



Incorporated October 22, 1956

# CITY OF SARATOGA

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(ENDORSED)  
**FILED**  
SEP 17 2018

September 13, 2018

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY Janice Jones DEPUTY

Honorable Patricia Lucas  
Presiding Judge  
Santa Clara County Superior Court  
191 North First Street  
San Jose, CA 95113

**RE: Response to 2017-18 Grand Jury Report**  
**"Affordable Housing Crisis: Density is Our Destiny"**

Dear Judge Lucas:

Enclosed please find the City of Saratoga's response to the Santa Clara County Civil Grand Jury report entitled "Affordable Housing Crisis: Density is Our Destiny." The City thanks the Grand Jury for its investigation into this complex issue and for bringing this matter to our attention in an informative and thorough manner. The enclosed response was approved by the City Council of the City of Saratoga at the public meeting on September 5, 2018.

Sincerely,

Mary-Lynne Bernald  
Mayor

## **RESPONSE TO FINDINGS**

### **Finding 2a**

Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents. Agencies to respond are all 15 cities and the County.

Response – The City of Saratoga agrees with the finding.

### **Finding 2b**

Contributions to BMR housing from employers in the County are not mandated nor evenly shared. Agencies to respond are all 15 cities and the County.

Response – The City of Saratoga agrees with the finding.

### **Finding 3a**

RHNA sub-regions formed by several San Francisco Bay Area counties enable their cities to develop promising means to meet their collective BMR requirements. Such sub-regions can serve as instructive examples for cities in the County. Agencies to respond are all 15 cities.

Response – The City of Saratoga agrees with the finding.

### **Finding 3b**

Developers are less willing to consider BMR developments in cities with the County's highest real estate values because these developments cannot meet their target return on investment. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Palo Alto and Saratoga.

Response – The City of Saratoga agrees with the finding.

### **Finding 3c**

More BMR units could be developed if cities with lower housing costs form RHNA sub-regions with adjacent cities with higher housing costs. Responding agencies are all 15 cities.

Response – The City of Saratoga disagrees with the finding. All 15 cities in Santa Clara County, except for one, have certified housing elements for the 2015-2023 RHNA cycle. All jurisdictions have adequately planned for housing growth within their City/County. Shifting the RHNA numbers between jurisdictions will not likely result in more BMR units being developed in the sub-region because housing development is primarily market driven. To date, even in some low cost cities, the market does not deliver adequate BMR housing.

### **Finding 3e**

High-cost/low-cost RHNA sub-regions could be attractive to high-cost cities because they could meet their BMR requirements without providing units in their cities. Cities to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga and Sunnyvale.

Response – The City of Saratoga disagrees with the finding. Saratoga has a certified Housing Element and has met the legal requirement to adopt a plan that provides opportunities and does not unduly constrain BMR housing developments. State law does not require cities to pay for the development or construction of affordable housing. BMR housing development is supported by federal and state subsidies.

**Finding 5a**

Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements. Agencies to respond are all 15 cities and the County.

Response – The City of Saratoga agrees with the finding. In addition, Saratoga agrees with the Civil Grand Jury's report stating that "Due to the small number of potential multi-unit developments in Los Altos Hills, Monte Sereno and Saratoga, inclusionary ordinances would generate few BMR units in these cities and are not a priority" (p.17).

**Finding 5b**

Inclusionary ordinances in cities having only a small number of potential multi-unit developments would generate too few BMR units to justify their passage. Cities to respond are Los Altos Hills, Monte Sereno and Saratoga.

Response – The City of Saratoga agrees with the finding.

**Finding 7**

NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units. Agencies to respond are all 15 cities and the County.

Response – The City of Saratoga agrees with the finding. While NIMBY opposition does adversely affect the supply of BMR housing units in some communities, it should be noted that in Saratoga, all housing projects proposed within the last 10 years were approved by the City.

**Finding 8**

It is unnecessarily difficult to confirm how many BMR units are constructed in a particular year or RHNA cycle because cities and the County only report permitted units. Agencies to respond are all 15 cities and the County.

Response – The City of Saratoga disagrees with the finding. Saratoga reports BMR units on building permits that have been issued for construction. Based on City records, the City's BMR units are typically completed within 8-16 months. In the City of Saratoga, we do not experience any difference between the number of permits issued vs. the number of units completed.

**Finding 9**

Accessory Dwelling Units (ADUs) offer a prime opportunity for cities with low housing density and limited developable land to produce more BMR units. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

Response – The City of Saratoga agrees with the finding.

**Finding 10**

Lack of funding mechanisms to create BMR housing has restricted BMR achievement by cities with limited commercial development or developable land. Cities to respond are Los Altos Hills, Monte Sereno and Saratoga.

Response – The City of Saratoga disagrees partially with the finding. The City agrees with the finding that a lack of funding mechanisms has restricted the number of BMR housing being constructed. However, the City disagrees that BMR achievement shortfall is the responsibility of cities because cities are not legally obligated to fund BMR housing development.

## **RESPONSE TO RECOMMENDATIONS**

### **Recommendation 2a**

The County should form a task force with the cities to establish housing impact fees for employers to subsidize BMR housing, by June 30, 2019. Agencies to respond are all 15 cities and the County.

Response – The recommendation requires further analysis because the City cannot participate in a task force unless one is formed. Should the County form a task force, the City of Saratoga would participate. The largest single employer in Saratoga is West Valley Community College.

### **Recommendation 2b**

Every city in the County should enact housing impact fees for employers to create a fund that subsidizes BMR housing, by June 30, 2020. Agencies to respond are the County and all 15 cities.

Response – The recommendation will not be implemented because it is not warranted in Saratoga. A multi-agency Housing Nexus Study was completed in December 2016 that addressed residential and non-residential housing impact fees. The study found that the revenues generated by such a fee in Saratoga would be negligible. Moreover, Saratoga has limited commercial development consisting of primarily small businesses and it is not appropriate to subject small employers to these impact fees.

### **Recommendation 3a**

Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing, by the end of 2019. Agencies to respond are all 15 cities.

Response – The recommendation requires further analysis. In 2015, the Cities Association of Santa Clara County formed a Regional Housing Task Force to develop the framework and process needed to form and implement a subregion in Santa Clara County in the next RHNA cycle (2023-2031). At their meeting on August 15, 2018, the City Council indicated unanimous interest in participating in a discussion with other cities on the subregion concept. The City staff will report to the City Council no later than December 19, 2018 on the status of the Regional Housing Task Force discussions.

### **Recommendation 3b**

Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing, by the end of 2019. Agencies to respond are all 15 cities.

Response – The recommendation requires further analysis. In 2015, the Cities Association of Santa Clara County formed a Regional Housing Task Force to develop the framework and process needed to form and implement a subregion in Santa Clara County in the next RHNA cycle (2023-2031). At their meeting on August 15, 2018, the City Council indicated unanimous interest in participating in a discussion with other cities on the subregion concept. The City staff will report to the City Council no later than December 19, 2018 on the status of the Regional Housing Task Force discussions.

### **Recommendation 3c**

High-cost cities and the County should provide compensation to low-cost cities for increased public services required for taking on more BMR units in any high-rent/low-rent RHNA sub-region, by the end of 2021. Agencies to respond are Campbell, Cupertino, Los Altos, Los Altos

Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga, Sunnyvale and the County.

Response – The recommendation requires further analysis. Saratoga acknowledges that participation in a subregion will involve discussion regarding the benefits and burdens of housing distribution among various cities. If a RHNA subregion is formed in Santa Clara County, Saratoga would generally be open to the idea of compensation for increased public services for those cities taking on additional allocation but more data analysis will be needed before the City commits to the program. The City staff will report to the City Council no later than December 19, 2018 on any additional information that has become available regarding the sub-region proposal.

#### **Recommendation 7**

A task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.

Response – The recommendation requires further analysis because it depends on action by numerous agencies. If such a task force was formed, the city would participate in a public relations campaign to highlight the importance of housing for all income levels. The City staff will report to the City Council no later than December 19, 2018 on any additional information that has become available regarding a task force.

#### **Recommendation 8**

All 15 cities and the County should annually publish the number of constructed BMR units, starting in April 2019.

Response – The recommendation requires further analysis, Saratoga currently submits annual reports to the California Department of Housing and Community Development (HCD) utilizing the State's reporting format. If cities and the county in Santa Clara County agree on using a different format, e.g. reporting the number of BMR units constructed (finalized) instead of permitted (issued), the City will provide that information. The City staff will report to the City Council no later than December 19, 2018 on any additional information that has become available regarding agreement by Santa Clara County and the cities in the county to use a different format.

#### **Recommendation 9a**

ADU creation should be encouraged by decreasing minimum lot size requirements and increasing the allowed unit maximum square footage to that prescribed by state law, by the end of 2019. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

Response – The recommendation has been implemented. Saratoga has already reduced the minimum lot size requirement and allows the maximum square footage for ADUs per State law. Lots in **all** residential zoning district are eligible to have an ADU as long as the lot size is 90% of the minimum standard prescribed for the zoning district.

#### **Recommendation 9b**

Increasing BMR unit creation by incentivizing long-term affordability through deed restrictions for ADUs should be adopted, by the end of 2019. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

Response – The recommendation has been implemented. As early as 2003 Saratoga began adopting incentives such as a 10% floor area bonus and parking exemption for deed restricted ADUs.

**Recommendation 10a**

Residential development impact fees to fund BMR developments should be enacted by the cities of Los Altos Hills, Monte Sereno and Saratoga, by the end of 2019.

Response – The recommendation will not be implemented because it is not warranted in Saratoga. On April 5, 2017, the City Council reviewed and accepted the Housing Nexus Study prepared by Keyser Marston Associates, Inc. which provided information on housing mitigation fees that could be charged for residential and non-residential development. The Council noted that the City has a small commercial base and is largely built out and the fees collected would be insignificant. There was general consensus to support a regional approach and staff was directed to monitor and explore opportunities on how the City can participate in a regional effort.

**Recommendation 10b**

Parcel taxes to fund BMR developments should be brought as a ballot measure to the voters of the cities of Los Altos Hills, Monte Sereno and Saratoga, by the 2020 elections.

Response – The recommendation will not be implemented because it is not warranted in Saratoga. On November 8, 2016, voters in the City of Saratoga, along with Santa Clara County voters approved Measure A, a \$950 million affordable housing bond. It is estimated that the bond proceeds would contribute to the creation and/or preservation of approximately 5,100 affordable housing units. In addition, it will increase supportive housing for special needs populations, including homeless and chronically homeless persons. The City of Saratoga will work with other cities in the region to explore additional strategies to support development of BMR housing.