

Cupertino sued over expired housing proposals



by Annalise Freimarck April 15, 2025



Cupertino denied an application to replace a single-family home on Scofield Drive after the city said its builder's remedy permits expired. File photo.

Housing advocates are suing Cupertino over two controversial development proposals the city claims can't be built.

Housing groups Yes in My Backyard (YIMBY) Law and California Housing Defense Fund filed two lawsuits against Cupertino April 8, claiming the city shouldn't have deemed two housing project proposals expired. Developers filed the projects — 20 condos and 33 homes at 20739 Scofield Drive and near Linda Vista Park respectively — using builder's remedy. The state law allows developers to bypass local zoning when a city is late getting a [state-certified housing plan](#), giving cities less power to deny development.

Cupertino argues the projects had one 90-day window to submit a final formal application under state law before expiring. But the housing groups say a correct legal interpretation gives developers an unlimited number of 90-day periods to resubmit their applications.

YIMBY Law, California Housing Defense Fund and the two projects' independent legal teams are asking the Santa Clara County Superior Court to rule Cupertino must review and process the proposals again, leading to their approval.

Dylan Casey, executive director of California Housing Defense Fund, said builder's remedy is an important consequence of Cupertino's failure to submit its state-mandated housing plan in time. The city must build 4,588 new homes by 2031 to comply with the state. Cupertino must allow builder's remedy projects in that number due to a [legal judgment](#) California Housing Defense Fund and YIMBY Law [won](#) last year.

"Making sure these builder's remedy projects actually become homes eventually is really important to ensure that state housing policy is functioning as it's intended," Casey told San José Spotlight. "It would be perverse if those same provisions were flipped around and used to ensure, in this case, that housing never gets built on a certain site and that a project is stuck in limbo for years."

Cupertino isn't budging. The city maintains its actions comply with state law, according to a Friday news release.

"Cupertino has always welcomed development projects from responsible developers who care about our community and the impacts their projects may have," Mayor Liang Chao said in a statement. "We remain committed to holding everyone to the same objective standards so that more housing can be approved in accordance with our general plan, zoning ordinance and state laws."

The lawsuits represent bigger questions about builder's remedy projects in nearby communities. Los Gatos filed for [legal clarification](#) over the 90-day technicality last month to determine if two of its larger builder's remedy projects have expired and can no longer qualify for additional 90-day extensions.

Kenneth Stahl, an attorney representing the Linda Vista Park project applicant, said the lawsuits are significant because they could prevent technicalities from blocking housing in other jurisdictions such as Los Gatos.

"There's no reason to read the law that way, except that you want to defeat the builder's remedy," he told San José Spotlight. "And if Cupertino can do it, then other

cities are going to do the exact same thing ... It's a desperate move to defeat the builder's remedy."

Residents who live near the contested area have sided with the city, and protested the [Scofield Drive](#) proposal last year because the project would sandwich a 5-story building in a single-family neighborhood. The community also voiced concern about the Linda Vista Park project because it's on a hillside with a [high fire risk](#).

A promotional banner for San José Spotlight's Spring Membership Drive. The banner has a light blue background with a yellow sunburst graphic on the left. In the top right corner is the logo for "SAN JOSÉ spotlight". On the left, a blue rounded rectangle contains the text "Join us today!". To the right of this, the text "Spring Membership Drive" is written in a large, bold, dark blue font. Below that, in a smaller dark blue font, is the text "Help us shine a brighter light on the South Bay! Become a member today."/>

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Join us today!

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Louise Sadaati, Cupertino resident and member of Cupertino for All, said the pro-housing group would support these developments if they were in a different neighborhood well suited for them.

She said the projects, even if 20% of their homes are affordable under builder's remedy, aren't thoughtfully put together.

"We support housing, but not anything everywhere," Sadaati told San José Spotlight. "The problems with these two builders' remedies are, as the developers have designed them, they're just not a good fit as submitted."

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