



July 27, 2016

Adrian Fine, Chair
Planning and Transportation Commission Members
City of Palo Alto, CA

Dear Chair Fine and Commissioners,

It is an undisputed fact that there is a need for the Silicon Valley region to address the crisis of housing affordability throughout the Bay Area, including the City of Palo Alto. However, legally indefensible nexus studies, such as the study provided by Strategic Economics to the City of Palo Alto do not provide the lawful basis to implement new fees, i.e., taxes, on new residential construction.

Housing affordability has become a crisis due to the lack of housing supply, recent explosive regional job growth, the termination of redevelopment by the state legislature and other economic, political and social factors that should be addressed by society at large, not allocated to builders of market-rate housing based on studies that fail to satisfy the most basic elements of proximate cause.

Upon review of the Nexus Study and the fee methodology utilized to determine the maximum supportable nexus-based Housing Fees, BIA Bay Area has concluded that the Nexus Study is not a legally defensible document and does not prove legally defensible "causation" through its attenuated fee calculation methodology. The Nexus Study methodology consists of a multiple step chain of events subject to numerous assumptions including federal or local tax levels, personal spending habits, personal savings rates, number of jobs created, the location of those jobs, how many of those jobs will be new jobs, how many of those new jobs will be low income jobs, gross household incomes, net household incomes, rate of expenditures on goods & services, how many of those households will choose to live in the community and so on.

The assumptions in this study are more commonly applied in academic studies and economic modeling. This approach and application of assumptions are not common practice in establishing nexus findings in accordance with provisions of the Mitigation Fee Act.

BIA Bay Area does not support the adoption of a residential Housing Impact Fee based on the methodology used by Strategic Economics to arrive at a maximum mitigation fee. However, BIA recognizes that the City of Palo Alto likely will follow the trend of other Bay Area cities in adopting such a fee. In this case, BIA Bay Area strongly suggests that 1) to prevent an escalation of housing impact fees and therefore higher housing costs throughout the region, 2) to maintain competitiveness for future investment by the private sector and 3) to incentivize the construction of affordable units by market rate developers, the following actions should be taken when adopting the fee:

- Recommend to the Council adoption of a HIF no higher than \$20 to \$25 per sq. ft. to stay in closer alignment with fees recently adopted in other nearby cities such as Sunnyvale (\$17), Mountain View (\$17), San Jose, (\$17), Cupertino (\$25) and Fremont (\$17.50);
- Recommend financially attractive incentive provisions for builders to voluntarily construct a percentage of required affordable units in rental developments;
- Recommend that the Council adopt a sufficient pipeline exemption and phase in implementation of the fee to allow those projects in the city that are currently in process to complete their entitlement permitting at current fee levels.

Silicon Valley's substantial lack of an adequate housing supply, both market rate and affordable, is a region wide as well as state wide problem and is the most significant factor contributing to the escalating cost of housing, as noted in the Legislative Analyst Office Report dated March 17, 2015 and in the 2016 report "Perspectives on Helping Low-Income Californians Afford Housing".

Restrictive land use regulations, infrastructure costs, impact fees and rising labor costs create serious impediments to addressing the affordability crisis the region is facing.

This challenge should be addressed not by relying solely on the tax revenue generated by one industry - development, but by using a balanced approach - the establishment of a set of broad based, community-wide fiscal and policy responses that will generate an adequate housing supply and provide stable, long term financial resources for the construction of subsidized affordable housing.

Respectfully submitted,

Dennis Martin

Government Affairs

BIA Bay Area