

California Renters Legal Advocacy and Education Fund

1260 Mission St

San Francisco, CA 94103

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January 15, 2018

City of Cupertino
10300 Torre Avenue
Cupertino, CA

Re: Cupertino's obligations under the Housing Accountability Act

Dear Cupertino City Council, and City Attorney,

The California Renters Legal Advocacy and Education Fund (CaRLA) submits this letter to inform the incoming Cupertino City Council that they have an obligation to abide by all relevant state housing laws when evaluating the proposal to develop housing at the Vallco site, including the Housing Accountability Act, as amended by SB-167 (GC 65589.5). CaRLA is a 501(c)3 non-profit corporation whose mission is to restore a legal environment in which California builds housing equal to its needs, which we pursue through public impact litigation and providing educational programs to California city officials and their staff. We point to our recent lawsuit victories in Dublin, Sausalito, Berkeley, and Lafayette as evidence of our efficacy; each city attempted an unlawful denial of housing and was swiftly punished.

We understand that the City of Cupertino is involved in a lawsuit regarding the SB35 Vallco project approval as brought by an organization named Friends of Better Cupertino. SB35 requires that any project submitted under its auspices shall be approved or denied according to a ministerial process. As such, this council has limited options to lawfully deny the project, including through any possible settlement agreement with the Friends of Better Cupertino organization. It is of the utmost importance that the majority of the Cupertino City Council understand the implications of any such denial, including the possibility of violating the Housing Accountability Act. Violation of the Housing Accountability Act includes a \$10,000 fine levied against the city for each unit of housing denied contra the HAA. The SB35 project includes 2,405 units of housing which would translate to a \$24,050,000 fine, should a judge find that the city has failed to execute its statutory obligation to rectify any unlawful denial. Additionally, should a judge find that the city acted in bad faith, the \$24,050,000 fine may be quadrupled. As the Vallco

project has already received its approval vis a vis SB35, a post-hoc rejection would amount to a revocation of a granted right which is almost certain to be viewed as an action taken in bad faith.

We also understand that a majority of council members have extensive ties to that same Friends of Better Cupertino organization, including direct involvement with its founding. There is nothing unusual or suspicious about elected politicians being involved with political organizations who engage in lobbying with those same politicians. However, it is notable that that same majority has not yet publicly recused themselves from closed session meetings regarding the Friends of Better Cupertino lawsuit. This raises questions as to whether or not the city's litigation privileges have fallen into the hands of a party opponent. It is further notable that the City Council is rescinding their code of ethics in the midst of what may be considered an apparent conflict of interest.

While no one project will solve the regional housing crisis, the proposed Vallco development is the kind of housing Cupertino needs to mitigate displacement, provide shelter for its growing population, and arrest unsustainable housing price appreciation. Denial of housing by exclusionary suburbs such as Cupertino results in modern day redlining, as such denials directly regulate where renters may and may not live; our impact litigation works to undermine these harmful actions and expand access to the wealth of opportunity that is currently only available to Cupertino residents capable of affording multi-million dollar mansions. We and another housing advocacy organizations are carefully watching Cupertino's actions, especially in light of the last election campaign. You may learn more about CaRLA and request an educational workshop for your staff at www.carlaef.org.

Sincerely,

A handwritten signature in black ink that reads "Victoria Fierce". The signature is written in a cursive, flowing style.

Victoria Fierce

Co-Executive Director

California Renters Legal Advocacy and Education Fund