



CODE ENFORCEMENT DIVISION

Los Angeles Housing Department

**LAHD**

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Antonio R. Villaraigosa, Mayor

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September 26, 2012

Council File: **12-0600-S63**

Council District: Citywide

Contact Persons:

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Honorable Tony Cárdenas, Chair  
Housing, Community &  
Economic Development Committee  
Los Angeles City Council  
200 North Spring Street, Room 455  
Los Angeles, CA 90012

Honorable Ed P. Reyes, Chair  
Planning and Land Use Management  
Committee  
Los Angeles City Council  
200 North Spring Street, Room 410  
Los Angeles, CA 90012

Attention: Richard Williams  
Legislative Assistant

Attention: Sharon Gin  
Legislative Assistant

**COMMITTEE TRANSMITTAL: HOUSING DEPARTMENT REPORT BACK  
RELATIVE TO AUXILIARY DWELLING UNITS (GRANNY FLATS) AND ILLEGAL  
UNITS**

**SUMMARY**

On May 21, 2012, the City Council referred a Fiscal Year 2012-13 Adopted Budget Recommendation to the Housing, Community and Economic Development Committee, and the Planning and Land Use Management Committee (Attachment A). The Budget Recommendation instructed the Los Angeles Housing Department (LAHD) to report back to both committees relative to auxiliary dwelling units (granny flats), including: the concept of granny flats, legislation that can be introduced to protect renters living in illegal use properties, ways to bring units into code compliance without evicting tenants, what other cities have done to prevent illegal units from being torn down or lost, ways to prevent the loss of affordable housing, and whether the City has looked at a better process to prevent tenants from reporting their landlords for illegal use violations and then seek relocation expenses.

In accordance with Council's instructions, Housing Department staff discussed the issues with representatives of the City Attorney's Office, the Department of Building and Safety, and the Department of City Planning. In conclusion, staff determined that Assembly Bill 1866 (Chapter 1062, Statutes of 2002) is sufficient to allow construction of new granny flats and to facilitate legalizing illegally created granny flats. In addition, the Los Angeles Municipal Code and the State Housing Law both provide comprehensive protections for tenants living in illegally created rental housing thus no new legislation is necessary; and tenants have the undeniable right to report property owners who maintain and operate illegal rental housing.

## **RECOMMENDATION**

The LAHD General Manager recommends that the Housing, Community and Economic Development Committee and the Planning and Land Use Management Committee consider the information and discussion responses below, and receive, approve and file the Housing Department's report.

## **DISCUSSION RESPONSES**

### *The Concept of Granny Flats*

Granny flats are a subset of housing that accompanies a single-family dwelling on the same lot. From 1946 through today, the Los Angeles Municipal Code has had regulations in place that would allow granny flats; however, the regulations do not use the term "granny flat." Instead, the regulations use the term "second dwelling-unit."

In the period from 1946 to 2003, the Municipal Code regulations for allowing second dwelling-units have varied. For example, early regulations required a large lot and later regulations required either a conditional use or zoning variance approvals depending on the size of the lot. Then in 2003, the State Legislature passed Assembly Bill 1866 (Chapter 1062, Statutes of 2002). AB 1866 amended Government Code Sections 65583.1 and 65852.2 thereby establishing statewide regulations to allow building a second-unit/granny flat on the same lot with an existing single-family dwelling. The Legislature did so to facilitate development of second-units/granny flats as a way of creating additional affordable rental housing in existing residential neighborhoods. To accomplish this Government Code Section 65852.2 mandates that all local governments must consider a permit application to build a second-unit by "ministerial" review, meaning without requiring a conditional use, zoning variance or other discretionary review/approval of the permit application. In accordance with Section 65852.2, the Department of Building and Safety and the City Planning Department implemented the Government Code requirements in July 2003 (see ZA Memorandum No. 120 (Attachment B) for implementation details).

### *Legislation that can be Introduced to Protect Renters Living in Illegal Use Properties*

At this time it is not necessary to introduce new legislation for the protection of renters living in illegal use properties. This is because the State Housing Law and the Los Angeles Municipal

Code both presently have comprehensive regulations that protect renters who live in illegal rentals and residential uses. For example:

With respect to residential rental properties with two or more rental units on the property, in 1998, the City established the Systematic Code Enforcement Program (Chapter XVI, Article 1 of the Los Angeles Municipal Code). This program carries out regular periodic inspections of rental properties, and the inspections can regularly identify illegal garage conversions, illegally created granny flats, and other illegal rentals. This way, illegal rentals are brought into the scope of code enforcement regulation and sorted out (i.e., unsafe illegal rentals are immediately vacated and the tenants paid relocation assistance; and less risky illegal rentals are resolved through the code enforcement process, which may include legalizing the rental by submitting plans, and then obtaining permits and inspection approvals). This process is consistent with the requirements of the State Housing Law and the Los Angeles Municipal Code.

With respect to single-family properties, the Department of Building and Safety regularly responds to complaints about illegal garage conversions and other illegal rental uses. If investigation into the complaint reveals an illegal rental and if the rental contains, or is itself an immediate, imminent threat to the health and safety of the tenants, Building and Safety will vacate the rental. To assure payment of relocation assistance to the displaced tenants the vacate procedures are carried out in collaboration with the Housing Department's Tenant Relocation Assistance Program. As with the Housing Department's process, this process is also consistent with the requirements of the State Housing Law and the Los Angeles Municipal Code.

#### Ways to Bring Units into Code Compliance without Evicting Tenants

There are ways to bring illegally created units and granny flats into code compliance without evicting tenants; however, the Housing Department has found that only a very small fraction of illegal rentals meet building and zoning requirements, and are safe for human habitation. In this situation, an owner can legalize the rental by filing architectural plans with the Department of Building and Safety, and then obtain permits and inspection approvals. There are also illegal rentals that meet building requirements and are safe for occupancy but they violate zoning regulations and they may not meet the relaxed zoning regulations provided by AB 1866 for second-units/granny flats. In this situation, the cost and uncertainty of obtaining a zone variance or other approval is often prohibitive so the tenants are at risk of eviction. Lastly, there are illegal rentals that are fundamentally inappropriate for habitation because they lack natural light, ventilation, sanitation and fire safety requirements. In this situation, the enforcing department must vacate the illegal rental.

In closing, each situation is unique and whether a vacate order or eviction occurs will depend on the severity of the situation and the feasibility of doing the compliance work required to make the rental lawful and fit for human habitation.

#### What Other Cities Have Done to Prevent Illegal Units from Being Torn Down or Lost

The City of Ventura has enacted an ordinance establishing an amnesty program for "undocumented second dwelling-units" (granny flats) that are accessory to a single-family dwelling. The ordinance grants amnesty from civil and criminal penalties and has less restrictive zoning requirements; however, the ordinance still requires the property owners to make the

second dwelling-unit/granny flat conform to the life safety and habitability requirements of state and local building codes. In addition, the ordinance requires retroactive payment of all development fees for school district, sewers, etc. The ordinance is active until December 31, 2012, after which time regular code enforcement will resume.

The City of Santa Monica has enacted an ordinance that provides a way to legalize illegal rental units. The ordinance refers to illegal rental units as “bootleg units” and it only applies to bootlegged units registered under the city’s rent control ordinance. The ordinance establishes less restrictive zoning requirements and it requires compliance with life safety and habitability requirements of state and local building codes.

Review of the way that the City and County of San Francisco handles illegal residential rentals indicates that San Francisco handles illegal residential rentals in a similar way to the City of Los Angeles. For example, the City of San Francisco advises renters not to rent illegal units and warns renters that they may be subject to displacement from their rental by order of the Department of Building Inspections.

*Ways to Prevent the Loss of Affordable Housing*

It is difficult to prevent the loss of affordable housing in illegally created rental housing and granny flats. This is because residents of illegally created rental housing and granny flats are vulnerable to unsafe and unsanitary living conditions. For instance, no matter how attractive a rental might appear the residents are vulnerable to unseen—unsafe conditions such as hazardous electrical wiring, improperly vented waste and sewer piping, and seasonal dampness. As discussed previously, correcting these conditions may not be possible. Therefore, with very few exceptions illegal rental housing is not a practical resource for obtaining affordable housing.

*Has the City Looked at a Better Process to Prevent Tenants from Reporting their Landlords for Illegal use Violations then Seeking Relocation Expenses from Landlords*

Looking for a better process to prevent tenants from reporting property owners for illegal use violations is not realistic. This is because the State Housing Law prohibits occupancy of illegally created, unsafe housing. Therefore, tenants have the undeniable right to report property owners who provide rental accommodations in illegally created housing. Additionally, the State Housing Law requires property owners to pay relocation assistance to tenants who are displaced from illegal and unsafe rental housing. To implement this part of the State Housing Law the City established the Tenant Relocation Assistance Program by ordinance. The program provides supervision and control over relocation assistance payments.

**CONCLUSION**

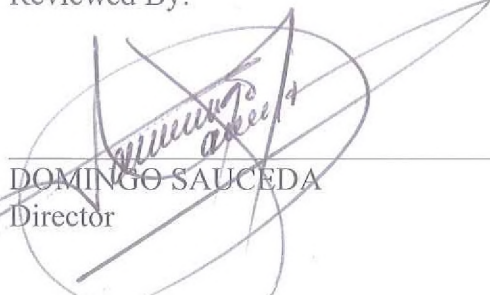
With the enactment of AB 1866, the Municipal Code zoning regulations relating to creating second-units/granny flats are now less restrictive. Therefore, it is easier today for people to bring illegally created second-units/granny flats into compliance with building regulations, and it is easier today to build new second-units/granny flats from the ground up. Therefore, it is unnecessary to develop regulations similar to the City of Ventura, and the City of Santa Monica.

Finally, housing is a matter of statewide concern, so the City must follow the mandates of the State Housing Law as implemented in the Municipal Code. Therefore, the City cannot prevent tenants from reporting property owners who maintain and operate illegal rental housing. In addition, the State Housing Law and the Municipal Code are comprehensive in the way that they regulate buildings used for human habitation. Therefore, at this time, no additional legislation is necessary for protecting renters living in illegal use properties.

Prepared By:

  
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Approved By:

  
\_\_\_\_\_  
MERCEDES MÁRQUEZ  
Interim General Manager

- Attachment A: Council File 12-0600-S63
- Attachment B: Zoning Administration Memo dated May 6, 2010

- cc: Honorable Antonio Villaraigosa, Mayor
- Carmen A Trutanich, City Attorney
- Bud Ovrom, General Manager, Department of Building and Safety
- Council Member Tony Cardenas, Attn: Jim Dantona
- Councilmember Ed Reyes, Attn: Rebecca Valdez
- Ivania Sobalvarro, Office of the Chief Legislative Analyst
- Aurora Abracia, Office of the City Administrative Officer

12-0600-S63

ADOPTED BUDGET RECOMMENDATION

INSTRUCT the Los Angeles Housing Department, with the assistance of Building and Safety, Planning Department and City Attorney, to report to the Housing, Community and Economic Development and Planning and Land Use Management Committees regarding auxiliary dwelling units ("granny flats"), including a way to deal with the concept and legislation that can be introduced to protect renters living in illegal use properties, ways to bring units to code without evicting tenants, what other cities have done to prevent units from being torn down or lost, and ways to prevent the loss of affordable housing. Additionally, indicate if the City has looked at a better process to prevent tenants from reporting their landlords for illegal use violations then seeking relocation expenses from landlords. The report should also include information about the practices of other cities. Note that a report request is included in CF 11-0600-S50.

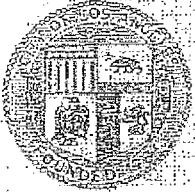
(Pursuant to adoption of the Mayor's 2012-13 Budget on May 21, 2012)

HOUSING, COMMUNITY &  
ECONOMIC DEVELOPMENT

PLANNING & LAND  
USE MANAGEMENT

MAY 21 2012 REFERRED TO

Attachment - A



OFFICE OF ZONING ADMINISTRATION  
City Hall • 200 N. Spring Street, Room 763 • Los Angeles, CA 90012



OFFICE OF ZONING ADMINISTRATION

MEMORANDUM

ZA MEMORANDUM NO. 120

May 6, 2010

TO: Office of Zoning Administration  
Public Counters  
Interested Parties  
Department of Building and Safety

FROM: Michael LoGrande *ML*  
Chief Zoning Administrator

SUBJECT: **SECOND DWELLING UNITS PURSUANT TO AB 1866**

State Assembly Bill 1866 became effective on July 1, 2003 amending Government Code Sections 65583.1, 65852.2 and 65915 that allows the creation of second dwelling units on residentially zoned lots, be considered ministerially without discretionary review or hearing. The intention of this memorandum is to assist with implementing AB 1866. It supersedes a previous memorandum issued by Robert Janovici, former Chief Zoning Administrator, and Peter Kim, former Zoning Engineer, dated June 23, 2003.

A second dwelling unit is permitted by right on a lot if it meets ALL of the following AB 1866 standards:

1. The second unit is not intended for sale and may be rented;
2. The lot is zoned for single-family or multi-family use;
3. The lot contains an existing single-family dwelling;
4. The second unit is either located within the living area of the existing dwelling (attached) or on the same lot as the existing dwelling (detached);
5. The total area of the increased floor area of an attached second unit does not exceed 30 percent of the existing floor area;
6. The total area of the floor area for a detached second unit does not exceed 1,200 square feet;
7. The requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property are met;

Attachment - B



8. The local building code requirements which apply to dwellings, as appropriate, are also met; and
9. A minimum of one additional covered or uncovered off-street parking space is provided. If not otherwise prohibited by the zoning ordinance or any other land use regulation, tandem parking is allowed and the parking space may be located in a required yard.

#### APPROVAL

If the proposed second dwelling unit meets all nine AB 1866 standards, the Department of Building and Safety shall approve the plans and issue a building permit. If the proposed unit meets all nine standards but is governed by an historic preservation overlay zone, specific plan, or other zoning regulation that requires architectural review or a similar type of review, then the Department of Building and Safety shall refer the applicant to the Department of City Planning. The Planning Department may impose conditions on the project as a result of this architectural or similar review, but may not deny the second unit if it otherwise meets all nine AB 1866 standards.

#### ALTERNATIVE APPROVAL

If a proposed second dwelling unit does not comply with the nine standards listed above, then AB 1866 does not apply and all applicable regulations in the zoning code govern. If an applicant still wishes to build a second unit, then two options may be available:

First Option. Obtain all necessary approvals as provided by the zoning code. For example, if a proposed second dwelling unit complies with all nine standards set forth above except the required rear yard, then the applicant would have to file for two discretionary land use approvals: (1) an adjustment, pursuant to LAMC Section 12.28, for a reduced rear yard; and (2) a variance, pursuant to LAMC Section 12.27, for an increase in density to permit an additional unit on a lot where the zoning only allows one dwelling unit.

Second Option. Obtain an approved conditional use permit from the Zoning Administrator pursuant to either LAMC Section 12.24-W,43 or LAMC Section 12.24-W,44, subject to all applicable requirements and limitations set forth in those sections.

#### MULTIPLE DWELLING ZONES

AB 1866 shall not be construed to allow an increase in the density of a zone that may permit two or more dwelling units on a single lot. For example, a third dwelling unit on a lot zoned R2 is not allowed by right pursuant to AB 1866.

ML:AB:TR:GJ:Imc