



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

June 29, 2021

The Honorable Mark McGuire
California State Senate, 2nd District
State Capitol, Room 5061
Sacramento, CA 95814

RE: AB 989 (Gabriel) – OPPOSE

Dear Senator McGuire,

On behalf of the City of Cupertino, I write to express our opposition to AB 989, which would create the Governor-appointed Housing Accountability Committee (HAC) within the California Department of Housing and Community Development (HCD) to review appeals of affordable housing projects denied by a local government.

Under current law, the Housing Accountability Act (HAA) allows a city or county – after proper notice and public hearings within strict time limits - to impose conditions to mitigate the environmental impact of the project under CEQA (Section 65589.5(o)(2)(E)); and to require compliance with “objective, quantifiable, written development standards, conditions and policies” in effect when the preliminary application was submitted (Section 65589.5(f)). As written, AB 989 would allow a single HAC member to overturn either of these actions if it is argued that the application of such standards rendered a project “infeasible,” in a process that does not allow for public input.

AB 989 would override provisions within the HAA that protect the health and safety of residents and the environmental integrity of our communities, which contrasts with existing and pending law. For instance, the Legislature is currently considering SB 37, which seeks to prevent developments from bypassing integral CEQA requirements by updating the “Cortese List” of hazardous waste sites, contrasting with the proposed functions to HAC. Conducting work on projects that are on hazardous sites without substance mitigation is dangerous to the public. Exemptions to such projects or the establishment of a committee designed to countermand decisions pursuant to CEQA provisions threatens the health and safety of residents throughout the state.

While the City understands that the existing legal and court process can take time to settle disputes, it is the most fair and consistent process to resolve conflicts between local jurisdictions and project proponents. The Courts can be provided resources to expedite reviews, and they are trained to evaluate legal and technical issues. The establishment of the HAC does not require its members to have a legal, environmental, or planning-based background.

The State needs to work with localities rather than browbeat them. Work with us on policies which can help with our problems while ensuring public safety through the lens of understanding our localities' specific considerations and challenges. We cannot let profit-driven interests continue to corrupt our system by making problems worse while creating scapegoats out of good-faith partners. Work with us to encourage and enforce inclusionary zoning requirements, for instance, rather than equipping lobbying-based dollars with the means to circumvent public-safety and environmental protections.

The creation of an HAC would add a layer of bureaucracy that fails to ensure alleviation of problems related to the affordability of housing. Public safety will be replaced with draconian oversight of local community health and safety conditions, without allowing for public review and comment. AB 989 does nothing to improve the quality or efficiency of a project, but it does compromise public safety in favor of private-interest profits.

For these reasons, the City of Cupertino opposes AB 989.

Sincerely,



Darcy Paul
Mayor
City of Cupertino

cc: Senator Dave Cortese
Assemblymember Evan Low
Assemblymember Marc Berman
Senate Governance and Finance Committee
Senator Mike McGuire (Chair)
Senator Jim Nielsen (Vice Chair)
Senator Maria Elena Durazo
Senator Bob Hertzberg
Senator Scott Wiener