



MAYOR DARCY PAUL
dpaul@cupertino.org

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3195 • FAX: (408) 777-3366
CUPERTINO.ORG

September 27, 2021

The Honorable Gavin Newsom
California State Governor
State Capitol, First Floor
Sacramento, CA 95814

RE: AB 215 (Chiu) – Request for Veto

Dear Governor Newsom,

On behalf of the City of Cupertino, I write to request your veto on AB 215 (Chiu), consistent with our prior correspondence to Senator Portantino dated August 20 opposing this legislation. This bill would provide the Department of Housing and Community Development (HCD) with additional enforcement authority for local agency violations of specified housing laws. We have concerns related to the bill's late-onset amendments, which include significant policy changes that were not considered throughout the legislative policy committee process.

There are numerous provisions included in the bill that concern us. I will not re-hash the concerns here that we have previously written about. Our prior correspondence is attached. One point to note here, however, is that, procedurally, this bill, in its current form, lacks critical consideration from policy committees due to its late amendments. If such legislation is to be signed into law, perhaps a subsequent legislative session is the most appropriate arena – one where late-onset amendments do not circumvent the ability for all policy committees to consider its provisions.

Substantively, while Cupertino is committed to adhering to state housing production requirements and timelines, we have concerns over the necessity of this legislation when existing authority suffices in accomplishing the goals outlined and the real necessity is a willingness to work together rather than take actions which are worsening the housing crisis. Legislation from the State must keep in mind that our legislators are not answerable to promoting the fiscal interests of lobbying entities. They are answerable to the electorate through the integrity and efficacy of their positions. We remain concerned that legislation like this is designed to look a certain way and garner political gain while doing very little, if anything, to begin to alleviate, in any meaningful sense, the problems being used to justify and expand this browbeating and scapegoating.

Cupertino understands that California is experiencing a shortage of affordable housing. We have been, and will continue to be, committed to doing our fair share and part in the production of affordable housing in ways that do not worsen the housing crisis. However, our State and some legislators have ushered through an influx of housing legislation that targets local governments and puppets, on behalf of moneyed interests, a lobbyist-asserted lack of compliance against select scapegoats such as our City, where commercial office development is highly lucrative. As a result, as we have seen in Cupertino, private profits increase and the housing crisis worsens when office projects are pushed through under a ministerial review process not subject to public scrutiny. Some housing is entitled as a result, but vast amounts of commercial and particularly office space also becomes entitled automatically, and this latter space amplifies the need for housing by whole numbers greater than the housing from the same project. Lobbying for laws like this, while invoking the housing crisis, is in fact making that housing crisis worse, to help facilitate profit-mongering and scapegoating. How is this behavior ethical or justified?

We ask this question again. Why does the Legislature, and in this case, the Governor's office, not instead focus upon working with willing and capable jurisdictions such as ours to solve the housing crisis? Instead, work with us and help us find ways of providing funding for putting into effect housing mandates. It is curious that some State-level proposed legislation seems more intent upon following the directives and imperatives of well-moneyed interests and attacking jurisdictions where those interests are seeking to make more money. We invite the Governor's office, instead, to sit down with us to think through and solve these problems.

The City of Cupertino is committed to doing our part in the effort to generate more housing and particularly more affordable housing without making the housing crisis worse. We do not believe that AB 215 will further the objective of providing quality housing opportunities to our community and the larger public. For the reasons discussed in this letter and our prior correspondence, we request that you veto AB 215.

Sincerely,



Darcy Paul
Mayor
City of Cupertino

cc: Senator Dave Cortese
Assemblymember Evan Low
Assemblymember Marc Berman
Ronda Paschal, Deputy Legislative Secretary, Office of Governor Newsom

Enc: Correspondence to Senator Portantino Opposing AB 215



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August 20, 2021

The Honorable Anthony Portantino
California State Senator, 25th District
State Capitol, Room 5050
Sacramento CA 95814

RE: AB 215 (Chiu) – OPPOSE

Dear Senator Portantino,

On behalf of the City of Cupertino, I write to express our opposition to AB 215 (Chiu), which would create a new, mid-cycle regional housing needs progress determination and consultation process between the Housing and Community Development Department (HCD) and local governments that have insufficient housing production. While the City is committed to adhering to state housing production requirements and timelines, we have concerns over the necessity of this legislation when existing authority suffices in accomplishing the goals outlined. Not meeting the revised relative progress determination standards will result in punishment when a community is pursuing numerous avenues to ramp up housing production to meet state requirements. At the same time, legislation from the State must keep in mind that our Legislators are not answerable to promoting the fiscal interests of interested entities. They are answerable to the electorate through the integrity and efficacy of their positions. We remain concerned that legislation like this is designed to look a certain way and garner political gain while doing very little, if anything, to, in reality, even begin to alleviate in any meaningful sense the problems being used to justify browbeating and scapegoating.

With regard to the specifics of how we are going about doing our part to work on the problem of housing, our City is currently planning how to accommodate the ambitious housing targets for the 2023-2031 RHNA cycle, wherein housing production must be increased nearly fivefold from previous targets. We are concerned with the bill's provision that establishes a "relative-progress" metric to compel mid-cycle consultations with jurisdictions whose housing progress is less than half of the relative progress for the median jurisdiction affiliated with the council of governments. While we appreciate that this provision has been amended to narrow the scope of the metric, we fear that the Association of Bay Area Governments' (ABAG) total number of required units for the upcoming RHNA cycle (441,000), will place our City in a compromised position that will result in punishment as we diligently plan for new developments.

The City understands that California is experiencing a shortage of affordable housing. We have been, and will continue to be, committed to meet production goals. However, the influx of housing legislation that targets local governments and their perceived lack of compliance is difficult to keep pace with and can be redundant to existing laws. While we appreciate the author's recent amendments, AB 215 provides another state housing mandate that we fear will punish and add additional onerous processes to our existing housing planning and development actions. Instead of trying to find people and other entities to blame, why does the Legislature not instead focus upon working with willing and capable jurisdictions such as ours? Where is the provision of funding for putting into effect these types of mandates? It is curious that some State-level proposed legislation seem more intent upon following the directives and imperatives of well-moneyed interests rather than sitting down with us to think through and solve these problems. Enough is enough. Work for better legislation, or good communities will come around to the basic fact that our State is simply not being served by people whose apparent methodology involves pre-emptively calculating who and how they will attack, irrespective of the merit of respective positions. Legislation needs to be designed to produce actual solutions rather than creating a punitive regime in the presence of people who would be willing partners if only afforded the basic courtesy of a conversation, as opposed to finger-pointing at the behest of those who were never elected to represent the interests of the people. Stop it with this so-called legislation. We are working in good faith to serve the unhoused and provide affordable units, but efforts like this are completely disrespectful and counter-productive. The marvel is that good people have allowed it to go this far.

Additionally, this bill would punish cities for production issues that are beyond our control. While cities, through their planning processes, can facilitate housing, we do not produce housing. Developers produce housing, and their goals and objectives are often not aligned with the objectives of public agencies. For example, in our most recent RHNA cycle, the City of Cupertino identified and zoned five sites within the city that were suitable for housing. Additionally, the City worked with developers and ultimately approved projects for each of the housing sites that had been identified. To date, four of the five projects have not been completed due to various dynamics that have resulted in the developers determining that commencing construction is not in their best interest. Under the provisions of AB 215, the City could be found to be deficient in our housing element, even though we have met our responsibilities for zoning and approving projects, because of financial decisions that are made by private developers. The State Legislature needs to stand with local communities which are the ones like ours working to deliver inclusionary zoning. When the body or elements of it provide the impression that play-ball politics, delivered with glib sincerity but packaged in, in actuality, kick-the-can-down-the-road problems, can be effectively lobbied for and bought in the halls of our State Capitol, this is what truly undermines the efforts of those at the local level. We are not sound bites for people who are not doing the work locally to use in order to advance political, personal and monetary interests. Please stop as well giving the impression that the monetary needs of an entity can simply be a balance-sheet calculation. There is such a thing as efficacy and ethics. In the end, it is a sad state of things when we must ask of supposedly

higher-level government actors that they not interfere with the good things that we are trying to do while helping profit-mongering interests with their spin and smear. But for us, that is precisely what we have to do, and what has been done to us. It is shameful, and very frankly we have had enough of it. We have met our RHNA entitlements in good faith, but actions such as this and similar ones over the years have woven a false narrative which, frankly, is helping no one at all. To solve the problem of housing, we need clarity and we need integrity. Please help us act in both manners, or at the very least, don't be part of the problem.

This bill fails to consider the variable costs of building affordable housing in many cities. HCD should provide data on the building costs for each city and the amount of funding each city receives. Some cities have higher building costs, which makes it extremely expensive for developers to build all of the required affordable housing units. For example, the Veranda in Cupertino is a 19-unit affordable housing development for seniors that cost over \$600,000 per unit that measures only about 350 square feet. In order to build over 1,800 affordable housing units, the City would need millions for assistance.

As well, the way we ensure our future and the future of the next generations is to build transit infrastructure for the next hundred years. Is what is being done here designed to do that as well? These are expensive propositions. Work with us and get something done. Finger-point at good people working in good faith for solutions, and more of the same is going to happen.

The City of Cupertino is committed to meeting our housing production goals, but we do not believe that AB 215 will further our objective of providing quality housing opportunities to our community. For these reasons we must oppose this measure and ask for real partnership.

Sincerely,



Darcy Paul
Mayor
City of Cupertino

cc: Senator Dave Cortese
Assemblymember Evan Low
Assemblymember Marc Berman
Senate Appropriations Committee
Senator Patricia Bates, Vice Chair
Senator Steven Bradford
Senator Brian Jones
Senator Sydney Kamlager
Senator John Laird
Senator Bob Wieckowski