Honorable Senator Nancy Skinner
Room 5094
State Capitol
Sacramento, California 95814

17 April 2019

RE: SB 330 (Skinner) Housing Crisis Act of 2019.

Notice of Opposition

Dear Senator Skinner

The City of Cupertino opposes SB 330.

The fundamental problem in California is that insufficient affordable housing is being built. We have an affordable housing crisis. SB 330 will not help to mitigate the affordable housing crisis in California because the provisions in the bill do not compel developers to construct additional affordable housing.

SB 330 undermines our General Plan, and Housing Element (which are certified by HCD). By allowing developers to override state approved housing plans, SB 330 seriously calls to question the need for cities to develop community based plans in the first place.

The League of California Cities' April 11, 2019 briefing on SB 330 summarized the following powers removed from the city:

"Until January 2030, a city may not:

- Downzone
- Impose parking requirements
- Increase impact fees
- Apply any fees to affordable housing
- Impose a housing moratorium
- Impose non-objective design standards that were not in effect in January 2018
- Establish a maximum number of conditional use permits
- Enforce existing growth management ordinances"

What removal of these powers means is that SB 330 will offer significant benefits to developers without provisions to require affordability for the projects that will benefit from the restrictions placed on cities.

SB 330 does not define what constitutes the "housing crisis," when it begins, when it ends, or how it changes with normal fluctuations in the housing market. The use of adjectives like "crisis" and "emergency" without a clear definition are used in order to justify actions that strip the cities' of their police power of land use regulation in order to benefit developers, harm cities, and ultimately create more housing insecurity.

SB 330 attempts to override the California Constitution which gives voters the power to enact initiatives, without amending the constitution. Article II, section 11 of the California Constitution provides: "Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the legislature shall provide."

SB330 freezes design standards in place when an initial application is filed. This is unacceptable because the initial application does not include all the information necessary to understand a project's

impacts or even which standards apply. The standards that should apply are those in place when the *completed* application is filed.

The addition of S. 65941.1 deems an application complete without requiring multiple critical pieces of information such as disclosure of hazardous waste on the site (see S. 65940: "Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943."), owner verification, subdivision information, landscaping proposals, or environmental impacts, and , public noticing, verification of ownership, and compliance with the Subdivision Map Act and local subdivision ordinance.

"Objective Standards" is a concept just introduced in SB 35 in January 2018. Cities are still working to introduce objective standards into their General Plan and Municipal Code, but SB 330 would forbid cities from adopting any revisions, leaving cities with no standards in their General Plan. SB 330 vaguely uses the term "density" in (3)(b) stating: "If the city or county grants a conditional use permit approving a proposed housing development project and that project could have been eligible for a higher *density* [emphasis added] under the city's or county's general plan land use designation and zoning ordinances as in effect on January 1, 2018, the bill would also *require* [emphasis added] the city or county to allow the project at that higher *density* [emphasis added]" Density can include mixed use, not just housing. For instance, a property with 2 Million square feet of office allocated to it as of January 2018, could not have that office allocation removed under the limitations of SB 330.

SB 330 does not allow cities to impose parking standards, no matter the density of a city and does not consider a city's availability of any mass transit. Despite being allowed to not provide sufficient parking, there is nothing in SB 330 that mandates that the cost savings of not providing parking be passed on to renters and purchasers. Nor are developers required to pay fees to a city which will incur significant expenses by being forced to provide more on-street parking and to implement permit parking programs for existing neighborhoods.

SB 330 requires cities to subsidize developer's market rate housing developments by freezing impact fees. Mitigation and impact fees are imposed so local jurisdictions can provide public improvements and public services to new residents. Fees already can only be set at the level necessary to cover the cost of providing these services, and freezing those fees puts an undue burden on a city's finances. Since there is no deadline by which a developer needs to pull building permits, the fees that they are required to pay could be far less than the legitimate fees at the time building commences.

SB 330, S. 65905.5 (c) states that a project needs to comply with either zoning ordinances OR the general plan. This demonstrates a lack of knowledge of how zoning and general plans work together.

SB 330's thirty day limit for a local agency to inform a developer of the reasons why a proposed project is inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, is much too short. Analyzing complex projects cannot be performed in thirty days. Furthermore, there is no provision to stop the clock when a developer is intentionally withholding information.

SB 330 attempts a "one size fits all," meat cleaver approach, in terms of the number of hearings for a project; a small project might legitimately require three or less hearings, while an enormous project could require many more.

SB 330 embraces the premise that making housing dense will make it more affordable, but this premise has no basis in fact. Density invariably raises prices as land becomes more valuable and new, high-cost luxury housing replaces naturally affordable existing housing. Despite what some people believe, "the law of supply and demand" is not an actual state or federal law.

SB 330 hurts cities with no mass transit that have been long ignored by regional transit agencies Cupertino would be subjected to densification in areas where nearly all residents would be forced to drive everywhere, creating more traffic congestion and more degradation of the environment. SB 330 will create a transportation crisis while failing to solve the affordable housing crisis.

SB 330 is not data-driven, it is developer-driven. Cities that have met their RHNA entitlements are being punished for circumstances beyond their control. There is no control of office development build within mixed-use areas, allowing a project to worsen the shortage of housing by increasing employment with no balance to housing built. The bill ties the city's hands from being able to balance jobs to housing for a given project.

In conclusion, SB 330 is a real estate bill. It will serve solely to enrich private developers. It will not provide the affordable housing needed by housing-insecure Californians, in fact it will worsen housing insecurity for our most vulnerable population.

Cupertino acknowledges that there is an affordable housing shortage in California. It is imperative that laws intended to address the affordable housing shortage look at the big picture and do not worsen this shortage.

For these reasons, the City of Cupertino opposes SB 330.

Sincerely,

Steven Scharf
Mayor
City of Cupertino

cc.   The Honorable Jim Beall
        The Honorable Mark Berman
        The Honorable Evan Low
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