



**CITY MANAGER'S OFFICE**

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August 22, 2018

Mr. Peter Hertan, Foreperson  
Santa Clara County Civil Grand Jury  
Superior Court Building  
191 North First Street  
San Jose, CA 95113

Re: Response to the Santa Clara Civil Grand Jury Report on "Affordable Housing Crisis: *Density is our Destiny*"

Dear Mr. Hertan,

Please find the City's response to the Santa Clara Civil Grand Jury Report on "Affordable Housing Crisis: *Density is our Destiny*". The response was reviewed and approved by the Cupertino City Council on August 21, 2018. Cupertino is required to respond to ten Findings and nine Recommendations. The attached enclosure contains a table with the City's responses to the Findings and Recommendations. In summary, the City agrees with seven Findings and partially agrees with three Findings. In addition, responses to the Recommendations have been included. If it requires future implementation, a specific timeframe has been given.

Sincerely,

Amy Chan  
City Manager

Enclosure – Table with responses to Findings and Recommendations

cc: Aarti Shrivastava, Assistant City Manager  
Rocio Fierro, Acting City Attorney

Findings	Findings Response	Recommendations	Recommendations Response
1a: Lack of housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing.	<u>Agree</u>		
		1a: To improve jobs-to-housing imbalances, the cities of Palo Alto, Santa Clara, Milpitas, Mountain View and Sunnyvale should identify, by June 30, 2019, parcels where housing densities will be increased. The identification should include when projects are expected to be permitted and the number of BMR units anticipated for each parcel.	<p><b><u>Requires further analysis.</u></b></p> <p>The cities of Palo Alto, Santa Clara, Milpitas, Mountain View and Sunnyvale should review and consider this recommendation.</p> <p><i>Note: Cupertino has planned for and made progress in implementing its Regional Housing Needs Allocation (RHNA) and goals of its Housing Element.</i></p>
2a: Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents.	<u>Partially Agree</u>		

Findings	Findings Response	Recommendations	Recommendations Response
		<p>2a: The County should form a task force with the cities to establish housing impact fees for employers to subsidize BMR housing, by June 30, 2019.</p>	<p><b><u>Requires further analysis.</u></b></p> <p>Cupertino has one of the highest Below Market Rate housing impact and linkage fee requirements in Santa Clara County. The City is working to update this in FY 2018-2019. However, if a county led task force is established, it should take into account the efforts Cupertino has made to establish high impact and linkage fees and consider only providing a framework of how an employer based impact fee might be established, while allowing cities the flexibility to set their rates tailored to each jurisdiction, consistent with the established framework.</p>
<p>2b: Contributions to BMR housing from employers in the County are not mandated nor evenly shared.</p>	<p><b><u>Agree</u></b></p>		

Findings	Findings Response	Recommendations	Recommendations Response
		<p>2b: Every city in the County should enact housing impact fees for employers to create a fund that subsidizes BMR housing, by June 30, 2019.</p>	<p><b><u>Requires further analysis.</u></b>  Cupertino has one of the highest Below Market Rate housing impact and linkage fee requirements in Santa Clara County. The City is working to update this in FY 2018-2019. However, if a county led task force is established, it should take into account the efforts cities have made to establish high impact and linkage fees and consider only providing a framework of how an employer based impact fee might be established and allow cities the flexibility to set their rates tailored to each jurisdiction, consistent with the established framework. Cupertino was able to recently contribute \$4.672 towards an 18-unit senior affordable project being developed by Charities Housing within the City. The project broke ground in April 2018.</p>
<p>3a: RHNA sub-regions formed by several San Francisco Bay Area counties enable their cities to develop promising means to meet their collective BMR requirements. Such sub-regions can serve as instructive examples for cities in the County.</p>	<p><b><u>Agree</u></b></p>		

Findings	Findings Response	Recommendations	Recommendations Response
		3a: Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing, by the end of 2019.	<p><b><u>Requires further analysis.</u></b></p> <p>The Cities Association of Santa Clara County is already considering the formation of a RHNA subregion for Santa Clara County. This is being considered by member cities prior to the Cities Association Board initiating formal proceedings to form a subregion.</p>
		3b: A RHNA sub-region should be formed including one or more low-cost cities with one or more high-cost cities, by the end of 2021.	<p><b><u>Requires further analysis.</u></b></p> <p>The Cities Association of Santa Clara County is already considering the formation of a RHNA subregion for Santa Clara County. Santa Clara County has both low-cost and high-cost cities. This is being considered by member cities prior to the Cities Association Board initiating formal proceedings to form a subregion.</p>
3c: More BMR units could be developed if cities with lower housing costs form RHNA sub-regions with adjacent cities with higher housing costs.	<b><u>Partially Agree</u></b>		

Findings	Findings Response	Recommendations	Recommendations Response
		3c: High-cost cities and the County should provide compensation to low-cost cities for increased public services required for taking on more BMR units in any high-rent/low-rent RHNA sub-region, by the end of 2021.	<b><u>Requires further analysis.</u></b> Once a subregion is formed, cities can consider, within statutory limitations, the best way to partner with low-cost cities on the production of more BMR units while ensuring that each community continues to have a healthy and diverse mix of housing.
3e: High-cost/low-cost RHNA sub-regions could be attractive to high-cost cities because they could meet their BMR requirements without providing units in their cities.	<b><u>Agree</u></b>		
5a: Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements.	<b><u>Agree</u></b>		

Findings	Findings Response	Recommendations	Recommendations Response
<p>6: In-lieu fees, when offered as an option, are too low to produce the needed number of BMR units and delay their creation.</p>	<p><u>Agree</u></p>	<p>6: Cities with an in-lieu option should raise the fee to at least 30% higher than the inclusionary BMR equivalent where supported by fee studies, by the end of 2019.</p>	<p><b><u>Requires further analysis.</u></b></p> <p>The City adopted one of the highest housing mitigation fees in Santa Clara County in May 2015. The City is conducting an Economic Feasibility Study, to be completed in 2019, which will evaluate existing fees. While the City’s objective is to obtain on-site affordable units, the BMR Ordinance permits developers to meet the requirement by providing off-site units, land donation, or payment of Housing Mitigation Fees equivalent to the project’s BMR responsibility. Small residential projects with less than seven units have the option of paying the Housing Mitigation Fee or provide one BMR unit. Cupertino’s high BMR fees has increased the amount of affordable housing now included in development projects. Several projects approved within the City now include affordable housing where earlier the developer may have proposed the payment of an in-lieu fee as an alternative.</p>

Findings	Findings Response	Recommendations	Recommendations Response
<p>7: NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units.</p>	<p><b><u>Partially Agree</u></b></p>	<p>7: A task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.</p>	<p><b><u>Requires further analysis.</u></b> Cupertino will consider collaborating with such a task force should one be formed. However, residents continue to have valid concerns about traffic congestion and the lack of meaningful transit in the West Valley. In addition, the City has identified and is working on collaboration on ways to address regional transportation solutions that cannot be solved by any one city with other cities, businesses and the VTA.</p>
<p>8: It is unnecessarily difficult to confirm how many BMR units are constructed in a particular year or RHNA cycle because cities and the County only report permitted units.</p>	<p><b><u>Agree</u></b></p>	<p>8: All 15 cities and the County should annually publish the number of constructed BMR units, starting in April 2019.</p>	<p><b><u>Has not been implemented but will be implemented in the future.</u></b> This information will be provided on the City's website, starting in April 2019.</p>