



County of Santa Cruz

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May 16, 2002

Agenda: May 22, 2002

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: REPORT ON USE OF PHRASE "SINGLE HOUSEKEEPING UNIT" IN THE COUNTY CODE

Dear Members of the Board:

On April 9, 2002, your Board accepted a report from this Office responding to certain legal questions raised during a prior hearing on the Tower Lodge project. At that time, your Board directed this Office to provide "a further report on the issue of living together as a single housekeeping unit."

The phrase single housekeeping unit is used in the definition of the term "Family" for the purposes of the County's Zoning Ordinance.

Family. One person living alone, or two or more persons related by blood or marriage or a group of not exceeding five persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit, in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house. County Code Section 13.10.700-F (Emphasis added.)

However, the phrase single housekeeping unit is not itself defined by the Zoning Ordinance. Neither is the phrase defined by State statute or regulation. There has been

occasion for the courts to consider its meaning.

In *Brady v. Superior Court* (1962) 200 Cal.App.2d 69, the Court of Appeals ruled that a trial judge lacked the jurisdiction to find a house owner, who allowed his son and a rent-paying friend to use his house as a single housekeeping unit, to be in contempt of a prior court order enjoining him from using his premises for any use other than as a single family dwelling as required by zoning ordinance. A single family dwelling was defined in the City's Code to mean "A detached building designed for or occupied exclusively by one family." The Brady court concluded that the City's definition was ambiguous, and that the trial court's interpretation was unsupportable, and acted to annul the trial court's contempt finding.

The prior injunction had resulted from the trial judge's narrow interpretation of the phrase "single family":

...a unit that has a social status, a head who has a right, at least in a limited way, to direct and control those gathered into the household, a moral or legal obligation of a head to support the other members and a state of at least partial dependence by the other members for this support. *Brady v. Superior Court*, **infra**, 200 Cal.App.2d at p.71

The *Brady* court rejected this construction as too narrow and instead interpreted the phrase "single-family dwelling" to be synonymous with "single housekeeping unit." The Court reasoned that a single housekeeping unit required the joint occupancy of the dwelling, including common rooms, such as the kitchen, dining room, living room by all of the occupants, but did not require consanguinity or affinity. The court stressed that the dwelling could not be "fragmentalized into broken bits of housing", or that the members' relationship be "organizationally" based, such as a social club or fraternity. *Brady v. Superior Court*, **infra**, 200 Cal.App.2d at p.78. Finally, the court noted that numerous jurisdictions throughout California employ the phrase "single housekeeping unit" within their definitions for "Family", though most employed numerical limitations. *Brady v. Superior Court*, **infra** 200 Cal.App.2d at p.80, fn.3.

The *Brady* court acknowledged that the City could have cured the ambiguities in its definition through a more precise ordinance, including the use of a numerical limit on the maximum number of persons authorized to reside in the dwelling.

However, while numerical limits may be established, they must not be based on unlawful classifications. The California Supreme Court in *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, ruled that a land use restriction which focuses on the identity of a dwelling's occupants (i.e., a biological family versus a group of unrelated individuals, or renters versus owner occupants), rather than the intensity of use to which the dwelling is put, may be unlawful.

REGULATORY OPTIONS


In order to address legitimate land use concerns, the County may establish "across-the-board" limits on population density in single-family dwellings if they are applied evenly to all households regardless of the consanguinity or affinity among its occupants.

The County may also continue to enforce the other provisions of the Code that do establish minimum standards for addressing particular impacts related to residential uses. These measures include police power ordinances such as zoning regulations or nuisance statutes. For example, Section 13.10.552 establishes the standards for off-street parking required for residential uses. In addition, standards for minimum lot widths, maximum lot coverage and floor area to lot area ratios, set-backs, maximum building height and story limitations are also established to address concerns related to residential density. Finally, special procedures, design guidelines and findings are required for new dwellings that are 7,000 square feet or greater in size. Similarly, a limit on the total number of bedrooms allowed within a single-family dwelling unit would be another type of regulation that could lawfully be enacted by the County as a means of addressing the problems of overcrowding.

IT IS THEREFORE RECOMMENDED that your Board accept and file this report.

By 
RAHN GARCIA
Chief Assistant County Counsel

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer