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de la Guerra, Sheila *Public Comment*

From: Matthew Gelfand <admin@caforhomes.org> on behalf of matt@caforhomes.org
Sent: Tuesday, May 18, 2021 1:12 AM
To: Williams, Das; Hart, Gregg; Hartmann, Joan; Nelson, Bob; Lavagnino, Steve; sbcob
Cc: Steele, Jessica; Klemann, Daniel; Plowman, Lisa; 'Nickless, Greg@HCD'
Subject: Correspondence from Californians for Homeownership
Attachments: 2021-5-18 - Californians Letter to Board of Supervisors.pdf

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To the Board of Supervisors:

Please see the attached correspondence regarding Agenda Item 6 being considered at your upcoming meeting.

Sincerely,

Matthew Gelfand

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Matthew Gelfand
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Tel: (213) 739-8206

Californians for Homeownership is a 501(c)(3) non-profit organization that works to address California's housing crisis through impact litigation and other legal tools.



May 18, 2021

VIA EMAIL

Board of Supervisors
105 East Anapamu Street
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Email: dwilliams@countyofsb.org; ghart@countyofsb.org; jhartmann@countyofsb.org;
bob.nelson@countyofsb.org; steve.lavagnino@countyofsb.org; sbcob@countyofsb.org

RE: May 18, 2021 Meeting of the Board of Supervisors, Agenda Item 6

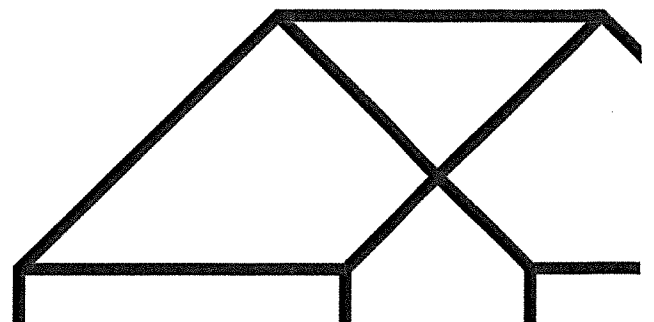
To the Board of Supervisors:

Californians for Homeownership is a 501(c)(3) non-profit organization devoted to using legal tools to address California's housing crisis. I am writing as part of our work monitoring local compliance with California's laws regarding accessory dwelling units (ADUs).

At your May 18 meeting, you will discuss an ordinance intended to address recent changes to state ADU law. If the County adopts a compliant ADU ordinance, it will be able to maintain certain local controls on ADU development. The County's draft ordinance is generally good. Unfortunately, however, it does not comply with state ADU law when it comes to limits on local setback regulations, in at least three respects:

First, the draft ordinance appears to require new construction ADUs to comply with both the County's ordinary setback requirements and the four-foot side and rear setbacks mentioned in state ADU law; that is, it treats the state law setbacks as a floor. *See* Proposed LUDC § 35.42.015(F)(13)(b)(1). Instead, the four-foot setbacks in state law are the highest minimum setbacks the County is allowed to require (a ceiling). Gov. Code § 65852.2(a)(1)(D)(vii) (“[A] setback of no more than four feet from the side and rear lot lines shall be required . . .”). These setback limits in state law apply to all ADUs, not only those under 800 square feet.

Second, the draft ordinance requires ADUs to comply with a variety of positional limits, many of which are described in terms of the position of the ADU relative to property lines. *See* Proposed LUDC § 35.42.015(F)(9)(e). These are just setback requirements by another name, and they are subject to the same limits described above. These rules must be adjusted to avoid



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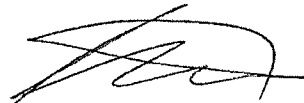
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constraining ADUs (not just those under 800 square feet) based on position relative to the side and rear lot lines beyond the four-foot setbacks allowed by state law.

Third, as the County appears to acknowledge, the County is not permitted to apply any local regulations to the categories of ADUs described in subdivision (e)(1) of Government Code Section 65852.2. *See* HCD ADU Handbook at 9, 15.¹ But the County has nevertheless attempted to shoehorn local setback rules into its regulation of these exempt ADUs. *See* Proposed LUDC §§ 35.42.015(E)(3)(e), (E)(5)(d). This is unlawful.

We urge you to direct staff to modify all three versions of the County's draft ordinance to address these concerns.

Sincerely,



Matthew Gelfand

cc: Santa Barbara County

Jessi Steele, Planner (by email to jsteele@countyofsb.org)

Dan Klemann, Dep. Dir., Long Range Plann. (by email to dklemann@countyofsb.org)

Lisa Plowman, Dir., Planning and Development (by email to lplowman@countyofsb.org)

California Department of Housing and Community Development

Greg Nickless, Housing Policy Analyst (by email to greg.nickless@hcd.ca.gov)

¹ Available at https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf.