

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

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February 26, 2025

Lee Butler
Director of Planning and Community Development
City of Santa Cruz
809 Center Street, Room 101
Santa Cruz, CA 95060

Dear Lee Butler:

RE: Arthaus Ocean Project – State Density Bonus Law – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) understands that the City of Santa Cruz (City) is currently processing an application for the Arthaus Ocean Project at 530, 542, and 548 Ocean Street (Project). The purpose of this letter is to provide technical assistance related to the affordability levels of housing units used to meet the requirements of Government Code section 65915, subdivision (v) of the State Density Bonus Law (SDBL).¹

Background

The proposed Project has a base density of 113 units. The applicant proposes to make 15 percent of those 113 rental units (17 units) affordable to very low-income (VLI) households to receive a 50-percent density bonus under Government Code section 65915, subdivisions (b)(1)(B) and (f)(2). The applicant also proposes to make an additional 15 percent of those 113 units (another 17 units) affordable to moderate income (MI) households to receive a second 50 percent density bonus under Government Code section 65915, subdivision (v)(2).

The City's inclusionary housing (IH) ordinance² requires all rental residential developments that create five or more new or additional dwelling units to provide 20 percent of the dwelling units as inclusionary units, which shall be made available for rent

¹ Gov. Code, § 65915 et. seq.

² Santa Cruz Municipal Code, Chapter 24.16, Part 1, available at <https://www.codepublishing.com/CA/SantaCruz/#!/SantaCruz24/SantaCruz2416.html#24.16>.

to low income (LI) households at an affordable rent.³ For this Project, 20 percent of 113 units would be 22 units.⁴

The City has agreed that the 17 VLI units the applicant is proposing can count towards the City's IH requirement of 22 LI units. However, the applicant must still provide the remaining 5 LI units to fully meet the City's IH requirement.

In order to meet the requirements of both the SDBL and the City's IH ordinance, the applicant proposes to provide the following affordable units:

1. 17 VLI units, which will count towards the requirements of both subdivision (f) and the City's IH ordinance.
2. 5 LI units, which will count towards the requirements of both subdivision (v) and the City's IH ordinance.
3. 12 MI units, which will count towards the requirements of subdivision (v).

Question: Can a project provide units deed restricted to LI households in lieu of the MI units required to qualify for the density bonus provided by Government Code section 65915, subdivision (v)?

No, a project cannot provide units deed restricted to LI households in lieu of the MI units required to qualify for the density bonus provided by subdivision (v). For this Project, the applicant cannot count 5 LI units towards the 17 MI units required to receive the 50-percent density bonus under subdivision (v).

The SDBL relies on Health and Safety Code definitions for VLI, LI, and MI households.⁵ Per those definitions, LI households means "persons and families whose income does not exceed...80 percent of area median income" (AMI).⁶ Persons and families of low or moderate income means "persons and families whose income does not exceed 120 percent" of AMI.⁷ However, persons or families of moderate income (MI households) means "persons and families of low or moderate income *whose income exceeds the income limit for lower income households*"⁸ (emphasis added). In other words, an MI household is one whose income does not exceed 120 percent of AMI *and* whose income is greater than 80 percent of AMI.

³ Santa Cruz Municipal Code, § 24.16.020, subd. (5)(a)

⁴ Per Santa Cruz Municipal Code § 24.16.020, subd. (5)(c): "If the number of dwelling units required results in a fractional requirement of 0.7 or less, then there will be no inclusionary requirement for the fractional unit."

⁵ Gov. Code, § 65915, subd. (b)(1).

⁶ HSC, § 50079.5, subd. (a).

⁷ HSC, § 50093.

⁸ HSC, § 50093, subd. (b).

Government Code section 65915, subdivision (v) was added by Assembly Bill 1287 (Chapter 755, Statutes of 2023). Subdivision (v)(1) provides an opportunity to receive an additional density bonus if an applicant “agrees to include additional rental or for-sale units affordable to very low-income households or moderate income households....” There is no opportunity to receive an additional density bonus by providing units affordable to low-income households.

Furthermore, according to the bill’s author, Assemblymember Alvarez, “While we must continue to support more affordable housing for low-income families, a holistic approach to the housing crisis requires we also tackle housing unaffordability for middle-income earners. AB 1287 does this by creating moderate income benefits, which would stack on top of the existing Density Bonus Law benefits.”⁹ This language makes it clear that the author’s intention is that the MI units under subdivision (v) serve MI households (with incomes above 80 percent of AMI but below 120 percent of AMI), *not* LI households (with incomes 80 percent of AMI or less).

Conclusion

HCD hopes that this analysis of the application of LI and MI units as they relate to both the City’s inclusionary housing requirement for LI units and the SDBL’s provisions for MI units in subdivision (v) is helpful to the City. HCD remains committed to supporting the City in facilitating affordable housing.

If you have any questions about the contents of this letter or need additional technical assistance, please contact Stephanie Reyes at stephanie.reyes@hcd.ca.gov.

Sincerely,



Shannan West
Housing Accountability Unit Chief

⁹ Assembly Floor Analysis of AB 1287 as amended September 8, 2023, available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240AB1287.