

Disclaimer:

Everything here is for informational purposes only and not for the purpose of providing legal advice. The views and opinions expressed in this program are those of the speakers and do not necessarily reflect the views or positions of any entities they represent.

January 28, 2019 OVSD Board of Directors Meeting states there will be no charges for ADUs

[Reg m 1-28-19.PDF\(ojaisan.org\)](#)

“Chairman Stone asked Mrs. Krout to conduct the second reading, pursuant to Government Code §36934, by title only, of Ordinance No. OVSD-80 — Amendment of Chapters 1 & 3 of the Ojai Valley Sanitary District Code of Regulations To Accommodate The Recent Accessory Dwelling Unit Based On Changes To State Law. Mrs. Krout conducted the second reading. Chairman Stone opened the public hearing for proposed Ordinance No. OVSD 80, at 6:02 p.m. Mrs. Krout, Clerk of the Board reported that no written communication from the public was received regarding the adoption of this Ordinance. Chairman Stone asked for public comment; no public comment was received. Chairman Stone declared the public hearing closed at 6:03 p.m. The Board reviewed and discussed the proposed ordinance. Mr. Palmer and Mr. Kwong responded to questions from the Board regarding the relationship of the proposed ordinance to the State laws addressing Accessory Dwelling Units (ADUs). **Mr. Palmer explained that the proposed ordinance mirrors the State law regarding ADUs but it is up to the City of Ojai and the County of Ventura to determine which units qualify as an ADU; each of these jurisdictions have different definitions and requirements to qualify as an ADU. Mr. Palmer explained that any units deemed by the City or County as an ADU will be processed as an ADU by the District, thereby no capacity fees will be charged to units deemed ADUs.**”

“ACTION Upon motion of Director Baggerly, seconded by Director Burg and passed by a majority 4 to 2 roll call vote, with Directors Quilici and Ulrich voting nay, Ordinance No. OVSD-80, Amendment of Chapters 1 & 3 of The Ojai Valley Sanitary District Code of Regulations To Accommodate The Recent Accessory Dwelling Unit Based on Changes To State law as a project was found to be statutorily exempt from CEQA environmental review in accordance with CEQA Guidelines (14 Calif. Code of Regs.) Section 15273 and the District’s Administrative Supplement to The State CEQA Guidelines; and District staff was directed to file a Notice of Exemption in accordance with CEQA Guidelines Section 15062; and Ordinance No. OVSD-80 was approved and adopted, with the provisions of the Ordinance taking effect and becoming enforceable on February 8, 2019.”

February 25, 2019

[Reg m 2-25-19.PDF\(ojaisan.org\)](#)

General Manager Comments Mr. Palmer updated the Board on various issues including the following: • Staff meet with County and City of Ojai staff to discuss the ADU issue with each of them — District staff is now moving forward with the permitting of ADUs.

March 25, 2019

[Reg m 3-25-19.PDF\(ojaisan.org\)](#)

General Manager Comments Mr. Palmer updated the Board on various issues including the following: • Staff is moving forward to start the processing of properties on the list of potential ADUs; this list was accumulated while the District's Ordinance was being revised; staff has a meeting scheduled this week to discuss the processing of the ADUs.

June 17th, 2019

[Sp m 6-17-19.PDF\(ojaisan.org\)](#)

General Manager Comments Mr. Palmer updated the Board on various issues including the following ADU issues — staff has worked through the majority of the properties on hold during the moratorium — to date 12 EDUs have been identified as qualifying for free capacity charges — staff is seeing a variety of ADU configurations, it is taking a lot of staff time to investigate each of these; most property owners are cooperative, a few aren't

November 21, 2019

[FINAL-Cal-APA-ADU-Webinar-11-21-19-Read-Only.pdf \(apacalifornia.org\)](#)

Impact Fees

ADU less than 750 square feet: none permitted

ADU 750 square feet or more: charged proportionately in relation to the primary dwelling unit square feet

Connection Fees and Capacity Charges

ADU or Junior ADU developed under Gov. Code Sec. 65852.2(e)(1)(A): no connection fee or capacity charge, and no direct connection between ADU and utility unless in conjunction with a new singlefamily home

All other ADUs: connection fee or capacity charge "proportionate to the burden" of the ADU and may require new or separate utility connections

December 31st 2019

Meeting with Permit Processor

Discussed Permit and fees related to ADUs in Oak View, CA

County of Ventura - Planning (approx.) \$584

County of Ventura – Building and Safety (approx.) \$500

County of Ventura - Building Permit (approx.) \$1200

County of Ventura – Flood Control Acreage assessment fee \$600

County of Ventura – Traffic Mitigation fee (approx.) \$300

Ventura County Fire Department – Fire Prevention (approx.) \$380

Ojai Unified School District – (@\$3.20/sqft) \$2838.40

Ventura River Water – Pay for cost of separate meter only \$1280.58

So Cal Gas Co – no fees for separate meter or installation.

So Cal Edison Co – no fees for connection/install, owner pays for meter separately

Ojai Valley Sanitary District – none

January 2, 2020

Called the OVSD to request a Will-Serve letter. Received an email requesting plans and a payment of \$16,498.82 Consulted California State ADU law... determined that these fees were contrary to State Law. SB-13 Accessory Dwelling Units – 65852.2

January 7, 2020

I responded with an email citing ‘The law states the ADUs cannot be burdened with additional utility fees of any kind.’

2020

Multiple communications with California Housing and Community Development Department in Sacramento. (Greg Nickless, 916-274-6244)

July 17, 2020

I sent OVSD the application for Sewer Service with plans showing my ADU will not make a direct connection to their District main line.

August 18, 2020

<https://adufees.com/wp-content/uploads/2022/11/200818-OVSD-to-RHV-Part-1.pdf>

<https://adufees.com/wp-content/uploads/2022/11/200818-OVSD-to-RHV-Part-1.pdf>

I received a letter from OVSD attorney Mr. Kwong.

November 23, 2020

[Ojai Valley Sanitary District's Accessory Dwelling Unit \(ADU\) Fees and Charges – Letter of Technical Assistance](#)

The HCD Legal Department sends rare Technical Assistance Letter, with copy to David Pai, DOJ, Office of the Attorney General, to the Ojai Valley Sanitary district informing them “The District’s regulations and current fee structure is not legally sound, subjects the District to significant legal risk, is serving a significant impediment to housing in this current housing crisis, and must be modified to conform to statute.”

“ADUs for which no separate “connection” may be required and no connection fee or capacity charge may be imposed”

“ADUs constructed entirely within an existing single family home or other accessory structure that satisfies the requirements of Government Code section 65852.2, subdivision (e), are exempt from any requirement to install a new or separate sewer connection; they are also exempt from connection fee or capacity charge (Gov. Code, § 65852.2, subs. (e)(1)(A) and (f)(4). See also HCD’s ADU Handbook1 September 2020, at pp. 13-14.) OVSD’s regulations appear to acknowledge these mandates under state law (District Code of Regulations, Chapter 3, s. 301.4.).”

The Technical Assistance Letter goes on to explain when an ADU can be charged a connection or capacity fee.

“ADUs for which a “connection” or “capacity” fee may be charged”

*“ADUs that are not described in Government Code section 65852.2, subdivision (e), may be subject to a **new utility connection directly between the ADU and the utility. If such a connection is mandated, then a fee or charges may be imposed** but shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed.”*

OVSD suspended fees for ADUs after receiving this Technical Assistance Letter from the California Department of Housing and Community Development.

February 1, 2021

<https://adufees.com/wp-content/uploads/2022/07/210201-OVSD-ADU-Applicaton.pdf>

<https://adufees.com/wp-content/uploads/2022/06/210201-OVSD-Will-Serve-Letter.pdf>

<https://adufees.com/wp-content/uploads/2022/09/201007-Material-Cost-Price-Increase-5116-due-to-delay-of-will-server-letter.pdf>

I submitted my plans again to the OVSD, still showing no direct connection to their utility, they then provided me with a Will-Serve Letter, which finally allowed the Ventura County Building and Safety Department to provide a Building Permit for the project. No fees were associated with this Will-Serve Letter, and no promise to pay was agreed to. This delay caused me significant increases in material fees since I hesitated to commit to the builders prior to having the permit (10/8/2020).

February 24, 2021

The OVSD inspected my lateral sewer line.

February 25, 2021

<https://adufees.com/wp-content/uploads/2022/11/210225-OVSD-033-0-190-075-Repair-Notice.pdf>

The OVSD sent me a 'Repair/Replacement of Lateral Required' letter mandating the complete replacement of my existing 150 foot lateral sewer line on my property.

March 30, 2021

<https://adufees.com/wp-content/uploads/2022/11/210330-OVSD-to-HCD.pdf>

The OVSD sent a letter to HCD advising them that they chose to use DFUs to calculate ADU fees. This is a 118 page document which explains on page 24, that an '**indirect connection**' to their system is a valid reason to charge capacity fees contrary to state law.

April 2021

The ADU is delivered, and setup begins. A short sewer connection was made between the ADU and the existing lateral as diagramed in the plans sent to the OVSD in February.

April 12, 2021

The replacement of the lateral line, as mandated in OVSD's February 25 letter, is completed. Expense paid for by owners.

April 26, 2021

<https://adufees.com/wp-content/uploads/2022/06/Ord-82.pdf>

OVSD passes and adopts Ordinance OVSD-82

In which this wording is included: *"Connection: A physical connection between any type of piping (or any other sewage conveyance system) not owned by the District to another type of piping which is directly or indirectly connected to the District's Sewage System."*

And

"Any provision in this Code in conflict with any provision of the governing codes of the State of California due to revisions made in such governing codes shall be automatically superseded by said revisions."

May 1, 2021

[OVN04-30-Granny-Flats.pdf \(adufees.com\)](#)

An article in the Ojai Valley News announces the OVSD will be issuing refunds and reduced payments totaling about \$100,000 to homeowners they wrongfully charged \$16,000 in capacity fees, by treating every ADU as a new dwelling.

May 24, 2021

An OVSD agent inspected my ADU, and counted the Drainage Fixture Units (DFUs)

May 25, 2021

Sent a copy of county approved plans by USPS mail to the OVSD as requested in the Will-Serve letter dated February 1st, 2021

June 23, 2021

<https://adufees.com/wp-content/uploads/2022/06/210623-New-Invoice-12653.08.pdf>

After receiving their will-serve letter with no mention of payment four months prior, we received a new invoice from the OVSD in the amount of \$12,653.08.

August 24, 2021

<https://adufees.com/wp-content/uploads/2022/09/210824-Official-NOV.pdf>

We received a Notice of Violation from the OVSD for unpermitted connection to the District's sewer system, and non-payment of fees.

November 8, 2021

We were notified of an administrative review hearing with the General Manager. (Jeff Palmer)

November 22, 2021

Attended the hearing. Stated on the record that their ordinance is in conflict with ADU law 65852.2.

November 29, 2021

<https://adufees.com/wp-content/uploads/2022/11/211129-GM-Appeal-Determination.pdf>

Received the General Manager's denial of appeal via email

December 8, 2021

Notice of Appeal is sent to the OVSD Board of Directors.

March 28, 2022

[220328 OVSD Final Appeal to Board WebX Recording.mp4 \(dropbox.com\)](#)

Obtained legal representation and attended the scheduled appeal hearing in front of the OVSD Board of Directors. The general manager stated that he only considered their own ordinance when determining to deny the original appeal. He explained that he did not consider if it complied with state ADU law or not.

"And the ruling that I made, as it relates to this case is based on our code. And that's based on 301 - 4 on page 139. And it lists exempt ADUs and non exempt ADUs. And if it's exempt, it's free. If it's if it's not exempt, then we charge it proportionally. So the appeal is based on our ruling appeal is not based on our interpretation of a state code."

"If the board wants to have a discussion, make some sort of ruling about whether or not our code complies with state law. That's different than the action that's before you tonight, before you tonight is really an action based on our interpretation of our code as it relates to this specific property. And we've spent a lot of time from the applicants perspective, basically saying our interpretation of state law is wrong. And so from a from a process standpoint, those are two different actions here before the board."

March 30, 2022

<https://adufees.com/wp-content/uploads/2022/06/220330-Notice-of-Determination-of-Appeal.pdf>

Received the Final Denial Notice of Appeal from the OVSD Board of Directors.

April 1, 2022

Requested a copy of the recording of the final appeal meeting.

June 29, 2022

[220705-Full-Filing-Package_reduced-Stamped.pdf \(adufees.com\)](#)

Filed a Writ of Mandate against the OVSD (56-2022-00567385-CU-WM-VTA)

Accessory Dwelling Unit Handbook (updated July 2022)

[HCD Accessory Dwelling Unit Handbook \(ca.gov\)](#)

*"(4)For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection **directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.***

*(5)For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection **directly** between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service."*

August 8th, 2022 Demurrer filed on the grounds that Petition was filed a day late

"A trial court has no jurisdiction to entertain section 1094.6 petitions unless they are filed on or before the 90th day after the local agency's decision." The facts show that the counsel for the plaintiff advised the plaintiff to file exactly on the day it was filed.

September 14, 2022 Opposition to the demurrer filed

September 28, 2022 Judge tentatively overrules the demurrer.

“The face of the petition does not show that the petition for writ of mandate is completely time-barred because there are no facts alleged to show that it is time barred under Code of Civil Procedure section 1094.6, subdivision (d). Respondent’s demurrer only addresses Code of Civil Procedure section 1094.6, subdivision (b). Judicial review may be had if the petition is filed within either time limit. (See Code Civ. Proc., § 1094.6, subd. (a).)”

November 1st, 2022 Judge overrules the demurrer.

“The Court’s tentative is adopted as the Court’s ruling.

Respondent, Ojai Valley Sanitation District, demurs to the petition for administrative writ of mandate. The demurrer is opposed. The demurrer is OVERRULED. The face of the petition does not show that the petition for writ of mandate is completely time-barred because there are no facts alleged to show that it is time barred under Code of Civil Procedure section 1094.6, subdivision (d). Respondent’s demurrer only addresses Code of Civil Procedure section 1094.6, subdivision (b). Judicial review may be had if the petition is filed within either time limit. (See Code Civ. Proc., § 1094.6, subd. (a).)

The court has considered the arguments raised in the supplemental reply. For purposes of this “clearly and affirmatively” on the face of the complaint; a demurrer based on the statute of limitations will not lie where the action may be, but is not necessarily, barred. (E.g., Committee for Green Foothills v. Santa Clara County Bd. of Supervisors (2010) 48 Cal.4th 32, 42; Geneva Towers Ltd. Partnership v. City of San Francisco (2003) 29 Cal.4th 769, 781.) Here, the face of the petition does not suggest that Petitioner failed to request a complete record of proceedings, and therefore the facts affirmatively pleaded do not show that the limitations period stated in subdivision (d) is inapplicable.

Nor is the court persuaded that it should take judicial notice of the non-occurrence of a material fact under these circumstances.

None of this is to suggest that the action may not be time barred. But if it is, that will need to be shown through the introduction of evidence at trial or at an evidence-based motion.

Respondent has filed an answer to the petition.

If desired, respondent shall have 14 days in which to file an amended answer, otherwise the action will proceed on the answer on file.

Respondent informs the court they will stand on the current answer.

Notice waived.

March 8th, 2023 Substitution of Attorney filed

My primary reason for this action is based on a significant error made by my then attorney, which had a detrimental impact on my case and its financial implications.

Specifically, my attorney advised me to file a petition one day later than the stipulated deadline. This oversight led to the respondent filing the demurrer with its unnecessary legal complications and additional costs, consuming the entirety of the funds I had set aside for the entire case. Consequently, this left me in a position where I had no choice but to represent myself in this matter, hence the substitution.

Due to the gravity of this oversight and its implications, I have filed a complaint with the California State Bar Association concerning my attorney's error. This mistake was so consequential that I ultimately decided to voluntarily drop the case against the respondent due to financial limitations.

May 5th, 2023 OVSD files Notice of Motion and Motion for Summary Judgement

"The motion is made on the grounds that the Petition is barred by the 90-day time limit for actions challenging the decision of a local agency set forth by Code of Civil Procedure section 1094.6."

June 6th, 2023 Plaintiff files Request for Dismissal

"Due to lack of financial resources"