



American Planning Association
California Chapter

Making Great Communities Happen

MARCH 26, 2019

Senator Bob Wieckowski
State Capitol, Room 4085
Sacramento, CA 95814

SUBJECT: **OPPOSITION TO SB 13 (WIECKOWSKI) NUMEROUS MAJOR
CHANGES TO ACCESSORY DWELLING UNIT LAW** – IN SENATE
HOUSING COMMITTEE – APRIL 2ND

Dear Senator Wieckowski:

The American Planning Association, California Chapter (APA California) must respectfully oppose your bill, SB 13, unless it is amended. This bill proposes numerous significant amendments to the statewide standards that apply to locally-adopted ordinances concerning accessory dwelling units (ADUs). Included in those changes are: Removal of owner occupancy requirements; new authority to the Department of Housing and Community Development (HCD); elimination of replacement parking requirements; and a cap on impact fees associated with ADU development.

APA California supports ADUs as an important source of housing to help combat the housing crisis communities are facing. In fact, APA California is pleased to see the significant increase in ADU permits since major changes went into effect only two years ago. Unfortunately, we are concerned with the number of proposals every year since 2016 and 2017 legislation was passed. This year along, there are 7 bills dealing with changes to the law. These bills make ADU ordinances more complicated rather than encouraging them, and many jurisdictions that have already updated or are nearly done updating their ordinances will have to go back and revise them. This is not productive. Many cities and counties have robust programs already and these changes will add confusion.

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The Most Troubling Changes:

REMOVAL OF OWNER OCCUPANCY REQUIREMENTS

SB 13 completely removes owner occupancy requirements. APA California understands that there have been concerns with owner occupancy requirements and financing or using the requirement as a tool to limit ADUs, however, the number of ADUs that have been developed in the past several years with owner-occupancy restrictions undermines the claim that they are a significant impediment to financing or constructing ADUs. Moreover, APA California is concerned that absent the requirement, institutional investors or speculators could be encouraged to purchase a home with an existing ADU or purchase single family homes without ADUs at a premium with the intention of adding one, which could then be rented at any price the market will.

APA California believes owner occupancy requirements promote greater affordability and access to housing, however, it recognizes that reasonable restrictions on monitoring and enforcing this requirement are important. There must be a balance between not discouraging ADU production but not creating new incentives to build large ADUs that can be rented far from an affordable rent.

For example, Santa Rosa waives its owner occupancy requirement if the owner puts an affordability requirement on the ADU. APA California would like to work with your office to come up with a solution that would allow for flexibility when there is an issue with financing when owner occupancy requirements apply.

New HCD Authority

SB 13 adds the ADU statute to Section 65585 (AB 72, 2017), which APA California supports. However, it also adds additional language in Section 2 (i) (3) (j) of the bill that is duplicative and counter to the enforcement process in 65585. We would suggest simply referencing 65585, as has been done, and removing the additional language in Section 2.

Also, proposed is language that allows HCD to “review, adopt, amend or repeal guidelines to implement uniform standards that *supplement* or clarify” standards in the law. This is an overreach and improper delegation of legislative authority. These informal guidelines aren’t required to go through a formal public rulemaking process. We believe “supplement” should be removed from the language.

Elimination of Replacement Parking

SB 13 eliminates replacement parking when there is a conversation of an existing structure such as a garage or carport. APA California don’t believe parking should be the impediment to an ADU but does believe the bill needs to be mindful that many occupants will have a car and need a place to park (when not located near transit), especially when developing an ADU in less urban areas.

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Cap on Fees

APA California does appreciate that SB 13 doesn't ban impact fees all together, however we would suggest waiting for Termer Center's study on fees to be released before prescribing a formula. This study is expected to be completed in the summer of this year and will generate a broader discussion to all impact fees, not just those for ADUs.

Clarification on Definition of "Substantially Contained" Needed in the Bill

Changes related to an ADU that is within the existing dwelling or structure are unclear. Those ADUs would now only be required to be "substantially" contained within that dwelling or structure. We believe "substantially" needs to be defined in order to be implemented.

Local governments have been working very hard to comply with the major changes in ADU regulations over the past few years and those efforts are paying off. We believe the legislature, rather than continuing to propose additional statewide changes, should allow jurisdictions to continue their work on implementation of the existing laws.

APA California appreciates meeting with your staff and is open to working to find a solution on our concerns. If this was achieved, we would move to a neutral position. Please contact APA California's lobbyist, Lauren De Valencia, if you have any questions at lauren@stefangeorge.com.

Sincerely,



Eric Phillips
Vice President Policy and Legislation
APA California

cc: Senate Housing Committee, the Governor, OPR, Republican Caucus

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