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REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

CONSENT
February 19, 2008

Honorable Members of the
Law and Legislation Committee

Title: An Ordinance Amending Section 8.100.120 of Title 8 of the Sacramento City Code Relating to the Housing Code Advisory and Appeals Board

Location/Council District: City-wide

Recommendation:

Staff recommends that the Law and Legislation Committee approve and forward to the full City Council for adoption an ordinance amending section 8.100.120 of Title 8 of the Sacramento City Code relating to the Housing Code Advisory and Appeals Board.

Contact: Max Fernandez, Director of Code Enforcement, (916) 808-7940; Ron O'Connor, Code Enforcement Manager, (916) 808-8183

Presenter: Ron O'Connor, Code Enforcement Manager, (916) 808-8183

Department: Code Enforcement

Division: Housing & Dangerous Buildings

Organization No: 4653

Description/Analysis

Issue: Sacramento City Code section 8.100.120 provides that the building official shall be an ex officio member of the Housing Code Advisory and Appeals Board. Ex-officio members of boards and committees generally have exactly the same rights and privileges as do all other members of such boards and commissions, including the right to vote. Due process concerns are raised by having the building official serve as an ex officio member of the appeals board that hears appeals of Housing Code and Dangerous Buildings Code cases that were prepared by staff members under the direction and supervision of the building official. .

Although the past practice of the Housing Code Advisory and Appeals Board has been for the building official not to cast a vote on matters that come before the Board, the building official, as an ex officio member of the Board, nevertheless does have the right to vote.

Policy Considerations: Consistent with Due Process considerations, this ordinance removes the building official as an ex officio member of the Housing Code Advisory and Appeals Board thereby eliminating any perceived or potential partiality by the Board with respect to appeals that come before the Board.

Environmental Considerations: This staff recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Section 15061 (b)(1) and 15378(b)(3) of the CEQA guidelines.

Rationale for Recommendation: Removing the building official as an ex officio member of the Housing Code Advisory and Appeals Board will help to instill confidence in the public that they will receive a fair and impartial hearing when they appear before the Board.

Commission/Committee Action: On January 9, 2008, the Housing Code Advisory and Appeals Board unanimously adopted a resolution supporting the proposed ordinance.

Financial Considerations: Not applicable.

Emerging Small Business Development (ESBD): Not applicable. No goods or services are being purchased.

Respectfully Submitted by: _____
Max Fernandez
Director of Code Enforcement

Recommendation Approved:

for _____
RAY KERRIDGE
City Manager

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Attachment 1

BACKGROUND

The Housing Code Advisory and Appeals Board consist of five members who are not City of Sacramento employees. In addition, Sacramento City Code Section 8.100.120 designates the building official as an ex officio member. As an ex officio member of the Board, the building official has the right to vote on matters that come before the Board, although the building official typically does not cast a vote. This ordinance removes the building official as an ex officio member of the Board, thereby eliminating any perceived or potential partiality by the Board with respect to appeals that come before the Board. The building official or designee will remain as secretary to the Board and may offer technical assistance to the Board.

Attachment 2

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTION 8.100.120 OF TITLE 8 OF THE SACRAMENTO CITY CODE RELATING TO THE HOUSING CODE ADVISORY AND APPEALS BOARD

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 8.100.120 of Title 8 of the Sacramento City Code is amended to read as follows:

8.100.120 Housing code advisory and appeals board—Established—Composition—Appointment.

In order to provide for final interpretation of the provisions of this chapter and to hear appeals provided for hereunder, there is established a housing code advisory and appeals board (hereinafter referred to in this chapter as "the board") consisting of five members who are not employees of the city. The building official or his or her designated representative shall act as secretary to such board. The board shall be appointed by the mayor with the approval of the city council.

Attachment 3

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