

ATTACHMENT B

Excerpts from

2007 Accessory Dwelling Units Report to the Florida Legislature

Florida Department of Community Affairs

Executive Summary

In 2004, the Florida Legislature revised the Local Government Comprehensive Planning and Land Development Regulation Act (also known as the Growth Management Act) to include a section (§163.31771, Florida Statutes) to promote the use of accessory dwelling units as an affordable rental option for very-low-, low and moderate-income residents. The Section was amended in 2006 to include extremely-low-income residents.

Section 163.31771(2)(a), F.S., defines an accessory dwelling unit as “an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.” Accessory dwelling units are also known as accessory apartments, garage apartments, granny flats, and mother-in-law flats.

Recognizing a shortage of affordable rentals within many jurisdictions, the Legislature encouraged local governments to adopt ordinances to authorize the construction of accessory dwelling units within zoning districts that allow single family residential use. Further, these ordinances would require that the building permit application for an accessory dwelling unit be accompanied by an affidavit from the applicant attesting that the unit will be rented at a rate affordable to the targeted populations. Additionally, accessory dwelling units allowed by such an ordinance would apply toward satisfying the affordable housing component of the housing element in the local government’s comprehensive plan under §163.3177(6)(f), F.S.

The Department of Community Affairs’ *2007 Accessory Dwelling Units Report to the Florida Legislature* evaluates the effectiveness of using accessory dwelling units to address a local government’s shortage of affordable housing and reports the number of ordinances adopted by local governments and the number of accessory dwelling units that have been created under the provisions of §163.31771, F.S.

To evaluate the effectiveness of the statute’s implementation and the use of accessory dwelling units to address local governments’ shortage of affordable housing, the Department conducted an online survey, online research, and telephone interviews. In addition, the Department examined how accessory dwelling units have been used by communities in other states.

The Department’s research encompassed 290 local governments, 61% of the total number of municipalities and counties in Florida. These communities are home to 75% of the state’s population. They also include the urban areas where the legislative findings indicate: “the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to extremely-low-income, very-low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals (§163.31771, F.S.).”

The Department determined:

- » There are 43 communities where accessory dwelling units are authorized, but the governing ordinance does not further the aims of §163.31771, F.S. (i.e., there are no provisions that limit the accessory dwelling unit rentals to extremely-low- to moderate-income persons).
- » Local zoning codes vary with respect to how an accessory dwelling unit may be used. In some communities, rental of accessory dwelling units is prohibited or occupancy is limited to family members or employees of the primary homeowner. There are 109 communities where accessory dwelling units are authorized but are not available for rental or where occupancy is limited to single-family residence.
- » There are 131 communities that do not authorize or reference accessory dwelling units as an allowable or conditional use in the zoning code.
- » Local zoning codes vary regarding whether accessory dwelling units are permitted versus conditional uses. Conditional use zoning is a technique that can afford a community the flexibility to assess a development's design and location as a means to limit potential adverse impacts to the permitted (or use of right) activities, but because conditional use applications are reviewed on a case-by-case basis the process may not provide applicants as much certainty as a permitted use zoning process. It should be noted that zoning codes may vary in order to reflect the needs and desired outcomes of the particular community.

The Florida Legislature enacted §163.31771, F.S., so that accessory dwelling units could be used in conjunction with rental rate limitations that would make the units affordable for extremely-low- to moderate-income persons, thereby addressing deficits in the stock of affordable rental housing. **However, the Department's research indicates that only the City of Key West has adopted an ordinance that contains provisions to limit accessory dwelling unit rental rates for the targeted populations.**

The Department conducted an online survey of local government planning and housing officials, the private sector, and housing advocates. The survey generated 326 responses. Fifty-six percent of public sector officials responded favorably about providing accessory dwelling units and supporting them in the future.

About 64% of the private sector (builder and developers) currently supports or may support accessory dwelling units in the future. The Department also conducted research to determine the number of accessory dwelling units that were created under the provisions of §163.31771, F.S. The Department received 86 responses. Twelve of the 86 government respondents provided figures (including zero). A total of 55 accessory dwelling units have been approved and constructed.

Appendix I from the Accessory Dwelling Report to the Florida Legislature.

Section 163.31771, Florida Statutes

Section 163.31771, Florida Statutes: accessory dwelling units. –

1 The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to extremely-low-income, very-low-income, low income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for extremely-low-income, very-low-income, low-income, or moderate-income persons.

- 2** As used in this section, the term:
- a.** “Accessory dwelling unit” means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.
 - b.** “Affordable rental” means that monthly rent and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for extremely-low-income, very, low-income, low-income, or moderate-income persons.
 - c.** “Local government” means a county or municipality.
 - d.** “Low-income persons” has the same meaning as in s. 420.0004(10).
 - e.** “Moderate-income persons” has the same meaning as in s. 420.0004(11).
 - f.** “Very-low-income persons” has the same meaning as in s. 420.0004(15).
 - g.** “Extremely-low-income persons” has the same meaning as in s. 420.0004(8).
- 3** Upon a finding by a local government that there is a shortage of affordable rentals within its jurisdiction, the local government may adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.
- 4** If the local government adopts an ordinance under this section, an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low income, low-income, or moderate-income person or persons.
- 5** Each accessory dwelling unit allowed by an ordinance adopted under this section shall apply toward satisfying the affordable housing component of the housing element in the local government’s comprehensive plan under s. 163.3177(6)(f).
- 6** The Department of Community Affairs shall evaluate the effectiveness of using accessory dwelling units to address a local government’s shortage of affordable housing and report to the Legislature by January 1, 2007. The report must specify the number of ordinances adopted by a local government under this section and the number of accessory dwelling units that were created under these ordinances.

History.--s. 2, ch. 2004-372; s. 2, ch. 2006-69.