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11 Attorneys for Respondent
CITY OF CUPERTINO and GRACE SCHMIDT,
12 in her official capacity as Cupertino City Clerk

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SANTA CLARA**

16 FRIENDS OF BETTER CUPERTINO,
KITTY MOORE, IGNATIUS DING and
17 PEGGY GRIFFIN,

18 Petitioners,

19 v.

20 CITY OF CUPERTINO, a General Law
City; GRACE SCHMIDT, in her official
21 capacity as Cupertino City Clerk, and
DOES 1-20 inclusive,

22 Respondents.

24 VALLCO PROPERTY OWNER LLC,

25 Real Party in Interest.

Case No. 18CV330190

**RESPONDENTS CITY OF
CUPERTINO, ET AL.'S STATEMENT
OF NON-OPPOSITION IN RESPONSE
TO PETITIONERS' BRIEF IN
SUPPORT OF PETITION FOR
PEREMPTORY WRIT OF
MANDAMUS**

Date: August 2, 2019
Time: 9:00 a.m.
Dept.: 10

Assigned for All Purposes to:
Hon. Helen E. Williams

Action Filed: June 25, 2018

1 Respondents CITY OF CUPERTINO et al. (collectively, “City”) file this Notice of Non-
2 Opposition in response to Petitioners’ Brief in Support of Petition for Peremptory Writ of
3 Mandamus. The City takes no position for or against Petitioners’ brief and thus files this
4 statement of non-opposition.

5 The City understands that the legality of the City Manager’s June 22, 2018 and
6 September 21, 2018 determinations regarding Vallco’s SB 35 application is now before the
7 Court. The City urges the Court to carefully review the arguments of Friends of Better
8 Cupertino and Vallco Property Owner LLC, as well as the administrative record in this case, to
9 ensure that the requirements of SB 35 were properly interpreted and followed in the City’s
10 ministerial review and approval of the Vallco application.

11 SB 35 justified the preemption of local control under the rationalization of alleviating the
12 general housing shortage, but the City notes that this mixed-use project may in fact exacerbate
13 the housing shortage in the City of Cupertino by contributing to a worsened jobs-housing
14 imbalance, resulting in the need for many more housing units than the project supplies. The
15 Court may wish to take the project’s impact on the jobs/housing balance into account in
16 interpreting and applying SB 35 pursuant to Government Code section 65913.4(1), which
17 provides that “[i]t is the policy of the state that this section be interpreted and implemented in a
18 manner to afford the fullest possible weight to the interest of, and the approval and provision of,
19 increased housing supply.”

20
21 DATED: May 24, 2019

SHUTE, MIHALY & WEINBERGER LLP

22
23 By:



HEATHER M. MINNER, CITY ATTORNEY

24
25 Attorneys for Respondents
26 CITY OF CUPERTINO et al.
27
28

1 **PROOF OF SERVICE**

2 ***Friends of Better Cupertino et al. v. City of Cupertino et al.***
3 **Case No. 18cv330190**
4 **Santa Clara County Superior Court**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am
6 employed in the County of San Francisco, State of California. My business address is 396
7 Hayes Street, San Francisco, CA 94102.

8 On May 24, 2019, I served true copies of the following document(s) described as:

9 **RESPONDENTS CITY OF CUPERTINO, ET AL.'S STATEMENT OF NON-
10 OPPOSITION IN RESPONSE TO PETITIONERS' BRIEF IN SUPPORT OF PETITION
11 FOR PEREMPTORY WRIT OF MANDAMUS**

12 on the parties in this action as follows:

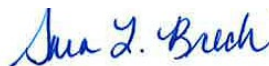
13 **SEE ATTACHED SERVICE LIST**

14 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the
15 persons at the addresses listed in the Service List and placed the envelope for collection and
16 mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly &
17 Weinberger LLP's practice for collecting and processing correspondence for mailing. On the
18 same day that the correspondence is placed for collection and mailing, it is deposited in the
19 ordinary course of business with the United States Postal Service, in a sealed envelope with
20 postage fully prepaid.

21 **BY ELECTRONIC SERVICE:** I served the document(s) on the person listed in the
22 Service List by submitting an electronic version of the document(s) to One Legal, LLC, through
23 the user interface at www.onelegal.com.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct.

26 Executed on May 24, 2019, at San Francisco, California.

27 

28 _____
Sara L. Breckenridge

1 **SERVICE LIST**
2 ***Friends of Better Cupertino et al. v. City of Cupertino et al.***
3 **Case No. 18cv330190**
4 **Santa Clara County Superior Court**

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