STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT
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No. 2020/003

TO COUNTY ASSESSORS:

ACCESSORY DWELLING UNITS:
SALE OR SEPARATE CONVEYANCE

Effective January 1, 2020, Assembly Bill 587 (Stats. 2019, ch. 657) adds section 65852.26 to the Government Code (GC). This section allows a local agency to enact an ordinance that would allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer under certain circumstances.

Correction: (j)(1) per AB 881, (Stats. 2020, ch. 659), eff. 1/1/2020

An "accessory dwelling unit" (ADU) is defined in GC section 65852.2~~(i)(4)~~ as an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. The unit must include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

If a local ordinance is enacted, an ADU may be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

- The property was built or developed by a qualified nonprofit corporation. A "qualified nonprofit corporation" is a nonprofit corporation organized pursuant to Internal Revenue Code section 501(c)(3) that has received a welfare exemption under Revenue and Taxation Code (RTC) section 214.15 for properties intended to be sold to low-income families who participate in a special no-interest loan program.
- There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer[1] and the qualified nonprofit corporation that satisfies all of the requirements specified in RTC section 402.1(a)(10).[2]
- The property is held pursuant to a recorded tenancy in common agreement.

The recorded tenancy in common agreement must include all of the following:

- An allocation to each qualified buyer of an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

[1] A "qualified buyer" means persons and families of low or moderate income, as defined in Health & Safety Code section 50093.

[2] See Letter To Assessors No. 2017/008 for additional information.

- A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation the opportunity to buy the property if the buyer desires to sell or convey the property.
- A requirement that the qualified buyer occupy the property as their principal residence.
- Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

GC section 65852.26(a)(4) requires that a grant deed naming the grantor, grantee, and describing the property interests being transferred must be recorded in the county in which the property is located. In addition, a *Preliminary Change of Ownership Report* must be filed concurrently with the recording of this grant deed, as provided in RTC section 480.3.

A copy of GC section 65852.26 is enclosed. Guidance on the implementation of GC section 65852.26 will be discussed in a future Letter To Assessors.

If you have any questions regarding the change in ownership or assessment of an accessory dwelling unit, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:gs
Enclosure

Government Code Section 65852.26

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.