

County of Santa Clara

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(ENDORSED)
FILED
SEP 11 2018

Megan Doyle
Clerk of the Board

September 4, 2018

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

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

RE: Grand Jury Report: Affordable Housing Crisis: Density is Our Destiny.

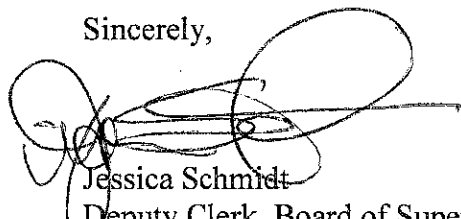
Dear Judge Lucas:

At the August 28, 2018 meeting of the County of Santa Clara Board of Supervisors (Item No. 58), the Board adopted the response from County Administration to the Final Grand Jury Report entitled Affordable Housing Crisis: Density is Our Destiny.

As directed by the Board of Supervisors and on behalf of the Board President, our office is forwarding to you the enclosed copy of the response to the Final Grand Jury Report. This response constitutes the response of the Board of Supervisors, consistent with provisions of California Penal Section 933(c).

If there are any questions concerning this issue, please contact our office at (408) 299-5001 or by email at boardoperations@cob.sccgov.org.

Sincerely,



Jessica Schmidt
Deputy Clerk, Board of Supervisors
County of Santa Clara

Enclosures

County of Santa Clara

Office of Supportive Housing

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Date: August 20, 2018

TO: Miguel Marquez, Chief Operating Officer

FROM: Ky Le, Director, Office of Supportive Housing

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SUBJECT: Response to Santa Clara County Civil Grand Jury Report: *Affordable Housing Crisis: Density is our Destiny*

In June 2018, the Santa Clara County Civil Grand Jury prepared and transmitted its Final Report, *Affordable Housing Crisis: Density is Our Destiny* to the County of Santa Clara (County), which contained 20 Findings and 19 Recommendations. The County was required to respond to the following Findings and Recommendations.

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.*

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.*

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.*

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.*

County of Santa Clara Response: The County of Santa Clara generally agrees with Findings 2a and 2b; however, Recommendations 2a and 2b will not be implemented as described. Through the work of the Housing Task Force in 2015, the County has already encouraged cities to consider enacting or expanding various mechanisms such as commercial linkage fees and residential impact fees to fund BMR housing. Some agencies, including the County, funded concurrent nexus studies. Some agencies, including the County, are in the process of developing ordinances to establish impact fees and/or inclusionary

Adopted: 08/28/2018

housing ordinances to increase funding or opportunities for the development of BMR housing.

A task force comprised of elected leaders and/or city-/County-staff cannot establish impact fees or inclusionary housing ordinances. These tools involve considerable staff resources and analyses, and it is the prerogative of each local government within the County to determine how and when it will use its limited resources to evaluate proposals to subsidize BMR housing.

***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.*

***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.*

***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.*

***Finding 3d:** High-cost/low-cost RHNA sub-regions would be attractive to low-cost cities if they are compensated by high-cost cities for improving streets, schools, safety, public transportation and other services. Cities to respond are Gilroy, Milpitas, Morgan Hill and San Jose.*

***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.*

***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.*

County of Santa Clara Response: The County of Santa Clara disagrees partially with Findings 3a, 3b, 3c, 3d, and 3e. The feasibility of BMR housing is determined by several factors, including land value. Local match, community opposition, and delays in project approval are other deterrents to pursuing BMR housing in high[er]-cost cities. More BMR units could be developed if land use policies were in place to expedite development and cities could consider fee waivers to reduce the overall cost of development.

The County will not implement Recommendation 3c because it is not warranted. High[er]-cost cities must still produce BMR housing units. Recent legislation, such as the Senate Bill 35 (Wiener), reinforce the notion that each city must create its fair share of BMR housing or risk reduced local control.

Instead of focusing on compensation to low[er]-cost cities, the County proposes that housing should be allocated strategically throughout the County, especially near major transportation corridors. Consideration should be given to an over concentration of BMR units in any given community/neighborhood, possible fair housing implications, and how healthy communities are developed. The County will explore strategies that advance the goals of Recommendation 3c while promoting neighborhood equity and place-based investments.

We also note that with encouragement from the County and as a result of the County's 2015 Housing Task Force, the Santa Clara County Cities Association established a work group to explore a RHNA sub-region. The County encouraged the formation of this work group as a way of increasing coordination and communication regarding BMR housing needs and goals.

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.*

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.*

County of Santa Clara Response: The County generally agrees with Finding 7, and efforts are underway within the Office of Supportive Housing to change the community narrative around BMR housing. As noted in Finding 7, opposition can be a barrier to the development of affordable housing. While community engagement happens at the various development stages, there is opportunity to increase widespread community support for BMR housing. As part of the implementation of the 2016 Measure A Affordable Housing Bond, the County launched the Housing Ready Communities (HRC) campaign – a community engagement and education campaign in partnership with cities and other stakeholders to fully implement the County's plan to end homelessness and build new affordable and supportive housing.

The County disagrees with Recommendation 7, as drafted, because it is not warranted. The purpose of the task force – communicating the value of RHNA objectives – is very important. However, if supported by the cities, the County recommends building on the County's Housing and Community Development Advisory Committee (HCDAC), which includes an elected official from five of the 15 cities and towns in Santa Clara County, and it may provide an alternate forum to consider this issue. The HCDAC recently amended its bylaws to include the cities of Cupertino, Gilroy and Palo Alto for its HOME Consortia,

which helps smaller cities qualify for federal funding for affordable housing programs. The County will evaluate the possibility of expanding HCDAC's membership to include all 15 cities and the County.

The State's adoption of SB 35 and AB 72 also support the County's determination that Recommendation 7 is not warranted. SB 35 and AB 72 will work together to reinforce the importance of each city meeting its RHNA objectives for BMR housing. For example, under SB 35, the California Department of Housing and Community Development (HCD) is authorized to look at each community's housing need, its plan to meet this need, and whether they have permitted sufficient housing to meet their need. AB 72 authorizes HCD to review communities' actions to determine whether they are consistent with California's housing element law.

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.*

Recommendation 8: *All 15 cities and the County should annually publish the number of constructed BMR units, start in April 2019.*

County of Santa Clara Response: The County agrees with Recommendation 8. If there are BMR units constructed in the unincorporated areas of the County, the Planning Department will annually publish these numbers.

Finding 11: *The VTA is a valuable model for effectively generating BMR housing on publicly owned property. Agencies to respond are the County and the SCVWD.*

Recommendation 11a: *The County should identify or create an agency, modeled after the VTA's Joint Development Program, to coordinate partnerships between developers and both the SCVWD and the County for the development of BMR housing, by June 30, 2019.*

Recommendation 11b: *Parcels suitable for BMR housing should be offered for development by the SCVWD and the County, by the end of 2019,*

County of Santa Clara Response: The County disagrees partially with Finding 11. The VTA's BMR policy related to building BMR housing on publicly owned property is a valuable model. However, the VTA's policy would be more impactful if the policy required the VTA to issue joint procurements with the local jurisdiction and the County. A collaborative approach would result in a more streamlined entitlement and financing approach.

The County will not implement Recommendation 11a because it is not reasonable. The VTA staff and governing Board set policy and implement development activities on properties owned by VTA. While County staff have been coordinating, facilitating, and supporting development opportunities and partnerships between cities, the County and

other government agencies, neither the County, another agency, nor an agency created by the County can establish or implement a joint development program for properties owned by other agencies.

The County has and will continue to identify suitable County-owned properties for the development of BMR housing. For example, 160 units of permanent supportive housing are being developed on County-owned property on Senter Road in San Jose. In addition, the County is actively developing BMR housing options for its Grant Avenue property in Palo Alto.

