

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

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April 13, 2022

Gayle Ackerman, AICP
Director of Community Development
City of Lake Forest
25550 Commerce Centre Drive
Lake Forest, CA 92630

Dear Gayle Ackerman:

**RE: Review of Lake Forest's Accessory Dwelling Unit (ADU) Ordinance under
ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Lake Forest (City) accessory dwelling unit (ADU) Ordinance No. 336 (Ordinance), adopted July 21, 2020, to the California Department of Housing and Community Development (HCD). The Ordinance was received on August 13, 2020. HCD has reviewed the Ordinance and is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD has determined that the Ordinance does not comply with section 65852.2 in the manner noted below. Under the statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than May 13, 2022.

The adopted ADU Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with ADU law in the following respects:

- 9.146.050 (C)(5)(b) and (c) – *Efficiency Kitchen Constraints* – The Ordinance defines an efficiency kitchen as including a food preparation area “with counters that total 15 square feet in area” and “food storage cabinets that total at least 30 cubic feet.” However, the definition of an efficiency kitchen in Government Code section 65852.22, subdivisions (a)(6)(A) and (B), describe the food preparation counter and storage cabinets “of reasonable size” in relation to the size of the JADU. As written, the size requirements in the Ordinance are more stringent than required by statute. Therefore, the City must remove the size references.
- 9.146.050 (E)(7)(a) – *Prohibiting subdivision* – The Ordinance prohibits separate sale of an ADU from its respective primary dwelling. However, Government Code 65852.26, subdivision (a)(1), which went into effect January 1, 2022, creates a narrow exception to allow separate conveyance of ADUs with the involvement of

qualified nonprofit housing organizations. The City should revise the Ordinance to allow for such an exception.

- 9.146.050 (F)(1)(a) – *Bedroom restriction* – The Ordinance states that for ADUs, “no more than two bedrooms are allowed....” Limiting the number of bedrooms within an ADU may constrain housing choice and result in discriminatory effects on families with children, people with disabilities, and other protected groups in violation of state and federal fair housing laws, including but not limited to Government Code section 65008, subdivisions (a)(1)(A) and (b)(1)(B)(i). Therefore, the City must revise this section to avoid limiting the occupancy of housing units based on familial status or other protected characteristics.
- 9.146.050 (F)(6)(a) – *Screened Entry* – The Ordinance states that “the ADU entrance must be located on the side or rear building facade, not facing the same public-right-of way as the primary dwelling.” Since state law requires that ADUs and JADUs have an independent entry into the unit (Gov. Code § 65852.2, subd. (e)(1)(a)(ii) and Gov. Code § 65852.22, subd. (a)(5)), a constraint on the location of an entry door may make the creation of an additional housing unit infeasible. Furthermore, local development standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), do not apply to ADUs created under Government Code section 65852.2, subdivision (e), and the restrictions as implied would not be permissible. Therefore, the City should revise or remove the section.
- 9.146.050 (G)(2)(b) – *Utilities* – The Ordinance requires that some ADUs and junior ADUs (JADUs) require a new, separate utility connection. However, Government Code section 65852.22, subdivision (e), states, “For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.” Therefore, the City must remove references to JADUs in this section.

In these respects, revisions are necessary to comply with statute.

HCD will consider any written response to these findings, such as a revised ordinance or a detailed plan to bring the ordinance into compliance with law by a date certain, before taking further action authorized pursuant to Government Code section 65852.2. Please note that HCD may notify the California Office of the Attorney General in the event that the City fails to take appropriate and timely action under section 65852.2, subdivision (h).

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HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability