erroneous results within the City of Cupertino. The City of Cupertino uses Government Code 65583.2(c)(3)(B) to project that high-density housing will produce only lower income housing within the City of Cupertino. Recent and past history has shown that high density housing rarely produces lower income housing units within the City of Cupertino.

While the City *is allowed to use Government Code 65583.2(c)(3)(B)* to calculate the number of units that can be used to fulfill its share of the regional housing need for lower income housing, the City *is not required to use 65583.2(c)(3)(B)*. Cupertino can instead use a more conventional approach. That is the approach described in 65583.2(c)(3)(A).

Here is Government Code 65583.2(c)(3):

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

The City of Cupertino used 65583.2(c)(3)(B) to estimate the number of lower income housing units that would be produced by its inventory of suitable sites for housing in its 2007-2014 Housing Element. According to Table 7.2 in the draft Housing Element Technical Report for 2014-2022, the City achieved 7.3% of its Very Low and 10% of its Low income RHNA goals for the preceding 2007-2014 RHNA period, while at the same time achieving 164% of its Above Moderate income RHNA goals up through 2013. So it's fair to say that there has been a systematic overestimation of Very Low and Low income housing unit production and a systematic underestimation of Above Moderate income housing unit production. I believe the use of 65583.2(c)(3)(B) is responsible for this.

In the draft Housing Element Technical Report for 2014-2022, Tables 5.1 and 5-2 inventory a total of 1,389 possible housing units that can be constructed on 6 sites. Every one of these

units are projected to have an Affordability Level of Very Low or Low. If these projections are even half correct and these sites are all developed in the 2014-2022 time frame, then the City of Cupertino should easily meet its Very Low and Low income RHNA goals for 2014-2022. However, any reasonable person would doubt that this is going to happen.

You have an obligation to follow Government Code 65588(a), because if it can be demonstrated that you were aware of a problem, and that you did nothing to correct it, it might have legal implications. For instance, some housing advocacy group might decide to sue the City for not meeting its RHNA goals for lower income housing. They might argue that the City selected an estimation method that allowed the City to shirk its responsibility to provide lower cost housing.

Why is this important? Because if the City knows that there will be a shortfall in the number of lower cost housing, it can start to plan mitigation measures sooner rather than later. The other reason is that the systematic underestimation of the number of Above Moderate income units produced result in more overall housing units being produced.

Please make this part of the public record for the December 2, 2014 Regular Council Meeting.

Thank You,

Randy Shingai

From: info@cupertinogpa.org
To: info@cupertinogpa.org
Subject: Comment from City of Cupertino General Plan Amendment Website
Date: Wednesday, April 01, 2015 7:38:10 AM

Comment Submitted by:

Name: Hassan Alnakhli
Email: halnakhli@ud.edu.sa

Possibly Regarding Page:

[/app_pages/view/89](#)

Subject:

Interested outside USA

Comment:

regarding:

The Housing Element

I am interested in your way to address the problem and finding best solutions for your community people to live in security and comfort.