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No. 2021/056

December 6, 2021

TO COUNTY ASSESSORS:

**ASSEMBLY BILL 345
ACCESSORY DWELLING UNITS: SEPARATE CONVEYANCE**

Effective January 1, 2022, [Assembly Bill 345](#) (Stats. 2021, ch. 343) amends section 65852.26 of the Government Code (GC), as it relates to the separate conveyance of accessory dwelling units.

Beginning January 1, 2020, GC section 65852.26 authorized a local agency to, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions were met, including that the property was built or developed by a qualified nonprofit corporation and that the property was held pursuant to a recorded tenancy in common agreement.¹

An "accessory dwelling unit" is defined in GC section 65852.2(j)(1) as an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. The unit must include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

Assembly Bill 345 amends GC section 65852.26 to remove the local agency ordinance option and instead requires local agencies to allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer, if certain conditions are met.

This bill also imposes an additional condition on a tenancy in common agreement subject to these provisions and recorded on or after December 31, 2021, to include specified information, including delineation of all areas of the property that are for the exclusive use of a cotenant; delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property; and procedures for dispute resolution among cotenants before resorting to legal action.

¹ See Letter To Assessors No. 2020/003, dated January 17, 2020.

A copy of amended GC section 65852.26, with changes noted in strikeout/italics format, is enclosed. If you have any questions regarding these amended provisions, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:mc
Enclosure

Section 65852.26 of the Government Code is amended to read:

65852.26. (a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency ~~shall, by ordinance,~~ *shall* 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~~ *accessory dwelling unit or the primary dwelling* 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 ~~contract~~ *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 that each qualified buyer occupies.*

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

(C) A requirement that the qualified buyer occupy the ~~property~~ *accessory dwelling unit or primary dwelling* as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the ~~property~~ *accessory dwelling unit or primary dwelling* that ensure the ~~property~~ *accessory dwelling unit and primary dwelling* 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.

(E) *If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following:*

(i) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

(ii) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(iii) Procedures for dispute resolution among the parties before resorting to legal action.

(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.