



CITY MANAGER'S OFFICE

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December 11, 2018

Via Electronic and Regular Mail

Jeannie Bruins
City of Los Altos
1 North San Antonio Road
Los Altos, CA 94022

SUBJECT: CASA Compact

Dear Ms. Bruins:

Following adoption of the Bay Area's Sustainable Communities Strategy (SCS), Plan Bay Area, in 2013 (updated in 2017), CASA – the Committee to House the Bay Area (CASA), was convened by the Metropolitan Transportation Commission (MTC), the Bay Area's Regional Transportation Agency to identify innovative methods to meet the housing targets in the Plan. CASA's key principles include (1) increasing housing production at all levels of affordability, (2) preserving existing affordable housing, and (3) protecting vulnerable populations from housing instability and displacement.

From Summer 2017 through Fall 2018 CASA developed a suite of legislative, financial, policy and regulatory recommendations that together form a Regional Housing Implementation Strategy for presentation at state and regional levels. This has been presented to the Bay Area Regional Collaborative (BARC) on November 8, 2018 and the ABAG Executive Board on November 15, 2018 to solicit support on the proposed strategies together called the CASA Compact. It is expected that the Draft Term Sheets will be presented to the MTC Executive Board on December 17, 2018.

Based on comments from the Executive Director of the MTC at the ABAG Executive Board meeting, it is anticipated that the CASA Compact will be forwarded to state legislators for their consideration for implementation without the scope of many (or any) edits by the ABAG or MTC Executive Boards and regardless of the outcome of their voting. Mr. Heminger explained that CASA was not established with the intent of requiring Board Approval on its work product. He also indicated that state legislators

have been closely monitoring CASA's progress and regardless of support or opposition from ABAG and MTC will likely forward many of the recommendations for consideration at the state level. The CASA Compact essentially provides support to existing and future legislative work and intent.

Several members of the ABAG Executive Board expressed concerns about several terms in the Compact at its November 15, 2018 meeting, particularly the proposed changes to regulations that preempt local control over land use matters, including the upzoning along transportation corridors and a "one-size-fits-all" strategy for development. Several concerns were raised about the lack of outreach with smaller jurisdictions and broader participation in the preparation of the Draft Term Sheets. MTC staff indicated that given the schedule, there is no time for the outreach suggested by the Board. However, the ABAG Executive Board recommended a workshop to allow local jurisdictions to provide their input, possibly at a future board meeting. No vote was taken on the Compact at the November meeting.

A preliminary evaluation of the CASA Compact Draft Term Sheets raises the following concerns:

1. *Minimal outreach to local governments* – Local government representation in CASA is limited to the three largest cities in the region and three local jurisdictions (out of over 100 local agencies). Consensus on the CASA Compact has been built around builders, non-profit agencies, labor unions etc. However, most of the affected agencies have not been consulted on the Compact or its elements. It should be noted that many of the action items would impact all local agencies in California including those that may not have finances or staffing to implement the mandates;
2. *Preemption of local control over zoning regulations, inclusionary requirements and design review* – Aggressive density, height, open space and setback standards, suspension of inclusionary requirements if adequate housing not constructed, requiring jurisdictions to grant waivers/reductions to inclusionary requirements. Additionally, local jurisdictions ability to conduct design review would be severely limited to objective standards including disallowing any reductions in established height allowances for architectural articulation;
3. *Freezing fees, community benefits etc. at time of application for 100% affordable projects and at time of completeness for other projects* – While fees in Cupertino are generally frozen to time of completeness, like many other cities, community benefits are generally negotiated through project review and finalized at application approval by the City Council. This would limit cities ability to negotiate community

benefits. All community benefits would have to be established prior to any proposed development;

4. *Overreach in land use regulations by the Regional Transportation Commission* – In addition to a statutory housing overlay near transit, MTC is proposing to establish a new index to evaluate areas based on 5-factors identified by MTC which would allow implementation of state mandated zoning regulations for density, open space, height and parking well beyond the transit focus areas;
5. *Added fiscal pressures on local government due to statutory streamlining requirements and tax relief measures* – Statutory streamlining deadlines (similar to existing SB 35 timelines) by project size could require local agencies to incur expenses to hire additional staff to ensure timely project review. However, a potential 15-year tax relief could impact the General Fund further burdening local agencies. In addition, local agencies would be restricted from charging existing fees if erroneously not identified during the entitlement phase of project;
6. *Suspension of inclusionary requirements* – the legislative agenda proposes a suspension of inclusionary requirements in the event that a finding that inclusionary requirements are not thwarting housing development cannot be made within the first 30 calendar days of the day. Construction of housing cannot be guaranteed by cities upon project approval. For e.g., in Cupertino, 788 residential units were permitted in 2016, however, no building permits have been submitted and construction has not commenced on these projects.
7. *Establishment of a Regional Housing Entity (RHE) that determines disbursement of funds* – this is a concern particularly if a smaller jurisdiction generates much of the revenue. E.g. a gross receipts tax in Cupertino could generate substantial revenue, but only a small portion of that can be expected to be allocated to the City;
8. *Appropriation of local finances* – Cupertino, like several other cities in the region, already has a commercial linkage fee. With establishment of the RHE, it appears that this would be appropriated;
9. *Governmental structure of the RHE* – the proposed structure of the RHE is expected to be similar to the MTC structure. If this is heavily weighted toward the interests of bigger cities in the region, very little of the funds generated by smaller cities can be expected to be allocated back to the cities of origin;
10. *Concerns about use of local agency funds* – Concern raised by one of the ABAG Board members. Require cities to fund legal representation in the event of all kinds of evictions – including just evictions such as not having paid rent.

Cupertino looks forward to a dialogue with ABAG and MTC on formulating strategies to produce, preserve and protect affordable housing. However, the current CASA Compact has several items of concern that need to be restructured or stricken, regardless of whether these are proposed by other state legislators or not. As Cupertino's MTC representative, we hope that you will present our concerns to the MTC Executive Board and encourage broader outreach with local agencies by CASA and MTC staff.

Sincerely,



Amy Chan

Interim City Manager

Enclosures: Attachment A – Draft CASA Term Sheets