

H.B. 6521 – Changes to 8-30g
Testimony of Raphael L. Podolsky
Housing Committee public hearing – March 4, 2021

Recommended Committee action: NO ACTION ON THE BILL

This appears to be a bill about accessory dwelling units (ADUs). In reality, however, only the first two sections fulfill that function. Most of the rest of the bill (in particular, Sections 3 and Sections 5 through 8) are an effort to change 8-30g in a harmful way and to undercut its purposes. The Committee has already heard a bill – S.B. 804 – that will open zoning more widely to ADUs. That is the proper vehicle for addressing ADUs. This bill is not. I urge you to take no further action on this bill and to address ADU zoning policy through a different bill.

The adverse impact on 8-30g comes from the ways in which H.B. 6521 proposes to amend that statute. The apparent purpose – the reason the bill includes sections focused on the definitions of 8-30g terms and on the 8-30g moratorium -- is to make it easier for towns to obtain moratoria from 8-30g without generating new housing that would meet 8-30g standards for affordability or availability, and particularly for availability to families with children. Some of the changes affect only ADUs but others affect the counting of units in all 8-30g developments. It does this in at least the following ways:

- 8-30g requires that, for a developer to use 8-30g, it must include a 40-year affordability deed restriction. H.B. 6521 reduces the affordability duration to 30 years for all developments (line 261). This reduces the required affordability for all 8-30g developments.
- 8-30g provides towns with a four-year moratorium if a significant number of affordable housing units are developed in their town, based on an incentivized point system. H.B. 6521 changes the point structure in an effort to treat ADUs as if they are family housing units in a multi-family rental housing development.
 - First, it gives a full moratorium point to the unrestricted units in all mixed-income developments, treating these higher-cost units as if they had an affordability deed restriction (line 361 and line 508). This also reduces the affordability required for 8-30g applications.

- Second, H.B. 6521 attempts to treat a house with an ADU unit as if it is a two-family “development.” The main house to which the ADU is connected, however, is not part of any development – it is neither new nor on the market. H.B. 6521, however, apparently attempts to give the main house a full point. This is directly contrary to the purpose of an 8-30g moratorium.
- Third, it attempts to count ADUs for moratorium purposes as if they were ordinary family apartments with long-term affordability deed restrictions (lines 361-372 and 509-519). Such units receive bonus points in a moratorium application. We know, however, that ADUs are normally too small to house families with children and, indeed, are often not even advertised on market so as to be available to the general public. Other provisions in the bill (l. 566-589) appear to be efforts to free ADU’s from the required 40-year deed restriction, which is an essential requirement for any development receiving moratorium points.
- It is not clear what Section 8 is attempting to say, but it is clear that it is attempting to create some sort of exception to 8-30g (it begins “notwithstanding the requirements of” Section 8-30g(a)(6) (lines 566-567), which is the section of 8-30g that defines the degree of affordability required for 8-30g units. Its intention appears to be to permit a reduced affordability requirement to induce homeowners to deed-restrict ADUs that will bind them only minimally.

All of these things indicate that these ADU provisions are NOT merely about promoting ADUs. Their primary impact will be to provide pathways to towns to get out of 8-30g without generating the kind of affordable housing units that would earn them a legitimate moratorium.

This is not the right vehicle by which to require local zoning to encourage and accept ADUs. I hope that the Committee will take no further action on this bill and will instead refocus its interest on ADUs on S.B. 804.

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