

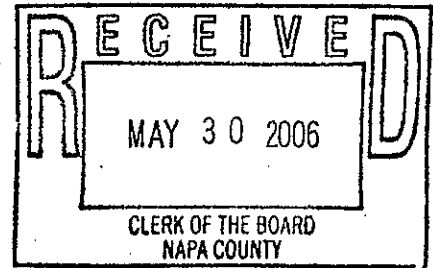


COUNTY of NAPA

OFFICE OF CONSERVATION, DEVELOPMENT & PLANNING

PLANNING DIVISION

May 26, 2006



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Mr. Randy Mihm
5851 Knoxville Road
Napa, CA 94558

Dear Mr. Mihm,

I am writing in response to your letter dated March 19, 2006 regarding housing mitigation fees related to Building Permit No. BO3-01984.

First, allow me to apologize for the delay in responding due to the number of people involved in obtaining the correct information and their ability to locate that information in a timely manner. Let me now reiterate my understanding of what has occurred over the past year or so related to this issue.

It appears that there are multiple issues to be addressed here. First, whether or not you should have been found to be exempt from paying these fees, for either income-eligibility or other reasons; second, whether or not you were inappropriately denied (or, at least, not properly informed) the right to appeal that decision.

Let me describe some of the key points related to the history of this situation, to the best of my understanding:

- The original house (designated as the "main residence" at the time since it was the only residence on the parcel) on your property (which, I believe, is occupied by your parents) is less than 1200 square feet in size, the County's upper limit for "second units".
- In October 2004, you pulled the above-referenced building permit for a new 3,600 square foot main residence (causing the original house on the parcel to be redesignated as a "second unit") and, at that time, paid the required housing mitigation fee of \$10,011.12 (based on an approximate construction cost of about \$500,000.00).

As far as I can tell, you took no action to request a waiver of the fee at that time; at least, we have no documentation of such a request (until many months later on November 23, 2005). The Code requires that such a request be made within 10 days of paying the fee (County Code Section 15.60.280.C). As such, you missed the appeal period by over a year.

Once submitted, the basis of your request appears to have been income eligibility (i.e. the fee shall "shall not apply to construction of a single dwelling unit which is the whole of a residential project and which is built and owned, and after completion occupied for two years, by a moderate income household. For purposes of this section, a dwelling unit shall be deemed "built" by its owner if it is built by or for a permit holder who intends to reside in the dwelling unit" (County Code Section

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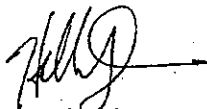
15.60.130). Your request was submitted to the Napa Valley Housing Authority (NVHA), a Joint Powers Agency which includes the County as a member.

- County staff became aware of this situation in December 2005, when we received questions from NVHA staff regarding the eligibility of a second unit for such an exemption. At that time, our legal advisors ruled that the concept of "the whole of a project" renders your project ineligible for consideration, regardless of income eligibility. In other words, building an additional unit on a single parcel that already has an occupied residence on it is not a situation that is eligible for such an exemption, according to Napa County Code sections 15.60.010, 130. This legal ruling is irrespective of the relative sizes or construction sequence or timing of the units in question.
- On January 17, 2006, the NVHA sent you a letter, essentially citing the ruling mentioned above and denying your request.
- Our County Counsel, even with the benefit of additional information that you have provided, still maintain the position cited above.

This letter reiterates the County staff's determination that County regulations do not entitle you to a refund of your housing mitigation fee. We are providing this determination in writing so that you may file an appeal according to the procedures outlined in Section 2.88 of the Napa County Code if you so desire. Please note that there are specific time limits and procedural requirements contained in this section of the Code which must be met in order to file a valid appeal.

For additional information concerning the County's requirements for filing an appeal or to obtain the required forms to file an appeal, please visit the County Executive Office at 1195 Third Street, Suite 310, in Napa or call 253-4580. Once again, I apologize for the delay in resolving this matter and look forward to hearing from you. If you have any questions, please call me at 253-4417.

Sincerely,



Hillary Gifelman,
Director

cc: Diane Dillon
Peter Dreier
Pamela Miller
Steve Lederer
Jenny Gomez
Howard Siegel