

Item 3.4 Infant Formula (City Roadmap Third Quarter 2021-2022 Update)

Vaughn Villaverde <[REDACTED]>

Mon 6/6/2022 2:18 PM

To: City Clerk <city.clerk@sanjoseca.gov>

Cc: Le, Nancy <Nancy.Le@sanjoseca.gov>

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Dear City Clerk,

Please accept the attached letter, submitted on behalf of Asian Americans for Community Involvement (AACI) regarding Item 3.4 Infant Formula (City Roadmap Third Quarter 2021-2022 Update) on tomorrow's City Council agenda. Thank you very much and please contact me with any questions.

Sincerely,

Vaughn Villaverde, MPH (he/him)

Director of Advocacy

AACI

[REDACTED]
San Jose, CA 95128

Office: [REDACTED]

Mobile: [REDACTED]

www.aaci.org

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Moorpark Office
Gordon N. Chan Community Services Center
[REDACTED]
San Jose, CA 95128

June 7, 2022

Mayor Sam Liccardo and
Members of the San Jose City Council
200 East Santa Clara Street
San Jose, CA 95113

Subject: Item 3.4 Infant Formula (City Roadmap Third Quarter 2021-2022 Update)

Dear San Jose City Council,

On behalf of Asian Americans for Community Involvement (AACI), I am writing to urge the San Jose City Council to act on behalf of community members impacted by the national infant formula shortage and coordinate a regional state of emergency to address price gouging of these products.

In providing health, behavioral health, and wellness services for many underserved populations throughout their lifespan, AACI has heard concerning reports detailing the challenges families raising infants are facing as a result of the current infant formula shortage. As one of our most vulnerable client populations, recently arrived refugees receiving services at AACI's Center for Survivors of Torture have reported experiencing extreme challenges on this issue. Many in this population are recently arrived Afghan refugees who are still in the process of acculturating in the United States and are currently unemployed with very limited income support. As such, they typically don't speak English and are unable to navigate systems to apply for benefits and resources, severely limiting their ability to adapt to the infant formula shortage. Furthermore, medical issues and stress arising from the trauma of fleeing their home country and resettling in the United States have impacted refugee mothers' ability to produce their own milk for their infants. Some of our clients have even reported continuing to use recalled and potentially unsafe infant formula simply out of a lack of alternatives.

Families in San Jose are already facing significant challenges due to the region's high cost of living, combined with the current rate of inflation. For many, the additional costs associated with price gouging on infant formula would be unsustainable, forcing them to make impossible choices between feeding their infants and paying for other necessities, such as medical treatment or food for other family members.

We thank the City Council for your attention and engagement on this critical issue. We urge you to use any and all tools available to reduce the impact of the current infant formula shortage to families, not only as a matter basic access to food, but as a necessary investment in our youth during the most critical developmental stages of their lives.

Sincerely,

[REDACTED]
Vaughn Villaverde, MPH
Director of Advocacy

Infant Formula - City Roadmap - Item 3.3

Tim James [REDACTED]

Mon 6/6/2022 4:25 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

Cc: City Clerk <city.clerk@sanjoseca.gov>

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Mayor and Councilmembers, please accept the attached letter regarding Infant Formula recommendations into the City Roadmap. Please contact me with any questions or for addition information. Thank you for consideration.
Tim

Timothy James
Director, Local Government Relations
California Grocers Association
[REDACTED]

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June 6, 2022



The Honorable Sam Liccardo
Mayor, City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

RE: Infant Formula – City Roadmap

Dear Mayor Liccardo,

On behalf of San Jose Grocers, I write to discuss infant formula recommendations to the City Roadmap. As the primary source for food, personal health care and home goods we also share concerns when availability of critical items, like infant formula, are impacted. As critical essential infrastructure we accept our responsibility to keep communities and neighborhoods fed very seriously. Our hope is San Jose will take the time to understand the situation at the retail level and consider responses that would impact the supply chain problem.

The grocery industry is more than willing as both an industry and as individual companies to work with the City of San Jose to understand the current situation regarding infant formula. We fully understand the concern and passion that comes with interruptions to food supply. However, the recommendations and background provided do not accurately reflect the situation or the operational details. We are concerned with assumptions and assessments which suggest an uncaring response from the industry, which could not be further from the truth. Our hope is that we can cooperatively address areas of concern both openly and early on with the city.

In California, we are fortunate that our experience with the infant formula supply chain is not as drastic as it is in most other US states. While supply has been constrained nationwide, California had already prioritized the competing brand to the one facing supply challenges. As part of the state's specific response to supply issue, California Special Supplemental Nutrition Program for Women, Infants & Children (WIC), authorized over 100 different infant formula brands previously unavailable to WIC customers.

Across California infant formula availability is reduced, but supply is moving to grocery stores and they are able to offer infant formula regularly. At store level this means regular replenishment of infant formula on a nearly daily basis. Consumers could experience an outage for brief times during a day, but additional product is available shortly afterwards. All of this to emphasize that grocers are moving infant formula to stores as fast as they receive the product from suppliers.

Specific to infant formula purchases using WIC claims of price gouging are an impossibility within the system due to its stringent regulation by the federal and state government. It is important to note over half of all infant formula purchases are made using WIC instruments, according to the California Department of Public Health (CDPH).

WIC uses a process where the purchase is made for a specific product only, it is not an allowance for a specific amount of money. When consumers make WIC purchases, stores are reimbursed by CDPH. They sets the rates and also monitor store prices to ensure fair compensation, as well as prevent overcharging. Retailers cannot charge separate prices to WIC versus non-WIC customers, which results in overall price stability and acts as an additional prevention to overcharging.

We agree that any attempt to profit off of emergency situations through price gouging is not acceptable. California's price gouging law is laid out in state Penal Code Section 369(b) and is put into effect anytime a federal, state or local emergency declaration is made. The law prevents price increases of 10 percent greater than when the emergency is declared. It also accounts for emergency disruption of supply and distribution systems by allowing price increases due to additional costs imposed by the supplier of goods.

Price gouging laws are an effective tool against nefarious retailers, but it is not a price control mechanism when a supply chain has nearly collapsed. The current infant formula situation is clearly and completely a supply issue due to manufacturing challenges. Grocers are as much subject to supply challenges as anyone else and cannot be expected to offer products for sale below the cost required to offer the product for sale. Grocers are doing their absolute most to acquire and offer infant formula at the lowest price possible. Additionally, the supplier to grocer price is not based on simple suggestions, especially in severely impacted supply situations.

We fully understand and embrace the concern and compassion the current infant formula situation presents to parents and their families in San Jose and throughout California. It is important both the city and grocers focus on the specific problem of limited manufacturing capacity. Grocers are employing strategies to increase timely distribution of infant formula, which is why there is some availability, unlike in other states.

We ask the city to actively engage the grocery industry to fully understand and respond to the specific supply chain issues before recommending or implementing other mechanisms. We welcome genuine collaboration from the city and look forward to mutually identifying supply chain solutions.

Sincerely,

[REDACTED]
Tim James
Director, Local Government Relations
California Grocers Association

cc: Members, San Jose City Council

Support: Item 3.4 Infant Formula (City Roadmap Third Quarter 2021-2022 Update)

Dana Bunnett [REDACTED]

Tue 6/7/2022 9:44 AM

To: City Clerk <city.clerk@sanjoseca.gov>

Cc: Garcia, Mariela <Mariela.Garcia@sanjoseca.gov>

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Dear Mayor and Councilmembers,

Kids in Common supports Councilmember Arenas' call to coordinate a regional state of emergency to advocate on behalf of families with young children impacted by the nationwide infant formula shortage and address the price gouging impacts on our San Jose families at the cost of the most critical developmental years of our infants and children. In her memo dated 5/23/2022 she directs the City Manager to:

- Report on the availability of infant formula in San José.
- Coordinate with the County of Santa Clara to amend the existing regional State of Emergency to include the infant formula shortage, similar to New York City's State of Emergency, and report back to Council on June 7, 2022 on any legal challenges to implementation.
- Establish a Family Friendly Formula Pledge with local retailers, grocery stores, and businesses to commit to the Manufacturer Suggested Retail Price (MSRP) of infant formula and the prevention of price gouging.

If we are to be a healthy community, one that supports its children and families, we must ensure they have at minimum the basic necessities of health and safety. We have to address the urgency of the shortage and the real impacts that our families are facing right now. We must take steps to address the deep need that exists in our community for access to infant formula AND the prevention of price gouging which would leave our low-income families with the impossible choice to meet basic needs or afford formula for their children.

In community partnership and on behalf of the Board of Kids in Common,



Dana Bunnett | Executive Director | we/she/hers
Phone: (650) 704-6569 | Web: www.KidsinCommon.org
P.O. Box 28526 | San Jose, CA 95159

Every child **safe**, **healthy**, successful in **learning**, successful in **life**.