



10/31/2025

Building Appeals Board
City of Rialto
150 S Palm Avenue
Rialto, CA 92376

ATTN: Building Appeals Board Members

Subject: Appeal of City's Denial of an Application to Legalization of JADU unit constructed prior to January 1st, 2020, according to Government Code 66332

Project Location: 1443 North Riverside Avenue Rialto, CA 92376 ("Property")

Dear Esteemed Board Members,

On August 21st, The City formally denied our request to legalize a junior accessory dwelling unit (JADU) located at the subject Property under the state ADU laws. We sought to utilize Assembly Bill 2533 (Carrillo, 2024), which amended Government Code § 66332 to allow for unpermitted JADUs built prior to 2020 to be permitted according to the provisions of that section, including affirmative requirements for the City to implement AB 2533 by January 1, 2025.

Under AB 2533, local agencies must provide a ministerial pathway to legalize such units if (1) the applicant demonstrates that a residential structure or dwelling space existed prior to 2020; (2) the structure meets minimum health and safety standards and is not substandard under Health & Safety Code § 17920.3; and critically, (3) the legalization does not require full compliance with current zoning, building, or state housing laws, including JADU law. The statute expressly limits local discretion to deny amnesty applications on zoning or code-nonconformance grounds and leaves broad latitude to establish the unit's pre-2020 existence. Accordingly, any denial of a qualifying unit must rest solely on specific, documented substandard conditions, not on retroactive code interpretations or discretionary judgments inconsistent with AB 2533's remedial intent.

Re: Appeal of Unlawful Denial of
Unpermitted JADU --
City of Rialto, October 31, 2025

Middle Housing Partners

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Despite this, the City of Rialto Building Department denied our application without (1) utilizing objective, non-discretionary standards to determine the date of the unpermitted unit, (2) inspecting the unit as required. The City moreover has yet to implement the provisions of AB 2533 as it is required to do so, which is a violation of the state ADU laws. Because the Building Official exercised clear error in their discretion, and the weight of our evidence is compelling, this Board must set aside the City's previous determination and accept our application for processing to inspect the unit for compliance with § 66332.

Background

On September 17, 2025, we responded to the City's denial and assertions as the City improperly denied the application pursuant to Government Code section 66332. Development Services Specialist Cody Clark states that, "[The] property and the Junior Accessory Dwelling Unit (JADU) in question do not meet the eligibility requirements under Government Code section 66332."

Then stated "Our permit and records search confirms that the space in question was originally an enclosed patio constructed without permits prior to January 2020. However, you did not provide sufficient evidence to establish that a dwelling unit was constructed prior to January 1, 2020. On the contrary, we have determined that the conversion of this space into a JADU occurred after January 2020. This determination is supported by photographic evidence, the timeline of ownership, prior code enforcement activity, structural modifications, and corroborating statements from the former tenant and Investor First Property Management. These records indicate the dwelling conversion occurred closer to 2023." The letter further states that, "In addition to the above, two new issues have been recently disclosed: "The primary dwelling has been converted into a duplex without the required permits. None of the units on the property are owner-occupied, which is a violation of Government Code section 66333(b)."

The City's final denial letter on September 25, 2025, from the Chief Building Official Juventino Garcia states that the City's pictures from 2023 purport to "show there is no established dwelling prior to January 1, 2020...given that the property records and previous enforcement actions have recorded this as an unpermitted patio enclosure, and the picture evidence clearly demonstrates that a dwelling was not in existence before January 1, 2020, and because the decision is objective and not an interpretation, the decision is final and not appealable."

The City offers the following pictorial evidence:



The letter further states that, "In further reviewing the property and case, the property and the JADU in question appears to be a substandard building where some of the conditions listed under Health and Safety Code 17920.3 appear to exist."

The statements and evidence offered by the Building Official do not support the findings as required. Moreover, our counterfactual evidence supports that the unit at the Property is an unpermitted JADU existing prior to 2020. Finally, the City is unlawfully denying our request and cannot delay our right to a timely final determination of an appeal of the Building Official's final determination.

We request that this board reverse its final determination to deny our application based on the following evidence and analysis presented.

- I. The City's conclusions regarding the Property's eligibility for amnesty under § 66332 are not supported by the record.

Regarding the City's "prior code enforcement activity," on March 25, 2025, Mr. Brandon Sanchez, the City's counsel, indicated to our legal counsel regarding the indicated citation that, upon concluding electrical work (BLDG 25-0507) "The citation is cancelled. Thank you for your help in getting this issue resolved." We believed this concluded the matter regarding the unpermitted work on the primary dwelling. Moreover, since we were making substantial repairs of existing unpermitted conditions, we utilized our best "third party" judgment to mitigate and immediately correct any potential substandard conditions to the previous unpermitted ADU in good faith and without waiving the fact that the unit was constructed as a dwelling, and sense become in disrepair, prior to 2020. We merely acted to comply as the ADU

amnesty law allows with property we acquired long after the unpermitted unit existed. §§ 66322(b); 66332 (d)(2), (f).

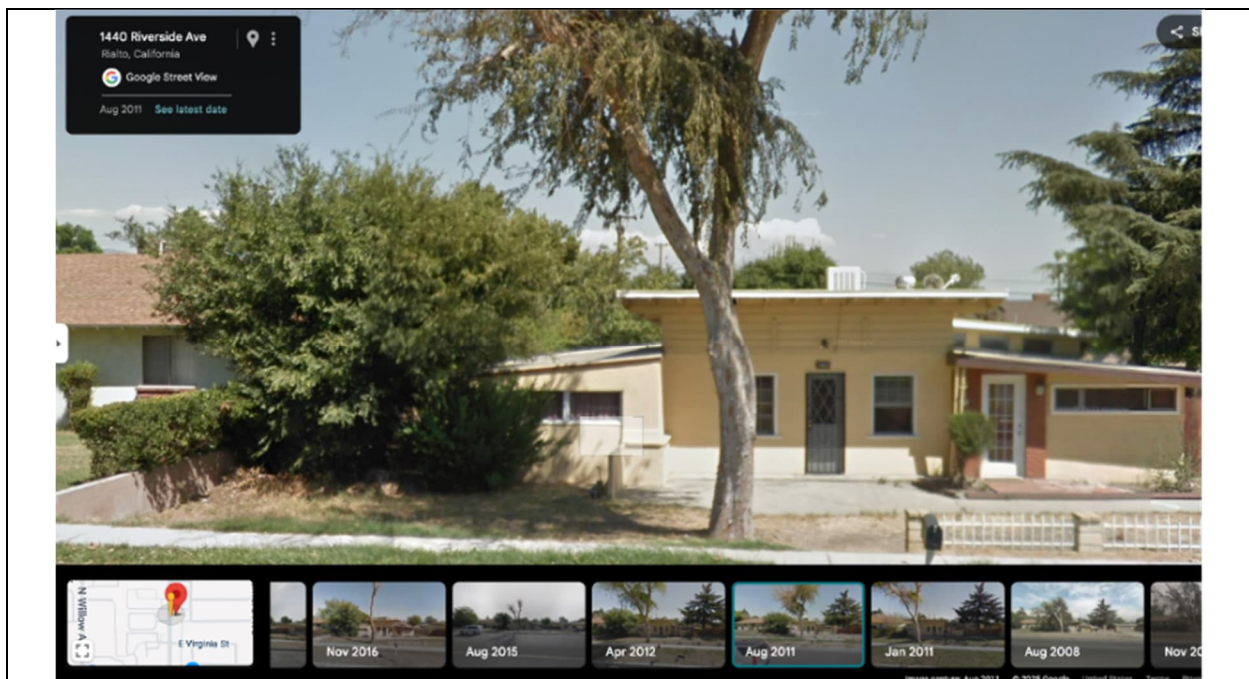
The City's pictorial evidence is paltry and unconvincing. While it claims there are code enforcement cases, it presents none of these in its final determination. Its evidence consists of two pictures which purport to show changes in the window structures. However, absence of evidence is not evidence of absence. In other words, the absence of all the elements that make up a dwelling unit is not evidence that the elements do not exist.

Moreover, units qualifying for amnesty expressly cannot be denied even if they do not comply with current State ADU Law, local ordinances, or the building codes, unless the building is substandard. Therefore, we have the burden to show a 'dwelling' existed prior to 2020. Based on our documentary evidence obtained when we purchased the property and from additional records, we can clearly show a dwelling of some sort existed prior to 2020.

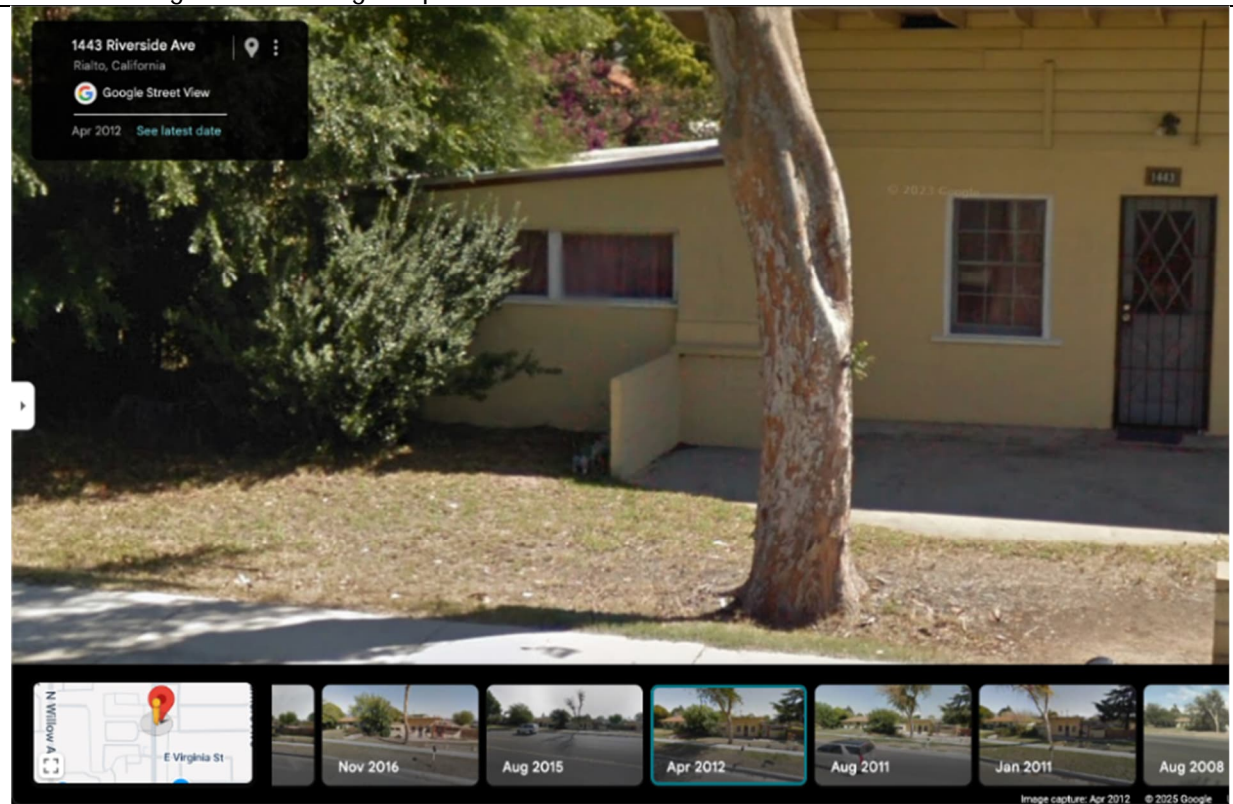
II. The evidence instead demonstrates that an unpermitted dwelling unit plausibly existed prior to 2020.

A. External photographic evidence indicates the building changes prior to 2020.

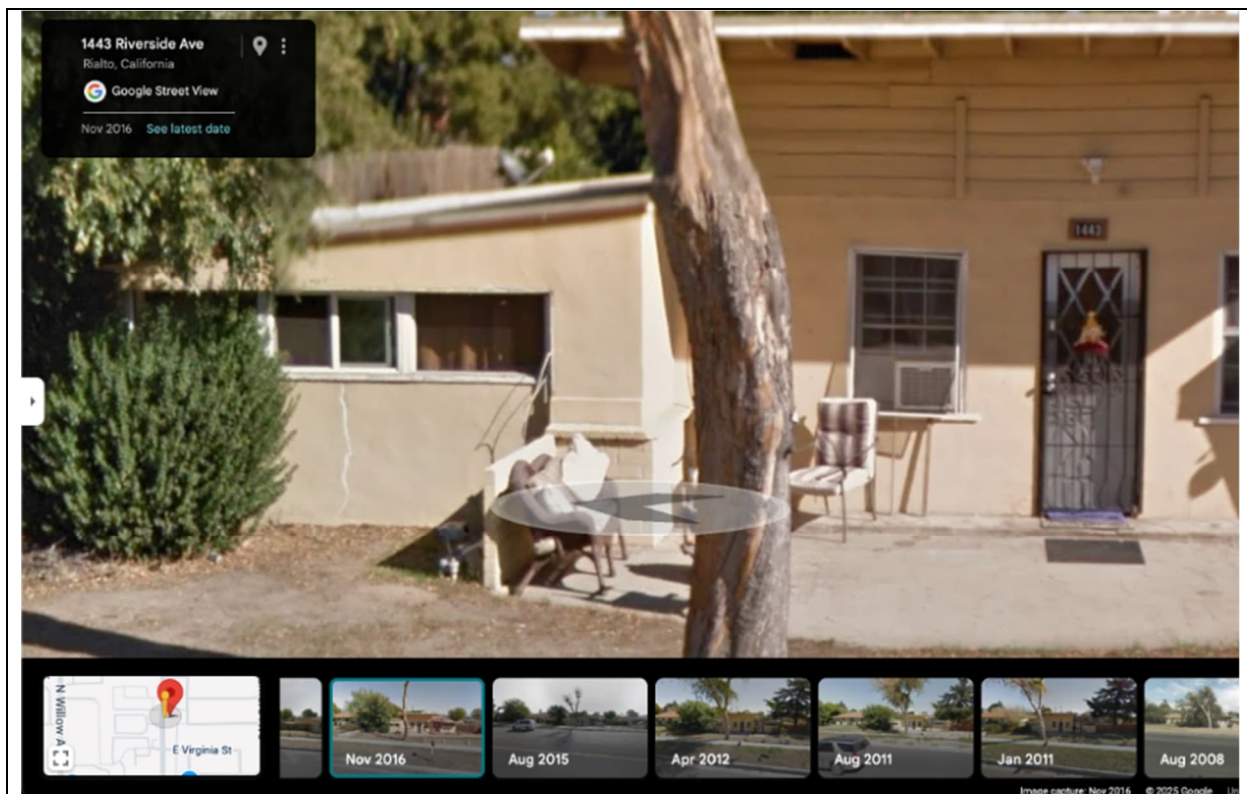
We provide clear and convincing Google Earth and photographic evidence showing the existence of an addition that served as a habitation prior to 2020.



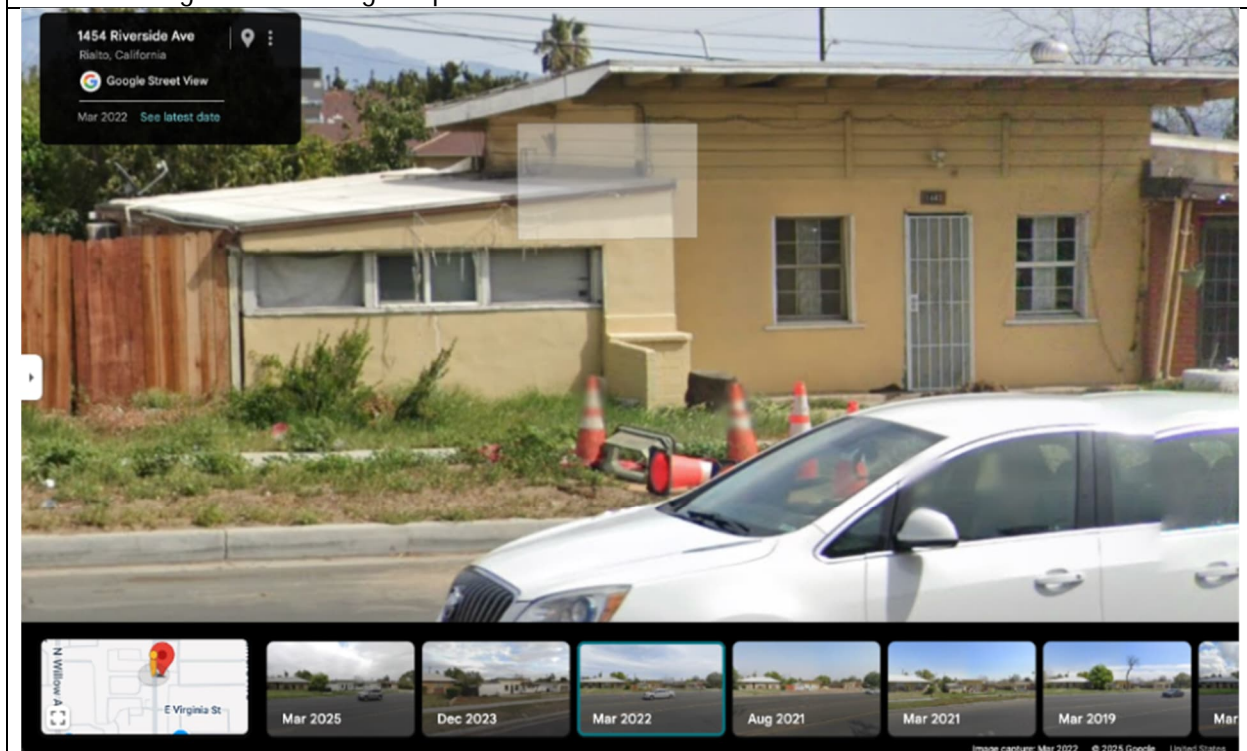
August 2011 clearly shows a room with windows and curtains installed. The dwelling unit existed from at least this time period.
Source: Google Street Image Capture



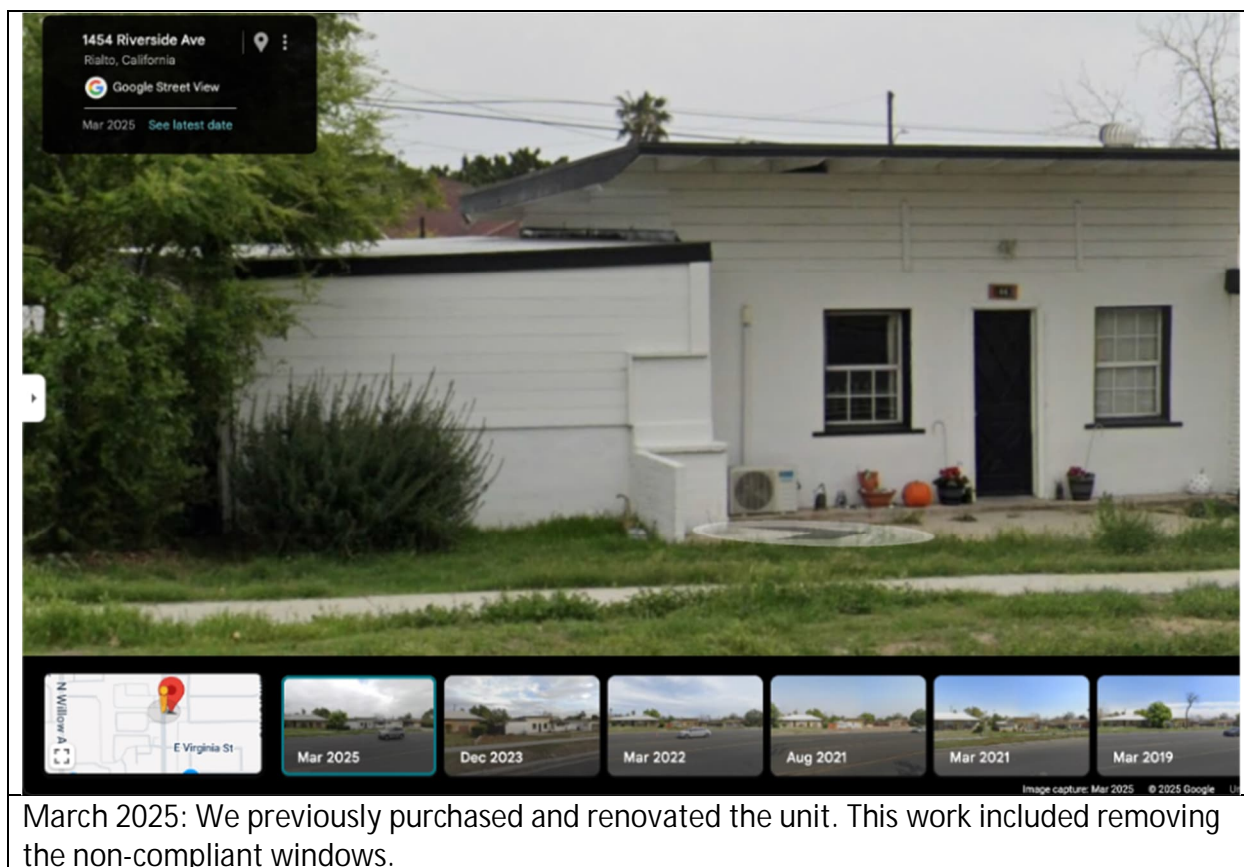
April 2012: Room with windows and curtains still present.
Source: Google Street Image Capture



November 2016: Room with windows and curtains still present.
Source: Google Street Image Capture



March 2022: Unpermitted addition still present, curtains removed, blocked out.
Source: Google Street Image Capture.



Critically, Governor Newsom’s office legitimizes our photographic methods in a recent Executive Order: “...[L]ocal agencies may consider, but are not limited to using, prior building permits, certificates of occupancy, county accessor data, Coastal Commission records, photographic sources, such as Google Maps and Light Detection and Ranging (LiDAR), and any other reasonably available sources of information accessible to the local agency.” Executive Department, State of California. *Executive Order N-20-25: State Permitting and Housing Laws* (attested Feb. 2025), available at California Governor’s Office website (Feb. 2025).

B. Internal graphical evidence obtained when we acquired the Property demonstrates the presence of a dwelling unit.

As part of our due diligence and underwriting process prior to acquiring a property, we photograph the property to visually reference the work and scope for rehabilitation and development. While we purchased the property in 2023, we began due diligence acquisition in Late 2022. The evidence we found shows a form of “kitchenette” or an attempt at an “efficiency kitchen” under JADU law. We also documented partial sanitation facilities, with access to the primary dwelling for additional sanitation facilities, as would also be allowed by JADU law.



November 25, 2022: Unpermitted unit with windows boarded up from interior
Source: Middle housing Partners



July 2023: Unpermitted JADU with closets for living space
Source: Middle housing Partners



November 25, 2022: There is a toilet and sewer facility within the unit and next to a door that connects to the primary dwelling.
Source: Middle housing Partners



November 25, 2022: A partial "kitchenette" in the JADU facing towards egress doorway
Source: Middle housing Partners



November 25, 2022: The unpermitted JADU contained a functioning range stove within the “kitchenet” area. Notice that the floor is consistent between photographs.

Source: Middle housing Partners

Given the totality of the context of the dwelling unit, while the state we acquired the Property did not meet tenant habitability standards, it nonetheless functioned as a dwelling unit, more akin to a JADU than an ADU.

The photographic evidence from the exterior of the dwelling tells the timeline of the general transition to an unpermitted unit and shows such permanence over time, until we took remedial action on the property.

Critically, § 66332 requires only that the unpermitted JADU “was constructed before January 1, 2020,” and not that no additional modifications, alterations or repairs occurred. § 66332(a). This provision in tandem with the ability for unpermitted JADUs to be non-compliant with building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code further supports that so long as when the local agency receive the application to permit an unpermitted JADU, (1) the JADU had to exist as some form of colorable dwelling unit, and (2) the building cannot be substandard. § 66332(a)(1), (b), (c). As elaborated below, in order to deem the building substandard, it must perform an inspection, § 66332(f).

In conclusion, the evidence presented supports that we are seeking to permit an unpermitted JADU that existed as such prior to January 1, 2020, and once the city inspects the unit as it is required to do is, we are confident that the City will not find a substandard building.

III. By raising the owner occupancy issue, the City Implicitly agrees that there is an unpermitted JADU

The City’s August 21, 2025, denial states that because “None of the units on the property are owner-occupied, which is a violation of Government Code section 66333(b).”

While owner occupancy for JADUs is generally required, first, it seems disingenuous that on the one hand the City denies an existing unpermitted JADU exists, and with the other, claim there is a JADU inconsistent with section 66333(b) on the lot. We take this to further indicate the City’s acknowledgement that a dwelling unit exists.

Subdivision (b) also states, “Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or *housing organization*.” (Emphasis ours). The Housing Accountability Act defines a housing organization as: “a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project.” *Cal. Gov. Code § 65589.5*. Since we are an industry group whose members primarily engage in construction and management of housing units, for such purposes we are a housing organization and therefore are exempt from the JADU owner-occupancy requirements. We remind the City that even if the JADU does not comply with Article 3 of the state’s ADU law, it must still proceed to legalization.

Finally, AB 1154 (2025), as signed into law, will exempt owner occupancy when the JADU otherwise meets the definition of an ADU when permitted, as is the case here. Therefore, as of January 1, 2026, owner occupancy for the proposed unit on the subject Property will be moot.

While the City removed this ground for denial in its September final determination, we nonetheless raise the issue as part of the administrative record that the City is making dubious claims regarding the unpermitted JADU at the subject Property and without accurate understandings of state law as applicable here.

IV. Only specific, objective findings regarding substandard conditions can suffice to deny the application, not mere conjecture

The Building Official claims that “the JADU in question appears to be a substandard building.” However, the law requires a determination to be made in accordance with findings based on a mandated checklist of items that would deem a building substandard and thus disqualify the JADU from amnesty through the ADU laws. § 66332(d). The mere “appearance” of substandard conditions cannot suffice for an actual finding based on actual objective standards rooted in Health and Safety code section 17920.3. Despite this, the Building Official substituted an objective standard for a subjective one, which is contrary to both the amnesty and state ADU Law more generally. §§ 66314(b), 66332(b).

Moreover, and to the extent that the City is basing its denial due to any perceived non-conformities with the primary dwelling, does so unlawfully. Local agencies cannot condition a permit for a JADU, “the correction of a violation on the primary dwelling unit, provided that correcting the violation is not necessary to protect health and safety.” HSC § 17920.12. Indeed, such violations would need to cause imminent threat to life and limb to rise to the level of “necessary to protect health and safety.”

Because the City has not provided a specific finding deeming the building at the Property substandard, the City’s denial on this ground is improper.

V. The City is in violation of the state housing laws, cannot deny our application, and the City must provide final written determination of our appeal not later than 60 days from when it received our request.

AB 2533 requires local agencies to implement a local ADU amnesty program and “inform the public about the provisions of this section through public information resources, including permit checklists and the local agency’s internet website, which shall include,” the

exhaustive substandard building checklist and informing homeowners about their rights to a third party code inspection. § 66332(d), ¶ (1) and (2). However, we cannot find any evidence that the City has implemented such a program. Indeed, its existing ADU and JADU ordinance is from 2020 and therefore is null and void as an operation of law. § 66316. We note that HCD recently found a City in violation for failing to demonstrate compliant implementation of AB 2533's provisions. Pg. 2, State of California, Department of Housing and Community Development, *Review of Walnut Creek's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law* (Gov. Code, §§ 66310–66342) (Aug. 25, 2025) ["City of Walnut Creek Ordinance No. 2246 (Oct. 15, 2024) received Oct. 31, 2024"].

If in fact the City has failed to implement the local program as required, and because it has not provided a checklist as required, the City's denial of any unpermitted ADU or JADU without utilizing such a checklist available to both parties in advance as governed by § 66332 is unlawful.

Furthermore, in the City's final denial letter, the Building Official claims that the decision is not appealable. However, all building permits in California are appealable, and applicants must be provided with a process to appeal. *Cal. Gov. Code § 65913.3(e)(1)*. A local agency must also "provide a final written determination by not later than 60 business days after receipt of the applicant's written appeal." § 65913.3(e)(2)(A). The 60 days are not tolled if the Board of Appeals decision would otherwise be appealable to the City Council. *Id.*

Given the fact that we initially requested the process for an appeal on September 17, 2025, and the City Attorney did not respond to our request until October 14, 2025, the instant appeal only amends our initial request and does not reset the clock. Therefore, if the City provides a final written determination after December 10, 2025, this will be a violation of the housing accountability act. § 65913.3(f).

Conclusion

Based on the foregoing, the City cannot deny our unpermitted JADU and must reverse the denial and grant our appeal to set aside the City's final determination and accept and process our application by inspecting the unpermitted JADU.

The City should provide a final written determination no later than December 10, 2025 to stay compliant with State housing laws.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Ingram', with a stylized flourish at the end.

Rob Ingram
Co-Founder & Principal Engineer
Middle Housing Partners
rob@middlehousingpartners.com