

Katherine Douglas

Public Comment

From: Jana Zimmer <zimmerccc@gmail.com>
Sent: Friday, May 1, 2026 11:37 AM
To: sbcob; Joan Hartmann; Laura Capps; Steve Lavagnino; roy.lee@countyofsb.org; Bob Nelson
Subject: Item A-19 Fire Board Rules
Attachments: Exhibit A to Amended Tort Claim HCD letter 4.10.2025.pdf; Chart Comparison of Fire Board Rules 4.17.2026.docx

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Chair Nelson:

First, I specifically requested that this item be heard on the regular Agenda because it directly impacts my rights as well as future policy. Please direct that it be moved to the regular Agenda.

It is incomprehensible that staff continues to actively prevent any meaningful discussion of the issues raised by these "new rules". It was clear from the testimony of the Fire representative at your last hearing that these "new rules" are being proposed in response to my case, as this Fire Board has not met in years, and still does not have a quorum, of members.

And, most importantly, **your Board (and the public) still have not been provided the "old" rules, or any reference or discussion of the changes in your staff report.** The Board needs to take responsibility for the fact that Fire Marshal and County Counsel propose rule changes which are intended to, and will directly impact my procedural and substantive rights. I remind you that I have never been allowed an appeal of Lisa Plowman or Rob Hazard/ Tan's actions in my case. It is past time for your Board to accord me a fair hearing. These new Rules changes will assure that your Board *never* hears an appeal. **I have a right to know whether three members of the Board of Supervisors have considered the facts and support what has been done in your name by your Executives.**

Second, I have previously provided a Comparison Chart showing you exactly how my hearing rights (and the rights of other applicants for housing) will be decimated if you adopt these Rules.

I am attaching it again, here. This is the wrong procedural path. This appeal should have been heard by Lisa Plowman, under 14 CCR, (which she refused to do) and should have been appealable to the Planning Commission and thence to the Board of Supervisors. Your staff has previously refused to allow me an appeal to the Fire Board, claiming they do not have jurisdiction. Now they claim they do.

Third, I filed an appeal of Marshal Tan's "denial" prior to introduction of these new rules. I am entitled to have my appeal heard under the rules in effect, at a minimum- and an appeal to the Board of Supervisors. Among other things, this nonexistent nonfunctioning Board failed to hear my appeal within thirty days of filing.

Your Board has failed and refused to consider or meaningfully respond to my offers to resolve this whole matter. You have not considered my case in closed session for a year. *This is about my right to split a lot to*

build a house that your Fire Department and your Planning Department approved, so that I can obtain financing to build. And so I can (hopefully) continue to have fire insurance.

The County has been defending this case for three years based on a false premise. HCD disagrees with your Planning Director on the fundamental issues. Your Planning Director and your Fire Marshal continue to presume authority they do not have. You are well aware also of my health issues which have compounded the damages in this case. You should be taking steps to resolve this matter, not exacerbate it.

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Jana Zimmer

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April 10, 2025

Anwer Ibriheem, Assistant Engineer
Engineering Division
Development Services Department
City of San Diego
202 C St.
San Diego, CA 92101

Dear Anwer Ibriheem:

RE: San Diego - 3121 Boundary Street - Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) received a request for technical assistance regarding a proposed Senate Bill 9 (SB 9) (Chapter 162, Statutes of 2021) urban lot split¹ application at 3121 Boundary Street. Specifically, the applicant requested guidance on whether the City of San Diego (City) can require Americans with Disabilities Act (ADA) improvements to an existing driveway apron and sidewalk located in the public right-of-way as a condition of approval of the urban lot split. The purpose of this letter is to provide technical assistance to the City regarding its implementation of SB 9 by clarifying that offsite improvements cannot be required to be constructed prior to the approval of an SB 9 urban lot split application.

Background

HCD understands the applicant has submitted a parcel map application for an SB 9 urban lot split to subdivide an approximately 5,100 square-foot lot into two parcels. One of the proposed parcels is designed to access the public street via an existing private driveway, an existing driveway apron, and sidewalk between the private driveway and apron. The driveway is located on private property while the driveway apron and sidewalk are located in the public right-of-way. HCD understands that the driveway apron and sidewalk do not meet current City design standards. Specifically, they do not meet Standard No. SDG-159, which, among other purposes, is intended to implement ADA requirements. HCD understands and appreciates that addressing ADA requirements is a high priority to the City.

In the City's review comments for the parcel map application (dated September 24, 2024), the City is requiring that the driveway apron and sidewalk be reconstructed in conformance with SDG-159 and that an encroachment permit be obtained prior to

¹ Gov. Code, § 66411.7.

commencing this work. The encroachment permit is required because the work would be in the public right-of-way. The reconstruction work is required to be complete before the City will issue an approval of the parcel map. HCD understands that the City intends to place a hold on the recordation of the parcel map until such time as the reconstruction is complete.

SB 9 Precludes Offsite Improvements for an Urban Lot Split

The law specifies what a local agency cannot require in approving an SB 9 urban lot split. Specifically, Government Code section 66411.7, subdivision (b)(3), provides the following:

Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way **or the construction of offsite improvements** for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section. (Emphasis added.)

The required reconstruction of an existing driveway apron and sidewalk in the public right-of-way, to meet current City standards, constitutes a requirement for “the construction of offsite improvements.” Furthermore, approval of the parcel map is subject to compliance with this reconstruction requirement and therefore constitutes a “condition of issuing a parcel map for an urban lot split” that is prohibited in Government Code section 66411.7, subdivision (b)(3).

HCD notes that the City’s municipal code² states the following for urban lot splits:

An urban lot split shall be permitted in accordance with a Process One parcel map and shall comply with Chapter 14, Article 4, Division 2, except that dedications of public rights-of-way or **the construction of offsite improvements for the parcels being created and the correction of nonconforming development regulations of the base zones are not required.** (SDMC 143.1315(a), emphasis added.)

However, the City’s SB 9 information page³ states that for urban lot splits:

B. (A) Public rights-of-way, offsite improvements and the correction of nonconforming zoning conditions are not required. **However, Americans with Disabilities Act (ADA), accessibility, pedestrian, and vehicular access, alley, utility service and other improvements may be required.** (Emphasis added.)

The City’s municipal code language conforms with the requirements of SB 9, but the City’s SB 9 information page does not and must be revised to remove the requirement for potential ADA-related offsite improvements during an urban lot split application.

² <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division13.pdf>.

³ <https://www.sandiego.gov/development-services/forms-publications/information-bulletins/409>.

HCD wholeheartedly agrees with the importance of improving ADA access. HCD also understands, through discussion with City staff, that the City does have the legal authority to require the specified driveway apron and sidewalk improvement during future construction permit processes for the subject site. Therefore, while HCD has determined that these offsite improvements cannot be required during an urban lot split application, HCD understands from the City that there will be other opportunities for the improvements to be required as a part of future land development approvals.

Conclusion

Reconstruction of an existing driveway apron and abutting sidewalk located in the right-of-way are offsite improvements and cannot be required as a condition of approval for an SB 9 urban lot split application. The City's SB 9 information page must be updated to reflect this determination. HCD requests a response from the City by May 10, 2025 that includes a plan to correct its SB 9 information page.

HCD looks forward to assisting the City with its implementation of SB 9 and in its compliance with state housing laws. HCD would like to remind the City that HCD has enforcement authority over SB 9, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law. If you have questions or need additional information, please contact Mindy Wilcox at mindy.wilcox@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief

<u><i>The FIRE BOARD Rules as applied to Zimmer Appeal, now and since first appeal, July 2023 (which County refused to process)</i></u>	<u><i>The Rules CHANGES proposed to the Board of Supervisors on 4.7.2026, with no notice to the public, or Zimmer</i></u>
<p>A. Jurisdiction: No jurisdiction to determine “same practical effect”. Never determined “same practical effect” . (Fire Marshal recommendation to Planning Director, appeal under 14 CCR 1270.06, <i>not under Chapter 15</i>) Planning Director continues to hold the application in limbo (3) years on, even though she knows mitigation measures have been “adopted” and will be performed after (e-mail Plowman to Zimmer, attached.)</p>	<p>1. Still no mention of “same practical effect” in Rules. (Note: County Counsel claims to the court this is the required process, but has not disclosed that the Planning Director is the designated “decider”. Planning Director now admits that Zimmer need only “adopt” mitigation measures, not perform them.</p>
<p>B. APPEAL TO BOARD OF SUPERVISORS, then to court via writ of mandate</p>	<p>NO APPEAL TO BOARD OF SUPERVISORS</p>
<p>C. Function: to hear appeals to determine suitability of alternate materials and types of construction and to provide reasonable interpretation of provisions of the Fire Code</p>	<p>Appeals of all interpretation of Chapter 15, Chapter 10, modification, variance, and Fire Department conditions related to a building permit.</p>
<p>D. Due process protections</p> <p>12, 13: Department and Board of Supervisors have separate legal counsel</p>	<p>None</p> <p>Zimmer has <i>never</i> been granted any appeal hearing, either from P&D to Planning Commission/Board of Supervisors, or Fire Marshal to Board of Supervisors. County Counsel continues to represent Fire Marshall in closed sessions with Board. This conflict is manifested, again a manifestation of an <u>unacceptable risk of bias</u> (see, e.g. <i>Chi v. Dept of Motor Vehicles, (4/6/2026)</i> and an <i>intentional, continuing violation of Zimmer’s rights to procedural and substantive due process.</i></p>
<p>#4 prehearing conferences on issues of fact and law</p>	<p>Eliminated. Zimmer’s case turns on an issue of law which Tan (and Plowman) have been notified of, but have ignored: whether he or P&D can require Zimmer to perform any improvements <u>prior to recordation of lot split.</u></p>
<p>#6 Right to disqualify a member, process</p>	<p>No right to disqualify. Tan has proposed City Fire Marshal as a third member, who already has formed an opinion on the mandatory minimum road width, and communicated it.</p>

