

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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September 15, 2025

Jeff Rosaler, Interim Director  
Community Development Department  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629

Dear Jeff Rosaler:

**RE: City of Dana Point – Senate Bill (SB 9) Second Unit Application at 34042  
Chula Vista Avenue – Letter of Technical Assistance**

The purpose of this letter is to provide technical assistance to the City of Dana Point (City) regarding an application for a Senate Bill (SB) 9 second unit<sup>1</sup> on the property at 34042 Chula Vista Avenue. The applicant submitted the most recent iteration of an application for a second unit on June 13, 2025, and asserts that after 60 days the City neither approved nor denied the application. This letter explains the City's obligations regarding SB 9 application processing when the City neither approves nor denies the application within 60 days of receipt of a complete application.

**Background**

The property is developed with an existing two-story house and a detached garage. The applicant is proposing a second unit pursuant to SB 9 with no urban lot split. The construction of the second unit would entail converting the existing garage to the ground floor of the new unit, along with additions to attach the new unit to the house and add a second story and a rooftop deck above the second story. The total habitable floor area of the new unit would be 1,242 square feet and it would consist of two bedrooms, three bathrooms, a kitchen, living room, office, and closets.

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<sup>1</sup> Senate Bill 9, Chapter 162, Statutes of 2021, as amended, and specifically Government Code section 65852.21.

The applicant provided the California Department of Housing and Community Development (HCD) with email correspondence indicating that the application was submitted and received by the City on June 13, 2025.<sup>2</sup> On August 13, 2025, the applicant emailed HCD to indicate that the City had neither approved nor denied the application within 60 days.

On August 18, 2025, HCD emailed the City to inquire about the status of the application. In a series of emails dated between September 2 and September 5, 2025, City staff responded and HCD asked clarifying questions. The City acknowledged receiving the revised plans and a correction letter, but not additional fees, on June 13, 2025. The City did not indicate that it provided a written incompleteness determination<sup>3</sup> or written denial to the applicant.

## **Analysis**

State law establishes a deadline for local agencies to approve or deny SB 9 second unit applications: “An application for a proposed housing development pursuant to this section shall be considered and approved or denied within 60 days from the date the local agency receives a completed application. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved.”<sup>4</sup>

August 12, 2025, is 60 days from the submittal date of June 13, 2025. HCD has neither documentation nor knowledge that the City approved or denied the application within this timeframe as required by state law. Moreover, a denial within this required time period would have triggered a requirement that the City provide a full set of comments to the applicant with a list of any deficient or defective items and a description of the remedy.<sup>5</sup> Therefore, the application is deemed approved<sup>6</sup> and currently enjoys an entitlement to proceed with the specific dimensions and architectural design proposed.

The City may require the applicant to apply for a postentitlement phase permit prior to proceeding with construction. However, the City must comply with all statutory requirements related to the processing of postentitlement phase permits.<sup>7</sup>

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<sup>2</sup> This submittal follows a previous iteration of the application that the City denied on March 19, 2025, which is not the focus of this letter.

<sup>3</sup> Gov. Code, § 65943, subd. (a), requires the City to make a written determination about whether an application is complete within 30 days and immediately transmit that determination to the applicant, or else the application is deemed complete. This section applies to an SB 9 application, pursuant to Gov. Code, § 65943, subd. (g).

<sup>4</sup> Gov. Code, § 65852.21, subd. (h)(1).

<sup>5</sup> Gov. Code, § 65852.21, subd. (h)(2).

<sup>6</sup> Gov. Code, § 65852.21, subd. (h)(1).

<sup>7</sup> Gov. Code, § 65913.3.

## Conclusion

The City has not demonstrated that it met the 60-day statutory deadline to approve or deny the SB 9 application, causing the application to be deemed approved by operation of law. Nevertheless, the entitlement granted by operation of law does not preclude the City from requiring a postentitlement phase permit application to ensure that CBSC requirements are met, nor does it preclude regular inspections to ensure that the project is built safely according to approved plans.

HCD remains committed to supporting the City in facilitating housing at all income levels and hopes the City finds this clarification helpful. In addition, HCD has enforcement authority over SB 9, among other state housing laws. Accordingly, HCD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction is in violation of state law, HCD may notify the California Office of the Attorney General.<sup>8</sup>

HCD requests a written response from the City by October 15, 2025, indicating how the City plans to implement the guidance provided in this letter. If you have any questions about this letter or require additional technical assistance, please contact David Barboza at [david.barboza@hcd.ca.gov](mailto:david.barboza@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a stylized flourish extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability

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<sup>8</sup> Gov. Code, § 65585, subd. (j).