

## Bobbie Walthall

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**To:** Scott McCullough  
**Subject:** RE: Accessory Dwelling Units

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**From:** no kona [\[mailto:hillberger32@hotmail.com\]](mailto:hillberger32@hotmail.com)

**Sent:** Tuesday, August 06, 2013 11:09 AM

**To:** [mdever@sunflower.com](mailto:mdever@sunflower.com); [mikeamyx515@hotmail.com](mailto:mikeamyx515@hotmail.com); [voteyourselfafarmer@gmail.com](mailto:voteyourselfafarmer@gmail.com); [riordan346@gmail.com](mailto:riordan346@gmail.com); [schummfoods@gmail.com](mailto:schummfoods@gmail.com)

**Cc:** Scott McCullough; Kirk and Jeannie; [pminkin@juno.com](mailto:pminkin@juno.com); [mary@mcarsonlaw.com](mailto:mary@mcarsonlaw.com); [slopes1@aol.com](mailto:slopes1@aol.com)

**Subject:** Accessory Dwelling Units

City Commissioners,

I am writing to ask you to approve the Planning Commission's denial of the proposed change to RS5 zoning district regarding accessory dwellings.

I represent the common man/women. When we buy a home our real estate discussions are about the simple single family or multifamily neighborhoods. I live in Old West Lawrence (OWL) which is zoned single family, and to me the common women, this means one family. RS5 is the smallest existing single family zone and the only existing RS zone that does not allow Accessory dwelling units.

There is a path in OWL for separate units for home offices, family members such as mother-in-laws and adult children, etc. We have multiple examples built recently for these purposes.

To allow an Accessory Dwelling Unit for a non-family member means there is a second unit. When there is a second unit, to me the common women, then this is not single family zoning, it is zoning for duplexes/multifamily. To allow multiple units means there is no more existing single family zoning through out Lawrence.

Single family zoning is critical to Lawrence. It communicates an expectation of One Family. Complicating the concept or fundamentally changing the key zoning expectation will scare away those you hope to attract to live in our city or who already live here. It would be a shame if Lawrence has not one existing true single family zone. Keep single family zoning as single family.

My request is that you approve the Planning Commission's denial of the proposed change to RS5 zoning districts regarding accessory dwellings.

Tresa Hill  
705 Tennessee  
842-9938

CC: Scott McCullough  
OWLA Officers

## **Bobbie Walthall**

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**From:** Laura Routh <lauridi@hotmail.com>  
**Sent:** Wednesday, August 07, 2013 7:31 PM  
**To:** mike dever; mikeamyx515@hotmail.com; bob schumm; jfarmer83@gmail.com; riordan346@gmail.com; David L. Corliss; Bobbie Walthall  
**Cc:** candy davis; dan dannenberg; steve braswell  
**Subject:** Correspondence from LAN regarding Accessory Dwelling Units

**Date:** August 7, 2013

**To:** Mayor Michael Dever and City Commissioners Amyx, Farmer, Riordan, and Schumm

**Cc:** David Corliss; Bobbie Walthall

**From:** Laura Routh, Chair, Lawrence Association of Neighborhoods (LAN)

**RE:** Proposed Text Amendment regarding Accessory Dwelling Units in RS5 zoned districts within the City of Lawrence

At its August 2013 meeting, the Lawrence Association of Neighborhoods (LAN) voted, unanimously, to communicate to you our support for the Planning Commission's denial of the proposed text amendment to allow accessory dwelling units (ADUs) within RS 5 zoning districts.

LAN believes that allowing ADUs in RS 5 districts (which would include Old West Lawrence, Pinckney, and North Lawrence neighborhoods) will damage the value of single family zoned properties.

As we understand it, RS 5 is the last remaining zoning district without ADUs.

LAN believes that the current zoning status, without ADUs, should be maintained for the preservation of RS 5 neighborhoods.

**We ask you to uphold the planning commission's vote on this matter, and reject the text amendment proposed.**

We respectfully request that you include this correspondence in the packet for next week's August 13, 2013 City Commission meeting.

We appreciate your consideration of our comments. Thank you for your continued service to the citizens of Lawrence.

Sincerely,

Laura Routh

Chair, Lawrence Association of Neighborhoods

979-3918



Old West Lawrence Association  
Kirk McClure, President  
mcclurefamily@sbcglobal.net

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April 18, 2013

Mayor Michael Dever	<a href="mailto:mdever@sunflower.com">mdever@sunflower.com</a>
Vice Mayor Mike Amyx	<a href="mailto:mikeamyx515@hotmail.com">mikeamyx515@hotmail.com</a>
Commissioner Jeremy Farmer	<a href="mailto:voteyourselfafarmer@gmail.com">voteyourselfafarmer@gmail.com</a>
Commissioner Terry Riordan	<a href="mailto:riordan346@gmail.com">riordan346@gmail.com</a>
Commissioner Bob Schumm	<a href="mailto:schummfoods@gmail.com">schummfoods@gmail.com</a>

Re: **Agenda for City Commission Meeting August 13, 2013**  
**Consider Text Amendments to the City of Lawrence Development Code**  
**Permitting Accessory Dwelling Units in RS5 Zones**  
**Planning Commission Recommends Denial**

Commissioners,

The City Commission is considering whether it should amend the Development Code permitting Accessory Dwelling Units (ADUs) in RS5 zones. The Old West Lawrence Association recommends that the City Commission affirm the Planning Commission's recommendation that the amendment be denied.

*Potential for Abuse*

Old West Lawrence is among the most densely developed single-family zones in the City. It is largely zoned RS5. Duplexes are not permitted in RS5 zones. The Old West Lawrence Association has consistently supported the preservation of our neighborhood as a single-family district.

The proposed amendment offers too many opportunities for abuse. A developer could purchase a single-family home with no intention of becoming an owner-occupant. The developer could split the unit into two apartments, making a tenant a temporary part of the ownership entity so as to meet the letter, but not the intent, of the proposed amendment. In effect, the ADU amendment becomes a mechanism to convert single-family homes into rental duplexes hurting the single-family character of the neighborhood.



*Recommendation*

The Old West Lawrence Association recommends that the City Commission uphold the decision of the Planning Commission that the amendment be denied.

Yours truly,

A handwritten signature in black ink, appearing to read "Kirk McClure". The signature is written in a cursive style with a horizontal line extending to the right.

Kirk McClure, President  
Old West Lawrence Association

RECEIVED

JUL 22 2013

City County Planning Office  
Lawrence, Kansas

Dear Planning Commissioners,

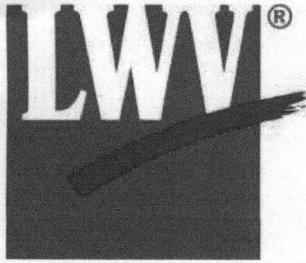
7-21-13

The Lawrence Association of Neighborhoods, LAN, has voted to support OWL and all single-family neighborhoods in drafting an Accessory Dwelling Unit (ADU) code that will protect the peaceful nature of single-family zoned neighborhoods. Single family implies one family. This is not rental zoning. The intention of an ADU should be to allow minor flexibility for families living in our city-wide single-family neighborhoods to use their property in a judicious manner in keeping with “family” zoning expectations. It is imperative that the principal owner on record is the primary resident of the house or the accessory dwelling unit. The use of such units should be restricted to family members or supportive caregivers for family members.

There are many opportunities for investors to buy and rent property in more densely zoned neighborhoods. The enticement to buy in single-family neighborhoods is due to the fact that the houses are in better condition and thus more desirable than units in rental neighborhoods. Some unscrupulous investors have purchased houses in single-family neighborhoods and rented to more unrelated individuals than is allowed by city code. This was covered in recent years in an extensive LJ World article.

It would seem to be a simple solution for ADU's to make it mandatory that the principal owner on record is the primary resident of the house or the accessory dwelling. LLC's or corporations should not qualify as an owner occupant. If this code is changed from it's present form, please include language that makes these stipulations clear. Loop-holes left open will be discovered and used to economic advantage by non-neighborhood residents.

Thank you for your consideration, Laura Routh LAN Chair



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY

RECEIVED  
JUL 22 2013  
City County Planning Office  
Lawrence, Kansas

July 21, 2013

To Mr. Bryan Culver, Chair, and Members of the Lawrence-Douglas Co. Planning Commission

RE: AGENDA ITEM NO. 6, TA ON ACCESSORY DWELLING UNITS

In our letter to you in June regarding the Text Amendment to Accessory Dwelling Units, we pointed out that the original concept of accessory dwelling units was to aid families owning and living in single family homes who needed living space for elderly relatives. It was later broadened in our new Land Development Code to include the concept of providing expanded living space to homeowners to encourage owner-occupancy. It was never intended to become a threat to home owners and neighborhoods, which the current uncertainty about the term owner-occupancy and its relationship to permitting accessory dwelling units would create.

A high percentage of home owner-occupancy is desirable and recognized by urban planners because it provides stability to a neighborhood. The reason is because owners who live in their homes gain income from this ownership only upon selling it after maintaining their property in good condition and contributing to the stability of their neighborhoods. Therefore, they have an inherent incentive to do this. Absentee owners, on the other hand, gain income from their property through a stream of payments by renters, and this income isn't necessarily totally dependent on properly maintaining the property in good condition. Thus a high percentage of rental property in a neighborhood tends, without other measures, to lead to its deterioration. It is for this reason that any uncertainty and the wrong incentives are viewed by single family neighborhoods as threatening their stability.

Regarding a lack in our Land Development Code, the term "owner-occupancy" has not been defined in the Terminology Section 17. Only the term "owner" has been defined. At the June Planning Commission meeting it was pointed out that this allows corporate ownership to also mean a non-human owner-occupier, which, in turn raised the possibility, because of the ambiguity of terms, that a home that is owned by a corporation could qualify for an accessory dwelling without having a bone fide flesh-and-blood occupant-owner. This could lead ultimately to actual absentee ownership but with technical owner-occupancy and the incentive to convert single family homes to rental properties legally having two rental units. This is why owners living in their homes in single family districts feel threatened by this section on accessory dwellings in Section 20-534.

The staff has returned with the definition of "owner" as it applies to accessory dwelling units that would allow in a case where the **"...owner is not a natural person, then either the principal Dwelling Unit or the Accessory**

- Co-President  
David Burress
- Co-President  
Cille King
- President-Elect  
Cille King
- Vice President  
marci francisco
- Secretary  
Caleb Morse
- Treasurer  
Marjorie Cole
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- Caroljean Brune
- Scott Criqui
- James Dunn
- Ruth Gibbs
- Midge Grinstead
- Marlene Merrill



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY  
Page 2

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**Dwelling Unit must be occupied by one or more principals of the Owner.”** (Proposed amendment to Section 20-534(2)(iv))

We are greatly concerned with this new addition to the section and ask that you not accept this as a text amendment for the following reasons: Any term applied to a type of ownership that allows the “owner” to be described as “**other than a natural person**,” regardless of the meaning of the term “principal” opens up the invitation to elaborate on the interpretation. This could result in allowing absentee “ownership” with the same unfortunate consequences as any absentee ownership whose purpose is income from both units. It would essentially provide incentive to transform current and future neighborhoods having a high percentage of owner-occupancy of real live people into properties with absentee owners occupied by some varied interpretation of the term “principal.”

**The permission to add an “attached dwelling unit” is a privilege, not a right.** It requires real, live people who legally own a recorded deed to the property in their legal names and who actually live in the home on the property, i.e., owner-occupancy, and does not in the understanding of the term include “other than a natural person.” Therefore, we suggest the following to make the term owner-occupancy unambiguous:

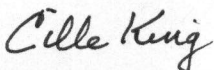
Add two definitions of “owner-occupancy” in Section 17, page 17-13 after the definition of “owner.”

(a) “**Owner-occupancy, general** can include in its meaning a corporate or similar ownership that does not include a natural person. This does not include eligibility to apply Section 534 to any structure which is occupied as defined under this definition.”

(b) “(2) “**Owner-occupancy, specific** means “a natural person or persons whose legal name(s) are on the recorded deed as individual natural persons and owners of the property in which they reside. These natural persons are eligible to add Accessory Dwelling Units to their homes, provided they have conformed to Section 20-534 and all other applicable laws of the City of Lawrence Land Development Code.”

If these two definitions, or similar wording with the same meaning, cannot be added to the definitions, Section 20-1701, then we ask that you completely eliminate Section 20-534(2)(iv)) from the Land Development Code based on the threat that it would pose to all of our present and future single family neighborhoods.

Sincerely yours,

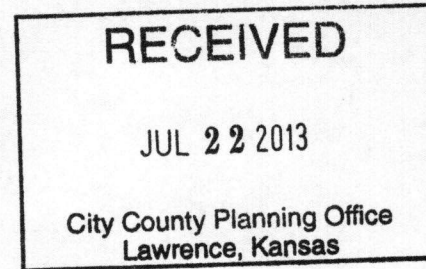


Cille King  
President



Alan Black, Chairman  
Land Use Committee

TO: The Lawrence/Douglas County Planning Commission  
FROM: Jim O'Malley  
RE: Accessory Dwelling Unit Text Amendment  
DATE: July 20, 2013



I live at 626 Ohio Street, in Old West Lawrence, which is zoned RS-5.

**One.** Is there any reason to extend Accessory Dwelling Unit use to RS-5 districts? They are pretty dense already, and there has been no demand for it so far; the folks who requested the text amendment said they don't even plan to put in an ADU, but only want to have it available in case they might want one in the future. Perhaps the sensible thing would be to wait until someone has a specific project in mind.

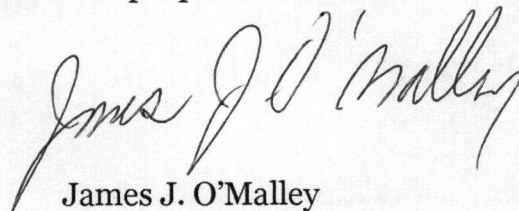
**Two.** It makes no sense to allow corporate ownership of homes with Accessory Dwelling Units. Accessory Dwelling Units were clearly intended only for actual living breathing homeowners who actually live on the property, and not for corporations and other business entities that don't live or reside anywhere.

The Accessory Dwelling Unit concept began as a recommendation by the League of Women Voters, and was enacted by the City in 2006. The League's June 23, 2013 letter to the Planning Commission states: "[I]t never occurred to us that the term "owner occupant" could be construed as being a corporate owner. "The letter makes it clear that Accessory Dwelling Units were intended only to be available to actual living breathing homeowners.

Note the stated purposes of the ADU provision in subsection (1) (iv) of 20-534. Accessory Dwelling Units are intended to "provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services." Section 20-534 cannot reasonably be construed to apply to corporations.

The section was never intended to allow corporate ownership. The Code should be amended to clarify that only living breathing natural persons can have Accessory Dwelling Units. That's what I requested last month. I now suggest the following:

"Only natural persons may be Owners for the purposes of this section "

  
James J. O'Malley



Other cities have enacted language to limit ownership of Accessory Dwelling Units to natural persons. Some examples follow:

Town of Lexington (Mass.) Article V, 135-19, Accessory Apartments

Subsection B (I)(d)

The owner of the property on which the accessory apartment is to be created shall occupy one or the other of the dwelling units, except for temporary absences as provided in Subsection B (I) (e). ***For the purposes of this section, the "owner" shall be one or more individuals who constitute a family, who hold title directly or indirectly to the dwelling, and for whom the dwelling is the primary residence...***(Emphasis added.)

Fauquier County, Virginia, Zoning Ordinance

#### ***5-105 Standards for an administrative permit for a Family Dwelling Unit***

1. Such a unit shall not be occupied by more than five (5) persons, ***at least one of whom must be the natural or adopted parent, grandparent, child, grandchild, brother or sister of the owner and occupant of the single family residence on the same lot. Or, the lot owner may live in the family dwelling unit and allow such family members to reside in the main house. In either case, the lot owner must reside on the property*** (Emphasis added.)

Seattle

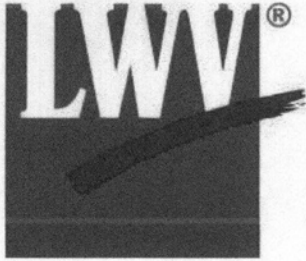
The home must be occupied by one or more owner(s) of the property as a ***permanent and principal residence***. The owner may live in either the main or accessory unit and must have ***a 50 percent or greater interest in the property*** (SMC 23.84A.028). The ***owner occupant must live in the structure for more than six months of each calendar year***. The owner is allowed to receive rent for the owner-occupied unit. (Emphasis added.)

City of Federal Way, Washington Revised Code 19.195.180

8. The property owner ***must reside in either*** the primary dwelling unit or ADU ***for six months or more of each calendar year, and at no time receive rent or other compensation*** for the owner-occupied unit.

Bellvue (Wash.) Municipal Code Ch. 20.20.120(A)(3)

'Owner occupancy' means a property owner, as reflected in title records, makes his or her ***legal residence*** at the site, ***as evidenced by voter registration***, vehicle registration, or similar means .... (Emphasis added.)



**LEAGUE OF WOMEN VOTERS®**  
OF LAWRENCE/DOUGLAS COUNTY

June 23, 2013

**RECEIVED**  
JUN 24 2013  
City County Planning Office  
Lawrence, Kansas

To: Dr. Bruce Liese, Chair, and Lawrence/Douglas County Planning Commission

**ITEM NO. 5: TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; ACCESSORY DWELLING UNIT**

The accessory dwelling unit concept was introduced by the League representative to the ZAC (Zoning Advisory Committee) as one of the suggested recommendations to improvements to the new zoning code—the Land Development Code (LDC)—adopted in 2006. The reasons are listed in the LDC regulations, one example of which are “granny apartments” for aging relatives. A critical provision of the Use Regulations on Accessory Dwelling Units (Section 20-534) was that one of the units must be owner occupied. However, it never occurred to us at the time that the term “owner occupant” could be construed as a being a corporate owner, thereby occupying a residence as an “owner occupant” through being an appointed temporary representative of the corporation.

We believe that the concerns of the residents of an older neighborhood regarding modifying the provisions of the RS5 District to add it to the section 20-534 of the LDC are valid and should be a concern to all neighborhoods. The possible interpretation of including corporations as being eligible for the provisions of accessory dwelling units would apply to all, not just the RS5 District. We therefore request that you add a definition of “owner occupant” to Section 20-1701 of the LDC that would exclude all meaning of the term and related terms that do not specifically mean an existing adult human person with direct legal ownership rights to occupy the residence, and not an abstract concept such as a corporation occupying a residence by way of an agent or representative or business (or however it can be explained to clarify the difference).

We hope that you will add the definition of “owner occupant” to Section 20-1701, or wherever necessary in the Land Development Code, to make the necessary distinction to protect our neighborhoods while at the same time encouraging owner-occupancy, as the meaning of the term is generally understood.

Thank you.

Sincerely yours,

*Cille King*

Cille King  
Co-President

*Alan Black*

Alan Black, Chairman  
Land Use Committee

- Co-President  
David Burress
- Co-President  
Cille King
- President-Elect  
Cille King
- Vice President  
marci francisco
- Secretary  
Caleb Morse
- Treasurer  
Marjorie Cole
- Directors
- Margaret Arnold
- Caroljean Brune
- Scott Criqui
- James Dunn
- Ruth Gibbs
- Midge Grinstead
- Marlene Merrill



Old West Lawrence Association  
Kirk McClure, President  
mcclurefamily@sbcglobal.net

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June 23, 2013

**Amalia Graham**

[amalia.graham@gmail.com](mailto:amalia.graham@gmail.com)

**Jim Denney**

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**Stan Rasmussen**

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**Bryan Culver (Vice-Chair)**

[bculver@bankingunusual.com](mailto:bculver@bankingunusual.com)

**Bruce Liese (Chair)**

[bruce@kansascitysailing.com](mailto:bruce@kansascitysailing.com)

**Re: TA-13-00106: Consider a Text Amendment to the City of Lawrence Land Development Code, Chapter 20, Articles 4 and 5, to permit the Accessory Dwelling Unit use as an accessory use in the RS5 (Single-Dwelling Residential) District.**

Dear Members of the Planning Commission

The proposed text amendment is generally supported by the Old West Lawrence Association (OWLA). Under many circumstances, accessory units can be beneficial to the neighborhood.

“Staff has had 15 Accessory Dwelling Units registered since the code adoption in 2006 and has had many conversations with property owners regarding the opportunity for the use on various properties, in various residential zoning districts including the RS5 District. With this interest and a change in economic conditions over the past few years, staff feels that this text amendment does address a changing condition. There have been more situations where people are looking to downsize, have had economic



hardships and need to rely on family or property owners are looking to maximize their property investments while staying in their existing home. “

Old West Lawrence is mostly zoned RS5. Thus, the neighborhood has a deep interest in seeing that a change of this type be well implemented.

The proposed amendment also states:

“It is an opportunity to offer housing to address changing family needs, whether it is for family members or additional income while continuing to reside on the property. The standards require the owner to live in one of the units which can address property maintenance issues and concerns that occur with some rental properties.”

OWLA is concerned with possible abuse of this provision. OWLA does not want to see its single-family character diminished incrementally. There is concern that single-family homes could be broken up into multi-unit rental properties through misuse of this provision, calling one unit the primary residence and the second unit an “accessory unit.” This could be done by creation of partnerships designating the occupant of the primary units as a partner in the ownership, thus meeting the requirement of owner-occupancy even though in all other respects, the resident of the primary unit is a renter. Similar problems could arise if there is corporate ownership. Other mechanisms could be used to circumvent the intention but adhere to the letter of the law.

OWLA asks for more stringent language to prevent abuse and to ensure that an owner-occupant, not a surrogate for an owner, lives in one of the units.

Yours truly,

A handwritten signature in black ink, appearing to read "Kirk McClure", with a horizontal line extending to the right.

Kirk McClure, President  
*Old West Lawrence Association*

RECEIVED

JUN 24 2013

City County Planning Office  
Lawrence, Kansas

626 Ohio Street  
Lawrence, KS 66044  
June 24, 2013

Dear Commissioners:

RE: Agenda Item No. 5, scheduled for June 26

I am a resident of Old West Lawrence, and also own rental property there. The proposed text amendment would allow Accessory Dwelling Units in Old West Lawrence, which is in an RS5 District.

I am concerned that Section 20-534 of the Development Code could be interpreted as allowing corporations to own houses with Accessory Dwelling Units. This would be bad policy, that would, in effect, allow duplexes with absentee landlords in stable, well-maintained RS Districts like Old West Lawrence. I request that the section be amended to clarify that corporations cannot be owner-occupants of houses with Accessory Dwelling Units.

1. The current version of Development Code Section 20-534 requires owner occupancy of either the Accessory or Principal Dwelling Unit for Accessory Dwelling use in the RS districts where Accessory Dwelling Units are allowed.
2. Section 534 also requires that one of the units be the "principal residence" of an owner.
3. Development Code Section 20-1701 defines "Owner" to include corporations.
4. The Code does not define either owner-occupant or "principal residence."

Can a corporation be an owner-occupant with a principal residence within the meaning of the Accessory Dwelling Unit provision of the Code?

In light of the stated purposes of Accessory Dwelling Units, under any common-sense definition of "owner-occupant" or "principal residence" a corporation should not be considered an owner-occupant with a principal residence.

Section 20-534 provides:

Accessory Dwelling Units are allowed in certain situations to:

- (i) create new housing units while preserving the look and Scale of single-Family Detached Dwelling neighborhoods; subject to the procedures established in Section 20-534(2)(xi);
- (ii) allow more efficient use of the City's existing housing stock and Infrastructure;
- (iii) provide a mix of housing types that responds to *changing Family needs and smaller households*;

(iv) provide a means for *residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services*; and

(v) provide a broader range of accessible and more affordable housing.

(Emphasis added.)

The clear intent of the owner-occupancy and principal residence requirements of Section 20-534 is to prohibit ownership of houses with Accessory Dwelling Units by absentee landlords. A corporation almost by its very nature is an absentee, because it is not a natural person, but a legal fiction.

Corporations are business organizations that the law regards as legal persons separate from their shareholders for economic purposes, such as owning property and entering contracts. Corporations do not have families, or households. They cannot be seniors, parents, or part of a couple. They do not need companionship, or the kind of personal security and services referred to in subsection (iv) of Section 20-534.

Corporations are not alive and so do not live anywhere. They do not sleep or cook, or watch cable TV. Corporations do not occupy Dwelling Units or have principal residences within the meaning of the Code because they cannot dwell or reside – that is, live – in them. What corporations have are places of business.

It might be argued that a corporation could occupy a unit through an agent. Suppose a corporation acquired a house that had an Accessory Dwelling Unit originally built for the former owner's aging relative. The corporation could offer a prospective tenant of the Accessory Unit a slight break in rent in return for acting as the corporation's agent with nominal duties, such as reporting problems. The principal unit could be rented to a family or up to three unrelated persons. This house would be essentially a Duplex, with neither unit occupied by an owner in any common-sense meaning of owner-occupant.

The "agent" would not have the same incentive or ability as a real owner-occupant to maintain and improve the property or influence the behavior of the other tenants. The corporation would be an absentee landlord for all practical purposes.

A house with an Accessory Dwelling Unit would be a more attractive investment property to a corporation in the business of renting houses than an identical house without one because it could well bring in an additional \$500 a month in rent.

Note also that one of the units in the house would have to be the *corporation's* principal residence satisfy the requirements of Section 20-534. But the corporation does not reside anywhere. The tenant



who is the corporation's agent would have its principal residence in the house, but the owner—the corporation—would not.

The closest thing a corporation has to a principal residence is a principal place of business. To be entitled to Accessory Dwelling Unit use, a corporation would have to maintain its principal office in one of the units. And that would be inconsistent with maintaining the single family character of RS districts.

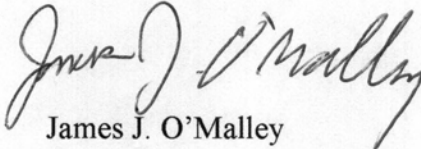
That it takes this long to explain why corporations cannot be owner occupants of houses with Accessory Dwelling Units is a strong indication that the Code language needs to be more clear.

Accordingly, I request that the Code be amended to clarify that corporations cannot be owner-occupants under Section 20-534 of the Development Code regarding Accessory Dwelling Units.

**Lack of Notice to Neighbors and Neighborhood Associations:**

The current version of Section 20-534 does not provide any notice of the proposed change of use from single family to Accessory Dwelling to neighbors or neighborhood associations. Other changes of use require notice to neighbors through special use permits. A change from single family use to a what is essentially a special kind of duplex is significant enough to warrant notice to neighbors and neighborhood associations.

Accordingly, I request that Section 20-534 be amended to require notice of the proposed change of use to neighbors and neighborhood associations.

  
James J. O'Malley

RECEIVED

JUN 24 2013

City County Planning Office  
Lawrence, Kansas

**Corporations should not be allowed to own structures containing  
Accessory Dwelling Units**

1. The City's ADU standards require owner-occupancy in one of the units, which the PC staff report points out "can address property maintenance issues and concerns that occur with some rental properties." That section obviously envisions the resident owner as a natural person. I would like to call your attention to the possibility of a corporation in the business of renting residential properties.

Can such a corporation be prevented from designating one tenant as an **agent** of the corporation to try to meet the owner-occupancy requirement for an ADU?

2. The City believes it is OK to have ADUs in single-family districts because:
  - A. Because it is their home, owner occupants usually take better physical care of property than absentee landlords.
  - B. Tenant behavior that would disturb residents of neighboring houses would to an even greater degree disturb an owner-occupant living on the other side of the wall from the ADU. Therefore, an owner-occupant can be expected to be motivated to impose restrictions on his or her tenant to minimize annoying behavior.

Is a corporate **agent** any more motivated than an **absentee owner** of a duplex?

Analysis

Under the law, corporations are legal "persons," capable of owning property. Corporations are included in the City ordinance section that defines "owner." But corporations are not "natural persons." They cannot be disturbed at night by noise, be discouraged by encroaching blight, or be disgusted by the smell of accumulated garbage. A corporation cannot live in a house. Corporations act through shareholders, directors, officers, agents, and employees. Who among those would have sufficient incentive to maintain the qualities hoped for in a single family residence? The identity of those actors can quickly change in the context of corporations.

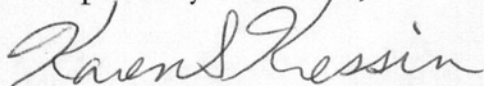
I submit that on one end of the spectrum, shareholders who singly or as a couple closely hold the corporation **might** qualify, and on the other end an agent or employee **certainly**

**would not.** The latter would be indistinguishable from a tenant in a duplex. This presents drafting problems.

- Where should the ordinance draw the line along the hierarchy of corporate actors?
- If shareholders qualify, how can they be adequately defined?
- How many shareholders can a corporation have before the ownership interest is too watered down to meet the goals of the Accessory Dwelling Unit ordinance?

**There are many uncertainties that drafters of an ordinance would be hard-pressed to foresee and forestall. The cleanest way to draft the ordinance would be to bar corporations from owning buildings with Accessory Dwelling Units in single family districts. If persons who hold a house in corporate ownership desire, for personal reasons, to have an Accessory Dwelling Unit in their home, they should be required to transfer ownership out of the corporation and into their own personal ownership, and then live there themselves.**

Respectfully submitted,



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