

Policy Analysis

No. 602

October 17, 2007

Routing

Do You Know the Way to L.A.? San Jose Shows How to Turn an Urban Area into Los Angeles in Three Stressful Decades

by Randal O'Toole

Executive Summary

California cities have the least affordable housing and the most congested traffic in the nation. California's housing crisis results directly from several little-known state institutions, including local agency formation commissions (LAFcos), which regulate annexations and the formation of new cities and service districts; the California Environmental Quality Act, which imposes high costs on new developments; and a 1971 state planning law that effectively entitles any resident in the state to a say in how property owners in the state use their land. Cities such as San Jose have manipulated these institutions and laws with the goal of maximizing their tax revenues.

Meanwhile, California's transportation planning has allowed transit agencies, such as San Jose's Valley Transportation Authority and Los Angeles' Metropolitan Transportation Authority, to hijack tax revenues that were originally dedicat-

ed to highways so they can build rail empires that will do little or nothing to relieve congestion. New highway construction in the 1990s cut San Jose congestion in half, but congestion is again worsening as funds once spent on highways are now diverted to expensive and little-used rail transit projects.

California should change its planning laws to forbid cities and counties from conspiring to drive up housing prices in order to maximize tax revenues. California and its urban areas should also fund transportation out of user fees instead of taxes, thus making transportation more responsive to the needs of users instead of politically powerful special interest groups. Other states should avoid passing laws that create similar conditions. These recommendations and eight others in this report will greatly improve the livability of San Jose and other California urban areas.

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Plans intended to save San Jose from becoming like Los Angeles have instead made San Jose more like Los Angeles than almost any other urban area in the U.S.

Introduction

*California is a garden of Eden,
A paradise to live in or see;
But believe it or not, you won't find it so hot
If you ain't got the do re mi.*

—Woody Guthrie

California's scenic beauty, mild climate, and economic opportunities have attracted more than 36 million people. But, as suggested by Woody Guthrie's song, California's economic opportunities have been restricted by the state's high cost of living. Most notably, California cities have the least-affordable housing and worst traffic congestion in the country.

The experience of San Jose, the self-proclaimed capital of Silicon Valley, reveals how California achieved these dubious rankings. Amid some of the fastest-growing industries in the world, San Jose should be one of the fastest-growing urban areas in the country. Thanks to growth-stifling plans and regulations, however, it is one of the slowest.

For example, during the 1990s—a period of wild growth in the high-tech sector—the San Jose urban area grew by a paltry 0.7 percent per year. By comparison, the Las Vegas urban area grew by 6.5 percent per year, Atlanta by 5.0 percent, Phoenix by 3.8 percent, and Houston by 2.8 percent. Indeed, some 250 U.S. urban areas, including Philadelphia, Indianapolis, and even Baltimore, grew faster than San Jose in the 1990s.¹

The plans and rules that have inhibited San Jose's growth were supposed to keep the region livable, reduce urban-service costs, and save San Jose from becoming like Los Angeles, the nation's most-congested and most-polluted urban area. Instead, these plans have made San Jose unaffordable, congested, and heavily taxed. Ironically, they have also made San Jose more like Los Angeles than almost any other urban area in the United States.

San Jose's slow growth is not simply the result of a debate over growth vs. livability.

Instead, it is the product of several little-known institutions that are somewhat peculiar to California politics. Two such institutions are the local agency formation commission (LAFCo) and the congestion management agency (CMA).

A 1963 California law required almost every county in the state to form a LAFCo to oversee city incorporations, annexations, and the formation of service districts. Each LAFCo is generally run by a board dominated by members of the various city councils in the county. Because these city governments have an interest in keeping the taxes generated by growth within their boundaries, they have effectively become a tool to use against so-called sprawl, that is, suburban development outside a city's limits. The result is that California's urban areas are the densest, most-congested, and least-affordable housing markets in the United States.

Meanwhile, CMAs, which were conceived in 1990 with the aim of reducing congestion, have been used in San Jose and other California regions in ways that actually increase congestion. In 1984, voters in Santa Clara County (where San Jose is the county seat) agreed to a one-half-cent sales tax to be spent on new highways. In 1990, California voters agreed to increase gasoline taxes by nine cents per gallon. That ballot measure also required every urban county to create a CMA that would spend the county's share of the gas tax to relieve congestion. In 1995, Santa Clara County merged its CMA with the county's transit agency to create the Santa Clara Valley Transportation Authority. The CMAs for Los Angeles, Yolo, and other counties are also run by or closely linked to those counties' transit agencies.²

These linkages create a conflict of interest that leads the transit agencies to use their authority as the county CMA to capture transportation funds for transit projects rather than for highways. Nearly all California gasoline taxes are dedicated to highways. But between 1995 and 2000, the Santa Clara VTA successfully transferred 100 percent of the one-half-cent sales tax from

highways to transit. Now the San Jose region is poised to spend more than 80 percent of its transportation funds on the 1 percent of travel in the region that goes by transit.

Paradoxically, VTA is now both awash with money for capital improvements and suffering from one financial crisis after another due to a shortage of funds to operate the expensive transit system it is building. The result has been a 34-percent decline in transit ridership and several investigations suggesting that VTA deserves the title of the nation's worst-managed transit agency.

No-growth and slow-growth advocates certainly played a role in inhibiting San Jose's growth. But they probably would not have succeeded were it not for the LAFCos and CMAs that, ironically, were designed to facilitate growth and relieve congestion. California should eliminate LAFCos, separate CMAs from transit agencies, and reduce other regulations so that San Jose and other regions in the state can recover from the detrimental effects of the no-growth plans that have devastated these regions' economies.

The Developer's Paradise

San Jose is California's oldest city, founded on the banks of the Guadalupe River by Spanish colonists in 1777. With a population of under 2,500 people in 1850, the city served as the state's first capital. However, it was quickly eclipsed by San Francisco, which in 1850 had an estimated 25,000 people and by 1870 had 149,000 people to San Jose's 9,000.

In 1950, San Francisco was still eight times larger than San Jose, and Oakland was four times larger. In the next two decades, however, San Jose became "the focus of urbanization in the San Francisco Bay Area."³ By 1970, it housed more people than Oakland, and by the late 1980s, its population surpassed San Francisco's.⁴

This growth is often credited to one man: A. P. "Dutch" Hamann, San Jose's city manager from 1950 through 1969. When the city council hired him in 1950, Hamann was an

auto company middle manager with no professional experience in municipal affairs.⁵ Yet he had a firm idea of what a city should look like, and he made San Jose in that image.

Hamann grew up in Orange County, one of the few urban areas in America that is more often referred to by its county name rather than a city name because it has no dominant, central city. Hamann believed urban areas should focus on one city, and he made San Jose into the central city for the urban area that grew in Santa Clara County at the south end of San Francisco Bay.⁶

When Hamann took the reins, San Jose was a town of 95,000 people at the center of the productive Santa Clara Valley, a broad area of flat land that contained more than 100,000 acres of orchards served by San Jose canneries.⁷ With the Guadalupe River, Coyote Creek, and some smaller creeks draining into San Francisco Bay on the north, the Santa Clara Valley was surrounded by the Santa Cruz Mountains on the west and south and the Diablo Mountains on the east.

One of the first things Hamann did after taking the city manager job was persuade the city's voters to issue bonds, backed by their property taxes, to build a sewage treatment plant to handle all the waste generated by the canneries and other industry, not to mention the people. Once in control of the largest sewage facility in the county, Hamann began an aggressive program of annexation to fully utilize and more easily pay for the plant.

Hamann would identify places of likely growth and send his staff door to door, persuading farmers and other residents to be annexed by San Jose. Some later claimed they felt coerced, but formally, at least, most of the annexations were voluntary. In the century before Hamann was hired, San Jose had annexed only 42 parcels of land. But in the 1950s the San Jose city council approved 491 annexations, and in the 1960s another 886, increasing the size of the city from 17 square miles in 1950 to 136 square miles in 1970.⁸

Not everyone wanted to be annexed. At least three cities in Santa Clara County incorporated just to avoid being annexed by San

Under city manager "Dutch" Hamann, San Jose grew from 17 square miles in 1950 to 136 square miles in 1970.

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Jose. Hamann tried to persuade the incorporated cities of Alviso and Milpitas to merge with San Jose, succeeding in the case of Alviso but not Milpitas.⁹

According to a 1967 planning document, “Basic council policy has been . . . continued expansion of the city limits on the valley floor and surrounding hills until reaching the boundary of another city or a limiting topographical feature.”¹⁰ One result was that San Jose’s boundary became highly irregular, with narrow fingers stretching off in several directions, detached parcels, and pockets of unincorporated neighborhoods that resisted annexation and, to this day, are entirely surrounded by the city. By 1970, San Jose was bordered by Santa Clara, Cupertino, Los Gatos, and several other cities on the west, and by San Francisco Bay and Milpitas on the north, but it still had plenty of room to grow toward the east and south.

Once parcels were annexed, Hamann created a “developer’s paradise” by being flexible about land uses. “By and large,” says one history book, “the city let developers do what they wanted wherever they wanted to do it.”¹¹ Though this seems heretical today, in the 1950s it seemed perfectly natural to let property owners decide how to use their land. Hamann also knew that developers, who were putting their own money and reputations on the line with each new project, had a much better idea of what potential buyers and renters wanted and needed than did city managers and planners.

Prompted by state and federal requirements, Hamann wrote a master plan for the city, but it was fairly general.¹² The city used zoning, but promised developers “an almost 100 percent probability of favorable rezoning” whenever they wanted a different use than the city had contemplated.¹³

To serve the region’s transportation needs, Hamann urged the state of California to build more freeways connecting San Jose with San Francisco and other areas, while he discouraged the city of San Jose from joining the Bay Area Rapid Transit district. “A radial and circumferential system of freeways and

thoroughfares for the entire San Jose metropolitan area may be of greater value and significance than participating in a rapid transit system which can serve only to shorten the distance between the San Jose urban center and San Francisco by a few minutes at best,” says the 1957 master plan, likely written by Hamann himself. In 1963, the San Jose city council formally rejected the offer to be part of the BART district.¹⁴

Hamann’s use of capital improvement funds raised more questions. To entice people to accept annexation, San Jose often promised that they would receive sewer and other services at no capital cost. Since voters in the rest of the city had voted to tax themselves to pay those capital costs, in effect existing residents were subsidizing growth. Hamann argued that, in the long run, the taxes paid by the new areas would make up for the loss. While such subsidies might have been necessary to achieve Hamann’s annexation goals, they fueled an opposition movement that eventually proved Hamann’s undoing.¹⁵

The Costs-of-Sprawl Myth

It isn’t clear today just how much taxpayers were actually subsidizing development in Hamann’s San Jose. City property tax rates in San Jose were higher than average, but not the highest, in Santa Clara County.¹⁶ Tax rates today are about the same, per thousand dollars of property value, as they were in Hamann’s time; but given that property values have increased far more than inflation, the tax burden on homeowners today is far greater than it was then.¹⁷

If there were subsidies—that is, if Hamann really was using taxes from existing residents to pay the capital costs of facilities needed for new development—the appropriate remedy would have been to make sure that developers paid the full costs of the services they used. California developers often created special improvement districts that allowed homebuyers and other property owners to pay the capital costs of water, sewer, and

other facilities over a number of years. Such districts ensured that these capital costs would not reduce housing affordability by increasing the cost of new, and by extension, existing housing.

This tax issue reflects a larger issue raised by a highly influential 1973 study titled *The Costs of Sprawl*.¹⁸ Commissioned by the federal Council on Environmental Quality, this study claimed that low-density suburban development imposed higher urban-service costs on cities than higher-density developments. This conclusion, however, had three weaknesses.

First, the study was based almost entirely on hypothetical data. When a researcher at Duke University looked at the real world to compare urban-service costs in high- and low-density areas, she found that higher densities meant higher costs.¹⁹

Second, the study compared standard-sized suburban homes in the low-density case with smaller apartments in the high-density case. Much of the difference in calculated costs resulted from the greater square footage of the suburban dwellings, not the area of land being used for development.

Third, the study compared a low-density “greenfield” development (that is, a development on undeveloped property) with a high-density greenfield project. However, the anti-sprawl alternative was not high-density greenfield development but high-density infill development within existing cities, which can be much more expensive. As urban researchers at Massachusetts Institute of Technology observed, “the cost of creating an additional unit of sewage or water-carrying capacity may be much higher than the unit cost of existing capacity if the old sewage or water lines must be dug up and replaced with larger ones.”²⁰

Recently, researchers at Rutgers University attempted to remedy the first two of these weaknesses with an in-depth update titled *The Costs of Sprawl 2000*. They concluded that low-density suburban development imposes on cities about \$11,000 per home more in urban-service costs than does more compact development.²¹ If true, the way to deal with that, as in the case of Hamann’s alleged subsidy, is to cre-

ate a special district and have the homeowners pay the amortized costs over time.

In 2005, the median home in Santa Clara County cost \$797,000, which was 7.5 times the median family income in the county. If median home prices had been only 3.1 times median family incomes, the national average for that year, the median San Jose home would have cost only \$331,000.²² In an effort to save new homebuyers \$11,000 per home, San Jose’s growth management was costing *all* homebuyers an average of more than \$400,000 per home—hardly a sensible policy.

The Anti-Sprawl Movement

The tax question was only one of several arguments put forth by no-growth advocates who began to challenge Hamann’s policies in the early 1960s. Most of their other arguments centered on sprawl and its effects on farmlands, recreation and natural areas, air pollution, and traffic congestion. A 1971 book on the causes and effects of urban sprawl in San Jose listed these negative effects of sprawl: “for the tax-paying resident, ... his taxes rise, his health suffers, his access to nature is reduced, and his recreational opportunities are diminished.”²³

In a sense, growth was its own undoing. As one history book notes, “The very people who had been brought to the city by growth began to question that ethic.”²⁴ In 1962, San Jose voters elected a no-growth minority to the San Jose city council. In 1969, that minority became a majority—and Hamann retired rather than work with a council with which he disagreed.

Over the next five years, this new city council wrote a much stricter plan. It was not a no-growth plan, but it was a no-sprawl plan. The centerpiece of the plan was an urban-growth boundary that specifically excluded from development all of the hillsides to the east of San Jose as being “too steep” to develop. In addition, two large chunks of flat land recently annexed by Hamann for future growth, Coyote Valley and South Alameda Valley, were classed

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as “urban reserves.” These were off limits to development until “the City’s fiscal condition is stable, predictable and adequate” to finance such new development.²⁵

The 1974 plan presumed that the city could control the rate of growth by limiting the amount of land available for development and the approval of building permits. The plan considered four alternative rates of growth: none (population stable at 643,000 people), moderate (increase to 795,000 in 1990), high (878,000), and maximum (1,036,000).²⁶ The plan picked the moderate growth alternative, saying that the costs of more growth would be too high and that “the densities required to house the population within the valley floor excluding Coyote would be appreciably higher than current typical densities.”²⁷

San Jose also rejected Hamann’s reservations about rail transit and jumped on the light-rail bandwagon that had been started by San Diego. Between 1984 and 2004, the region built 35 miles of light-rail lines. Now the city’s boosters are trying to find the \$4.7 billion or more that will be needed to extend a BART line to San Jose.

The Open Space Myth

Perhaps the most persuasive argument in the anti-sprawler’s rhetorical toolbox is the notion that urbanization threatens farms, forests, and open spaces. Ballot measures that seek to increase taxes to purchase parks and open spaces tend to win easy approval from voters.²⁸

Yet America’s farms, forests, and open spaces are not at risk from urban sprawl. The contiguous 48 states have about 920 million acres of private agricultural lands, 400 million acres of private forest lands, and another 400 million acres of federal lands, about half of which are forested and much of the rest of which qualify as range or agricultural lands. Only about 110 million acres are developed, and only about 70 million of those acres are considered urban.²⁹

Urbanization is “not considered a threat to the nation’s food production,” says the

U.S. Department of Agriculture.³⁰ One reason is that the per-acre productivity of many crops is growing faster than our population. Between 1982 and 2006, the per-acre yields of corn, cotton, rice, soybeans, potatoes, and sugar beats all grew faster than our population.³¹ This growth is not over: hydroponic farming techniques can increase per-acre yields by another eight times or more.³²

Another reason urbanization does not threaten farm production is that agricultural lands are in many ways interchangeable. The USDA divides American farmlands into croplands (about 400 million acres, about 30 million acres of which are in conservation reserves and not used for growing crops), pasturelands (about 120 million acres), and rangelands (about 400 million acres).³³ But those definitions are somewhat artificial, and most of the pasture and many of the rangelands could be used for crops with irrigation or other improvements.

Canadian urban planner Hans Blumenfeld observed that many countries that are short on land grow crops on land that the USDA would not even classify as suitable for agriculture. Japan and China terrace hillsides, for example, and the Netherlands has reclaimed tidal flats. It would be less expensive to transform “an acre of class 3 or 4 farmland into class 1 or 2 by soil improvement, drainage, or irrigation,” Blumenfeld pointed out, than it would be to impose higher housing costs on homebuyers.³⁴

Forest productivity is similarly unthreatened by urbanization. Even though the U.S. population has nearly quadrupled since 1900, the efficiency with which wood products’ firms use wood has increased so much that total timber consumption is about the same now as then.³⁵ Ironically, considering that the automobile is blamed for sprawl, by replacing the horse, the automobile allowed landowners to restore more than 80 million acres of forestlands that had once been cleared for horse pasture.³⁶

Rural open space is also abundant in every American state. As of 1997, New Jersey, the most developed state in the union, was more than 60 percent rural open space. Connecticut

was more than 70 percent rural, and every other state was more than 80 percent rural open space. On average, the United States was more than 95 percent rural open space, while California was 94.5 percent rural open space.³⁷

Some regions might be short of *urban* open space, but the San Francisco Bay Area is not one of them. According to the Greenbelt Alliance, which supports more land preservation, more than one million of the 4.5 million acres in the nine-county Bay Area are preserved as parks and reserves. By comparison, only 761,000 acres have been urbanized. Any other urban area might be thrilled to have four acres of parks for every three developed acres, but this is not enough for the Alliance, which argues that hundreds of thousands of acres—mostly acres just outside of urban-growth boundaries—are “at risk” of development.³⁸

Using public resources to preserve open space in a state and country that are 94–95 percent open space is a tragic misplacement of priorities. Preserving open space through public funding and regulation discourages open-space advocates from making any effort to target high priority lands because of their value for wildlife, recreation, or other purposes. Instead, they simply want it all. State and local governments should get out of the business of

preserving additional open space and leave it to nonprofit groups that will have the incentive to focus their efforts on the lands that are truly most valuable for open space.

Growth Management

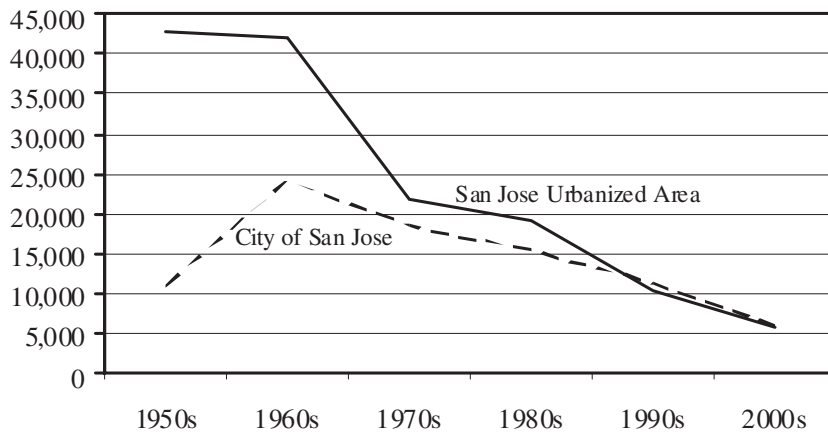
As a result of land-use restrictions, which have come to be called “growth management,” the city of San Jose’s growth has steadily declined since the 1960s (see Figure 1). In the 1990s, the annual growth of the city of San Jose was less than half the growth in the 1960s, and to date in the 2000s, it is less than a quarter of its growth in the 1960s. This trend is just the opposite of the growth of the high-tech industry for which Silicon Valley is famous.

San Jose’s restrictions inhibited growth throughout Santa Clara County. The cities to the west and north of San Jose were either land-locked by other cities or bordered by the Santa Cruz Mountains to their west. As a result, urban growth in Santa Clara County declined from 42,000 people per year in the 1950s and 1960s to fewer than 8,000 people per year so far in the 2000s.

Given the booming high-tech industry, slowing San Jose’s population growth had to result

More than one million acres of the San Francisco Bay Area have been preserved as open space, compared to just 761,000 acres that have been developed.

Figure 1
Annual Population Growth



Note: An urban-growth boundary and other planning restrictions imposed in the early 1970s effectively put a brake on growth in both the city of San Jose and the San Jose urbanized area, which includes most of the urbanized land in Santa Clara County.

Source: Census Bureau decennial censuses for 1950 through 2000, Census Bureau estimates for 2006.

A house that costs \$155,000 in unzoned Houston would cost \$1.4 million in San Jose.

in increased land and housing prices, and it did. According to the real estate company Coldwell Banker, a standard four-bedroom, two-and-one-half bath home in a “typical middle management neighborhood” of relatively unregulated Houston cost \$155,000 in 2006. That same home in San Jose cost more than \$1.4 million.³⁹

Contrary to Woody Guthrie’s song, San Jose and other California cities have not always been unaffordable. A standard measure of housing affordability is price-to-income ratio, that is, the price of a median home compared with median family income. Census data show that, in 1969, a median-priced San Jose home cost about 2.2 times as much as San Jose’s median family income. This was only a little higher than the national price-to-income ratio of 1.8, and it meant that a median San Jose family devoting a quarter of the family’s income to a mortgage could pay off the mortgage on a median home in just 12 years.⁴⁰

By 1979, San Jose’s refusal to accommodate growth had sent housing prices shooting upward. The median home cost more than 4.0 times median family income, compared to a national average of 2.4 times.⁴¹ Given the high interest rates at the time, a median family had to devote more than 40 percent of its income to a mortgage to pay off a median home in 30 years. The situation only worsened in later years, with price-to-income ratios increasing to more than 5.0 by 1989 and more than 7.5 in 2005.⁴²

How could prices rise so high? People choose the regions they live in based more on jobs, family, and friends than on housing prices. This means the demand for new housing is “inelastic,” that is, a small restriction on the supply of new homes will lead to a large increase in prices. For example, one study estimates that a 1.0 percent decline in the supply of new homes can lead to a 2.5–3.0 percent increase in prices.⁴³ Because sellers of existing homes gauge their homes’ value by the sale prices of new homes, land-use policies that increase the cost of new homes drive up the price of all homes in a region.

A homebuilders’ study in 2002 estimated the difference in costs between a new home

in San Jose and one in Dallas:

- The biggest difference was in land costs: A 7,000-square-foot lot in Dallas cost only \$29,000 while a mere 2,400-square-foot lot in San Jose cost a whopping \$232,000;
- San Jose’s lengthy permitting process (and the high risk that a permit would never be issued) meant San Jose developers needed a \$100,000 profit per home, more than 10 times the profit demanded by Dallas developers;
- To help pay for roads, schools, and other services, San Jose charged developers \$29,000 per new residence, while Dallas charged only \$5,000;
- Mainly because of high housing prices, San Jose labor costs were higher: \$143,000 for a three-bedroom house compared with \$100,000 in Dallas.⁴⁴

San Jose might have mitigated the high land costs by allowing development in the South Alameda and Coyote Valley urban reserves, as contemplated in the 1974 plan. But growth opponents have strenuously resisted such development, which they claim would lead to “increased gridlock, worsening air quality, and soaring home prices.” In 2001, former San Jose Mayor Janet Gray Hayes, who was on the city council when it adopted the 1974 plan, called a plan to develop Coyote Valley “the Los Angelization of San Jose.”⁴⁵

The Los Angeles Myth

Anti-sprawl activists have long used Los Angeles as a bogeyman. The Texas Transportation Institute says that Los Angeles is the most congested urban area in America.⁴⁶ The Environmental Protection Agency says its air is the most polluted.⁴⁷ Planning advocates blame these problems on Los Angeles’s low-density sprawl and its extensive freeway network. “Los Angeles is the granddaddy of sprawl,” says the Sierra Club.⁴⁸

San Jose sprawl opponents in the 1960s loved to use A. P. Hamann’s own words against

him: “They say San Jose is going to become another Los Angeles,” he once said. “Believe me, I’m going to do everything in my power to make that come true.”⁴⁹ Of course, Hamann saw Los Angeles as a thriving economy, while his opponents considered it the epitome of sprawl.

Hamann’s critics were 100 percent wrong. Los Angeles is actually the densest urban area in America, and its congestion and pollution are a direct result of that density, not of urban sprawl. The Census Bureau defines “urbanized areas” as “densely settled areas containing at least 50,000 people.”⁵⁰ Each urbanized area generally contains a central city and all adjacent developed lands, including residential developments of at least 1,000 people per square mile (about one house for every two acres), whether or not they are in incorporated cities.

In 1970, when San Jose was first contemplating growth restrictions, its urban area had about 3,700 people per square mile. The Los Angeles urban area was much denser at about 5,300 people per square mile and was second only to New York’s 6,700 people per square mile. But Los Angeles densities were increasing, while the New York area densities were declining as the region’s residents sprawled into New Jersey and Connecticut. By 1990, Los Angeles had reached 5,800 people per square mile, and New York had declined to just 5,400. San Jose’s density had increased to 4,250 people per square mile.⁵¹

Between 1990 and 2000, the Census Bureau improved its definition of “urbanized” to exclude vacant parcels of land near urban fringes. This helped increase Los Angeles’ density to 7,000 people per square mile. Many other urban area densities also increased, but New York’s declined to 5,300 people per square mile.⁵²

Because they were inside the city limits, the 1990 census included Coyote Valley and South Alameda in the San Jose urbanized area. These areas were excluded in 2000, and this—combined with the region’s 14 percent population increase—pushed San Jose’s density up to 5,900 people per square mile.⁵³ This made San Jose the third densest urban area in America after Los Angeles and San Francisco-

Oakland. Though sprawl opponents claimed they were saving San Jose from becoming like Los Angeles, by excluding places like Coyote Valley from development, they were in fact making it more like Los Angeles than almost any other region of the country.

The Los Angeles myth is wrong about transportation too. As Burt Bacharach’s song suggests, anyone who knows the way to San Jose knows that, “LA is a great big freeway.” However, Los Angeles actually has the fewest miles of freeway per capita of any major urban area in America. As of 2005, Los Angeles had about 55 miles of freeway per million people, compared with 78 for San Jose and an average of 114 for all U.S. urban areas. All of the other top-50 urban areas in the United States had more miles per capita than Los Angeles.⁵⁴

Los Angeles is congested because it packs so many people into such a small area and does not provide enough highways for them to drive on. Los Angeles is polluted because cars pollute more in congested traffic. Los Angeles is also spending billions of dollars building rail transit lines, which led the NAACP to sue because the regional transit agency was cutting low-cost bus service to minority neighborhoods in order to bring expensive rail service to white suburbs.⁵⁵ As will be shown below, San Jose’s transportation plans are emulating these less-than-desirable features of Los Angeles.

Inhibitors to Growth

Silicon Valley workers might have gotten some relief from high housing prices if nearby cities and counties had not enacted similar growth-management rules. As it turned out, every county in the Bay Area (except for the entirely urban San Francisco County) imposed some form of urban-growth boundaries in the 1970s. Today, enough San Jose employees seeking affordable housing commute from Stockton, some 80 miles away, that San Joaquin, Alameda, and Santa Clara counties began running commuter trains between the two cities in 1998.⁵⁶

Though often considered the epitome of sprawl, Los Angeles is the densest urban area and has the fewest miles of freeways per capita of any major urban area in America.

A little-known law passed in 1963 has given California cities control over the rate of rural land development; in turn, this has given California the least affordable housing in the U.S.

What would inspire so many California counties to enact growth-inhibiting rules in the 1970s? A handful of institutions and laws peculiar to California have combined to make the Golden State the least affordable state in the nation.

First, in 1963 the California legislature required every county in the state (except San Francisco, whose boundary coincides with the city of San Francisco) to create a local agency formation commission (LAFCo). These commissions are supposed to oversee the creation of new cities and special districts, and the annexations of land into existing cities and districts. In 2000 the legislature added “preserve agricultural lands” and “discourage urban sprawl” to the LAFCOs’ mandate. In fact, LAFCOs had been discouraging sprawl for many years before that.

In most states, cities and urban regions grow when developers purchase vacant land, usually near the urban fringe, and subdivide it for housing or other development. If the land is outside city limits, the developer may help form a special service district to provide sewer, water, and other services. While this process has been demonized as “sprawl,” it tends to provide a full range of affordable housing stock and to meet the needs of local residents because developers want to build things that people want to buy.

The LAFCOs short-circuited this process. Most LAFCOs comprise two members of each city council in the county plus two members of the county board of supervisors, so they are heavily weighted toward the cities. Cities have a powerful incentive to keep development within their borders because that boosts their tax base. They tend to resist the incorporation of new cities and the formation of service districts outside their limits. LAFCOs gave cities the means to enforce those desires.

Cities also compete with one another for developments that can provide the greatest tax revenues. In California, ever since voters approved a property tax limitation measure known as Proposition 13 in 1978, cities have believed (not necessarily correctly) that residential areas represent a net drain on their finances while retail developments pay more taxes than

they consume in municipal services.⁵⁷ A balance of residential and retail developments should pay its own way, but in places like the San Francisco Bay Area, rival cities adopt “begger-thy-neighbor” policies aimed at attracting retail developments while pushing new residential development onto adjacent cities. For example, the city of Morgan Hill, which lies on the southern border of San Jose, has a policy of issuing no more than 250 building permits for new homes each year.⁵⁸

Cities in interior California tend to be more isolated from one another than those on the coast. Thus they are less likely to fear that new residential developments will outweigh new retail developments in the same jurisdiction. As a result, they place fewer restrictions on residential development, and interior California housing remains more affordable than housing in the Bay Area and Southern California (though it is still much more expensive than in the rest of the United States).

LAFCOs were supposed to moderate this rivalry by designating a “sphere of interest” around each city so that lands within that sphere could not be annexed by any other city. Many LAFCOs also designated urban-growth boundaries, outside of which no major subdivisions would be allowed. In the case of San Jose, the urban-growth boundary actually excluded Coyote Valley and other land within the city limits, prohibiting the city from developing those areas without permission from a majority of other cities in the county. LAFCOs have also denied rural property owners the right to incorporate their own city or service district, thus denying them the right to develop their property unless some other city was willing to annex them.

LAFCOs are not necessarily generous about allowing cities to annex land—even within their spheres of interest. Landlocked cities see the annexation plans of other cities as a competitive threat to their efforts to promote infill development and redevelopment of blighted neighborhoods, so they tend to oppose such expansions. The Santa Clara County LAFCo, for example, has rejected

requests from Gilroy, a town 35 miles south of San Jose, to annex land.⁵⁹

By the late 1970s, the LAFCOs were clearly inhibiting growth. A 1979 editorial cartoon in the *Thousand Oaks News Chronicle* shows a Napoleon-like man labeled “LAFCO” saying, “As self-proclaimed Emperor, I outlaw new development.” A reader responded with a “rebuttal” cartoon showing a polluted Thousand Oaks crowded with high-density developments up to an urban-growth line marked “Stopped by LAFCO.”⁶⁰

Recently, the Santa Clara LAFCo adopted an “agricultural mitigation policy” that requires developers of farmland to pay a mitigation fee to be used to preserve farmland elsewhere. The owner of 26 acres of farmland near Gilroy estimates that the mitigation fee would cost him \$50,000 to \$60,000 if he were to develop the land—a cost that he would, of course, pass on to the buyers of whatever homes were built on the property.⁶¹

A second state law that inhibited growth is the California Environmental Quality Act of 1970. This law requires state and local agencies to write a detailed “environmental impact report” for all “projects.” In 1976, a California state court agreed that the mere act of annexing land into a city was such a project.⁶² Ultimately, LAFCOs and cities were required to spend years writing such reports for any change in the location of a sphere of influence, urban-growth boundary, or city boundary.

It is unlikely that the lawmakers who voted for CEQA had any idea just how far-reaching this law would be. The law was written in imitation of the National Environmental Policy Act of 1969, but no one in Congress knew in 1969, and no one in the California legislature knew in 1970, just what a burden these laws would place on government agencies.

The third law inhibiting growth was a 1971 act requiring cities to ensure that their zoning and other land-use decisions were consistent with their comprehensive plans.⁶³ The law created grounds for members of the public to challenge any land-use decision, thus stopping or at least delaying the construction of new homes and other developments. In effect, the

law entitled any resident of the state to a say in how private property owners in the state could use their land. The result was a major change in attitudes toward property rights, which some have called “the quiet revolution in land use control.”⁶⁴ “I understand personal property rights,” says a Santa Clara County supervisor who is also on the Santa Clara LAFCo, “but I am also an environmentalist, and we can’t look at land-use decisions only through the eyes of the landowner.”⁶⁵

This law had profound consequences for housing. “Between 1972 and 1979 environmental lawsuits [in the San Francisco Bay Area] alone challenged developments containing 29,000 new housing units, in an area that normally builds only 45,000 units each year,” reported Massachusetts Institute of Technology planning professor Bernard Frieden in 1979. “In the new political and legal climate, stopping homebuilding soon became easy—so easy that even a lone Boy Scout doing an ecology project was able to bring construction to a halt on a 200-unit condominium project.”⁶⁶

Local homeowners are more likely to challenge a nearby development of low-cost homes (which they fear will reduce the value of their own homes) than one of expensive homes (which they hope will enhance their property values). This leads developers, when challenged, to alter plans—from many affordable homes to fewer expensive homes. University of California planning professor David Dowall tells of an Oakland developer who proposed in 1971 to build 2,200 homes that would sell for about \$30,000 each but ended up getting a permit in 1979 to build a mere 150 homes for \$200,000 each.⁶⁷

A fourth institution that was first developed in California but now has spread to most other states, is the redevelopment agency, which can use eminent domain and tax-increment financing to redevelop supposedly blighted areas in cities. Other publications have thoroughly analyzed California redevelopment agencies.⁶⁸ What is relevant here is that such agencies allow cities to capture property taxes that would otherwise go

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Just to develop 2,200 acres of land for residential, commercial, and industrial purposes, property owners have had to spend more than \$13 million on environmental impact reports.

to schools and other services. This gives cities one more incentive to promote redevelopment rather than allow suburban development at the urban fringes.

Together, LAFCos, CEQA, and the planning law created numerous hurdles developers must leap to satisfy the demand for new housing and other developments. Even if a LAFCo permits a city to annex land and the city or LAFCo prepares the required environmental impact report, an environmental group could go to court to prevent the annexation on the grounds that the state needed to preserve farmland.⁶⁹

The environmentalists who bring such lawsuits are sometimes accused of crying “not in my back yard” (NIMBY). Such accusations discount their genuine interest in wildlife habitat, watersheds, and other natural values. This interest is often, but not always, misguided: protecting habitat for an abundant species of wildlife such as white-tailed deer is not the same as protecting habitat for an endangered species such as the California condor. The problem is that the current system allows people to challenge development projects and promote open-space preservation at such a low cost to themselves that they have almost no incentive to discriminate between serious and trivial open-space needs.

LAFCos and the planning process also give no weight to the interests of people who will move to a region in the future. In 1973, one urban planner projected that, within 15–20 years, 80 percent of the population of many fast-growing urban areas in the West “will consist of persons who are not yet there. They have no vote, but it is their living conditions which are determined now.” Yet, noted the planner, no one “speaks for these voteless people who are not yet here.”⁷⁰ As a result, LAFCos and other planning agencies tend to discount future housing affordability in favor of preserving municipal revenues.

All of these laws and institutions have played a role in keeping Coyote Valley closed to development for more than 30 years after San Jose included it in its urban reserve.

- First, San Jose and the Santa Clara

LAFCo had to agree in principle that Coyote Valley could be brought within the city’s urban-growth boundary, something that did not happen until 2002.⁷¹

- Second, the city had to write an environmental impact report, a process that only reached the draft stage in 2007.⁷² Some idea of the complexity of this process can be gained by noting that the draft report is 541 pages long and accompanied by two similar-sized appendices. As of mid-2006, Coyote Valley property owners had spent \$13 million preparing this report.⁷³
- Third, the Sierra Club and other environmental groups have suggested that they will challenge the plan unless developers donate \$100 million to purchase land for preservation elsewhere as mitigation.⁷⁴

If it takes this much trouble to develop land that has been inside the San Jose city limits for nearly 40 years, think how difficult it would be to develop land outside the city limits! The current plan to develop the first 3,783 acres of Coyote Valley proposes to use only 1,600 of those acres for residences and another 600 acres for commercial and industrial purposes, leaving much of the rest in permanent open space.⁷⁵ So even when the planning is done, it will do very little to relieve San Jose’s housing crisis.

Thanks to this complicated planning and approval process, California is the most intensely urbanized state in the nation. The 2000 Census found that 94.4 percent of Californians live on just 5.1 percent of the land in the state. No other state has managed to pack such a high percentage of its people into such a small proportion of its land area. The average population density in California urban areas was more than 4,000 people per square mile, making it second only to New York (which is skewed by New York City’s density of 26,000 people per square mile).⁷⁶ By comparison, the average density of all U.S. urban areas was only 2,400 people per square mile.⁷⁷

LAFCos, CEQA, and other planning laws have ensured that San Jose’s housing affordability problems are replicated throughout

California. In 2005, the state's most affordable urban area—Bakersfield—had a price-to-income ratio of 4.2, making it less affordable than 90 percent of U.S. urban areas outside of California.

If housing in regions with growth management had price-to-income ratios that were only 25 percent more than the national average, California homebuyers would have saved \$136 billion on homes purchased in 2005. If ratios had been equal to the national average, homebuyers would have saved \$170 billion.⁷⁸ In Santa Clara County alone the cost of growth management to 2005 homebuyers was \$10.1–12.6 billion.

Of course, San Jose did not sit idly by while housing became unaffordable for most of its residents. In 2006, the San Jose Housing Department spent \$1.3 million to “increase affordable housing supply.”⁷⁹ That is slightly more than 0.1 percent of the burden San Jose's land-use policies have placed on the region's homebuyers. San Jose and other Santa Clara County cities have also adopted “inclusionary zoning” policies that require developers to sell a certain percentage of new homes at below-market prices to low- and moderate-income families. But as economists at San Jose State University have shown, inclusionary zoning actually reduces housing affordability by reducing the supply of housing and forcing developers to pass on the costs of below-market sales to purchasers of the remaining homes they build.⁸⁰

California cities could have kept housing affordable by allowing people to settle at the average U.S. urban density, in which case they would have occupied 8.5 percent of the state instead of 5.1 percent.⁸¹ LAFCos, CEQA, and other planning laws saved 3.4 percent of the state from development at a cost to homebuyers of \$136–170 billion per year. It was those institutions and laws that made California housing unaffordable.

The Homevoter Hypothesis

The “homevoter hypothesis” suggests that, since most homeowners have most of

their assets in the value of their home, their votes and politics will be largely shaped by actions that might increase or reduce that home value.⁸² The majority of households did not own their own homes until around 1950, so “homevoters” did not dominate politics until the second half of the 20th century.⁸³ Now that they are in the majority, they use land-use policies to effectively create a cartel, limiting new development in order to drive up home prices and obtain windfall profits for themselves at the expense of newcomers and first-time homebuyers.

However, the “homevoter hypothesis” does not explain why some U.S. cities enacted growth-inhibiting policies and others, such as Houston, Las Vegas, and Phoenix, did not. A close examination of San Jose and nearby cities reveals that the “homevoter hypothesis” is oversimplified for two reasons. First, it ignores the role of city governments, which actually make more decisions about future growth than voters and which are more motivated by tax revenues than housing prices. Second, it ignores the fact that California is one of the few states whose laws give residents a say in how all other property owners in the state use their land. Without this legal entitlement, few homeowners would worry about how distant property owners use their land.

Other reasons suggest that the “homevoter hypothesis” is not the sole, or even the major, factor behind California's affordability crisis. For example, the benefits to homeowners of rising prices are ambiguous. High housing prices are as much of an impediment to homeowners who want to upgrade to a larger home as they are to first-time homebuyers. Because of realtor fees and other transaction costs, high prices can even be an impediment to homeowners who want to move to a smaller home. High housing prices thus limit the mobility for which Americans are famed.

In Great Britain, whose housing prices have been artificially inflated by growth-management planning since 1947, an economist has found that neighborhoods with high homeownership rates have higher unemployment

High housing prices limit mobility because they are as much an impediment to people who want to move up to a larger home as to first-time homebuyers.

Land-use regulation not only makes housing unaffordable, it makes housing prices more volatile.

rates than neighborhoods with high rental rates.⁸⁴ When housing becomes unaffordable, the cost of moving becomes greater than the benefits of finding a new job.

Research in both Britain and the United States shows that planning-induced housing shortages not only increase home prices, they make them more volatile. If small restrictions in supply can push prices sky-high, small reductions in demand, such as occur during a recession, can cause prices to plummet.

“By ignoring the role of supply in determining house prices,” says an analysis of British planning, “planners have created a system that has led not only to higher house prices but also to a highly volatile housing market.”⁸⁵ Harvard economist Edward Glaeser agrees that land-use rules that restrict “housing supply lead to greater volatility in housing prices.” Glaeser found that “if an area has a \$10,000 increase in housing prices during one period, relative to national and regional trends, that area will lose \$3,300 in housing value over the next five-year period.”⁸⁶

San Jose has seen just such volatility in its housing market in the past 30 years. Between 1981 and 1983, inflation-adjusted housing prices fell by 8 percent. Between 1989 and 1995, they fell by 20 percent. Prices peaked again in 2006 and are once again falling.⁸⁷ Since homeowners rarely know exactly when they may decide to sell their home, a cautious homebuyer would prefer prices to be less volatile.

Between 2001 and 2004, San Jose suffered a disastrous recession. Employment declined by 17 percent and office vacancy rates climbed from 3 to nearly 30 percent. Yet housing prices grew nearly 14 percent during those years, and managed to grow another 21 percent in 2005.⁸⁸ As a result, prices today are completely disconnected from “fundamentals” (which, for housing, means rental prices), and mortgage insurer PMI estimates that there is a 50 percent probability that San Jose prices will be lower two years from now than they are today.⁸⁹

High housing prices also discourage employers from expanding or building new facilities in a region, which in turn makes jobs more volatile. Harvard’s Glaeser also found that “places with rapid price increases

over one five-year period are more likely to have income and employment declines over the next five-year period.”⁹⁰ This increases the risk that people who buy homes when prices are high may lose their jobs in the next recession and be forced to sell at a loss, or declare bankruptcy, when they cannot sell their home for an amount greater than their remaining mortgage on the house.

Of course, it might be argued that homeowners don’t know that planning-induced housing shortages make prices and employment more volatile. But many homeowners are just as unaware that local government decisions about annexations and open-space preservation have increased housing prices. Most urban planners and planning advocates insist that high housing prices result solely from demand, not supply.

For example, Paul Danish is a former Boulder city councilor who so strongly advocated limits on building permits and open-space purchases that these policies are known in Boulder as “the Danish plan.” Boulder has the least-affordable housing of any noncoastal, urban area in the United States. But according to Danish, Boulder prices are high solely because his policies have made it “a really desirable place to live.” Any place that is more affordable—which includes 90 percent of the urban areas in the United States—must be, according to Danish, “a really awful place to live.”⁹¹

Informed by such “experts,” people who get involved in planning may be blissfully unaware that their actions are increasing their housing prices. Thus, they may be motivated as much or more by other concerns, such as traffic congestion, wildlife habitat, and taxes, as by home values. While the “homevoting” phenomenon has played a role in California’s housing crisis, the real key has been the institutional and legal design of California’s planning and permitting process.

Transportation Planning

After housing affordability, congestion is the most important urban problem in California.

The Texas Transportation Institute's annual report on urban mobility has consistently ranked Los Angeles and the San Francisco-Oakland regions as the nation's two most congested urban areas (measured by hours of delay per traveler).⁹² California congestion wastes close to 600 million gallons of gasoline and costs commuters more than \$16 billion per year, not counting the cost to businesses that depend on timely deliveries of freight and materials.⁹³

Even as San Jose land-use planners were making their region one of the least affordable housing markets in America, its transportation planners were building the framework for what would become the worst-managed transit system in the nation. In its zeal to get people out of their cars, San Jose's transit board built an expensive rail system that it couldn't afford to run. This resulted in a scathing grand jury investigation, an even more scathing report from an outside auditor, and the resignation of several top agency managers. Yet the board is determined to build still more rail lines it can't afford to operate.

Today's modern urban planners firmly believe that there is a link between transportation and land use. To comprehend the San Jose's transit disaster, it is useful to understand the history of that linkage.

American cities were built in three major eras. First was the pedestrian era, during which most people walked to work and other destinations. That required high-density housing and a mingling of housing with retail shops, offices, and factories.

The pedestrian era began to end when "horse cars" were developed. Those first appeared in San Jose in about 1868.⁹⁴ But horse cars were slow and expensive, so the pedestrian era really did not end until about 1890, when the technology for the electric streetcar was fully developed. San Jose's first successful electric streetcars began operation in that year.⁹⁵

The streetcar era lasted from about 1890 to 1930, when the combined effects of the Depression and the automobile forced most streetcar companies to curtail services. Yet streetcar lines had never been highly profitable.

Instead, most were built to connect suburban real-estate development with city centers. The profits from the sale of homes paid the capital costs of the streetcars. Passenger fares paid the operating costs—and only did so as long as downtown remained a dense job center and the streetcars did not have a lot of competition from the automobile.

Streetcar cities thus were more sprawling than pedestrian cities because the streetcar allowed more people to reach neighborhoods of single-family homes. Yet these neighborhoods were still fairly dense because, once off the streetcar, residents still had to walk home. In most cities, neighborhoods of older homes on 50-by-100-foot lots laid out on gridded streets are streetcar suburbs (though often annexed into the city by now).

The streetcar era also saw the decentralization of jobs. Instead of being "monocentric," with all jobs located downtown, cities and urban areas became "polycentric," with many jobs located in neighborhood and suburban centers that formed around the streetcar network.

While the Depression ended the streetcar era, the automobile era did not really begin until after World War II, when more people had the incomes to buy both cars and homes. Homeownership rates quickly rose from less than 45 percent in 1940 to more than 60 percent in 1960.⁹⁶ Prior to 1945, most homeowners were white-collar workers; the automobile era brought homeownership to the working class. (It is a sad commentary on American society that, as historians Robert Bruegmann and Peter Hall both observe, the sprawl debate is partly motivated by people with middle-class attitudes resentful when working-class families attain the success once reserved for the upper classes.⁹⁷)

Densities in automobile cities are lower than in streetcar cities. Lot sizes of 7,000 (70-by-100 feet) to 10,000 square feet (100-by-100 feet, approximately a quarter of an acre) became common in the 1950s and 1960s. However, it is important to understand that one reason densities are lower today than a few decades ago is that household sizes are

In its zeal to get people out of their cars, San Jose built an expensive rail system that it couldn't afford to run.

No matter how much money San Jose spends on transit, transit is never likely to carry more than 4 or 5 percent of San Jose commuters to work.

smaller, but each household typically occupies the same size lot.

Jobs in automobile cities are even more decentralized than in streetcar cities. Urban economist William Bogart estimates that only 30–40 percent of the jobs in today’s automobile cities can be found in downtowns or other regional and suburban centers.⁹⁸ The majority of the jobs are distributed across the cityscape almost as finely as the residents themselves.

Pedestrian cities have very high densities at their core with densities sharply declining toward the fringe; streetcar cities have moderately high densities at their core with densities slowly declining toward the fringe. In contrast, automobile regions tend to have about the same densities in the center and in the suburbs.

This history explains a lot about why transit works in some cities and not in others. A few American urban areas, notably Boston, Chicago, New York, San Francisco, and Washington, still have some remnants of the pedestrian cities at their core. Though it requires heavy subsidies, transit carries a significant amount of travel in these regions. In New York, transit takes 30 percent of all commuters to work, while in the other four regions, transit carries 12–16 percent of commuters.⁹⁹ The key is to have lots of jobs where the transit system meets the hub.

Far more urban areas, such as Denver, Portland, and Seattle, consist of a core remnant streetcar city and automobile-oriented suburbs. Actually, the classic streetcar city is Los Angeles, which grew from 50,000 people in 1890 to more than 1.2 million people in 1930 and which still has a very dense core. In regions that still have significant streetcar cities at their core, including Los Angeles, transit carries about 4–10 percent of commuters to work. Transit does not do better than this because jobs are so decentralized that most workers do not find transit a feasible choice.

Some former streetcar cities, such as St. Louis, lost their dense cores as people fled the cities for the suburbs. The population of the city of St. Louis declined by about 50 percent after

1950 even as its urban area continued to grow. Transit in such regions does not carry more than 3 or 4 percent of commuters to work.

Transit is even less effective in regions that grew largely after 1950. This includes most Sunbelt cities, whose growth required the development of air conditioning. It also includes San Jose, whose population grew from 93,000 people in 1950 to 930,000 people today. Transit in these regions typically takes 1–4 percent of commuters to work.

Some people believe that transit can be made more effective by increasing population densities. But the real key is job density. When jobs are finely spread out across the region, transit is ineffective because too many people either live or work in an area that is not well served by transit.

San Jose is a classic automobile region: 90 percent was built after 1950; only a small percentage of the region’s jobs are in downtown San Jose; and suburban densities are actually greater than the city center’s. Thus, no matter how much is spent on transit, it is not likely to ever carry more than about 4 or 5 percent of commuters. As of 2005, it carried about 3.3 percent.¹⁰⁰

In such a situation, the goal for a transit agency should be to provide cost-effective service for transit-dependent people as well as those who prefer not to drive. This virtually always means bus service, as rail service costs far more to build and often costs more to operate than buses.

San Jose’s streetcars stopped operating in 1938.¹⁰¹ For the next 35 years, three different companies offered bus services. A county transit district took over those bus services in 1973. Initially, the district experimented with a “dial-a-ride” system of small buses that would move people from door to door. But this actually proved to be too successful, overwhelming the call center that dispatched the buses. The system also incurred the wrath of local taxi companies that considered it an infringement on their franchises; they persuaded a judge that the transit district should either shut down the dial-a-ride system or buy them out.¹⁰² So San Jose abandoned the dial-a-ride system and concentrated

on fixed-route buses. With the help of a one-half-cent permanent sales tax for transit operations approved by voters in 1976, the fixed-route bus system proved to be popular, with ridership doubling between 1978 and 1981.¹⁰³

After 1981, however, San Jose succumbed to the siren song of streetcars as sung by San Diego. In that year, San Diego opened the nation's first light-rail line—light rail being a cross between a streetcar and a heavy-duty intercity electric rail line. Streetcars typically run exclusively on streets mingled with cars and pedestrians; subways and elevated lines like BART run exclusively on their own rights-of-way; most light-rail lines run on a combination of city streets and exclusive rights-of-way. The “light” in light rail refers not to the weight of the rails but to the loads: because light rail typically operates one-, two-, or three-car trains, it cannot carry as many people as BART or other subways that can run eight-car trains or more.

San Diego's first light-rail line had a double advantage. It was built at a low cost, partly because it used the right-of-way of an abandoned freight rail line. The final cost was about \$7 million per mile (about \$15 million in today's dollars); no U.S. light-rail line since has been built for such a low cost. In addition, it extended from downtown San Diego to San Ysidro, at the border with Tijuana. It thus carried lots of tourists to Tijuana and lots of Mexican workers who commuted to U.S. jobs and did not want the expense or hassle of bringing cars across the border every day.

After San Diego's light-rail line opened, the Santa Clara County Transit District resolved to build its own light-rail line. A 1983 environmental impact statement found that a “busway” would cost less to build and would attract more riders than light rail. However, it also estimated that light rail would cost less to operate than buses. A large share of the capital costs of light rail would be covered by federal and state grants, but the state, at least, would not provide funds to build a busway. “Since the [operating] subsidies needed to supplement fares are paid out of local tax resources,” said the document, this difference in operating costs tilted the decision toward rail.¹⁰⁴

San Jose transit ridership stagnated in the mid-1980s as the transit agency focused on planning and building its first rail line. Opening in 1988, this first line and later expansions each provided a boost in ridership—but no sustained growth. Between 1988 and 2001, total transit ridership increased by less than 4 percent per year—paltry compared with the 26 percent annual growth achieved in 1978 through 1981, when the transit district focused on providing fixed-route bus service. Moreover, by 2001, when the region had opened 29 miles of light-rail routes, light rail still carried less than 16 percent of the region's transit riders.¹⁰⁵

As in 1938, when San Jose's last streetcars stopped running, the chief competition for light rail was not buses but autos. During and after the Hamann era, the state built a network of freeways and expressways within San Jose and connecting the region with other parts of the Bay Area.

- The Bayshore Freeway (U.S. 101), the Santa Cruz Freeway (SR 17), and the Nimitz Freeway (I-880) were all built during the Hamann era;
- Although a 1960s “Freeway Revolt” stopped construction of several freeways in San Francisco, California continued to build I-280 and I-680 in the south Bay Area, completing them in the early 1970s;
- In 1984, Santa Clara County voters agreed to a 10-year, one-half-cent sales tax for new roads, which was used to, among other things, build a freeway on state route 85, expand SR-87 and SR-237 parkways into freeways, and add lanes to U.S. 101 and I-880.¹⁰⁶ Most of these routes were completed in the mid 1990s, but SR-87, the Guadalupe Freeway, was not completed until 2004.

These freeways do an enormous amount of work in the region. Although they comprise only 3 percent of the roadway miles in the San Jose urban area, they carry 45 percent of vehicle traffic.¹⁰⁷ Detailed data are not available before

Although San Jose freeways comprise only 3 percent of the region's roadway miles, they carry 45 percent of vehicle traffic.

Between 1989 and 1997, San Jose built new freeways and reduced traffic delays by 50 percent, thus proving that cities can build their way out of congestion.

1982, but the freeway expansions funded by the 1984 sales tax actually allowed the arterial network to grow faster than traffic between 1989 and 1997.¹⁰⁸ During this time, the region gained more than 110,000 new jobs.¹⁰⁹ Yet the traffic delays faced by the average peak-period commuter fell by 50 percent.¹¹⁰

In contrast, transit plays an insignificant role in the region's transportation system. The 2000 Census found that transit carried about 3.6 percent of commuters in the San Jose urban area.¹¹¹ U.S. Department of Transportation data indicate that transit carried only 1 percent of the region's total passenger travel, with light rail carrying about 15 percent of transit riders.¹¹²

Despite those numbers, planners are now directing most of the region's transportation resources to transit rather than highways. In 1995, the Santa Clara County Transit District merged with the Santa Clara Congestion Management Agency to form the Santa Clara Valley Transportation Authority, or VTA for short. VTA not only ran the transit system but planned transportation for the entire region. This created a conflict of interest: any money VTA planned to spend on transit would go to VTA, but money it planned to spend on highways would go to some other agency.

Not surprisingly, VTA immediately called for more spending on transit than highways. When the time came to extend the 1984 one-half-cent sales tax for highways for another 10 years, VTA persuaded the county to include two light-rail projects and several other transit projects in the program. Voters approved the plan in 1996.¹¹³

Then, in 2000, VTA published a 20-year transportation plan for the region that called for spending more than four times as much on rail transit improvements as on freeway and expressway expansions: \$7.30 billion vs. \$1.56 billion, including \$3.8 billion for an extension of BART from Fremont (south of Oakland) to San Jose.¹¹⁴ That \$7.3 billion, VTA promised, would relieve congestion by increasing transit's share of commuting from 4.2 to 7.5 percent, an increase of 3.3 percent, and transit's share of total travel from 3.2 to 4.3 percent.¹¹⁵

To fund this plan, VTA persuaded voters to extend the one-half-cent sales tax for another 30 years and to dedicate *all of it* to transit.¹¹⁶ VTA sold this to voters by promising it would reduce congestion by 19 percent.¹¹⁷ But nearly all of this relief comes from the \$1.56 billion worth of highway improvements in VTA's plan—not one dollar of which would be funded out of the sales tax. Instead, sales tax revenues were dedicated to \$6.0 billion of the \$7.3 billion rail transit program. VTA's plan projected that these transit improvements would persuade barely 4 percent of auto commuters to switch to transit.¹¹⁸ Even though highways carried well over 90 percent of passenger and freight travel within Santa Clara County, VTA had successfully captured for transit all of the local funding voters had approved for highways in 1984.

VTA was soon flooded with capital funds. In 1997, its capital budget was \$57 million, only 14 percent of which came from local sources.¹¹⁹ By 2003, it had a capital budget of \$457 million, 72 percent of which supposedly came out of the local sales tax.¹²⁰ (In fact, much of this money did not come directly from the sales taxes but from the more than \$400 million worth of sales-tax-backed bonds issued by VTA.¹²¹)

Yet VTA's light-rail lines were not performing well even by the low standard set by the nation's other light-rail systems. In 2001, each route mile of VTA light rail carried an average of just under 4,000 passenger miles per day (about 20 percent of an average freeway lane mile in San Jose); the national average was more than 8,800. At any given time in 2001, the average VTA light-rail car carried 15.2 riders in revenue service; the national average was 27.2. The only light-rail line that performed more poorly was New Jersey's Hudson-Bergen line.¹²²

Things only got worse after 2001, which turned out to be the high-water mark for VTA. Between 2000 and 2004, the "dot-com-bust" led to a 15-percent decline in employment in Santa Clara County.¹²³ (Employment numbers are for calendar years; VTA numbers are for July-to-June fiscal years.) This reduced both ridership and sales tax revenues, including the revenues

for operating expenses. The effects of the bust on VTA's capital program were small, as most VTA funding came from bond sales. But the effects on operations were significant. In a two-year period, local sales taxes for operations declined from \$173 million to just \$106 million.

That drop forced VTA to cut back both bus and light-rail service. Between 2001 and 2005, vehicle-revenue miles of bus service declined by 19 percent and light-rail service declined by 12 percent despite a 21 percent increase in rail route miles. In the same period, total ridership fell by 34 percent.¹²⁴ Since jobs declined by only 15 percent, much if not most of the reduced ridership resulted from the service cuts.

VTA was forced to take other desperate steps to keep its vehicles rolling. In 2002, it sold some land that it had intended to use as a park-and-ride station or transit-oriented development. "VTA is completely illiquid," said a member of the VTA board of directors. "They sold that piece of property to make payroll."¹²⁵

In 2003, VTA took the unusual step of funding much of its operations out of proceeds from bonds that were dedicated to capital improvements. This led to a grand jury investigation that charged VTA's board with "over-promising of programs to voters; inefficient timing of expenditures; financial forecasts designed to support program plans rather than evaluate options (and as a consequence not identifying more optimal approaches); and decisions influenced by benefits to local districts rather than to the regional Santa Clara County transportation system."¹²⁶

VTA "cannot afford the cost to build and operate a BART system to San Jose," the grand jury found.¹²⁷ Yet VTA's board seemed intent on building one anyway, and continued to build light-rail lines even though it did not have the money to operate them. The grand jury blamed the board's structure for the problems: the board comprises 2 county supervisors and 10 commissioners from various cities in the county. Most serve only one two-year term, so few become intimately familiar with the details of VTA operations or finances.

VTA's light-rail performance significantly deteriorated after 2001; by 2004, the average

light-rail car carried only 13 passengers, and the average mile of light-rail line carried less than 2,300 passenger miles per day, making San Jose's light rail even worse than New Jersey's Hudson-Bergen line.

Most public attention was focused on the proposed BART line. Unlike VTA's ground-level light-rail lines, BART is a combination of elevated and subway lines. An elevated rail line typically costs about twice as much to build as a ground-level light-rail line; a subway (which VTA proposed to build within San Jose's city limits) is several times more expensive still. Although BART trains are run by the BART district, VTA would be responsible for the cost of both building and operating BART trains in Santa Clara County.

An environmental impact report for the proposed BART line found that it would have virtually no effect on congestion on any of the highways in the San Jose area. The report evaluated 96 different freeway segments in the region and estimated that those freeways would carry an average of about 10,000 cars per hour during peak hours in 2030. The proposed BART line would take an average of 59 cars per hour off those freeways. The report estimated average peak-hour speeds with and without BART to the nearest mile per hour; it found that BART would not increase freeway speeds by even 1 mile per hour on any of the 96 segments studied.¹²⁸

Meanwhile, the \$3.8 billion capital cost projected by VTA in 2000 had increased to \$4.7 billion by 2006. That meant the existing sales tax was insufficient to build it. In June 2006, VTA asked voters for another quarter-cent sales tax, but voters rejected the request.

In late 2006, the VTA board had an opportunity to kill the BART line: it needed to approve \$185 million to continue planning the line. Even if the agency had the money to build it, VTA's general manager warned, "we clearly do not have the money to operate it."¹²⁹ But the board approved it anyway.

Either out of frustration with the board or because of incompetence, a succession of managers left VTA between 2004 and 2007. The agency's chief financial officer resigned

A grand jury found that San Jose "cannot afford" to extend BART to San Jose, and the environmental impact report found that such an extension would have virtually no effect on congestion—but San Jose wants to build it anyway.

Many people support rail transit because they incorrectly believe it will allow them to drive on uncongested roads.

to accept a lower-paying job elsewhere about the time of the grand jury report.¹³⁰ VTA's general manager left in 2006. The new general manager hired an outside auditor to review the agency's finances. The auditor's report prompted the resignation of the agency's new chief financial officer.

Yet, like the grand jury report, the audit was more critical of the board than of management. "Many of the Board's actions over the last decade have not supported VTA's core business or its mission," the auditor concluded. "The Board has approved capital projects that were political solutions to address the needs of certain local neighborhoods at the expense of regional congestion management. As a result, VTA has built transportation systems that have low ridership and are also expensive to operate and maintain."¹³¹

Yet the board is unrepentant and is expected to come back to the voters with another sales tax increase in 2008. Voters will no doubt be impressed by the board's response to the chief financial officer's resignation: to replace him, it hired a mining company executive with no previous experience in the transit industry, paying him \$13,600 per week, more than three times as much as it had paid the person he replaced.¹³²

The Congestion Myths

The case for spending money on transit rather than highways comes down to two myths about congestion: first, you can't build your way out of congestion; and second, paradoxically, rail transit can reduce congestion.

The first myth was disproven by San Jose's experience in the early 1990s, when highway expansions reduced the total amount of time wasted by each rush-hour commuter from 100 to 50 hours per year.¹³³ Yet many people still believe this myth and its corollary, that new highways merely induce new traffic.

Much of what some people have called induced demand when new highways open is really just traffic rerouted from other roads and streets. Between 1982 and 2003, America's

major urban areas added anywhere from 2 percent (Toledo) to 535 percent (Phoenix) new lane miles to their freeway systems. If new lane miles induced more driving, we would expect to see a strong correlation between the growth in lane miles and the growth in total driving. In fact, we do find a strong correlation between the growth in lane miles and the growth of freeway driving—0.84—but the correlation between new lane miles and total driving is much weaker: 0.52.¹³⁴

As University of California planning professor Robert Cervero observes, much of the latter correlation may be due to an "induced investment" effect: that is, that increased driving leads to more road construction rather than the other way around. The induced-demand myth, Cervero admits, has caused enormous harm. "Claims of induced demand have stopped highway projects in their tracks," say Cervero. "This is wrongheaded. . . . The problems people associate with roads—e.g., congestion and air pollution—are not the fault of the road investments," he adds. They result "from the use and *mispicing* of roads."¹³⁵ In other words, to the extent that there is induced demand, the solution is not to stop building roads but to use "congestion pricing," that is, tolls that vary according to the amount of traffic on the road.

The other myth—that rail transit can reduce congestion—is just as pernicious. As the satirical newspaper *The Onion* notes, "98 percent of U.S. commuters favor public transportation for others."¹³⁶ Many people support rail transit because they hope it will allow them to drive on uncongested roads. In fact, outside of New York City, U.S. transit systems carry so few commuters that even if rail transit doubled transit commuting, people on the road would not notice any difference. For example, Denver is currently planning six new rail lines stretching 119 miles and costing at least \$5 billion. The region's planners estimate that these rail lines will take just 1.4 percent of rush-hour traffic off the region's highways.¹³⁷

Some rail advocates will point out that this 1.4 percent is a reduction in congestion, but it

is certainly not cost-effective when compared with highways, buses, or other alternatives. When Denver planners hired an outside consultant to review the plan to build a rail line to the Denver airport, the consultant found that rails would cost 60 percent more and provide just half as much congestion relief as new highway lanes or high-occupancy-vehicle lanes with improved bus service.¹³⁸

The San Francisco Bay Area Metropolitan Transportation Commission reached similar conclusions in an evaluation of its *Transportation Blueprint for the 21st Century*. The evaluation compared the cost and the number of hours of congestion delay that would be relieved by more than 100 different highway, bus, ferry, and rail projects. Of the 68 transit projects, 21 of the 25 most cost-effective were bus projects, while 22 of the least cost-effective were rail and ferry projects. To attract one person out of his or her car onto transit for one trip, the evaluation found, would cost \$1–12 for the 25 most cost-effective projects. The cost of attracting a new rider onto a BART extension to San Jose, however, would be more than \$100.¹³⁹

Even many rail advocates admit that rail's effects on congestion are minor, but they don't want the public to know that. In a typical presentation, they point out that a region's population and traffic are expected to grow by some large amounts in the next few decades, and *something must be done* to accommodate that growth. If they are honest, they won't actually say that rail transit will reduce congestion, only that it will give people a "choice"—although, for most people, the choice will be between sitting in traffic or taking a train that doesn't start where they are and doesn't go where they want to go.

Because of the high cost and low benefits of extending BART to San Jose, many Bay Area transit advocacy groups have come out against the project, including the BayRail Alliance,¹⁴⁰ the Transportation Choices Forum,¹⁴¹ the Transportation and Land Use Coalition,¹⁴² and the San Francisco Chapter of the Sierra Club.¹⁴³ These groups agree that it would take resources away from more effective, lower-cost transit services.

VTA's light-rail lines, while more cost-effective than BART, are still far less cost-effective than improving bus service or expanding highways. A proposed rail connection to the San Jose Airport, for example, was projected by the Metropolitan Transportation Commission to cost \$65 per new rider, while building light rail to Fremont instead of a BART line was projected to cost \$22 per new rider.¹⁴⁴ (No other Santa Clara light-rail lines were evaluated in the *Blueprint*.)

Recommendations

Even more than most other California urban areas, San Jose is in serious trouble. The region's economy took a nosedive in recent years, not just because of the dot-com bust, but because high-tech employers are locating their offices and plants in other regions where their employees can afford housing. Although the San Jose area is beginning to recover, as of May 2007 it still had 40,000 fewer jobs than in 1999.¹⁴⁵ Unless San Jose can fix its affordability crisis, its economy will continue to follow a boom-and-bust pattern that is potentially harmful to everyone in the region.

Thanks to recent highway improvements, the region's transportation network is in better shape than most major U.S. urban areas. But the future looks dim as VTA has successfully captured most of the region's transportation dollars and plans to spend them on projects that will do little to improve mobility or relieve congestion.

The fundamental problem is the planning process mandated by the state. Despite claims of being comprehensive, this planning process is biased toward the interests of the city governments over the interests of the residents in those cities and property owners outside the cities. Despite claims that it looks toward the future, the process is biased in favor of existing residents against the interests of future residents. Despite claims of efficiency, the process is biased toward political pork barrel (such as a BART line to San Jose) over cost-effectiveness. Despite plan-

The San Francisco Bay Area Metropolitan Transportation Commission estimated that the cost of attracting one rider on to a BART extension to San Jose would be more than \$100.

California should stop trying to stop sprawl.

ners' image of promoting social justice, planning imposes highly regressive policies that hurt low-income people the most.

The alternative to planning is to let the free market work, which means letting people make their own choices about where they live, how they use their property, and how they travel around. It also means ensuring that people pay the full cost of their choices.

Such a transformation will require action by the California legislature, Santa Clara County board of supervisors, San Jose and other city councils, and the VTA board. They should:

1. Stop trying to stop sprawl—Most of the costs associated with sprawl are either imaginary or are better addressed directly rather than indirectly through growth-management planning and land-use regulation. California should repeal laws regarding LAFCos, exempt annexations and other land-use decisions from CEQA, and replace laws that authorize comprehensive land-use planning with laws forbidding cities and counties from conspiring to limit development and increase housing prices.

Santa Clara County and other counties in the state should allow developers to subdivide land outside of city limits provided they pay the cost of providing essential services to those developments. Those services can be provided by service districts, and the major capital costs should be covered by assessing the buyers of homes and other properties in the development an annual fee spread over 20 or more years so that (in contrast to impact fees) the cost does not contribute to housing affordability problems elsewhere.

2. End subsidies to development and redevelopment—Service districts and user fees should ensure that existing residents do not have to pay for the infrastructure needed for new development. But people who worry that their taxes might be subsidizing sprawl should be just as concerned about the huge subsidies going toward urban redevelopment. Cities that wish to promote redevelopment should do so through land-use deregulation, as Anaheim has done, rather than through tax-increment financing.¹⁴⁶

3. Use covenants to protect neighborhoods—Planners developed zoning in the early part of the 20th century to allow neighborhoods of single-family homes to protect their property values from high-density and mixed-use developments, and the Supreme Court permitted it on those grounds.¹⁴⁷ Today, planners use zoning to reduce the property values of rural landowners without compensation by downzoning their property to lesser-valued uses. Planners also use zoning to force high-density and mixed-use developments on neighborhoods of single-family homes. Neither of these actions should be allowed.

An alternative to zoning is protective covenants, and many neighborhoods in California are protected by both zoning and covenants. If the zoning went away, the covenants would still protect the neighborhood; but if the covenants ended, the neighborhood would be vulnerable to the whims of government planning commissions.

California should pass new legislation to forbid downzoning and allow existing homeowner associations to opt out of urban zoning so that they can take complete control of their neighborhoods. As suggested by Professor Robert Nelson of the University of Maryland, the legislation should also allow residents of neighborhoods who do not currently have covenants to form homeowners' associations, write covenants for their neighborhoods, and then opt out of zoning.¹⁴⁸

4. Use private means to protect critical open space—Around 94 percent of California is rural open space, and more than half of that open space is government-owned land that will probably never be developed. With such an abundance of open space, government has many higher priorities than further open space protection.

That does not mean no more open space should be reserved. More areas might need protection as critical habitat for an endangered species, highly valued recreation areas, or urban parks. The best way to ensure that the most important areas are protected is to rely on private funds and groups such as The

Nature Conservancy and various land trusts. These groups should also explore the use of less-than-perpetual conservation easements so that, if needs change, areas reserved as open spaces could be used for other purposes.

5. Pay for new transportation facilities with user fees—User fees send signals to users about how much it costs to provide a good or service and to producers about how much people really want or need that good or service. The one-half-cent sales tax for Santa Clara County highways successfully reduced congestion, but VTA easily hijacked the revenue because there was no direct connection between users and producers. Future road and transit expansions should be funded as much as possible out of user fees.

The legislature should create regional toll road authorities that can sell bonds, build new roads, and pay for those roads out of the tolls they collect. If funded exclusively out of its revenues, a regional authority can be more nimble than CalTrans and more responsive to its users than an agency such as VTA, which is heavily subsidized by tax dollars.

6. Direct mobility subsidies to transit-dependent people—Not everyone can enjoy the benefits of automobiles, and one reason government took control of urban transit was to provide mobility to low-income, disabled, and other transit-dependent people. The best way to provide that mobility would be to give transit vouchers, similar to food stamps, to such people. Vouchers could be used for taxicabs, Amtrak, airlines, and public and private urban transit services.

7. Introduce competition into the transit industry—VTA is a legal monopoly, which discourages innovation and efficiency in transit service. Companies such as SuperShuttle, which provides door-to-door service to Bay Area airports, should be allowed to provide their services, and accept vouchers for such services, anywhere in the Bay Area instead of just to and from airports.

8. Spend discretionary transportation funds on cost-effective projects—As long as the federal and state governments provide tax-supported funding for transportation, Santa

Clara County and other local governments should use those funds in a cost-effective manner. The Bay Area Metropolitan Transportation Commission has estimated the cost of various road, bus, rail, and other transport projects and how much each project would reduce congestion, measured in hours of delay.¹⁴⁹ Projects should be ranked by their cost per reduced delay, and only the highest ranked projects should receive funding. In the meantime, VTA should stop spending money on the proposed BART line, which almost everyone outside of VTA's board and the Silicon Valley Leadership Group agrees would be a disaster.¹⁵⁰

9. End the conflict of interest between transit and congestion management—The legislature should either repeal the law requiring urban counties to have congestion management agencies or forbid such agencies from affiliating through a common board or staff with local or regional transit agencies. Until then, Santa Clara County should separate VTA from the county's CMA. As noted in recommendation 7, the independent CMA should ensure that any tax dollars spent on transportation are used cost-effectively.

10. Control pollution at the tailpipe—For nearly 40 years, America has used two different approaches to reducing automotive air pollution: technical improvements to automobiles and efforts to persuade people to drive less. The first approach has been wildly successful and the second an abysmal failure. It is time to concentrate efforts on the policy that works.

The problems described here are not unique to California. Many other states have passed or are considering laws giving cities jurisdiction over rural areas, allowing members of the public to delay or halt activities on private land, and offering huge budgets to transit agencies in the false expectation that they will reduce congestion. California's experience should teach other states that such laws and policies can have serious unintended consequences for housing, employment, equity, and transportation.

California can remain a beautiful place to live without being unaffordable, congested, or heavily taxed.

California is a beautiful place to live. If the above changes are made, it can remain a beautiful place to live without being unaffordable, congested, or heavily taxed.

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