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BOARD OF SUPERVISORS

cc: All BOS
CEO
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Planning

July 12, 2017

Sen. Bob Wieckowski
State Capitol Office, Room 4085
Sacramento, CA 95814

Dear Sen. Wieckowski:

I am writing this letter to you as a follow-up to a conversation I had a few weeks ago with a member of your staff, Evita Chavez. The issue I discussed with her and would like to present to you is an action that would lead to a significant increase in the building and renting of affordable housing statewide, at no cost to the public.

As you know, the California State Legislature has, over the past two decades, enacted changes to California law that encourage the building and subsequent rental of Accessory Dwelling Units (ADUs) in Single Family Residential communities. Most California cities have eagerly embraced these changes as a means of creating affordable housing stock in areas that are built out or otherwise unaffordable.

The possible benefit of these laws has been blunted, however, by Homeowners' Associations (HOAs) systematically writing their own rules (CC&Rs) to ban the construction of ADUs and/or prohibit the rental of such units. The courts have held that, **absent legislative enactment of laws to the contrary**, HOAs are within their legal authority to enforce such bans. Since a quarter of all Californians live in Common Interest Developments (CIDs), the statewide effect of these bans is quite substantial.

But you and the California State Legislature have the power to intercede in this war on affordable housing. You can enact legislation that says HOAs cannot have ADU building/renting restrictions that are more stringent than local code. HOAs should not be above the laws that govern the rest of the state and the communities they are part of; they must be required to abide by local development and land use ordinances. In the rare cases where there is a genuine need for a rental restriction, HOAs can go through the public process to petition their local elected leaders for change. But they wouldn't be able to, at their whim, wall themselves off from public opinion and people who need a place to live.

As a case in point, I suggest you look to the town of Truckee, near Lake Tahoe, a popular resort community with extremely high property values. The very tourism industry, however, that has created Truckee's booming economy also requires a large and growing service sector to support it. These are the people who are being systematically closed out of the housing market, and a critical shortage of affordable housing is rocking the local workforce.

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A close examination of Truckee's stance on affordable housing shows that the town is doing everything in its power to ease the situation and create more affordable housing. I've attached a copy of Truckee's Municipal Development Code Section 18.58.230 which governs Secondary Residential Units. ADUs are allowed to be built in the DRS, DRM, RR, and RS zoning districts (Section 18.58.230(A)), which comprise most of the town. Additionally, Section 18.58.230(l) of the town's Code allows long term rental of ADUs with no restrictions.

These Truckee neighborhoods that are zoned to allow ADUs hold Single Family Residential housing on lots ranging from ¼ acre to 20 acres, but the vast majority of them are in CIDs which prohibit the building and/or renting of ADUs. So while the town of Truckee is struggling to create affordable housing, ADUs are either not being built or are sitting vacant because HOAs are prohibiting their rental. The town of Truckee is stymied by existing case law that enables these HOAs to ignore development/land use ordinances, if they so choose, through written rules in their CC&Rs.

I've enclosed a newspaper article from The Union newspaper written *11 years ago* about this very problem. At that time representatives of the town of Truckee had basically said "Our hands are tied" and had been reduced to efforts to educate and persuade local HOAs, to no effect.

"Under current state law the town doesn't have much authority as far as changing (covenants, conditions and restrictions)," said Hall. "The best we can do is encourage homeowners associations to change their CC&Rs." (Emphasis added)

In the 11 years since this article was written the town has had no success in working with HOAs to address this issue.

A legislative change that puts all regulatory control of ADUs in the hands of community elected officials will greatly increase the amount of affordable housing available immediately and continue to increase that housing into the future as more ADUs are built. California needs to face this housing crisis head on. There are very few actions that can be taken in Sacramento that will have a real and permanent benefit to the affordable housing issue at no state cost, but freeing CID owners to build and rent ADUs on their property is a win-win.

Thank you very much for your consideration on this very important issue.

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Cc: California State Assembly Committee on Housing and Community Development (David Chiu, Marc Steinorth, Raul Bocanegra, Ed Chau, Steven S. Choi, PhD, Ash Kalra, Monique Limon)

California State Assembly Select Committee on Housing Affordability for the Middle and Working Class (Todd Gloria, Cecilia Aguiar-Curry, Marc Berman, Jim Cooper, Jordan Cunningham, Matthew Dababneh, Heath Flora, Laura Friedman, Brian Maienschein, Miguel Santiago, Philip Y. Ting)

California Senate Transportation and Housing Committee (Jim Beall, Anthony Cannella, Benjamin Allen, Toni Atkins, Ted Gaines, Mike McGuire, Tony Mendoza, Mike Morrell, Richard D. Roth, Nancy Skinner, Andy Vidak, Scott Wiener)

Southern California Association of Non-Profit Housing

East Bay Housing Organizations

California Coalition for Rural Housing

Alliance of Californians for Community Empowerment

California Housing Consortium

California Housing Partnership Corporation

Non-Profit Housing Association of Northern California

BCC: HEIDI HALL

TRUCKEE MUNICIPAL CODE – TITLE 18, DEVELOPMENT CODE

Standards for Specific Land Uses

18.58.230 - Secondary Residential Units

This Section establishes standards for the development and operation of secondary residential units, hereafter referred to as “secondary units.”

A. Applicability. Secondary units are allowed in the DRS, DRM, RR and RS zoning districts subject to Zoning Clearance, and compliance with the requirements of this Section.

B. Number of units allowed. One secondary unit shall be allowed on a single-family parcel developed with one main dwelling, but shall not be allowed on a parcel developed with two or more dwellings.
TRUCKEE MUNICIPAL CODE - TITLE 18, DEVELOPMENT CODE Standards for Specific Land Uses 18.58 May 12, 2017 III-259

C. Location on site.

1. The secondary unit may be located on the site to be within, attached to, or detached from the existing main dwelling;

2. If detached, the secondary unit shall be separated from the main dwelling unit a minimum of 10 feet, but by no more than 100 feet, and shall be subject to the same side and rear setback requirements applicable to the main dwelling;

3. The secondary unit shall be served by the same driveway encroachment as the main dwelling unit. Where the secondary unit is located on a corner lot with access from a street other than providing access for the primary residence, or a property with a road frontage exceeding 150 feet, a second driveway may be approved by the Community Development Director. Prior to approving a second driveway, notice of the Director’s intent to approve two driveways shall be required in the following manner:

a. Notice shall include a general explanation of the matter being considered, a general description of the current and proposed driveway locations, the date on which the Director may take action on the second driveway, and the location and available times that information on the matter may be reviewed by the public;

b. The notice shall be mailed or delivered to the owner(s) of the property being considered or the owner’s agent, the applicant if different from the owner, and all owners of real property as shown on the County’s last equalized assessment roll within 100 feet of the boundary of the property which is the subject of the second driveway request;

c. The notice shall be posted in Town Hall; and

d. The notice shall be mailed, delivered, and posted at least 14 days prior to the Director approving the second driveway.

D. Floor area limitation. A secondary unit shall comply with the following floor area requirements.

1. Maximum floor area. The gross floor area of the unit shall not exceed the lesser of 50 percent of the existing living area of the main dwelling or:

a. On parcels less than one acre: 800 square feet of gross floor area; or

b. On parcels of one acre or more: 1,200 square feet of gross floor area. A secondary unit shall be allowed at least 500 square feet of gross floor area in all cases;

2. Minimum floor area. No minimum floor area is required. All secondary residential units shall be subject to the development standards of the underlying zone for the primary dwelling.

TRUCKEE MUNICIPAL CODE - TITLE 18, DEVELOPMENT CODE Standards for Specific Land Uses
18.58 May 12, 2017 III-260

E. Pedestrian access. The secondary unit shall have pedestrian access from either a public or private road, street or alley.

F. Architectural compatibility. The additional dwelling unit shall be architecturally compatible with the main dwelling unit.

G. Parking. The additional dwelling unit shall be provided with two off-street parking spaces, in addition to that required for the main dwelling unit, in compliance with Chapter 18.48 (Parking and Loading Standards).

H. Water supply and sewage disposal. All water supply and sewage disposal shall be provided by an established community system or by an on-site system approved by the Nevada County Health Department. A secondary unit shall not be allowed on a parcel that is served by an onsite septic system and is less than three acres.

I. Occupancy and Rental requirements. On a parcel with a primary dwelling unit and a secondary residential unit, only one of the units may be rented as a transient rental. There are no occupancy restrictions for long term rentals of 30 days or more on either unit. Both the primary dwelling and the secondary residential may be rented out as long-term rentals; one may be used as the permanent or seasonal residence of the property owner and the other may be rented out to a long-term renter; one may be a long-term rental and the other may be a transient rental; or one may be occupied by the property owner and the other may be a transient rental.

J. Illegal secondary units. This Section shall not validate any existing illegal secondary unit. To convert a non-allowed secondary unit to a legal, conforming unit, the standards and requirements for the conversion shall be the same as for a newly proposed secondary unit.

Second-unit housing in Truckee controversial

David Bunker

March 13, 2006

"Granny flats" won't catch on as a way to add affordable rental units in Truckee unless local homeowner associations buy into the idea.

Although the Town of Truckee is encouraging the strategy of building second-housing units, the idea may not gain traction unless subdivision regulations are tweaked. Homeowners associations from Tahoe Donner to Glenshire either prevent second units from being built or prohibit them from being rented out.

And although officials from the neighborhoods are willing to explore changing their regulations, the threshold to vote a change in the governing documents of an association is so high that it may be impractical.

Tahoe Donner is willing to explore taking the issue to a vote, said Cheryl Genin, the association's board president. But that doesn't mean the association, which finds it hard to muster the votes of the majority of their homeowners who live outside of Truckee, will be able to get enough ballots to make the change.

"I think there is ample understanding on the board of Tahoe Donner that the need for affordable housing is being outpaced by any that can be supplied," Genin said.

The association has formed a committee to discuss employee retention, which could be helped by affordable rental units, said Genin. The committee will report back to the board in the late fall, she said.

"I would think they would come out with suggestions to increase the affordable housing base within the association," said Genin. "And my opinion is the only way to do that is through secondary units."

Controversy

But Genin knows the issue is not likely to pass without controversy. The increased traffic from adding second units may be a concern among the newer homeowners in Tahoe Donner, she said.

In Glenshire, association General Manager Geoff Stephens said that the issue would have to be presented to the membership to see what it decides. But any changes that add second units to the majority of homes in the 1,300-home subdivision may prove unpopular.

"If everyone has a second unit, that would double our density," Stephens said. "And that's not what anyone wants."

Stephens said if Glenshire was not singled out and that all Truckee subdivisions changed their rules to allow second units, the subdivision's residents might be more open to the idea.

"It would have to be everyone on the same page," he said.

The Sierra Meadows subdivision regulations are similar to Glenshire's stance on second units. Although a "servant's quarters" is allowed on a single family lot, each parcel is restricted to single-family use.

In Nevada County the second units have drawn intense controversy. Some say allowing second units will spur growth and increase fire danger.

Nevada County currently has a pilot project that will allow 30 second units to be built outside of designated fire-danger areas in each of the program's three years.

Truckee's take

The Town of Truckee has extensive requirements for second housing units, ranging from size restrictions to parking requirements. But town guidelines are superseded by homeowners association bylaws, according to Truckee Town Planner Duane Hall.

"Under current state law the town doesn't have much authority as far as changing (covenants, conditions and restrictions)," said Hall. "The best we can do is encourage homeowners associations to change their CC&Rs."

Town staff plans to spend time convincing neighborhoods that allowing second units is a good thing, he said.

The California Legislature has tried to make second unit construction easier, passing legislation that keeps second unit projects from going to a full public hearing to streamline their approval.

Truckee's second units

- A second unit may be built on a single-family parcel with one main building.
- A second unit may be attached to the main building or detached. If it is detached it must be more than 10 feet away from the main building but less than 100 feet away.
- The second unit must be served by the same driveway as the main building.
- The unit has to be less than half the size of the main house. On parcels less than one acre, second units have to be 800 square feet or less. On parcels of one acre or more units must be 1,200 square feet or less.
- A secondary unit shall be allowed at least 500 square feet of gross floor area in all cases.
- A secondary unit shall have a minimum gross floor area of 300 square feet.

Source: Town of Truckee Housing Element and Truckee Development Code