OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

November 23, 2026

TO: Natali Fani-González, President
Montgomery County Council

FROM: Marc Elrich, County Executive

SUBJECT: Veto of Bill 41-26 – Landlord-Tenant Relations – Licensing Procedures and Fees – Accessory Dwelling Unit

I am vetoing Bill 41-26. The bill changes how Montgomery County licenses accessory dwelling units (ADUs) in two significant ways. It waives certain permit and licensing fees for owners who agree to rent their ADUs at affordable rates for at least ten years, and it eliminates the requirement that the owner live in either the main house or the ADU. I am vetoing this bill because of the latter change - eliminating owner occupancy. In its previous update to the ADU law in 2019, the Council kept the owner occupancy requirement.. Removing it now invites investors to buy single-family homes with an ADU to make both rental units, also making it more difficult for first-time home buyers forced to compete against investors who can offer cash for the purchase. For these reasons, removing the occupancy requirement is a serious mistake.

I raised these concerns with the Council twice, on September 30 and October 19, and I offered a straightforward fix for the unusual circumstances when a homeowner must be away temporarily. I proposed that a homeowner called away for military service, Foreign Service, or other extenuating circumstances, could apply to rent both units for up to three years and request an extension if needed. Thus, the Council had a solution to help owners keep their homes with both units available for rent while they were away. This addressed the problem that was raised during public hearing testimony on the bill. It is unclear why the decision was made to repeal the ownership requirement entirely.

The bill was amended to narrow the scope of non-resident ownership by limiting an entity to two ADUs in the County, by defining eligible ownership structures, requiring affidavits about other ADU holdings, and calling for a report in 2028. Even with those amendments, an eligible investor can buy a single-family home with an ADU and collect rent on both dwellings

indefinitely, effectively taking the house off the market for individual homebuyers. Furthermore, the county now must have staff to review and regulate a complicated regulatory process.

The Office of Legislative Oversight found that easing ADU rules and reducing fees could encourage construction and increase the supply of long-term rentals. It also identified the risk that investor purchases could crowd out local buyers, while noting that it found no studies directly measuring that effect from changes to ADU rules. The effect on prevailing rents is also uncertain. In a county where families already struggle to buy a home, I see no justification for taking that risk to solve a problem that can be solved by offering a limited waiver. I think most of us have heard from people trying to buy a home and getting crowded out by cash offers; we should not accelerate this negative impact.

I understand the bill's goal of reducing costs of establishing ADUs in order to encourage more rental units affordable to households earning 65 percent or less of area median income. However, the Department of Housing and Community Affairs (DHCA) has raised practical questions: (1) whether the fee savings are substantial enough to encourage that commitment in areas of the County that command higher rents; and (2) how affordability agreements can be monitored, and what remedies are available to the County if an owner who makes the commitment stops renting the unit before the ten years are up.

It is important to note that the Department of Permitting Services (DPS) must continue to review plans and conduct inspections even when permit fees are waived. DPS had proposed giving applicants two years from certification by DHCA to establish the qualifying unit, with recovery of waived permit fees if they miss that deadline; however, that clarification was not included in the final bill that passed. Should the Council override my veto, I urge them to revise the bill to include that safeguard and track whether the waivers produce affordable rentals, along with their effect on permitting workload and revenue.

I urge the Council to reconsider its vote and sustain this veto. I am ready to work with you on legislation that helps homeowners build ADUs, gives families a waiver when they need to move temporarily, and ties fee relief to an affordability commitment the County can enforce. The Council had that option before it voted. It should take it now.

cc: Tommy Heyboer, Chief of Staff to the Council President, Montgomery County Council
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