

June 7, 2021

John R. MacDowell, CCAL
Attorney at Law
FIORE, RACOBS & POWERS
380 S. Melrose Dr., Ste. 330
Vista, California 92081

Re: Review of Applications for Accessory Dwelling Units in Three Arch Bay

Dear Mr. MacDowell:

This letter is in response to your request that the City to refrain from issuing permits for Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units (“JADUs”) until after Three Arch Bay Association (“TABA”) completes its plan review and issues a letter of comment to the City.

Recently enacted Government Code Section 65852.2(a)(3) requires that the City act on an application to create ADUs or JADUs within 60 days from the date the City receives a completed application. Further, if the City has not acted upon the completed application within 60 days, the application shall automatically be deemed approved. An application is considered complete when the City receives all necessary information to render a decision on the project and when the project is determined to comply with local and State regulations. Approval from private homeowner’s associations, such as TABA, is not a State law authorized component to deem an application complete. Additionally, the City’s Municipal Code Section 25.44.060 (Architectural Design Criteria) does not prevent the City from issuing approvals. Rather, it provides TABA with the opportunity to submit a letter prior to City approval, which must be in a timely manner.

Not only is the City required to comply with the State’s mandated 60-day review process for ADUs, but the City is also subject to the Permit Streamlining Act. The Permit Streamlining Act clock begins ticking when an application is deemed complete and requires the City to render a decision on a completed application within 60 days.

The time it takes for TAB to review projects has routinely not complied with both the timelines set by State for reviewing ADUs and the State Permit Streamlining Act. For this reason, the City will provide notification to TABA when an application is deemed complete and will give TABA 30 days in which to submit any comments. Whether or not the City receives comments within that time frame, the City will render a decision consistent with applicable regulations and/or a building permit will be issued for approved development projects.

The City understands that the intent of TABA’s review is to guide projects to help create a community with architecture and aesthetic integrity. As you are aware, while the City encourages property owners to comply with TABA’s guidelines, the City does not enforce or require compliance with those guidelines. Instead, the City reviews and takes action on development applications based on applicable State and/or City regulations.

If you have any questions or would like to discuss this further, please feel free to contact me at (949) 497-0361 or mwiener@lagunabeachcity.net.

Sincerely,

Marc Wiener

Marc Wiener, AICP
Director of Community Development

Cc: Phil Kohn, City Attorney
So Kim, Assistant Director
Russell Bunim, Zoning Administrator