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Case #18CV330190
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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SANTA CLARA**

14 FRIENDS OF BETTER CUPERTINO,
15 KITTY MOORE, IGNATIUS DING and
16 PEGGY GRIFFIN,

17 Petitioners,

18 v.

19 CITY OF CUPERTINO, a General Law
20 City; GRACE SCHMIDT, in her official
capacity as Cupertino City Clerk, and
DOES 1-20 inclusive,

21 Respondents.

22 VALLCO PROPERTY OWNER LLC,
23

24 Real Party in Interest.
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Case No. 18CV330190

**CITY OF CUPERTINO’S REPLY TO
VALLCO PROPERTY OWNER LLC’S
RESPONSE TO THE CITY’S
STATEMENT OF NON-OPPOSITION**

Assigned for All Purposes to:
Hon. Helen E. Williams, Dept. 10

Date: September 6, 2019
Time: 9:00 a.m.

Action Filed: June 25, 2018

1 On May 24, 2019, Respondents City of Cupertino et al. filed a Statement of Non-
2 Opposition in Response to Petitioners' opening brief. Real Party in Interest Vallco Property
3 Owner LLC's June 18, 2019 Response to the City's Statement suggests that the City merely
4 "speculates that the Vallco Project may 'exacerbate the housing shortage . . . by contributing to a
5 worsened jobs-housing imbalance.'" Vallco's Response at 2:2-4 (citing City's Statement at
6 2:12-14).

7 But the City's observation is far from speculation. Vallco's own analysis in the record
8 estimates that the Project would bring 8,719 new jobs to the City of Cupertino and would
9 include a total of 9,828 jobs. Administrative Record ("AR") at 341. Assuming one new housing
10 unit is needed for every 1.5 new jobs, the Project creates a demand for 5,812 units. Yet the
11 Project would provide only 2,402 units. AR at 341. In other words, the Project actually results in
12 the need for 3,410 more housing units than it provides. Moreover, the residential units that the
13 Project does provide may not be suitable for low-income, working families: 100 percent of the
14 Project's affordable units are either studios (894 units) or one bedrooms (307 units). AR at 339.

15 While these figures are concerning to the City, the City's Statement makes clear that it
16 takes no position for or against Petitioners' brief. City's Statement at 2:3. Vallco's assertion that
17 the City opposes this Project is incorrect. Vallco's Response at 2:18-20, 4:2-3. The City
18 understands that the legality of the Project approval is before the Court and has asked the Court
19 to carefully consider the record and the arguments of both Vallco and Petitioners in determining
20 whether the Project complies with the requirements of SB 35. The Project's jobs/housing
21 imbalance is a factual issue that the City believes should be before the Court as it conducts that
22 consideration and interprets the statute. *See* Gov. Code § 65913.4(1).

23 DATED: July 1, 2019

SHUTE, MIHALY & WEINBERGER LLP

24 By: 
25 HEATHER M. MINNER, City Attorney

26 Attorneys for Respondent
27 CITY OF CUPERTINO et. al.

28 1133889.12

1 **PROOF OF SERVICE**

2 *Friends of Better Cupertino, et al. v. City of Cupertino, et al.*
3 Case No. 18CV330190
4 Santa Clara County Superior Court

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am
6 employed in the County of San Francisco, State of California. My business address is 396
7 Hayes Street, San Francisco, CA 94102.

8 On July 1, 2019, I served true copies of the following document(s) described as:

9 **CITY OF CUPERTINO’S REPLY TO VALLCO PROPERTY
10 OWNER LLC’S RESPONSE TO THE CITY’S STATEMENT
11 OF NON-OPPOSITION**

12 on the parties in this action as follows:

13 **SEE ATTACHED SERVICE LIST**

14 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
15 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
16 document(s) to be sent from e-mail address Weibel@smwlaw.com to the persons at the e-mail
17 addresses listed in the Service List. I did not receive, within a reasonable time after the
18 transmission, any electronic message or other indication that the transmission was unsuccessful.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

21 Executed on July 1, 2019, at San Francisco, California.

22 
23 _____
24 David Weibel

1 **SERVICE LIST**

2 ***Friends of Better Cupertino, et al. v. City of Cupertino, et al.***
3 **Case No. 18CV330190**
4 **Santa Clara County Superior Court**

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