

Advocates Compel Facebook to Like Affordable Housing

By Rene Ciria-Cruz

Facebook's decision last year to relocate its corporate headquarters from Palo Alto to Menlo Park gave social justice activists a welcome opportunity to challenge the affluent city's long-standing neglect of affordable housing.

City officials were eager to accommodate the social networking behemoth because it promised jobs, prestige, and millions of dollars in capital projects and taxes to the city of 32,000.

But affordable housing advocates said, "Not so fast!" Menlo Park may not proceed with new development initiatives until it had rectified years of violations around state housing laws. And city officials stopped and listened. What compelled them was the 2010 Superior Court decision in *Urban Habitat et al., v. the City of Pleasanton et al.*

"We essentially shut down Pleasanton's planning powers until they met their legally required obligation to plan for affordable housing," explained Richard Marcantonio, managing attorney for Public Advocates who represented the affordable housing coalition that took Pleasanton to court. Now Marcantonio was poised to take on Menlo Park on behalf of a Silicon Valley-based coalition.

Refusal to Permit Affordable Housing Challenged

Like Pleasanton, Menlo Park at the eastern edge of San Mateo County has long been noncompliant with state housing laws.

All local governments have to zone for their share of regional housing needs at each income level. The requirement, known as the Housing Element in the local General Plan for development, is called for by the state's Regional Housing Needs Allocation (RHNA).

Menlo Park had not updated its affordable housing plan since 1992 and not granted building permits for a single new unit of lower-income

housing from 1999 to 2007. Consequently, only 17 percent of low-wage workers with household incomes below \$88,000 can afford to live in the city, according to the Association of Bay Area Governments. About 21,000 others must commute long distances to their jobs, which further strains the budgets of low-income families and adds to traffic congestion and exhaust pollution in the Silicon Valley corridor.

The city's neglect came home to roost when Facebook sought approval to raise the cap on the number of employees at the facility it acquired from Sun Microsystems and to build a new campus to accommodate 9,400 additional workers, an estimated 28 percent of whom will be low-wage earners.

Where would these thousands of new workers live? With the post-Facebook demand for local housing boosting prices, what was to become of current low-income residents in nearby communities?

"We were worried that upper income Menlo Park would reap all the benefits from Facebook, while just across the way, low-income East Palo Alto would be disproportionately burdened by the housing crisis and increased traffic," explained Jennifer Martinez, executive director of the Peninsula Interfaith Action, which has advocated for health care access and affordable housing since 1997.

East Palo Alto has a per capita income of only \$18,000 according to the recent Census, compared with Menlo Park's \$67,000.

Quick Settlement Avoids Long Legal Battle

On January 30, a coalition of affordable housing advocates with a long working relationship—Penin-



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sula Interfaith Action, Urban Habitat, and Youth United for Community Action—initiated moves that called to mind the *Urban Habitat v. Pleasanton* battle.

“We knew for certain Menlo Park was in the wrong,” said Vu-Bang Nguyen, a land use coordinator with Urban Habitat. “But they also knew that the problem with their Housing Element was glaring.”

The coalition sent the city a lengthy response to its Draft Environmental Impact Report on the Facebook project, criticizing the “shortcomings in the analysis of population and housing” and cited the city’s “long-time failure to meet its affordable housing obligations under the Housing Element Law.”

According to city planners, Menlo Park needs to zone for 1,975 market price and affordable housing units to add to its current stock of 12,500 units to fix its Housing Element.

On May 16, Public Advocates filed a lawsuit on behalf of the coalition to stop any new commercial development until the city updated its Housing Element and plan for affordable housing.

“We’re about 10 years behind,” Menlo Park City Manager Alex McEntyre admitted to *The Almanac*, a local periodical. “We should have taken care of the Housing Element before now.”

With Facebook threatening to walk away if they didn’t get the approvals by June, city officials scram-



Silicon Valley’s Challenge

By Urban Habitat and
Non-Profit Housing Association of Northern California



As Silicon Valley rebounds from the recession, nearly two-thirds of its projected job growth will be in positions paying less than \$50,000 a year—office assistants, retail clerks, custodians, security guards, health care aides, and other service workers. The majority will be commuters from San Mateo and Santa Clara counties.

Yet, regional plans for public transportation and affordable housing fall short of the needs of this growing workforce. There is a dearth of more than 53,000 housing units for workers who earn less than \$50,000 annually and

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Table 1. Projected Job Growth by Annual Salary (2008-2018). Top 20 occupation categories based on number of job openings (California Employee Development Department).

Photos & Chart :

From “Moving Silicon Valley Forward.”

(Top) Report Cover.

(Left) Courtesy of MidPen Housing.

(Right) Courtesy of Kyle Wilson.

bled to settle immediately—the day after the suit was filed, in fact—paving the way for Menlo Park to accommodate Facebook, meet its housing obligations, and avoid extended and costly litigation reminiscent of Pleasanton.

Menlo Park Settles

Prior to the city council’s unanimous vote to approve settlement on May 22, Mayor Kirsten Keith declared, “It’s not a defensible case; I do feel we need to approve this or else we’ll probably suffer some severe repercussions.”

In exchange for not pressing the lawsuit so the city could proceed with the Facebook projects, Menlo Park agreed to:

- Facilitate the future development of nearly 2,000 homes accessible to the very low-, low-, and moderate-income households. (In San Mateo County, \$56,000 a year for a family of four is considered a

very-low income.)

- Adopt a Housing Element plan by March 2013 and rezone sites in or near the downtown for affordable housing close to job sites and transit facilities.
- Provide funding for nonprofit housing developers, including a \$1.85 million interest-free loan to the nonprofit HIP Housing to turn an apartment complex on Willow Road into affordable housing. Jurisdiction over the settlement’s implementation lies with the court. Facebook, eager to proceed with its expansion, also entered into some agreements with the coalition with promises to:
 - Launch a youth summer internship program in East Palo Alto and the Belle Haven section of Menlo Park.
 - Cooperate with job training programs.
 - Seed a local community fund, and
 - Help affordable housing efforts in Silicon Valley.

Silicon Valley’s Challenge (continued)

	Median Home Sale Price	Annual Income Needed to Afford Median Price (with 10% down)	Percent of AMI
SAN MATEO COUNTY			
Single Family Residence	\$696,700	\$134,600	147%
Condominium	\$358,400	\$69,300	76%
SANTA CLARA COUNTY			
Single Family Residence	\$629,800	\$121,700	131%
Condominium	\$356,500	\$68,900	74%

Area Median Income (AMI)
 SANTA CLARA COUNTY: \$91,450
 SAN MATEO COUNTY: \$93,250

■ Table 2. Affordability gap analysis for single-family home and condominium, 2011.

afford a monthly rent of \$1,200.

Without affordable housing close to the sources of lower paying jobs, workers are forced to drive to work, further straining family budgets and contributing to air pollution. Just five of San Mateo and Santa Clara counties’ 37 incorporated and unincorporated communities account for nearly 98,000 cars driven to and from work by commuters who live outside the

county in which they work. In 2010, up to 36 percent of greenhouse gas emissions in the Bay Area were from motorized vehicles—76 percent of that from cars and light trucks.

Moreover, households of color are more likely to be burdened by rent compared with all households in San Mateo and Santa Clara counties. Nearly 28 to 35 percent of African American and Latino renter households

spend more than half of their income on rent. A third of Latino homeowners and nearly a quarter of African American homeowners use more than 50 percent of their income on home ownership, compared with 17 percent by their Caucasian counterparts.

Solutions

Coordinated efforts must be exerted to enable those who work in Silicon Valley to live closer to their job-sites and get around without a car. Revitalization efforts should preserve existing affordable homes as well as public transit schemes that already enable lower income workers to live near their jobs, at the same time increasing zones for well-designed affordable housing close to transit, grocery stores, and downtown corridors.

Housing policies should also encourage acquisition and rehabilita-

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Chart:

From “Moving Silicon Valley Forward.”

Source: Zillow, Inc. and U.S. Department of Housing and Urban Development (HUD).

“Affordable housing is one tier in our approach,” said Annie Loya, executive director of Youth United for Community Action in East Palo Alto, a group seasoned in campaigns against toxic plants and environmental health hazards. “The other is how to make new business developments help bring tech training to underfunded schools, develop contracts with local vendors, and so on.”

In the past, some big businesses that came didn’t do much for East Palo Alto, she noted. “That has to change, especially with the many new tech companies that we expect to come in. We need to get them into a partnership to benefit our community. Facebook is a good start.”

Urban Habitat v. Pleasanton Precedent is Key

For affordable housing advocates, the Menlo Park settlement proved that their victory in *Urban Habitat v. Pleasanton* could be a potent weapon in getting

local governments to heed what Marcantonio calls “the power of state housing laws.”

In Pleasanton, a middle class city of 70,000 in Alameda County, various ordinances and zoning decisions had contributed to the shortage of affordable housing. Then in 1966, voters approved—and later reaffirmed—a cap on housing, which barred the city from allowing more than 29,000 units.

The imbalance between commercial development and affordable housing forced nearly 90 percent of the 47,000 people who worked in Pleasanton to live elsewhere and commute to their jobs, thus exacerbating road traffic and greenhouse gas emissions. Ironically, Housing Cap proponents had touted it as a slow-growth environmental measure. Critics also characterized Pleasanton’s refusal to zone for high-density housing as a tool to avoid racial diversification among a population that was 67 percent white in 2010.

Silicon Valley’s Challenge (continued)

tion of foreclosed homes; limit conversion of rental stock into condominiums; provide tenant protections to ensure long-term building habitability; and give assistance to homeowners at risk of foreclosure.

Only about half the cost of low-cost housing development comes from federal and state funds. Cities can tap into a variety of on-going dedicated revenue to support affordable housing, such as one-time job-housing linkage fees or housing impact fees levied on commercial developers; housing trust funds built from portions of local taxes; requirements that market-rate residential developments include some affordable housing.

Transit funding and routes should be redesigned to benefit the greatest number of people. Funds must be increased to put the more economical bus systems used by lower income riders on an equal footing with rail

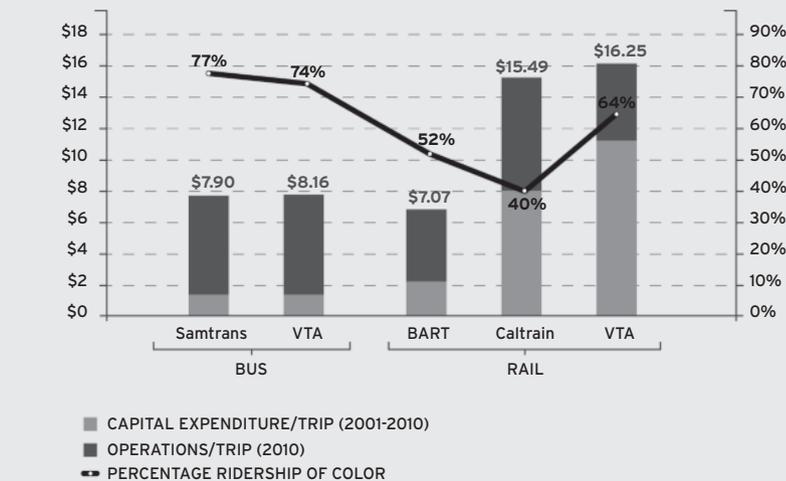


Table 3. Capital and operations subsidies (per passenger trip in 2010) vs. percentage of ridership of color.

services used by higher income riders. Currently, more public money is spent on train riders than bus passengers even though more people use buses and train riders enjoy larger fare discounts than bus riders. Discount programs should be instituted for the benefit of bus commuters. Transit-oriented housing programs should be

supported by cost-effective and environmentally friendly transit alternatives, such as the bus rapid transit system, which combines the best features of local buses and light rail. ■

Condensed from Moving Silicon Valley Forward, by Urban Habitat and the Non-Profit Housing Association of Northern California.

Chart:

From “Moving Silicon Valley Forward.”

Source: Zillow, Inc. and U.S. Department of Housing and Urban Development (HUD).

Photo:

From left to right, Evelyn Stivers, Richard Marcantonio, Annie Loya, and Vu-Bang Nguyen at the BCLI Issues and Advocates Speakers Series on Protecting Communities, Securing Benefits: Lessons Learned in Silicon Valley in September 2012.

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In 1980, at the urging of housing activists, California passed the Regional Housing Needs Assessments (RHNA) law requiring cities to conduct periodic assessments (every eight years) of its housing needs to more evenly distribute housing availability among all income levels.

Pleasanton's 1999-2007 RHNA required it to have a Housing Element of 5,059 units—729 of them affordable for very low-income and 455 for low-income families. But the city had not even rezoned for such housing by 2006, despite persistent requests from housing advocates, particularly Citizens for a Caring Community. It eventually became clear that the city's Housing Cap was obstructing its ability to meet its RHNA obligations, so the housing advocates went to court.

Public Advocates sent a demand letter to the City Manager, while a regional coalition formed to press for policy change. In October 2006, Public Advocates sued the City of Pleasanton for violating a law requiring localities to adequately share regional housing responsibilities. *Urban Habitat et al., v. City of Pleasanton et al.*, also accused the city of discriminating against low-income families of color who were disproportionately burdened by the lack of affordable housing.

The Alameda County Superior Court dismissed the suit the following year, but it was reinstated on appeal. Significantly, the California Attorney General's office joined the lawsuit in 2009, citing the lack of transit-oriented affordable housing as an impediment to meeting the region's state law mandated greenhouse gas reduction goals. It sent a strong signal that the Attorney General intended to enforce the state's affordable housing statute.

Finally, in March 2010, the Superior Court ruling for the plaintiffs overturned Pleasanton's Housing Cap. The city settled, agreeing to add new housing to its general plan and rezone sites near the city's BART station for affordable housing. Since then, the city has



approved 500 units of new housing, with 70 units for very low-income households. It also passed an ordinance banning housing discrimination against families with children.

Palo Alto Takes Hint—Updates Housing Element

Pleasanton came to terms with its housing responsibility only after five years of litigation, which cost its taxpayers \$2 million in legal fees. It's a cautionary tale that Menlo Park took to heart. It's also a timely tale.

In the Bay Area, more than a dozen localities have yet to adopt a Housing Element that complies with state law, according to the California Department of Housing and Community Development. The cities of Benicia, Brentwood, Colma, Daly City, Hercules, Millbrae, Orinda, Pacifica, Richmond, San Anselmo, Sausalito, Sonoma, and all of Marin County can expect to be next in the cross hairs of the affordable housing movement. In all of California, some 138 localities still do not have legally compliant Housing Elements.

"These laws are not optional, they are mandatory," stresses Marcantonio. "Those that fail to follow Menlo Park's lead and continue to drag their feet should be aware of the consequences they face for being out of compliance."

Menlo Park's neighbor Palo Alto has taken the hint and rushed to update its Housing Element.

"While asking approval to submit their draft Housing Element to the State Department of Housing and Community Development for review, officials attached a copy of the Menlo Park settlement to their request," reports Nguyen. ■

Rene Ciria-Cruz is a Bay Area freelance journalist and a regular contributor to New America Media.

Moving Silicon Valley Forward, by Urban Habitat and the Non-Profit Housing Association of Northern California can be found at urban-habitat.org/research/movingforward.