

CC 05-06-2025

Item No. 9

Interim Urgency Ordinance
Imposing a Moratorium on
transition of Multi-Family Use
Housing to Student Housing

Written Communications

From: [Liang Chao](#)
To: [Tina Kapoor](#); [City Clerk](#)
Subject: Fw: Agenda Item 9 - May 6, 2025 City Council Meeting
Date: Tuesday, May 6, 2025 2:42:04 AM
Attachments: [Agenda Item 9 - Letter re May 6, 2025 City Council Meeting.pdf](#)

I see that this letter from Prometheus was not sent to the City Manager's office or the city clerk.

So forwarding, just in case you didn't get it.



From: Vanessa Hernandez <VHernandez@prometheusreg.com>
Sent: Monday, May 5, 2025 4:23 PM
To: Liang Chao <lchao@cupertino.gov>; Kitty Moore <kmoore@cupertino.gov>; Sheila Mohan <smohan@cupertino.gov>; J.R. Fruen <jrfruen@cupertino.gov>; R "Ray" Wang <rwang@cupertino.gov>; City Council <citycouncil@cupertino.gov>; City Attorney's Office <CityAttorney@cupertino.gov>
Subject: Agenda Item 9 - May 6, 2025 City Council Meeting

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Good afternoon, Mayor, Vice Mayor, and Councilmembers:

On behalf of Don Peterson , SVP of Prometheus Real Estate Group, please find the attached letter for your review.

Thank you,

Vanessa Hernandez | Sr. Administrative Assistant-Legal & Finance
PROMETHEUS REAL ESTATE GROUP, INC. | Est. 1965 | Certified B Corporation™
p: 650.931.3447 | [Prometheusapartments.com](#) | [vhernandez@prometheusreg.com](#)

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May 5, 2025

VIA EMAIL

Mayor Liang Chao lichao@cupertino.gov
Vice Mayor Kitty Moore kmoore@cupertino.gov
Councilmember Sheila Mohan smohan@cupertino.gov
Councilmember J.R. Fruen jrfruen@cupertino.gov
Councilmember R "Ray" Wang rwang@cupertino.gov
citycouncil@cupertino.gov

Re: Agenda Item 9 - May 6, 2025 City Council Meeting
Student Housing for Foothill-De Anza Community College District
McClellan Terrace Apartments, Cupertino

Dear Mayor, Vice Mayor and Councilmembers:

We oppose Agenda Item 9, the proposed Interim Urgency Ordinance Prohibiting Conversion of Multi-Family Housing to Student Housing (the "Ordinance Prohibiting Student Housing").¹ We request your consideration of the following key points for your consideration and ask you to vote No.

Key Reasons to Vote No

1. The proposed Ordinance Prohibiting Student Housing favors the current residents of 84 market-rate units at McClellan Terrace (the "Property") over the interests of over 300 housing insecure students attending Foothill-De Anza Community College District ("College District")² and rejects the will of the voters in the City of Cupertino who voted for Measure G in 2020 by a 58.88% majority.³ Nowhere in Measure G is the location of student housing restricted, yet this is precisely what the urgency ordinance attempts to do – prohibit student housing within a half mile radius of the College. The half mile radius is not only arbitrary but illogical since student housing should be near campus, not farther away. In addition, the purchase by the College District is not taking away housing stock from the City of Cupertino, but instead utilizing housing for an underserved need, housing insecure students.

¹ This is submitted on behalf of Prometheus Real Estate Group, Inc. and McClellan Road, LP and incorporates by reference all comments submitted or to be submitted by the College District and others supporting student housing at McClellan Terrace and opposing the proposed Interim Urgency Ordinance Prohibiting Conversion of Multi-Family Housing to Student Housing.

² <https://www.fhda.edu/about-us/student-housing.html>.

³ [https://ballotpedia.org/Foothill-De_Anza_Community_College_District,_California,_Measure_G,_Bond_Issue_\(March_2020\)](https://ballotpedia.org/Foothill-De_Anza_Community_College_District,_California,_Measure_G,_Bond_Issue_(March_2020)).

2. There is no urgency to support the extreme remedy of the proposed “urgency” Ordinance Prohibiting Student Housing. In addition to the ability for residents to stay for over a year - through June 2026 - and receive relocation assistance (see 3 below), there are at least an estimated 331 available units to rent in Cupertino. Applying the industry standard 5% availability (which 5% rate is also referenced in the Staff Report) to the 6,631 apartments in Cupertino per the California Department of Finance yields the 331 available units estimate. Prometheus has approximately 90 available units in our portfolio alone. Further, it is Prometheus’s goal to add to the housing stock by building additional units at its properties as it did at Biltmore where 80 new homes were added in 2014.
3. The proposed Ordinance Prohibiting Student Housing Existing ignores that the current residents in the 84 units may stay in their apartments if they would like to, through June 2026 at their current rent. In addition, relocation assistance will be provided to all current residents. See the College District’s FAQ (<https://foothill.edu/gov/academic-senate/2024-25/apr7/Frequently%20Asked%20Questions.pdf>). The Staff Report is wrong when it states that residents will be “required to move out either upon expiration of their 12 month leases, or sooner...”
4. Prometheus has offered to accommodate McClellan Terrace residents looking to move to a nearby Prometheus Cupertino property after close of escrow on McClellan Terrace through June 30, 2026. (For McClellan Terrace residents, application fees are waived; and generally upon conditions being met, a reduced deposit of \$99 (or if conditions not met, the deposit is generally \$500); and would also be eligible for all new lease concessions being offered at the time.)
5. If Cupertino moves forward to directly prohibit conversion of existing market rate housing to student housing, it will be the only California city to do so other than San Francisco. San Francisco’s ordinance was enacted in 2012 in the context of a for-profit university purchasing nine properties, including rent-controlled units. The circumstances are starkly different here -- the College District is a public community college using a voter approved bond measure to purchase housing for housing insecure students at a location that is uniquely situated to the college campus (see Background section below).
6. The proposed Ordinance Prohibiting Student Housing is not what the City said it would do at the April 2, 2025 Council meeting. At that meeting, Mayor Chao moved and Vice Mayor Moore seconded to add a *study session* to a future agenda as follows:
“A study session on the multifamily apartment conversion to student housing issue, and whether the City can do it; include existing proposed bills on student housing and comparisons to municipal codes on student housing in other jurisdictions, such as San Francisco and Berkeley; and consider a potential ordinance for student housing, so the City has control of its use and impact.”

There has been no study session yet the City is considering adopting an urgency ordinance despite its representations to the public at the April 2 Council meeting.

7. Furthermore, there are many legal considerations that must be addressed before an ordinance of this type is adopted by the City (see Legal Perspective section below).

Background

In addition to the above Key Reasons, we ask that you consider that for over 40 years Prometheus has operated multifamily housing in the City of Cupertino. Prometheus is a family-owned company that believes in giving back and is a Certified B Corporation.⁴ Today, Prometheus currently manages seven apartment communities in Cupertino with 1,795 apartment homes. One of those apartment communities is McClellan Terrace located at 7954 McClellan Road.

In addition, as explained by the College District, the Property is uniquely situated (being the only suitable property within walking distance of the De Anza campus) and was selected for student housing given the following eleven criteria (see <https://foothill.edu/gov/academic-senate/2024-25/apr7/2025-03-10%20FHDA%20Housing%20Update.pdf>):

- Located within a one-mile radius of the De Anza campus.
- Site is not adjacent to any single-family residential areas on more than one side.
- Minimum size is one (1) acre.
- Site does not have any known environmental or geotechnical defects.
- Site is not abutting or adjacent to any known watersheds.
- If the site is improved, improvements have no known environmental conditions that require remediation.
- Site does not have stands of mature trees and w/o protected flora or fauna.
- Site must have good vehicular access and existing curb cuts.
- Site must have good access to retail and transportation amenities.
- Site is one parcel or has contiguous ownership (one owner).
- Site has no deed restrictions or covenants that affect the district's ability to utilize it as intended.

Legal Perspective

Should the City enact the proposed urgency ordinance, the City risks potential legal challenges. The Staff Report's reasoning for the Ordinance Prohibiting Student Housing completely fails to meet the requirement set forth in Government Code section 65858. This statute requires jurisdictions to make written legislative findings that "there is a current and immediate threat to the public health, safety, or welfare," and that the approval of entitlements for certain land uses "would result in that threat to public health, safety, or welfare." There is no pending entitlement, let alone a submitted development application, thus the prerequisite for Section 65858 has not occurred. Moreover, there is no evidence in the record supporting a finding of "a current and immediate threat to the public health, safety, or welfare." Not only is there an absence of immediacy for the reasons set forth above, there is no evidence of the public health, safety, or welfare being threatened. (See Gov. Code 65858(a) and Attorney General of California Letter dated July 17, 2023.) If an illegal retroactive application of an ordinance or

⁴ <https://www.bcorporation.net/en-us/find-a-b-corp/company/prometheus-real-estate-group/>.



other illegal means to prevent student housing transactions is adopted, it would expose the City to a number of possible challenges including writs of mandate under California Code of Civil Procedure sections 1085 and 1094.5, violations of CEQA, inconsistency with the General Plan and Measure G, as well as constitutional claims which could provide for damages and attorneys' fees against the City. Such constitutional claims include but are not limited to equal protection, substantive due process, procedural due process, regulatory takings, and violation of the contracts clause. In addition, a tortious interference claim may also be actionable.

If the Council wants to adopt thoughtful legislation that balances the need for providing housing broadly and for student housing, it has time to do so. Adopting a procedurally flawed urgency ordinance would be a step in the wrong direction.

Closing

In closing, we urge you to vote NO since the proposed ordinance does not serve the public good and because there is no displacement emergency - over a year notice to stay in the apartment, relocation assistance and availability of apartments in Cupertino (including accommodation at Prometheus properties) to serve these 84 units, in addition to all of the other reasons above.

Thank you for your consideration. If you would like to discuss or if we can provide any additional information, please do not hesitate to contact me.

Very truly yours,

Don Peterson
Senior Vice President of Development

cc: Floy Andrews, Interim City Attorney, CityAttorney@cupertino.gov

From: [Deanna Olsen](#)
To: [Public Comments](#)
Cc: [City Clerk](#)
Subject: Public Comment | Agenda Item #9 | May 6, 2025
Date: Tuesday, May 6, 2025 4:01:35 PM
Attachments: [Joint LOS Ahrens Becker FDACCD 5.5.25 final.pdf](#)

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Dear City Clerk,

Please share the attached joint letter from California State Senator Josh Becker & 26th District Assemblymember Patrick Ahrens with the Cupertino City Council and include in your written comment for today's meeting.

Thank you,

Deanna Olsen



May 5, 2025

RE: Support for Affordable Student Housing

Dear Mayor Chao and Members of the City Council,

As representatives of California's 26th Assembly District and 13th Senate District, we are pleased to see Foothill-De Anza Community College District and the city of Cupertino's interests in housing for our residents and student population.

Our state's community colleges are essential to California's economic mobility, workforce development, and long-term prosperity. Foothill and De Anza colleges serve as gateways to higher education for thousands of students, many from right here in Cupertino. These students become our region's nurses, teachers, engineers, and small business owners. They are central to the vitality of Silicon Valley's future.

We know that potential cannot be realized without stability. The South Bay Area remains one of the most expensive housing markets in the country. For many students, the lack of affordable housing is a defining barrier to enrolling and completing their education. In our work at the state level, we have consistently prioritized affordable housing, access to education, and workforce training as pillars of economic resilience. The District's approach to student housing directly supports all three.

We respectfully urge the Council to refrain from rushing this process and to engage in good-faith collaboration with our college district to find an equitable solution. More conversations are needed before we rush to legislate without proper participation and discussion.

Thank you for your consideration and continued commitment to strengthening our communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Becker".

Josh Becker
State Senator, 13th District

A handwritten signature in black ink, appearing to read "Patrick Ahrens".

Patrick Ahrens
Assemblymember, 26th District

From: [Lopez, Deisy](#)
To: [Liang Chao](#); [Kitty Moore](#); [Sheila Mohan](#); [J.R. Fruen](#); [R "Ray" Wang](#); [City Council](#)
Cc: [Absher, Sean](#); [Burns, Allison](#); [Maestri, Gregory](#); [Nelson, Lori](#); [Elam, Alicia](#); [Floy Andrews](#); [vshah@awattorneys.com](#); [jfox@awattorneys.com](#); [Tina Kapoor](#); [Benjamin Fu](#); [City Clerk](#)
Subject: 5-6-25 City Council Meeting - Agenda Item No. 9
Date: Tuesday, May 6, 2025 3:20:18 PM
Attachments: [image003.png](#)
[image004.png](#)
[05-06-2025 FHDA Opposition to Urgency Ordinance, 4937-3950-5215 1.pdf](#)

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Good afternoon,

On behalf of Sean Absher, please see the attached letter in opposition to Agenda Item No. 9 on tonight's City Council agenda. The letter with exhibits is available at the following link:

<https://filecloud.sycr.com/url/7rghdipkivfxkwyi>
password: 024#F38G#031

Please include the letter with exhibits as part of the public record for Agenda Item 9, "Approval of an Interim Urgency Ordinance Imposing a Moratorium on the Transition of Multiple-Family Use Housing to Student Housing."

Thank you,



Deisy Lopez

Public Law Litigation Assistant

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May 6, 2025

VIA EMAIL

City of Cupertino City Council
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Councilmember R “Ray” Wang
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*Re: May 6, 2025 City Council Public Hearing and Meeting to Consider Approval of
Proposed Interim Urgency Ordinance*

Dear Council Members and City Attorney:

We understand that on May 6, 2025 the City of Cupertino (“City”) City Council will conduct a public hearing to consider “An Interim Urgency Ordinance of the City of Cupertino, California, Enacted Pursuant to California Government Code Section 65858 Establishing a 45-Day Temporary Moratorium on the Transition of Multiple-Family Use Housing to Student Housing Within a One Half Mile Radius of Foothill-De Anza Community College in the City of Cupertino During the Pendency of the City’s Review and Adoption of Permanent Zoning Regulations for Such Uses” (the “Ordinance”). On behalf of Foothill-DeAnza Community College District (the “District”), we submit the following opposition and comments. Through this opposition letter, which fully incorporates by reference the opposition letter filed by Prometheus Real Estate Group, Inc. (“Prometheus”) and McClellan Road, L.P. (“MRLP”) dated May 5, 2025 (“Prometheus Letter”), the District intends to exhaust its administrative

remedies in the event the City Council votes to adopt the Ordinance, which requires the affirmative vote of a super majority of the City Council.

The clear intent of the Ordinance is to impair the right of the District to proceed with the lawful purchase of the McClellan Terrace apartment building located at 7918 McClellan Road (aka 7964 McClellan Road) APN 362-12-001 and APN 362-12-015 (“Property”) from the owner, MRLP. The Property is designated as Medium Density residential in the Cupertino General Plan (Community Vision 2015-2040) and is zoned Planned Development, Multiple-Family Residential P(R3).¹ The District’s use of the Property for student housing is a permitted use in the R3 zone.² Further, such use does **not** require any entitlement, permit or approvals by the City.³ Equally clear is the fact that the District’s use of the Property for student housing is **not** a “conversion” as defined in the Cupertino Zoning Ordinance⁴ subject to entitlements, permits, or approvals by the City. As set forth below, the Ordinance fails to meet the standard for urgency legislation. Further, the Ordinance infringes on the District’s statutory and constitutional rights and protections and interferes with the District’s contractual rights to purchase the Property for its intended use for student housing. The Ordinance should not be approved for the reasons stated in this letter.

FACTUAL BACKGROUND

Satisfying the Critical Need for Affordable Student Housing

The District’s mission statement is educational excellence and student success. Central to this mission is to break down barriers that prevent students from achieving their goals. The District’s 2024-2031 Strategic Plan identified meeting the basic needs and mental health of students as a priority.⁵ Affordable student housing for community college students is a basic need and this need is not being met. In 2023, the Community College League of California issued findings from a 2023 Basic Needs Survey of over 66,000 students at 88 community colleges and found that 3 out of 5 students were housing insecure and 1 in 4 students were homeless.⁶ In a 2024 report by the California Legislative Analyst’s Office, more than half of California’s community college students faced housing insecurity in 2023, and about a quarter of those nearly 2 million students have experienced homelessness.⁷

More than a decade ago the District understood that its students faced critical shortage of affordable student housing. Student housing was a topic of conversation at the February 3, 2014 District Board of Trustees meeting.⁸ When planning for the Measure G Bond projects list, the District Board of Trustees approved the inclusion of affordable student and employee housing. The list of approved projects in

¹ <https://www.cupertino.gov/files/assets/city/v/4/departments/documents/community-development/planning/planning-maps-and-zoning-code/z-map-07-16-2024.pdf> [Exhibit 3]

² CMC sections 19.360.030 and 19.20.020.

³ Id.

⁴ CMC section 19.08.030 defining "Condominium conversion" or "Conversion" to mean “a change in the type of ownership of a parcel (or parcels) of land, together with the existing attached structures, to that defined as a common interest development, regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structure.” CMC section 19.08.030 defines “common interest development” to mean “a condominium project, a community apartment project, a stock cooperative or a planned development.”

⁵ See Foothill-DeAnza Community College District 2024-2031 Strategic Plan, p.26. [Exhibit 4]

⁶ <https://www.ccleague.org/news/basic-needs-report-identifies-continued-lack-of-food-and-housing-security-among-california-community-college-students/> [Exhibit 5]

⁷ <https://lao.ca.gov/reports/2024/4898/Update-on-Student-Housing-Assistance-050724.pdf> at p. 3. [Exhibit 6]

⁸ <https://go.boarddocs.com/ca/fhda/Board.nsf/Public> [Study Session Item SS1.] [Exhibit 7]

Measure G Bond passed by the District voters on March 3, 2020 includes “plan, construct, acquire or contribute to affordable employee and student housing units.”⁹ The inclusion serves as a testament to the District’s commitment to support students, especially those that have basic needs challenges. The need for the District to take immediate action became evident during the pandemic as many more students faced affordable housing insecurities.

After a study conducted by the District, the Board of Trustees approved the location of student housing off campus in its May 6, 2024 regular meeting.¹⁰ A housing taskforce composed of faculty, staff, students, and administrators was formed to provide recommendations on housing. The taskforce recommended in 2024 to locate student housing within one mile of De Anza College, which further refines the Board’s approval of locating student housing in proximity to the De Anza College campus. One of the obvious reasons for this recommendation is to promote walkability consistent with the District’s Sustainability Action Plan that was adopted by the Board at their January 9, 2023 meeting.¹¹

Approval of Purchase and Sale Agreement and Early Outreach to Tenants

On March 10, 2025, the Board of Trustees approved the purchase and sale agreement and the filing of the Notice of Exemption pursuant to CEQA guidelines to acquire the Property for affordable student housing. The Property is designated as Medium Density residential in the Cupertino General Plan (Community Vision 2015-2040) and is zoned Planned Development, Multiple-Family Residential P(R3).¹² The District’s use of the Property for Student Housing is a permitted use in the R3 zone and such use does **not** require any City entitlement, permit or approvals. Prior to approving the acquisition, the District confirmed the Property was not a part of the city’s affordable housing stock.

As part of the communication provided to the current residents through the current owner, two messages were sent to all tenants on March 20, 2025, and on March 26, 2025. (See Exhibit Nos. 1 and 2). The messages to the current tenants clearly committed that tenants will be allowed to stay until June 30, 2026, should they choose. The notices further commit that relocation assistance will be provided to displaced tenants in the form of assistance in finding comparable replacement property, covering moving expenses and providing financial assistance, if applicable. These are all aspects of the commitment of the District not just to comply with the California Relocation Assistance Law (Gov. Code § 7260 *et seq.*) but to provide a human-centered approach in addressing the concerns of the potentially displaced tenants. In early April, 2025 the District also created a website to post updates and on acquisition of the Property and answers to frequently asked questions.¹³

May 5, 2025 Board of Trustees Action Approving Relocation Plan and Relocation Services Consultant

⁹ [https://go.boarddocs.com/ca/fhda/Board.nsf/files/BJ52PW03336F/\\$file/Resolution_No_2019-36_Ordering_Election.pdf](https://go.boarddocs.com/ca/fhda/Board.nsf/files/BJ52PW03336F/$file/Resolution_No_2019-36_Ordering_Election.pdf) at p. B-3 [Exhibit 8];;

https://results.enr.clarityelections.com/CA/Santa_Clara/101316/web.245375/#/summary?category=C_9 [Exhibit 9, p. 7]

¹⁰ <https://go.boarddocs.com/ca/fhda/Board.nsf/Public> [Exhibit 10, Board Business Item 22.]

¹¹ <https://go.boarddocs.com/ca/fhda/Board.nsf/Public> [Exhibit 11, Consent Calendar, Item No. 4, Plan at p. 28 (“The district should strive to reduce vehicle miles traveled (VMT) for students and employees commuting to the campus to reduce greenhouse gas emissions and minimize the infrastructure costs related to parking.”)]

¹² [https://go.boarddocs.com/ca/fhda/Board.nsf/files/DEEUBP7B4839/\\$file/Final_FHDA_StudentHousing_NOE_Memo.pdf](https://go.boarddocs.com/ca/fhda/Board.nsf/files/DEEUBP7B4839/$file/Final_FHDA_StudentHousing_NOE_Memo.pdf) [Exhibit 12.]

¹³ <https://www.fhda.edu/about-us/student-housing.html> [Exhibit 13, accessed May 5, 2025, at 12:26 pm.]

The District Board of Trustees at a duly noticed regular meeting on May 5, 2025 affirmed its strong commitment to lessening the impacts to displaced residents by implementing a relocation plan that will: (1) allow residents to remain in their units until June 30, 2026;¹⁴ (2) cover resident's moving expenses; (3) assist residents with finding comparable replacement housing; and (4) provide financial assistance to qualified displaced residents. At the May 5th meeting, the Board of Trustees approved the Proposal for Relocation Services, prepared by Overland, Pacific & Cutler ("OPC"), through its Bay Area office, to prepare a Relocation Plan for consideration by the Board of Trustees at the August 4, 2025 meeting. Under the OPC proposal, OPC will perform the following tasks to inform the Relocation Plan:

- Interview the Project households (up to one hour per household) to collect information on household size and composition, number of bedrooms in dwelling, members with disabilities and nature of the disability, preferred language, household income, current rent, and special needs related to relocation.
- Research the marketplace for available permanent housing options and establish housing costs.
- Analyze tenant data and market study results and incorporate research data into a written Plan.
- Prepare a description of the project and relocation schedule, relocation advisory services program, relocation payments to be made, the need for last resort housing, a cost estimate for carrying out the Plan, and identification of the source of the necessary funds.
- Present the draft Relocation Plan to the District and revise as directed by the District.
- Prepare a general notice concerning the availability of the Plan for public review for issuance by the District, as required, 30 days prior to its proposed approval (the Project tenants will be provided an Advisory Notice regarding the comment period with access to a copy of the Relocation Plan); and
- Include written or oral comments concerning the Plan as an attachment when it is forwarded to the Board of Trustees for approval.

All current tenants will have approximately thirteen months (through June 30, 2026) to plan for relocation to nearby housing in the same school district and utilize the relocation assistance that will be provided. This is far beyond the minimum 90-day timeframe permitted by the Relocation Assistance Law.¹⁵ The District Chancellor has reached out to the superintendents of the local K-12 school districts to discuss strategies to minimize the disruption to affected children.

Availability of Cupertino Rental Units

With respect to the availability of Cupertino Rental Units, the Staff Report is incorrect for the reasons stated in the Prometheus Letter at p. 2, Item, 2. Prometheus estimates there are 331 available rental units in Cupertino per the California Department of Finance report cited in the Staff Report. Prometheus has further stated in its opposition letter that it currently has approximately 90 available units in its real estate portfolio alone. (Prometheus Letter, p. 2, Item 2.) It is important to note that Prometheus has confirmed in its opposition letter that it has offered to accommodate current Property residents looking to move to a nearby Prometheus Cupertino property after close of escrow on the

¹⁴ The May 6, 2025 City Council Staff Report ("Staff Report") supporting the Urgency Ordinance contains the false assertion that the District's relocation plan will require residents be given a minimum of 120 days to vacate. (See Staff Report at p. 2; but see Exhibit 14.)

¹⁵ Gov. Code § 7267.3.

Property through June 30, 2026. For current Property residents, Prometheus has further stated it will waive application fees, and upon conditions being met, reduce deposit amounts and offer to residents of the Property all new lease concessions being offered at the time.¹⁶

WRIT CAUSES OF ACTION

For the reasons stated above, the Student Housing Project serves a critical need for the District's underserved students. The District Board of Trustees is firmly committed to making student housing a reality for its students after a decade of planning and searching for a viable housing project. The District Board has authorized the filing of a Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief to judicially set aside the Ordinance, should it be adopted, and seek damages, relying on the arguments set forth below.

The Ordinance Does Not Meet The Legal Standard For Urgency Legislation.

State law places strict requirements on the adoption of urgency ordinances under Government Code section 65858. As some jurisdictions have misused this procedural tool, in 2023 the Attorney General issued a letter to cities and counties statewide to provide guidance and “encourage[] local jurisdictions to review their existing urgency ordinances for validity.”¹⁷ The letter further advised developers, property owners and permit applicants “that jurisdictions with insufficiently supported urgency ordinances are vulnerable to legal challenge under existing case law.”¹⁸

Government Code section 65858 (a) requires jurisdictions to make written legislative findings that “there is a current and immediate threat to the public health, safety, or welfare,” and that the approval of entitlements for certain land uses “would result in that threat to public health, safety, or welfare.” An urgency ordinance’s findings must document the nature of the threat to public health, safety, or welfare with support from specific and demonstrable facts, not merely policy preferences or speculative concerns. Courts have held that an urgency ordinance can only be justified by “situations where an approval of an entitlement of use was imminent.”¹⁹ “[M]ere inquiries, requests, and meetings...cannot possibly present [the required] threat.”²⁰ Failure to make the required findings renders an urgency ordinance invalid as a matter of law.²¹

Here, the Ordinance makes only conclusory findings unsupported by any evidence of any actual and imminent threat to public health, safety, or welfare. Similarly, the staff report in support of the Ordinance does not even purport to provide factual support for a finding that there exists an immediate “threat to public health, safety, or welfare.”

Rather than the required current and immediate “threat to public health, safety, or welfare,” the record here establishes that the City simply wishes to prevent the sale of the Property and thereby prevent the reuse and renovation of older housing stock for a student housing project that will accommodate at least 332 students within walking distance of De Anza College. This action runs counter to the public

¹⁶ Prometheus Letter p. 2

¹⁷ Attorney General of California, Letter Regarding Urgency Ordinances, dated July 17, 2023. [Exhibit 15.]

¹⁸ Id.

¹⁹ *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1418-19, as modified on denial of reh'g (July 19, 1999); see also *California Charter Schools Association v. City of Huntington Park* (2019) 35 Cal.App.5th 362, 370-71.

²⁰ Id. at 371.

²¹ Id. at 365.

health, safety, or welfare concerns associated with the well-documented City-and state-wide shortage of student housing. The shortage is so dire that the State Assembly is currently considering an emergency proposal to require colleges to allow students to sleep in their cars overnight.²² And the District's Chancellor reports that 4.4 out of 10 students in the College District attest to housing insecurity.²³

Further, there are no current and immediate threats to the public health, safety, or welfare regarding current residents of the Property. Contrary to the unsupported assertions in the Ordinance, as explained in the Background section above, the District has committed allowing all current residents to stay in their residences at their current rent through June 2026. Moreover, the District will of course provide residents with relocation assistance in compliance with California law, including moving expenses, relocation advisory services, and rental assistance payments as applicable. As noted above, the District is also working with local K-12 school districts to allow students remain in their local schools after relocation to comparable housing and Prometheus has offered to accommodate current residents looking to move to a nearby, comparable Prometheus Cupertino Neighborhood: (1) application fees will be waived; (2) upon conditions being met, a reduced deposit of \$99 (or if conditions not met, the deposit is generally \$500); and they would also be eligible for all new lease concessions being offered at the time.²⁴

Finally, the ordinance purports to prevent the District from exercising its authority as an entity of state government and public community college district to acquire the Property for a "public project" (i.e., student housing) and require residents to vacate subject to the requirement that the District provide relocation services and benefits in accordance with the Relocation Assistance Law. Because no City entitlement or permit is required for the Student Housing Project, the City is preempted by the provisions of Education Code section 70902 and the Relocation Assistance Law from enacting an ordinance that prohibits the District from exercising its lawful authority under the Education Code and the Relocation Assistance Law.²⁵ Here, the Ordinance conflicts with state law within the meaning of Article XI, Section 7 of the California Constitution, because the Ordinance contradicts and enters a field which has been fully occupied by state law.²⁶

The Ordinance Would Be Adjudicatory in Purpose and Effect.

Although local agency code amendments are considered legislative acts, there is no reasonable dispute that the Ordinance is specifically designed to target the sale of the Property. The nature of a decision-making body does not determine whether an act is adjudicatory or legislative, nor do the characteristics of the decision-making process or the breadth of the body's discretion. (*See Pacifica Corp. v. City of Camarillo* (1983) 149 Cal.App.3d 168, 176.) Given its targeted nature, the Ordinance is adjudicatory in nature, and it must be supported by findings and evidence in the record. (Code Civ. Proc. § 1094.5.)

²² See AB-90 Introduced by Assembly Member Jackson January 6, 2025; *Politico* from April 13, 2025, <https://www.politico.com/news/2025/04/13/ca-students-living-in-cars-00287409>. [Exhibit 16.]

²³ See *Los Altos Town Crier* from April 15, 2025, https://www.losaltosonline.com/schools/cupertino-residents-disappointed-by-foothill-de-anza-s-housing-project/article_a599c241-a046-486d-b604-0a7b767bd029 [Exhibit 17.]

²⁴ See Prometheus Letter at p. 2, Item 4.

²⁵ See Cal. Const., Art. XI, § 7 ("A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."); *Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 290.

²⁶ *Bravo Vending v. City of Rancho Mirage* (1993) 16 Cal.App.4th 383, 396.

Here the record contains evidence of the local and statewide student housing crisis, the District's eleven distinct characteristics of the Property that enable it to be appropriately retrofit as student housing,²⁷ the infeasibility of the District constructing new student housing from the ground up,²⁸ the rental market research shown in the Prometheus letter, and the contract with the relocation consultant the District approved at the May 5, 2025 Board of Trustees meeting to assist current residents.²⁹

Even if Legislative, the Ordinance Would Be Arbitrary and Capricious.

A legislative action by a local agency will be overturned by a court if the action is arbitrary, capricious, wholly lacking in evidentiary support, or fails to conform to the procedures required by law. (*Fullerton Joint Union High Sch. Dist. v. State Bd. of Educ.* (1982) 32 Cal.3d 779, 786.) There must be a legally sufficient connection between the regulation in question and a legitimate governmental purpose. (*Loewenstein v. City of Lafayette* (2002) 103 Cal.App.4th 718, 731.)

The Ordinance cannot meet this standard. A ban on the creation of student housing through the reuse and renovation of older housing stock is inherently arbitrary, supporting housing for one group of people (existing residents) at the expense of another group (College District students) that is arguably in greater need.

The Ordinance Requires Environmental Review Under the California Environmental Quality Act ("CEQA") Contrary to the Staff Report.

CEQA mandates environmental review prior to discretionary government decisions (termed "projects"), including decisions to adopt an ordinance. (Pub. Res. Code § 21080(a).) Action by a public agency is a "project" subject to CEQA only if the action might result in a physical change in the environment. (Pub. Res. Code § 21065.) The definition of the term "project" requires that the scope of a proposed action be examined broadly to determine whether an activity meets this test. (14 Cal Code Regs § 15378.) "Project" is defined to include the "whole of an action" undertaken, supported, or authorized by a public agency that "has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (14 Cal Code Regs § 15378(a).)

Here, the Property sits approximately 0.35 miles southwest of the College District's De Anza College campus and was selected for purchase due in large part to that proximity. If the Ordinance is not adopted and the Property is converted to housing for students in the College District, it is likely that there will be a substantial drop in vehicle miles travelled (VMT) associated with the Property due to the intentionally short "commute" for 332 students to campus and the shuttle service the District intends to provide students as part of the Student Housing program.³⁰ Given that there are very limited housing options near campus, those 332 students would need to live further away if the Ordinance is

²⁷ See <https://foothill.edu/gov/academic-senate/2024-25/apr7/2025-03-10%20FHDA%20Housing%20Update.pdf> [Exhibit 18.]

²⁸ [https://go.boarddocs.com/ca/fhda/Board.nsf/files/DENM9G5A260E/\\$file/2025-03-10%20FHDA%20Housing%20Update.pdf](https://go.boarddocs.com/ca/fhda/Board.nsf/files/DENM9G5A260E/$file/2025-03-10%20FHDA%20Housing%20Update.pdf) [Exhibit 18, Slide 14.]

²⁹ <https://go.boarddocs.com/ca/fhda/Board.nsf/Public> [See, Exhibit 14.]

³⁰ [https://go.boarddocs.com/ca/fhda/Board.nsf/files/DFJU2579E25A/\\$file/2025-04-07%20Housing%20Update.pdf](https://go.boarddocs.com/ca/fhda/Board.nsf/files/DFJU2579E25A/$file/2025-04-07%20Housing%20Update.pdf) "The student rent will include all furnishings, utilities, internet access, and transportation shuttle service to/from Foothill College, De Anza College, the Sunnyvale Center, and the Student Housing". [See, Exhibit 19.]

adopted. As such, the Ordinance will result in higher levels of VMT, which need to be examined through the environmental review process.

The Ordinance is Inconsistent with the General Plan.

The Ordinance is void *ab initio*, based on its inconsistency with the City's General Plan. The City is a general law city; its subservient regulations must be consistent with the City's General Plan. "The tail does not wag the dog. The general plan is the charter to which the ordinance must conform." (*Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) If a municipal ordinance conflicts with the General Plan, it is "invalid at the time it is passed" and a "void statute or ordinance cannot be given effect." (*Id.* at 544.)

The Ordinance will effectively limit the District's provision of student housing, which runs counter to the Housing Element of the General Plan. Strategy HE-7.3.1 expressly calls out the importance of partnering with organizations like De Anza College in "addressing local and regional housing issues." Similarly, Strategy HE-7.3.2 calls for coordination with local school districts, explicitly including colleges, to identify housing needs and concerns. Finally, Strategy HE-1.3.10 includes pursuing "innovative and alternative housing options that provide greater flexibility and affordability in the housing stock that would address housing needs for," *inter alia*, students and lower-income households.

It would be hypocritical for the City to undermine the College District's efforts to secure housing for 332 students given the General Plan's emphasis on promoting collaboration with the College District to find innovative housing solutions. Moreover, the Sale is to be funded with money allocated by City taxpayers through 2020's Measure G to increase opportunities for Community College students by acquiring affordable student housing.

THE ORDINANCE VIOLATES THE CONSTITUTION.

The Ordinance also violates the United States Constitution. The District is prepared to file a claim under 42 U.S.C. § 1983 for violations of the Due Process Clause of the Fifth and Fourteenth Amendments, among other constitutional claims detailed below. Under 42 U.S.C. § 1983, the District would be entitled to a damages award and attorneys' fees from the City.

Equal Protection

Violation of the Equal Protection Clause of the Fourteenth Amendment will impose liability on the governmental agency responsible. (*Village of Willowbrook v. Olech* (2000) 528 U.S. 562.) U.S. Supreme Court "cases have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." (*Id.*) A violation occurs when a landowner is treated differently from other, similarly situated, landowners for example through "intentional and arbitrary discrimination... occasioned by express terms of a statute." (*Id.* at 564.) Moreover, a decision based merely on negative attitudes of neighbors of a project is a violation of equal protection. (*City of Cleburne v. Cleburne Living Center* (1985) 473 U.S. 432.) An "equal protection claim contains the following essential elements: (1) plaintiff was treated differently from other similarly situated [plaintiffs]; (2) the difference in treatment was intentional; and (3) there was no rational basis for the difference in treatment. (*Genesis Environmental Services v. San Joaquin Valley Unified Air Pollution Control Dist.* (2003) 113 Cal.App.4th 597, 605.)

Here, the Property is in a class of one. The District selected the Property for student housing given the following eleven criteria:

- Located within a one-mile radius of the De Anza campus.
- Site is not adjacent to any single-family residential areas on more than one side.
- Minimum size is one (1) acre.
- Site does not have any known environmental or geotechnical defects.
- Site is not abutting or adjacent to any known watersheds.
- If the site is improved, improvements have no known environmental conditions that require remediation.
- Site does not have stands of mature trees and w/o protected flora or fauna.
- Site must have good vehicular access and existing curb cuts.
- Site must have good access to retail and transportation amenities.
- Site is one parcel or has contiguous ownership (one owner).
- Site has no deed restrictions or covenants that affect the district's ability to utilize it as intended.³¹

Although there is housing stock that Prometheus has available for all displaced residents, under the requirements for comparable housing under the Relocation Assistance Law, there are at least 109 comparable properties within a 10-mile Radius of the Property where existing residents could relocate, there is only one such Property within walking distance of the De Anza campus.

The City has manifestly designed the Ordinance to prevent the sale of the Property in particular, and in response to complaints by a vocal minority of the residents. The Staff Report contains absolutely no finding of the number of residents who believe they face “imminent harm” from the District’s purchase of the Property. Nor does the Staff Report give any consideration to the number of residents who may decide that the District’s relocation services (as summarized above) ameliorate any alleged “imminent harm.” Both the Ordinance itself and the Staff Report acknowledge that the Ordinance is specifically targeted at the Property. At the April 2, 2025 City Council meeting, with no related item on the agenda and following public complaints regarding the sale of the Property, Mayor Chao and City Councilmembers directed staff to prepare for a “study session” on ordinances that have elsewhere prevented the conversion of multifamily housing to student housing and to contact the College District to advise that “this could be an issue” with regard to the planned purchase of the Property. Given the dire need for student housing, described above, the unique combination of the Property’s characteristics that render it ideal for student housing, and the ample available replacement housing for current residents, there is no rational basis for the Ordinance. Therefore, the City is treating the District differently than other parties wishing to use multi-family residential property for permitted purposes

³¹ <https://go.boarddocs.com/ca/fhda/Board.nsf/Public> [Exhibit 20, Measure G Projects, Item No. 21.]

in the City in violation of the Equal Protection Clause. Indeed, the Ordinance expressly only applies to units “that are owned, operated, or otherwise controlled by one or more accredited post-secondary educational institutions.”

Substantive Due Process

Violation of the Due Process Clause of the Fifth and Fourteenth Amendments may impose liability for undue interference with the use of land not merely because it deprives the land of all value but also because the regulation itself is arbitrary, capricious, or unreasonable. (*Lingle v. Chevron U.S.A. Inc.* (2005) 544 U.S. 528 [failure to advance a legitimate state interest may violate the right to substantive due process].) The “core of the concept [is] protection against arbitrary action” and applies to actions by both the legislative and executive branches. (*County of Sacramento v. Lewis* (1998) 523 U.S. 833, 845.) Legislation must “have a real and substantial relation to the objective sought to be obtained.” (*PruneYard Shopping Center v. Robins* (1980) 447 U.S. 74, 84-85.)

“Legislatures may not, under the guise of the police power impose restrictions that are unnecessary and unreasonable upon the use of private property or the pursuit of useful activities.” (*State of Washington ex rel. Seattle Title Trust Co. v. Roberge* (1928) 278 U.S. 116, 121.) For example, denying or revoking a land use approval merely because neighbors object to a project is a violation of substantive due process. (*Del Monte Dunes at Monterey, Ltd v. City of Monterey* (9th Cir. 1990) 920 F.2d 1496.) So too here, preventing the Sale of the Property because of unidentified and unquantified “tenant objections” is similarly a violation of the District’s substantive due process rights.

Moreover, zoning regulations such as the Ordinance that result in “spot zoning” however, receive heightened scrutiny. Spot zoning exists when a small area is given fewer (or greater) rights than the surrounding property. This type of zoning has been described as subjecting an “island” of property to restrictions different from those in the “sea” of property around it. (*Wilkins v. City of San Bernardino* (1946) 29 Cal.2d 332, 340; see also *Avenida San Juan P’ship v. City of San Clemente* (2011) 201 Cal.App.4th 1256, 1268 (finding zoning invalid).)

The pointed nature of this Ordinance that on its face directly targets the Property is sufficiently egregious and outrageous that it offends basic principles of decency and fairness. It is patently clear that if adopted, the Ordinance would violate the District’s substantive due process rights.

Procedural Due Process

If government action depriving a person of property “survives substantive due process scrutiny, it must still be implemented in a fair manner,” in accordance with the principles of procedural due process. (*Salerno, supra*, 481 U.S. at 746.) Such “principles require reasonable notice and opportunity to be heard before governmental deprivation of a significant property interest.” (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612.) Throughout the process, a landowner is entitled to notice and a hearing, a decision based upon factual findings rather than speculation, and a right of review of the decision.” (*Id.* at 1201.) Although due process requirements generally do not apply to legislative actions, they may when the action has a particularized effect on a landowner, as here where the Ordinance is expressly targeted at the Property. (*Harris v. County of Riverside* (9th Cir. 1990) 904 F.2d 497.)

Moreover, the Ordinance as written is constitutionally defective because it is so vague that people of ordinary intelligence cannot understand what conduct is prohibited. The Ordinance purports to “prohibit” “the conversion of multiple-family use to student housing within a one-half mile radius of

Foothill-DeAnza Community College.” The Ordinance nowhere defines what is meant by “conversion,” as used in the Ordinance.³²

The Ordinance expressly and intentionally seeks to interfere with the District’s contract to purchase the Property, exposing the City to liability for damages. As discussed above, the City proposes to enact the Ordinance without lawful jurisdiction under Government Code section 65858, with the express intent of interfering with the District’s contract to purchase the Property. If enacted, the Ordinance will have cause significant economic loss to both the District and Prometheus and the City will seek recovery of its damages.

Finally, the Ordinance would violate the United States Constitution as an unlawful impairment of contract. The very foundation of the Ordinance as articulated in the staff report and Ordinance itself is the District’s “contract to purchase the [Property]” and the need to prevent the District from doing so. The United States Constitution (Article I, Section 10, Clause 1) and California Constitution (Article I, Section 9) each prevent the City from passing laws that substantially impair an existing contractual relationship unless the City has a significant and legitimate purpose and the law is reasonable and appropriate for the intended purpose. Here, the Ordinance would dramatically impact the District’s contract to purchase the Property and, as discussed in detail above, the City has neither identified a significant and legitimate purpose for that interference nor that the Ordinance is reasonable and appropriate.

Impairment of Measure G Bonds to Acquire the Property

As discussed above, the Measure G project list includes “plan, construct, acquire or contribute to affordable employee and student housing units.” The Board of Trustees at the May 5, 2025 meeting adopted Resolution 2025-21 authorizing the issuance and sale of Measure G bonds to finance the acquisition of the Property in accordance with the Purchase and Sale Agreement.³³ The Ordinance if adopted will manifestly impair the ability of the District to issue Measure G bonds to acquire the Property.

CONCLUSION

As set forth above, the District has a number of statutory and constitutional arguments available to it in contesting this unlawful Ordinance. We strongly urge the City Council not to adopt the Ordinance. To use the words of the Attorney General, the City Council’s adoption of the urgency resolution is a manifest misuse of this procedural tool.

Very truly yours,



SEAN B. ABSHER

Partner

Stradling, Yocca, Carlson & Rauth LLP

enc.

³² As noted above, the word “conversion” as used in the City’s Zoning Ordinance relates to changing the type of ownership of a parcel of land to a “common interest development,” which the Staff Report concedes is not the case here. (Staff Report at p. 2.)

³³ <https://go.boarddocs.com/ca/fhda/Board.nsf/Public> [Exhibit 21, Board Business, Item No. 26.]

cc: **Floy Andrews**
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From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: regarding Item #9, this is what I sent to the FHDA board yesterday
Date: Tuesday, May 6, 2025 4:01:17 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: Rhoda Fry <fryhouse@earthlink.net>
Sent: Monday, May 5, 2025 2:19 PM
To: 'Joel Cadiz' <cadizjoel@fhda.edu>; 'Lee Lambert' <lambertlee@fhda.edu>; 'Omar Torres' <torresomar@fhda.edu>; 'Kristina Whalen' <whalenkristina@fhda.edu>; 'Christopher Dela Rosa' <delarosachristopher@fhda.edu>; 'Laura Casas' <casaslaura@fhda.edu>; 'Peter Landsberger' <landsbergerpeter@fhda.edu>; 'Pearl Cheng' <chengpearl@fhda.edu>; 'Terry Godfrey' <godfreyterry@fhda.edu>; 'Alexander Gvatua' <gvatuaalexander@fhda.edu>
Subject: Closed Session Please PAUSE purchase of Apartment Complex

Dear Board Members,

Please PAUSE purchase of Apartment Complex. We have elected you to be fiduciaries of our public money and this proposed project is a mis-use of our public funds.

1. You are likely aware that the City of Cupertino is considering a moratorium on converting multi-family housing to college-student housing. If you sign off today, you might be stuck with an apartment complex that FHDA will not be able to use for student housing.
2. The property is overpriced, this is a flagrant mis-use of public funds. Where are the comps? The most recent comp is: \$710K per unit vs \$433K per unit at The Villages in Cupertino. **You are proposing to pay over 60% more than a comparable apartment complex** – this is inexcusable. The comparison is equally inexcusable at over 60% premium when looking at the price per acre - \$12.4M vs \$7.6M (\$67M/5.4 acres vs \$207M/27.1 acres).
<https://www.siliconvalley.com/2025/04/03/cupertino-home-economy-apple-property-real-estate-apartment-jobs-tech/> One thing that makes the Terrace Apartments attractive is its proximity to K-12, a half a mile walk to school – this is a feature that FHDA does not need and should not be paying for.
3. FHDA has not done due diligence – looking at only 25% of the units is not due diligence, particularly when we are looking at the public's money. There's black mold. There's cockroaches crawling out of electrical outlets. And the property-owner has an active lawsuit against a roofing company for shoddy work in 2016 that caused significant damage to the apartments, before they purchased the property in 2022.

4. There has been zero substantive outreach to stakeholders, in contrast to what has been reported at the board meetings. Meetings with CUSD were scheduled and canceled. Another meeting has been scheduled today. That's a bit late, don't you think? Meetings with the City of Cupertino were also scheduled and canceled. When the Chancellor spoke during public comment at the City Council, it was unfortunate that he walked out while others were expressing their concerns. Had he stayed 7 more minutes, it would have at least made it look like FHDA had a genuine interest in the concerns of the community. : (
5. The information on how the apartments would be managed as to rent and oversight and rental prices has not been worked out. This should have happened first.
6. The apartments were built in 1971. There is no way that these apartments will ever be as seismically safe as new construction, as energy-efficient, as modern, or as manageable. How will the district handle security? Most dorms have a managed point of entry. You can do better.
7. Buying something old for so much money will make the district look bad and demonstrates a misuse of funds.
College of San Mateo is building new for less money!
<https://www.smccd.edu/facilities/projects/dw/dwstudenthousing.php>
Ohlone College is building new:
<https://www.ohlone.edu/affordablestudenthousing>
8. If FHDA can build new for staff in Los Altos Hills, then FHDA can build new (or do something that is more modern) for students. I hope that you're reaching out to the Aloft Hotel, which was built in 2013 and is in default. San Jose State did a retrofit of the Fairmont Hotel for student-housing, so can FHDA.
9. FHDA is NOT being community-minded. The proposed \$100M (\$67M for the purchase and \$28M for the remodel) does not create housing. The community is funding this project, but the project would permanently evict K-12 students from residing in 94 homes that are just a half-mile from K-12 schools. That is bad City Planning. The purchase of the property would convert it to state property that would not be subject to property tax or future city zoning. It is also disheartening that FHDA is trying to avoid union labor on this project. Don't our students deserve skilled and trained labor? Just look at the recent County Dept. of Environmental Health closure at Whole Foods, that's what happens when you don't have union labor.
10. If FHDA pursues this purchase, the likelihood of being able to raise money in the future will be diminished. The Colleges' reputation will also be damaged and unfortunately, most of it will land wrongly on De Anza's new president. Furthermore, to say that the property could generate future value in the slides indicates that the district is getting into real-estate speculation, which is not okay.

Please use our public funds wisely, that's what we elected you to do.

Sincerely, Rhoda Fry, 40+ year resident

From: [Rhoda Fry](#)
To: [City Clerk](#); [City Council](#)
Subject: 5/6/2025 Agenda #9 YES ON MORATORIUM
Date: Tuesday, May 6, 2025 4:00:11 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

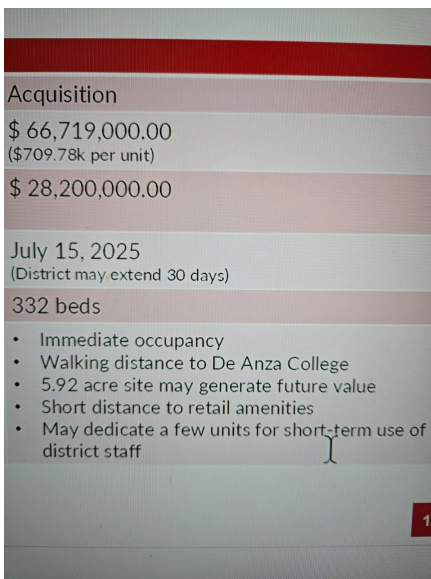
Please vote YES on Moratorium.

Regardless of whether you think FHDA should convert this apartment to student-housing or not, please vote YES on the Moratorium.

We need to have an open dialog with the college district, which they have refused to do.

A moratorium will provide an opportunity for an open dialog.

I have been testifying at the board meetings for nearly 2 years where the college has been focusing on more market rate housing and less affordable housing! They are already saying how the complex could generate future value! They are also refusing to state the target rent. See slide snip below:



Acquisition
\$ 66,719,000.00 (\$709.78k per unit)
\$ 28,200,000.00
July 15, 2025 (District may extend 30 days)
332 beds
<ul style="list-style-type: none">• Immediate occupancy• Walking distance to De Anza College• 5.92 acre site may generate future value• Short distance to retail amenities• May dedicate a few units for short-term use of district staff

FHDA has not made themselves available to meet with residents or the City and only met with the CUSD Superintendent yesterday before the FHDA board meeting (the purchase was announced as early as February 2!).

If someone else bought the complex, they would not be allowed to evict the tenants under AB1482 (unless they tore it down or made it uninhabitable with remodeling). I have to wonder whether this is also the case for this purchase. We must protect our residents.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482

For the longer term, any City Planner would tell you that it is a bad idea to exclude K-12 students from higher-density housing that is under a half mile from K-12 schools. I asked the

board to let the residents with K-12 students to stay until they are ready to leave and replace them with staff with children. They did not listen.

The college district is using our bond money that we are paying for on our tax bills to evict our neighbors.

The district should be creating housing, not displacing residents.

And they won't be paying property tax on the \$67M purchase!!! Other Bay Area community colleges are building housing on their campuses for less money.

Please let's pause and have an open dialog.

Please vote YES on the Moratorium.

Thanks,
Rhoda Fry

From: [Santosh Rao](#)
To: [City Council](#); [City Clerk](#); [City Attorney's Office](#); [Liang Chao](#)
Subject: Please approve agenda item 9 to pass interim urgent ordinance for a moratorium on conversion of rental housing to student housing in Cupertino.
Date: Tuesday, May 6, 2025 3:56:38 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Writing on behalf of myself only, as a Cupertino resident]

Dear City Clerk,

Would you please include the below in written communications for the upcoming city council.

Subject: Immediate Action Required: Prohibit the Conversion of McClellan Terrace Rental Units into Student Housing

Dear Mayor Liang Chao and Members of the Cupertino City Council,

I write to you with urgency and resolve to pass agenda item 9 today on the 05/06/25 city council meeting. Please implement a moratorium on the conversion of existing affordable rental housing units to student housing. Please follow this up with a request for a future agenda item at the earliest to request immediate legislative action to **prohibit the permanent conversion of existing Cupertino rental housing into other uses such as student housing** in Cupertino. The proposed conversion of **94 long-term rental units at McClellan Terrace** into student-specific housing is a direct threat to the stability of our neighborhoods, the integrity of our housing stock, and the well-being of our public school families.

McClellan Terrace is not a speculative parcel—it is **home to 94 Cupertino families**, including **nearly 66 school-aged children** enrolled across **four nearby schools** in CUSD and FUHSD,

all within walking distance. It is where 54 cohorts of CUSD and FUHSD alumni lived and studied at since 1971. It is where the next 100 cohorts of alumni must live and study until 2125 preserving rental housing use at that location in its current or some future form but without changing use to exclude rental housing for families.

Allowing its conversion into student housing would be nothing short of **mass displacement**—pushing out established families in favor of transient occupancy and undermining the foundational goals of our city’s Housing Element and General Plan. Do not believe a FHDA offer of assistance to one cohort. Future cohorts will be denied the use of those 94 units for housing and access to our schools.

Cupertino currently lacks any ordinance to prevent this. In contrast, **San Francisco’s Municipal Code Section 317** provides a clear and enforceable framework that protects existing rental housing from demolition or conversion without stringent findings, including one-for-one replacement and tenant protection. Section 317 explicitly curtails conversions that result in the **permanent loss of housing units used for long-term tenancy**, and requires **discretionary review, public hearings, and a full accounting of tenant and community impacts**.

I urge Cupertino city council to pass the urgent ordinance today and immediately thereafter to adopt protections without delay and to take the following actions:

1. **Enact an ordinance that prohibits the conversion of existing rental housing—such as McClellan Terrace—into permanent student housing or transient occupancy uses;**
2. **Implement a policy modeled after San Francisco’s Section 317, requiring:**
 - Full public hearings and discretionary review for any

proposed conversion or demolition of rental units;

- One-for-one replacement of all lost rental units with deed-restricted, permanently affordable housing;
- Mandatory tenant impact and displacement analysis, including effects on public schools;

The proposal at McClellan Terrace is not just a planning issue—it is a **moral and civic crisis**. To stand by and allow the **removal of 94 deeply rooted families from our community** to make room for speculative student housing is wholly unacceptable. Cupertino must act swiftly to close this policy loophole and demonstrate its commitment to preserving family housing, school stability, and neighborhood integrity.

I urge you to bring forward this ordinance at the next city council meeting free you pass the urgent ordinance today. Please protect the current and future residents of McClellan Terrace and all future generations of Cupertino renters and families that rent to live in Cupertino allowing them to send their kids to CUSD and FUHSD schools like Lincoln Elementary, Faria Elementary, Kennedy Middle, Monta Vista High.

Please do not succumb to any threats of litigation from FHDA that may choose to use our taxpayer money to litigate against the city and its residents. Likewise I urge collaboration with the owners of existing rental housing to help them be successful in running operations or transacting to other operators of identical rental housing without seeking change of use that denies use of the rental housing for current and future families.

Sincerely,

San Rao (Cupertino and FHDA resident and voter)

From: [louise saadati](#)
To: [City Council](#); [City Clerk](#)
Subject: Written Communication for Item 9
Date: Tuesday, May 6, 2025 3:53:18 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include the below in Written Communications for 5/6/25 City Council Meeting.

Dear Mayor Chaio, Vice-Mayor Moore, Councilmember Mohan, Fruen and Wang:

Regarding Item 9, please Do Nothing on the McClellan Terraces Apartment conversion into below market furnished student housing.

This is being done through another jurisdiction and the Cupertino City Council should not interfere and obstruct this action by the Foothill DeAnza Community College trustees.

Mayor Chiao's detailed email has a lot of inaccuracies to support obstruction of the conversion of the McClellan Terraces Apartment. She has the prerogative and usually speaks last but also usually includes many inaccuracies and misstatements to support her poor directing of the staff and city. She is making unrealistic unfounded and unsupported alternatives which if not outright impossible would require a decade to untangle.

For the sake of increasing below market furnished student housing, please do not do anything to obstruct this immediate conversion.

Five years ago the voters approved Measure G to allow this type of conversion. Do not block it.

Sincerely,

Louise Saadati

Sent from my iPhone

From: [Xiangchen Xu](#)
To: [City Clerk](#); [City Council](#)
Subject: Support Item 9 on tonight's council agenda
Date: Tuesday, May 6, 2025 3:50:51 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Councilmembers,

I am a Cupertino resident. As a local taxpayer, I fully support the proposing moratorium on converting existing rental units to student housing.

I believe it serves to protect our local interests. Please put my comments in public record.

Thanks a lot!

Best wishes,
Xiangchen Xu

From: [Kun Li](#)
To: [City Clerk](#); [City Council](#)
Subject: Agenda Item 9
Date: Tuesday, May 6, 2025 3:48:45 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Councilmembers,

I am a local resident living in Cupertino. I support the proposed moratorium on converting existing rental units into student housing, listed as Item 9 on today's council meeting agenda. I believe this ordinance will help protect our local residents' interests. As local taxpayers, we stand united in backing it.

Thanks,
Kun

From: [Anastasia Zorko](#)
To: [City Council](#); [City Clerk](#)
Subject: Support Agenda Item #9: Vote YES on Moratorium
Date: Tuesday, May 6, 2025 3:37:09 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

McClellan Terrace remains one of the few affordable housing options left in Cupertino.

Some of my friends lived in affordable housing in Cupertino and attended great schools such as Kennedy Middle School and Monta Vista High School. The educational opportunities available in this area are truly exceptional.

I wholeheartedly support De Anza's vision for local student housing. It's an outstanding institution, and its students deserve the stability and focus that nearby housing can offer.

However, this progress shouldn't come at the cost of existing or future residents—especially those who rely on affordable housing to access Cupertino's world-class public education.

My ask: Please vote YES on Agenda Item #9. Enact the moratorium—and in doing so, give us the space to think bigger. I believe in Cupertino's potential. We can provide student housing for De Anza and preserve affordable housing for families. Let's work toward solutions that uplift everyone.

Sincerely,
Anastasia Zorko

From: [Anne Ezzat](#)
To: [Liang Chao](#); [Kitty Moore](#); [Sheila Mohan](#); [J.R. Fruen](#); [R "Ray" Wang](#); [City Clerk](#)
Subject: Please Approve Moratorium on the Conversion of Mult-Family Housing to Student Housing
Date: Tuesday, May 6, 2025 3:32:30 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Chao, Vice Mayor Moore, Council Members Mohan, Fruen and Wang,

I am writing to request that the city impose a moratorium on the conversion of the McClellan Terrace Apartments to student housing. It is bad public policy and bad financial policy. Overpaying for this property and turning occupants out into the streets is an exercise in stupidity, particularly when there are other options. To begin with:

- 1) DeAnza College has 112 acres to build any sort of housing they need for their students. Why can't housing be built there? Is the district trying to shift the cost of policing to the city?
- 2) There are a number of hotels in the area that are feeling the loss of traffic from reduced business travel. Business that will likely never come back. This might be a good opportunity for hotels to forge an alliance with the college. In effect, doing a test drive if you will since we are faced with declining enrollment and do not know when that trend will reverse.
- 3) Why does the district want to kick occupants out of affordable housing? Based on the fact there has been little or no discussion about whether the student housing will be affordable or market rate, one can assume it will be market rate. So once again, truly affordable housing is lost for the sake of greed. And this from a public entity.
- 4) Can these occupants even be evicted under AB 1482?

Please do not reward the bad behaviors of the district.

Thank you for your time. I hope this will be added to the public record.

Best regards,

Brooke Ezzat

From: [anantha korrapati](#)
To: [City Council](#); [City Clerk](#); [Tina Kapoor](#); [City Attorney's Office](#)
Subject: city council 5/6/2025 agenda item #9 vote yes on moratorium
Date: Tuesday, May 6, 2025 3:02:44 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Clerk,

Please include the below in written communications for the 05/6/2025 agenda item #9 vote yes on moratorium

The problem:

The McClellan Terrace Apartment complex is less than half of a mile from grades K-12 schools. The Foothill-De Anza Community College District wants to buy the apartment complex for use by community college students. Not allowing families to live within a half mile of our K-12 schools is bad for our city. Presently, over 60 K-12 students live in the 94 homes. There are hardly any comparable apartments available in the school district (rent, size, 2br/2ba) and the loss of those students also means losing teacher jobs.

K-12 students should be able to walk to school whenever possible. These 94 homes should not be removed from our City for use by our K-12 students.

The college district should build on campus so that land in Cupertino can be used for all sorts of housing.

If the college district buys the property, it won't be paying property taxes. Taxes raised by other city residents will have to cover the cost of public safety for these 94 homes.

Other community colleges have built housing on campus.

Spending over \$700K per unit and another \$28M of our public money, raised from our property tax bill, is too much money. Spending about \$1M for each unit makes no sense, especially when a comparable complex in Cupertino, The Villages, just sold for \$430K per unit.

Evicting Cupertino residents does not solve the housing-affordability problem. The college district should create housing with our public money, not evict our residents.

There are many more reasons.... I've already raised an older kid in this neighborhood and can see the changes around the place with college students moving in. I see a lot of age in appropriate and disturbing incidents all along the path my middle schooler walks now, I no longer feel safe. I strongly believe the elementary and middle schoolers need a healthier environment to play, stroll, walk and bike safely.

Kind regards,

Anantha

From: [Praneeth Kollareddy](#)
To: [City Council](#); [City Clerk](#)
Subject: Council Meeting 5/6/25 item 9. Vote yes on moratorium
Date: Tuesday, May 6, 2025 2:22:41 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Council Members,

I am writing to urge the City Council to approve the moratorium to prevent the purchase of the McClellan Terrace apartments.

Displacing current Cupertino residents and students is not a viable solution to provide more housing for De Anza College students. De Anza College itself possesses significant land and could explore more efficient space planning to accommodate student housing needs on its own property.

Furthermore, the high cost of land in Cupertino makes the acquisition much more expensive than new construction of housing units on De Anza property.

Thank you for your time and consideration of this important matter.

Sincerely,
Praneeth Kollareddy

From: [Purnima Banerjee](#)
To: [City Clerk](#)
Subject: Fw: McClellan Apartments
Date: Tuesday, May 6, 2025 1:54:16 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please put this into written communications.

----- Forwarded Message -----

From: Purnima Banerjee <purnima.banerjee8@yahoo.com>
To: lchao@cupertino.gov <lchao@cupertino.gov>; kmoore@cupertino.gov <kmoore@cupertino.gov>; smohan@cupertino.gov <smohan@cupertino.gov>; jrfruen@cupertino.gov <jrfruen@cupertino.gov>; rwang@cupertino.gov <rwang@cupertino.gov>
Sent: Tuesday, May 6, 2025 at 01:41:14 PM PDT
Subject: McClellan Apartments

Dear Mayor Chao, Vice-Mayor Moore, and Council-members Mohan, Fruen, and Wang

In 2012, San Francisco voted to bar the conversion of rental housing to student-only units. It was unacceptable for colleges to be buying up rental housing for out-of-area students and evicting San Francisco residents. This ordinance was authored by then San Francisco Supervisor Scott Wiener (now a State Senator).

It is outrageous that Foothill-De Anza is planning to evict Cupertino residents from a very affordable apartment complex and rent the apartments to students from outside the district, outside California, and outside the United States.

Please put aside all your differences between council members and enact an Urgency Ordinance like what San Francisco did. We must protect Cupertino residents, and public school students from losing their homes. Those residents will be unable to locate comparable housing at a similar price point.

Thank You
Purnima Banerjee
Cupertino Resident

From: [S B](#)
To: [City Clerk](#); [City Attorney's Office](#); [City Council](#); [City Manager's Office](#)
Subject: Agenda item 9
Date: Tuesday, May 6, 2025 1:22:49 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Chao, Vice Mayor Moore, Council member Wang and the city Clerk
Please include the following email on gender item 9 as part of the written communications for today.

To the Mayor, Vice Mayor and council members

I am writing to strongly urge you to **approve both the interim urgency moratorium on the conversion of multi-family housing to student housing within a half-mile radius of Foothill-De Anza Community College, and adopt a citywide resolution discouraging such conversions.**

This is especially critical in the **tri-school area**, where the apartment complex under discussion serves as one of the **few remaining sources of affordable housing for families.** Allowing its conversion to student housing would directly result in the **displacement of long-term residents**, including many families with children attending local elementary, middle, and high schools. A vote against this moratorium would effectively enable this displacement. **If council members claim to support affordable housing, their actions must align with that commitment.**

The claim that 300 homeless students urgently require local housing is not only **unverified**, but also unlikely to reflect a steady or accurate need. Moreover, with **over 50% of De Anza students enrolled in online classes**, it is clear that the majority do not need to live in Cupertino.

It is also increasingly evident—based on public comments and statements from members of the Foothill-De Anza board—that the **real intention behind the push for this project is to provide market-rate housing for international students**, rather than addressing the needs of truly low-income or homeless students in the community college system. This raises serious concerns about equity and the true priorities behind this housing proposal.

Additionally, there appears to be a troubling connection between **real estate interests and campaign contributions made to current and former board members.** This pattern strongly suggests that the pressure to acquire and convert this complex may be driven less by student welfare and more by external development agendas.

Instead of enabling displacement, the Foothill-De Anza district must pursue **more sustainable and responsible strategies** to support both students and teachers:

- **Use bond provisions to provide subsidized housing** by partnering with apartment complexes and hotels in Cupertino and neighboring cities, rather than building new

units—benefiting needy students, staff and teachers.

- **Develop on-campus housing at the Foothill campus in Los Altos** for students, while focusing off-campus partnerships in Cupertino and nearby areas specifically to support affordable housing for needy staff and teachers.

Furthermore, clustering college students near K–12 schools is inappropriate. The presence of older students near elementary, middle, and high school children may have **detrimental social and behavioral impacts** on these younger students and the surrounding neighborhood.

Please act in the interest of preserving stable, affordable communities for working families. I urge you to vote in favor of both the **moratorium** and a broader **resolution discouraging the conversion of multi-family housing to student housing throughout Cupertino**.

Thank you for your service and for considering the voices of families in this community.

regards

Sashi

From: [Connie Cunningham](#)
To: [City Clerk](#); [City Council](#)
Subject: 2025-5-6 City Council Agenda Item 9, Urgent Moratorium
Date: Tuesday, May 6, 2025 1:05:21 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include this email in Written Communications for this meeting.

Dear Mayor Chao, Vice Mayor Moore, and Councilmembers,

Subject: 2025-5-6 City Council Agenda Item 9

2a. 45-Day Temporary Moratorium on the Transition of Multiple-Family Use Housing to Student Housing Within One Half Mile Radius of Foothill-De Anza Community College in the City of Cupertino During the Pendency of the City's Review and Adoption of Permanent Zoning Regulations for Such Uses"; or
2b. Adopt Resolution No. 25-025 Encouraging the Building of Newly Constructed Student Housing and Preserving Multiple-Family Use Housing By Preventing the Conversion of Multiple-Family Use Housing to Student Housing Within the City of Cupertino

The ill-advised draft ordinance and equally ill-advised resolution are oddly specific to one category of vulnerable people who need housing in Cupertino: Students at De Anza College. Choice 2a. is oddly specific to an area within a half mile radius of De Anza College. Choice 2b excludes conversions for students in the whole City. De Anza College is a highly regarded community college. De Anza Students are a priceless resource for the future.

1. Question: How is this issue urgent? The Housing Element (Plan), part of the General Plan, was discussed for 2-3 years and was approved by the State on September 4, 2024. This Housing Element (Plan) established sites to allow housing within Cupertino from Below Market Rate to Market Rate. Renters are specifically mentioned, as are other vulnerable residents. This type of Ordinance or Resolution had ample time to be considered during the Housing Element (Plan) process.

2. Question: Is this landlord being denied the right to sell the property to anyone who chooses to buy it? It appears not. Just one use is being denied. Students, a priceless resource for the future.

3. Question: Wouldn't the current tenants who spoke on April 2, 2025, be equally upset by being displaced by any other use of this property? Would they be happier if more expensive homes replaced theirs? Or other vulnerable people?

Comment: Below Market Rate (BMR) homes and apartments are scarce in Cupertino. Market rate rental houses and apartments are scarce in Cupertino. The Housing Element (Plan) was written to encourage housing. This ill-advised regulation is written to specifically deny housing to a particular vulnerable group of people:

Students, our priceless resource for the future.

I urge the Council to choose Option 4. Do Nothing. The focus of this ill-advised policy on conversions focuses on only one vulnerable group. The current tenants would be evicted if a conversion for any other vulnerable group were selected or if market rate homes or apartments were built.

Sincerely,

Connie L Cunningham, Self Only
Chair, Housing Commission

From: [Devendar Reddy](#)
To: [City Clerk](#); [City Council](#); [City Attorney's Office](#); [Tina Kapoor](#)
Subject: City council 5/6/2025 agenda item #9 vote yes on moratorium
Date: Tuesday, May 6, 2025 11:09:46 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi City Council Members

Rather than investing public funds to purchase an aging apartment complex—which, like an older vehicle, may require ongoing maintenance and renovation—we respectfully propose an alternative, community-based solution. We kindly ask that apartment complexes throughout Cupertino consider designating 3 to 4 units each for student housing on a temporary basis. This collaborative, short-term approach would meet the immediate needs of De Anza College students while preserving stable housing for existing families and protecting enrollment in our K–12 schools. It would also provide the Foothill-De Anza Community College District the necessary time to develop dedicated student housing on land already owned by the district.

We respectfully suggest a 15-month interim period for this arrangement, allowing for thoughtful planning and responsible use of public resources.

Thanks
Devendar

From: [Devendar Reddy](#)
To: [City Council](#); [City Clerk](#); [Tina Kapoor](#); [City Attorney's Office](#)
Subject: Re: City council 5/6/2025 agenda item #9 vote yes on moratorium
Date: Tuesday, May 6, 2025 10:58:14 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We also respectfully request that all apartment complexes in Cupertino consider designating 3 to 4 units for student housing during this interim period—across the city—while De Anza College works toward building its own on-campus student housing facility.

A cooperative, short-term solution like this would avoid displacing families and protect the stability of our K–12 schools. It would also give the college district time to plan sustainable housing on land it already owns.

We propose this temporary arrangement for a period of **15 months**, until De Anza completes or advances construction of its dedicated student housing complex.

On Tue, May 6, 2025 at 10:51 AM Devendar Reddy <mreddydev@gmail.com> wrote:

Please put this message in written comments for agenda #9

Hi City Clerk/ Council Members

The problem:

The McClellan Terrace Apartment complex is less than half of a mile from grades K-12 schools. The Foothill-De Anza Community College District wants to buy the apartment complex for use by community college students. Not allowing families to live within a half mile of our K-12 schools is bad for our city. Presently, over 60 K-12 students live in the 94 homes. There are hardly any comparable apartments available in the school district (rent, size, 2br/2ba) and the loss of those students also means losing teacher jobs.

City should not allow conversion of this property to student housing.

Here are some reasons -

K-12 students should be able to walk to school whenever possible. These 94 homes should not be removed from our City for use by our K-12 students.

The college district should build on campus so that land in Cupertino can be used for all sorts of housing.

If the college district buys the property, it won't be paying property taxes. Taxes raised by other city residents will have to cover the cost of public safety for these 94 homes.

Other community colleges have built housing on campus.

Spending over \$700K per unit and another \$28M of our public money, raised from our property tax bill, is too much money. Spending about \$1M for each unit makes no sense, especially when a comparable complex in Cupertino, The Villages, just sold for \$430K per

unit.

Evicting Cupertino residents does not solve the housing-affordability problem. The college district should create housing with our public money, not evict our residents.

Thanks
Devendar

From: [Devendar Reddy](#)
To: [City Council](#); [City Clerk](#); [Tina Kapoor](#); [City Attorney's Office](#)
Subject: City council 5/6/2025 agenda item #9 vote yes on moratorium
Date: Tuesday, May 6, 2025 10:51:48 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please put this message in written comments for agenda #9
Hi City Clerk/ Council Members

The problem:

The McClellan Terrace Apartment complex is less than half of a mile from grades K-12 schools. The Foothill-De Anza Community College District wants to buy the apartment complex for use by community college students. Not allowing families to live within a half mile of our K-12 schools is bad for our city. Presently, over 60 K-12 students live in the 94 homes. There are hardly any comparable apartments available in the school district (rent, size, 2br/2ba) and the loss of those students also means losing teacher jobs.

City should not allow conversion of this property to student housing.

Here are some reasons -

K-12 students should be able to walk to school whenever possible. These 94 homes should not be removed from our City for use by our K-12 students.

The college district should build on campus so that land in Cupertino can be used for all sorts of housing.

If the college district buys the property, it won't be paying property taxes. Taxes raised by other city residents will have to cover the cost of public safety for these 94 homes.

Other community colleges have built housing on campus.

Spending over \$700K per unit and another \$28M of our public money, raised from our property tax bill, is too much money. Spending about \$1M for each unit makes no sense, especially when a comparable complex in Cupertino, The Villages, just sold for \$430K per unit.

Evicting Cupertino residents does not solve the housing-affordability problem. The college district should create housing with our public money, not evict our residents.

Thanks
Devendar

From: [Avinash Padmanabhan](#)
To: [City Council](#); [City Clerk](#); [City Attorney's Office](#)
Subject: Opposition to the Conversion of Rental Housing into Homeless Student Housing
Date: Tuesday, May 6, 2025 10:23:14 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Clerk,

Please include the below in written communications for the 05/06/25 city council meeting.

Best Regards,
Avinash

I write to you as a concerned member of our community to express my strong opposition to the proposal to convert McClellan Terrace into homeless student housing. I believe that this initiative will have several negative implications for both the existing student population that will be displaced and the safety of our community.

Firstly, the displacement of the current students residing in the converted rental properties will inevitably lead to a decline in enrollment. Many of these students rely on the current proximity to Lincoln/Kennedy/Monta Vista.

Secondly, the integration of homeless students into housing located so close to existing schools could pose serious safety concerns. While I understand and empathize with the need to provide housing for homeless students, ensuring the safety and security of our school environments is paramount. There is enough evidence that shows that having homeless shelters will cause problems

1. Immediate area around the homeless shelter will become a no go zone
2. Homeless folk will gather around the shelter and create a sidewalk environment that will feel unsafe to kids who are most likely to use them.
3. It will become impossible to keep it clean

The welfare of both the student population in rental housing and those in neighboring educational institutions must be carefully considered before proceeding with this project. I urge the city council to explore alternative solutions that can accommodate homeless students without displacing current residents and compromising our community's safety.

Thank you for considering my concerns.

From: [Mahesh Gurikar](#)
To: [City Council](#); [City Clerk](#); [City Attorney's Office](#)
Subject: Moratorium on conversion on conversion of rental housing to student housing Agenda item 9
Date: Tuesday, May 6, 2025 10:21:34 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Clerk,

Please include the below in written communications for the 0/06/25 City Council Meeting:

I strongly support the council pass an Interim Emergency Ordinance for a moratorium on conversion of current rental housing to student dorms/housing in Cupertino. This issue needs to be studied further and obtain input from the residents.

Thank you, Council Members.

Mahesh Gurikar

From: [Susan Chan](#)
To: [City Council](#); [City Clerk](#)
Subject: City council 5/6/2025 agenda item #9 vote YES on moratorium
Date: Tuesday, May 6, 2025 9:25:18 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Council Members,

I am writing to express my deep concern regarding the impending eviction of families residing in the McClellan Terrace Apartment complex due to the recent sale of the property to Foothill-De Anza College. This situation will place over 60 K-12 students at risk of being displaced from the CUSD and FUHSD, which could further exacerbate the enrollment challenges faced by our local schools.

The residents of McClellan Terrace were only informed about the sale and subsequent eviction in March 2025, providing them with an insufficient amount of time to process this life-altering news, find alternative housing, and ensure a stable educational environment for their children. The potential displacement not only disrupts the lives of these families but could also have serious ramifications on our community as a whole by impacting both the CUSD and FUHSD enrollments.

A decision of this magnitude requires thoughtful consideration and advocacy from our city leaders. Therefore, I respectfully urge the Cupertino City Council to intervene in this matter and consider voting against allowing the conversion of the property from family housing to student housing. Moreover, **I request that you vote in favor of a moratorium** to provide adequate time and resources to explore viable alternatives that prioritize the well-being and stability of our community families.

The city council has a pivotal opportunity to demonstrate its commitment to representing the best interests of our community members, prioritizing the needs of local families over larger enterprises. I implore you to take action that supports our community's future, ensuring that the voices and needs of our families are heard and addressed.

Thank you for your attention to this urgent matter. I hope to see you set an example of unwavering dedication to our community by safeguarding the future of McClellan Terrace residents. I am confident that, with your support, we can work together towards a solution that benefits all stakeholders involved.

Warm regards,

Susan Chan

1401 Aster Lane, Cupertino

From: [Deepa Shah](#)
To: [City Council](#); [City Clerk](#); [Tina Kapoor](#); [City Attorney's Office](#)
Subject: city council 5/6/2025 agenda item #9 vote yes on moratorium
Date: Tuesday, May 6, 2025 9:10:50 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City clerk,
Please put this message in written comments for agenda #9

Dear City council.

The problem:

The McClellan Terrace Apartment complex is less than half of a mile from grades K-12 schools.

The

Foothill-De Anza Community College District wants to buy the apartment complex for use by community

college students. Not allowing families to live within a half mile of our K-12 schools is bad for our city.

Presently, over 60 K-12 students live in the 94 homes. There are hardly any comparable apartments

available in the school district (rent, size, 2br/2ba) and the loss of those students also means losing

teacher jobs.

The Solution:

On Tuesday, City Council will be considering a moratorium on multi-family conversions. It requires a 4

out of 5 vote. I urge you to vote yes on moratorium for Agenda #9

- K-12 students should be able to walk to school whenever possible. These 94 homes should not be removed from our City for use by our K-12 students.
- The college district should build on campus so that land in Cupertino can be used for all sorts of housing.
- If the college district buys the property, it won't be paying property taxes. Taxes raised by other city residents will have to cover the cost of public safety for these 94 homes.
- Other community colleges have built housing on campus. Spending over \$700K per unit and another \$28M of our public money, raised from our property tax bill, is too much money. Spending about \$1M for each unit makes no sense, especially when a comparable complex in Cupertino, The Villages, just sold for \$430K per unit. Evicting Cupertino residents does not solve the housing-affordability problem. The college district should create housing with our public money, not evict our residents.

The McClellan Terrace Apartment complex is less than half of a mile from grades K-12 schools.

The

Foothill-De Anza Community College District wants to buy the apartment complex for use by community

college students. Not allowing families to live within a half mile of our K-12 schools is bad for our city. This will reduce school funding and eventually schools will close and teachers will lose their jobs.

Please vote YES for the moratorium.

Best,

Deepa S

Cupertino Resident and homeowner

From: [Helene Davis](#)
To: [City Council](#)
Cc: [City Clerk](#)
Subject: McClellan Road Housing for De Anza Students
Date: Tuesday, May 6, 2025 9:06:04 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Council members,

I am writing to express my opposition to Item 9 on the agenda for Tuesday, May 6: *“Approval of an Interim Urgency Ordinance Imposing a Moratorium on the Transition of Multiple-Family Use Housing to Student Housing within a One Half Mile Radius of Foothill-De Anza Community College.”*

I am in support of Foothill-De Anza purchasing this property for student housing. It will be run as a non-profit and provide affordable housing for a subset of students that are housing insecure or who commute from far away. A bonus is that they would be able to walk or bike to school and this would cut down on traffic in that area.

De Anza has been an integral part of our community for years. We should support them and look to the future - these students could become our nurses, teachers, engineers, etc.

I am sympathetic to the situation of the current tenants but Foothill-De Anza will give the residents ample time and support to relocate. De Anza students are not just young single people. Many will be parents of school aged children and many will be veterans.

Thank you for your consideration.

Helene Davis
Cupertino Resident
Former De Anza Student

From: [Mandy Jones](#)
To: [City Clerk](#); [Liang Chao](#)
Cc: [gilbertswong@gmail.com](#); [J.R. Fruen](#); [Sheila Mohan](#); [R "Ray" Wang](#); [Kitty Moore](#); [Public Comments](#)
Subject: Public Comment - Agenda Item #9 - 5/6/2025
Date: Monday, May 5, 2025 6:48:28 PM
Attachments: [image.png](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include the following in the written communications for the City Council Meeting on 5/6/25. Along with the attached email correspondence that is below & highlighted. Thank you.

Mayor Chao,

Under your leadership, the press clippings have drawn me in as a curious local spectator.

I can't turn away.

Especially entertaining was the public comment vis-à-vis yourself, Pamela Wu, and Gilbert Wong ahead of the 5/2 Closed session meeting & your agendized attack on the City Manager.

**Again, I'm captivated...it's like watching Michelle Yeoh & Constance Wu battling during an intense game of Mahjong!
Who will win, while Cupertino loses?!**

Anyone who has worked in Silicon Valley Corporate America can analyze the situation from the emails & news reporting. Passive aggressiveness may come naturally, but your email trail (Everything Everywhere All At Once) allows public comment & public records to paint a pretty stark picture and spotlight your politicized dance perfectly.

To the City Council:

We are very disappointed in you. Your housing philosophy sucks as evidenced by the lawsuit with HCD/YINBY, and Vallco delays.

Next on your agenda seems to be interfering with private sales to unjustly demonize younger tenants & De Anza students.

Game theory 101:

"Our brains so hate the idea of losing....that we abandon all rational thought, and we make some really poor decisions."

~ Crazy Rich Asians

The quote fits, as the question truly remains, whom will sue the City of Cupertino next due their poor decision making?

(I'd definitely urge Pamela Wu to do so if not reinstated.)

Whatever happens...Bok-bok bishes...I'mma have popcorn for the show.

#Swerve

In the meantime, I'd advise a few items:

Focus on listening to your constituents, hire more lawyers, focus on servant leadership, pay more legal fees, humble thyselfs, save money on legal fees by avoiding lawsuits, be active in the community, and 4 of you could consider going back to law school to help cut down future legal costs....and/or allow competent city managers to continue to run Cupertino well, instead of into the ground.

Sincerely,

M. Jones

Ps. I also would like to request a formal public records request of all email correspondence between Cupertino Mayor Liang Chao and Cupertino City Manager Pamela Wu regarding the lead up and aftermath of Cupertino's "2025 State of the City Address" for the period covering the last 12 months. Electronic record (no photocopies please) will be sufficient. I will expect your response by Monday, May 19th.

From: Gilbert Wong

[<gilbertswong@gmail.com>](mailto:gilbertswong@gmail.com)

Sent: Friday, May 2, 2025 2:01 AM

To: Liang Chao [<LChao@cupertino.gov>](mailto:LChao@cupertino.gov); Gilbert Wong [<gilbertswong@gmail.com>](mailto:gilbertswong@gmail.com)

Cc: Pamela Wu [<PamelaW@cupertino.gov>](mailto:PamelaW@cupertino.gov); Tina Kapoor [<TinaK@cupertino.gov>](mailto:TinaK@cupertino.gov); Samantha

LoCurto [<SamanthaL@cupertino.gov>](mailto:SamanthaL@cupertino.gov); Tracy Kosolcharoen [<TKosolcharoen@cupertino.gov>](mailto:TKosolcharoen@cupertino.gov);

Serena Tu [<SerenaT@cupertino.gov>](mailto:SerenaT@cupertino.gov); Lauren Sapudar [<LaurenS@cupertino.gov>](mailto:LaurenS@cupertino.gov); Kirsten Squarcia

[<KirstenS@cupertino.gov>](mailto:KirstenS@cupertino.gov); Kitty Moore [<kmoore@cupertino.org>](mailto:kmoore@cupertino.org); J.R. Fruen

[<jrfruen@cupertino.gov>](mailto:jrfruen@cupertino.gov); R "Ray" Wang [<rwang@cupertino.org>](mailto:rwang@cupertino.org); Sheila Mohan

[<smohan@cupertino.gov>](mailto:smohan@cupertino.gov)

Subject: Re: State of the City Address

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you



Hello Mayor Liang Fang Chao,

Thank you for responding to my comment during Oral Communications on April 29 at 6pm in regards to the review of the City Manager Performance Review. There were members of the public that probably are affiliated with you and Better Cupertino who alleged the City Manager, Pamela Wu did not attend your State of the City addresses. When the oral communication was finished and closed, you responded directed at me, Gilbert Wong, that you, Liang Fang Chao, had no idea why? If so then why did you respond back to me in the Conference Room? Why did you yesterday go out of your way to email in writing to state that Liang Chao does not know why and you CC the City Manager Pamela Wu that you do not know why? Do you feel guilty that you did not something wrong?

Why did the city hire a Private Investigator to investigate the City Manager Pamela Wu as I stated in my Oral Communication speech on April 29th? Why are we having another Closed Session on today Friday May 2nd at 12:15pm at City Hall for another Closed Session on performance review/ discipline?

On April 2, 2025 Council Meeting item #6 you put on the agenda Cupertino Sister City Committee to review the policy on Travel for Staff members. I stated in the public meeting that you were on a public hunt on the Cupertino City Manager Pamela Wu. I ask you NOT to involve our four Cupertino sister cities in your personal vendetta against the City Manager. If you have a personal problem or a performance issue with the City Manager, first you need to talk to her and if you are not satisfied, then talk to your colleagues in Closed Session and get consensus from your four colleagues. You tried to talk to me about your concerns with Pamela Wu in regards to her performance as a City Manager and I had to stop you and I said you need to talk to your council colleagues or Pamela. As one of her immediate supervisors, I felt you were defaming her to a public member and I did not feel it was appropriate to tell me. I stated as a former Mayor what avenue to address your concern.

Pamela Wu is an exceptional City Manager for the past two years plus. She has skillfully and professionally help the City of Cupertino get through an approved Housing Element, bringing back morale after going through 7 city **managers at** City Hall staff and help negotiated successful deal with Sand Hill Properties that save us millions and guide us through the clawback by the State of California with Apple sales tax.

I feel that **the Mayor and her majority has created an unbearable relationship and**

hostile environment that the **City Council should** let her go **and pay her the 12 months** severance for no cause. The Mayor friends and BC have written letters and come to council public hearings with unfounded accusations and allegations that are not grounds to remove Pamela Wu from City Manager. The City of Cupertino already has two open lawsuits in 2025. I can predict the City Manager getting fired soon with a cause that has not been announced. The City has hired a Private Investigator as I have talked to one of the witnesses that was interviewed. We may never know what is in the report as it is a closed session but we need the Press to start asking questions.

I hope the Disciplinary closed session later today at 12:15pm will be fair to our City Manager Pamela Wu. I hope the FIVE Cupertino Council Members will be fair and transparent in their decision. In the City Manager contract, which is a public document, there is a five day grace period before final action is taken so I hope the public reads the allegations carefully. I know Mayor Liang Chao is a good person and is trying to do her job to the best of her capacity. I ask the city council to NOT fire Pamela Wu and if you do fire her with NO cause, pay her the 12 months severance and avoid a long lawsuit. As Vice Mayor Kitty Moore said she ran on fiscal responsibility. **When she sued the City and Loss, she said in a public meeting that it was a huge financial burden on her. Please think about our taxpayers!**

SPECIAL MEETING ROLL CALL CLOSED SESSION 1. Subject: Public employee performance evaluation/discipline; Title: City Manager; California Government Code Sections 54954.5(e) and 54957(b). OPEN SESSION REPORT REGARDING CLOSED SESSION ADJOURNMENT

Also there is some background info at

<https://cupertinotoday.com/2025/05/01/city-council-targets-city-manager-pamela-wu-with-unprecedented-series-of-closed-door-performance-evaluations/>

Also do a Public Record Request of correspondence email between me and Mayor Liang Chao.

Regards,

Gilbert Wong

Former Mayor and Councilmember (2007 to 2016)

***P.S. City Clerk office, please enter this email to written communications for the May 2, 2025 Closed Session 12:15pm

On **Thu, May 1, 2025** at 2:51 PM Liang Chao <LChao@cupertino.g> wrote:

Pamela,

Thank you for your message.

What I recall from the planning meeting was a discussion about the format or program of the event. I had mentioned that I didn't think an MC was necessary this year, since there wouldn't be other groups—such as Rotary or the Chamber—making presentations. So, any reference I may have made about not needing you there was strictly in the context of the event program and your role as MC.

If I did make a statement such as “I do not see a need to have you there” (which I do not specifically recall saying), I believe it would have been in reference to the role of MC or other role in the program, not attendance as an audience member. To my knowledge, we never had a conversation about whether you should attend the event as a member of the audience or not.

As I've shared previously, I truly did not know why the City Manager was not present at the State of the City Address, and I was never informed in advance that you would not be attending. That's why I was surprised by Gilbert's public comment, which implied that I knew your whereabouts—when in fact, I did not.

I hope this clarifies any misunderstanding. As leaders of an organization, I believe it's important that we assume positive intent and take the initiative to clarify miscommunications before they result in incorrect assumptions that could affect working relationships.

Sincerely,

Liang

Liang Chao

Mayor

City Council LChao@cupertino.gov 408-777-

3192

From: Pamela Wu <PamelaW@cupertino.g

Sent: **Thursday, May 1, 2025 2:26 PM**

To: Liang Chao <LChao@cupertino.g

Tina Kapoor naK@cupertino.g

Samantha LoCurto amanthaL@cupertino.g

Tracy Kosolcharoen Kosolcharoen@cupertino.g

Cc: Gilbert Wong <gilbertswong@gmail.com>;
Serena Tu renaT@cupertino.g Subject: RE: State of the City Address

Dear Mayor Chao,

Thank you for your email. I've taken the liberty of including Tina, Sam, and Tracy in this response, as they were part of the initial Zoom meetings planning for the State of the City. During these meetings, my attendance at the event was specifically mentioned and discussed.

During our first planning meeting in January, Tina shared that, traditionally, the City Manager serves as the MC for this event. However, understanding that you intended to introduce a different format this year, you clearly stated that you did not wish for me to serve as MC. I then asked if you envisioned any other role for me during the event, to which you replied, "I do not see a need to have you there." I repeated your statement for confirmation at least twice, while Tina, Sam, and Tracy were present, and concluded by asking one final time if my absence would be acceptable. You raised no objection.

Based on this clear direction, I made other commitments for that evening. However, I want to emphasize that I was present for the full duration of the rehearsal earlier that day—until at least 5:00 p.m.—to support the success of the event in every way I could.

If needed, I am happy to verify with IT whether the Zoom meeting was recorded to confirm this discussion.

That said, had I known that my attendance was expected from you, I would, without hesitation, have been there to support you fully.

Sincerely,
Pamela

Pamela Wu
City Manager
City Manager's Office
Pame aW@cupertino.gov
(408) 777-1322



From: Liang Chao
<LChao@cupertino.g>

Sent: **Thursday, May 1, 2025**
10:36 AM

To: Pamela Wu
<PamelaW@cupertino.g>
Cc: Gilbert Wong
<gilbertswong@gmail.com>
Subject: State of the City Address

Pamela,

At the public comment period, a few members of the public commented that the city manager was not present for the State of the City Address. In response, Gilbert Wang (copied here) commented that the Mayor knows where the City Manager was during the State of the City address. (I have no idea why Gilbert seems to think I should know)

After all of the public comments, following my policy of correcting any inaccurate comments right away to avoid confusion, I commented that the city manager did attend the rehearsal, but I really didn't know (and still don't know) why the city manager did not attend the State of the City Address.

To this date, I still don't know why the city manager was not able to attend the State of the City Address, even though that's announced as a special council meeting. And I was not notified beforehand that the city manager won't be present. (<----This is what Passive Agressive behavior looks like/sounds like)

I never asked either since I didn't think it's a big deal. Since I didn't know, I cannot offer anything to defend the city manager either., when the public brought up the issue. (((Mayor is clearing lying here)))

So, I thought that I should ask you directly so I can clarify it when this comes up again. In case it's a personal matter and you would rather not disclose your whereabouts, that's fine and I understand.

At least I have asked the question to give you an opportunity to clarify any confusion.

Maybe the reason is something simple and totally reasonable. (<----This is what Passive Agressive behavior looks like/sounds like)

Thank you.

Liang

Liang Chao

Mayor

City Council LChao@cupertino.gov 408-777-3192

From: [Patricia Dowd](#)
To: [City Council](#)
Cc: [City Clerk](#)
Subject: 5/6/25 City Council Meeting - Agenda Item #9
Date: Monday, May 5, 2025 4:23:17 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Honorable Mayor and Members of the City Council,

I urge you to do everything you can to protect the residents of the McClellan Terrace Apartments. I am shocked by the actions of the Foothill/DeAnza College District. Evicting Cupertino residents from their homes is not the way for them to solve their housing issues. And speaking of their housing issues I have a question for them about where Flint Center used to be. I admit I do not know if this is true but I was told some type of health center will be built there. Why they are not using this property for housing is a true mystery to me. It would be the perfect location and certainly a much better one than evicting our residents. For that matter the District could lease a hotel/motel much like San Jose State did and it too would be a good housing option. Furthermore it wouldn't have to be within blocks of the school. There is public transportation.

I appreciate your discussing this matter at your 5/6/25 meeting and I hope that a positive outcome will be reached for the residents of the McClellan Terrace Apartments.

Please include this message in the written comments for Agenda Item #9.

Thank you.

Patricia Dowd
10641 Madera Drive
Cupertino, California