

August 8, 2023

Alicia Giudice
Community Development Director
1400 Fifth Avenue, Top Floor
San Rafael, CA 94901
(415) 485-3085
community.development@cityofsanrafael.org

Re: Development Proposals by Dominican Valley LLC for the property at Magnolia Avenue at Deer Park Avenue in San Rafael (APN 015-163-03).

Dear Ms. Giudice,

I'm writing to you as President of Community Venture Partners, Inc. (CVP), a California-based 501(c)(3) community-serving nonprofit organization, and on behalf of local residents, regarding the various residential development proposals submitted by Dominican Valley LLC (the "Applicant"), which are known as Proposals A through E, for the property at Magnolia Avenue at Deer Park Avenue in San Rafael (APN 015-163-03).

On July 28, 2023, your office responded to the five pre-application proposals submitted by the Applicant: Proposal A, submitted June 7, 2023; Proposal B, submitted June 8, 2023; Proposal C, submitted June 12, 2023; Proposal D, submitted June 13, 2023; and Proposal E, submitted June 22, 2023.

In 4 of the 5 proposals (Proposals B, C, D, E), the Applicant proposed to proceed under Government Code section 65589.5(d) *et seq.*, also informally known as the "builder's remedy." In the City's responses to each of those proposals, under "Deficiencies," it points out why those 4 proposals do not qualify for the builder's remedy for reasons that generally regard the required percentages of affordable/low-income units provided.

However, the evidence in the record indicates that the City's response was inadequate and that the City needs to also inform the developer that all of the pre-application proposals fail to qualify for the builder's remedy because the builder's remedy only applies if a city/its Housing Element is non-compliant with state housing law at the time of the submission of an applicant's proposals.

In this instance, at the time the Applicant submitted their proposals (beginning on June 7, 2023), the City of San Rafael *was* in fact in "substantial compliance" with state housing law.

The chronology of events, below, shows that the City made findings that it was "substantially compliant" with state housing law on May 15, 2023, when it formally adopted its Housing Element. This is particularly relevant because the City's final version of the Housing Element was subsequently certified by the Department of Housing and Community Development (HCD), with only minor changes that did not in any way impact the Applicant's proposals.

Chronology of events that substantiate this is as follows:

May 15, 2023

City “adopts” Housing Element, making its finding that it is “substantially compliant” with state housing law.

May 17, 2023

City “submits” Housing Element to HCD for “certification.”

June 1, 2023

HCD requests minor revisions to the Housing Element, all of which the City accepts and none of which impact the applicant’s subsequent proposals.

June 7, 2023

Final version of Housing Element is “published.”

Developer begins to submit proposals, starting June 7, 8, 12, 13, and 22.

June 21, 2023

HCD acknowledges receipt of the final approved version of the Housing Element (in letter of June 22, 2023)

June 22, 2023

HCD notifies city that it has “certified” the final version of the Housing Element.

Respectfully submitted,



Bob Silvestri
President
Community Venture Partners, Inc.