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November 8, 2018

Board of Supervisors
County of Santa Barbara

November 13th Hearing on Agenda Item #18-00789 – Farm Employee Dwellings

Dear Supervisors,

I am in favor of most regulations which simplify processes and reduce bureaucratic red tape. However, with respect to the County's current and proposed regulations regarding Farm Employee Dwellings, these regulations don't need simplification or streamlining. They need a sea change to address how these Dwellings are actually used.

The current reality is that once a property owner obtains a Use Permit for a Farm Employee Dwelling, Planning and Development ("P&D") scrupulously avoids enforcement relative to whether or not the occupants of such Dwellings are actually Farm Employees. P&D considers such Dwellings as "Low Income or Affordable Housing", and it doesn't want to reduce the number of Dwellings in the County that qualify for such designation. Even when P&D Code Enforcement Staff is given absolute proof that the occupants of Agricultural Employee Dwellings are not working on the farm or ranch on which the Dwelling is located – and in fact are not engaged at all in working on any farm or ranch – P&D's internal policy is to simply ignore such violations.

I have included a specific example in this letter of an instance where proof was provided to P&D by the California Division of Labor Standards Enforcement that the occupants of Agricultural Employee Dwellings were not working on any farm or ranch – let alone on the ranch where the Dwelling was located. P&D took no action and actually suggested that the owner of the property submit a statement that the occupants were "independent contractors" and therefore qualified to occupy such housing. This convoluted and tortured position was contrary to the findings of the State Labor Standards Enforcement officer who prepared a written report in which he determined that the occupants were neither independent contractors nor farm or ranch employees.

This decision by P&D not to enforce current regulations has resulted in Farm Employee Dwellings being commonly used as rental property and even for short term weekend rentals. There are numerous examples of this misuse of Farm Employee Dwellings – many of which have been reported to P&D Code Enforcement Department. Code Enforcement rarely follows up on these reported violations and in a number of cases has actively advised the property owner how to avoid the County's regulations.

I would like to share a real life example of the egregious behavior exhibited by P&D in avoiding enforcement of its Farm Employee Dwelling Regulations. In 2004, in connection with an owner's renewal of permits for three Farm Employee Dwellings, the owner submitted a letter to P&D stating that the three dwellings (two trailers, and a small house) were occupied by full time farm employees. No documentation or evidence was submitted to support the owner's statement, or to comply with the County's regulations which required that support of "full time farm employment on the ranch or farm" be provided with permit renewals. A number of neighbors submitted letters to P&D indicating that the "full time employees" were in reality renters who left the ranch each day to go to work and returned to the ranch each night. Instead of following up on with the property owner or following up with the neighbors, P&D simply disregarded its own rules and renewed the permit for the three Farm Employee Dwellings.

In 2009, during the next permit renewal process, the neighbors brought up the same issues, including the fact that during the intervening five-year period, all of the occupants of the Dwellings had changed and the owner never notified P&D of a "change in occupants" as then required by the County's regulations. Again, the owner failed to provide any support to evidence that the occupants were actually full time farm employees. In response to neighbor complaints, P&D staff suggested that the owner submit statements that the occupants of the Dwellings were "independent contractors working full time on the ranch". After receiving such statements, P&D then took the position that the owner was in compliance with the County's regulations.

Shortly thereafter, a complaint was filed by neighbors with the California Division of Labor Standards Enforcement which investigate the status of the occupants of the three Dwellings. The State investigator determined that occupants of two of the three Dwellings were neither employees nor independent contractors. They did no work on the ranch or any other ranch or farm. The occupant of the other Dwelling was determined to be a full time employee (and not an "independent contractor") who was not paid, except by way of free housing – a violation of State Labor Laws. The owner of the ranch was fined approximately \$15,000 for violating the minimum wage act and various other related labor regulations.

This information and the supporting documents prepared by the Division of Labor Standards Enforcement were provided to P&D Enforcement staff who indicated that they would commence an investigation. No such investigation was ever conducted, despite repeated follow up by neighbors. In 2014 the permit for the three Dwellings was renewed based on new "independent contractor" statements which the property owner used to support that such occupants worked full time on the ranch.

I am aware of a number other similar situations where neighbors submitted violation complaints regarding the misuse of Agricultural Employee Dwellings and were told by staff that P&D has a policy of not enforcing the regulations since it would reduce the number of reported "low income and affordable" housing units in the County. Most of the properties on which such Farm Employee Housing are located are not allowed to have

multiple residences. The only way the owners can use and/or rent out such houses is to label them as “Farm Employee Housing”.

The bottom line is that once an Agricultural Employee Dwelling has been approved, P&D takes extreme measures to ensure that the permits are renewed - regardless of the facts, lack of documentation, or past evidence showing that the owner has submitted documents which misrepresented the nature, role and relationship of the occupants of the Dwelling.

No amount of streamlining and simplifying is going to address or resolve the real underlying problem – P&D reports Agricultural Employee Dwellings as “Low Income Housing” and “Affordable Housing” and therefore has no reason or incentive to enforce its permitting rules for such dwellings.

One can only hope that the recent decision by the California Supreme Court to severely limit the classification of workers as “independent contractors” will force P&D to actually require proof of employment – evidence like payroll records, W-2 Forms, quarterly tax filings for Unemployment Insurance, Disability and Income Tax Withholdings, etc. If P&D was required to enforce its own regulations, the current misuse of Agricultural Employee Dwellings would be greatly reduced.

Alternatively, the Board could simply add an expanded definition of Farm Employee Housing which would also include and encompass “low income and affordable” housing. This would legitimize the current use of Agricultural Employee Housing as low income and affordable housing and eliminate the need for P&D to continue to cast a blind eye on the misuse of these dwellings.

Thank you,
Kelly Rose