



February 9, 2025

Honorable Mayor Todd Gloria
202 C St, 10th Floor
San Diego, CA 92101

Honorable Council President Joe LaCava, District 1
Honorable Councilmember Dr. Jennifer Campbell, District 2
Honorable Councilmember Stephen Whitburn, District 3
Honorable Councilmember Henry Foster II, District 4
Honorable Councilmember Marni von Wilpert, District 5
Honorable Councilmember Kent Lee, District 6
Honorable Councilmember Raul Campillo, District 7
Honorable Councilmember Vivian Moreno, District 8
Honorable Councilmember Sean Elo-Rivera, District 9
202 C St, 10th Floor
San Diego, CA 92101

Honorable Governor Gavin Newsom
Governor
c/o State Senator Dr. Akilah Weber Pierson
State Capitol
Sacramento, CA 95814

**RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING
AND THE AMERICANS WITH DISABILITIES ACT**

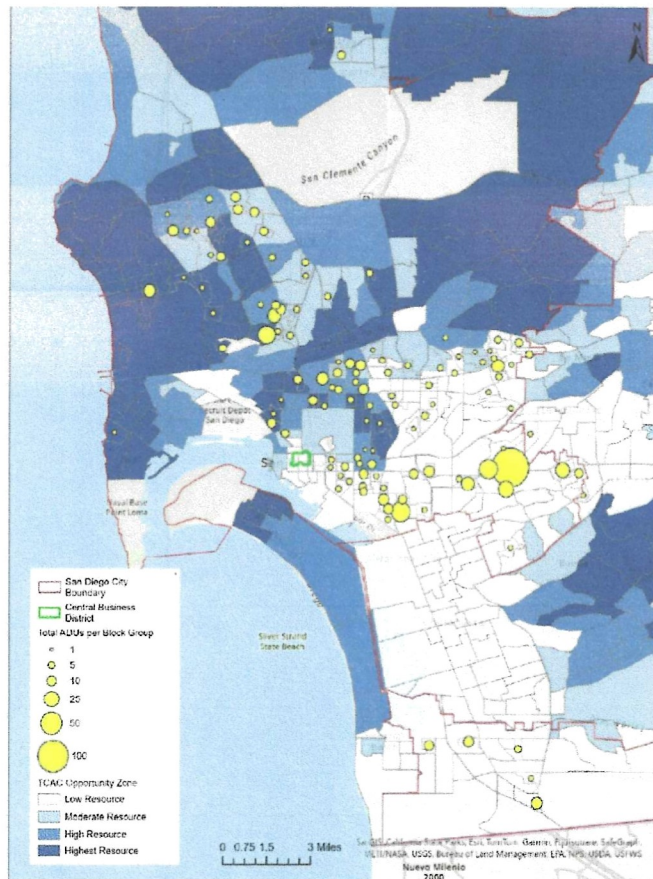
The Chollas Valley Community Planning Group requests immediate execution of the City of San Diego's duties to Affirmatively Further Fair Housing (AFFH) and ensure full compliance with the Americans with Disabilities Act of 1990 (ADA). We call for the following urgent actions:

- 1. An Immediate halt of any accessory dwelling unit (ADU) permit utilizing the City of San Diego Bonus ADU program.**
- 2. An immediate halt of any reliance on the Sustainable Development Area (SDA) boundaries as defined by the City of San Diego for Bonus ADUs.**
- 3. A directive to the City Attorney to conduct a thorough review of both SDA and the Bonus ADU Program for compliance with the City's duty to AFFH and to comply with ADA.**

RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

In the historical context of the city's role in creating and perpetuating deeply segregated neighborhoods in San Diego as is so well articulated in research such as Richard Rothstein's book on the matter, *The Color of Law*, published in 2017 and its follow-up, *Just Action*, please find a troubling study that came to our attention. The disparity is starkly evident on page 39 which is excerpted herein for easy reference.

Figure 13: Bonus ADU projects across TCAC Opportunity Areas, by total units per block group

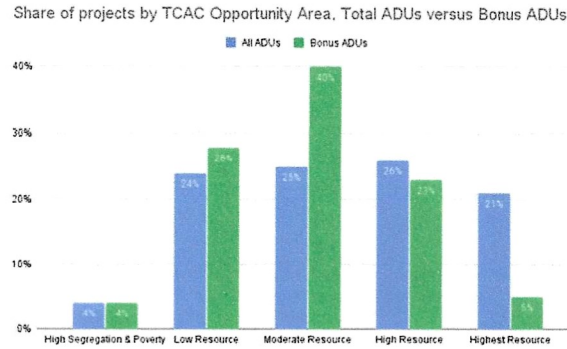


Source: Internal data, San Diego Housing Commission

As can be seen from the picture above, low resource areas vastly outnumber the areas in highest resource areas impacted by Bonus ADUs. This is summarized in the chart below from page 38 of the same paper.

RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

Figure 12: Share of proposed or permitted projects by TCAC Opportunity Area, all ADUs (2018-2022) versus bonus ADUs (2021-Present)

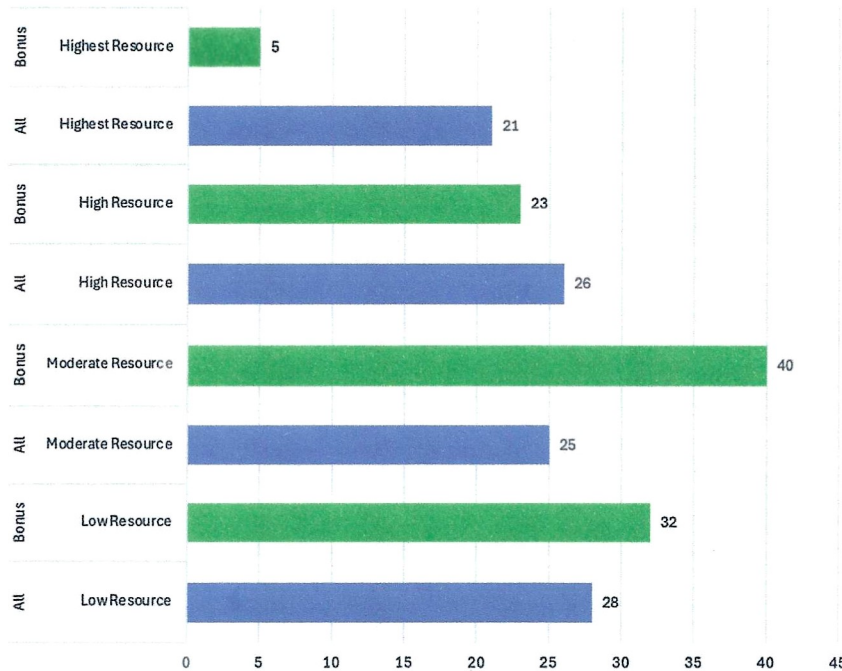


Source: Internal data, San Diego Housing Commission; APR Data, HCD, 2018 - 2022

Notes: "High Segregation & Poverty" is a designation for census tracts that are within "Low Resource" areas. This chart counts projects proposed or permitted in "High Segregation & Poverty" census tracts separately from the "Low Resource" category.

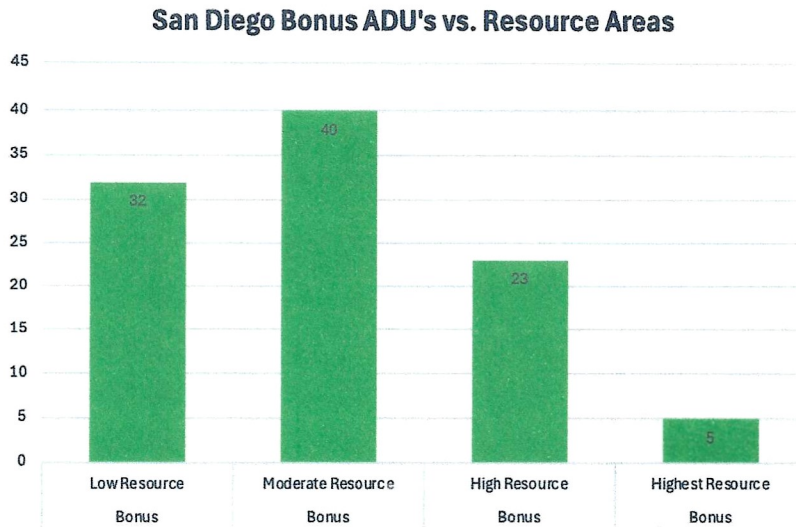
The bar chart above is misleading. There are not 5 resource categories: There are 4 categories plus a layer known as High Segregation *and* High Poverty as defined by CTCAC/HCD. That layer is Low Resource, the added layer of also being High Segregation and Poverty is just that -- an added layer -- that obfuscates the stark disparities between the largely white and nonwhite areas. When combining all the Low Resource areas, the actual effects of the ADU Bonus program look like this:

San Diego Bonus ADU's vs. All ADU's and Resource Areas



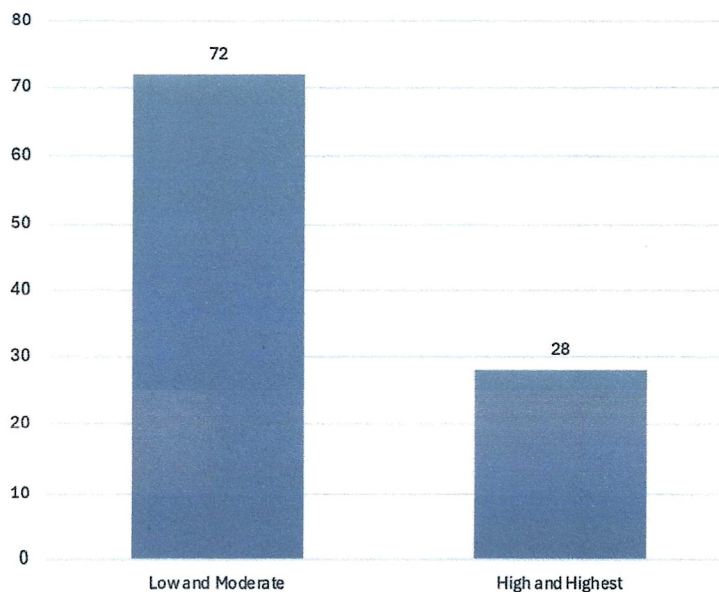
RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

The graph below shows the effects according to access to opportunity (resource) of the ADU Bonus program only---excluding those ADUs that are not in that program.



The bar graph below illustrates that 72% of all Bonus ADU projects on the date of publication for the article were happening in Low Resource and Moderate Resource areas. Only 28% of Bonus ADU projects are happening in High and Highest Resource areas. The Bonus ADU program is not AFFH, it's causing disparate impact.

72% of all Bonus ADU's are being built in Low and Moderate Resource Areas. 28% are being built in High and Highest Resource areas. This is anti AFFH.



RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

The graph directly above is a combining of low and moderate resource areas and high and highest resource areas. The duty to AFFH requires that the city provide actual opportunity to live in highest resource areas. The reality is that the Bonus ADU program is doing the opposite, creating a disparate impact.

AFFH means taking significant actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means:

“Taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all of a public agency’s activities and programs relating to housing and community development.”(Gov. Code § 8899.50, subd. (a)(1).

Therefore, AFFH in the city of San Diego includes taking proactive and meaningful actions in concert with each other to address all of the following:

1. Significant Disparities in Housing Needs and in Access to Opportunity.

a. The Bonus ADU program undermines affordable housing by replacing San Diego’s most affordable ownership opportunities with investor-owned properties, ultimately shifting wealth to the wealthiest individuals at the expense of the lowest-resourced neighborhoods, which have the highest concentrations of minority populations.

b. The Bonus ADU program enables investors to pressure property owners, particularly elderly and minority residents, by instilling fear of large apartment developments and urging them to sell quickly. These investors then offer below-market prices, leading to the displacement of longtime owners and the transfer of land into investor hands.

c. The Bonus ADU program targets San Diego’s most affordable single-family homes, turning them into investment properties for developers, who then convert them into market rate rentals.

d. The Bonus ADU program does not rehabilitate existing housing and instead makes homeownership in San Diego more difficult to attain, particularly in low and moderate-resource areas.

2. Replacing Segregated Living Patterns with Truly Integrated and Balanced Living Patterns.

a. The Bonus ADU program offers no tangible benefits to residents in low-and moderate-resource areas. Instead, it adds population density, further straining already limited community resources.

RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

b. The Bonus ADU program fails to provide infrastructure or community amenities, as the city has waived developer impact fees for units under 500 square feet, disproportionately harming low and moderate resource neighborhoods.

c. The Bonus ADU program bypasses local input, as its ministerial approval process eliminates public involvement and community decision making, a fundamental aspect of the duty to AFFH.

3. Transforming Racially and Ethnically Concentrated Areas of Poverty (R/ECAP) into Areas of Opportunity.

a. The Bonus ADU program is not community driven; instead, it is imposed on low and moderate resource neighborhoods without regard for their preferences or willingness to participate.

b. The Bonus ADU program brings no community investment.

c. The Bonus ADU program fails communities with no required safe routes to school, no transit improvements, no parks, no bike or pedestrian infrastructure, no urban forestry, and no neighborhood enhancements. With no impact fees collected from Bonus ADU construction, residents are left with only one thing: more people competing for already overburdened resources. This is not investment, it's exploitation of low and moderate resource areas.

d. The Bonus ADU program does not preserve our naturally occurring affordable single-family homes, it is actively dismantling them. By transforming these affordable homes into ADU apartment complexes, with up to 43 units on a single-family lot, it strips away the very foundation of homeownership in communities. This isn't progress; it's a blatant transfer of wealth to the richest, in the lowest resourced neighborhoods, while robbing residents of the opportunity to own a home. It's an unjust assault on affordable housing and a betrayal of the people who need it most in San Diego.

e. The Chollas Valley Community Planning Group has been completely shut out by the Planning Department. When the Bonus ADU program was implemented, and since its launch, there has been zero communication or updates on how this program is affecting the already struggling low resource neighborhoods of Chollas Valley. Community engagement is a core requirement of AFFH, yet the Planning Department has utterly failed, especially in Encanto. The opposition to the Bonus ADU program in Encanto couldn't be more vocal, more passionate, or more united. This disregard for community input is a direct violation of the AFFH mandate and an affront to the residents who deserve a voice in decisions that impact their neighborhoods.

f. The Bonus ADU program is being recklessly imposed on rural Encanto, with proposed ADU density soaring to a staggering 2,000% of the base zone density. This burden will necessarily bleed out to the other six neighborhoods in the Chollas Valley Plan Area. It is aggressive overdevelopment with seeming complete disregard for the most basic needs of the community such as access to healthy food and reliable transportation. This isn't just poor planning; it's an abandonment of the people who live there, leaving them to face overcrowded conditions without the infrastructure or resources they desperately need. It's a heavy assault on a historically redlined community that deserves better----- deserves AFFH.

RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

4. Fostering and Maintaining Compliance with Civil Rights and Fair Housing Laws.

a. The Planning Department seems to be turning a blind eye to fair housing choice by allowing developers and investors to flood low-resource neighborhoods like Encanto with unfair competition. These wealthy outsiders are outbidding everyday people, offering cash that regular families simply can't compete with, pushing homeownership further out of reach. This isn't just a housing issue, it's a direct attack on the very foundation of our communities, stripping away the opportunity for hardworking residents to own a piece of the place they call home. It betrays the people who deserve a fair shot at homeownership in their own neighborhoods.

b. The Bonus ADU program is a direct assault on fair housing choice, disproportionately burdening low and moderate-resource neighborhoods while leaving the wealthiest areas with only a tiny fraction of Bonus ADU developments, at significantly smaller scale. A staggering 32% of Bonus ADUs are being built in low resource neighborhoods, compared to just 5% in the highest resource areas. Simply put, for every single Bonus ADU built in affluent, highest resource communities, six Bonus ADUs are being forced into the most underserved areas. This isn't just a flaw in the system, it's a glaring violation of the AFFH mandate. It's not expanding choice; it's narrowing it, leaving the most vulnerable communities with the least opportunity and the heaviest burden.

c. The Bonus ADU program perpetuates discrimination and segregation by systematically transforming single-family neighborhoods in moderate and low resource areas into overcrowded, under resourced slums, while leaving affluent, predominantly white, high-resource areas largely unaffected. This is not just a matter of poor planning, it is a reinforcement of inequality, creating stark divisions between neighborhoods that already face limited opportunity and those that continue to thrive. This program deepens segregation, exacerbates systemic racism, and denies nonwhite San Diegans the just treatment they deserve. It's an unjust, harmful policy that must be called out for what it is, an intentional or unintentional assault on equity.

d. The Bonus ADU program when combined with the SDA blocks access to the highest resource areas, stacking the deck against those who need opportunity the most. By building six times as many ADUs in low resource neighborhoods, it gravely¹ restricts the chance for residents to live in thriving, high-resourced areas. This is the exact opposite of the AFFH mandate, it's a policy that entrenches inequality, pushing people into areas of deprivation while denying them the opportunity to live where they can truly thrive. This isn't just an oversight, it's a failure to live up to the promise of fairness and equal opportunity, AFFH.

e. The Bonus ADU program stands in direct contradiction to the San Diego General Plan housing element, and when paired with the Sustainable Development Area, it ruthlessly upzones low and moderate resource neighborhoods while leaving wealthier, predominantly white areas of the city virtually unaffected. This is not

¹ The word, "gravely," was chosen very intentionally as the evidence is irrefutable that the effects of inequity shorten lifespans.

RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

equitable growth, it's a systemic and deliberate action to conserve whiter neighborhoods and pushing the burden onto vulnerable communities, pushing those least fortunate into overcrowded, under resourced spaces, as affluent neighborhoods remain insulated from the burden of change. It's a glaring failure to create true, inclusive development and only deepens the divide between the low resourced areas and highest resource areas of San Diego.

f. The Bonus ADU program has a profoundly disparate impact on Chollas Valley and all low and moderate-resource areas across the city, while leaving high and highest resource areas largely unaffected. This program does nothing to invest in these communities; there are no impact fees; no infrastructure improvements; no upgrades to public services. Instead, it intensifies land use in the most vulnerable neighborhoods, putting even more strain on already overwhelmed resources, while wealthier areas remain shielded. It's not providing meaningful housing options in high-resource areas; rather, it's exacerbating the struggles of the people who need support the most. This isn't progress, it's a further deepening of inequality, leaving our most disadvantaged communities to bear the burden of the City's failures to adequately plan in accordance with AFFH.

San Diego's Bonus ADU program combined with the SDA is failing our most vulnerable residents, our seniors, our veterans, and every person in this city living with a physical disability. These programs, as they currently stand, are not just flawed, they are fundamentally noncompliant with the Americans with Disabilities Act of 1990. They are both in direct violation of the rights of disabled individuals, and are exacerbating the very housing crisis they claim to be solving.

The ADA was enacted over 30 years ago to guarantee equal access, to ensure that people with disabilities would not be marginalized, ignored, or left behind. But what do we see happening with the Bonus ADU program combined with the SDA? The City of San Diego is encouraging the rapid construction of small, investor driven units with no requirement for accessibility. No mandates for ramps to and from transit, no requirement of accessible parking. These units, crammed onto lots in already overburdened neighborhoods that are low and moderate resourced, are being built with one goal in mind: maximum profit for developers as is so eloquently outlined in the attached study throughout. Here is a quote from the summary on page 3: "Bonus ADU developers are able to keep their development costs relatively low and generate significant profit," no mention of ADA inclusivity for our community because SDA and ADA were not "studied" in this report.

This meets any reasonable definition of systemic exclusion. Building housing that is functionally inaccessible communicates to disabled residents that they do not belong--- that they must fend for themselves in a city that refuses to prioritize their right to safe, accessible housing.

And where is this happening? Not in the wealthiest neighborhoods with ample resources because those are not in the SDA, but in our low and moderate resource communities, the very places where accessible housing is needed most. The Bonus ADU program floods these areas with investor-owned rentals while failing to

RE: COMPLIANCE WITH AFFIRMATIVELY FURTHERING FAIR
HOUSING AND THE AMERICANS WITH DISABILITIES ACT

provide the infrastructure, transit, and public services necessary for people with disabilities to live independently and with dignity.

This is not equity. This is not fairness. And this is certainly not compliance with the ADA.

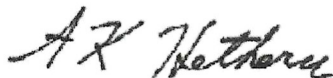
We urge the City of San Diego to take immediate action to comply with federal and state law and its own stated principles as stated in its Equity Element of municipal code. Mandate accessibility requirements for all new ADU developments, including the pedestrian path to and from any mass transit stop. Ensure that every resident, regardless of ability, has equal right to safe, affordable, and accessible housing in all areas of San Diego.

We should not allow our city to become a city where people with disabilities are pushed aside, ignored, and forced into housing that does not meet their needs. We should demand better. We should be laser-focused on our duty to comply, support and defend AFFH and ADA law. And we should demand a city that values every one of its residents, not just those who can afford to buy their way in.

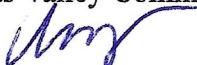
CVCPG urges your office to take decisive executive or legislative action by halting the Bonus ADU program and its reliance on SDA boundaries until a thorough review of their compliance with AFFH and ADA by the office of the City Attorney has been completed and its written findings made public. This will allow for a transparent, equitable assessment of whether these programs align with the city's responsibilities to protect fair housing and accessibility rights.

We appreciate your immediate attention to these pressing matters and look forward to expeditious updates on the actions your good office will take to address them. Confirmation of receipt of this letter is requested.

Andrea Hetheru, Chair
Chollas Valley Community Planning Group



Vinetia Jones, Corresponding Secretary
Chollas Valley Community Planning Group



Chollas Valley Community Planning Group (CVCPG) Meeting January 27, 2025. Voted approval in unanimous support of this letter. 12 approved, 0 denied

Enclosure: "Missing No Longer? Taking Stock of Local and Statewide Middle Housing Reforms in California" UC Berkeley Center for Community Innovation with University of Texas.