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Client Alert: Accessory Dwelling Units- An up-and-coming, yet well-known, housing option

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What do grandmothers, hip college kids, pandemic work-from home professionals, and history buffs have in common? A love of accessory dwelling units ("ADUs")! Commonly called granny flats, garage apartments, or carriage houses, ADUs have a long history as a form of housing in the United States. With the squeeze of COVID-19 on family resources, both financial and physical, the interest in ADUs is on the rise again.

So what is stopping people from building an outbuilding in their backyard and setting it up as an ADU? For most of America, the problem is outdated zoning laws. In the mid-twentieth century, planning moved toward the concept of single-family residential zoning, which does not permit construction of ADUs. Suburbs became the norm, and most jurisdictions decided to limit zoning to express use categories. Single-family residential meant just that – and no ADUs were permitted. There are plenty of jurisdictions that have started looking at this, and amending their land use laws to allow ADUs. Anyone who has visited Charleston, South Carolina has seen the plethora of old carriage houses behind the stately homes in the downtown area. Forward-thinking urban planners, who adhere to new urbanist or smart growth principles, again included ADUs in planned development districts, such as I'on, in Mount Pleasant, S.C. States (like New Hampshire) and municipalities (like Washington, D.C.) have also amended their zoning laws to allow ADUs as of right in single-family zoned areas, but this is a piecemeal and slow process.

ADUs allow homeowners to supplement their income, and thereby pay their mortgage payment, during difficult financial times. Extended family who may need additional care, but who may not be ready to move into assisted living facilities, can also reside in ADUs. In-fill development, to help with commute times, and to allow for more workforce and affordable housing options, also benefit from the allowance of ADUs. Groups as diverse as AARP, HUD, environmentalists, and developers have all advocated for ADUs to be included in zoning codes. This invites the question: what is stopping states, counties, and municipalities from quickly and efficiently changing their zoning laws to allow for ADU construction?

The arguments against ADUs tend to be entrenched in a mid-twentieth century way of thinking that rewards exclusionary zoning. There is a concern, even though unfounded, that allowing for ADUs will cause an undesirable result of increase in traffic, parking issues, noise, trash, crime, and "changes to the character of

neighborhoods." Just as the original Euclidean zoning had its roots in racism and white flight, some of these concerns echo considerations that should be far afield from good government policy today.

Looking specifically at the microcosm of Charleston, S.C., every jurisdiction handles ADUs differently. The county permits ADUs throughout the unincorporated area of Charleston County. Each municipality handles the idea differently. For example, North Charleston only permits garage apartments in conservation districts and in the historic district. Mount Pleasant allows ADUs in many more zoning districts with conditions, including the requirement that the owner live in either the main structure or the ADU, and on size (one per lot and no more than 850 square feet), number of occupants (3), off street parking, height limits (25 feet), and the structure must match the vernacular of the neighborhood. The beach towns in Charleston County run the gamut: none are permitted at all on Folly Beach; on Sullivan's Island, they are attempting to preserve historic structures 1200 square feet or smaller by allowing use as an ADU to prevent demolition; and, on the Isle of Palms, ADUs cannot have a kitchen and can only be rented as a package deal with the principal structure.

The City of Charleston recently passed changes to its laws concerning ADUs, and the thought process is interesting to follow. According to Ross Appel, Charleston City Council representative and local land-use attorney, the intent is to remove the impediments and to make it easier for people to build ADUs throughout the city. The burgeoning price point of housing in Charleston is a problem that ADUs can help solve; the whole purpose of ADUs is to increase the number of available places to live and thereby reduce the cost of housing. Additionally, City Council passed requirements that tie ADUs in Charleston to affordable housing criteria established by the city. Ultimately, based on my research of ADUs, this may eviscerate the intent in the first place: if people cannot afford to build ADUs by renting them at market price, then no ADUs will be built, and there will not be an increase in housing units to drive prices down. ADUs are already considered a more affordable in-fill style of development. It is my hope that the city will revisit the affordable housing requirements so that ADUs become a real option for the people of Charleston.

Lastly, the AARP has a great resource for landowners, planners, and government officials who may be interested in reading more about ADUs, including a potential model ordinance. This information is available at www.AARP.org/ADU. Take a look, and learn more about the benefits ADUs can offer your community.

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