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NEWS RELEASE

August 11, 2016

Court Rules that Ballot Question Adopted by City Council is Factually Correct and Complies with the State Elections Code

CUPERTINO, CA – The Santa Clara County Superior Court denied the Petition for Writ of Mandate filed by the Committee Supporting Cupertino Citizen's Sensible Growth Initiative.

The petition challenged the ballot question adopted by City Council for the Cupertino Citizen's Sensible Growth Initiative (CCSGI) at its April 5, 2016 Meeting. The petitioners objected to the language in the ballot question that the CCSGI would: (1) increase the maximum building height in Neighborhoods to 45 feet, and (2) limit redevelopment in the Vallco Shopping District.

On August 10, 2016, the Court ruled that the "ballot question accurately states the nature of the CCSGI." It found that "the challenged language is factually correct, and was not false, misleading, partial or otherwise failed to comply with the State Elections Code." The Court also found that the petition was not brought in a timely manner.

In so ruling, the Court considered the context of the City's General Plan and zoning designations, and indicated that the CCSGI effectively raises the maximum height limit of buildings within the Neighborhoods to 45 feet—whether or not that was the intent of the drafters and its proponents. Neighborhoods make up approximately 75% of the City of Cupertino.

Cupertino, CA, is on the western edge of Silicon Valley against the foothills of the Santa Cruz Mountains. With a population of 62,000 within 13 square miles, Cupertino is 42 miles south of San Francisco and home to many high-tech companies, most notably Apple, Inc.

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FILED

AUG 10 2016

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY _____ DEPUTY

J. Zenzen

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

8	COMMITTEE SUPPORTING CUPERTINO)	Case No.: 16CV296322
9	CITIZENS' SENSIBLE GROWTH)	ORDER ON PETITION FOR WRIT OF MANDATE
10	INITIATIVE, et al.,)	
11	Petitioners,)	Hearing: July 25, 2016
12	vs.)	Department 6
13	CITY OF CUPERTINO, et al.)	Hon. Theodore C. Zayner
14	Respondents.)	

Following briefing and hearing per the schedule to which the parties had stipulated, the Court took this matter under submission. Having heard and considered the arguments of counsel and having reviewed and considered all pleadings and the authorities cited – the Court now issues its ruling.

No objections having been raised by any party, all Requests for Judicial Notice are GRANTED, and the Court has considered all judicially noticeable pleadings and papers submitted.

The Petition challenges the language of the Ballot Question proposed by Respondent City of Cupertino, to be printed with all election materials to be submitted to the voters along with the proposed “Cupertino Citizens’ Sensible Growth Initiative” (CCSGI) that has been authorized as a

1 citizen initiative to be placed on the November 8, 2016 general election ballot for the registered
2 voters of the City of Cupertino.

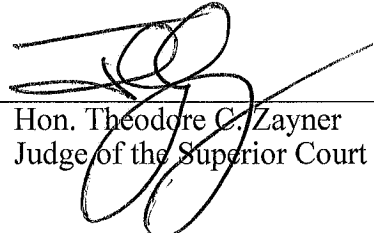
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4 The Peremptory Writ of Mandate is DENIED.

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6 Initially, the Court finds that Petitioners' lawsuit appears to be time-barred, under Elections
7 Code section 9295(b)(1). (See *McDonough v. Superior Court* (2012) 204 Cal.App.4th 1169, 1173.)

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9 However, the Court has also considered the Petition on its merits, and finds the proposed
10 ballot question accurately states the nature of the CCSGI. The challenged language is factually
11 correct; and it is not false, misleading, partial, or otherwise fails to comply with the Elections Code.
12 Petitioners have not sustained their burden of proof required for the issuance of a peremptory writ.
13 (Elections Code section 9295(b)(2); *McDonough, passim.*)

14 In so ruling, the Court acknowledges the evidence and argument of Petitioners regarding
15 the *intent* of the initiative, particularly concerning height limits of buildings in the City's
16 "Neighborhoods" outside of the designated "Special Areas." The plain language of the proposed
17 initiative, considered within the context of the City's General Plan and zoning designations, does
18 appear to effectively raise the maximum height limits of buildings within the Neighborhoods –
19 whether that was or was not the intent of the drafters and proponents. Thus, the proposed ballot
20 question substantially complies with the standard set forth in Elections Code section 9295(b)(2),
21 and as discussed in *McDonough*.

22
23 DATED: August 10, 2016

24 
25 Hon. Theodore C. Zayner
Judge of the Superior Court