

# THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

## MEMORANDUM

TO: HONORABLE MAYOR, CITY COUNCIL, AND REDEVELOPMENT AGENCY	FROM: HARRY S. MAVROGENES EXECUTIVE DIRECTOR
SUBJECT: SEE BELOW	DATE: APRIL 3, 2008

### INFORMATION

SUBJECT: NORTH SAN JOSE --LETTER TO THE SANTA CLARA UNIFIED SCHOOL DISTRICT

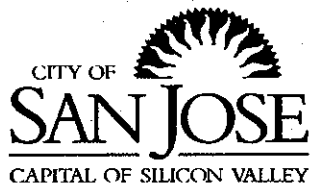
Attached is a joint letter signed by Debra Figone and me to the Santa Clara Unified School District Board of Education dealing with our concerns with the District's proposed Mello-Roos residential fees in North San Jose.

This proposed fee would amount to \$30,000 for each residential unit. Because housing is a key mitigation in the North San Jose Development Policy and is required to continue commercial and industrial development, the fee could ultimately threaten our ability to achieve major job growth in this part of San Jose.

We intend to continue discussing the proposal with District staff and hopefully we can find a compromise that benefits both the City and the School District.

  
HARRY S. MAVROGENES  
Executive Director

Attachment



April 2, 2008

Pat Flot, President and the  
Santa Clara Unified School District Board of Education  
Santa Clara Unified School District  
1889 Lawrence Way  
Santa Clara, CA 95051

Subject: Santa Clara Unified's Mello Roos Tax Proposal

Dear President Flot and Members of the Board:

The purpose of this letter is to respond to the School District's proposed Mello-Roos district that would include a significant portion of the northern area of the City of San Jose commonly identified as the North San Jose Area. San Jose City and Redevelopment Agency staffs have met with District staff, as well as key stakeholders in the development community, in order to determine the impact of your proposal on the City and its residents.

Through the past year, we have worked with your district as well as the other three districts to embrace a schools plan that meets the educational needs for all of San Jose existing and future students. Our goal is to continue a joint and cooperative relationship. It's only through a spirit of cooperation and continued team building that we can satisfy the needs of our constituencies. We hope to ultimately foster a long range partnership with Santa Clara Unified that will include joint development of schools and other city facilities as North San Jose continues to grow.

We share the District's goal of providing quality educational facilities for the future residents of North San Jose, and certainly also feel hamstrung by the state law limitations on school impact mitigation measures. However, as we describe in more detail in this letter, we are particularly concerned that the current tax proposal, with its per unit tax formula, will severely restrict the City's ability to provide low and moderate income housing, limiting our ability to meet state mandated housing goals.

We are very concerned that imposition at this point of an unanticipated \$30,000 per unit tax with an additional annual tax levy will effectively constitute a moratorium on all of the new residential projects currently being reviewed by the City (approximately 8,000

Letter to the Santa Clara Unified School District Board  
Mello Roos Tax Proposal  
April 2, 2008

units that fall within the District's boundaries). The proposal to have this tax apply retroactively seems especially unfair. Developers negotiate land purchases or options and arrange project financing based upon known taxes and fees and construction costs. While developers may anticipate some cost increases, it is highly unlikely that they can accommodate an unanticipated tax of this magnitude. Every residential developer that we have spoken to has stated their projects would have to be halted if this tax is instituted. But despite the significant concerns of the development community, we defer to the development community to speak for itself. Rather, our comments are directed to the impact of the proposal on the City of San Jose and the Redevelopment Agency and are focused on the unintended discriminatory impact of the proposed tax structure on low income persons and the provision of state-mandated affordable housing. Our concerns are as follows:

#### 1. Student Generation Rates are Overstated

While we recognize the District has developed its own student generation estimates we wish to point out that we feel these numbers overstate the potential new student population by as much as 400 percent. In fact, the North San Jose schools study entitled "North San Jose Vision Education Needs 2040, A report on the Planning for New Schools" that was unanimously adopted by the North San Jose Task Force states that "The City and Agency's internal SGR study predicted fewer than 1,000 students for all 32,000 living units resulting in the need for only one school." Our conclusions are based on the following:

- a. Projects approved or under development in North San Jose (within the boundaries of the District), have more than half of the units as studio or one bedroom residences. With that low number of bedrooms, it is highly unlikely that the student generation numbers projected in the District's proposed 2008 Facility Plan will ever be realized.
- b. Actual enrollment figures from comparable developments already built in other parts of San Jose demonstrate far lower student generation rates than the District estimates.

#### 2. Discriminatory Effect of the Tax-Unintended Consequences

Because this proposed tax structure has no relationship to the student generation rates of the individual units being taxed, by taxing units with more bedrooms with the same fees as units with fewer bedrooms, the tax structure discriminates against lower income

Letter to the Santa Clara Unified School District Board  
Mello Roos Tax Proposal  
April 2, 2008

persons seeking housing in the area in a manner that square footage or bedroom count formulas do not. Furthermore, since the District proposes to supplant the statutory school mitigation fee (that is based upon square footage) with this tax, the disparate impact on lower income households is even greater. Lower income housing is typically of smaller unit size and bedroom count than market rate housing. Such smaller units do not generate the potential student generation rates broadly assumed by your staff and consultants in the tax assumptions. The state provided protections in the Mitigation Fee Act requiring a nexus between the impact of the development and the amount of the fee. The statutory school mitigation fee (and the requirement of a fee levied per square foot of new development) guards against discriminatory impacts on smaller units housing low income households. The district's proposal does the opposite.

We believe that we would be required to identify this tax as a clear barrier to the provision of affordable housing in our Housing Element without any countervailing benefit.

As a result of this impact on affordable housing, we ask the District to consider revenue raising measures that do not overburden and discriminate against lower income households and the provision of affordable housing in the area.

### 3. Meeting State Mandated Housing Goals

The State, through the Association of Bay Area Governments, has established targets for the number of new housing units including new affordable housing units in each city in Santa Clara County as well as other cities in the Bay Area. By 2014 the City of San Jose should provide 34,717 new housing units, including over 19,000 for low- and moderate-income households, in order to meet these targets. San Jose has included new housing in the North San Jose area as a part of the City's strategy for meeting this target. Preventing new housing development within the boundaries of the Santa Clara Unified School District will significantly impact both San Jose's and Santa Clara's ability to meet the State mandated housing goals and will have to be identified in the Housing Element update as a significant barrier to the provision of affordable housing in this area.

### 4. Compliance with the California Environmental Quality Act

Because the District is in the process of adopting a new facilities plan, including the identification of specific school sites that is the basis for the proposed tax, it appears that CEQA review is required prior to adoption of the facilities plan and authorization of the tax for consideration by the voters. Please provide us copies of the relevant CEQA


Letter to the Santa Clara Unified School District Board  
Mello Roos Tax Proposal  
April 2, 2008

document or documents upon which you are relying. Since the City of San Jose is a responsible agency for this project under CEQA, we would like to review and comment on the District's environmental document as soon as possible.


#### Conclusion

We appreciate the work that the District staff has taken over the last nine months towards developing a schools plan for North San Jose. However, we hope that you understand that this tax proposal has a disparate and discriminatory impact on low income households and the provision of low income housing in San Jose. We further hope that your staff and consultants will spend more time to create a fair financing mechanism that will not have the adverse impacts on the segment of the population that needs safe and affordable housing the most.

Sincerely,



Debra Figone  
City Manager



Harry S. Mavrogenes  
Redevelopment Executive Director