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June 2, 2025

Via Email

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov
planninginfo@costamesaca.gov

Re: ***Supplemental Information in Support of Renewed Request for Reasonable Accommodation Based on Material Change in Circumstances, CMMC § 13-200.62***
By: The Ohio House, 115 E. Wilson Street, Units A-E, and Residents

Dear Ms. Tai:

I write to supplement the request for reasonable accommodation submitted to the City on May 2, 2025 by The Ohio House and residents George Castaneda, Garey Miller, Kayl McReynolds, Diego Blake, and Robert Palmer. We will include this letter when we submit the reasonable accommodation and documents through TESSA as requested by Daniel Inloes of your office.

This supplement provides the City with further information supporting the need for and reasonableness of the request for accommodation, demonstrating the current lack of structured sober living in Cosa Mesa. It further refutes the erroneous belief that licensed residential treatment facilities serve the same

function and provide the same housing opportunities as the unlicensed sober housing provided by The Ohio House.

1. Licensed substance abuse treatment and unlicensed structured sober living differ in their offerings and purpose.

As recognized by the California Department of Healthcare Services regulations, the Government Code, and the City's zoning regulations and General Plan, there are critical differences between licensed residential treatment programs and unlicensed structured sober living homes. Both are essential components of the substance use recovery continuum, each providing a vital but very distinct purpose.

A. <u>Licensed Residential Treatment Facilities</u>

- Regulated & Licensed: Overseen by state agencies (e.g., DHCS in California); must meet strict standards of care and operate under a license.

- Medical & Clinical Services: Provide 24/7 care including detox, therapy (individual/group), medical monitoring, and psychiatric support.

- Treatment Focus: Clinical stabilization and rehabilitation during the acute and subacute phases of recovery.

- Staffing: Includes licensed professionals such as therapists, nurses, counselors, and physicians.

- Duration: Typically 30-90 days.

- Billing: May accept insurance or public funding due to medical and clinical service provisions.

B. <u>Unlicensed Structured Sober Living (Aftercare)</u>

- Peer-Based Housing: Not licensed because they do not provide treatment; residents live in a drug- and alcohol-free environment with structured peer accountability.

- Supportive, Not Clinical: No clinical services are provided although onsite-residents may attend outpatient treatment offsite.

- Recovery Focus: Long-term support for individuals in early recovery as they reintegrate into society with jobs, education, or volunteering.

- Oversight & Accountability: While not state-licensed, many operate under industry standards (e.g., National Alliance for Recovery Residences – NARR).

- Duration: Often 3 months to a year or more.

- Essential Role: A critical step-down level of care that reduces relapse risk and promotes community reintegration.

As evident when comparing their attributes, both of these models serve distinct yet complementary purposes in saving lives and restoring community health.

2. Licensed residential treatment facilities and structured sober living are part of the continuum of care in recovery.

Recovery does not end with treatment. After treatment the real growth takes place when an individual must re-enter the world with its everyday stressors and temptations. The first 90 days post-treatment are the most vulnerable for relapse. That is what makes structured sober living like that provided by The Ohio House such an important element in the recovery process. It offers peer support and regular check-ins to foster responsibility and belonging. It provides a community in which residents can support and help each other learn coping strategies and

even more basic living skills like holding down a job, handling finances, and reconnecting with family. Alumni of The Ohio House keep in contact and continue to provide ongoing support to each other in navigating the challenges of maintaining sobriety.

3. The differing substance and purpose between licensed residential treatment and structured sober living is reflected on the ground in Costa Mesa.

The difference in substance and purpose between The Ohio House and the DHCS-licensed residential treatment facilities in Costa Mesa makes licensed facilities an inappropriate substitute for The Ohio House's residents should The Ohio House be forced to close.

Since submitting the reasonable accommodation request, The Ohio House staff has attempted to confirm that the residential treatment facilities licensed by DHCS to operate in Costa Mesa (listed in Exhibit 16 of the May 5 Request for Reasonable Accommodation) actually provide substance abuse treatment – as opposed to pure sober living like that offered by The Ohio House. That investigation shows that the DHCS-licensed facilities are providing substance abuse *treatment* and, in some cases, detox and mental health treatment. The federal Substance Abuse and Mental Health Services Administration (SAMHSA) maintains a government website, www/findtreatment.gov, identifying licensed substance abuse facilities and reporting on their available treatment services and modalities. Almost all of the DHCS-licensed facilities in Costa Mesa self-reported information to SAMHSA that SAMHSA in turn posted on its website as a service for persons seeking substance abuse treatment. A print-out of the SAMHSA webpages on each of those facilities is attached as Exhibit 1 and, as expected, reflect that each facility is providing substance abuse *treatment*. These facilities are completely unlike the structured sober living offered by The Ohio House. And, the 38 beds in the DHCS-licensed and City-approved Recovery Center operated by Nancy Clark are reserved for the "criminal justice population" who come to the Center from jail or prison, and not available to the general public seeking sober living. (Deposition of Nancy Clark taken November 15, 2021, at 211:20-24.)

Moreover, as indicated in the May 2 reasonable accommodation request, The Ohio House has continued to attempt to contact the previously non-responsive City-approved sober living homes on Raleigh, Republic, San Pablo, and Traverse. (See May 5, 2025 Request for Reasonable Accommodation at p. 19.) Keystone Sober Living on Raleigh advised The Ohio House that they rarely had any vacancies. All of The Ohio House's emails to Sheldon Riley on Republic have bounced back as undeliverable and messages left on voicemail have not been returned. The Ohio House has determined that the homes on San Pablo and Traverse operated by South Coast Behavioral Health are part of its broader programming and would not be available as alternative housing for The Ohio House residents who are not connected to South Coast.

These facts establish that granting a reasonable accommodation is both reasonable and necessary to enable The Ohio House to continue to provide some of the few opportunities for sober living in Costa Mesa and for residents George Castaneda, Garey Miller, Kayl McReynolds, Diego Blake, and Robert Palmer to continue to live in the housing of their choice in the community

* * *

Thank you.

/s/ Christopher Brancart
cbrancart@brancart.com

cc: Kimberly H. Barlow, City Attorney
Seymour Everett
Applicants

EXHIBIT 1

FindTreatment.gov

Millions of Americans have mental and substance use disorders. Find treatment here.

Welcome to FindTreatment.gov, the confidential and anonymous resource for persons seeking treatment for mental and substance use disorders in the United States and its territories.



Find a Treatment Facility

Enter your address, city, zip code, or facility name

Search

Help Resources

988 Suicide & Crisis Lifeline

Free and confidential support for people in distress, 24/7.

Call or text 988

National Helpline

Treatment referral and information, 24/7.

1-800-662-HELP (4357)

Disaster Distress Helpline

Immediate crisis counseling related to disasters, 24/7.

1-800-985-5990

What To Expect

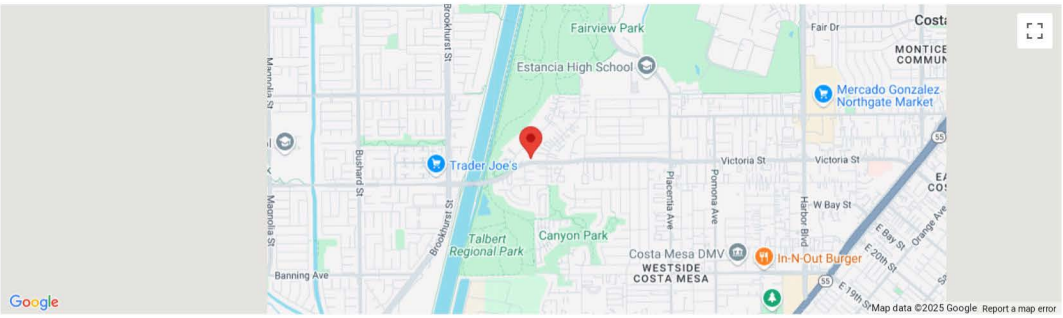
Would you like to report an issue with this listing?
If you would like to report an issue with this listing, please email FindTreatment@samhsa.hhs.gov or call 1-833-888-1553 (Mon-Fri 8:00 a.m - 6:00 p.m. ET).

Nancy Clark and Associates Inc The Recovery Center

http://nancyclark.net

1110 Victoria Street, Suite A-104
Costa Mesa, CA 92627

949-631-0550
2.48 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Long-term residential

External Opioid Medications Source

Other contracted prescribing entity
No formal relationship with prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere

External Source of Medications Used for Alcohol Use Disorder Treatment

No formal relationship with prescribing entity

Type of Opioid Treatment

Accepts clients using MAT but prescribed elsewhere

Treatment Approaches

Anger management
Cognitive behavioral therapy
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
Telemedicine/telehealth therapy
12-step facilitation

License/Certification/Accreditation

State department of health

Assessment/Pre-treatment

Comprehensive substance use assessment
Screening for substance use

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening

Transitional Services

Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Mentoring/peer support
Employment counseling or training

Education and Counseling Services

Substance use disorder education
Individual counseling
Group counseling

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Additional Services

Case management service
Social skills development

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Language Assistance

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SAMHSA's mission is to lead public health and service delivery efforts that promote mental health, prevent substance misuse, and provide treatments and supports to foster recovery while ensuring equitable access and better outcomes.

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1-877-SAMHSA-7 (1-877-726-4727)

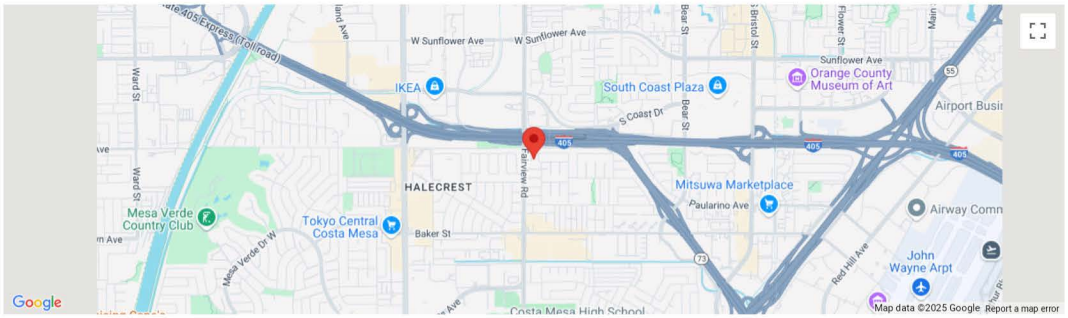
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Yellowstone Recovery Boston House

http://yellowstonerecovery.com

3132 Boston Way
Costa Mesa, CA 92626

949-678-3214
1.54 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal, or any government funding for substance use treatment programs
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Long-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment

External Opioid Medications Source

No formal relationship with prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere

External Source of Medications Used for Alcohol Use Disorder Treatment

No formal relationship with prescribing entity

Type of Opioid Treatment

Accepts clients using MAT but prescribed elsewhere

Medication Therapy

Buprenorphine with naloxone
Buprenorphine without naloxone
Medication for mental disorders

Treatment Approaches

Anger management
Brief intervention

Cognitive behavioral therapy
Contingency management/motivational incentives
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Telemedicine/telehealth therapy
12-step facilitation

Facility Operation (e.g., Private, Public)

Private non-profit organization

License/Certification/Accreditation

State department of health

Payment Assistance Available

Sliding fee scale (fee is based on income and other factors)

Special Programs/Groups Offered

Criminal justice (other than DUI/DWI)/Forensic clients

Testing

Breathalyzer or blood alcohol testing
Drug or alcohol urine screening

Transitional Services

Discharge Planning
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Assistance with obtaining social services
Mentoring/peer support
Employment counseling or training

Education and Counseling Services

Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults
Seniors

Sex Accepted

Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Social skills development

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Language Assistance

Español | 繁體中文 | Tiếng Việt | 한국어 | Tagalog | Русский | العربية | Kreyòl Ayisyen | Français | Polski | Português | Italiano | Deutsch | 日本語 | فارسی | English

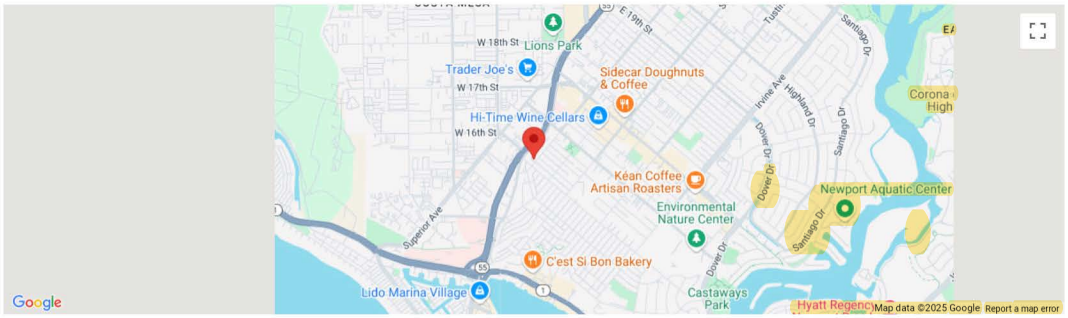
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Hotel California by the Sea

http://www.HotelCaliforniaByTheSea.com

1509 Orange Avenue A
Costa Mesa, CA 92627

800-762-6717
2.56 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal military insurance (e.g., TRICARE)
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Mental health treatment
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential

Facility Type

Residential treatment center (RTC) for adults

Medication Therapy

Chlorpromazine
Fluphenazine
Haloperidol
Pimozide
Prochlorperazine
Thiothixene
Thioridazine
Aripiprazole
Asenapine
Brexpiprazole
Cariprazine
Clozapine
Iloperidone
Lurasidone
Olanzapine
Olanzapine/Fluoxetine combination
Quetiapine
Risperidone
Nicotine replacement
Non-nicotine smoking/tobacco cessation
Antipsychotics used in treatment of SMI

Treatment Approaches

Cognitive behavioral therapy
Couples/family therapy
Dialectical behavior therapy
Eye Movement Desensitization and Reprocessing therapy
Group therapy
Integrated Mental and Substance Use Disorder treatment
Individual psychotherapy

Facility Operation (e.g., Private, Public)

Private for-profit organization

Special Programs/Groups Offered

Young adults
Seniors or older adults
Veterans
Clients with co-occurring mental and substance use disorders
Persons with eating disorders
Persons with post-traumatic stress disorder (PTSD)
Persons 18 and older with serious mental illness (SMI)

Assessment/Pre-treatment

Screening for tobacco use

Testing

TB screening

Education and Counseling Services

Smoking/vaping/tobacco cessation counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults
Seniors

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Chronic disease/illness management
Diet and exercise counseling
Family psychoeducation
Intensive case management
Illness management and recovery
Psychosocial rehabilitation services
Case management service
Integrated primary care services
Suicide prevention services
Education services

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If you would like to report an issue with this listing, please email FindTreatment@samhsa.hhs.gov or call 1-833-888-1553 (Mon-Fri 8:00 a.m - 6:00 p.m. ET).

Hotel California by the Sea

http://www.HotelCaliforniaByTheSea.com

317 Rochester Street
Costa Mesa, CA 92627

800-762-6717
2.10 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal military insurance (e.g., TRICARE)
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

No formal relationship with prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

No formal relationship with prescribing entity

Type of Opioid Treatment

Buprenorphine maintenance
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification
Maintenance service with medically supervised withdrawal after stabilization

Medication Therapy

Acamprosate (Campral®)
Disulfiram
Buprenorphine with naloxone
Buprenorphine without naloxone
Naltrexone (oral)
Naltrexone (extended-release, injectable)
Medications for HIV treatment
Medications for Hepatitis C treatment
Lofexidine
Clonidine
Medication for mental disorders
Medications for pre-exposure to prophylaxis
Nicotine replacement
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Cognitive behavioral therapy
Contingency management/motivational incentives
Motivational interviewing
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State Substance use treatment agency
State department of health
The Joint Commission

Special Programs/Groups Offered

Young adults
Adult women
Adult men
Seniors or older adults
Veterans
Clients with co-occurring mental and substance use disorders
Clients with co-occurring pain and substance use disorders
Clients who have experienced sexual abuse
Clients who have experienced intimate partner violence, domestic violence
Clients who have experienced trauma

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders

Testing

Breathalyzer or blood alcohol testing
Drug or alcohol urine screening
TB screening

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Recovery coach
Mentoring/peer support
Employment counseling or training

Other Services

Treatment for gambling disorder
Treatment for other addiction disorder

Education and Counseling Services

HIV or AIDS education, counseling, or support
Hepatitis education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling

Marital/couples counseling
Vocational training or educational support (for example, high school coursework, GED preparation, etc.)

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Domestic violence services, including family or partner
Early intervention for HIV
Mental health services
Social skills development
Integrated primary care services
Suicide prevention services

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1-877-SAMHSA-7 (1-877-726-4727)

SAMHSA
Substance Abuse and Mental Health Services Administration

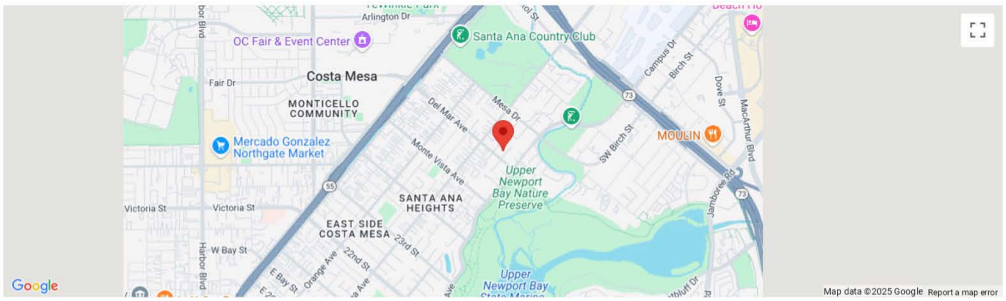
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New Directions for Women Inc

http://www.newdirectionsforwomen.org

2607 Willo Lane
Costa Mesa, CA 92627

949-313-1192
1.06 Miles



This facility **offers** transportation assistance.
Ask them about it when you call.

Payment, insurance, or funding accepted

- IHS/Tribal/Urban (ITU) funds
- Federal military insurance (e.g., TRICARE)
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

In-network prescribing entity
Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

In-network prescribing entity
Other contracted prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Buprenorphine maintenance
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification
Maintenance service with medically supervised withdrawal after stabilization

Medication Therapy

- Acamprosate (Campral®)
- Disulfiram
- Buprenorphine with naloxone
- Buprenorphine without naloxone
- Buprenorphine (extended-release, injectable)
- Naltrexone (oral)
- Naltrexone (extended-release, injectable)
- Medications for Hepatitis C treatment
- Lofexidine
- Clonidine
- Medication for mental disorders
- Non-nicotine smoking/tobacco cessation

Treatment Approaches

- Brief intervention
- Cognitive behavioral therapy
- Contingency management/motivational incentives
- Motivational interviewing
- Relapse prevention
- Substance use disorder counseling
- Telemedicine/telehealth therapy
- Trauma-related counseling
- 12-step facilitation

Facility Operation (e.g., Private, Public)

- Private non-profit organization

License/Certification/Accreditation

- State Substance use treatment agency
- Commission on Accreditation of Rehabilitation Facilities (CARF)
- Drug Enforcement Agency (DEA)

Special Programs/Groups Offered

- Young adults
- Adult women
- Pregnant/postpartum women
- Clients with co-occurring mental and substance use disorders
- Clients with co-occurring pain and substance use disorders
- Clients who have experienced trauma

Assessment/Pre-treatment

- Comprehensive mental health assessment
- Comprehensive substance use assessment
- Complete medical history/physical exam
- Screening for tobacco use

Testing

- Breathalyzer or blood alcohol testing
- Drug or alcohol urine screening
- HIV testing
- STD testing
- TB screening

Transitional Services

- Aftercare/continuing care
- Discharge Planning
- Naloxone and overdose education
- Outcome follow-up after discharge

Recovery Support Services

- Self-help groups
- Housing services
- Assistance with obtaining social services
- Mentoring/peer support

Detoxification (medical withdrawal) Services

- Alcohol Detoxification
- Benzodiazepines Detoxification
- Cocaine Detoxification
- Methamphetamines detoxification
- Opioids detoxification
- Medication routinely used during detoxification

Education and Counseling Services

- Substance use disorder education
- Individual counseling
- Group counseling
- Family counseling
- Marital/couples counseling

Facility Smoking Policy

- Smoking permitted in designated area

Age Groups Accepted

- Young Adults
- Adults
- Seniors

Sex Accepted

Female

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Residential beds for clients' children
Case management service
Child care for clients' children
Social skills development
Transportation assistance
Integrated primary care services

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Language Assistance

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1-877-SAMHSA-7 (1-877-726-4727)

SAMHSA
Substance Abuse and Mental Health Services Administration

Would you like to report an issue with this listing?
If you would like to report an issue with this listing, please email FindTreatment@samhsa.hhs.gov or call 1-833-888-1553 (Mon-Fri 8:00 a.m - 6:00 p.m. ET).

South Coast Counseling Inc

http://www.southcoastcounselingoc.org

693 Plumer Street
Costa Mesa, CA 92627

844-330-0096
1.97 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal military insurance (e.g., TRICARE)
- Other State funds
- Private health insurance
- Cash or self-payment
- State-financed health insurance plan other than Medicaid
- State mental health agency (or equivalent) funds

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Mental health treatment
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Outpatient
Partial hospitalization/day treatment
Residential/24-hour residential

Facility Type

Residential treatment center (RTC) for adults

Medication Therapy

Chlorpromazine
Haloperidol
Prochlorperazine
Thioridazine
Aripiprazole
Cariprazine
Clozapine
Lurasidone
Olanzapine
Quetiapine
Risperidone
Nicotine replacement
Non-nicotine smoking/tobacco cessation
Antipsychotics used in treatment of SMI

Treatment Approaches

Activity therapy
Cognitive behavioral therapy
Couples/family therapy
Dialectical behavior therapy
Eye Movement Desensitization and Reprocessing therapy
Group therapy
Integrated Mental and Substance Use Disorder treatment
Individual psychotherapy
Telemedicine/telehealth therapy

Facility Operation (e.g., Private, Public)

Private non-profit organization

Payment Assistance Available

Sliding fee scale (fee is based on income and other factors)

Special Programs/Groups Offered

Veterans
Active duty military
Members of military families
Clients with co-occurring mental and substance use disorders

Assessment/Pre-treatment

Screening for tobacco use

Testing

HIV testing
STD testing
TB screening
Metabolic syndrome monitoring
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)
Laboratory testing

Recovery Support Services

Housing services
Mentoring/peer support

Education and Counseling Services

Smoking/vaping/tobacco cessation counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults
Seniors

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Assertive community treatment
Court-ordered outpatient treatment
Diet and exercise counseling
Family psychoeducation
Psychosocial rehabilitation services
Supported housing
Case management service
Integrated primary care services
Suicide prevention services

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Language Assistance

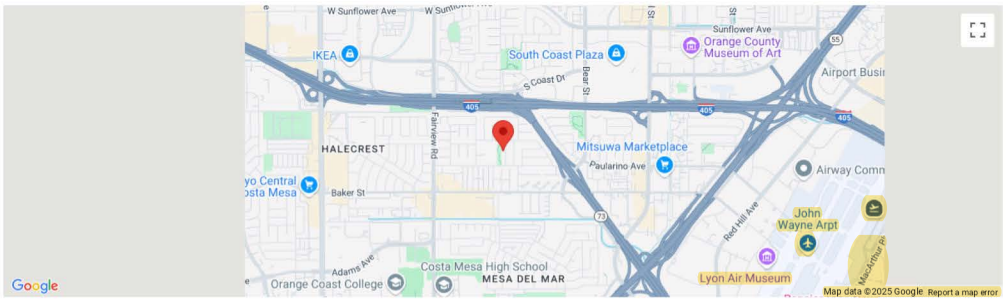
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Asana Recovery Madison

http://www.asanarecovery.com

3073 Madison Avenue
Costa Mesa, CA 92626

949-438-4504
1.38 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal, or any government funding for substance use treatment programs
- IHS/Tribal/Urban (ITU) funds
- Private health insurance
- Cash or self-payment
- SAMHSA funding/block grants

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Hospital inpatient/24-hour hospital inpatient
Residential/24-hour residential
Hospital inpatient detoxification
Hospital inpatient treatment
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

In-network prescribing entity
Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

In-network prescribing entity
Other contracted prescribing entity

Type of Opioid Treatment

Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere

Lofexidine or Clonidine detoxification
Maintenance service with medically supervised withdrawal after stabilization

Medication Therapy

Acamprosate (Campral®)
Buprenorphine sub-dermal implant
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Naltrexone (extended-release, injectable)
Medications for HIV treatment
Medications for Hepatitis C treatment
Lofexidine
Clonidine
Medication for mental disorders
Nicotine replacement
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Cognitive behavioral therapy
Contingency management/motivational incentives
Motivational interviewing
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
Telemedicine/telehealth therapy
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State Substance use treatment agency
State department of health
Commission on Accreditation of Rehabilitation Facilities (CARF)
The Joint Commission

Payment Assistance Available

Payment assistance (check with facility for details)

Special Programs/Groups Offered

Young adults
Adult women
Pregnant/postpartum women
Adult men
Veterans
Active duty military
Members of military families
Criminal justice (other than DUI/DWI)/Forensic clients
Clients with co-occurring mental and substance use disorders
Clients with co-occurring pain and substance use disorders
Clients with HIV or AIDS
Clients who have experienced sexual abuse
Clients who have experienced intimate partner violence, domestic violence
Clients who have experienced trauma

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders

Testing

Breathalyzer or blood alcohol testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Recovery coach
Mentoring/peer support
Employment counseling or training

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification

Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Hepatitis education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling
Marital/couples counseling
Vocational training or educational support (for example, high school coursework, GED preparation, etc.)

Medical Services

Hepatitis A (HAV) vaccination
Hepatitis B (HBV) vaccination

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Social skills development
Integrated primary care services

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5600 Fishers Lane • Rockville, MD 20857
1-877-SAMHSA-7 (1-877-726-4727)

SAMHSA
Substance Abuse and Mental Health Services Administration

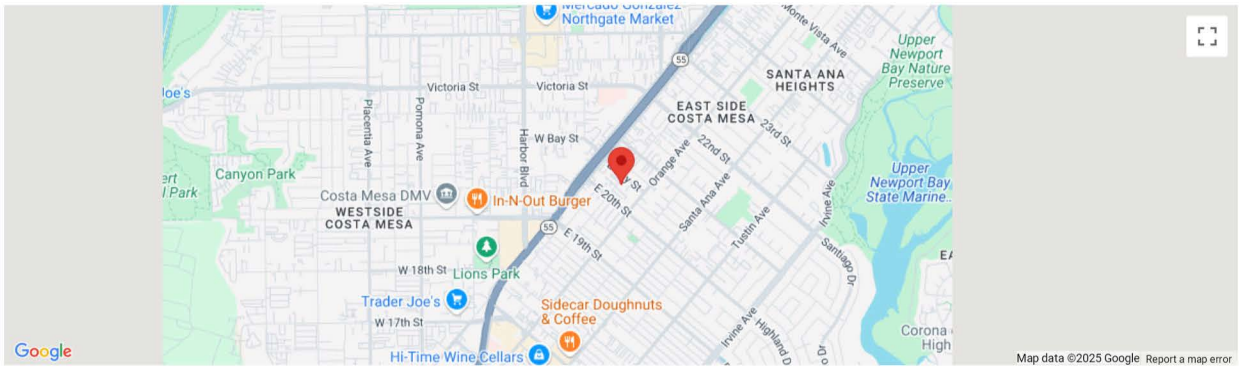
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Yellowstone Womens First Step House The Yellowstone Bridge

http://www.yellowstonerecovery.com

2028 Fullerton Avenue, Apartments A,B and C
Costa Mesa, CA 92627

888-418-4188
0.00 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal, or any government funding for substance use treatment programs
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Residential detoxification
Long-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment

External Opioid Medications Source

No formal relationship with prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere

External Source of Medications Used for Alcohol Use Disorder Treatment

No formal relationship with prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification

Medication Therapy

Buprenorphine with naloxone
Buprenorphine without naloxone
Clonidine
Medication for mental disorders

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Contingency management/motivational incentives
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Telemedicine/telehealth therapy
12-step facilitation

Facility Operation (e.g., Private, Public)

Private non-profit organization

License/Certification/Accreditation

State department of health

Payment Assistance Available

Sliding fee scale (fee is based on income and other factors)

Special Programs/Groups Offered

Criminal justice (other than DUI/DWI)/Forensic clients

Assessment/Pre-treatment

Comprehensive substance use assessment

Testing

Breathalyzer or blood alcohol testing
Drug or alcohol urine screening

Transitional Services

Discharge Planning
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Assistance with obtaining social services
Mentoring/peer support
Employment counseling or training

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults
Seniors

Sex Accepted

Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Social skills development

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Language Assistance

Español | 繁體中文 | Tiếng Việt | 한국어 | Tagalog | Русский | العربية | Kreyòl Ayisyen | Français | Polski | Português | Italiano | Deutsch | 日本語 | فارسی | English

Have a question about government service? Contact USA.gov.

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1-877-SAMHSA-7 (1-877-726-4727)

SAMHSA
Substance Abuse and Mental Health Services Administration

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Yellowstone Recovery Womens First Step House Inc

http://www.yellowstonerecovery.com

154 East Bay Street
Costa Mesa, CA 92627

949-678-3214
1.25 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Federal, or any government funding for substance use treatment programs
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Residential detoxification
Long-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment

External Opioid Medications Source

No formal relationship with prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere

External Source of Medications Used for Alcohol Use Disorder Treatment

No formal relationship with prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification

Medication Therapy

Buprenorphine with naloxone
Buprenorphine without naloxone
Clonidine
Medication for mental disorders

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Contingency management/motivational incentives
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Telemedicine/telehealth therapy
12-step facilitation

Facility Operation (e.g., Private, Public)

Private non-profit organization

License/Certification/Accreditation

State department of health

Payment Assistance Available

Sliding fee scale (fee is based on income and other factors)

Special Programs/Groups Offered

Criminal justice (other than DUI/DWI)/Forensic clients

Assessment/Pre-treatment

Comprehensive substance use assessment
Screening for tobacco use
Screening for substance use

Testing

Breathalyzer or blood alcohol testing
Drug or alcohol urine screening

Transitional Services

Discharge Planning
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Assistance with obtaining social services
Mentoring/peer support
Employment counseling or training

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults
Seniors

Sex Accepted

Female

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Social skills development

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Language Assistance

Español | 繁體中文 | Tiếng Việt | 한국어 | Tagalog | Русский | العربية | Kreyòl Ayisyen | Français | Polski | Português | Italiano | Deutsch | 日本語 | فارسی | English

Have a question about government service? Contact USA.gov.

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SAMHSA
Substance Abuse and Mental Health Services Administration

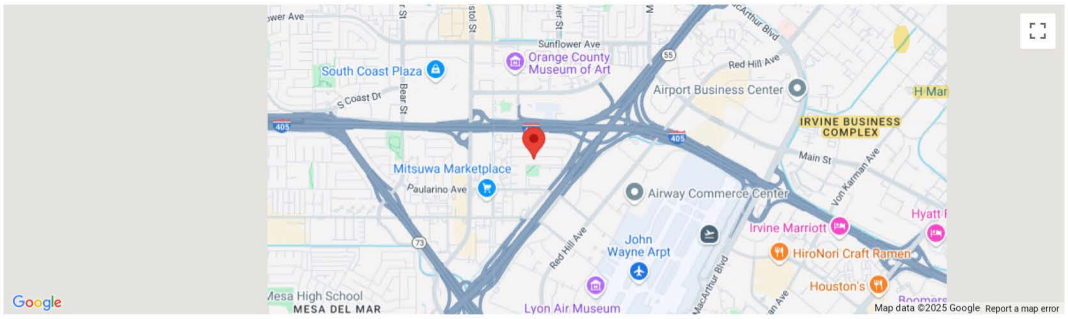
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South Coast Behavioral Health Bridge House

https://www.scbh.com

559 Pierpont Drive.
Costa Mesa, CA 92626

424-484-9033
2.05 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Mental health treatment
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential

Facility Type

Residential treatment center (RTC) for adults

Medication Therapy

Nicotine replacement
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Activity therapy
Cognitive behavioral therapy
Couples/family therapy
Dialectical behavior therapy
Eye Movement Desensitization and Reprocessing therapy
Group therapy
Integrated Mental and Substance Use Disorder treatment
Individual psychotherapy

Facility Operation (e.g., Private, Public)

Private for-profit organization

Special Programs/Groups Offered

Seniors or older adults
Veterans
Members of military families
Clients with co-occurring mental and substance use disorders

Clients who have experienced trauma
Persons with post-traumatic stress disorder (PTSD)
Persons 18 and older with serious mental illness (SMI)

Assessment/Pre-treatment

Screening for tobacco use

Testing

Metabolic syndrome monitoring
Laboratory testing

Recovery Support Services

Housing services

Education and Counseling Services

Smoking/vaping/tobacco cessation counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults
Seniors

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Diet and exercise counseling
Family psychoeducation
Psychosocial rehabilitation services
Vocational rehabilitation services
Case management service

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SAMHSA
Substance Abuse and Mental Health Services Administration

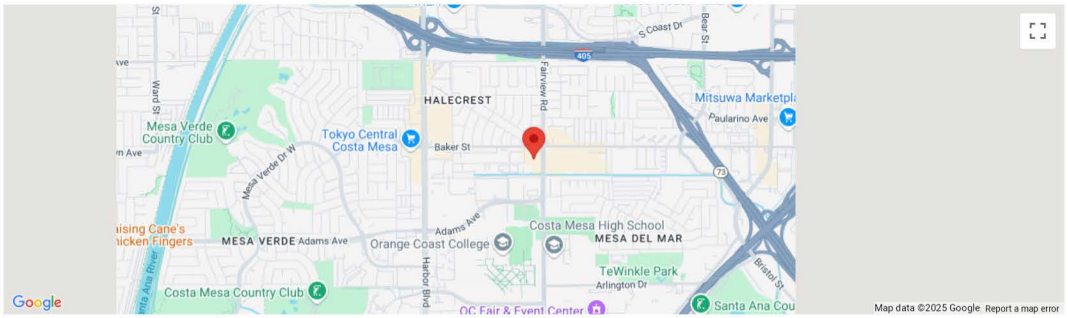
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Opus Health LLC

https://opustreatment.com

Costa Mesa, CA 92626

949-625-4019
1.08 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

Other contracted prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Buprenorphine maintenance
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification
Maintenance service with medically supervised withdrawal after stabilization

Medication Therapy

Acamprosate (Campral®)
Disulfiram
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Naltrexone (extended-release, injectable)
Medications for HIV treatment
Medications for Hepatitis C treatment
Clonidine
Medication for mental disorders
Nicotine replacement
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State Substance use treatment agency
The Joint Commission

Special Programs/Groups Offered

Adult women
Adult men

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Interim services for clients
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders
Professional interventionist/educational consultant

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
TB screening

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Recovery coach
Mentoring/peer support
Employment counseling or training

Other Services

Treatment for gambling disorder
Treatment for other addiction disorder

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Hepatitis education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education

Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling
Marital/couples counseling
Vocational training or educational support (for example, high school coursework, GED preparation, etc.)

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Domestic violence services, including family or partner
Early intervention for HIV
Mental health services
Social skills development
Suicide prevention services

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5600 Fishers Lane • Rockville, MD 20857
1-877-SAMHSA-7 (1-877-726-4727)

SAMHSA
Substance Abuse and Mental Health Services Administration

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Safe Harbor Treatment Center

http://www.safeharbortreatmentcenter.com

546 Bernard Street
Costa Mesa, CA 92627

888-541-3654
1.57 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Hospital inpatient/24-hour hospital inpatient
Residential/24-hour residential
Hospital inpatient detoxification
Hospital inpatient treatment
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

Other contracted prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere

Lofexidine or Clonidine detoxification

Medication Therapy

Acamprosate (Campral®)
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Clonidine
Medication for mental disorders
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Motivational interviewing
Relapse prevention
Substance use disorder counseling
Telemedicine/telehealth therapy
Trauma-related counseling
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State department of health
The Joint Commission

Special Programs/Groups Offered

Adult women
Adult men
Clients with co-occurring mental and substance use disorders

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Mentoring/peer support

Other Services

Treatment for gambling disorder
Treatment for other addiction disorder

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling

Marital/couples counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Mental health services
Social skills development
Suicide prevention services

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Language Assistance

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1-877-SAMHSA-7 (1-877-726-4727)

SAMHSA
Substance Abuse and Mental Health Services Administration

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Safe Harbor Treatment Center

http://www.safeharbortreatmentcenter.com

548 Bernard Street
Costa Mesa, CA 92627

888-541-3654
1.56 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Hospital inpatient/24-hour hospital inpatient
Residential/24-hour residential
Hospital inpatient detoxification
Hospital inpatient treatment
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

Other contracted prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere

Lofexidine or Clonidine detoxification

Medication Therapy

Acamprosate (Campral®)
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Clonidine
Medication for mental disorders
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Motivational interviewing
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
Telemedicine/telehealth therapy
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State department of health
The Joint Commission

Special Programs/Groups Offered

Adult women
Adult men
Clients with co-occurring mental and substance use disorders

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Mentoring/peer support

Other Services

Treatment for gambling disorder
Treatment for other addiction disorder

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling

Marital/couples counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Mental health services
Social skills development
Suicide prevention services

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SAMHSA
Substance Abuse and Mental Health Services Administration

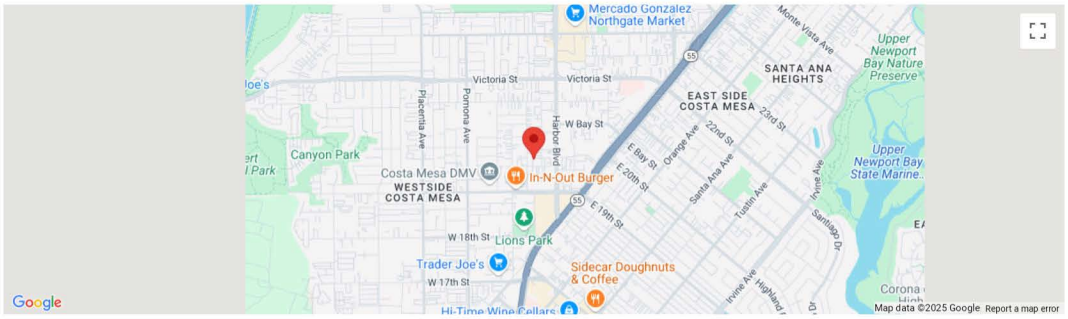
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Safe Harbor Treatment Center

http://www.safeharbortreatmentcenter.com

550-A Bernard Street
Costa Mesa, CA 92627

888-541-3654
1.55 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Hospital inpatient/24-hour hospital inpatient
Residential/24-hour residential
Hospital inpatient detoxification
Hospital inpatient treatment
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

Other contracted prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere

Lofexidine or Clonidine detoxification

Medication Therapy

Acamprosate (Campral®)
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Clonidine
Medication for mental disorders
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Motivational interviewing
Relapse prevention
Substance use disorder counseling
Telemedicine/telehealth therapy
Trauma-related counseling
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State department of health
The Joint Commission

Special Programs/Groups Offered

Adult women
Adult men
Clients with co-occurring mental and substance use disorders

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Mentoring/peer support

Other Services

Treatment for gambling disorder
Treatment for other addiction disorder

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling

Marital/couples counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Mental health services
Social skills development
Suicide prevention services

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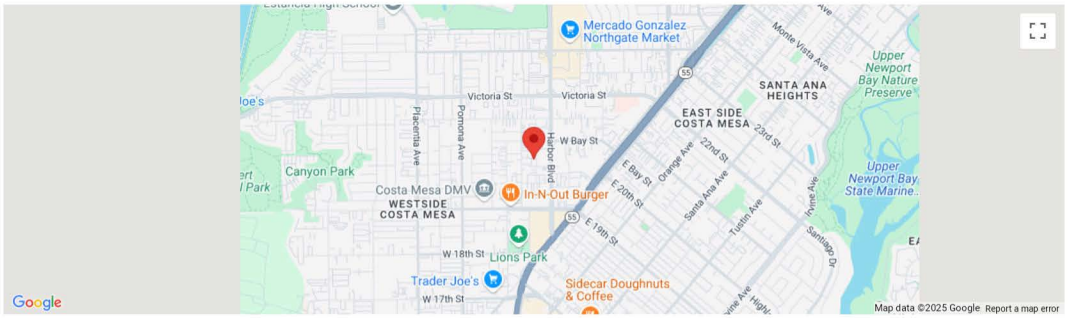
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Safe Harbor Treatment Center for Women LLC

http://www.safeharbortreatmentcenter.com

550 Bernard Street, Suite B
Costa Mesa, CA 92627

888-541-3654
1.46 Miles



This facility **does not offer** transportation assistance.

Payment, insurance, or funding accepted

- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Hospital inpatient/24-hour hospital inpatient
Residential/24-hour residential
Hospital inpatient detoxification
Hospital inpatient treatment
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

Other contracted prescribing entity

Type of Opioid Treatment

Buprenorphine detoxification
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere

Lofexidine or Clonidine detoxification

Medication Therapy

Acamprosate (Campral®)
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Clonidine
Medication for mental disorders
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Motivational interviewing
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
Telemedicine/telehealth therapy
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State department of health
The Joint Commission

Special Programs/Groups Offered

Adult women
Adult men
Clients with co-occurring mental and substance use disorders

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Mentoring/peer support

Other Services

Treatment for gambling disorder
Treatment for other addiction disorder

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling

Marital/couples counseling

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Case management service
Mental health services
Social skills development
Suicide prevention services

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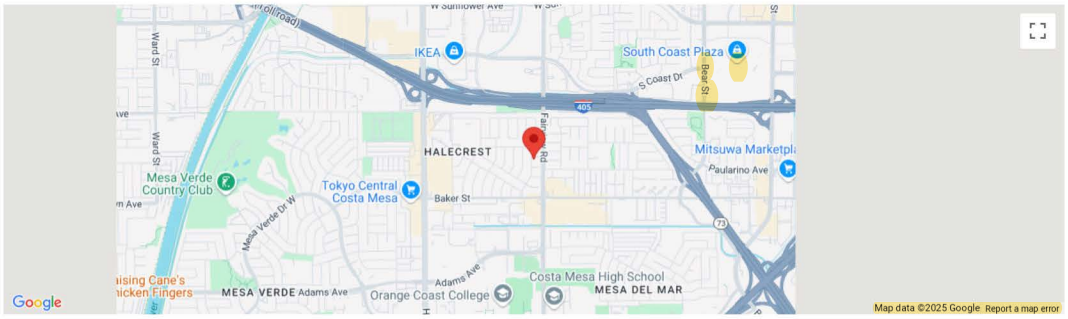
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Divine Bliss The Ho Tai Way

http://www.thehotaiway.com

1219 Parnell Place
Costa Mesa, CA 92626

714-581-3974
1.35 Miles



This facility **offers** transportation assistance.
Ask them about it when you call.

Payment, insurance, or funding accepted

- Federal military insurance (e.g., TRICARE)
- Private health insurance
- Cash or self-payment
- SAMHSA funding/block grants

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Detoxification
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Hospital inpatient/24-hour hospital inpatient
Residential/24-hour residential
Hospital inpatient detoxification
Hospital inpatient treatment
Residential detoxification
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Buprenorphine used in Treatment
Naltrexone used in Treatment

External Opioid Medications Source

In-network prescribing entity
Other contracted prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

In-network prescribing entity
Other contracted prescribing entity

Type of Opioid Treatment

Nicotine replacement
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Contingency management/motivational incentives
Community reinforcement plus vouchers
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Telemedicine/telehealth therapy
Trauma-related counseling
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State Substance use treatment agency
State mental health department
State department of health
The Joint Commission

Payment Assistance Available

Payment assistance (check with facility for details)

Special Programs/Groups Offered

Young adults
Adult men
Seniors or older adults
Veterans
Active duty military
Members of military families
Criminal justice (other than DUI/DWI)/Forensic clients
Clients with co-occurring mental and substance use disorders
Clients with co-occurring pain and substance use disorders
Clients with HIV or AIDS
Clients who have experienced sexual abuse
Clients who have experienced intimate partner violence, domestic violence
Clients who have experienced trauma

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Interim services for clients
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders
Professional interventionist/educational consultant

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Metabolic syndrome monitoring
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Employment counseling or training

Other Services

Treatment for other addiction disorder

Education and Counseling Services

HIV or AIDS education, counseling, or support
Hepatitis education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling
Marital/couples counseling
Vocational training or educational support (for example, high school coursework, GED preparation, etc.)

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Facility Vaping Policy

Vaping permitted in designated area

Additional Services

Acupuncture
Case management service
Domestic violence services, including family or partner
Mental health services
Social skills development
Transportation assistance
Integrated primary care services
Suicide prevention services

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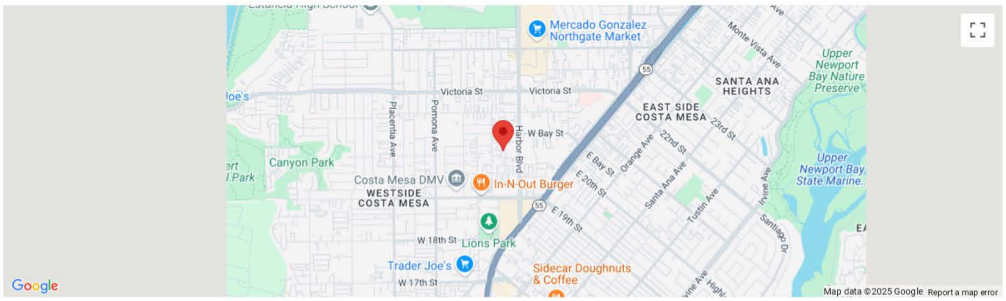
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Akua Behavioral Health Inc Akua Mind and Body

http://akuamindbody.com

Costa Mesa, CA 92627

949-777-2283
1.46 Miles



This facility **offers** transportation assistance.
Ask them about it when you call.

Payment, insurance, or funding accepted

- Medicare
- Federal military insurance (e.g., TRICARE)
- Private health insurance
- Cash or self-payment

Contact this facility to make sure they take your specific insurance or coverage.

Services

Type of Care

Substance use treatment
Treatment for co-occurring substance use plus either serious mental health illness in adults/serious emotional disturbance in children

Service Setting (e.g., Outpatient, Residential, Inpatient, etc.)

Residential/24-hour residential
Long-term residential
Short-term residential

Opioid Medications used in Treatment

Naltrexone used in Treatment

External Opioid Medications Source

Other contracted prescribing entity
No formal relationship with prescribing entity

Type of Alcohol Use Disorder Treatment

Accepts clients using medication assisted treatment for alcohol use disorder but prescribed elsewhere
This facility administers/prescribes medication for alcohol use disorder

External Source of Medications Used for Alcohol Use Disorder Treatment

Other contracted prescribing entity
No formal relationship with prescribing entity

Type of Opioid Treatment

Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification

Medication Therapy

Acamprosate (Campral®)
Naltrexone (oral)
Medications for Hepatitis C treatment
Clonidine
Medication for mental disorders

Buprenorphine detoxification
Buprenorphine maintenance
Prescribes buprenorphine
Prescribes naltrexone
Relapse prevention with naltrexone
Accepts clients using MAT but prescribed elsewhere
Lofexidine or Clonidine detoxification
Maintenance service with medically supervised withdrawal after stabilization

Medication Therapy

Acamprosate (Campral®)
Disulfiram
Buprenorphine with naloxone
Buprenorphine without naloxone
Buprenorphine (extended-release, injectable)
Naltrexone (oral)
Naltrexone (extended-release, injectable)
Medications for HIV treatment
Medications for Hepatitis C treatment
Lofexidine
Clonidine
Medication for mental disorders
Nicotine replacement
Non-nicotine smoking/tobacco cessation

Treatment Approaches

Anger management
Brief intervention
Cognitive behavioral therapy
Contingency management/motivational incentives
Motivational interviewing
Matrix Model
Relapse prevention
Substance use disorder counseling
Trauma-related counseling
12-step facilitation

Facility Operation (e.g., Private, Public)

Private for-profit organization

License/Certification/Accreditation

State department of health
The Joint Commission

Special Programs/Groups Offered

Young adults
Adult women
Pregnant/postpartum women
Adult men
Seniors or older adults
Veterans
Active duty military
Members of military families
Clients with co-occurring mental and substance use disorders
Clients with co-occurring pain and substance use disorders
Clients with HIV or AIDS
Clients who have experienced sexual abuse
Clients who have experienced intimate partner violence, domestic violence
Clients who have experienced trauma

Assessment/Pre-treatment

Comprehensive mental health assessment
Comprehensive substance use assessment
Interim services for clients
Outreach to persons in the community
Complete medical history/physical exam
Screening for tobacco use
Screening for substance use
Screening for mental disorders
Professional interventionist/educational consultant

Testing

Breathalyzer or blood alcohol testing
Drug and alcohol oral fluid testing
Drug or alcohol urine screening
HIV testing
STD testing
TB screening
Metabolic syndrome monitoring
Testing for Hepatitis B (HBV)
Testing for Hepatitis C (HCV)

Transitional Services

Aftercare/continuing care
Discharge Planning
Naloxone and overdose education
Outcome follow-up after discharge

Recovery Support Services

Self-help groups
Housing services
Assistance with obtaining social services
Recovery coach
Mentoring/peer support
Employment counseling or training

Detoxification (medical withdrawal) Services

Alcohol Detoxification
Benzodiazepines Detoxification
Cocaine Detoxification
Methamphetamines detoxification
Opioids detoxification
Medication routinely used during detoxification

Education and Counseling Services

HIV or AIDS education, counseling, or support
Hepatitis education, counseling, or support
Health education services other than HIV/AIDS or hepatitis
Substance use disorder education
Smoking/vaping/tobacco cessation counseling
Individual counseling
Group counseling
Family counseling
Marital/couples counseling
Vocational training or educational support (for example, high school coursework, GED preparation, etc.)

Medical Services

Hepatitis A (HAV) vaccination
Hepatitis B (HBV) vaccination

Facility Smoking Policy

Smoking permitted in designated area

Age Groups Accepted

Young Adults
Adults

Sex Accepted

Female
Male

Language Services

Spanish

Facility Vaping Policy

Vaping permitted without restriction

Additional Services

Case management service
Domestic violence services, including family or partner
Early intervention for HIV
Mental health services
Social skills development
Transportation assistance
Integrated primary care services
Suicide prevention services

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BRANCART & BRANCART
ATTORNEYS AT LAW

Christopher Brancart
Elizabeth Brancart
Liza Cristol-Deman

P. O. BOX 686
PESCADERO, CA 94060

Street Address
8205 Pescadero Road
Loma Mar, California 94021

Telephone (650) 879-0141
Facsimile (650) 879-1103
www.brancart.com

May 6, 2025

Via Email and FedEx

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov
planninginfo@costamesaca.gov

Re: ***Supplemental Information in Support of Renewed Request for Reasonable Accommodation Based on Material Change in Circumstances, CMMC § 13-200.62***
By: The Ohio House, 115 E. Wilson Street, Units A-E, and Residents

Dear Ms. Tai:

I write to supplement The Ohio House's request for reasonable accommodation submitted to the City on May 2, 2025 by providing it with the signed statements of the five current residents of The Ohio House who joined in that request. Please find attached:

Exhibit A: Statement of George Castaneda
Exhibit B: Statement of Garey Miller
Exhibit C: Statement of Kayl McReynolds
Exhibit D: Statement of Diego Blake
Exhibit E: Statement of Robert Palmer

Thank you.

/s/ Christopher Brancart
cbrancart@brancart.com

cc: Kimberly H. Barlow, City Attorney
Seymour Everett
Applicants

EXHIBIT A

George Castenada
115 E. Wilson St., Unit C
Costa Mesa, CA 92627
626-736-5012

May 5, 2025

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov

Re: ***Request for Reasonable Accommodation***
The Ohio House, 115 E. Wilson Street

Dear Ms. Tai:

I am a current resident of The Ohio House at 115 E. Wilson Street, Unit C.

I am submitting this statement in support of my request for reasonable accommodation made jointly with The Ohio House, LLC.

I moved into The Ohio House in December 2023 and have lived there continuously since, abstaining from drugs and alcohol. My monthly rent is $1,200 for a shared room. Prior to moving to The Ohio House, I was at a detox and residential treatment facility in Westminster.

I grew up in Southern California and have lived in Orange County for several years. I have an engineering degree from Cal Poly, Pomona and previously worked in the car resale field, eventually becoming the national director of merchandising for Auto Nation. I am 44 years old.

Fifteen years ago I was severely injured in a motorcycle accident. As part of my treatment I was prescribed opiates which resulted in addiction. Eventually my addiction spiraled out of control and seriously interfered with my ability to maintain relationships and work. Prior to 2023 I had experience with rehab and sober living but had been unable to maintain my sobriety.

This time, after completing residential treatment in Westminster in 2023, I moved into The Ohio House because of its reputation for high quality structured sober living. Living at The Ohio House has been crucial to my recovery and has made it possible for me to maintain and strengthen my sobriety. I am close to people who have gone through similar experiences and am able to lean on them for support. For me, a key part of the sober living offered by The Ohio House is its supportive environment and direction provided and the need to live under a set of rules with the expectation that I will follow those rules. Because The Ohio House is not a program with a specific end date, I have been able to work through the challenges raised by sobriety at my own pace, without concern that I will have to leave before I feel that I am ready to live outside a structured, sober environment. I currently am employed as the manager of a guitar shop.

I have spoken to people at 12 step meetings in Orange County who are living in sober living homes. Based on my conversations comparing their sober housing with mine at The Ohio House, and my prior experience with rehab and sober living, I know that The Ohio House provides a greater level of support and structure than many other homes offering sober living. For that reason I chose and continue to choose to live at The Ohio House.

At The Ohio House, my housemates and I each do chores on rotation and share what we have done in a group chat. We eat together and spend time talking about what we are working on and what we are going through in our recovery process. We also keep the outside of the home maintained and looking good. We make the effort to be good neighbors.

To me, the fact that The Ohio House is for men only, and not co-ed, is huge.

I – and my housemates – have been able to focus on the important tasks of early recovery, like going to meetings, making a plan, developing consistent habits, and working on strengthening my sobriety. I believe that having women in the house would distract me from those important steps.

I request that the City grant the joint request for reasonable accommodation to enable me to continue to live in my home at The Ohio House that provides me with the support and structure I require in order to maintain and strengthen my sobriety.

Thank you.

Yours truly,

George Castaneda (May 5, 2025 14:15 PDT)

George Castaneda

EXHIBIT B

Garey Miller
115 E. Wilson St., Unit C
Costa Mesa, CA 92627
949-226-0882

May 5, 2025

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov

Re: ***Request for Reasonable Accommodation***
The Ohio House, 115 E. Wilson Street

Dear Ms. Tai:

I am a current resident of The Ohio House at 115 E. Wilson Street, Unit C.

I am submitting this statement in support of my request for reasonable accommodation made jointly with The Ohio House LLC.

I moved into The Ohio House in May 2023 and have lived there continuously since, abstaining from drugs and alcohol. My monthly rent is $1,000 for a shared room. Prior to moving to The Ohio House, I had had a relapse after 14 years of sobriety and was seeking structured sober living. I am 57 years of age.

I was born and raised in Santa Ana and joined my family's business from 1989 until 1994. I then started my own business which I sold in 2000. After that I was an investor in a number of other businesses and started a second business in 2008. I was living in Irvine when I had a relapse and knew I needed to get help to stop an escalation of my substance abuse. My addiction made it difficult for me to work and manage my affairs and maintain my social and family relationships. A

good friend recommended that I look into the sober living offered by The Ohio House and I was able to move in.

I have been very pleased with my experience living at The Ohio House for the past two years. Being older and having run successful businesses, I feel I have a good basis for judging the quality of The Ohio House's sober living. The houses are very clean and well-maintained. The residents are very polite and respectful of each other and the neighbors. The Ohio House is very well run and the structure and community it provides, quite frankly, has saved my life.

My housemates and I share chores and responsibilities. We share meals together all the time and rely on other. I am actively engaged in supporting other residents of The Ohio House in their recovery. The support I have found at The Ohio House has made it possible for me to maintain and strengthen my sobriety. The fact that the sober living provided by The Ohio House is for men only and not co-ed is another important part The Ohio House. Having women in the house would make it more difficult to focus on the work needed to maintain and strengthen sobriety.

I am currently working in a mental health facility in Tustin and am planning on to continue living at The Ohio House for the foreseeable future.

I request that the City grant the joint request for reasonable accommodation to enable me to continue to live in the home I have chosen at The Ohio House that provides me with the support and structure I require in order to maintain and strengthen my sobriety.

Thank you.

Yours truly,

Garey Miller (May 5, 2025 12:31 PDT)

Garey Miller

EXHIBIT D

Kayl McReynolds
115 E. Wilson St., Unit D
Costa Mesa, CA 92627
406-539-1029

May 6, 2025

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov

Re: ***Request for Reasonable Accommodation***
The Ohio House, 115 E. Wilson Street

Dear Ms. Tai:

I am a current resident of The Ohio House at 115 E. Wilson Street, Unit D. I am submitting this statement in support of my request for reasonable accommodation made jointly with The Ohio House LLC.

I moved into The Ohio House in June 2023 and have lived there continuously since, abstaining from drugs and alcohol. My monthly rent is $1,250 for a shared room.

I am originally from Montana. In 2022 I went through a residential substance abuse treatment program in Montana, then came to Costa Mesa for sober living and out-patient substance abuse treatment. I lived at The Ohio House for six months, but after I returned to Montana to live and work I quickly fell back into heavy alcohol use. My alcohol abuse interfered with my ability to work and maintain my important relationships. I was fired from my job after a DUI in my work truck. At that point, I called The Ohio House and was able to return to Costa Mesa.

The structure of The Ohio House and support I have received from my housemates, all on the same journey, was pivotal to me being able to maintain my sobriety the first year. Now, in my second year at The Ohio House, I am working at

my job a lot but still maintaining my relationships with my housemates and supporting them like I was supported. I have worked very hard to make my sobriety stick this time. Learning tools and changing habits is critical to staying sober. Because The Ohio House is housing, not a specific program, I have been able to stay as long as I need to do that. I am planning on staying at The Ohio House for the foreseeable future. My two-year stay has enabled me to put down roots and make connections both working and volunteering in the community. I now have a job that I love that gives back to the Orange County community. All of which was made possible by the support and community provided by The Ohio House.

I have visited other sober living homes in Orange County and the quality of The Ohio House stands out. The Ohio House is well-maintained and clean. The community is strong. My housemates and I have each chosen it as our home. We want to be there. We are not court -ordered to be here. Even though we are all different people from different backgrounds, we have a shared story. I have made life-long friends who I still stay in touch with. That support has been critical to my recovery.

My housemates and I each do chores on rotation and share meals together all the time. We keep the alley and grounds clean. We make breakfast and have barbeques. The structure provided by The Ohio House's strict rules and drug testing keeps residents accountable and helps reinforce habits that support sobriety. Having The Ohio House be for men only has also been very important. I have been able to focus on my recovery without distraction.

I request that the City grant the joint request for reasonable accommodation to keep The Ohio House open to provide me with the support and structure I require in order to maintain and strengthen my sobriety.

Thank you.

Yours truly,

Kayl McReynolds (May 6, 2025 18:57 PDT)
Kayl McReynolds

EXHIBIT C

Diego Blake
165 E. Wilson St., Unit A
Costa Mesa, CA 92627
949-375-1353

May 5, 2025

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov

Re: ***Request for Reasonable Accommodation***
The Ohio House, 115 E. Wilson Street

Dear Ms. Tai:

I am a current resident of The Ohio House at 115 E. Wilson Street, Unit A.

I am submitting this statement in support of my request for reasonable accommodation made jointly with The Ohio House LLC.

I moved into The Ohio House in October 2023 and have lived there continuously since, abstaining from drugs and alcohol. I am planning on staying at The Ohio House for the foreseeable future.

I grew up in Jamaica and New York. After I obtained my degree in finance from Siena College in upstate New York I went to work Goldman Sachs, eventually moving on to a series of hedge funds. I am 36 years old.

During my time working on Wall Street I began to drink a lot, mostly on weekends. Starting in 2016 I also began to use cocaine. In 2020, during the pandemic, I was laid off for several months and my usage intensified. It increased in 2021and 2022 and I became concerned that I needed to make a change. In early 2023

I went to a residential treatment program in Southern California. After discharge, I returned to New York. Unfortunately, my usage increased significantly, particularly after a fire in my apartment building that destroyed my unit while I was away. Faced with substance abuse that was making it difficult for me to work and function at a high level, I decided I needed to go to detox and rehab. In September 2023, I completed a residential rehab program in Mission Viejo. I immediately moved into The Ohio House.

The Ohio House there is an innate culture of sobriety. Residents are serious about being at The Ohio House and take their sobriety seriously. At The Ohio House I have found a strong network of like-minded people. The structure, rules, AA/NA meeting attendance requirements, and drug testing at The Ohio House encourage those who really want to be sober. Seeing what The Ohio House can do for people motivates others in their pursuit of sobriety. Because The Ohio House is sober living for men, I have been able to focus on myself and build a sense of community and friends.

I also have become the house lead for my unit which gives me the opportunity to help other people in their sobriety. I organize weekly meetings and house responsibilities, make sure household members are doing their chores and keep my eye on everyone. When a new member joins the house, I meet with them one-on-one and tell them my story and how I got to The Ohio House and I learn about their stories. We then grow with each other, helping each other maintain and strengthen our sobriety. I also get a $200 per month reduction in the $1,000 per month rent.

I ask that the City grant the joint request for reasonable accommodation to enable me to continue to live in my home at The Ohio House that provides me with the support and structure I require in order to maintain and strengthen my sobriety.

Thank you.

Yours truly,

D.Blake
D.Blake (May 5, 2025 16:43 PDT)

Diego Blake

EXHIBIT E

Robert Palmer
115 E. Wilson St., Unit D
Costa Mesa, CA 92627
714-859-3067

May 6, 2025

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov

Re: ***Request for Reasonable Accommodation***
The Ohio House, 115 E. Wilson Street

Dear Ms. Tai:

I am a current resident of The Ohio House at 115 E. Wilson Street, Unit D.

I am submitting this statement in support of my request for reasonable accommodation made jointly with The Ohio House, LLC.

I moved into The Ohio House in June 2024 and have lived there continuously since, abstaining from drugs and alcohol. My monthly rent is $1,500 for a shared room. Prior to moving to The Ohio House, I spent two months in a residential substance abuse treatment program in Costa Mesa.

I grew up in Huntington and have spent my life in Orange County. I am currently 44 years old. I am currently working full time as a behavioral health technician for a treatment center for first responders in Orange County.

I was addicted to heroin for many years. I have gone through residential rehab and resided in sober living many times, but always relapsed. My addiction made it impossible for me to maintain my relationships with the people I care

about. I eventually completely disconnected from my family and friends and disappeared, living on the street in Santa Ana. My addiction also made it difficult for me to work.

After completing residential treatment in 2024, I was able to move into The Ohio House. My residential treatment program was adamant that I transition to structured sober living to strengthen my sobriety. I chose to move to The Ohio House because of its longstanding, strong reputation in the recovery community in Orange County. Having lived at The Ohio House now for almost a year, I can tell you that The Ohio House runs a tight ship. It is the best sober living experience I have every had.

The structure and support I have had at The Ohio House have enabled me to strengthen my sobriety and to adopt good habits to maintain it. I depend on the structure provided by the rules of the house, including drug testing. At this time, I need to live in a sober environment, among like-minded people, away from external influences that could derail my recovery. This enables me to stay safe and keeps me from returning to old thinking patterns that could result in relapse.

My housemates and I get along well. We all have chores that we do to keep the house clean and have meals together. We encourage each other to help reinforce each other's motivation to be at The Ohio House and to stay sober as a way of life. It creates a feedback loop of support that I would not have if I was living with roommates who were not in recovery. It is priceless to have people around you that understand what you are going through and see immediately if you need to talk over a problem.

I do not have any plans to leave The Ohio House any time in the near future. I am really happy with my living situation and I get the structure and support I require to keep strengthening my sobriety.

I ask that the City grant the joint request for reasonable accommodation to enable me to continue to live in my home at The Ohio House.

Thank you.

Yours truly,

Robert John Palmer (May 6, 2025 17:24 PDT)

Robert Palmer

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May 2, 2025

Via Email and FedEx

Carrie Tai, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
carrie.tai@costamesaca.gov
planninginfo@costamesaca.gov

Re: ***Renewed Request for Reasonable Accommodation Based on Material Change in Circumstances, CMMC § 13-200.62***
By: The Ohio House, 115 E. Wilson Street, Units A-E, and Residents

Dear Ms. Tai:

The Ohio House LLC, a provider of structured sober living at 115 East Wilson Street, Units A-E, in Costa Mesa and five of its current residents – George Castaneda, Diego Blake, Garey Miller, Kayl McReynolds, and Robert Palmer – submit this request for reasonable accommodation pursuant to the Fair Employment and Housing Act (FEHA), Cal. Govt. Code §§ 12927(c), 12955(l), and State Planning and Zoning Law, Govt. Code, Title 7. George Castaneda, Garey Miller, Kayl McReynolds, Diego Blake, and Robert Palmer are all current, long-term residents of The Ohio House in recovery from substance abuse. Each plans to remain living at The Ohio House for the foreseeable future until they are ready to live independently without fear of relapse. They join this request for reasonable accommodation to enable them to continue to reside in the housing of their choice in Costa Mesa.

The Ohio House and residents seek a reasonable accommodation from the strict application of the City's definition of "single housekeeping unit" or, in the alternative, relaxation of the 650-foot separation between it and a City-permitted sober living home located at 165 E. Wilson Street. Granting the accommodation enables The Ohio House to continue providing – and its disabled residents to continue using and enjoying – one of the very few structured sober living opportunities for people with disabilities in the City's residential districts. This request is based upon California state law only and justified by the material changes in circumstances since the City denied The Ohio House's prior requests for reasonable accommodation in 2017 and 2023. *See generally The Ohio House, LLC v. City of Costa Mesa*, No. 8:19-cv-1710-JVS, 2022 WL 18284406, at *8 (C.D. Cal. Nov. 16, 2022); *Ohio House, LLC v. City of Costa Mesa*, No. 22-56181, 2024 WL 5668044 (9th Cir. Apr. 24, 2025).

This application conforms to the procedural requirements for requesting reasonable accommodations as set forth in CMMC § 13-200.62(b) and provides all the information and documentation necessary for the Director to make the findings required by § 13-200.62(f) of the Zoning Code.

I. Request for Reasonable Accommodation (CMMC § 13-200.62(b)(1) and (b)(5)).

The Ohio House and its residents seek the following reasonable accommodations:

- CMMC § 13-6: The Ohio House and individual residents seek relief from the strict application of the City's definition of "single housekeeping unit" in CMMC § 13-6, enabling the residents of the Wilson units to qualify as single housekeeping units exempted from the CUP requirement in CMMC § 13-323(b).

In the alternative,

- CMMC § 13-323(b): The Ohio House and residents seek a 100-foot

reduction in the 650-foot separation requirement necessary to obtain a conditional use permit because of the existence of a City-permitted sober living home at 165 E. Wilson Street sited 550 feet from The Ohio House. If the City grants The Ohio House's request for reasonable accommodation reducing the 650-foot separation requirement, then it asks the City to reconsider its denial of The Ohio House's group home CUP application, PA-17-10. To the extent necessary to enable issuance of a CUP to The Ohio House after granting the reasonable accommodation to reduce the separation requirement, The Ohio House also seeks accommodation in the following regulations and requirements:

- CMMC § 13-324(b): Waiver of the requirement that The Ohio House have obtained both an operator's permit and conditional use permit within the deadlines set for in § 13-324(b).

- Application of the Uniform Housing Code's occupancy limitations applicable to all other residential uses in the City, as required by State law, rather than an alternative overcrowding standard.

II. FEHA requires the City to consider this reasonable accommodation request on the merits.

Under FEHA, the "duty to provide reasonable accommodations and modifications is an ongoing one," and "[e]ach request must be considered separately." 2 C.C.R. § 12176(f)(4); *Kaur v. Foster Poultry Farms LLC*, 83 Cal. App. 5th 320, 351 (2022) ("The *duty* to make reasonable accommodations under FEHA is an *ongoing* one and is not satisfied based on a single attempt at a single point in time")(emphasis in original). Each request must be considered on its own merits. FEHA's regulations could not be clearer on this point:

> If after a denial of an initial request for an accommodation or modification, the individual with a disability or their representative

> makes a later request for the same or similar accommodation or modification, the latter request must be considered pursuant to these regulations independently of the initial request.

2 C.C.R. § 12177(g).

III. Material changes since the City denied The Ohio House's 2017 and 2023 requests for reasonable accommodation.

For purposes of the application of the state law that governs this application for reasonable accommodation, six material changes in circumstance have transpired since the City denied The Ohio House's 2017 and 2023 requests for reasonable accommodation, all of which favor granting this request.

First, in December 2022, the California Department of Housing and Community Development (HCD) issued the State's *Group Home Technical Advisory* in December 2022. A copy is attached as Exhibit 1. The *Technical Advisory* directs local planning agencies and zoning authorities, including the City of Costa Mesa, on the requirements of California state zoning laws. The HCD *Guidance* directly implicates the application of the "city's policy to provide reasonable accommodation" in accordance with FEHA "for persons with disabilities seeking fair access to housing in the application of the city's zoning laws." CMMC § 13-200.60.

Second, the City adopted an updated Housing Plan and Program as part of its revised Housing Element, dated March 1, 2023, which HCD approved May 9, 2023. The Housing Plan, adopted by the City and approved by HCD, mandates:

- That the City will amend its Land Use Matrix to comport with Cal. Govt. Code §§ 65583(c)(3) and 65651(a) [supportive housing permitted by-right in multifamily and commercial districts] (Program 2J, at 4-10);

- That the City will review and adopt revisions to its Reasonable Accommodation process to be consistent with State and federal fair housing requirements (Program 2N, at 4-11);

- The City will review and revise the definition of "single housekeeping unit" within the zoning code to provide greater flexibility in consideration of accommodating a variety of household situations for related and unrelated individuals living together (Program 2O, at 4-12); and,

- The City will review and adopt revisions to its zoning code applicable to group homes to affirmatively further fair housing and comply with fair housing laws per the [following] objective: City will review and revise the City's zoning code and application procedures applicable to group homes to promote objectivity and greater approval certainty similar to other residential uses (Program 2P, at 4-12).

See Exhibit 2 attached.

Third, on June 29, 2023, the California Attorney General's office filed an *amicus* brief on behalf of the California HCD and California Civil Rights Department ("CRD") in *The Ohio House, LLC v. City of Costa Mesa*, No. 22-56181, urging the Ninth Circuit to reverse of the judgment the judgment of the district court. A copy of that brief is attached as Exhibit 3. In that brief, filed June 29, 2023, the Attorney General advised the Ninth Circuit that the City's asserted "fundamental alteration" justification for denying The Ohio House's 2017 request for reasonable accommodation failed as matter of law. Exhibit 3 at 22-23.

According to the Attorney General,

> Assuming only for purposes of argument that the City's goal [of reducing the effects of group homes to prevent "institutuionalization" of residential neighborhoods] was legitimate, the court's order did not discuss any sufficient evidence showing that a deviation from the 650-foot separation rule would lead to these negative results, let alone any sufficient evidence that the 100-foot departure from the rule that Ohio House requested would do so. Indeed, Ohio House had already been located 550 feet from another group home, and there was no

sufficient evidence discussed that this had created an institutionalized setting.

Moreover, the City's concerns are a far cry from what are properly considered fundamental alterations. FEHA and its regulations specifically anticipate that cities will need to adjust their zoning codes to reasonably accommodate disability-related housing needs, Gov't Code § 12927(c)(1); Cal. Code Regs tit. 2, § 12180(c)(6), undercutting the City's argument that the claimed speculative effects of increased density alleged here could be considered fundamental alterations. Here, the allegations of increased parking needs, van traffic, and loading and unloading passengers, [fn. omitted] which could come from any home with several residents—such as a multigenerational family living together, a home that receives a large number of deliveries or visitors, or families with regular carpools—is unlikely to rise to the level of changing the "essential nature" of a residentially-zoned neighborhood. Because these effects can be caused by many different sources, they should be addressed by generally applicable parking regulations, traffic calming measures, or occupancy standards instead of singling out group homes with discriminatory and constraining regulations. *See, e.g., Adamson*, 27 Cal. 3d at 133; Group Home Technical Advisory at 30-31.

The City's reaction to its claimed concerns also did not consider its obligations under state law to affirmatively furthering fair housing. These obligations include, among other things, protecting individuals with disabilities' right to housing of their choice, and the housing they find most suitable for their disability-related needs, while removing constraints on their ability to obtain this housing. *See, e.g.*, Gov't Code §§ 8899.50; 65583(a)(5), (c)(3), (c)(5), (c)(10)(A). The accommodation Ohio House has requested may be consistent with, and indeed required by, state housing law. The district court's failure to consider the requested accommodation in light of the City's obligations under state law was error.

Exhibit 3 at 22-24. Nor was the City's concern about "institutionalization" of zoned residential neighborhoods supported by evidence sufficient to justify denial of the reasonable accommodation request under state law because it would cause a fundamental alteration in the City's zoning of residential neighborhoods. Exhibit 3 at 22.

Fourth, on November 29, 2023, HCD advised the City that it had "reviewed the City's group home ordinances and related policies under its authority pursuant to Government Code section 65585," and found that "the City's group home ordinances and related policies violate Government Code sections 65008, 65583, and 8899.50 by failing to meet the City's obligations to affirmatively further, protect, and remove constraints on housing for persons with disabilities, and also by discriminating against this housing." A copy of that letter is attached as Exhibit 4. HCD directed the City to "immediately stop enforcing its group home ordinances, repeal them, and revise its reasonable accommodations policies." Exhibit 4 at p. 11.

Fifth, after the City enacted in 2014, 2015, and 2017 zoning regulations intended to "limit the number and concentration of group homes and sober living facilities" in its residential zones, *The Ohio House*, 2024 WL 5668044, at *15, it aggressively enforced those regulations, denying every request for reasonable accommodation by a group or sober living home seeking relief from strict compliance with the retroactive application of those new regulations. It granted only two of the 26 CUP applications by group homes under CMMC § 13-323. As a result, the City has accomplished its goal. The alleged proliferation of unlicensed group and sober living homes in Costa Mesa has been arrested and reversed. Compare 2014 and 2025 maps, attached as Exhibits 5 and 6. Today, there are substantially fewer housing opportunities for disabled persons seeking sober or supportive in Costa Mesa than in 2014, 2015, or 2017, as discussed further below.

IV. This request for reasonable accommodation is supported by information that enables the Director to make each of the findings required for approval under CMMC § 13-200.62(f).

A. CMMC § 13-200.26(f)(1). The requested accommodation is requested

by or on the behalf of one or more individuals with a disability protected under the fair housing laws.

This application provides the information and documentation necessary to enable the Director to make this finding. Under California's FEHA, a "disability" is a condition that "limits a major life activity" by making "the achievement of the major life activity difficult." Cal. Govt. Code §§ 12926(j), (m), 12955.3. "Major life activities" include "physical, mental, and social activities and working." *Id.*

- The residents of The Ohio House have already been found to be "actually disabled" under federal and state law. *The Ohio House, LLC v. City of Costa Mesa*, No. 8:19-cv-1710-JVS, 2022 WL 2189640, *9-10 (C.D. Cal. Jan. 12, 2022).

- The Ohio House provides a structured sober living environment for men in recovery from alcohol and substance abuse who are considered disabled and state and federal law. See Certification by the operator of The Ohio House that "only residents (other than the house manager) who are handicapped as defined by state and federal law shall reside at the group home," attached as Exhibit 7, and print out from The Ohio House's website, https://www.ohio-house.com, attached as Exhibit 8.

- Most but not all residents come to The Ohio House after completing a substance abuse treatment program. They join The Ohio House as residents because it provides housing in the form of a structured, supportive environment that sustains and strengthens their sobriety. To be eligible to become a resident, an individual must not be a current user of drugs or alcohol. See The Ohio House's admission agreement and residency rules attached as Exhibit 9.

- To maintain a drug and alcohol-free environment, Ohio House performs drug testing on residents and enforces a zero-tolerance policy for residents who relapses. See Exhibit 9.

- Upon admission, Ohio House residents sign an agreement that they will abide by rules including (1) total abstinence from drugs and alcohol; (2) agreement to being drug tested a minimum of twice per week; (3) for the first 90 days of admission, residents are required to attend at least one 12-Step meeting every day; (4) abiding by a curfew; and (5) performing daily activities, including assigned chores. See Exhibit 9.

- The Ohio House is designed for persons who cannot live independently without the fear or threat of relapse into alcoholism and substance abuse were they to return to their former living situations. The Ohio House provides residents in recovery with the opportunity to learn to live independently in a structured, safe environment in a residential neighborhood.

- Each resident submitting this application – Castaneda, Miller, Blake, McReynolds, Palmer – is an individual with a disability under state law. Each suffered a wide variety of limitations of their major life activities due to their addiction to drugs or alcohol, including the ability to sustain employment, maintain stable housing, and preserve their social and familial relationship due to their addiction. Each is in recovery from their addiction to drug or alcohol and each abstains from any use of drugs or alcohol. Each depends on the structured, supportive housing provided by Ohio House to maintain their sobriety, without which they risk relapse. Under separate cover, we will submit signed statements by each resident establishing that they are persons with disabilities within the meaning of state law and why the requested accommodation is necessary to enable them an equal opportunity to live in their chosen residence.

B. <u>CMMC § 13-200.26(f)(2).</u> The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.

The accommodations requested by The Ohio House and its residents are

necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.

1. The accommodation is "necessary."

In deciding whether an accommodation is "necessary," §13-200.62(e)(1) provides that

> the director may consider, among other things: The nature of the disability including the special needs created by the disability, the physical attributes and setting of the property and structures, the potential benefit that can be accomplished by the requested accommodation, and alternative accommodations that may provide a comparable level of benefit.

The City has ordered The Ohio House to stop providing housing for persons with disabilities. Judge Selna previously found that an accommodation in the City's group home regulations was necessary to afford an equal opportunity to The Ohio House's residents because "but for the accommodation" the disabled persons residing at Ohio House cannot reside in the dwelling of their choosing. *The Ohio House, LLC v. City of Costa Mesa*, No. 8:19-cv-1710-JVS, 2022 WL 18284406, at *8 (C.D. Cal. Nov. 16, 2022). When, as here, the regulation "entirely prevents" the applicant from living or operating the dwelling at issue, the element that the accommodation be "necessary" is easily met. *Giebeler v. M & B Assocs.*, 343 F.3d 1143, 1155 (9th Cir. 2003). Without a reasonable accommodation, The Ohio House must close and all of its residents must be displaced, including the five residents joining this request who have chosen The Ohio House as their home.

2. The accommodation is necessary to afford one or more individuals with a disability an "equal opportunity to use and enjoy a dwelling."

Ohio House provides supportive, structured sober housing for persons in recovery from substance abuse, a type of housing necessary for many persons in

recovery from substance abuse. Residency is open-ended and the average length of residence is seven months.

Sober or recovery housing, like The Ohio House, is recognized as a key element on the substance abuse care continuum which includes early intervention, treatment, and recovery support. "Facing Addiction in America: The Surgeon General's Report of Alcohol, Drugs, and Health," U.S. Dept. of Health & Human Services at p. 4-4 (2016), attached as Exhibit 10. According to the Surgeon General, the "treatment" of substance abuse is provided through medication, counseling, and other supportive services. Levels of care of treatment include outpatient services, intensive outpatient/partial hospitalization services, residential/inpatient services, and medically managed intensive inpatient services. Id. "Recovery support," on the other hand, includes the support services that "aid the long-term recovery process" and "facilitate recovery, wellness, and improved quality of life." *Id.*

As a sober living home, The Ohio House is an integral part of the continuum of care because it plays a key role in recovery support. Licensed residential substance abuse treatment facilities do not and cannot fulfill that need. Recovery-supportive housing provides "both a substance-free environment and mutual support from fellow recovering residents. Many residents stay in recovery housing during and/or after outpatient treatment, with self-determined residency lasting for several months to years." *Id.* at p. 5-11. Sober living homes "are alcohol and drug free living environments that offer peer support for recovery *outside* the context of treatment." Polcin, et al., *Journal of Psychoactive Drugs*, "What Did We Learn from Our Study on Sober Living Houses and Where Do We Go from Here?" Vol. 42(4):425-433 (Dec. 2010), attached as Exhibit 11. Successful sober living provides not only a substance-free environment, but also provides social support – both from house managers and from fellow residents – which increases the likelihood of an individual's continued sobriety.

Studies uniformly find that the social support of the type provided at The Ohio House is important in establishing sustained abstinence, and that "[a] critically important aspect of one's social network is their living environment." *Id.* at p. 2. According to the Substance Abuse and Mental Health Services Administration

(SAMHSA) of the U.S. Department of Health and Human Services, community support "is a critical aspect of achieving and maintaining recovery":

> The transition from active addiction into lasting recovery is often a difficult and emotionally trying journey for many people with a substance-use disorder. NIDA (2018) indicated that the relapse rates for substance-use disorders is approximately 40-60%, and that relapses could signify the necessity to reexamine a person's course of treatment, as relapses can be very dangerous and in many instances deadly. The first 12 months of this transitional period prior to the onset of sustained full remission, sometimes referred to as early recovery, is a crucial period during which people contend with raw core clinical issues such as family history, unresolved trauma, grief and loss, emotional immaturity, low frustration tolerance, and other factors that make them susceptible to relapse. However, Moos & Moos (2006) determined that individuals with more 'social capital' are more likely to show improved outcomes for short term remission. Therefore, *recovery houses are uniquely qualified to assist individuals in all phases of recovery, especially those in early recovery, by furnishing social capital and recovery supports*.

"Recovery Housing: Best Practices and Suggested Guidelines," SAMHSA at p. 3 (2018), attached as Exhibit 12.

Living at The Ohio House provides residents with the necessary structure and support that roommate housing or licensed treatment or detox facilities do not serve. At The Ohio House, residents

> are encouraged to provide mutual support and encouragement for recovery with fellow peers in the house. Those who have been in the house the longest and who have more time in recovery are especially encouraged to provide support to new residents. This type of 'giving back' is consistent with a principle of recovery in 12-step groups. Residents are also encouraged to avoid friends and family who might encourage them to use alcohol and drugs,

particularly individuals with whom they have used substances in the past.

Polcin, et al., attached as Exhibit 11.

Disabled persons in recovery, particularly those in early recovery, need the supportive environment that comes from sharing housing with other persons in recovery. According to Nancy Clark, a treatment provider in Costa Mesa whom the City recognizes as an expert, it is essential that persons in recovery have roommates in recovery so that "they don't self-isolate, which can lead to relapse." This is one of the cornerstones of the unique housing opportunity provided by The Ohio House. The experience of each resident applying for this reasonable accommodation echoes Clark's assessment: The Ohio House is their home where they draw necessary support from their housemates to maintain and strengthen their sobriety in a structured living environment.

C. <u>CMMC § 13-200.26(f)(3).</u> The requested accommodation will not impose an undue financial or administrative burden on the city, as "undue financial or administrative burden" is defined in fair housing laws and interpretive case law.

The City has never claimed, nor is there any evidence that granting a request for reasonable accommodation by The Ohio House or its residents would impose an undue financial or administrative burden on the City. It is undisputed that The Ohio House has not been cited for any code violations except for operating without the CUP required by § 13-323.

Section § 13-200.26(e)(2)(a) states that "[i]n considering the financial or administrative burden on the City, the director may consider, among other things, the extent to which the City would have to dedicate resources, such as staff time and funds, to grant the request and other requests like it." Reviewing land use applications and reasonable accommodation requests is part of the City's every day functions and cannot impose an undue burden. Nor is there any evidence that granting the reasonable accommodation would impose financial or administrative burdens on the City. As stated in HCD's November 29, 2023 letter, the City "may not place the

burden on reasonable accommodation applicants to demonstrate that their requested accommodations would not create undue burdens on the City or fundamental alterations to its zoning code." Exhibit 4 at 10. If it so contends, the burden is on the City to come forward with evidence supporting that contention.

D. <u>CMMC § 13-200.26(f)(4).</u> The requested accommodation is consistent with surrounding uses in scale and intensity of use.

City Planning staff previously found and reported to the Planning Commission and City Council that The Ohio House on Wilson "has demonstrated its compatibility with the neighborhood over the past three years." See Exhibit 13 at 8. The Ohio House is situated along an alleyway that adjoins a strip mall fronting the 55 Freeway, as depicted in this map:



The Ohio House is not only compatible with its Zoning District, it also fits with the surrounding uses, as reported by City Planning Staff:

> The property is zoned R2-MD (Multiple-Family Residential, Medium Density) and has a General Plan Land Use Designation of Commercial Residential. Multi-family residential uses that are also zoned R2-MD abut the site to the east and south; student housing for Vanguard University under a PDR-MD (Planned Development Residential - Medium Density) zone exists across East Wilson Street to the north; with a commercial center zoned C1 (Local Business District) existing across the alley to the west of the subject property.

Exhibit 13 at 3. The City also found in 2019 that The Ohio House's operation as a sober living home in that location is consistent with the City' General Plan. See Exhibit 14 at 12.

> The Ohio House is consistent with its land use designation of Commercial Residential under the General Plan which allows for 12 to 17.4 dwelling units per acre (more than allowed for medium-density residential) and serves as a buffer between Newport Boulevard and residential neighborhoods. (LU 32-33.) The medium density residential zoning designation is "also appropriate for quasi-residential uses such as convalescent hospitals and private residential care. Schools, religious institutions, parks, libraries, and related public facilities are also appropriate." (Land Use Element at LU-28.)

That finding is cemented in light of the City's current Housing Element, 2021-2029, including Chapter 4: The City Housing Plan.

> **E. <u>CMMC § 13-200.26(f)(5).</u> The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.**

The City has never claimed that granting The Ohio House's request for reasonable accommodation would result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. Such a finding must be made based on objective evidence, not stereotypes. 2 C.C.R. §

12179(b)(3)(B).

> **F. <u>CMMC § 13-200.26(f)(6).</u> If economic viability is raised by the applicant as part of the applicant's showing that the requested accommodation is necessary, then a finding that the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants generally, not just for that particular applicant.**

The Ohio House and its residents do not invoke this criterion as a basis of this request for reasonable accommodation at this time.

> **G. <u>CMMC § 13-200.26(f)(7).</u> Whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.**

In its November 29, 2023 letter, HCD informed the City that its reasonable accommodation regulation must be amended, including the repeal of this finding.

> The City should review its reasonable accommodation policies in Municipal Code section 13-200.62, along with its application of these policies, to ensure compliance with state law. For example, the City: . . . (iii) may not require applicants to show that they could not find any other housing within the city that would meet their disability related needs.

Exhibit 4. HCD's finding tracks Judge Selna's finding that "existing supply of facilities of a similar nature and operation in the community that could provide individuals with a disability an opportunity to live in a residential setting does not satisfy a disabled person's right to a dwelling opportunity of his or her choice." *The Ohio House, LLC v. City of Costa Mesa*, 2022 WL 18284406, at *8.

Nonetheless, the fact is that Costa Mesa currently faces a substantial need for

the housing provided by The Ohio House.

1. Licensed substance abuse facilities do not provide the housing opportunities provided by The Ohio House.

When considering whether the housing offered by The Ohio House is necessary to ensure equal opportunity for persons with disabilities who want to live in Costa Mesa's residential neighborhoods, the existence of DHCS-licensed residential substance abuse treatment facilities and homes used by intensive outpatient programs to house their outpatients do not factor into the analysis. Sober living homes do not provide substance abuse treatment but instead play a separate, significant – and unique – role in the substance abuse treatment/recovery continuum of care. *See* Part IV.B.2, above.

Even if the City were to erroneously conflate The Ohio House's structured sober housing with licensed treatment facilities, there are significantly fewer licensed treatment facilities in Costa Mesa today. In 2017, the City denied Ohio House's request for reasonable accommodation, pointing to the "63-state-licensed drug and alcohol residential treatment facilities in Costa Mesa that are not subject to the Special Use Permit requirements, or have already obtained the required conditional use permit." Exhibit 15 at 5. Today, that is no longer true: Information from the most recent update to the DHCS website shows that there are only *four* licensed residential facilities and 32 licensed residential-detox facilities in Costa Mesa. See Exhibit 16 attached. None of these licensed treatment or detox facilities provide the type of housing that The Ohio House supplies.

Nancy Clark, the City's acknowledged expert on these matters, has observed that there are "very, very few traditional sober livings [in Costa Mesa] available for people transitioning out of treatment." Clark, who operates a large licensed treatment facility in Costa Mesa, complains that she has nowhere in Costa Mesa to send her clients upon completing treatment for sober living. They often had to leave Costa Mesa and go to Santa Ana to locate the sober housing they needed in order to continue the next stage of their recovery process. See Exhibit 17, excerpts of the Deposition of Nancy Clark taken November 15, 2021, at 154:9-18. As for relocating

the Ohio House to another location in Costa Mesa, Clark states that a home operating before enactment of the City's regulations would be unlikely to find an alternative site in Costa Mesa if forced to relocate. Clark Depo. at 156:12-20.

The City's own data supports Clark's opinions. Today, there are very few sober living homes in Costa Mesa available to provide supportive housing as part of the continuum of care for recovery from substance abuse. See "City Approved Sober Living/Group Homes WEB," attached as Exhibit 18 and compare Exhibit 5 with Exhibit 6. The Ohio House consistently operates at capacity, providing sober living to 7 to 8 men in each of the five units on Wilson Avenue.

To determine whether there are available opportunities for sober living for men in Costa Mesa, Ohio House contacted, or attempted to contact, each of the unlicensed sober living homes listed on the City's website on the list for "City Approved Sober Living/Group Homes WEB," Exhibit 18 attached. There are 16 homes on that list. Three of the homes are DHCS-licensed treatment facilities.[1] The remaining 13 are unlicensed sober living homes operating with a special use permit or conditional use permit issued by the City, allegedly providing 112 beds for sober living opportunities.[2]

As of this week, Ohio House confirmed that two of the unlicensed homes (2735 Cibola and 2879 Monterey providing 18 beds) are for women only. Two other homes (582 Pierpont Drive 331 16th Street providing 12 beds) are no longer operating. Two of those homes are reserved for homeless men (2015 and 2025 Charle Street providing 34 beds), typically referred from county agencies.

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[1] 693 Plumer Street (15 beds), 209-211 18th Street East (12 beds), and 1110 Victoria Street (38 beds).

[2] 492 Broadway (6 beds), 2735 Cibola (12 beds), 2879 Monterey (6 beds), 582 Pierpont Drive (6 beds), 2152 Raleigh Avenue (6 beds), 2064 Republic Avenue (6 beds), 1068 San Pablo Circle (6 beds), 862 Senate Street (6 beds), 506 Traverse Drive (6 beds), 2015 and 2025 Charle Street (34 beds), and 165 Wilson Street (12 beds).

The seven City-permitted homes offering unlicensed sober living provide just a handful of opportunities for structured sober living like that offered by The Ohio House. Each home The Ohio House was able to make contact with (492 Broadway, 165 Wilson Street, as well as the two Charle Street homes for homeless men) have waiting lists or are consistently operating at full capacity with occasional vacancies. The Ohio House's home on Senate Street also consistently operates at capacity. The Ohio House will supplement this request if it is able to obtain information from the four remaining homes on Raleigh, Republic, San Pablo, and Traverse.

In summary, of the potential 112 beds in City-approved sober living homes, 18 are for women only, 12 have closed, and 34 are reserved for homeless men. Of the remaining 48 beds, 24 are in homes that report being consistently full with few vacancies. The remaining 24 beds are in homes The Ohio House has not been able to make contact with to confirm whether they regularly have beds available for men who seek traditional sober living, not tied to a treatment facility. Either way, the closure of The Ohio House which consistently provides sober living to between 30 and 45 men in recovery, will foreclose housing opportunities for current residents and future residents alike since.

And, the need for sober living as part of the treatment continuum in Costa Mesa is greater than the supply. See Exhibit 19 at p. CA-9, SAMSHA data (showing that from 2016-2018, 5.79 % of the residents of Orange County age 12 or older needed, but did not receive, treatment for substance abuse).

For all of these reasons, the structured sober housing offered by Ohio House provides persons with disabilities with an equal opportunity to live in residential neighborhoods while they continue to strengthen their sobriety and learn the skills necessary to live independently without relapse. Without group home residential opportunities in residential areas, disabled persons in recovery do not have the same opportunity to live in residential neighborhoods as non-disabled persons who are able to live independently without supported group housing. And, the accommodation allowing Ohio House to continue to provide structured sober living is necessary to enable the current residents of The Ohio House joining in this request and future residents to reside in the housing of their choice in Costa Mesa.

H. CMMC § 13-200.26(f)(8). The requested accommodation is reasonable and will not result in a fundamental alteration in the nature of the City's zoning program.

Will making a modest exception to the SHU definition or separation requirement for the limited purpose of allowing a sober living location to continue to provide housing to disabled persons result in "fundamental alteration in the nature of the City's zoning program?" The answer under FEHA and the City's own criteria is no.

Start with the City's own regulation. According to CMMC § 13-200.26(e)(2)(b),

> In considering the potential alteration to a City program, such as the City's zoning scheme, the director may consider, among other things, whether granting the request would be **consistent with the City's General Plan**, with the purpose and **nature of the particular zoning district**, and with **nearby uses**. The director may also consider whether the requested accommodation would potentially have **adverse external impacts on properties** in the vicinity.

None of these factors supports finding that making modest exceptions to strict compliance with the Single Housekeeping Unit definition or a reduction in the separate requirement for Ohio House only would create a fundamental alteration of the nature of the City's zoning program. As discussed above, the City's Planning Staff has already determined and reported to the Planning Commission and City Council The Ohio House's request to remain open conforms to the City's General Plan which determines the nature of the City's zoning program.

- General Plan Conformance:

  "• Goal LU-1 F .1: Land Use and Goal HOU-1.2: Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks) from the encroachment of incompatible

> or potentially disruptive land uses and/or activities. **Consistency: The City's regulations are intended to preserve the residential character of the City's neighborhoods. This facility has demonstrated its compatibility with the neighborhood over the past three years.**"
>
> "• Goal HOU-1.8: Housing Element: Encourage the development of housing that fulfills specialized needs. **Consistency: The proposed request provides for a supportive living environment for persons who are considered disabled under state and federal law."**

(January 31, 2019 Planning Commission Agenda Report re CUP PA-17-10 at p. 8.) Under the current Housing Element, these findings are stronger than ever.

Under the City's zoning authority, if this request is compatible with the General Plan, which is clear is, then it for sure cannot be deemed a fundamental alteration of the City's zoning program. The General Plan, not the Zoning Code, that establishes "the essential nature" of the City's land use program. See 2 CCR §12179(e) (fundamental alteration changes "essential nature" of operations). The City's Zoning Code "is a tool for implementing the goals, objectives and policies of the Costa Mesa General Plan." CMMC §13-3(a) (emphasis added). An exception to a "tool" cannot be viewed as a fundamental alteration. Nor can an exception that is "consistent with the general plan" be viewed as a fundamental alteration.

Moreover, the City's group home regulations repeatedly and expressly recognizes that requests for relief from strict compliance with those regulations is **not** a fundamental alteration of the City's zoning program. Instead, it is built into the zoning code itself. The City's regulations explicitly invite group homes, like Ohio House, to request relief from strict compliance. Acceptance of an explicit invitation cannot be viewed as cause for a fundamental alternation. See CMMC § 13-311(a)(15) ("An applicant **may seek relief from the strict application** of this section by submitting an application to the director setting forth specific reasons as to why accommodation over and above this section is necessary under state and federal laws, pursuant to section 13-200.62."); § 13-322(c)("An applicant **may seek relief from the strict application** of this section by submitting an application to the director

setting forth specific reasons as to why accommodation over and above this section is necessary under state and federal laws, pursuant to Article 15 of Chapter IX of Title 13 of this Code"); § 9-374 ("An **applicant may seek relief from the strict application** of this section by submitting an application to the director setting forth specific reasons as to why accommodation over and above this section is necessary under state and federal laws, pursuant to Article 15 of Chapter IX of Title 13 of this Code.") If there is a fundamental feature of the City's group home regulations, it is the invitation and acknowledgment that reasonable accommodation **seeking relief from the strict application** of the City's retroactively group home requirements are a fundamental aspect of the City's zoning program and *not* an alteration of that program. The City's reasonable accommodation regulations do not convert this fundamental feature of the City's group home regulation into a fundamental alteration:

> Any person seeking approval to construct and/or modify residential housing for person(s) with disabilities, and/or operate a residential care facility, group home, or referral facility, which will substantially serve persons with disabilities may apply for a reasonable accommodation to obtain relief from a Zoning Code provision, regulation, policy, or condition which causes a barrier to equal opportunity for housing. CMMC § 13-200.61.

a. Making modest exceptions to the current definition of Single Housekeeping Unit for The Ohio House to remain open does not cause a fundamental alternation of the City's zoning program.

Making an accommodation in the application of the "single housekeeping unit" definition is necessary to enable residents to continue to live in the housing of their choice in the community. The relations between residents of each Ohio House unit meet many of the indicia of a single housekeeping unit. The Ohio House residents "have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, [and] household activities." CMMC § 13-6. The average length of residency is seven months. Although members do not share a single lease agreement and do not have control over who becomes a member of the household, The Ohio House does not have those attributes because they conflict with

the need to ensure that all members of the household are adhering to nonnegotiable requirement of maintaining sobriety and the other house rules that ensure accountability and engender supportive relationships between household members.[3] In addition, The Ohio House lacks the other City-identified factors indicating that the use is not a single housekeeping unit – members of The Ohio House households *do not* have separate, private entrances from other members; members of the household *do not* have locks on their bedroom doors; members of the household *do not* have separate food storage facilities, such as separate refrigerators. CMMC § 13-6.

The experiences of residents George Castaneda, Diego Blake, Garey Miller, Kayl McReynolds, and Robert Palmer supports that conclusion. They and their housemates share meals together, rotate and keep in touch about chores, and spend time with each other providing mutual support. More details will be provided in their statements supplementing this application to be submitted next week.

An accommodation in the strict application of the City's single housekeeping unit definition is neither unreasonable nor would it cause a fundamental alteration in the City's zoning code or neighborhoods because, *inter alia*, HCD has advised the City that its definition of "single housekeeping unit" conflicts with state housing law. See Exhibit 4 at 6. Granting this request is also in keeping with the Goal #2 of the City's Housing Element portion of the General to "[f]acilitate the creation and availability of housing for residents at all income levels and for those with special housing needs." (Housing Element at 4-6.)

Granting this request is required by FEHA. While § 13-200.26(e)(2)(b)

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[3] Section 13-6 also includes an suggestion that in a single housekeeping unit "the residential activities of the household are conducted on a nonprofit basis." It is not clear exactly what is intended. Housing rented on a nonprofit basis is not the norm. The residents of The Ohio House are not performing household functions for recompense. In any event, to the extent the City believes that The Ohio House is conducting "residential activities" at Wilson Street, those activities are part and parcel of the supportive, structured living environment that is an integral part of the housing offered by The Ohio House to people with disabilities.

suggests that the director "may also consider whether the requested accommodation would potentially have adverse external impacts on properties in the vicinity," both HCD and CRD have made clear that those adverse external impacts must be based on evidence regarding The Ohio House, not based on assumptions regarding sober living in general. See HCD November 29, 2023 letter, Exhibit 4 at 8-10, *Amicus* Brief, Exhibit 3 at 24-25; *Technical Analysis*, Exhibit 1 at 19-20 ("Denials of reasonable accommodation requests must be based on individualized assessments, and specific evidence, not generalized or speculative concerns about group homes or persons with disabilities.").

It is also required under the City's obligations under the State Planning and Zoning Law. There would be no fundamental alteration in the City's zoning scheme to treat The Ohio House as a single-family household. Indeed, the HCD's *Group Home Technical Advisory* advises that group homes like The Ohio House should be treated as single-family households. Exhibit 1 at 24-25. The operation of The Ohio House is consistent with and complies with the general regulations applicable to all single-family households in Costa Mesa. The relations between residents of each Ohio House unit meet many of the indicia of a single housekeeping unit and those in which it differs are based on the disability-related needs of the residents. See also Exhibit 2, City Housing Program 2O (amending definition of Single Housekeeping Unit in line with this application.)

> *b. Granting the alternative request for relief from strict compliance with the separate requirement would not cause a fundamental alternation to the City's zoning program.*

For the same reasons discussed above – and bolstered by the City's new Program 2P: Group Homes (Exhibit 2) – reducing the separation requirement so that The Ohio House may remain open does not cause a fundamental alteration to the City's zoning program.

To start, there has been a material change in circumstances. According to the most recent DHCS list of licensed treatment homes, the two licensed homes in the City found to be in close proximity to Ohio House are now closed. See Exhibit 16.

There remains the CUP permitted group home – approximately 550 feet from The Ohio House. For the reasons stated by HCD and the Attorney General, the proximity of these homes does not justify the denial of this application. See Exhibits 1,3, 4.

But the facts on the ground also tell a compelling story. The location of The Ohio House is truly unique. Sequestered along an alleyway, abutting a strip mall that fronts the 55 Freeway and across the street from student housing, there are few locations in Costa Mesa where a sober living home could be more compatible with (and largely isolated from) its neighbors. It is not surprising, therefore, that Nancy Clark, the City's acknowledged expert, observed that the proximity between The Ohio House and the group home with a CUP do *not* generate an "institutionalized" environment. See Exhibit 17 at 182:16-19.) To Clark, the area around The Ohio House does not feel institutionalized. Id. at 182:24-183:2.

V. Additional factors do not support finding that granting The Ohio House's requested accommodation would require a fundamental alteration in the nature of the City's zoning program, CMMC § 13-200.62(g).

A. CMMC § 13-200.62(g)(1). Whether the requested accommodation would fundamentally alter the character of the neighborhood.

Granting the accommodation will not fundamentally alter the character of the neighborhood. The Ohio House consists of a common interest development that is in compliance with the City's development standards (except lot width). Each unit faces the alley running parallel to Newport Boulevard and the rear of the businesses facing Newport Boulevard. Across Wilson Street is student housing for Vanguard University. Other than the abatement citations and action, Ohio House has not been subject to any code enforcement actions. This residential property fits in with the character of the neighborhood.

B. CMMC § 13-200.62(g)(2). Whether the accommodation would result in a substantial increase in traffic or insufficient parking.

Granting the requested accommodation will not result in a substantial increase

in traffic or insufficient parking. Each unit has a garage and driveway parking spaces. Most residents do not have cars and there is a 30-day waiting period before a new resident may have a car. The City does not restrict residency in single-family residences based on the potential number of vehicles residents may have. As stated above, concerns about increases in traffic or insufficient parking must relate to The Ohio House itself, not be based on generalized concerns about sober living homes or multi-family housing. See HCD November 29, 2023 letter, Exhibit 4 at 8-10, *Amicus* Brief, Exhibit 3 at 24-25; *Technical Analysis*, Exhibit 1 at 19-20

C. CMMC § 13-200.62(g)(3). Whether granting the requested accommodation would substantially undermine any express purpose of either the City's general plan or an applicable specific plan.

As discussed above, granting the requested accommodation would further, not under, the express purposes set forth in the City's General Plan. Housing Goal #2 of the City's Housing Element 2021-2029 is to "Facilitate the creation and availability of housing for residents at all income levels and for those with special housing needs." (Housing Element at 4-6.) Groups with special housing needs include persons with disabilities, including those who require supportive housing, who "generally have special housing needs that must be provided with the City's housing stock." (General Plan, Community Profile at 2-20.)

D. CMMC § 13-200.62(g)(4). Whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

The requested accommodation will not result in an institutionalized environment due to the number or and distance between facilities that are similar in nature or operation. Because The Ohio House operates consistent with the requirements the City applies to single housekeeping units, its siting 550 feet from another City-approved sober living home at 165 E. Wilson Street will not create an institutionalized environment.

Proof of an institutionalized environment requires evidence that a reduction of

100 feet will cause the neighborhood to be "institutionalized." Given the reduction in sober living city-wide, and the existence of only one other sober living home anywhere near The Ohio House, there simply is no evidence of institutionalization supporting denial of this request.

E. CMMC § 13-200.62(g)(5). Any other factors that would cause a fundamental alteration in the city's zoning program, as may be defined in the Fair Housing Law.

None, for the reasons already set forth above.

VI. Neither res judicata nor collateral estoppel support denying this request.

The City has contended that Ohio House's 2023 request for reasonable accommodation was "both untimely and barred by the doctrine of res judicata/collateral estoppel." Even if the City were to disregard the material changes in circumstances nullifying those assertions, neither assertion is valid under the California state law governing this application.

First, California's FEHA is unique in providing greater protection to disabled persons than the federal Fair Housing Act. FEHA explicitly rejects each of the bases for the City's denial of Ohio House's 2023 request for reasonable accommodation as HCD and CRD informed the Ninth Circuit.

Second, the doctrines of res judicata or collateral estoppel in no way limit the City's duty to robustly apply FEHA's obligations in evaluating this application. This application is not only based on material changes in circumstances – not considered by either the district court or the Ninth Circuit in ruling on the 2017 request – it also is presented by new parties, the residents who face homelessness if Ohio House is closed. 2 C.C.R. § 12176(f)(4)(A request for reasonable accommodation under FEHA "may be made at any time, including . . . occupancy of a housing accommodation, during litigation, at or after trial, and after judgment in appropriate circumstances.")

Third, the City's duty to apply FEHA's state law requirements to this application is in no way precluded or limited by the district court's finding or the Ninth Circuit's affirmance. The district court's verdict did not find that any relief for strict compliance with the City's regulations under any circumstances was a fundamental alternation; instead, the verdict was necessarily limited to Ohio House's 2017 request, which lacked all the material changes in circumstances that underlying this application. Since a jury's verdict cannot settle the law, but solely decides the facts regarding a particular situation, the jury's conclusion that the City's denial of Ohio House's 2017 reasonable accommodation request did not violate the fair housing laws has no preclusive effect on the application of FEHA to this new application.

While the Ninth Circuit affirmed the district court's judgment, it explicitly stated that its ruling applied solely to the narrower federal Fair Housing Act and not FEHA, the law governing this application. It did not consider and made no ruling as to whether the City's denial of Ohio House's 2017 reasonable accommodation request violated California's FEHA. As to the Fair Housing Act only, the Ninth Circuit upheld the district court's finding that the jury was presented with sufficient evidence "on which to find that Ohio House's requested accommodation was unreasonable because it would cause a 'fundamental alteration' of the City's zoning scheme. *The Ohio House, LLC v. City of Costa Mesa*, __ F.4th __, 2024 WL 5668044, *22 (9th Cir. April 24, 2025) (amended opinion). Under the Fair Housing Act, the Ninth Circuit did not hold that a reduction of the City's 650-foot separation requirement for a specific group home would cause a fundamental alteration in the City's zoning scheme as a matter of law.

VII. The Ohio House requests that the City engage in an interactive process and, if necessary, try to identify if there is another accommodation or modification that is equally effective.

FEHA regulations provide that

> the person considering the request must try to identify if there is another accommodation or modification that is equally effective and must

> discuss with the individual with the disability or the individual's representative whether other alternative accommodations or modifications would be equally effective in meeting the needs of the individual with a disability. Equally effective means that the alternative accommodation or modification will allow the person with the disability to use and enjoy a dwelling or housing opportunity as well as the requested accommodation or modification would have.

2 C.C.R. § 12177(c). The City's reasonable accommodation regulations are similar. If the City denies this application, then the Director should consider "alternative reasonable accommodations which provide an equivalent level of benefit to the applicant." CMMC § 13-200.62(f); accord § 13-200.62(e)(1).

One possibility is classifying The Ohio House as "Supportive Housing" and subjecting it to the same regulations that apply to any other multifamily dwelling located in a R2-MD (Multiple-Family Residential, Medium Density) district and a General Plan Land Use Designation of Commercial Residential.

* * *

If the City has any questions or concerns regarding this application, please communicate them to me directly via email. Thank you.

/s/ Christopher Brancart
cbrancart@brancart.com

cc: Kimberly H. Barlow, City Attorney
Seymour Everett
Applicants

Exhibits:

1. *Group Home Technical Advisory*, CA Department of Housing and Community Development, Division of Housing Policy Development (December 2022)

2. Costa Mesa Housing Element Chapter 4: Housing Plan adopted by the City and approved by HCD

3. California Attorney General's *amicus* brief filed on behalf of the California Department of Housing and Community Development and California Civil Rights Department in *The Ohio House, LLC v. City of Costa Mesa*, 9th Cir. No. 22-56181

4. November 29, 2023 letter from HCD to City re Group Home Ordinances – Letter of Technical Assistance

5. Map of licensed and unlicensed group and sober living homes 2014

6. Map of unlicensed sober living homes permitted by the City 2025

7. Ohio House certification in support of reasonable accommodation

8. Ohio House website page

9. Ohio House admission agreement and residency rules

10. "Facing Addiction in America: The Surgeon General's Report of Alcohol, Drugs, and Health," U.S. Dept. of Health & Human Services (2016)

11. Polcin, et al., *Journal of Psychoactive Drugs*, "What Did We Learn from Our Study on Sober Living Houses and Where Do We Go from Here?" Vol. 42(4):425-433 (Dec. 2010)

12. "Recovery Housing: Best Practices and Suggested Guidelines," SAMHSA (2018)

13. January 31, 2019 Planning Commission Agenda Report re CUP PA 17-10

14. City Council Resolution 19-14

15. Denial of The Ohio House's 2017 request for reasonable accommodation.

16. DCHS licensed residential treatment facilities in Costa Mesa downloaded in April 2025

17. Nancy Clark deposition excerpts

18. City Approved Sober Living/Group Homes WEB downloaded April 2025

19. SAMHSA data

EXHIBIT 1

December 2022

GROUP HOME TECHNICAL ADVISORY

CA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DIVISION OF HOUSING POLICY DEVELOPMENT

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1. EXECUTIVE SUMMARY

Group homes are an especially important type of housing for persons with disabilities. By supporting their residents' individualized needs while providing flexible and affordable housing options, group homes help persons with disabilities live in deinstitutionalized settings that facilitate their integration into local communities.

In recent years, some local governments have amended their zoning ordinances to add new regulations for group homes, particularly for recovery residences—group homes that provide housing for persons recovering from alcoholism or drug addiction. These amendments have raised concerns that local governments are not complying with their affirmative obligations under state planning and zoning laws to promote more inclusive communities and affirmatively further fair housing (AFFH). These amendments have also generated disputes and confusion over whether local governments are violating fair housing laws by discriminating against persons with disabilities or other protected characteristics.

Among other concerns, local land use policies and practices can block new group homes from opening, force existing ones to close, and impose costs, legal fees, and administrative burdens that make it difficult for group homes to operate. These concerns arise in the context of a shortage of adequate housing for persons with disabilities, which is a particularly acute problem within California's broader housing crisis.

With concerns, disputes, and confusion continuing to grow, this Group Home Technical Advisory (Group Home TA) provides guidance on how state planning and zoning and fair housing laws apply when local governments attempt to regulate group homes through land use policies and practices. It is designed to help local governments comply with their obligations under these state laws, including, for example, the Planning and Zoning Law,[1] Housing Element Law,[2] AFFH provisions,[3] Anti-Discrimination in Land Use Law,[4] and the Fair Employment and Housing Act (FEHA)[5] (collectively, state housing laws).

The California Department of Housing and Community Development (HCD) is issuing the Group Home TA under its authority to provide guidance about housing law and

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[1] Gov. Code, § 65000 et seq.

[2] Gov. Code, §§ 65580 ‑ 65589.11.

[3] See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (c)(5),(10).

[4] Gov. Code, § 65008.

[5] Gov. Code, § 12900 et seq.

policy.[6] The primary intended users are local planning agencies and their staff, but group home operators, advocates, and residents may also benefit from this information.

Contents

- **Background information about group homes** and the essential role they play in providing housing for persons with disabilities (pp. 6-8);
- **General guidance about overall state housing law standards** that (1) require local governments to remove constraints on group homes and affirmatively support them, and (2) prohibit local land use policies and practices that discriminate against group home owners, operators, and residents (pp. 8-23);
- **Specific guidance about how these standards apply to common issues** that arise when local governments attempt to regulate group homes through local land use policies and practices (pp. 23-36);
- **Lists of state government resource materials and contacts** (pp. 36-37).

Policy Guidance Summary

The Group Home TA's guidance for how local governments can comply with state housing laws regarding group homes includes the following:

- **Housing Element Law and AFFH.** Assess whether a policy or practice complies with Housing Element Law and AFFH requirements to avoid constraining housing for persons with disabilities and to affirmatively support this housing and its residents' fair housing choices (pp. 8-12). Consider the Group Home TA's examples of specific questions to guide local governments' analysis of these issues (pp.11-12).
- **Discriminatory Purpose or Effect.** Ensure that the policy or practice does not discriminate on the basis of disability or other characteristics protected by state law. Apply the Group Home TA's analysis on how to determine if a policy or practice has a discriminatory purpose or effect and how to implement flexible reasonable accommodation procedures that promptly and efficiently resolve accommodation requests in compliance with state housing laws and regulations. (pp. 12-20).

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[6] See, e.g., Health & Saf. Code, §§ 50152, 50406, subds. (e), (n), 50456, subd. (a), 50459, subd. (a); Gov. Code, § 65585, subd. (a). The Group Home TA is intended to provide general informational guidance only. It does not constitute legal advice.

- **Supportive and Transitional Housing.** Comply with the specific protections for group homes that fall within the definitions of supportive or transitional housing (pp. 20-22).

- **State and Federal Law Distinctions.** Confirm that a policy or practice complies with state housing laws even if it complies with federal law, because California law provides broader and different protections than federal law (pp. 22-23).

- **Definition of Single-Family Residence**. Avoid restrictive definitions of single housekeeping units or single-family homes that impermissibly constrain group homes from locating in single-family zones. This includes, for example, avoiding definitions that equate group homes with boardinghouses, require all residents to share a common deed or lease, overly scrutinize residents' living arrangements, or automatically exclude group homes that are owned by for-profit businesses or pay staff to help manage a home's operations (pp. 24-25).

- **Group Homes that Do Not Provide Licensable Services.** Allow group homes that operate as single-family residences and that do not provide licensable services to locate in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences (pp. 25-26).

- **Group Homes that Provide Licensable Services to Six or Fewer Residents.** Allow group homes that operate as single-family residences and that provide licensable services to six or fewer residents to locate in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences (pp. 25-26).

- **Group Homes that Provide Licensable Services to Seven or More Residents.** Ensure that any permitting or approval requirements for group homes that provide licensable services to seven or more residents are consistent with state housing laws (pp. 25-26).

- **Preexisting Nonconforming Uses.** Avoid retroactively applying a new zoning provision to group homes that were already operating before the provision was enacted (p. 27).

- **Spacing Requirements.** Avoid requirements for minimum spacing between group homes that go beyond those the Legislature has specified for limited types of licensed facilities and that conflict with state housing laws (pp. 27-29).

- **Occupancy Limits and Building, Fire, or Other Health and Safety Code Requirements.** Apply the same, generally applicable, nondiscriminatory occupancy limits and other building, fire, health, and safety requirements to group homes that apply to other housing, subject to reasonable accommodation requirements or the Legislature's requirements for specific types of licensed facilities, such as those serving persons with limited mobility (p. 29).

- **Other Requirements for Group Home Operators and Residents.** Avoid the other examples of special requirements for operators and residents discussed that can overly constrain group homes, conflict with the duty to affirmatively support this housing, and discriminate on the basis of disability and other protected characteristics. Examples discussed include, among other things, parking requirements, restrictions on residents or staff, neighborhood notice requirements, and local law enforcement registration requirements (pp. 30-33).

- **State Administrative Procedures for Investigating Licensing Issues.** Use the Department of Health Care Services (DHCS) or California Department of Social Services (CDSS) processes for investigating and resolving complaints that unlicensed group homes are providing services that require licenses from these departments (pp. 33-35).

- **Public Nuisance and Other Code Enforcement Actions.** Use generally applicable, nondiscriminatory laws and code enforcement procedures to investigate and, if appropriate, prosecute group home operators that are creating public nuisances; violating building, housing, fire, or other public health and safety codes; committing fraud; or engaging in other unlawful activities (p. 36).

This summary and the Group Home TA are not intended as all-inclusive guides to every issue that might arise when local governments attempt to regulate group homes. But by following the Group Home TA's framework and considering how it applies to the examples of common issues, local governments can ensure that their land use policies and practices comply with state housing laws.

Conclusion

Local governments that follow the Group Home TA's guidance can still address concerns about group homeowners or operators that mistreat or abuse their residents, engage in insurance fraud or other illegal practices, or operate their homes in unsafe manners or in ways that create public nuisances. But research has shown that these problems are limited to a small minority of group homes, with the majority of group homes being well managed and operating compatibly with their surrounding neighborhoods, while providing essential housing resources. Focusing on individual

group homes that are problematic is more consistent with state law and helps avoid adopting overly broad and constraining zoning regulations for all group homes.

2. TERMS USED

Different laws use the term “group homes” to refer to different types of housing for different populations covered by different regulatory schemes. The following terms refer to various types of residences in which unrelated persons share the residence**:**

- **Shared Living Residences**—any housing shared by unrelated persons, including, for example, group homes, recovery residences, some community care residential facilities, some supportive and transitional housing, emergency shelters, boardinghouses, dormitories, etc.
- **Group Homes**—housing shared by unrelated persons with disabilities that provide peer and other support for their residents’ disability related needs and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housekeeping, and other communal living activities.
- **Licensed Group Homes**—group homes that provide services that require licenses under state law.
- **Unlicensed Group Homes**—group homes that may provide some supportive services for their residents but not services that require licenses under state law.
- **Recovery Residences** or **Sober Living Homes**—group homes for persons recovering from alcoholism or drug addiction in which the residents mutually support each other's recovery and sobriety and that do not require licenses from DHCS because they do not provide alcoholism or drug addiction recovery and treatment services.
- **Alcohol or Other Drug (AOD) Facilities**—residential facilities that must obtain licenses from DHCS because they provide alcoholism or drug addiction recovery and treatment services.[7]

[7] See, e.g., Health & Saf. Code, § 11834.02.

- **Community Care Residential Facilities**—residential facilities that must obtain licenses from CDSS because they provide 24-hour nonmedical care and supervision for adults or children.[8]

3. BACKGROUND

Among the many reasons that group homes are essential housing for persons with disabilities is the support these homes provide for their residents' individualized, disability-related needs. This includes the peer support that group homes encourage their residents to provide to each other when sharing a home, as well as the services these homes can provide. These services range from basic support for independent living to more intensive care and supervision services that require state licenses. By providing peer support, services, or both, group homes help their residents live in deinstitutionalized settings and integrate into local communities. For these and other reasons, as the California Legislature has recognized, "'persons with disabilities . . . are significantly more likely than other persons to live with unrelated persons in group [homes].'"[9]

Because group homes are such important housing resources for persons with disabilities, state law not only protects them from discriminatory land use policies and practices, it mandates that local governments affirmatively support group homes locating in their communities.[10] Federal law also protects group homes, leading courts across the country to conclude that "'encourag[ing] and support[ing] handicapped persons' right to live in a group home in the community of their choice'" is "'the public policy of the United States.'"[11]

The communities of choice for many group homes are often single-family neighborhoods. Recovery residences, for example, often locate in single-family

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[8] See, e.g., Health & Saf. Code, §§ 1502, 1568.01, 1569.2, subds. (o)-(p).
[9] *Broadmoor San Clemente Homeowners Ass'n v. Nelson*, (1994) 25 Cal.App.4th 1, 6, quoting Stats. 1993, ch. 1277, § 18; 12 West Cal.Legis.Services, p. 6038.
[10] See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (a)(1), (a)(7), (c)(10).
[11] *Broadmoor*, 25 Cal.App.4th at 9, quoting *Rhodes v. Palmetto Pathway Homes, Inc.* (South Carolina 1991) 303 S.C. 308, 400 S.E.2d 484, 486.

neighborhoods because this helps "'recovering addicts' reintegration into society and redevelopment of self-sufficiency."[12]

But "for every group home that is successfully established, experts estimate that another closes or never opens because of community opposition."[13] The legislative history of the Fair Employment and Housing Act (FEHA), Government Code section 12900 et seq., and federal Fair Housing Act ("FHA"), 42 U.S.C. section 3601 et seq., show that the Legislature and Congress considered local governments' longstanding practices of using land use ordinances to exclude group homes when amending these civil rights laws to protect housing for persons with disabilities.[14]

Local opposition to group homes is often based on fears that they will disrupt neighborhoods, increase crime rates or drug use, generate excessive traffic and parking, or lower property values. But numerous studies, representing decades of research, have found that fears like these are unfounded.[15] In fact, studies have shown that group homes are often the best maintained properties on their blocks and function so much like other homes "that most neighbors within one to two blocks . . . do not even know that a group home . . . is nearby."[16]

This is not to minimize very real problems that have arisen at some group homes. In particular, some local governments have raised concerns based on problems at some recovery residences operated by unscrupulous owners seeking to maximize their profits

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[12] Laurie C. Malkin, *Troubles at the Doorstep: The Fair Housing Amendments Act of 1988 and Group Homes for Recovering Substance Abusers* (1995) 144 U. Pa. L. Rev. 757, 772-73 & nn. 55-60; *Oxford House, Inc. v. Township of Cherry Hill* ("*Cherry Hill*") (D. New Jersey 1992) 799 F.Supp. 450, 453.
[13] Malkin, *supra*, n. 12 at 795 & n. 171.
[14] See, e.g., *Broadmoor*, *supra*, 25 Cal. App. 4th at 6, quoting Stats.1993, ch. 1277, § 18; 12 West Cal.Legis.Services, p. 6038; H.R. Rep. 100-711, 23-24, reprinted in 1988 U.S.C.C.A.N. 2173, 2184-2185.
[15] See, e.g., Malkin, *supra*, n. 12 at 797-798 & nn. 181-184; Council of Planning Librarians, *There Goes the Neighborhood - A Summary of Studies Addressing the Most Often Expressed Fears about the Effects Of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990); Senate Comm. on Health Analysis of SB 786, Feb. 17, 2017 at 3, 5.
[16] Daniel Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & n. 50-52.

at the expense of their residents' wellbeing. These problems have included neglecting and abusing residents, engaging in insurance fraud, and creating public nuisances.[17]

While these are very real concerns, the examples of exploitive, abusive, and illegal practices appear to be limited to a small minority of recovery residences.[18] Moreover, in contrast to laws specially designed to address fraud, violations of state licensing laws, or health and safety violations and public nuisances, local land use policies are often too blunt and too broadly sweeping for properly addressing these problems. They risk continuing the history of discrimination against group homes by doing more to constrain and exclude well-functioning ones than they do to abate problems at dysfunctional ones.

Before local governments amend their zoning ordinances to regulate group homes, they should first determine if the proposed amendments will comply with state housing laws. They should apply the Group Home TA's framework and consider its examples of common issues that arise when local governments attempt to use land use laws to regulate group homes.

4. Framework for Assessing if Local Land Use Policies and Practices Comply with State Housing Laws' Protections of Group Homes

Confirming that local land use policies and practices for group homes comply with state housing laws involves assessing whether they comply with requirements for local governments to affirmatively support this housing in their communities and whether they discriminate on the basis of disability or other protected characteristics. Both assessments are necessary to confirm that a local land use policy or practice complies with state housing laws. Although the Group Home TA discusses Housing Element Law

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[17] See, e.g., Samantha Schmidt, *Drug Rehab 'Mogul' Convicted of Sexually Assaulting 7 Female Patients at Treatment Centers*, Washington Post, Feb. 27, 2018, https://www.washingtonpost.com/news/morning-mix/wp/2018/02/27/drug-rehab-mogul-convicted-of-sexually-assaulting-7-female-patients-at-treatment-centers/; Danielle L. Liberman, Current Development, *Not Too Sunny in the Sunshine State: The Need to Improve Florida's Opioid Abuse Treatment Centers to Combat the National Public Health Crisis*, 31 Geo. J. Legal Ethics 723, 735-738 (2018).

[18] See, e.g., Government Accounting Office, *Report to Congressional Requesters: Substance Use Disorder – Information on Recovery Housing Prevalence, Selected States' Oversight, and Funding* ("*GAO Report*") (March 2018) at 7-9 & n.18, available at https://www.gao.gov/assets/gao-18-315.pdf; see also studies cited *supra*, nn. 15-16.

and AFFH requirements before fair housing laws, local governments can assess their compliance with these laws in any order.

A. Do the Policies and Practices Comply with Housing Element Law and AFFH Requirements?

California law has long promoted more inclusive communities, such as by requiring local governments to protect and promote housing for persons with special needs, including, among others, lower income households and persons with disabilities or who have experienced homelessness.[19] Housing Element Law requires local governments to analyze the special housing needs of these populations and develop policies and programs to address those needs.[20]

As of January 1, 2019, AB 686 built upon these existing obligations to broadly require all state or local governments involved in programs or activities related to housing or community development to affirmatively further fair housing and take no actions inconsistent with this requirement.[21] The Legislature defined AFFH, to mean:

> taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.[22]

In AB 686, the Legislature also amended Housing Element Law to include new, specific AFFH requirements starting in 2021 for local governments when they prepare and implement housing elements. These requirements include, for example, identifying and addressing fair housing issues; analyzing integration and segregation patterns;

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[19] See, e.g., Gov. Code, § 65583, subds. (a)(1), (a)(7); Housing Elements Building Blocks, available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks.
[20] See, e.g., Gov. Code, § 65583, subds. (a)(7), (c).
[21] Gov. Code, § 8899.50, subd. (a)(2).
[22] *Id.* at (a)(1).

analyzing patterns and trends of disparate housing needs and disproportionate access to housing opportunities; and setting specific goals, adopting responsive policies, and taking effective actions that will affirmatively further fair housing.[23]

Taken together, the earlier Housing Element Law provisions and the newer AFFH requirements clarify local governments' affirmative responsibilities regarding group homes. As the historical record and California and federal legislative histories confirm, local land use laws have too often treated group homes as problems to be avoided or restricted. Local governments' obligations under state law have been misunderstood as being limited to avoiding discrimination and meeting a minimum threshold for fulfilling the locality's share of regional housing needs for persons with disabilities.

But local governments must go beyond these basic requirements by actively supporting the inclusion of group homes in their communities and removing constraints on this housing. This includes, for example, supporting the housing choices of individuals with protected characteristics.[24] Persons with disabilities have the right to live in accessible housing in the most integrated setting appropriate to their needs, which includes having access to disability-related support and services that individuals need to live in deinstitutionalized settings.[25] Local governments must also avoid policies that unjustifiably displace group home occupants from their homes.[26]

HCD has previously issued guidance about local governments' obligations under older Housing Element Law provisions and the more recently enacted AFFH provisions. These guidance documents are available through links listed under the Planning and Community Development tab on HCD's website.[27] Local governments should read the detailed guidance provided in these documents, which include:

- Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements (April 2021 Update),[28]
- Housing Element Building Blocks,[29]

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[23] See, e.g., Gov. Code, § 65583, subd. (c)(10).
[24] See, e.g., Gov. Code, § 65583, subd. (c)(10)(A)(iv); 24 C.F.R § 5.151 (2022).
[25] See, e.g., *Olmstead v. Zimring* (1999) 527 U.S. 581, 602, 607; 24 C.F.R. § 5.151 (2022); 28 C.F.R. § 35.130(d), (e)(1) (2022).
[26] Gov. Code. § 65583, subd. (c)(10)(A)(v).
[27] Available at https://www.hcd.ca.gov/.
[28] Available at http://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.
[29] Available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks.

- Housing Element Building Blocks – Persons with Disabilities,[30] and
- Housing Element Building Blocks – Constraints for People with Disabilities.[31]

HCD's earlier guidance documents discuss in more detail how local governments can assess their compliance with Housing Element Law and AFFH requirements. The following types of questions can help local jurisdictions assess if they are meeting their affirmative obligations to protect and promote the housing rights of persons with disabilities:[32]

- **Has the jurisdiction analyzed the special housing needs of persons with disabilities** by including in this analysis, among other things:
  - data about the number of persons and households in this group?
  - quantifiable and qualitative descriptions of their housing needs and descriptions of existing resources or programs for them?
  - assessments of unmet needs?

- **Has the jurisdiction analyzed and explained how it will meet those needs** by, among other things:
  - identifying potential programs, policy options, and resources?
  - discussing local resources and service providers?
  - identifying housing types that can accommodate persons with disabilities?
  - developing housing programs or strategies to address identified needs?

- **Has the jurisdiction analyzed and removed constraints on housing for persons with disabilities** by, among other things:
  - analyzing potential governmental constraints to the development, improvement, and maintenance of housing for persons with disabilities?
  - examining ordinances, policies, or practices that are unjustifiably having the effect of constraining or excluding housing variety and availability for persons with disabilities?
  - providing reasonable accommodations for persons with disabilities through programs that remove constraints?
  - ensuring that its reasonable accommodation procedures comply with state fair housing laws and regulations?
  - in general, demonstrating local efforts to remove constraints?

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[30] Available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/people-disabilities-including-developmental-disabilities.
[31] Available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/constraints-people-disabilities.
[32] See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (a)(4), (7), (c)(3), (5), (10).

- **Has the jurisdiction met its AFFH obligations for persons with disabilities** by, among other things:
  - actively supporting their integration into the local community?
  - actively supporting their fair housing rights, including their right to choose where to live and to access housing opportunities with services and support for their disabilities?
  - considering whether policies and practices are displacing persons with disabilities from their homes?
  - examining and redressing segregated living patterns?
  - fostering the integration of persons with disabilities into the community?
  - conducting outreach and education in the community to support the fair housing rights of persons with disabilities?
  - identifying and analyzing any policies or practices that have the purpose or effect of discriminating against persons with disabilities, perpetuating their segregation, or impeding their integration?
  - examining any justifications for policies or practices with discriminatory effects and identifying and implementing less discriminatory alternatives?

- **Has the jurisdiction conducted individualized, evidence- and data-based research and analysis**, including for:
  - any specific benefits that it believes a land use policy or practice regarding group homes will provide to persons with disabilities?
  - any specific health or safety issues that a jurisdiction believes justify land use polices or practices regarding group homes?[33]

B. Do the Policies and Practices Unlawfully Discriminate Based on Disability or Other Protected Characteristics?

In addition to the laws requiring local governments to affirmatively support group homes, state fair housing laws prohibit jurisdictions from discriminating against them.[34] For example, the Anti-Discrimination in Land Use Law, Government Code section 65008,

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[33] See, e.g., Cal. Code Regs., tit. 2, §§ 12042, subd. (f), 12179, subd. (b)(3).
[34] Fair housing laws protect group homes. See, e.g., Cal. Code Regs., tit. 2, § 12005, subd. (o); *Lakeside Resort Enterprises, LP v. Board of Sup's of Palmyra Twp*. (3d Cir. 2006) 455 F.3d 154, 159–60. See also *infra* at pp. 22-23 (explaining that while federal fair housing cases can provide important guidance for interpreting state fair housing laws, California's fair housing and disability rights laws provide broader protections than federal laws).

prohibits discriminatory local land use policies and practices and declares any such discriminatory policies or practices null and void.[35] This includes discrimination based on any characteristic protected by the FEHA and other state civil rights laws.[36]

Disability rights protections extend to persons with disabilities, persons regarded or treated as having, or having had, a disability, or persons with a record or history of a disability.[37] Complying with fair housing requirements for individuals with certain types of disabilities, such as individuals with developmental disabilities, will not excuse unlawful discrimination against other individuals with other types of disabilities, such as individuals recovering from alcoholism or drug addiction.[38]

The Anti-Discrimination in Land Use Law also includes protections not specified in the FEHA, such as prohibitions against land use policies and practices that discriminate against housing for "persons or families of very low, low, moderate, or middle income."[39] Therefore, depending on a group home's intended occupants, jurisdictions must consider whether their policies discriminate against not only persons with disabilities, but, for example, very low- or low income households if the residence is designed for persons with disabilities who have experienced homelessness.

State fair housing laws protect not only group homes' occupants, but other persons associated with them or other persons who may be harmed by discriminatory land use policies and practices, such as group homes' operators, owners, and landlords.[40]

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[35] Gov. Code, § 65008, subds. (a), (b)(1). The FEHA similarly prohibits discriminatory land use policies and practices. Gov. Code, § 12955, subd. (l); Cal. Code Regs., tit. 2, §§ 12161, 12162. See also Government Code section 11135 (prohibiting discrimination by recipients of state funding or financial assistance).
[36] See, e.g., Gov. Code, §§ 65008, subds. (a)(1)(A), (b)(1)(B)(i), 65583, subd. (c)(5).
[37] Gov. Code, § 12926, subds. (j), (m); 42 U.S.C. § 3602(h); Joint Statement of the Department of Housing and Urban Development and the Department of Justice – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act (Nov. 10, 2016) at 6 ("HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws"), available at https://www.justice.gov/opa/file/912366/download.
[38] Recovering from alcoholism or drug addiction is a disability protected by fair housing laws. See, e.g., *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 803 (9th Cir.1994), aff'd *City of Edmonds v. Oxford House* (1995) 514 U.S. 725; *Cherry Hill*, supra, 799 F.Supp. at 459; HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws at 6.
[39] Gov. Code, § 65008, subds. (a)(3), (b)(1)(C).
[40] Gov Code § 65008, subds. (a)(1)(A), (b)(1)(B)(ii), incorporating Gov. Code, § 12955, subd. (m).

Identifying and correcting discriminatory land use policies and practices requires understanding three general types of discrimination:

1. intentional discrimination,
2. discriminatory effects, and
3. failure to provide reasonable accommodations.[41]

i. Intentional Discrimination

Intentional discrimination includes "an act or failure to act" in which any protected characteristic "is a motivating factor . . . even though other factors may have also motivated the practice."[42] Unlike employment discrimination law, in which plaintiffs must prove that a defendant's action or inaction was substantially motivated by a discriminatory purpose, under fair housing law, a "housing practice" can be found illegal if it "demonstrates an intent to discriminate in any manner."[43]

Intentional discrimination is best understood as purposeful discrimination because it "does not require proof of personal prejudice or animus."[44] Even if local officials are not hostile towards persons with disabilities or act with benign intents to help them, a discriminatory policy or practice can still be unlawful. It is also unlawful for government officials to acquiesce to members of the public's prejudicial views even if the officials themselves do not share those views.[45]

Establishing intentional discrimination often involves evidence that persons with protected characteristics were treated worse than others without those characteristics. But this is only one way to prove discrimination.[46] Intentional discrimination does not require "the existence of a similarly situated entity who or which was treated better . . . ."[47] A local land use policy or practice that "inflicts collateral damage by harming some, or even all, individuals from a favored group in order to successfully

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[41] Although these are some of the most common, general types of discrimination issues that arise with local land use policies and practices, this is not an exhaustive list. See, e.g., Cal. Code Regs., tit. 2, §§ 12161-62 (listing more detailed examples).
[42] Gov. Code, § 12955.8; *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 217-218; Cal. Code Regs., tit. 2, § 12041, subd. (b).
[43] Gov. Code, § 12955.8.
[44] Cal. Code Regs., tit. 2, § 12041, subd. (b).
[45] Cal. Code Regs., tit. 2, § 12161, subd. (c).
[46] *Pacific Shores Properties, LLC v. City of Newport Beach* (9th Cir. 2013) 730 F.3d 1142, 1158-1159.
[47] *Id*. at 1158.

harm members of a disfavored class does not cleanse the taint of discrimination."[48] Sometimes it "simply underscores the depth of the defendant's" discriminatory intent.[49]

Intentional discrimination can be established through facial discrimination, direct evidence, or circumstantial evidence.

FACIAL DISCRIMINATION

Facially discriminatory laws or policies explicitly regulate housing or take an adverse action based on a protected characteristic.[50] Local governments can engage in facial discrimination even when a law or policy does not expressly refer to, for example, group homes or persons with disabilities. "Proxy discrimination is a form of facial discrimination" in which a jurisdiction:

> enacts a law or policy that treats individuals differently on the basis of seemingly neutral criteria that are so closely associated with the disfavored group that discrimination on the basis of such criteria is, constructively, facial discrimination against the disfavored group. For example, discriminating against individuals with gray hair is a proxy for age discrimination because the fit between age and gray hair is sufficiently close.[51]

To avoid liability for a law or policy that facially discriminates against persons with disabilities, a local government must show that the policy:

> (1) either (a) actually benefits persons with disabilities or (b) is justified by individualized safety concerns raised by the persons the policy affects, and
>
> (2) is "the least restrictive means of achieving" one or both of these goals.[52]

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[48] *Id*. at 1159.
[49] *Id*. See also *id*. at 1158 – 1162 & n. 23.
[50] Cal. Code Regs., tit. 2, § 12040, subd. (c).
[51] *Pacific Shores Properties*, 730 F.3d at 1160 n. 23, internal quotations and citations omitted.
[52] Cal. Code Regs., tit. 2, §§ 12042, subd. (f), 12161, subd. (d); *Larkin v. State of Mich. Dept. of Social Services* (6th Cir. 1996) 89 F.3d 285, 290.

These justifications for facial discrimination are "extremely narrow exception[s]," and jurisdictions should be wary of relying on them.[53] Jurisdictions must support them with at least, if not more than, the specific and thorough analysis and evidence required by Housing Element Law, including its AFFH provisions. Generalized concerns or ones based on stereotypes will not suffice.[54] Jurisdictions should also consider less discriminatory alternatives.[55] And in light of jurisdictions' obligations to "protect existing residents from displacement" and otherwise affirmatively further fair housing, laws or policies that displace group home occupants from their current, chosen residences warrant especially thorough scrutiny.[56]

Direct evidence

Direct evidence includes written or oral statements showing in themselves that a protected characteristic was a motivating factor in a local jurisdiction's decision. Direct evidence can itself establish a violation. The affirmative defenses for facial discrimination claims do not apply to direct evidence claims.[57]

Circumstantial Evidence

Even when policies or statements in themselves do not establish a discriminatory intent, local land use policies and practices can still be found discriminatory based on circumstantial evidence, which can include: (1) the policy's or practice's impact, (2) its historical background, (3) the more recent, specific sequence of events leading up to it, (4) departures from usual procedures, (5) departures from usual substantive standards, and (6) the legislative or administrative history.[58]

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[53] *Dothard v. Rawlinson* (1977) 433 U.S. 321, 334; *Bangerter v. Orem City Corp.* (10th Cir. 1995) 46 F.3d 1491, 1504; see also *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, 31 nn. 7, 8 (explaining that public policy exceptions to Unruh Act's prohibitions of discrimination are "rare" and "should be carefully and narrowly construed").
[54] *Larkin*, 89 F.3d at 291-292 (rigorously examining and rejecting an agency's justifications and evidence for spacing and community notice requirements for group homes in holding that they violate the FHA).
[55] Cal. Code Regs., tit. 2, § 12042, subd. (f).
[56] See, e.g., Gov. Code, § 65583, subds. (c)(10)(A)(iv), (v).
[57] See, e.g., Cal. Code Regs., tit. 2, § 12042, subds. (c)-(e).
[58] HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws at 4, citing *Village of Arlington Heights v. Metro. Hous. Dev. Corp.* (1977) 429 U.S. 252, 265-68.

These factors are not the only ones that may be considered.[59] And "very little evidence" is needed to "raise a genuine issue" of a discriminatory intent.[60] Procedural or substantive departures from AFFH or housing element requirements when regulating group homes would be relevant evidence to consider in assessing if local officials acted for discriminatory purposes.

ii. DISCRIMINATORY EFFECTS

Even if a local government has not acted with a discriminatory purpose, its land use policies or practices can be found unlawful if they have an unjustified discriminatory effect. A discriminatory effect is generally established through statistical evidence showing that a policy or practice actually or predictably results in a disparate impact on a group of persons with protected characteristics or that it perpetuates segregation.[61]

If a local land use practice is found to have a discriminatory effect, a jurisdiction can avoid liability if it shows there is a legally sufficient justification for its policy or practice.[62] A jurisdiction must establish each of the following:

> (1) The practice is necessary to achieve one or more substantial, legitimate, nondiscriminatory purposes;
>
> (2) The practice effectively carries out the identified purpose;
>
> (3) The identified purpose is sufficiently compelling to override the discriminatory effect; and
>
> (4) There is no feasible alternative practice that would equally or better accomplish the identified purpose with a less discriminatory effect.[63]

Generalized or hypothetical analysis of these elements will not suffice. They must be "supported by evidence."[64]

To comply with Housing Element Law, including its AFFH provisions, a jurisdiction should not wait for group home occupants or operators to bring discriminatory effects claims but should research on its own whether its policies or practices have discriminatory effects on these residences. If so, the jurisdiction should also complete

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[59] *Pacific Shores Properties*, 730 F.3d at 1159.
[60] *Id.*; Gov. Code, § 12955.8; Cal. Code Regs., tit. 2, § 12041, subd. (b).
[61] Cal. Code Regs., tit. 2, § 12060, subd. (b).
[62] Cal. Code Regs., tit. 2, § 12062, subd. (b).
[63] *Id.*
[64] Cal. Code Regs., tit. 2, § 12062, subd. (c).

the evidence-based analysis needed to determine whether there are legally sufficient justifications for these discriminatory policies or practices, including analyzing less discriminatory alternatives.

iii. Reasonable Accommodations

Discrimination can also arise from a jurisdiction failing "to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling."[65] A request for a reasonable accommodation may only be denied if:

> (1) The individual on whose behalf the accommodation was requested is not an individual with a disability;
>
> (2) There is no disability-related need for the requested accommodation (in other words, there is no [connection] between the disability and the requested accommodation);
>
> (3) The requested accommodation would constitute a fundamental alteration of the services or operations of the person who is asked to provide the accommodation.
>
> (4) The requested accommodation would impose an undue financial and administrative burden on the person who is asked to provide the accommodation; or
>
> (5) The requested accommodation would constitute a direct threat to the health or safety of others (i.e., a significant risk of bodily harm) or would cause substantial physical damage to the property of others, and such risks cannot be sufficiently mitigated or eliminated by another reasonable accommodation . . . .[66]

Three common issues, among others, can arise when group home operators or occupants request reasonable accommodations in local land use policies and practices:

1. **While a jurisdiction should adopt a formal reasonable accommodations process so that, among other reasons, the public knows how to request accommodations, these processes should be flexible enough to promptly and efficiently resolve accommodations requests without creating**

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[65] Gov. Code, § 12927, subd. (c)(1).
[66] Cal Code Regs., tit. 2, § 12179.

unnecessary procedural barriers.[67] These processes should allow group home operators to request reasonable accommodations "at any time . . . while seeking or enjoying a housing opportunity," including, for example, when: (1) considering whether to buy or lease a home; (2) filing a permit application, or (3) responding to allegations they have violated a zoning code or other ordinance.[68] If local governments are repeatedly denying accommodation requests or delaying resolving them, they should analyze whether this is due to the requestors failing to provide sufficient information and support or to procedures erecting impermissible barriers to accommodations.[69]

2. **"'[I]n most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary'" to establish that a person has a disability or that this disability requires a reasonable accommodation in a land use policy or practice.**[70] A reliable third party with knowledge of a person's disabilities can usually provide sufficient information for assessing a request for an accommodation in a local land use policy or practice.[71] For example, it is well established that persons recovering from alcoholism or drug addiction have disabilities and that recovery residences support their recoveries. Thus, information provided by a recovery residence operator, such as its occupancy or other policies, for example, should generally suffice to establish its occupants have disabilities and the justifications for the

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[67] See, e.g., *id.* at §§ 12176, subd. (c), 12178.
[68] See, e.g., *id.* at § 12176, subd. (f).
[69] See, e.g., *id.* at § 12177; see also these examples of reasonable accommodation ordinances: Oakland Mun. Code, ch. 17.131, available at https://library.municode.com/ca/oakland/codes/planning_code?nodeId=TIT17PL_CH17.131REACPOPR; Model Ordinance for Providing Reasonable Accommodation Under Federal and State Fair Housing Laws ("Model Reasonable Accommodation Ordinance"), Mental Health Advocacy Services, Inc. (September 2003), available at https://www.hcd.ca.gov/community-development/building-blocks/program-requirements/address-remove-mitigate-constraints/docs/model_reasonable_accomodation_ordinance.pdf.
[70] Supplement to Initial Statement of Reasons for FEHC's Fair Housing Regulations at 26, quoting HUD DOJ May 17, 2004 Joint Statement on Reasonable Accommodations, available at https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2019/07/FairHousingReg-SupplementInitialStatementReasons.pdf.
[71] Cal. Code Regs., tit. 2, § 12178.

requested accommodations, allowing local officials to assess the request without probing into the occupants' private medical records or histories.[72]

3. **Denials of reasonable accommodation requests must be based on individualized assessments, and specific evidence, not generalized or speculative concerns about group homes or persons with disabilities.** The state's fair housing regulations provide specific guidance about the type of evidence required to meet this standard.[73]

5. Supportive Housing and Transitional Housing Requirements

If a group home operates in ways that fall within the statutory definitions of supportive housing or transitional housing, jurisdictions must also comply with Housing Element Law's specific protections of these types of housing. This section summarizes these protections, which are explained more fully in other HCD guidance documents, including:

- Housing Accountability Act Technical Assistance Advisory (Sep. 15, 2020),[74]
- Housing Element Building Blocks – Zoning for a Variety of Housing Types,[75]
- Senate Bill 2 – Legislation Effective January 1, 2008: Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing (Apr. 10, 2013 update),[76] and
- Transitional and Supportive Housing, Chapter 183, Statutes of 2013 (SB 745) (Apr. 24, 2014).[77]

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[72] *Id*; *Regional Economic Community Action Program, Inc. v. City of Middletown* (2d Cir. 2002) 294 F.3d 35, 47-48 & n.3, superseded on other grounds as stated in *Brooker v. Altoona Housing Authority* (W.D. Penn 2013) 2013 WL 2896814 at *9 n. 8.
[73] Cal. Code Regs., tit 2, § 12179.
[74] Available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf.
[75] Available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/zoning-variety-of-housing-types.
[76] Available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf.
[77] Available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb745memo042414.pdf.

Supportive Housing Definition. Government Code section 65582, subdivision (g), defines supportive housing to mean housing that:

- has no limit on the length of stay;
- is linked to onsite or offsite services that assist residents in improving their health status, retaining the housing, and maximizing their ability to live and, where possible, work in the community; and
- is occupied by the "target population," which "means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act . . . and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans and homeless people."[78]

Transitional Housing Definition. Government Code section 65582, subdivision (j), defines "transitional housing" to mean "buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance." Therefore, in contrast to supportive housing, transitional housing may limit the length of stay, is not required to provide supportive services (though may be linked to them), and is not limited to residents within the "target population."

Key Protections for Supportive and Transitional Housing. If a group home operates in ways that qualify it as either supportive or transitional housing, jurisdictions must comply with Housing Element Law's additional protections for these types of housing.

This includes the requirement that supportive and transitional housing "shall be considered a *residential use of property* and shall be *subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.*"[79] In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single-family home, apartments) in the

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[78] Gov. Code, § 65582, subd. (i).
[79] Gov. Code, § 65583, subd. (c)(3), emphasis added.

same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone, and supportive housing located in a single-family home in a single-family zone is permitted in the same manner as a single-family home in the same zone.

In addition, if supportive housing meets the specifications of Government Code section 65650 et seq, it must be treated as "a use by right in all zones where multifamily and mixed uses are permitted . . . ."[80] By-right approval means that the use cannot require a conditional use permit or other discretionary review, even if a permit is required for other residential dwellings of the same type in the same zone.[81] This nondiscretionary (i.e., ministerial) approval requirement renders the proposed use statutorily exempt from the California Environmental Quality Act if the project "complies with written, objective development standards and policies."[82]

When supportive or transitional housing does require a permit of any type, the Housing Accountability Act limits jurisdictions' authority to deny the permit. These limits are discussed at length in HCD's Housing Accountability Act Technical Assistance Advisory (Sep. 15, 2020).[83]

6. State Law Provides Broader Protections Than Federal Law

The Legislature has specified that the FEHA may be interpreted broadly to provide "greater rights and remedies" than federal laws.[84] The Legislature has also emphasized that "[t]he law of this state in the area of disability provides protections independent from those in [federal law]," noting that California law "has always, even prior to passage of the federal [ADA], afforded additional protections."[85]

Examples of California providing "greater rights and remedies" than federal law include, among other things, state law's broader definitions of disabilities (e.g., only requiring a mere limitation of a major life activity for a mental or physical condition to qualify as a

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[80] *Id.*
[81] *Id.*
[82] Gov. Code, § 65651, subd. (b)(2); Pub. Resources Code, § 21080, subd. (b)(1); Cal. Code Regs., tit. 14, §§ 15002, subds. (i)(1), 15268(a).
[83] See *supra*, n. 74.
[84] Gov. Code, §§ 12955.6, 12993.
[85] Gov. Code, § 12926.1, subd. (a).

disability compared to federal law requiring a substantial limitation); prohibition of land use policies and practices that discriminate against housing designed for persons or families of very low, low, moderate, or middle income; requirements for how local governments must affirmatively support housing for persons with disabilities; specific requirements for supportive and transitional housing; and reasonable accommodations regulations.[86]

Therefore, federal laws set a floor, not a ceiling, for the fair housing rights that the state may provide through the FEHA, Anti-Discrimination in Land Use Law, and other state laws.[87] Likewise, although federal court decisions about federal fair housing laws can provide important guidance for interpreting state fair housing laws, their interpretations of state laws are not binding authority.[88] Confusion can arise if local governments assume that resolving whether a local land use policy or practice complies with federal law automatically resolves whether it complies with state law.

To avoid this confusion, local governments should follow these two general guidelines:

- **If a policy or practice violates federal fair housing law, it also likely violates state law.**
- **But the converse is not necessarily true**. If a policy or practice complies with federal fair housing laws, local governments should independently determine whether it complies with state law's broader protections.

7. Common Issues In Local Ordinances That Regulate Group Homes

HCD cannot anticipate all the issues that might arise if local governments attempt to regulate group homes through local land use laws. But the following are examples of some common ones that can arise.

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[86] See, e.g., Gov. Code, §§ 12926.1; 65008, subds. (a), (b); 65583, subds. (a), (c); Cal. Code Regs., §§ 12176-12185.
[87] See, e.g., Gov. Code, § 12926.1, subd. (a); *California Federal Sav. and Loan Ass'n v. Guerra* (1987) 479 U.S. 272, 285; 42 U.S.C. § 3615.
[88] See, e.g., Cal. Code Regs, tit. 2, § 11001, subd. (b).

A. Definitions of Single Housekeeping Units or Single-Family Homes

Zoning ordinances sometimes attempt to restrict or limit group homes in single-family residential zones (e.g., R-1) through definitions of single housekeeping units or single-family homes. Overly restrictive definitions risk violating not only state housing laws, but the California Constitution's protections of the rights of unrelated persons to live together in communal housing.[89]

Persons with disabilities choose to live in group homes because these homes provide peer and other support for their residents' disability-related needs, while helping to integrate residents into their communities. Group homes should be treated as single-housekeeping units if they are designed to foster these mutually supportive peer relationships; allow open-ended stays or at least, on average, stays of more than a few weeks; and provide shared kitchen, dining, living, and other spaces in which residents may, in certain homes, participate in basic, shared cooking and housekeeping activities.

In general, localities should avoid including provisions in definitions of shared-housekeeping units, single-family homes, or other single residential dwellings that:

- **Equate group homes with boardinghouses.** Group homes' shared communal purposes to provide peer and other support for their occupants' disability-related needs and to help integrate them into their local communities makes this an inapt comparison. Boardinghouses do not provide communal housing designed to support the needs of persons with disabilities.

- **Require all residents to share a common deed or lease**. The California Constitution's protections of personal privacy extend to individuals' choices to live together even when they are not joint owners or tenants.[90] And group homes can still provide a communal setting that supports their residents' needs without all residents being joint owners or tenants.

- **Automatically exclude group homes that are owned by for-profit businesses or that pay a house manager or resident to help manage a**

[89] See, e.g., *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123.
[90] See, e.g., *Coalition Advocating Legal Housing Options v. City of Santa Monica* (2001) 88 Cal.App.4th 451, 458-459.

home's operations. These are well-established models for group homes.[91] And persons with certain types of disabilities may need supportive, in-house staff to be able to live in a group home.

- **Overly scrutinize living arrangements** by, for example, requiring residents to take care of all housekeeping tasks, share all bathrooms and refrigerators, and eat all meals together, or by prohibiting locks on bedroom doors. Localities do not impose such conditions on families of related persons, who may live in R-1 neighborhoods even if they can afford to hire housekeepers or gardeners, do not share all bathrooms, decline or lack the time to eat all meals together, or choose to install locks on parents', teenagers', or other relatives' bedroom doors. And different types of group homes may require different living arrangements and provide different levels of housekeeping or other services based on their residents' individualized needs or other considerations.

B. Requirements that All Group Homes with More than Six Residents Must Obtain Permits to Locate in Single-Family Zones

Some local zoning ordinances require all group homes with more than six residents to apply for conditional use permits or obtain other special approvals to locate in single-family zones. These ordinances appear to be based on Health and Safety Code statutes that require local governments to treat many types of licensed group homes with six or fewer residents the same as single-family homes and prohibit requiring these small, licensed group homes to obtain conditional use permits or other special approvals to locate in single-family zones.[92]

But local policies that require *all* group homes with more than six residents to obtain conditional use or other permits inappropriately turn state laws designed to remove constraints on small, licensed group homes into constraints on the many other group homes that do not require state licenses.

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[91] Douglas L. Plocin and Diane Henderson, *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Homes*, 40 J Psychoactive Drugs (2008), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2556949/ (discussing how a "'strong manager' model of operations" can function in ways that provide the same or similar benefits of a communal environment and peer support as group homes that residents own and operate themselves).

[92] See, e.g., Health & Saf. Code, §§ 1566.3, 1569.85,11834.23.

To comply with the Health and Safety Code's exemptions for small, licensed group homes and with housing element, AFFH, and fair housing requirements to remove constraints on and prevent discrimination against group homes, local governments should follow these guidelines:

- **Group homes that operate as single-family residences and that do not provide licensable services should be allowed in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.** This is true even if these homes have more than six residents. Because these homes are not providing licensable services, they should be treated the same as other residences.[93]

- **Group homes that operate as single-family residences and that provide licensable services to six or fewer residents should be allowed in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.** This complies with, among other things, the Health and Safety Code protections for these smaller, licensed group homes.

- **Group homes operating as single-family residences that provide licensable services to more than six residents may be subject to conditional use or other discretionary approval processes.** Local governments must still provide flexible and efficient reasonable accommodations in these permitting processes. This means that some requests for exceptions to permitting processes should be resolved through reasonable accommodation procedures instead of conditional use procedures.[94] In addition, any substantive requirements for these group homes must still comply with the local government's obligations to remove constraints on housing for persons with disabilities, affirmatively support it, and prevent discrimination against it. The next sections provide further guidance on how to meet these obligations.[95]

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[93] See also *supra* at pp. 20-22 (discussing specific protections for supportive and transitional housing).
[94] See, e.g., Letter from Attorney General Bill Lockyer to The Hon. William Hartz, Mayor of Adelanto (May 15, 2001) (explaining that relying on conditional use procedures to address reasonable accommodation requests can lead to fair housing violations).
[95] Although the Group Home TA focuses on group homes operating as single-family residences, the same principles apply to those operating, for example, as multifamily residences in multifamily zones.

C. Retroactive Compliance

Zoning codes typically allow uses that began lawfully before a new zoning provision was adopted or amended to continue after these new requirements are imposed, with the concept of legal nonconforming existing uses found in almost all zoning codes. For example, a local government may change zoning requirements to disallow auto repair uses in the downtown area. An existing auto repair shop would continue to be allowed to continue to operate because at the time when the use began it was an allowable use.[96]

Local governments should generally treat existing group homes similarly when amending their zoning codes. Retroactive application of new zoning provisions should be avoided, especially if it will displace persons with disabilities from the homes they have chosen. Any exception to the well-established practice of allowing legal non-conforming uses to continue should be supported by substantial analysis and evidence showing that it is required to protect public health, safety, and welfare. This analysis and evidence should include specific local data and evidence, not merely anecdotal reports about problems that have arisen at some group homes or generalized descriptions of the public health, safety, and welfare interests that the new amendments are designed to serve.

D. Spacing Requirements

Spacing requirements restrict group homes from locating within a specific distance of other group homes. Local governments should be very wary about imposing spacing requirements that extend beyond the limited requirements the Legislature has deemed necessary to prevent the overconcentration of certain licensed facilities to ensure their residents are integrated into their communities.

The Legislature has found spacing requirements justified only for specific types of licensed facilities. Community care facilities, intermediate care facilities serving persons with developmental disabilities who require intermittent but recurring skilled nursing care, and pediatric day health and respite care facilities that provide services to children with particularly acute or chronic healthcare needs and their parents or guardians must be separated by at least 300 feet. Congregate living health facilities serving persons with terminal or life-threatening illnesses or with catastrophic or severe disabilities

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[96] See, e.g., *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 552; *Edmonds v. Los Angeles County* (1953) 40 Cal.2d 642, 651.

acquired through trauma or nondegenerative neurologic illness must be separated by at least 1,000 feet.[97]

Further limiting these spacing requirements, the Legislature has specified that they:

- apply to some types of licensed facilities, but not to others. For example, the spacing requirements apply only to some types of intermediate care facilities but not to AOD facilities or to residential care facilities for the elderly;
- apply to proposed, new facilities, not existing ones;
- only require separation of facilities with similar licenses; and
- allow closer spacing based on local needs and conditions.[98]

Contrary to these carefully crafted limitations on spacing requirements, some local governments have imposed spacing requirements on recovery residences, including those already in operation. These spacing requirements are very unlikely to withstand scrutiny under state housing laws. Among other things:

- **They are at odds with the Legislature's narrowly crafted spacing requirements in section 1267.9.**
- **They can conflict with local governments' obligations to, for example, remove constraints on housing for persons with disabilities, affirmatively support such housing, avoid policies that displace persons with protected characteristics, and affirmatively support their right to live where they choose.**[99]
- **They are very hard to justify based on the narrow exceptions that state fair housing laws allow for facial discrimination.** Justifications based on the goal of avoiding overconcentration are difficult to establish and require substantial and detailed statistical evidence establishing that an overconcentration of recovery residences has reached the point where it is, for example, creating an institutionalized living environment or perpetuating segregation within specific

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[97] Health & Saf. Code, §§ 1267.9, subd. (b) (setting spacing requirements for these types of community care residential facilities), 1502 (defining facilities that are subject to 300-foot spacing requirements), 1250 (defining facilities subject to 1000-foot spacing requirements).
[98] Health & Saf. Code, § 1267.9.
[99] See, *supra,* at pp. 9-12.

neighborhoods or communities. Merely comparing the number of recovery residences in one city with the number in others generally will not suffice.[100]

- **They can lack the flexibility required to reasonably accommodate recovery residences and their occupants' disability-related needs.**

- **The Legislature has repeatedly rejected attempts to impose spacing requirements on recovery residences.** As recently as 2018, for instance, the Legislature declined to adopt SB 786, a bill that would have imposed a 300-foot spacing requirement on recovery residences.[101] The legislative history shows that the Legislature considered the lack of clear data showing that this spacing requirement would benefit persons recovering from alcohol and drug addiction. The Legislature also considered concerns that this spacing requirement would discriminate on the basis of disability, impede opening new recovery residences, reduce access to much needed recovery and treatment services, and stigmatize recovery residences and their occupants.[102]

In sum, local governments should avoid imposing spacing requirements that extend beyond those specified in Health and Safety Code section 1267.9.[103]

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[100] See, *supra,* at pp. 15-16. Spacing requirements like this also need to withstand scrutiny under other standards for assessing intentional discrimination or discriminatory effects. See, *supra,* at pp. 12-19.

[101] Sen Bill No. 786 (2017-2018 Reg. Session). This bill is one of many times that the Legislature has declined to enact, or the Governor has vetoed bills attempting to regulate recovery residences. See, e.g., Sen. Com. on Health, analysis of Sen. Bill 786 (2017-2018 Reg. Sess.) at 7-8 (listing several other bills with similar provisions that the died in the Legislature between 2006 and 2007); California Research Bureau, *Sober Living Homes in California: Options for State and Local Regulation* (October 2016) at 14-16 (listing over 20 bills affecting recovery residences introduced between 1998 and 2016 that the Legislature did not pass or the Governor vetoed).

[102] Sen. Com. on Health Analysis of Sen. Bill 786 at 6, 8-9.

[103] Recent federal court decisions rejecting challenges under federal and California laws to spacing requirements for recovery residences have not considered the important differences between state and federal laws. See, e.g., *Yellowstone Women's First Step House, Inc. v. City of Costa Mesa* (C.D. Cal. Oct. 8. 2015) 2015 WL 13764131 at *7-8, affirmed in part and vacated in part, 2021 WL 4077001 (9th Cir. Sep. 8, 2021) (unpublished, nonprecedential decision). These differences include, for example, the affirmative duties that California's Housing Element Law imposes on local governments and the broader rights and remedies for persons with disabilities under California's fair housing laws. See, *supra,* at pp. 22-23.

E. Occupancy Limits and Building, Fire, or Other Health and Safety Code Requirements

Subject to the Legislature's requirements for specific types of licensed facilities, such as those serving persons with limited mobility, and to requests for reasonable accommodations, local governments should apply the same generally applicable occupancy limits to group homes that they do to other housing. Under the Uniform Housing Code section 503.2, at least one room in a dwelling unit must have a floor area of at least 120 square feet, with other habitable rooms, except kitchens, required to have a floor area of at least 70 feet. When more than two people occupy a room for sleeping purposes, the required floor area increases by 50 square feet. For example, a bedroom intended for two people could be as small as 70 square feet, while a bedroom would need to be at least 120 square feet to accommodate three people or at least 170 square feet to accommodate four people.

Likewise, to avoid imposing overly costly and burdensome constraints on group homes, the best practice is to apply the same general building, fire, and other health and safety codes that apply to other residences, subject to state health and safety code provisions specific to certain types of residential facilities.[104] Although group home operators may request reasonable accommodations from public health and safety standards, fair housing laws allow local governments to deny these requests if, among other things, they would cause direct threats to public health and safety.

F. Requirements For Operators and Residents

Requirements for operators and residents often take the form of specific services or management practices that the local jurisdiction feels are necessary for the successful operation of group homes. These requirements tend to deal with the internal affairs of the operations and frequently involve issues beyond those in typical land use regulations. For example, local jurisdictions do not typically regulate the number of daily visitors to a single-family home or other residential property.

When applied to group homes, these types of regulations raise concerns that a local government is imposing conditions on them that are contrary to its duties to support housing for persons with disabilities, prevent discrimination on the basis of disability or other protected characteristics, and provide reasonable accommodations.

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[104] See, e.g., Health & Saf. Code, § 13113 (requiring sprinkler systems in certain licensed residential facilities).

Before adopting or applying any such regulations even for licensed group homes, local governments should analyze whether they are consistent with state housing laws and document this analysis. Local governments should also consider whether such regulations are consistent with the Health and Safety Code's provisions and regulations for licensed facilities.

Although this Group Home TA cannot address all potential issues regarding potential regulations of operators and residents, the following are examples of requirements taken from recent local ordinances:

Imposing Special Parking Requirements on Group Homes. Requiring group homes to have or construct additional off-street parking spaces can impose considerable costs that constrain housing opportunities for persons with disabilities. These special parking requirements will often conflict with the right to privacy under the California Constitution,[105] as well as local governments' obligations to affirmatively support housing for persons with disabilities and avoid discriminating against them. Jurisdictions imposing additional parking requirements assume that group homes serving adults will have more residents who drive and will therefore use more on-street parking than other households. But these assumptions should at the very least be tested by studying the actual causes and extent of on-street parking shortages in an area.[106] Local governments should also consider less discriminatory alternatives, such as street-parking permit systems for all households or other generally applicable parking and vehicle regulations.

Restricting Recovery Residence Occupants to Persons Actively Participating in Recovery Programs. While most occupants of recovery residences participate in recovery programs, local governments should not impose this as a condition of living in a recovery residence. There are different models of recovery, not all of which involve participating in 12-step or similar programs. And recovering from alcoholism or drug addiction is legally recognized as a protected disability regardless of whether someone has participated or is currently participating in a recovery or treatment program.[107]

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[105] *Adamson*, *supra,* 27 Cal.3d at 133 (concluding that parking concerns are best addressed by limitations that "appl[y] evenly to all households" and concluding that zoning ordinances are suspect when they focus on users instead of uses).
[106] See, e.g., Lauber, *supra*, n. 16 at 385 & n. 52 (citing studies finding that group homes do not generate undue amounts of parking or traffic).
[107] *Hernandez v. Hughes Missile System Co.* (9th Cir. 2004) 362 F.3d 564, 568; HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws at 7-8.

Restricting Occupancy Exclusively to Persons with Disabilities. Regulations restricting group home occupancy exclusively to persons with disabilities or with a specific disability may sometimes intrude on individuals' fair housing choices and privacy rights. They also risk discriminating on the basis of other protected statuses. Inflexible occupancy restrictions, for example, could preclude group homes designed for families in which one member has a disability or recovery residences designed for parents in recovery who are seeking to reunite with their children.

Restricting Occupants or Staff from Homes Based on Their Criminal History Records. Policies that prohibit individuals from living in or working at group homes based on individuals' criminal history records may be intended to protect the occupants of these homes. But local governments contemplating adopting or applying such policies should carefully review California Code of Regulations, title 2, sections 11017.1; 12162, subdivision (b); and 12264-12271, which set parameters on using criminal history information that, among other things, restrict access to employment or housing. Local governments should also consider state laws and regulations that apply to criminal background checks for licensed facilities' employees.[108]

Requiring Recovery Residences or AOD Facilities to Immediately Remove Occupants Who Violate Policies Prohibiting Alcohol or Drug Use. Although Health and Safety Code section 11834.26, subdivision (d), requires AOD facilities to plan how to address a resident's relapse, that subdivision clarifies that this "does not require a licensee to discharge a resident." This recognizes that approaches to addressing someone's relapse may vary depending on a recovery residence's or AOD facility's program, the circumstances of the relapse, and an individual's personal history and needs. Local policies should allow the same flexibility. Moreover, requirements to immediately remove relapsing residents with tenancy rights may conflict with landlord-tenant laws.

Other Examples

- **House Manager Requirements**—requiring group homes to have a house manager on site around the clock or always available to come to the residence within 30 or 45 minutes.
- **Visitor Restrictions**—requiring group homes to limit who can visit and under what conditions.

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[108] See, e.g., Health & Saf. Code §§ 1522, 1569.17, 11834.27; Cal. Code Regs., tit. 9, §§ 10564, 10615, 10624, tit. 22, §§ 80019-19.2.

- **Records Maintenance**—requiring group homes to maintain specific records about the internal affairs or occupants of the house.
- **Codes of Conduct**—requiring group homes to have special conduct codes for their residents.
- **Neighborhood Notice Requirements**—imposing special neighborhood notice requirements on group homes.
- **Law Enforcement Registration Requirements**—requiring group homes to register with the local sheriff's office or other law enforcement offices.

Regulations like these can be based on mistaken or prejudicial fears about group homes, instead of actual data and evidence. Particularly in light of research finding that fears about group homes endangering neighbors' health and safety are unfounded, [109] such provisions may in themselves be regarded as evidence that a local government is not complying with its requirements to affirmatively support housing for persons with disabilities and prevent discrimination against group homeowners, operators, and residents.

Regulations like these can also create unnecessary constraints on group homes by imposing overbroad, additional costs and burdens on the many group homes that capably serve their occupants' needs and seamlessly integrate into their communities. They can intrude on privacy rights. They can discriminate on the basis of disability or other protected characteristics if, for example, requirements like these are imposed on group homes but not on other housing. For these reasons, among others, regulations like these generally conflict with state housing laws.

G. Civil Actions for Operating Without a Required State License

Some categories of group homes, such as all those serving children, require state licenses. But many, if not most, group homes do not require state licenses to operate. These include, for example, group homes that provide peer support and limited services to residents but not the more extensive care and supervision that requires obtaining a license. Recovery residences that do not provide alcoholism or drug addiction recovery or treatment services are other examples of group homes that do not require licenses.

Examples of group homes that do require licenses include the ones in this table:

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[109] See, *supra,* nn. 15-16.

Use	Health and Safety Code Sections	Licensing Agency
Community Care Residential Facilities (including various subcategories)	§ 1500 et seq. & § 1569 et seq., e.g.,	California Department of Social Services (CDSS)
AOD Facilities	§ 11834.01 et seq.	California Department of Health Care Services (DHCS)

Some local governments have amended their zoning ordinances to declare that operating a business without a required state license is a public nuisance. Some of these ordinances single out recovery residences that are providing recovery or treatment services without a license. These jurisdictions file civil actions seeking to abate these nuisances by closing some noncompliant recovery residences, requiring others to obtain the required license, or imposing limitations on recovery residences that were not providing recovery or treatment services.

Local governments have discretion to define as public nuisances' business or construction activities that are undertaken without a required permit or license. And at least one California appellate court has upheld a city's public nuisance action against a recovery residence where the owners' own website advertised that they provided on-site drug addiction treatment services.[110]

But jurisdictions considering adopting this practice should still carefully assess the issues and problems that can arise under state law. Guidelines for local governments considering this include the following:

- **Avoid targeting these nuisance actions on group homes operating without required licenses while ignoring other businesses operating in residences without required licenses.** Although public prosecutors have broad discretion to prioritize which violations or violators to prosecute, they cannot use this discretion in ways that discriminate on the basis of disability or other protected characteristics. Jurisdictions should not single out group homes unlawfully operating without required licenses while ignoring businesses doing the same thing in other residences.

[110] *City of Dana Point v. New Method Wellness, Inc.* (2019) 39 Cal.App.5th 985.

- **Give group homes the same opportunities to respond to and resolve alleged code violations as other alleged violators.** For example, if other property owners or businesses are allowed to respond to and resolve alleged code violations during investigations or administrative hearings, those same procedures should apply to group homes that are allegedly providing services that require a license without having obtained one.

- **Use the processes available through DHCS and CDSS, for example, for resolving allegations that a group home is operating without a required license**. If a locality has evidence that a residence is providing unlicensed recovery or treatment services in facilities under DHCS's jurisdiction or unlicensed care or supervision for residents in facilities under CDSS's jurisdiction, it should use these departments' processes for investigating such complaints and abating them if they have merit.[111] This is especially important when group home operators have not openly admitted that they are providing unlicensed services on-site.

  Determining what activities at a group home rise to the level of licensable services, in contrast to common policies or mutual support activities that do not require licenses, can involve nuanced and technical issues that are beyond the expertise of most local planning or code enforcement staff. DHCS's and CDSS's staff have the expertise and experience to investigate these claims, make these determinations, and abate violations of the licensing laws they enforce.

  If jurisdictions are filing their own, more costly civil actions to resolve disputes over whether a group home requires a license, this runs the risk of courts issuing mistaken rulings without the benefit of DHCS's or CDSS's findings and expertise.[112] It also raises questions under state housing laws about why a local government is not availing itself of DHCS's or CDSS's procedures and opting instead to subject a group home to more expensive and burdensome civil litigation.

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[111] See, e.g., Cal. Code Regs., tit. 9, § 10542, tit. 22, § 80006.
[112] *Cf. Farmers Ins. Exchange v. Superior Court* (1992) 2 Cal.4th 377, 390 (explaining that under primary jurisdiction doctrine, courts may suspend proceedings to allow an administrative agency with specialized expertise to determine an issue within the scope of its regulatory authority).

H. Enforcing Generally Applicable Municipal Codes and Other Laws

If group home operators are engaging in activities that constitute public nuisances; violating generally applicable building, housing, or other health and safety laws; committing fraud; or engaging in other illegal activities, local governments can address these issues through the same code enforcement and other legal processes they apply to others who violate municipal codes and other laws. This may still require considering if reasonable accommodations are appropriate in some circumstances. And local governments should avoid overbroad or discriminatory applications of nuisance laws, such as basing nuisance actions on 911 calls for emergency services.[113] But if a group home is found to have violated local or state law, local governments may seek equitable relief that could include more stringent oversight and other affirmative relief to prevent further violations.

Focusing on individual group homes that are actually causing problems is a better practice than adopting overly broad and constraining regulations for all group homes that conflict with state housing laws.

8. Resource Materials and State Contacts

Resource Materials

Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements (April 2021 Update), available at https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

Housing Accountability Act Technical Assistance Advisory, HCD (Sep. 15, 2020), available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf

Housing Element Building Blocks, HCD, available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks

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[113] See. e.g., Cal. Code Regs., tit. 2, § 12162, subd. (a); United States Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances (Sep. 13, 2016), available at https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF.

Housing Element Building Blocks – Constraints for People with Disabilities, HCD, available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/constraints-people-disabilities

Housing Element Building Blocks – Persons with Disabilities, HCD, available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/people-disabilities-including-developmental-disabilities

Housing Element Building Blocks – Zoning for a Variety of Housing Types, HCD, available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/zoning-variety-of-housing-types

Joint Statement of the Department of Housing and Urban Development and the Department of Justice – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act, HUD - DOJ (Nov. 10, 2016), available at https://www.justice.gov/opa/file/912366/download

Senate Bill 2—Legislation Effective January 1, 2008: Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing, HCD (Apr. 10, 2013 update), available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf

Transitional and Supportive Housing, Chapter 183, Statutes of 2013 (SB 745), HCD (Apr. 24, 2014), available at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb745memo042414.pdf

Contacts

HCD

HCD accepts requests for technical assistance from local jurisdictions and requests for review of potential violations from any party. All comments submitted to HCD are subject to the California Public Records Act. Send email requests to: ComplianceReview@hcd.ca.gov.

California Department of Health Care Services (DHCS)

Information about DHCS's complaint process for licensing issues at AOD facilities is available at https://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx, by emailing sudcomplaints@dhcs.ca.gov, or by calling (877) 685-8333.

California Department of Social Services (CDSS)

Information about CDSS's complaint process for licensing issues at facilities that it regulates is available at https://www.cdss.ca.gov/reporting/file-a-complaint/ccld-complaints or by calling (844) 538-8766.

EXHIBIT 2

Chapter 4

Housing Plan

PROGRAM 2I: Promote State Density Bonus Incentives

Density bonus is an effective incentive to aid in the development of affordable housing units within Costa Mesa through providing concessions to proposed developments that meet specific affordability criteria. These concessions may take the form of additional residential units permitted beyond the density allowed in the base zoning, a relaxed parking standard, as well as the ability to deviate from development standards. Currently, the maximum number of concessions a project can receive through density bonus is three.

Objectives:

- Evaluate and update the Density Bonus Ordinance to comply with State Density Bonus Law.

Timeframe: To be completed by December 2024.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

PROGRAM 2J: Transitional and Supportive Housing

California Government Code Section 65583(c)(3) requires transitional and supportive housing to be permitted in all residential zoning districts under the same restrictions as other residential dwellings of the same type in the same zone. Government Code Section 65651(a) also requires permanent supportive housing to be permitted by-right in zones where multi-family and mixed-use development is permitted, including non-residential zones permitting multi-family uses if they meet the Government Code Section requirements.

Objectives:

- Amend the Zoning Code to include transitional and permanent supportive housing within the City's land use matrix in compliance with Senate Bill 2 and Government Code Section 65651
- Monitor the inventory of sites appropriate to accommodate transitional and supportive housing.
- Proactively engage relevant organizations to meet the needs of persons experiencing homelessness and extremely low-income residents.

Timeframe: To be completed by December 2024.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/HOME-ARP

PROGRAM 2K: Planning Application Fees

Residential developers are subject to a variety of fees and exactions to process permits and provide necessary services and facilities as allowed by State law. Development fees are necessary to implement planning, zoning and building safety laws and to provide the public services and infrastructure necessary to serve City residents. This program seeks to avoid application fees creating constraints to the development of affordable housing.

Objectives:

- Review planning application fees, with a special focus on the density bonus fee, and update the fee(s) to avoid creating a constraint to the development of affordable housing.

Timeframe: To be completed by December 2024.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

PROGRAM 2L: Development of Housing for Extremely Low and Lower-Income Households

The City recognizes the importance of supporting the development of housing for low and extremely low income households. It is a primary goal of the Housing Element to increase the feasibility of development of housing for extremely low and low income households.

Objectives:

- Subsidize up to 100 percent of the City's application processing fees for qualifying developments where all units are affordable to 80 percent AMI or lower, as funding is available.
- Annually promote the benefits of this program to the development community by posting information on its webpage and creating a handout to be distributed with land development applications regarding development opportunities and incentives.
- Proactively reach out to developers at least once annually to identify and promote development opportunities.
- Adopt priority processing and streamlined review for developments with units affordable to lower income households.
- Support funding development applications throughout the planning period for projects proposing units affordable to lower income households.

Timeframe: As funding is available, promote the program and outreach; adopt priority processing and other incentives by December 2024.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

PROGRAM 2M: Parking Standards for Residential Developments

The City's residential off-street parking requirements are provided in Section 3.B.3 of this Housing Element. Parking requirements ensure that there is adequate parking provided for residents and for guests in both single-family and multi-family residences. This program seeks to avoid potential constraints due to parking requirements to facilitate the development of multi-family developments, and specifically affordable housing projects.

Objectives:

- Review and revise the Zoning Code's requirements for residential off-street parking for multi-family projects to facilitate the development of multi-family housing, and specifically affordable housing.

Timeframe: Review by December 2024; revise Code by Winter 2025.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

PROGRAM 2N: Reasonable Accommodation

The City has completed an analysis of its Reasonable Accommodation process in **Section 3** of this Housing Element. By the nature of Reasonable Accommodation requests and the range of potential modifications that could need to be accommodated, the City has to evaluate each request individually. This process is described within the City's Zoning Code and persons may contact the City's planning department for assistance with requests. The City will review and adopt revisions to its Reasonable Accommodation process to be consistent with State and federal fair housing requirements.

Objectives:

- Review and revise the Reasonable Accommodation procedure to promote access to housing for persons with disabilities, address potential constraints and establish potential objective standards, and provide guidance and amend as necessary to promote greater certainty on how approval findings will be implemented.
- Meet with local organizations and developers to promote access to housing for persons with disabilities and address potential constraints.

Timeframe: Review and revise Code by December 2024. Annually review and, if necessary, revise the reasonable accommodations procedures. Annually meet with local organizations and housing developers to promote access to housing for persons with disabilities and address potential constraints.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

PROGRAM 2O: Definition of Single Housekeeping Unit

The City's definitions of "family" and "single housekeeping unit" within the zoning code do not differentiate between related and unrelated individuals, or between disabled and non-disabled individuals, living together. Notwithstanding, in order to promote flexibility to accommodate residents with different living conditions, the City will review and adopt revisions to its zoning code per the objectives below.

Objectives:

- Review and revise the definition of "single housekeeping unit" within the zoning code to provide greater flexibility in consideration of accommodating a variety of household situations for related and unrelated individuals living together.

Timeframe: Review and revise Code by December 2024.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

PROGRAM 2P: Group Homes

The City has completed an analysis of its regulations applicable to group homes in Section 3 of this Housing Element. Group homes are allowed in all residential zoning districts through a conditional or special use permit. The City will review and adopt revisions to its zoning code applicable to group homes to affirmatively further fair housing and comply with fair housing laws per the objectives below.

Objectives:

- Review and revise the City's zoning code and application procedures applicable to group homes to promote objectivity and greater approval certainty similar to other residential uses.

Timeframe: Review and revise Code by Winter 2024.
Responsible Agency: City of Costa Mesa Economic and Development Services Department/Planning Division
Funding Source: In Kind/General Fund

EXHIBIT 3

22-56181

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE OHIO HOUSE, LLC,

Plaintiff-Appellant,

v.

CITY OF COSTA MESA,

Defendant-Appellee.

On Appeal from the United States District Court
for the Central District of California

Case No. 8:19-cv-01710-JVS-GJS
Hon. James V. Selna, District Judge

BRIEF OF AMICI CURIAE THE CALIFORNIA CIVIL RIGHTS DEPARTMENT AND THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN SUPPORT OF APPELLANT AND REVERSAL

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INTRODUCTION AND INTERESTS OF AMICI

Californians have the right to obtain and hold housing of their choice without discrimination based on disability. Cal. Gov't Code §§ 12920-12921.[1] In fact, California law requires local governments to take affirmative actions to further opportunities for people with disabilities to live where they choose, in housing that meets their particular needs. These rights and requirements are enumerated in several state laws, including the California Fair Employment and Housing Act (FEHA, *id*. §§ 12900-12999) and its implementing regulations; the Housing Element Law (*id*. §§ 65580-65589.11); the Land Use Anti-Discrimination Law (*id*. § 65008); and the Affirmatively Furthering Fair Housing Law (*id*. § 8899.50).

The California Civil Rights Department (CRD, formerly known as the Department of Fair Employment and Housing) is the state agency charged with enforcing California's civil rights laws, including the fair housing protections in FEHA. In exercising this authority, CRD has promulgated comprehensive regulations implementing FEHA, *see, e.g.*, Cal. Code Regs. tit. 2, §§ 12005-12271, and has investigated and prosecuted civil actions under FEHA in state and federal court, *see* Gov't Code § 12930(e)-(j). CRD

[1] All statutory citations are to the California Codes unless otherwise indicated.

thus has a strong interest in the proper application of FEHA standards in housing discrimination cases in California.

The California Department of Housing and Community Development (HCD) is the state agency responsible for enforcing housing laws in California, and has "primary responsibility for development and implementation of housing policy." Health & Safety Code § 50152; *see also* Gov't Code § 65585(j). HCD's responsibilities also include advising cities on state housing law and policy, developing guidelines on "housing elements" and other housing law issues, and reviewing each local government's housing element for substantial compliance with the Housing Element Law. Health & Safety Code §§ 50456, 50459, 50464; Gov't Code § 65585(a)-(e). One of HCD's recent initiatives to carry this mandate out is its Group Home Technical Advisory, which was issued in 2022 in response to legal concerns around some local governments' adoption of new zoning regulations for group homes—housing shared by people with disabilities that provides support for the residents' disability-related needs—and explained

how these regulations can conflict with state law.[2] HCD thus has a strong interest in the proper application of state housing laws and their interaction with FEHA, including in the area of group homes.[3]

As discussed further below, it appears to amici that the district court failed to properly apply the broad protections California law affords people with disabilities with respect to housing. Amici therefore respectfully submit this brief to aid this Court's consideration of the important state law issues this case presents.

ARGUMENT

California law protects people with disabilities from housing discrimination, and requires cities to take affirmative actions in their land-use rules to advance the ability of people with disabilities to live in neighborhoods of their choice and in residential settings that address their

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[2] This document is available on the Department's website at https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf.

[3] No party's counsel authored this brief in whole or in part; no party or party's counsel contributed money that was intended to fund preparing or submitting this brief; and no person other than the amici curiae contributed money that was intended to fund preparing or submitting this brief. *See* Fed. R. App. P. 29(a)(4)(E). Amici have filed a motion for leave along with this brief, as the City of Costa Mesa refused to consent to the filing. *See* Fed. R. App. P. 29(a)(2).

particular disability-related needs. As one aspect of that statutory and regulatory scheme, FEHA requires courts to carefully scrutinize local land use laws, like Costa Mesa's, that facially discriminate against group homes for people with disabilities. Such laws are permissible only if they objectively benefit people with disabilities and are the least restrictive means of achieving the municipality's policy objectives. The judgment below should be reversed because Costa Mesa failed to make such a showing, and also failed to satisfy FEHA's reasonable-accommodation requirements. Ordinances like Costa Mesa's not only violate fundamental principles of state housing and antidiscrimination law; they are also contrary to California's critical public policy goals and do real harm to people with disabilities.[4]

I. CALIFORNIA LAW PROHIBITS HOUSING DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES

FEHA and its regulations expressly prohibit housing discrimination against protected classes of individuals, including people with disabilities. FEHA's protection includes its incorporation of other state housing laws as a

[4] As Appellant's opening brief explains, it appears that federal law may require reversal as well. But amici will address only certain state law issues in this brief.

potential basis for liability. In addition, the California Constitution provides a privacy right that extends to group housing.

A. FEHA and Its Implementing Regulations Prohibit Land Use Practices that Discriminate Against People with Disabilities

FEHA provides comprehensive protection against housing and employment discrimination in California. Gov't Code §§ 12900-12999. It establishes as a "civil right" the "opportunity to seek, obtain, and hold housing without discrimination" on the basis of a number of enumerated protected characteristics. *Id.* § 12921(b). FEHA prohibits specific unlawful housing practices, including discrimination or harassment generally, retaliation, otherwise making unavailable or denying a dwelling based on discrimination, and discriminating through public or private land use practices. *Id.* § 12955; *see id*. § 12955(*l*) ("Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law . . . that make housing opportunities unavailable."). FEHA defines "discrimination" to include the "refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling." *Id*. § 12927(c)(1).

FEHA prohibits discrimination based on, among other characteristics, disability, and "includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics." Gov't Code § 12955(m). Individuals recovering from addiction are recognized as people with disabilities, *see id.* § 12926(j), and "sober living homes and other dwellings intended for occupancy by persons recovering from alcoholism and drug addiction are protected from illegal discrimination against the disabled." *Socal Recovery, LLC v. City of Costa Mesa*, 56 F.4th 802, 814 (9th Cir. 2023).

FEHA and its federal law counterpart, the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3631, are related but offer distinct sets of protections. California courts applying FEHA "'often follow decisions construing federal antidiscrimination statutes, as long as those decisions provide appropriate guidance.'" *Walker v. City of Lakewood*, 272 F.3d 1114, 1126 (9th Cir. 2001) (quoting *Sada v. Robert F. Kennedy Med. Ctr.*, 56 Cal. App. 4th 138, 150 n.6 (1997)). Thus, in some instances, this Court "'appl[ies] the same standards to FHA and FEHA claims.'" *Pac. Shores Props., LLC v. City of Newport Beach*, 730 F.3d 1142, 1156 n.14 (9th Cir. 2013) (quoting *Walker*, 272 F.2d at 1131 n.8). But FEHA has force independent of the FHA, and in

certain situations it "may provide greater protection against discrimination"—that is, "the FHA provides a minimum level of protection that FEHA may exceed." *Auburn Woods I Homeowners Ass'n v. Fair Emp't & Hous. Comm'n*, 121 Cal. App. 4th 1578, 1591 (2004) (quoting *Brown v. Smith*, 55 Cal. App. 4th 767, 780 (1997)); *see also, e.g.*, *Page v. Super. Ct.*, 31 Cal. App. 4th 1206, 1215-16 (1995) (declining to follow federal decisions that would limit supervisor's personal liability under California antidiscrimination statute); *Martinez v. City of Clovis*, 90 Cal. App. 5th 193, 254-73 (2023) (analyzing FEHA claim separately from FHA claim), *petition for review pending*, No. S280039 (Cal.).

Pursuant to its legislative authority, *see* Gov't Code § 12935(a), CRD has promulgated regulations implementing FEHA. These "quasi-legislative" regulations, which "have the dignity of statutes" under principles of California administrative law, *Yamaha Corp. of Am. v. State Bd. of Equalization*, 19 Cal. 4th 1, 10-11 (1998), are relevant to this case in at least three respects.

First, the FEHA regulations incorporate acts under other state housing laws into the definition of "[p]ublic land use practices" that can be challenged as discriminatory under FEHA. Cal. Code Regs. tit. 2, § 12005(bb). The regulations define "[p]ublic land use practices" to include

"all practices by governmental entities . . . in connection with development and land use that are related to or have an effect on existing or proposed dwellings or housing opportunities." *Id.*[5] The FEHA regulations specifically prohibit discriminatory treatment and discriminatory effects in such land use practices. *Id*. §§ 12161-12162. The regulations' definition of "land use practices" thus covers a broad range of potential public action, and prohibits such actions that make housing opportunities unavailable for people with disabilities and impose different requirements on a protected class, if the practice intentionally discriminates against or has a discriminatory effect on members of the protected class. *Id.* §§ 12005(bb), 12161(a)-(b).

Second, when a public entity's land use policy is facially discriminatory—as is the case with Costa Mesa's ordinances here, *see infra* at 14—the entity must make two specific showings to avoid liability. It must establish that the policy both "[o]bjectively benefits a protected class" *and*

[5] These practices include, among other things, adoption of ordinances, permitting and zoning decisions, actions under the Housing Element Law (part of the California Planning and Zoning Law and the State Housing Law, both cited in the regulation), and "[a]ll practices that could affect the availability, feasibility, use, or enjoyment of housing opportunities." Cal. Code Regs., tit. 2, § 12005(bb).

"[i]s the least restrictive means of achieving the identified purpose." Cal. Code Regs. tit. 2, § 12042(f)(1)(A), (f)(2).[6]

Third, the FEHA regulations also implement the statute's reasonable accommodation requirement. *See* Gov't Code § 12927(c)(1). As applicable to zoning and permitting cases, a public entity must "make reasonable accommodations unless providing the requested accommodation would constitute an undue financial and administrative burden or a fundamental alteration of its program." Cal. Code Regs. tit. 2, § 12176(c); *see* Gov't Code § 12927(c)(1) (discrimination can include failure to make reasonable accommodations).[7] Moreover, the regulations require that whenever a public entity cannot immediately grant a reasonable accommodation request, it must undertake a good-faith interactive process "to exchange information to

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[6] In addition, or as an alternative, to demonstrating an "objective benefit," an entity may also show the policy "[r]esponds to legitimate safety concerns raised by the individuals affected by the facially discriminatory policy, rather than being based on stereotypes about them." Cal. Code Regs. tit. 2, § 12042(f)(1)(B). Here, the district court found the City had not offered any such concerns at trial to justify its regulations. ER 10.

[7] A proposed accommodation constitutes a "fundamental alteration" only if it would "change the essential nature of the services or operations of the person being asked to provide the accommodation or modification," and cannot be denied based on "fears or prejudices" about the disability, or because it "might possibly become an undue burden if extended to multiple other individuals who might request accommodations or modifications." Cal. Code Regs. tit. 2, § 12179(e)-(f).

identify, evaluate, and implement a reasonable accommodation or modification that allows the individual with a disability equal opportunity." Cal. Code Regs. tit. 2, § 12177(a). This includes affirmatively "identify[ing] if there is another accommodation or modification that is equally effective." *Id.* § 12177(c).

In addition to these regulatory provisions, FEHA's prohibition of actions that "make housing opportunities unavailable" based on protected characteristics, Gov't Code § 12955(*l*), is informed by state laws that require local jurisdictions to plan for and accommodate adequate housing opportunities for all individuals. A key aspect of the Planning and Zoning Law, Gov't Code §§ 65000-66499.58, is the requirement that local governments prepare a housing element, *see id*. § 65582(f). In that document, cities must thoroughly analyze fair housing issues related to housing for people with disabilities and set forth a program of actions that protect and promote such housing, as well as meaningfully, quantifiably, and affirmatively further fair housing. *Id*. § 65583.[8] Among other requirements,

[8] "'Affirmatively furthering fair housing"' is defined under California law to include "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on

the housing element must "demonstrate local efforts to remove governmental constraints that hinder . . . meeting the need for housing for persons with disabilities," *id.* § 65583(a)(5), and must "remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities," *id.* § 65583(c)(3). It must include a fair housing assessment with specific goals, implementation strategies, and "metrics and milestones" for evaluating results. *Id.* § 65583(c)(10)(A)(iv). Notably, to satisfy these obligations, cities are required to use and adduce data, analyses, and quantitative objectives. *See, e.g.*, *id*. § 65583(a)(5), (a)(7), (b)(1), & (c)(10)(A)(ii). In other words, numerous provisions of state housing law address the adequacy of local policies in protecting and promoting housing opportunities for people with disabilities.

Recently, the California Court of Appeal held that local governmental actions that violate the Planning and Zoning Law (including the Housing Element Law) and make housing opportunities unavailable to members of a protected class also violate FEHA. *Martinez*, 90 Cal. App. 5th at 268-71. The court concluded that the plaintiff had stated a FEHA claim by pleading

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protected characteristics." Gov't Code § 8899.50(a)(1) (internal quotation marks in original).

that a local government's failure to comply with the Housing Element Law "'make[s] housing opportunities unavailable' as that phrase is used in . . . section 12955, subdivision (*l*)." *Id.* at 269. *Martinez* thus underscores that one important aspect of FEHA's housing-related protections stems from the statute's interaction with other state housing laws.

B. California's Constitutional Privacy Right Protects Group Home Residents

In addition to these state statutory and regulatory provisions, the California Constitution provides protections for people with disabilities living in communal, group home settings that courts must consider when examining local ordinances. This protection stems from Article I, Section 1 of the California Constitution, which declares an "inalienable right[]" to (among other things) "privacy."

In *City of Santa Barbara v. Adamson*, 27 Cal. 3d 123 (1980), the California Supreme Court held that this constitutional privacy right prohibited a city ordinance that disallowed more than five persons unrelated by blood or marriage from living in a communal setting. *Id.* at 134. The court explained that the state Constitution protects a "right of privacy not only in one's family but also in one's home . . . [and] the right to live with whomever one wishes." *Id.* at 130; *see also Coal. Advocating Legal Hous.*

Options v. City of Santa Monica, 88 Cal. App. 4th 451, 458-61 (2001) (rejecting city's limitations on who may live in an accessory dwelling unit because "the right to choose with whom to live is fundamental").

This protection is relevant here because of the importance of communal living arrangements to people with disabilities. Group homes can provide peer support for disability-related needs, help people with disabilities live in deinstitutionalized settings, and integrate residents into their communities. *See* Group Home Technical Advisory at 1, 6. As a result, the California Legislature has recognized that "'persons with disabilities . . . are significantly more likely than other persons to live with unrelated persons in group [homes].'" *Broadmoor San Clemente Homeowners Ass'n v. Nelson*, 25 Cal. App. 4th 1, 6 (1994) (quoting 1992 Cal. Stat., ch. 1277, § 18, and 12 West Cal. Legis. Serv. 6038 (legislative finding and declaration in statute relating to fair housing)).

II. THE JUDGMENT BELOW SHOULD BE REVERSED BECAUSE COSTA MESA'S ORDINANCES VIOLATE CALIFORNIA LAW

The district court failed to properly apply the state law principles just discussed, and there was no legally sufficient evidentiary basis for a reasonable jury to find for Costa Mesa, necessitating reversal.

A. Costa Mesa Failed to Make the Showings Necessary to Sustain Its Facially Discriminatory Ordinances Under FEHA

Costa Mesa's ordinances at issue here apply to "group homes," which are defined as dwellings "being used as a supportive living environment for persons who are considered handicapped under state or federal law." ER 251. As the district court correctly recognized, *see* ER 252, this scheme is a "'[f]acially discriminatory policy'" because it "explicitly conditions a housing opportunity on a protected basis, takes adverse action based on a protected basis, or directs adverse action to be taken based on a protected basis." Cal. Code Regs. tit. 2, § 12040(c) (internal quotation marks in original). Thus, to avoid liability here, Costa Mesa bore the burden of establishing both that its law "[o]bjectively benefits a protected class," *id.* § 12042(f)(1)(A), and that it "[i]s the least restrictive means of achieving the identified purpose," *id.* § 12042(f)(2). Costa Mesa did not satisfy either prong of this analysis.

"Objectively benefits a protected class." Costa Mesa's counterintuitive argument that its ordinances, which facially discriminate against group homes, in fact "objectively *benefit*" people with disabilities, ER 6-10, suffers from two key flaws.

First, the gravamen of Costa Mesa's successful "benefits" argument was that its policy purportedly advantages group homes by allowing them to avoid the restrictions the City places on "boarding houses"—*i.e.*, a 1,000-foot spacing requirement, exclusion from a single-family residential zone, and "a six-person and six-room limit." *See, e.g.*, ER 6-10. But a comparison between group homes for people with disabilities and boarding houses is inapt. The communal living, peer support, and other assistance that group homes provide are essential housing resources for people with disabilities, who may not be able to live without them, unlike the non-disabled residents of boarding houses. *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F.3d 775, 787 (7th Cir. 2002). Thus, group homes, unlike boarding houses, are protected by state and federal fair housing laws. *See e.g.*, *Broadmoor San Clemente Homeowners Ass'n*, 25 Cal. App. 4th. at 6; Group Home Technical Advisory at 24.

The City has failed to carry its burden to justify its regulations in this case, because treating people with disabilities who require group homes slightly better than "boarding house" residents is irrelevant. *See Oconomowoc*, 300 F.3d at 787. Costa Mesa's regulations placing burdens and restrictions on group homes do not result in a "benefit" to people with disabilities, who have needs addressed by group homes that people without

disabilities who live in boarding houses do not share. Nor has the City shown that it would actually be lawful to impose on group homes the restrictions it imposes on boarding houses, or that Ohio House and other group homes would not be entitled to reasonable accommodations from them. The "benefits" defense based on a comparison to boarding houses fails as a matter of law.

Costa Mesa's restrictions on group homes also conflict with the City's obligations under state law to affirmatively further fair housing for people with disabilities and account for their particular needs. Among other deficiencies, the City's policy fails to account for the "special housing needs" of "persons with disabilities," Gov't Code § 65583(a)(7); fails to "remove governmental constraints" on housing for people with disabilities, *id.* § 65583(a)(5); and fails to give "highest priority" to factors that "limit or deny fair housing choice or access to opportunity" for people with disabilities, *id.* § 65583(c)(10)(A)(iv). These failures may well independently violate FEHA by virtue of making housing opportunities unavailable to people with disabilities. *See Martinez*, 90 Cal. App. 5th at 268-70; *supra* at 10-12. At a minimum, however, they should foreclose Costa Mesa's argument that its facially discriminatory ordinances somehow objectively benefit people with disabilities.

The City seeks to distinguish Ohio House from other shared housing that it treats like single-family homes because not all of its occupants are joint owners or tenants. ER 5606, 5918. But in *Adamson*, the Court held that the California Constitution's protection of privacy rights still applies when a property owner or primary tenant (like Ohio House) is renting out rooms for others to live in a communal setting. *See Adamson*, 27 Cal. 3d at 127-28, 136 & n.5; *City of Santa Barbara v. Adamson*, 90 Cal. App. 3d 606, 153 Cal. Rptr. 507, 509 (1979) (confirming that Adamson was renting space in her house to the other occupants). In addition, group homes like Ohio House, in which the occupants are not joint owners or tenants, are well-established and important communal housing resources for people with disabilities.[9] It is incongruous to suggest that restrictions contradicting state constitutional rights could provide a legally cognizable "benefit" to people who live in group homes.

Second, in addition to the legal inadequacy of the alleged benefits themselves, Costa Mesa failed to meet its burden to produce sufficient

[9] *See* Group Home Technical Advisory at 24-25; Polcin et al., *Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcomes*, J. of Substance Abuse Treatment (2010); 38(4):356-365, at 2-4, https://tinyurl.com/2ba5ccbw.

evidence of the imposed restrictions' supposed benefit to people with disabilities. This failure is inconsistent with California's housing laws, which require public agencies to take meaningful actions to affirmatively further fair housing and to make related assessments in their planning, supported by objective, quantifiable data. Gov't Code §§ 8899.50, 65583(c)(10)(A). This includes an obligation to assess displacement risk, *id.* § 65583(c)(10)(A)(ii); analyze potential and actual governmental constraints on housing for people with disabilities and demonstrate efforts to remove constraints, *id.* § 65583(a)(5); perform a quantifiable analysis of housing needs for people with disabilities, *id.* § 65583(a)(7); state goals and quantified objectives relative to affirmatively furthering fair housing, *id.* § 65583(b)(1); address and work to remove constraints on housing for people with disabilities, *id.* § 65583(c)(3); and promote housing for people with disabilities, *id.* § 65583(c)(5).

Instead, the City's "benefits" defense relied on subjective, speculative, and unsubstantiated opinions that people with disabilities could benefit from the City's policy both allowing for the siting of group homes where they purportedly would not otherwise be allowed if they were regulated as "boarding houses," and requiring 650-foot separation to prevent potential feelings of institutionalization for group home residents. *See, e.g.*, ER 7-10.

Related, the City failed to fully consider and support with sufficient evidence, for example, the extent to which its policy precludes group homes in areas or locations where they otherwise would be sited, or already have been sited, ignoring the creation of new constraints on housing for people with disabilities. And the City failed to fully consider and support with sufficient evidence whether more housing opportunities of their choice for the protected class would be in fact lost rather than gained as a result of the policy, including ignoring displacement risks. As a result, the district court lacked the requisite objective evidence, such as detailed quantitative data, studies, or assessments of what the needs of people with disabilities were or what the actual effects of the City's group home policy would be. *See generally* ER 6-10; *see also* Cal. Code Regs. tit. 2, § 12042(f)(1)(A) (requiring defendants to show that a facially discriminatory housing policy "[o]bjectively benefits a protected class"). Indeed, what is known about the ordinances' actual effects undermines the City's claim, despite the lack of detailed quantitative studies. Those effects will include displacing dozens of people from their Ohio House homes and effectively imposing quotas on how many people recovering from addiction can live in each of the City's various neighborhoods, and therefore in the City as a whole.

"Least restrictive means." Even if Costa Mesa had been able to show that its ordinances objectively benefit people with disabilities, it would also have had to establish that its policy "[i]s the least restrictive means of achieving the identified purpose." Cal. Code Regs. tit. 2, § 12042(f)(2); *Pack v. Fort Washington II*, 689 F. Supp. 2d 1237, 1243-44, 1248 (E.D. Cal. 2009) (granting summary adjudication on FEHA facial discrimination claim because rule was not the least restrictive means of achieving alleged purpose and noting possible alternative rule).

The City did not demonstrate with sufficient evidence that it was unable to achieve its central claimed purpose—avoiding the creation of institutionalized living in residentially zoned areas—by less restrictive means than it chose. Again, assuming for purposes of discussion that the City's goal of limiting "institutionalization" was legitimate, the district court failed to scrutinize, for example, the City's claimed need for at least 650 feet of space between group homes as the least restrictive means of achieving this purpose. *See, e.g.*, ER 8-9 (lack of discussion of possible less restrictive alternatives the jury could have considered). This constitutes an independent ground for invalidating the City's facially discriminatory ordinances.

B. Costa Mesa Failed to Demonstrate Compliance with FEHA Reasonable Accommodation Requirements

Apart from having enacted facially discriminatory ordinances, the record here shows that Costa Mesa violated FEHA by failing to make a reasonable accommodation for Ohio House, which requested that it be permitted to operate within 550 feet of another group home rather than the minimum 650 feet required by the City's ordinance. This failure has two aspects. First, as specified in FEHA's regulations, Costa Mesa was required to undertake a good-faith interactive process in response to Ohio House's request for reasonable accommodation. Cal. Code Regs. tit. 2, § 12177. This includes evaluating and implementing a reasonable accommodation if possible, or *affirmatively* "identify[ing] if there is another accommodation or modification that is equally effective." *Id.* § 12177(a), (c). It appears that the City did not make these interactive efforts and the district court did not consider these requirements when determining there was sufficient evidence to find the denial of a reasonable accommodation did not violate FEHA. *See* ER 2892-97; ER 16.

Second, as relevant here, a requested accommodation may only be denied if it would constitute an unacceptable "fundamental alteration," meaning it would "change the essential nature of the services or operations"

being offered. Cal. Code Regs. tit. 2, § 12179(b)(1), (e). And, a reasonable accommodation request cannot be denied based on "fears or prejudices" about the disability, or because it "might possibly become an undue burden if extended to multiple other individuals who might request accommodations or modifications." *Id.* § 12179(f).

"Fundamental alteration." The court found that the jury had sufficient evidence to determine that a waiver of the 650-foot separation requirement constituted a "fundamental alteration" of the City's zoning code creating residential neighborhoods. This was based on City testimony that a "cluster of group homes increases the number of adults living in an area, which increase[s] parking and traffic, [and] leads to increased related complaints," such that "[t]he City wanted to reduce these effects to prevent the 'institutionalization' of residential neighborhoods and the degradation of the residential nature." ER 16.

Assuming only for purposes of argument that the City's goal was legitimate, the court's order did not discuss any sufficient evidence showing that a deviation from the 650-foot separation rule would lead to these negative results, let alone any sufficient evidence that the 100-foot departure from the rule that Ohio House requested would do so. Indeed, Ohio House had already been located 550 feet from another group home, and there was

no sufficient evidence discussed that this had created an institutionalized setting.

Moreover, the City's concerns are a far cry from what are properly considered fundamental alterations. FEHA and its regulations specifically anticipate that cities will need to adjust their zoning codes to reasonably accommodate disability-related housing needs, Gov't Code § 12927(c)(1); Cal. Code Regs tit. 2, § 12180(c)(6), undercutting the City's argument that the claimed speculative effects of increased density alleged here could be considered fundamental alterations. Here, the allegations of increased parking needs, van traffic, and loading and unloading passengers,[10] which could come from any home with several residents—such as a multi-generational family living together, a home that receives a large number of deliveries or visitors, or families with regular carpools—is unlikely to rise to the level of changing the "essential nature" of a residentially-zoned neighborhood. Because these effects can be caused by many different sources, they should be addressed by generally applicable parking regulations, traffic calming measures, or occupancy standards instead of

[10] The district court acknowledged that Ohio House did not receive any specific noise, parking, or smoking complaints in the past. ER 16.

singling out group homes with discriminatory and constraining regulations. *See, e.g.*, *Adamson*, 27 Cal. 3d at 133; Group Home Technical Advisory at 30-31.

The City's reaction to its claimed concerns also did not consider its obligations under state law to affirmatively furthering fair housing. These obligations include, among other things, protecting individuals with disabilities' right to housing of their choice, and the housing they find most suitable for their disability-related needs, while removing constraints on their ability to obtain this housing. *See, e.g.*, Gov't Code §§ 8899.50; 65583(a)(5), (c)(3), (c)(5), (c)(10)(A). The accommodation Ohio House has requested may be consistent with, and indeed required by, state housing law. The district court's failure to consider the requested accommodation in light of the City's obligations under state law was error.

"Fears or prejudices." To justify denying the accommodation, Costa Mesa argued that having a greater number of persons per household, like Ohio House does, strained the City's infrastructure, and could create "institutionalization" of zoned residential neighborhoods. ER 16. But this argument, rather than justifying denying Ohio House's accommodation request, appears to reflect a concern that other group homes might seek a similar accommodation in the future. It thus appears to rest on "fears or

prejudices" that multiple group homes might seek reasonable accommodations to locate or remain in Costa Mesa, and that group home residents somehow cause uniquely problematic traffic, noise, or activity (as the City allows similar traffic, noise, and activity from other homes with several residents). That is precisely the kind of prejudicial reasoning FEHA rejects. *Cf. Oconomowoc*, 300 F.3d at 786 (noting that FHA rejects city actions based on "blanket stereotypes about disabled persons rather than particularized concerns about individual residents . . . the use of stereotypes and ignorance, and . . . [g]eneralized perceptions about disabilities and unfounded speculations about threats to safety . . . as grounds to justify exclusion") (internal citations and quotation marks omitted).

III. RESTRICTIVE ZONING CODES LIKE COSTA MESA'S ARE CONTRARY TO PUBLIC POLICY AND HAVE A NEGATIVE IMPACT ON HOUSING FOR CALIFORNIANS WITH DISABILITIES

As discussed above, group homes are an essential resource for people with disabilities. Group homes that provide sober living environments play a key role in substance abuse recovery care.[11] They are "alcohol and drug free living environments that offer peer support for recovery outside the context

[11] U.S. Dep't of Health & Human Servs., *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health* (2016) at 4-4, https://tinyurl.com/ssnem8v3.

of treatment."[12] According to the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services, community support "is a critical aspect of achieving and maintaining recovery," and thus, recovery residences "are uniquely qualified to assist individuals in all phases of recovery, especially those in early recovery, by furnishing social capital and recovery supports."[13] Research demonstrates that residents show improvement in a variety of areas, including drug and alcohol use, employment, psychiatric symptoms, and arrests.[14] Group homes thus enable people with disabilities to live in the community while still receiving the needed support for continued recovery.

As discussed above, California law recognizes the important benefits group homes provide to people with disabilities by establishing certain protections for them—protections that ordinances like Costa Mesa's fail to

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[12] Polcin et al., *What Did We Learn from Our Study on Sober Living Houses and Where Do We Go from Here?* J. of Psychoactive Drugs (Dec. 2010) 42(4):425-433, at 2, https://tinyurl.com/yzcxmb3r.

[13] Substance Abuse and Mental Health Servs. Admin., *Recovery Housing: Best Practices and Suggested Guidelines* (2018) at 3, https://tinyurl.com/mr4c4arz.

[14] Korcha et al., *Sober Living Houses: Research in Northern and Southern California*, Addiction Science & Clinical Practice (2015) 10 (Suppl. 1):A30, https://tinyurl.com/rh8prtbw.

recognize. In addition to the problems inherent in the City's overall permitting requirements, the Group Home Technical Advisory explains how Costa Mesa's other, more specific group home regulations conflict with its duties to avoid discriminating against such housing and to affirmatively promote and protect it. These regulations include, for example, the City's 650-foot spacing requirement, definition of single housekeeping units, and special occupancy standards for group homes.[15] Discriminatory restrictions like these and others in Costa Mesa's ordinances "can block new group homes from opening, force existing ones to close, and impose costs, legal fees, and administrative burdens that make it difficult for group homes to operate."[16]

These problems are not hypothetical. Restrictive zoning codes have had—and continue to have—a negative impact on the availability of this important type of housing opportunity for people with disabilities.[17] As an initial matter, recent research demonstrates that group homes for those recovering from addiction are not highly concentrated in Orange County,

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[15] *See generally* Group Home Technical Advisory at 23-36.

[16] *Id.* at 1.

[17] Group Home Technical Advisory at 7.

relative to the rest of California or the nation as a whole.[18] In fact, California is behind many other states in the number of such group homes per capita, despite having a higher age-adjusted alcohol/drug mortality rate than many other states.[19] Moreover, the last two years have seen a large percentage increase in the number of such deaths in California, indicating a likely increasing need for group homes in the State at a time when there are fewer homes per capita than many other states.[20]

Restrictive zoning codes can limit this number even further, as is evident from Costa Mesa's own data. Before Costa Mesa adopted its group home ordinances, it estimated there were 94 sober living homes in the City's residential zones. *Socal Recovery, LLC*, 56 F.4th at 806.[21] As of 2022, the City counted only 16 group homes, with at least 68 having closed. *Id.* at 806

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[18] Mericle et al., *Identifying the Availability of Recovery Housing in the U.S.: The NSTARR Project*, Drug and Alcohol Dependence 230 (2022), at 6-8, figs. 1, 2, tbl. 1, https://tinyurl.com/y48mpfze.

[19] *Id.* at tbl. 1.

[20] Fusion Ctr., *Data Brief: 2020 and 2021 Increases in Deaths in California*, Cal. Dep't of Pub. Health (July 1, 2022), at 8, 9, tbl. 2, https://tinyurl.com/4bbcb5d4.

[21] The *SoCal Recovery* decision cites data from the city website: *City Approved Sober Living/Group Homes*, https://tinyurl.com/yukycasy. That decision did not consider the validity of the City's ordinances.

& nn.6-7. The City's closure list now includes 83 closed facilities, indicating that an additional 15 facilities may have closed.[22]

The expert evidence in this case confirms this alarming reduction in available housing for people with disabilities. Professor Brian Connolly concluded that the City's ordinances restricted the availability of group homes; some were even forced to close, displacing people with disabilities. *See* Connolly Expert Rep. at 53 (Feb. 14, 2022), ECF No. 249-3. His report also discusses how the closure of such facilities, as with other areas of the housing market, presumptively increases the cost of housing in remaining group homes. *Id.* at 54.

In short, restrictive zoning codes, such as those at issue here in Costa Mesa, constrain housing opportunities and choice for people with disabilities. This expressly contravenes FEHA, the State's housing and planning laws, the mission of CRD and HCD, and the policy of the State of California.

CONCLUSION

The judgment of the district court should be reversed.

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[22] *Group Homes/Sober Living Information and Application*, Costa Mesa, https://tinyurl.com/4wjhb6ky (providing information on "Operators that have closed"). The list can be found at https://tinyurl.com/2absudwh.

Dated: June 29, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
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/s/ Lisa C. Ehrlich

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 8. Certificate of Compliance for Briefs

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9th Cir. Case Number(s) 22-56181

I am the attorney or self-represented party.

This brief contains 5,897 words, including 0 words manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

I certify that this brief *(select only one)*:

[ ] complies with the word limit of Cir. R. 32-1.

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[X] is an **amicus** brief and complies with the word limit of FRAP 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).

[ ] is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.

[ ] complies with the longer length limit permitted by Cir. R. 32-2(b) because *(select only one)*:
- [ ] it is a joint brief submitted by separately represented parties.
- [ ] a party or parties are filing a single brief in response to multiple briefs.
- [ ] a party or parties are filing a single brief in response to a longer joint brief.

[ ] complies with the length limit designated by court order dated _____.

[ ] is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature */s/ Lisa C. Ehrlich* **Date** June 29, 2023
*(use "*s/[typed name]*" to sign electronically-filed documents)*

CERTIFICATE OF SERVICE

I hereby certify that, on this 29th day of June 2023, I electronically filed the foregoing ***BRIEF OF AMICI CURIAE THE CALIFORNIA CIVIL RIGHTS DEPARTMENT AND THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN SUPPORT OF APPELLANT AND REVERSAL*** with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/Lisa Ehrlich
Lisa Ehrlich

EXHIBIT 4

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
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November 29, 2023

Lori Ann Farrell Harrison, City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Lori Ann Farrell Harrison:

RE: Group Home Ordinances – Letter of Technical Assistance

In the attached May 9, 2023, findings letter, the California Department of Housing and Community Development (HCD) offered to provide additional technical assistance regarding, among other things, implementation of Costa Mesa's (City) 6th cycle housing element programs to review its group home and related policies. This letter provides that technical assistance for the City's review of its group home ordinances, including Ordinance Nos. 14-13, 15-11, and 17-05, which amended Title 13 of the City's Municipal Code (MC 13), as well as related City policies, such as its reasonable accommodations procedures.

HCD has reviewed the City's group home ordinances and related policies under its authority pursuant to Government Code section 65585, which includes authority to review cities' compliance with the Land Use Discrimination Law (Gov. Code, § 65008), Affirmatively Furthering Fair Housing (AFFH) Law (Gov. Code, §§ 8899.50, 65583), and State Housing Element Law (Gov. Code, § 65580 et seq.). HCD finds that the City's group home ordinances and related policies violate Government Code sections 65008, 65583, and 8899.50 by failing to meet the City's obligations to affirmatively further, protect, and remove constraints on housing for persons with disabilities, and also by discriminating against this housing.

To comply with state law, the City must, among other things, immediately stop enforcing its group home ordinances, repeal them, and revise its reasonable accommodations policies. These actions are also necessary to timely and effectively implement the programs in the 6th cycle housing element that the City adopted on November 15, 2022, which are required for the City's housing element to substantially comply with State Housing Element Law. These include Program 2J (Transitional and Supportive Housing), 2N (Reasonable Accommodation), Program 2O (Definition of Single Housekeeping Unit), Program 2P (Group Homes), and 4A (Fair Housing).

Definitions

Various laws use the term "group homes" to refer to different types of housing for different populations. For the purposes of state fair housing and planning and zoning laws, the following terms refer to various types of residences in which unrelated persons share the residence:

- **Shared Living Residences**—any housing shared by unrelated persons, including, for example, group homes, recovery residences, some community care residential facilities, some supportive and transitional housing, emergency shelters, boardinghouses, and dormitories.

- **Group Homes**—housing shared by unrelated persons with disabilities that provide peer and other support for their residents' disability-related needs and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housekeeping, and other communal living activities and that do not provide services that require licenses under state law.

- **Licensed Facilities**—shared living residences that provide services that require licenses under state law.

- **Recovery Residences** or **Sober Living Homes**—group homes for persons recovering from alcoholism or drug addiction in which the residents mutually support each other's recovery and sobriety and that do not require state licenses because they do not provide alcoholism or drug addiction recovery and treatment services.[1]

- **Alcohol or Other Drug (AOD) Facilities**—residential facilities that must obtain state licenses because they provide alcoholism or drug addiction recovery and treatment services.

[1] Individuals recovering from alcoholism or addiction are recognized as people with disabilities (see Gov. Code, § 12926, subd. (j)), and "sober living homes and other dwellings intended for occupancy by persons recovering from alcoholism and drug addiction are protected from illegal discrimination against the disabled." *SoCal Recovery, LLC v. City of Costa Mesa* ("*SoCal Recovery*") (9th Cir. 2023) 56 F.4th 802, 814.

Statutory Background

Land Use Discrimination Law

California's Planning and Zoning Law (Gov. Code, § 65000 et seq.) prohibits jurisdictions from engaging in discriminatory land use and planning activities. Specifically, Government Code section 65008, subdivision (a)(1), deems any action taken by a city to be null and void if it denies an individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in the state due to illegal discrimination. Section 65008 prohibits discrimination based on any characteristic, including disabilities, protected by other state or federal laws, while adding its own prohibitions of discrimination against individuals or households who have very low, low, moderate, or middle incomes.[2] The law further recites multiple categories of actions that are determined to be discriminatory, including enactment or administration of ordinances that prohibit or discriminate based on a protected characteristic[3] and imposition of requirements on a residential use for persons with protected characteristics that are not generally imposed upon other residential uses.[4]

AFFH Law

Government Code section 8899.50 requires all California public agencies, including cities, "to administer their programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with [this] obligation . . . ."[5] AFFH means:

> taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.[6]

Moreover, the "duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development."[7]

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[2] Gov. Code, § 65008, subds. (a)(1)(A), (b)(1)(B)-(C), (2)(B), (3).
[3] *Id.* at subd. (b)(1)(B).
[4] *Id.* at subd. (d)(2)(A).
[5] Gov. Code, § 8899.50, subds. (a)(2)(B), (b)(1), (2).
[6] *Id.* at subd. (a)(1).
[7] *Id.*

Housing Element Law

In addition to the general AFFH requirements in Government Code section 8899.50, State Housing Element Law includes more specific AFFH requirements for cities. Government Code section 65583 requires cities to thoroughly analyze fair housing issues related to housing for people with disabilities and set forth a program of actions that protect and promote such housing. Through their housing elements, cities must "remove governmental constraints that hinder . . . meeting the need for housing for persons with disabilities," which requires "remov[ing] constraints to, and provid[ing] reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities."[8] Section 65583 also requires cities to "promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities all persons regardless of . . . disability" or "other protected characteristics."[9] And cities' housing elements must include a fair housing assessment with specific goals, implementation strategies, and "metrics and milestones" for evaluating results.[10] In complying with these AFFH duties, cities are required to analyze data and set measurable objectives and milestones.[11]

Resource Materials

In revising its policies, amending its ordinances, and implementing its housing element programs, the City should consider HCD's Group Home Technical Advisory (Group Home TA)[12] and its AFFH Guidance Memorandum (AFFH Memo).[13] The City should also consider, among other things, the analysis in the amicus brief that HCD and CRD filed in the pending appeal in *The Ohio House, LLC v. City of Costa Mesa,* 9th Cir. Case No. 22-56181, Docket No. 25-2 (Amicus Brief). The guidance documents and Amicus Brief discuss relevant statutes, regulations, and case law, as well as HCD's and other government agencies' earlier guidance documents, academic papers, and demographic and statistical analyses.

[8] Gov. Code, § 65583, subds. (a)(6), (c)(3).
[9] *Id.* at subd. (c)(5).
[10] *Id.* at subd. (c)(10)(A)(iv).
[11] See, e.g., Gov. Code, § 65583, subds. (a)(5), (a)(7), (b)(1), (c)(10)(A)(ii).
[12] Available at https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf.
[13] Available at https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf.

Findings

HCD's findings include, but are not necessarily limited to, those described below.

Permitting Requirements

Ordinance Nos. 14-13, 15-11, and 17-05 establish permitting requirements for group homes.

- MC 13-311(a) requires a special use permit for unpermitted group homes of six or fewer occupants located in R1 (single-family) zones and prohibits group homes with seven or more occupants in these zones.
- MC Title 9, Chapter II, Article 23, 9-372 requires group homes of six or less to apply for an operator's permit, regardless of licensure status.
- MC 13-322 requires a Conditional Use Permit (CUP) for group homes of six or less in R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (Planned Development Zones) Zones.
- MC 13-323 requires a CUP for group homes in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (Planned Development Zones) with seven or more occupants.

The City's permitting requirements for group homes and its application and enforcement of these requirements violate Government Code sections 65008, 65583, and 8899.50 by, among other things, discriminating against housing for persons with disabilities, constraining and failing to promote this housing, and restricting the fair housing choices of persons with disabilities (their right to housing of their choice and the housing they find most suitable for their disability-related needs).

The ordinances do not impose similar restrictions on other dwellings located in the zones listed above. The discriminatory effects and constraints these permitting requirements impose on group homes are evident through, among other things, the City's own data showing how severely the permitting requirements have curtailed group homes in Costa Mesa. And there are considerable other discriminatory effects, including, and among other things, the costs and burdens imposed on group homes, the displacement of persons with disabilities from housing of their choice and the disruptions of their lives, and the City's efforts to deter new group homes from opening in Costa Mesa.[14]

[14] See, e.g., Amicus Brief at pp. 27-28; *SoCal Recovery*, *supra*, 56 F.4th at p. 806 (finding that Costa Mesa engaged in "an explicit effort to reduce the number of sober living homes operating within the City.").

Furthermore, the City should not continue attempting to justify its group home restrictions by comparing them to its treatment of boardinghouses. Group homes are designed to provide communal living environments with peer and other support for their occupants' disability-related needs and to help integrate their residents into local communities. Boardinghouses do not serve these same goals. Government Code sections 65008, 65882, and 8899.50 also impose specific and unique duties on cities to affirmatively promote and protect housing for persons with disabilities that do not similarly apply to all boardinghouses.

The overall problems with the City's permitting system require the City to immediately stop enforcing its group home ordinances and repeal them. To provide additional guidance, this letter discusses below further examples of how specific provisions in these ordinances conflict with the City's duties under Government Code sections 65008, 65583, and 8899.50.

Definition of Single Housekeeping Unit

MC 13-06 defines a single housekeeping unit as follows:

- Single housekeeping unit. The occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, and expenses and responsibilities; membership in the single housekeeping unit is fairly stable as opposed to transient, members have some control over who becomes a member of the household, and the residential activities of the household are conducted on a nonprofit basis. There is a rebuttable presumption that integral facilities do not constitute single housekeeping units. Additional indicia that a household is not operating as a single housekeeping unit include, but are not limited to: the occupants do not share a lease agreement or ownership of the property; members of the household have separate, private entrances from other members; members of the household have locks on their bedroom doors; members of the household have separate food storage facilities, such as separate refrigerators.

HCD encourages the City to review pages 24-25 of the HCD Group Home Technical Advisory for policies to avoid when creating a definition of a single housekeeping unit. These problematic policies include requiring all residents to share a common lease or deed, excluding for-profit group homes and overly scrutinizing living arrangements (e.g., not allowing for locks on rooms or having separate entrances).

Lack of Grandfathering

Typically, when a zoning code changes, preexisting, nonconforming uses are "grandfathered" in and allowed to continue operating under the requirements that were in place before the amendments.[15] Costa Mesa's zoning code follows this well-established practice by allowing preexisting, nonconforming residential uses to continue operating unless they are abandoned, the dwellings they are in are declared physically unsafe, or the owner proposes structural alterations. (MC 13-203(b), 13-204.) But the City departs both from general grandfathering practices and its own grandfathering code provisions by requiring preexisting group homes to apply for permits in the same fashion as new ones to remain operational. (MC 13-311, 13-322, and 13-323.) This imposes discriminatory and constraining conditions on preexisting group homes, while creating displacement impacts that AFFH duties and State Housing Element Law require the City to consider and avoid.[16] The City should apply its generally applicable grandfathering provisions to preexisting group homes, subject to reasonable accommodations requirements.

Occupancy Limits

The City sets special occupancy limits on group homes that prohibit group homes of seven or more occupants in R-1 single family zones, require group homes with seven or more occupants to obtain permits to operate in other zones, and require group homes with six or fewer occupants to obtain permits to operate in any residential zone. (MC 9-372, 13-311)(a), 13-322, 13-323.) This is another example of the City imposing discriminatory and constraining restrictions on group homes. Concerns about overcrowding should be addressed through applying the generally applicable occupancy limits that apply to all residences instead of singling out specific types of housing based on occupants' disabilities.[17]

Costa Mesa's ordinances appear to be based on a faulty application of Health and Safety Code statutes that allow local governments to subject licensed group homes with more than six residents to conditional use or other discretionary approval processes but require local governments to treat many types of licensed group homes with six or fewer residents the same as single-family homes and prohibit requiring these small, licensed group homes to obtain conditional use permits or other special approvals to locate in single-family zones.[18] The City, however, cannot justify its restrictions on group homes

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[15] See, e.g., *Edmonds v. Los Angeles County* (1953) 40 Cal.2d 642, 651 ("The rights of users of property as those rights existed at the time of the adoption of a zoning ordinance are well recognized and have always been protected.").
[16] Gov. Code, § 65583, subds. (c)(10)(A)(ii), (v).
[17] See Uniform Housing Code, § 503.2; see also *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 133.
[18] See, e.g., Health & Saf. Code, §§ 1566.3, 1569.85, 11834.23.

through statutes designed to protect small licensed facilities, which provide higher levels of support and care that require state licenses.[19] These statutes specifically apply to licensed facilities, not to unlicensed group homes. In effect, the City is inappropriately transforming state laws designed to prevent local constraints on small, licensed facilities into constraints on group homes that do not provide services requiring state licenses. Moreover, the City is imposing more restrictions on group homes with six or fewer residents than state law allows it to impose on licensed facilities with similar numbers of residents. To avoid imposing overly costly and burdensome constraints on group homes, the best practice is to apply the same general building, fire, and other health and safety codes that apply to other residences, subject to state health and safety code provisions specific to certain types of licensed facilities and to reasonable accommodations requirements.[20]

Separation Requirement

MC 13-322, 13-323, and 13-324 require 650 feet of separation between group homes, sober living homes, or state-licensed drug and alcohol treatment facilities, new and existing.

These spacing requirements have a particularly severe impact on group homes, severely limiting where they can locate, causing group homes to close, and preventing others from opening. Yet the City has not shown that these spacing requirements are necessary or that there are health, safety, or similar justifications for the spacing requirements, or that if these were actual issues, that the City could not address them through less restrictive and discriminatory policies.

Pages 27-29 of the Group Home TA provides additional guidance illustrating why the City's spacing requirements conflict with its duties under state housing law (e.g., Gov. Code, §§ 8899.50, 65008, 65583, subds. (c), (1), (5), (10)), as does the Amicus Brief.

Vehicle and Parking Requirements

The City imposes special vehicle and parking requirements on group homes. MC 13-311(a)(5) states that each dwelling resident is limited to one vehicle that must be used as the resident's primary form of transportation. MC 13-311(a)(5) requires each dwelling resident to park their vehicle on dwelling premises or within 500 feet of the dwelling.

Concerns about parking and traffic should be addressed through generally applicable rules instead of restrictions that target housing for persons with disabilities.[21]

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[19] See Group Home TA at pp. 25-26.
[20] See, e.g., Health & Saf. Code, § 13113 (requiring sprinkler systems in certain licensed facilities).
[21] See *Adamson*, *supra*, 27 Cal.3d at 133; Group Home TA at p 31.

Examples of Other Permitting and Operational Requirements

The City imposes the following restrictions on group homes but not on other residences:

- MC 13-311(a)(4) requires a manager to be present during all hours, seven days a week.
- MC 13-311(a)(14)(vi) requires that the operator must have a good neighbor policy directing residents "to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit."
- MC 13-311(b) requires group homes applying for a permit to provide notice to the owner of record and all occupants within 500 feet of the group home.

Singling out group homes for restrictions like these can burden group homes with additional, unjustified costs, while perpetuating fears and stereotypes about persons with disabilities. Pages 30-33 of the Group Home TA provide additional guidance on how to avoid these and other restrictions in Costa Mesa's group home ordinances that conflict with the City's duties under Government Code sections 8899.50, 65008, 65583, subds. (c)(1), (c)(5) and (10), among others.[22]

Reasonable Accommodations

Failing to make reasonable accommodations to rules or policies, in order to allow persons with disabilities the opportunity to access housing, is a form of discrimination.[23] Making reasonable accommodations is also necessary to fulfill the City's AFFH duties and its duties to remove constraints on housing for persons with disabilities.[24]

The City should review its reasonable accommodation policies in Municipal Code section 13-200.62, along with its application of these policies, to ensure compliance with state law.[25] For example, the City: (i) must avoid denying requested accommodations based on fears or prejudicial assumptions about people with disabilities, such as that group home residents somehow uniquely cause problematic traffic, noise, or activity; (ii)

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[22] See also *Oconomowoc Residential Programs, Inc. v. City of Milwaukee* (7th Cir. 2002) 300 F.3d 775, 783 (finding that house manager requirement is discriminatory because it effectively mandates an "institutional" arrangement that is not "on par with" housing policies for those who are not disabled); *Potomac Group Home Corp. v. Montgomery County, Md.* (D. Md. 1993) 823 F.Supp. 1285, 1296 (finding that notice requirements discriminate against and stigmatize persons with disabilities).
[23] See, e.g., Gov. Code, § 12927, subd. (c)(1).
[24] See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (a)(6), (c)(3), (5).
[25] See, e.g., Cal. Code Regs., tit. 2, §§ 12176-12185; Group Home TA at pp. 18-20; Amicus Brief at pp. 21-25.

may not place the burden on reasonable accommodation applicants to demonstrate that their requested accommodations would not create undue burdens on the City or fundamental alterations to its zoning code; (iii) may not require applicants to show that they could not find any other housing within the city that would meet their disability-related needs; and (iv) must engage in good faith with reasonable accommodation requests and avoid delay or burdensome procedural requirements.[26]

Costa Mesa May Still Address Problems that Might Arise at Individual Group Homes

The City has resources to legally address problems that might occur at individual group homes. If group home operators are engaging in activities that constitute public nuisances; violating generally applicable building, housing, or other health and safety laws; committing fraud; or engaging in other illegal activities, the City can address these issues through the same code enforcement and other legal processes it applies to others who violate municipal codes and other laws. If the City has evidence that a group home operator is providing services that require a license without obtaining one, it can contact the state's Department of Social Services or Department of Health Care Services, which can initiate investigations and take remedial action if appropriate.[27]

This may still require considering if reasonable accommodations are appropriate in some circumstances. And the City should avoid overbroad or discriminatory applications of nuisance laws, such as those basing civil nuisance actions on 911 calls for emergency services.[28] But if a group home is found to have violated local or state law, the City may, for example, seek equitable relief that could include more stringent oversight and other affirmative relief to prevent further violations.

Focusing on individual group homes that are actually causing problems is a better practice than adopting overly broad, constraining, and unlawful regulations for all group homes.

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[26] See, e.g., Cal. Code Regs., tit. 2, §§ 12177-12179; 28. C.F.R. § 35.150(a)(3).
[27] See Group Home TA at pp. 33-36, 37.
[28] See. e.g., Cal. Code Regs., tit. 2, § 12162, subd. (a); see also California Attorney General Rob Bonta letter to all Cities and Counties in California re Crime Free Hosing Policies (Apr. 21, 2023), available at https://oag.ca.gov/system/files/attachments/press-docs/Crime%20Free%20Housing%20Guidance_4.21.23.pdf.

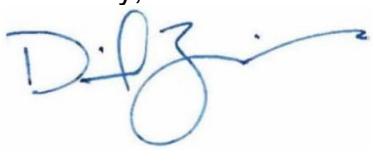
Conclusion

Costa Mesa's ordinances are blocking new group homes from opening, forcing existing ones to close, and imposing costs, administrative burdens, and fees that make it difficult for group homes to operate, while displacing persons with disabilities and disrupting their lives. The City is creating these restrictions and problems in the context of a shortage of adequate housing for persons with disabilities, which is a particularly acute issue within California's broader housing crisis.

HCD has reviewed the City's group home ordinances and found that they violate Government Code sections 65008, 65583, and 8899.50. The City must stop enforcing these ordinances, repeal them, change its reasonable accommodation policies and practices, and review other zoning practices in light of HCD's guidance to ensure that the City is complying with state law. These actions are necessary for the City to comply with its duties under Government Code sections 65008, 65583, and 8899.50, and are among the things that the City must do to bring its 6th cycle housing element into substantial compliance with State Housing Element Law.

For technical assistance regarding the City's 6th Cycle housing element, please contact Jose Armando Jauregui at jose.jauregui@hcd.ca.gov. If you have any questions regarding the content of this letter, please contact Bentley Regehr at bentley.regehr@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

Enclosures: Letter from HCD regarding City of Costa Mesa's 6th Cycle (2021-2029) Adopted Housing Element (May 9, 2023)

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
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(916) 263-2911 / FAX (916) 263-7453
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May 9, 2023

Lori Ann Farrell Harrison, City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Lori Ann Farrell Harrison:

RE: City of Costa Mesa's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Costa Mesa's (City) housing element that was adopted on November 15, 2022 and received for review on March 10, 2023. In addition, the California Department of Housing and Community Development (HCD) considered technical modifications from its prior review authorized by Resolution Number 2022-67. Pursuant to Government Code section 65585, subdivision (h), HCD is reporting the results of its review. In addition, HCD considered comments from Costa Mesa First pursuant to Government Code section 65588, subdivision (c).

The adopted housing element meets the statutory requirements of State Housing Element Law (Gov. Code, § 65580 et seq.). However, the housing element cannot be found in substantial compliance until the City has completed necessary rezones to make prior identified sites available and address the shortfall of sites to accommodate the RHNA pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021) as described below.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites, pursuant to Government Code section 65583, subdivision (c) (1) (A) and Government Code section 65583.2, subdivision (c), are completed. As this year has passed and Programs 3B (Fairview Development Center), 3C (North Costa Mesa Specific Plan), 3D (Urban plans and Overlays), and 3N (Reused sites) have not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning has been completed. Once the City completes the rezone, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the City's housing element compliance.

Additionally, the City must continue timely and effective implementation of all programs including but not limited to the following:

- Program 2A (Inclusionary Housing Ordinance)
- Program 2B (Affordable Housing Development)
- Program 2I (State Density Bonus Incentives)
- Program 2J (Transitional and Supportive Housing)
- Program 2M (Parking Standards for Residential Development)
- Program 2N (Reasonable Accommodation)
- Program 2O (Definition of Single Housekeeping Unit)
- Program 2P (Group Homes): Please note, HCD may follow up with additional technical assistance. Please see HCD's Group Home Technical Advisory at https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf.
- Program 3B (Fairview Development Center)
- Program 3G (City-wide Vote Requirements)
- Program 3R (Development of Large Sites)
- Program 4A (Fair Housing)

The City must monitor and report on the results of these and other programs through the annual progress report, required pursuant to Government Code section 65400. Please be aware, Government Code section 65585, subdivision (i), grants HCD authority to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or State Housing Element Law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: https://www.opr.ca.gov/planning/general-plan/guidelines.html.

HCD appreciates the dedication and cooperation of the City's housing element team provided during the review and update. HCD particularly applauds the efforts of Jennifer Le and Scott Drapkin whose collaboration, communication, expertise and public service is truly commendable. HCD wishes the City success in implementing its housing element and looks forward to following its progress through the General Plan annual progress reports pursuant to Government Code section 65400. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui of our staff, at Jose.jauregui@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

EXHIBIT 5

State Licensed Facilities

Un-Licensed Facilities



As of 2014 per City trial exhibit 1711 in Ohio House v City of Costa Mesa federal trial.

CITY TRIAL EXHIBIT 1711

EXHIBIT 6

Un-Licensed Facilities Approved by City as of 2025



Based on 2025 version of City Approved Sober Living/Group Homes WEB

https://app.smartsheet.com/b/publish?EQBCT=f6f1941be3624556ab1b03e829df4639 (Apr. 25, 2025)

EXHIBIT 7

The OHIO House

To: City of Costa Mesa

Re: Reasonable accommodation request by The Ohio House

I am the co-founder of The Ohio House and responsible for leading the organization. I oversee all external affairs, including City permitting and government regulations. The Ohio House operates structured sober living for men at the property located at 115 E. Wilson Street, Units A-E, in Costa Mesa.

I affirm that only residents (other than the house manager) who are handicapped as defined by state and federal law are allowed to reside at The Ohio House on Wilson Street.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Executed this 2nd day of May, 2025 at Costa Mesa, California.



EXHIBIT 8

The OHIO HOUSE

OHIO

Our PURPOSE

The Ohio House is a safe and structured environment for people seeking recovery from drugs and alcohol.

Our purpose is to provide our residents with the tools needed to achieve long term sobriety. We believe that every person that walks through our door is a member of our family. We are passionate about recovery and guide each resident through their emotional, physical and spiritual development.



"The Ohio House provided the right amount of accountability and community when I needed it the most. I have built a strong foundation and established strong connections with guys going through the same thing. I have maintained my sobriety and grown as a person here. I would highly recommend Ohio house to anyone looking for a long term sober living"

– Joe S.

"The Ohio House has been beyond my wildest acceptation. From all the staff to the clients and everyone in-between there is a wealth of knowledge and long term sobriety every which way you turn. The houses are clean and welcoming with more then enough room for all those who share the common goal of long term sobriety and a happy fulfilling life. The amount of love and support I have received in my time here is truly amazing and would highly recommend the Ohio House to anybody out there who is struggling."

– Kayle M.

1. ROUTINE

The Ohio House believes that a solid routine ensures a grounded foundation for our residents. We expect all of our residents to adhere to a strict set of daily activities.

2. RECOVERY

Each resident can and will follow some simple rules. Each residence is assigned a House Manager to ensure a safe and structured environment for the recovering. Rules are

3. INTEGRITY

We provide each resident the opportunity to be held accountable on a daily basis. House rules help the individual become reliable, responsible, honest and self

in place as a vessel to a sober lifestyle.

supporting. The Ohio House offers additional assistance to our residence so that the path they walk can be beneficial mentally, physically and monetarily.

GET MORE DETAILS

I wanted to tell you how truly grateful I am for the opportunities you have given me. From a bed and place to stay when I had absolutely nothing, nowhere to go, and no one wanting anything to do with me to trusting me with the responsibility of one of your houses. I was walking up to the front door of the house the other day, dropped to my knees and cried. I am so happy to be alive and sober today! I believe that had you not taken me in when you did I definitely wouldn't be sober and probably dead. I love you guys and The Ohio House! – Darren

The Ohio House saved my life. It was the only place that I knew to call when I needed help. I've built some of the greatest relationships with people at the Ohio House that I know will be lifelong friends. As a staff member, I have never been so grateful and proud to work for such a great place, and with some of the greatest people. This is by far the best program around. I would highly recommend the Ohio House to anyone looking for a solid, safe, and fun sober living environment. I love what you guys are doing. – Lou

I moved into the Ohio house in September of 2015. I was completely down and out and had exhausted all of my resources. The Ohio house provided me a safe and healthy place to put my life back together one day at a time. Words can not describe how caring and supportive the Ohio house staff has been towards me and my personal recovery. The brotherhood coupled with the individual treatment I received at the Ohio house truly pushed and motivated me to change my life around. I am forever grateful for what the Ohio house has done for me, my family, and my recovery. They showed me the way to a better life. – Nick

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EXHIBIT 9

HOUSING AGREEMENT

This agreement is made by and between_____(hereinafter referred to as "Resident" and The Ohio House (collectively referred to as "The Parties").

RECITALS:

It is the intent of the Parties to enter into this agreement whereby Resident is seeking a clean and sober environment to reside in his continued recovery, and The Ohio House agrees to provide the Resident with a room so long as Resident continues with his sobriety and adheres to the structure detailed within this agreement.

I. COMMENCEMENT DATE

This agreement will commence _____and continue so long as the parties agree on a month to month basis with the rent due and payable in advance on the_____day of the month.

II. NATURE OF AGREEMENT

This agreement should be considered in accordance with laws pertaining to a Lodgers agreement. Resident is fully aware that notwithstanding the mmonth to mmonth rental agreement that this agreement may terminate without the steps necessary in an Eviction Process for the Unlawful Detention of Resident in order to force Resident to vacate the residence, subject to any applicable regulations governing the relocation of the Resident at the end of his residency. This agreement by and between The Ohio House and the Resident will terminate automatically upon the breach of the terms and conditions set forth herein and will require no further legal action for The Ohio House to reenter and reclaim the room provided to Resident.

III. CONSIDERATION

This agreement shall commence upon the receipt of an initial payment of $_____prior to Resident being admitted and shall cover the following for a full month and the cost of each service provided below. These services will be the same for each consecutive month so long as the terms and conditions of this agreement are strictly followed:

1) $_____ Furnished Room/Access to common areas of the House located at _____

2) $ _____Food Card Services

Initials: _____ _____

"Food Card Service" means that The Ohio House will provide the Resident with a grocery store gift card in an amount equal to money paid for said service weekly .

The Ohio House agrees to provide the opportunity to have a safe and sober environment. This includes without limitation removing any of its residents who fail to perform his contract with The Ohio House in accordance with the terms and conditions herein.

The Ohio House does not provide for refunds of rent, which shall be paid monthly in advance. Resident hereby acknowledges and agrees that his payment is non-refundable.

Payment for housing pursuant to this agreement is the responsibility of the Resident and does not depend on insurance benefits. This agreement is for housing only; it is separate from and independent of any other agreement to utilize the services of any laboratory or outpatient treatment program. A Resident's housing pursuant to this agreement is not dependent on the Resident's agreement to utilize any laboratory, treatment or recovery services by any specific service provider.

Resident further acknowledges and agrees that should this contract terminate in accordance with section III of this agreement, he waives any right to receive a refund for any unused services in connection with this agreement, subject to any applicable regulations governing the relocation of the Resident at the end of his residency.

IV. RESIDENT AGREES THE FOLLOW WILL RESULT IN IMMEDIATE TERMINATION OF THIS AGREEMENT:

a. **Any criminal activity whatsoever**

b. **Any possession of non-approved prescription drugs, non-approved over the counter medication, alcohol, weapons, or paraphernalia**

c. **Any violence toward another resident, employee or guest.**

d. **Failure to abide by house rules which have been signed and acknowledge in connection with this agreement.**

V. ASSUMPTION OF RISK

Resident understands and acknowledges that based on the nature of this agreement that notwithstanding that The Ohio House will make every effort to provide a safe and sober environment. By its very nature, The Ohio House is unable to assure the actions and behavior of the other residents with the exception of ordering the removal of said residents upon the discovery of a

breach of its agreement with said resident. Resident understands and agrees to assume the risk of and hold The Ohio House harmless for actions of any of its residents including without limitation lost or stolen property, injuries as a result of its residents' negligence and/or intention acts.

Resident further acknowledges and agrees that The Ohio House makes no warranties and Resident agrees that it releases The Ohio House from any and all ordinary negligence that may occur as a result of Resident's stay at The Ohio House.

NO LIABILITY/INDEMNIFICATION/HOLD HARMLESS: The owners of the property do not assume liability for the loss, theft, or damage to their personal property. Tenants agree to indemnify and hold the owners harmless for any liabilities, theft, damage, cost or expense whatsoever arising from or related to any claim or litigation which may arise out of or in connection with tenants use and occupancy of the owner's property, including but not limited to claims for property damage/loss.

Initials: _____ _____

PERMISSION TO USE IMAGE

Resident understands and acknowledges that Ohio House relies on the public knowledge of its success with its residents to maintain and grow its business. Accordingly, resident agrees that Ohio House has permission to display Resident's likeness, photos (along with any associated metadata), and/or actions you take, in connection with unpaid, paid or sponsored content or promotions, without any compensation to Resident.

V. IN THE EVENT OF RELAPSE

Subject to any applicable regulations governing the relocation of the Resident at the end of his residency, if a Resident relapse for the 1st time, the Resident agrees and acknowledges that he will vacate the residence immediately and will be transferred to a detox facility, family member's home or community resource where the Resident will spend a minimum of 72 hours. The Ohio House will transport the Resident to a detox facility or safe housing alternative. The Resident will not be allowed to return to The Ohio House until the Resident passes a urinalysis test. A "relapse" is considered a "relapse" if the Resident ingests any mind or mood altering chemical. Resident is responsible for all mind- or mood-altering chemicals that appears on their urinalysis and/or within their possession See also Section IV, above.

At the sole discretion of The Ohio House, it may readmit the Resident 72 hours after removal from the house and placement in detox or alternative housing, provided that the Resident passes a urinalysis test. Should Resident be readmitted to the house, the Resident will be required to sign a new housing agreement with The Ohio House.

In the event of a 2nd relapse during the Resident's stay at The Ohio House, the Resident may be asked to leave Ohio house permanently. Ohio House will offer suggestions to other programs with higher

levels of care and will help the Resident make an informed decision as well as provide relocation assistance consistent with any applicable regulations, including the provision of information regarding housing alternative published by local social service agencies.

In the event of any relapse. the Resident will be transported directly to a family members house, Detox facility, treatment facility, or other safe housing environment. This will happen immediately upon knowledge of a relapse.

VI. COMPLETE AGREEMENT

The parties acknowledge and agree that this agreement is the complete agreement and no promises or side agreements were made in connection with this agreement. The Parties further agree and acknowledge this agreement is entered into freely, voluntarily, and without coercion, and the parties fully understand this agreement and its provisions.

Initials: _____ _____

Exhibit 1
RULES

- SMOKING OF CIGARETTES OTHER THAN E-CIGARETTES IS NOT PERMITTED IN THE HOUSE. Smoking is not allowed except in designated smoking areas . Anyone caught smoking in the bedrooms or house will be asked to leave, terminated and not allowed to return. No smoking in the front of the house. No exceptions.

- Total abstinence from all mind altering chemicals and drugs, including alcohol, is required. Anyone caught violating this rule (by the Staff or another resident) will be asked to leave and be directed to resources for detox or safe alternative housing

- Prescription Drugs: Upon joining the house pursuant to this agreement, each Resident must present Ohio House staff with prescribed and over the counter medication(s). These are documented by the house manager- both the medication itself and quantity prescribed. The Ohio House does not administer medications, however, each house manager will lock them up and provide oversight for residents to take medications as prescribed. All over the counter and prescribed medications must be approved by Ohio House operators. The possession or use of prescription medications shall be prohibited except for the person to whom they are prescribed, and in the amount prescribed.

- By signing this agreement, Resident is agreeing to follow medical advice given by a licensed physician when it comes to medication management. Refusal or dissatisfaction with the effects of a medication prescribed by a licensed professional should be discussed immediately with the prescribing physician.

- Resident agrees to be drug tested a minimum of twice a week as well as breathalyzed randomly as deemed fit by The Ohio House upper management.

- For the first ninety days after joining the House pursuant to this agreement, the Resident is required to attend at least one Twelve Step meeting every day (including required house meetings). Following a Resident's first 90 days, said Resident is required to attend 3 meetings weekly for the entirety of their residency with The Ohio House. A relapse of any kind is a renewal of the 90 in 90 commitments.

- For the first 30 days with The Ohio house, residents are obligated to attend only meetings designated by staff. Beyond 30 days residents are allowed to attend meetings of their choosing if those meetings do not interfere with Ohio House obligations and meetings.

- Each Resident is expected, as a part of the Resident's recovery, to attend all required house meetings as designated by your house manager and Ohio House staff. Community meetings and designated meetings with Ohio House Staff are mandatory.

- Recovery means taking action, therefore each Resident is required to work, be in school, in treatment, or a training program.

- Quiet Time is observed daily from 11:00 PM to 7:00 AM- If Resident is awake during Quiet Time, the Resident is expected to be quiet and respectful of others.

- Curfew hours are 11:00 p.m. Sunday through Thursday, and 1:00 A.M. Friday and Saturday. Curfew extensions will be granted situationally by Ohio House staff and based on adherence to this agreement.

Ohio House Initials: _____ Resident Initials: _____

Exhibit 1 (cont.)
RULES

- No overnight passes within the first thirty days of the date on which a Resident joins the house pursuant to this agreement. After thirty days, the Resident may request one overnight pass per month. After sixty days the Resident may request two overnight passes per month. After ninety days, the Resident may request three overnight passes per month. Overnight passes must be requested at least 24 hours in advance. All overnight passes must be approved by Ohio House staff.

- Absolutely no stealing will be tolerated (including cigarettes, food and clothes).

- Each Resident is responsible for purchasing and preparing their own meals. House manager will familiarize each Resident with the appliances and cookware used for meal preparation. Ohio House encourages sharing meals among residents.
-
- Borrowing or loaning money is not allowed.

- Absolutely no gambling on Ohio House property

- Respect fellow residents, neighbors, staff, and the community.

- Damage to the homes as the result of intended harm directly linked to the action of the resident may result in said Resident being financially responsible for the repairs.
-
- No sexual contact will be allowed upon the premises.

- Friends may visit the house with the permission of the house manager. Visitors are confined to the living room and common areas and are not permitted in the bedrooms. No visitors after 10:00p.m. Sunday-Thursday and 12:00am Friday and Saturday. All visitors must check in with and be approved by the manager. No overnight visitors are allowed.

- Each Resident must be fully and properly clothed (i.e., shirts and pants or shorts) in the common areas, including the living room, kitchen, and yard.

- It is the responsibility of each Resident to contribute to the household, which means keeping the interior and exterior of the house neat and clean. Chores must be done daily or more often as needed. Chores will be posted and will be changed weekly. There will also be a complete house cleaning every Saturday- referred to as “Double Scrub.”.

- You must do your assigned chores, make your bed and clean your room daily before 9:00 a.m. period! Dirty laundry must be properly put away and out of sight at all times.

- Clean up after yourself in the kitchen area. Wash, dry and return house utensils to their proper place.

- All guests must abide by all house rules put in place.
- By signing this agreement, Resident agrees to discretionary room searches as well as personal

property searches by Ohio House Staff

Ohio House Initials: _____ Residents Initials: _____

Exhibit 1 (cont.)
RULES

- No holding or trafficking of any drug or paraphernalia, or anything else that might suspect to be illegal.

- No racist, sexist language or propaganda will be permitted.

- No weapons or violence or threats of violence will be permitted.

- The Ohio House is not responsible for Resident's personal property. Any personal property not removed at the time of Resident's departure will be disposed of after 30 days.

- Each Resident must respect, take direction from and support the staff.

- Each Resident is not permitted to remove or tamper with any safety devices or testing equipment.

- Residents are not permitted to move in furniture, large items or any other possession beyond daily living materials without the permission of The Ohio House staff.

- Large stationary electronics such as tv's, video game consoles, air conditioning units and projectors are not allowed within bedrooms.

- If the Resident is being picked up or dropped off, the Resident needs to be as quick as possible without disturbing neighbors. Avoid having cars idling outside of the houses at all times. Cars that are waiting should have headlights dimmed or turned off completely.

- Each Resident, including each house managers, may store or park one vehicle at the dwelling unit or on any street within 500 feet of the house. The vehicle must be operable and currently used as a primary form of transportation for the Resident.

- Each Resident must abide by all parking regulations as it pertains to street parking and street cleaning. It is the responsibility of the Resident to fully to comply with these regulations.

- The Resident must provide The Ohio House with a copy of valid driver's license, proof of insurance, and valid registration to obtain driving privileges.

Consequences:

- Each time a rule is broken the Resident may receive a consequence. These Consequences include, but are not limited to, curfew restriction, extra chore, higher level of care, community service requirements, lack of phone/electronic privileges or termination of residency. This is to the discretion of The Ohio House staff.

- Joining our house pursuant to this agreement is a contract to help hold the Resident accountable to reinforce the Resident's recovery. Consequences for rules that are broken must be approved and administered by Ohio House staff.

- **ANY PERSON – RESIDENT, GUEST, VISITOR, OR STAFF WHO BRINGS** DRUGS **OR ALCOHOL ON THE PREMISES WILL BE ASKED** TO LEAVE **IMMEDIATELY, DIRECTED TO ALTERANATIVE HOUSING/DETOXAND MAY NOT BE ALLOWED TO RETURN TO THE HOUSE PERMANENTLY**
- **THESE RULES WILL BE STRICTLY ENFORCED TO PROMOTE THE SAFETY AND SECURITY OF THE OHIO HOUSE RESIDENTS, STAFF, AND NEIGHBORS.**

- **THE RESIDENT HEREBY CERTIFIES THAT HE HAS CAREFULLY READ AND UNDERSTANDS THE RULES OF THE "OHIO HOUSE" AS STATED IN THIS AGREEMENT.**

RESIDENT_____ **DATE**_____

THE OHIO HOUSE _____ **DATE**_____

VII. Good Neighbor Policy

A. Each Resident shall refrain from engaging in excessively loud, profane or obnoxious behavior that would interfere with a neighbor's use and enjoyment of their Home.

B. Television's, radios, stereo's etc. must be played at a level which will not disturb neighbors.

C. Quiet Time is to be observed nightly after 11:00 P.M., If the Resident is awake during quiet time, the Resident must not disturb and must respect others.

D. Keep the exterior of the house neat and clean at all times. This is a responsibility of each Resident.

E. The Resident is expected to be always an asset and positive role model in the community.

Initials: _____ _____

HISTORY INTAKE

DATE OF ADMIT_____

REFERRED BY_____

RESIDENT NAME_____
D.L. #_____

ADDRESS
_____
NUMBER STREET CITY STATE ZIP

HOME PHONE ( )_____S.S. #_____

AGE_____BIRTH DATE_____/____/____MARITAL STATUS_____

SEX_____

RESIDENT EMPLOYED
BY_____

BUSINESS
ADDRESS_____

OCCUPATION
_____

CONTACT IN CASE OF EMERGENCY
_____

RELATIONSHIP_____PHONE#___-____-_____

REASON FOR GETTING SOBER_____

PAST HISTORY WITH CHEMICALS:
EXPERIMENTAL___SOCIAL___REGULAR USE___ADDICTED

CHEMICAL OF CHOICE_____LENGTH OF USE_

DATE LAST USED OF EACH SUBSTANCE_____

PRIOR TREATMENT OR 12 STEP EXPERIENCE

LEGAL INFORMATION: ARRESTS_____DUIs_____Dips _____

ATTORNEY'S NAME_____PHONE#_____-_____-_____

PLEASE SIGN TO INDICATE THAT YOU HAVE CAREFULLY READ AND AGREE WITH THE ABOVE STATED INFORMATION.

_____ _____
Resident Signature Date / Time

_____ _____
Witness Date/Time

EXHIBIT 10

FACING ADDICTION IN AMERICA

The Surgeon General's Report on Alcohol, Drugs, and Health

2016
U.S. Department of Health & Human Services





Suggested Citation

U.S. Department of Health and Human Services (HHS), Office of the Surgeon General, *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health*. Washington, DC: HHS, November 2016.

For More Information

For more information about the Surgeon General's report or to download copies, visit Addiction.SurgeonGeneral.gov.

Use of trade names and specific programs are for identification only and do not constitute endorsement by the U.S. Department of Health and Human Services.

Non-discrimination

HHS complies with applicable federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. HHS does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.

HHS provides free aids and services to people with disabilities to communicate effectively with us, such as:

- Qualified sign language interpreters
- Written information in other formats (large print, audio, accessible electronic formats, other formats)

HHS provides free language services to people whose primary language is not English, such as:

- Qualified interpreters
- Information written in other languages

If you need these services, call 1-877-696-6775.

If you believe that HHS has failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex, you can file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, electronically through the Office for Civil Rights Complaint Portal, available at https://ocrportal.hhs.gov/ocr/portal/lobby.jsf, or by mail or phone at:

U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, D.C. 20201
1-800-368-1019, 800-537-7697 (TDD)

Complaint forms are available at http://www.hhs.gov/ocr/office/file/index.html.

Español (Spanish) - ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-877-696-6775.

繁體中文 **(Chinese)** - **注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電** 1-877-696-6775.

Tiếng Việt (Vietnamese) - CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số 1-877-696-6775.

한국어 **(Korean)** - 주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. 1-877-696-6775 번으로 전화해 주십시오.

Tagalog - PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad. Tumawag sa 1-877-696-6775.

Русский (Russian) - ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните 1-877-696-6775.

العربية (Arabic) - **ملحوظة: إذا كنت تتحدث اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل برقم** 1-877-696-6775.

Kreyòl Ayisyen (Haitian Creole) - ATANSYON: Si w pale Kreyòl Ayisyen, gen sèvis èd pou lang ki disponib gratis pou ou. Rele 1-877-696-6775.

Français (French) - ATTENTION: Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement. Appelez le 1-877-696-6775.

Polski (Polish) - UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej. Zadzwoń pod numer 1-877-696-6775.

Português (Portuguese) - ATENÇÃO: Se fala português, encontram-se disponíveis serviços linguísticos, grátis. Ligue para 1-877-696-6775.

Italiano (Italian) - ATTENZIONE: In caso la lingua parlata sia l'italiano, sono disponibili servizi di assistenza linguistica gratuiti. Chiamare il numero 1-877-696-6775.

Deutsch (German) - ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufnummer: 1-877-696-6775.

日本語 **(Japanese)** - **注意事項：日本語を話される場合、無料の言語支援をご利用いただけます。**1-877-696-6775 **まで、お電話にてご連絡ください.**

فارسی (Farsi) - **توجه: اگر به زبان فارسی گفتگو می‌کنید، تسهیلات زبانی رایگان به شما پیشنهاد می‌شود. با** 1-877-696-6775 **تماس بگیرید.**

MESSAGE FROM THE SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES



All across the United States, individuals, families, communities, and health care systems are struggling to cope with substance use, misuse, and substance use disorders. Substance misuse and substance use disorders have devastating effects, disrupt the future plans of too many young people, and all too often, end lives prematurely and tragically. Substance misuse is a major public health challenge and a priority for our nation to address.

Fortunately, we have made considerable progress in recent years. First, decades of scientific research and technological advances have given us a better understanding of the functioning and neurobiology of the brain and how substance use affects brain chemistry and our capacity for self-control. One of the important findings of this research is that addiction is a chronic neurological disorder and needs to be treated as other chronic conditions are. Second, this Administration and others before it, as well as the private sector, have invested in research, development, and evaluation of programs to prevent and treat substance misuse, as well as support recovery. We now have many of the tools we need to protect children, young people, and adults from the negative health consequences of substance misuse; provide individuals with substance use disorders the treatment they need to lead healthy and productive lives; and help people stay substance-free. Finally, the enactment of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 and the Affordable Care Act in 2010 are helping increase access to prevention and treatment services.

The effects of substance use are cumulative and costly for our society, placing burdens on workplaces, the health care system, families, states, and communities. *The Surgeon General's Report on Alcohol, Drugs, and Health* is another important step in our efforts to address the issue. This historic *Report* explains, in clear and understandable language, the effects on the brain of alcohol and drugs and how misuse can become a disorder. It describes the considerable evidence showing that prevention, treatment, and recovery policies and programs really do work. For example, minimum legal drinking age laws, funding for multi-sector community-based coalitions to plan and implement effective prevention interventions with fidelity, screening and brief intervention for alcohol use, needle/syringe exchange programs, behavioral counseling, pharmacologic interventions such as buprenorphine for opioid misuse, and mutual aid groups have all been shown effective in preventing, reducing, treating, and sustaining recovery from substance misuse and substance use disorders.

The *Report* discusses opportunities to bring substance use disorder treatment and mainstream health care systems into alignment so that they can address a person's overall health, rather than a substance misuse or a physical health condition alone or in isolation. It also provides suggestions and recommendations for action that everyone—individuals, families, community leaders, law enforcement, health care professionals, policymakers, and researchers—can take to prevent substance misuse and reduce its consequences.

Throughout, the *Report* provides examples of how individuals, organizations, and communities can partner to lessen and eliminate substance misuse. These efforts have to start now. Change takes time and long-term commitment, as well as collaboration among key stakeholders. As the Secretary of the Department of Health and Human Services, I encourage you to use the information and findings in this *Report* to take action so that we can improve the health of those we love and make our communities healthier and stronger.

Sylvia Mathews Burwell
Secretary
U.S. Department of Health and Human Services

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CHAPTER 4.
EARLY INTERVENTION, TREATMENT, AND MANAGEMENT OF SUBSTANCE USE DISORDERS

Chapter 4 Preview

A substance use disorder is a medical illness characterized by clinically significant impairments in health, social function, and voluntary control over substance use.[2] Substance use disorders range in severity, duration, and complexity from mild to severe. In 2015, 20.8 million people aged 12 or older met criteria for a substance use disorder. While historically the great majority of treatment has occurred in specialty substance use disorder treatment programs with little involvement by primary or general health care, a shift is occurring toward the delivery of treatment services in general health care practice. For those with mild to moderate substance use disorders, treatment through the general health care system may be sufficient, while those with severe substance use disorders (addiction) may require specialty treatment.

FOR MORE ON THIS TOPIC

See Chapter 6 - *Health Care Systems and Substance Use Disorders.*

The good news is that a spectrum of effective strategies and services are available to identify, treat, and manage substance use problems and substance use disorders. Research shows that the most effective way to help someone with a substance use problem who may be at risk for developing a substance use disorder is to intervene early, before the condition can progress. With this recognition, screening for substance misuse is increasingly being provided in general health care settings, so that emerging problems can be detected and early intervention provided if necessary. The addition of services to address substance use problems and disorders in mainstream health care has extended the continuum of care, and includes a range of effective, evidence-based medications, behavioral therapies, and supportive services. However, a number of barriers have limited the widespread adoption of these services, including lack of resources, insufficient training, and workforce shortages.[5] This is particularly true for the treatment of those with co-occurring substance use and physical or mental disorders.[6,7]

This chapter provides an overview of the scientific evidence supporting the effectiveness of treatment interventions, therapies, services, and medications available to identify, treat, and manage substance use problems and disorders.

KEY FINDINGS*

- Well-supported scientific evidence shows that substance use disorders can be effectively treated, with recurrence rates no higher than those for other chronic illnesses such as diabetes, asthma, and hypertension. With comprehensive continuing care, recovery is now an achievable outcome.
- Only about 1 in 10 people with a substance use disorder receive any type of specialty treatment. The great majority of treatment has occurred in specialty substance use disorder treatment programs with little involvement by primary or general health care. However, a shift is occurring to mainstream the delivery of early intervention and treatment services into general health care practice.
- Well-supported scientific evidence shows that medications can be effective in treating serious substance use disorders, but they are under-used. The U.S. Food and Drug Administration (FDA) has approved three medications to treat alcohol use disorders and three others to treat opioid use disorders. However, an insufficient number of existing treatment programs or practicing physicians offer these medications. To date, no FDA-approved medications are available to treat marijuana, cocaine, methamphetamine, or other substance use disorders, with the exception of the medications previously noted for alcohol and opioid use disorders.
- Supported scientific evidence indicates that substance misuse and substance use disorders can be reliably and easily identified through screening and that less severe forms of these conditions often respond to brief physician advice and other types of brief interventions. Well-supported scientific evidence shows that these brief interventions work with mild severity alcohol use disorders, but only promising evidence suggests that they are effective with drug use disorders.
- Well-supported scientific evidence shows that treatment for substance use disorders—including inpatient, residential, and outpatient—are cost-effective compared with no treatment.
- The primary goals and general management methods of treatment for substance use disorders are the same as those for the treatment of other chronic illnesses. The goals of treatment are to reduce key symptoms to non-problematic levels and improve health and functional status; this is equally true for those with co-occurring substance use disorders and other psychiatric disorders. Key components of care are medications, behavioral therapies, and recovery support services (RSS).
- Well-supported scientific evidence shows that behavioral therapies can be effective in treating substance use disorders, but most evidence-based behavioral therapies are often implemented with limited fidelity and are under-used. Treatments using these evidence-based practices have shown better results than non-evidence-based treatments and services.
- Promising scientific evidence suggests that several electronic technologies, like the adoption of electronic health records (EHRs) and the use of telehealth, could improve access, engagement, monitoring, and continuing supportive care of those with substance use disorders.

*The Centers for Disease Control and Prevention (CDC) summarizes strength of evidence as: "Well-supported": when evidence is derived from multiple controlled trials or large-scale population studies; "Supported": when evidence is derived from rigorous but fewer or smaller trials; and "Promising": when evidence is derived from a practical or clinical sense and is widely practiced.[8]

Continuum of Treatment Services

Substance use disorders typically emerge during adolescence and often (but not always) progress in severity and complexity with continued substance misuse.[9,10] Currently, substance use disorders are classified diagnostically into three severity categories: mild, moderate, and severe.[2]

Substance use disorder treatment is designed to help individuals stop or reduce harmful substance misuse, improve their health and social function, and manage their risk for relapse. In this regard, substance use disorder treatment is effective and has a positive economic impact. Research shows that treatment also improves individuals' productivity,[11] health,[11,12] and overall quality of life.[13-15] In addition, studies show that every dollar spent on substance use disorder treatment saves $4 in health care costs and $7 in criminal justice costs.[11]

KEY TERMS

Substance Use Disorder Treatment. A service or set of services that may include medication, counseling, and other supportive services designed to enable an individual to reduce or eliminate alcohol and/or other drug use, address associated physical or mental health problems, and restore the patient to maximum functional ability.[3]

Continuum of Care. An integrated system of care that guides and tracks a person over time through a comprehensive array of health services appropriate to the individual's need. A continuum of care may include prevention, early intervention, treatment, continuing care, and recovery support.[4]

Mild substance use disorders can be identified quickly and reliably in many medical and social settings. These common but less severe disorders often respond to brief motivational interventions and/or supportive monitoring, referred to as guided self-change.[16] In contrast, severe, complex, and chronic substance use disorders often require specialty substance use disorder treatment and continued post-treatment support to achieve full remission and recovery. To address the spectrum of substance use problems and disorders, a continuum of care provides individuals an array of service options based on need, including prevention, early intervention, treatment, and recovery support (Figure 4.1). Traditionally, the vast majority of treatment for substance use disorders has been provided in specialty substance use disorder treatment programs, and these programs vary substantially in their clinical objectives and in the frequency, intensity, and setting of care delivery.

Figure 4.1: Substance Use Status and Substance Use Care Continuum

Positive Physical, Social, and Mental Health	Substance Misuse	Substance Use Disorder
A state of physical, mental, and social well-being, free from substance misuse, in which an individual is able to realize his or her abilities, cope with the normal stresses of life, work productively and fruitfully, and make a contribution to his or her community.	The use of any substance in a manner, situation, amount, or frequency that can cause harm to the user and/or to those around them.	Clinically and functionally significant impairment caused by substance use, including health problems, disability, and failure to meet major responsibilities at work, school, or home; substance use disorders are measured on a continuum from mild, moderate, to severe based on a person's number of symptoms.

Substance Use Status Continuum



Substance Use Care Continuum

Enhancing Health	Primary Prevention	Early Intervention	Treatment	Recovery Support
Promoting optimum physical and mental health and well-being, free from substance misuse, through health mmunications and access to health care services, income and economic security, and workplace certainty.	Addressing individual and environmental risk factors for substance use through evidence-based programs, policies, and strategies.	Screening and detecting substance use problems at an early stage and providing brief intervention, as needed.	Intervening through medication, counseling, and other supportive services to eliminate symptoms and achieve and maintain sobriety, physical, spiritual, and mental health and maximum functional ability. Levels of care include: • Outpatient services; • Intensive Outpatient/ Partial Hospitalization Services; • Residential/ Inpatient Services; and • Medically Managed Intensive Inpatient Services.	Removing barriers and providing supports to aid the long-term recovery process. Includes a range of social, educational, legal, and other services that facilitate recovery, wellness, and improved quality of life.

This chapter describes the early intervention and treatment components of the continuum of care, the major behavioral, pharmacological, and service components of care, services available, and emerging treatment technologies:

- *Early Intervention,* for addressing substance misuse problems or mild disorders and helping to prevent more severe substance use disorders.
- *Treatment engagement and harm reduction interventions,* for individuals who have a substance use disorder but who may not be ready to enter treatment, help engage individuals in treatment and reduce the risks and harms associated with substance misuse.
- *Substance use disorder treatment,* an individualized set of evidence-based clinical services designed to improve health and function, including medications and behavioral therapies.
- *Emerging treatment technologies* are increasingly being used to support the assessment, treatment, and maintenance of continuing contact with individuals with substance use disorders.

EXHIBIT 11

NIH Public Access
Author Manuscript
J Psychoactive Drugs. Author manuscript; available in PMC 2011 March 15.

Published in final edited form as:
J Psychoactive Drugs. 2010 December ; 42(4): 425–433.

What Did We Learn from Our Study on Sober Living Houses and Where Do We Go from Here?

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Abstract

Lack of a stable, alcohol and drug free living environment can be a serious obstacle to sustained abstinence. Destructive living environments can derail recovery for even highly motivated individuals. Sober living houses (SLHs) are alcohol and drug free living environments for individuals attempting to abstain from alcohol and drugs. They are not licensed or funded by state or local governments and the residents themselves pay for costs. The philosophy of recovery emphasizes 12-step group attendance and peer support. We studied 300 individuals entering two different types of SLHs over an 18 month period. This paper summarizes our published findings documenting resident improvement on measures of alcohol and drug use, employment, arrests, and psychiatric symptoms. Involvement in 12-step groups and characteristics of the social network were strong predictors of outcome, reaffirming the importance of social and environmental factors in recovery. The paper adds to our previous reports by providing a discussion of implications for treatment and criminal justice systems. We also describe the next steps in our research on SLHs, which will include: 1) an attempt to improve outcomes for residents referred from the criminal justice system and 2) a depiction of how attitudes of stakeholder groups create a community context that can facilitate and hinder the legitimacy of SLHs as a recovery modality.

Keywords

Sober Living House; Residential Treatment; Recovery House; Social Model; Communal Living

Introduction

Research continues to document the important role of social factors in recovery outcome (Polcin, Korcha, Bond, Galloway & Lapp, in press). For example, in a study of problem and dependent drinkers Beattie and Longabaugh (1999) found that social support was associated with drinking outcome. Not surprising, the best outcomes were predicted by *alcohol-specific* social support that discouraged drinking. Similarly, Zywiak, Longabaugh and Wirtz (2002) found that clients who had social networks with a higher number of abstainers and recovering alcoholics had better outcome 3 years after treatment completion. Moos and Moos (2006) studied a large sample of 461 treated and untreated individuals with alcohol use disorders over a 16 year period to examine factors associated with relapse. They found that social support for recovery was important in establishing sustained abstinence. Finally, Bond, Kaskutas and Weisner (2003) reached a similar conclusion in a 3-year follow up

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study on 655 alcohol dependent individuals who were seeking treatment. Abstinence from alcohol was associated with social support for sobriety and involvement in Alcoholics Anonymous.

A critically important aspect of one's social network is their living environment. Recognition of the importance of one's living environment led to a proliferation of inpatient and residential treatment programs during the 1960' and 70's (White, 1998). The idea was to remove clients from destructive living environments that encouraged substance use and create new social support systems in treatment. Some programs created halfway houses where clients could reside after they completed residential treatment or while they attended outpatient treatment. A variety of studies showed that halfway houses improved treatment outcome (Braucht, Reichardt, Geissler, & Bormann, 1995; Hitchcock, Stainback, & Roque, 1995; Milby, Schumacher, Wallace, Freedman & Vuchinich, 2005; Schinka, Francis, Hughes, LaLone, & Flynn, 1998).

Despite the advantages of halfway houses, there are limitations as well (Polcin & Henderson, 2008). First, there is typically a limit on how long residents can stay. After some period of time, usually several months, residents are required to move out whether or not they feel ready for independent living. A second issue is financing the houses, which often includes government funding. This leaves facilities vulnerable to funding cuts. Finally, halfway houses require residents to have completed or be involved in some type of formal treatment. For a variety of reasons some individuals may want to avoid formal treatment programs. Some may have had negative experiences in treatment and therefore seek out alternative paths to recovery. Others may have relapsed after treatment and therefore feel the need for increased support for abstinence. However, they may want to avoid the level of commitment involved in reentering a formal treatment program. Sober living houses (SLHs) are alcohol and drug free living environments that offer peer support for recovery outside the context of treatment.

Characteristics of Sober Living Houses

Sober Living Houses are structured in a way that avoids some of the limitations of halfway houses. The essential characteristics include: 1) an alcohol and drug free living environment for individuals attempting to abstain from alcohol and drugs, 2) no formal treatment services but either mandated or strongly encouraged attendance at 12-step self-help groups such as Alcoholics Anonymous (AA), 3) required compliance with house rules such as maintaining abstinence, paying rent and other fees, participating in house chores and attending house meetings, 4) resident responsibility for financing rent and other costs, and 5) an invitation for residents to stay in the house as long as they wish provided they comply with house rules (Polcin & Henderson, 2008).

SLHs have their origins in the state of California and most continue to be located there (Polcin & Henderson, 2008). It is difficult to ascertain the exact number because they are not formal treatment programs and are therefore outside the purview of state licensing agencies. However, in California many SLHs are affiliated with coalitions or associations that monitor health, safety, quality and adherence to a peer-oriented model of recovery, such as the California Association of Addiction Recovery Resources (CAARR) or the Sober Living Network (SLN). Over 24 agencies affiliated with CAARR offer clean and sober living services. The SLN has over 500 individual houses among it membership.

While some SLHs use a “strong manager” model where the owner or manager of the house develops and enforces the house rules, contemporary SLH associations such as CAARR and SLN emphasize a “social model approach” to managing houses that empowers residents by providing leadership position and forums where they can have input into decision making

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(Polcin & Henderson, 2008). Some houses have a "residents' council," which functions as a type of government for the house.

Recovery Philosophy in Sober Living Houses

Central to recovery in SLHs is involvement in 12-step mutual help groups (Polcin & Henderson, 2008). Residents are usually required or strongly encouraged to attend meetings and actively work a 12-step recovery program (e.g., obtain a sponsor, practice the 12 steps, and volunteer for service positions that support meetings). However, some houses will allow other types of activities that can substitute for 12 step groups, provided they constitute a strategy for maintaining ongoing abstinence.

Developing a social network that supports ongoing sobriety is also an important component of the recovery model used in SLHs. Residents are encouraged to provide mutual support and encouragement for recovery with fellow peers in the house. Those who have been in the house the longest and who have more time in recovery are especially encouraged to provide support to new residents. This type of "giving back" is consistent with a principle of recovery in 12-step groups. Residents are also encouraged to avoid friends and family who might encourage them to use alcohol and drugs, particularly individuals with whom they have used substances in the past (Polcin, Korcha, Bond, Galloway & Lapp, in press).

Purpose

There are several primary aims for this paper. First is to summarize key outcomes from our study, "An Evaluation of Sober Living Houses," which was a 5- year study funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) (i.e., Korcha, Polcin, Bond & Galloway, 2010; Polcin, 2009; Polcin & Henderson, 2008; Polcin, Korcha, Bond & Galloway, 2010; Polcin, Korcha, Bond & Galloway, in press; Polcin, Korcha, Bond, Galloway & Lapp in press). Second is to expand on these findings by considering potential implications of our research for inpatient and outpatient treatment and for criminal justice systems. Third is to describe the next steps in our research on SLHs. These include plans to study the community context of SLHs by examining attitudes of community stakeholder groups (e.g., neighbors, local government officials, mental health therapists, criminal justice professionals and practitioners in substance abuse treatment programs). We also describe plans to conduct studies of resident subgroups, such as individuals referred from the criminal justice system.

Data Collection Sites

The study was designed to assess outcomes for 300 individuals entering two types of SLHs: 1) Options Recovery Services (ORS) in Berkeley, California was an adapted model of SLHs in that the houses were associated with an outpatient treatment program. 2) Clean and Sober Transitional Living (CSTL) in Sacramento County, California consisted of freestanding houses that were not affiliated with any type of treatment. The descriptions of CSLT and ORS that follow are summaries of Polcin and Henderson (2008), Polcin (2009) and Polcin, Korcha, Bond, Galloway & Lapp (in press).

Clean and Sober Transitional Living (CSTL)

CSLT is located in Sacramento County California and consists of 16 houses with a 136 bed capacity. Residency at CSTL is divided into two phases. Phase I lasts 30 to 90 days and is designed to provide some limits and structure for new residents. Residents must agree to abide by a curfew and attend at 12-step meetings five times per week. The purpose of these

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requirements is to help residents successfully transition into the facility, adapt to the SLH environment, and develop a stable recovery program.

The second phase allows for more personal autonomy and increased responsibility for one's recovery. Curfews and requirements for 12-step attendance are reduced. All residents, regardless of phase, are required to be active in 12-step recovery programs, abide by basic house rules, and abstain from alcohol and drugs. A “Resident Congress” consisting of current residents and alumni helps enforce house rules and provides input into the management of the houses. Although the owner/operator of the houses is ultimately responsible, she/he defers to the Residents Congress as much as possible to maintain a peer oriented approach to recovery. In order to be admitted to CSTL prospective residents must have begun some type of recovery program prior to their application.

Options Recovery Services (ORS)

ORS is an outpatient substance abuse treatment program located in Berkeley, California that treats approximately 800 clients per year. Most of the clients are low income and many have history of being homeless at some point in their lives. Because a large number do not have a stable living environment that supports abstinence from alcohol and drugs, ORS developed SLHs where clients can live while they attend the outpatient program. Currently there are 4 houses with 58 beds. The houses are different from freestanding SLHs, such as those at CSTL, because all residents must be involved in the outpatient program. Most residents enter the houses after residing in a short term homeless shelter located near the program. At admission, nearly all residents are eligible for some type of government assistance (e.g., general assistance or social security disability) and use those funds to pay SLH fees. To help limit social isolation and reduce costs residents share bedrooms. Like other SLH models of recovery, residence are free to stay as long as they wish provide they comply with house rules (e.g., curfews, attendance at 12-step meetings) and fulfill their financial obligations. Also like other SLH models, each house has a house manager who is responsible for ensuring house rules and requirements are followed. ORS does not have any type of Residents Council, but house managers meet regularly with the executive director and have input into operation of the SLHs in during these contacts.

Procedures

Participants were interviewed within their first week of entering a sober living house and again at 6-, 12-, and 18-month follow up. To maximize generalization of findings, very few exclusion criteria were used and very few residents declined to participate. Primary outcomes consisted or self report measures of alcohol and drug use. Secondary outcomes included measures of legal, employment, medical, psychiatric and family problems. Some measures assessed the entire 6 months between data collection time points. Others, such as the Addiction Severity Index, assessed shorter time periods of 30 days or less.

Measures

1) Demographic Characteristics—included standard demographic questions such as age, gender, ethnicity, marital status, and education.

2) Addiction Severity Index Lite (ASI)—The ASI is a standardized, structured interview that assesses problem severity in six areas: medical, employment/support, drug/alcohol, legal, family/social and psychological (McLellan et al., 1992). Each of the six areas is scored for 0 (low) to 1 (high).

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3) Psychiatric symptoms—To assess current psychiatric severity we used the Brief Symptom Inventory (Derogatis & Melisaratos, 1983). This 53-item measure assesses severity of psychiatric symptoms on nine clinical scales as well as three global indices. Items are rated on a 5-point scale and ask about symptoms over the past 7 days. We used the Global Severity Index (GSI) as an overall measure of psychiatric severity.

4) Six month measures of alcohol and drug use—These measures were taken from Gerstein et al. (1994) and labeled Peak Density and 6-month abstinence. *Peak Density* is the number of days of any substance use (i.e., any alcohol or drug) during the month of highest use over the past 6 months (coded 0-31). *Six-month abstinence* was a dichotomous yes/no regarding any use of alcohol of drugs over the past 6 months.

5) Arrests—This measure was taken from Gerstein et al. (1994) and was defined as number of arrests over the past 6 months.

Two additional measures were included as covariates because they assess factors emphasized by as important to recovery in SLHs.

6) Alcoholics Anonymous Affiliation Scale—This measure includes 9 items and was developed by Humphreys, Kaskutas and Weisner (1998) to measure the strength of an individual's affiliation with AA. The scale includes a number of items beyond attendance at meetings, including questions about sponsorship, spirituality, and volunteer service positions at meetings.

7) Drinking and drug use status in the social network—These measures were taken from the Important People Instrument (Zywiak, et al., 2002). The instrument allows participants to identify up to 12 important people in his or her network whom they have had contact with in the past six months. Information on the type of relationship (e.g., spouse, friend), amount of contact over the past 6 months (e.g., daily, once or twice a week) and drug and alcohol use over the past 6 months (e.g., heavy user, light user, in recovery) was obtained for each person in the social network. The drinking status of the social network was calculated by multiplying the amount of contact by the drinking pattern of each network member, averaged across the network. The same method is applied to obtain the drug status of the network member; the amount of contact is multiplied by the pattern of drug use and averaged across network members.

Hypotheses

Hypotheses suggested that we would find two types of longitudinal outcomes: 1) Individuals entering the houses with higher severity of problems would show significant improvement between baseline and 6 months and those improvements would be maintained at 12 and 18 months and 2) Individuals entering houses with low severity would maintain low severity at all follow up time points. It was expected that measures of social support for sobriety and 12-step involvement would be associated with primary outcomes.

The study design used repeated measures analyses to test how study measures varied over time. Because the two types of houses served residents with different demographic characteristics, we conducted disaggregated longitudinal analyses for each. For a more complete description of the study design and collection of data see Polcin et al. (2010), Polcin et al. (in press) and Polcin, Korcha, Bond, Galloway and Lapp (in press).

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Data Collection

At CSTL we recruited 245 individuals within their first week of entering the houses. Most were men (77%), white (72.5%) and middle age (mean=38, se=0.65). Over 75% had at least a high school education or GED. The most common referral source was self, family or friend (44%) followed by criminal justice (29%) and inpatient treatment (15%). Over a third (35%) of the sample indicated that jail or prison had been their usual housing situation over the past 6 months and few reported any type of stable housing over the past 6 months. Just 7% reported renting an apartment as their primary housing, while 23% reported staying with family or friends and 12% reported homeless as their primary living situation

ORS had 4 houses, where we recruited 55 participants. Most were African American (59%), while 30% were white. The mean age was 43 years (se=1.2). Most residents had completed high school or a GED (73%). Nearly half of the residents had been self referred of referred by family or friends. About 24% were criminal justice referrals and a third had spent some time in a controlled environment during the month before entering the house. Many of the residents had histories of homelessness. When asked to indicate their usual housing situation the past six months, a third indicated homeless or in a shelter.

Follow up rates for CSLT were 72% at 6 months, 71% at 12 months ad 73% at 18 months. However, 89% of the sample (N=218) participated in at least one follow up interview. The proportions successfully followed up at ORS were similar at 12 and 18 months (76% and 71% respectively) but higher at 6 months (86%). To address the issue of missing data from individuals who we were not able to locate for follow up interviews, we used analytic methods that did not require participants to complete 0interviews at all time points to be include in the analysis. These included generalized estimated equations (GEE) and mixed model regressions. In addition, when we compared baseline characteristics of individuals successfully located and interviewed with those lost at follow up we did not find significant differences. However, individuals who we were not able to follow up did have shorter lengths of stay in the SLHs.

Main Findings

Detailed descriptions of analytic methods and statistical results have been reported in Polcin, Korcha, Bond, & Galloway (2010), Polcin Korcha, Bond, & Galloway (in press), and Polcin Korcha, Bond, Galloway & Lapp (in press). Our purpose here is to summarize the most salient and relevant findings for SLHs as a community based recovery option. We then expand on the findings by considering potential implications of SLHs for treatment and criminal justice systems. We also include a discussion of our plans to study the community context of SLHs, which will depict how stakeholder influences support and hinder their operations and potential for expansion.

Retention

Retention of residents in the sober living houses was excellent. Average lengths of stay in both types of sober living houses surpassed the National Institute on Drug Abuse recommendation of at least 90 days to obtain maximum benefit. The average length of stay at ORS was 254 days (se=169 days) and at CSLT it was 166 days (se=163).

Primary Outcomes

As hypothesized, there were two patterns of outcome for our primary outcome variables. One pattern was that residents reduced or stopped their substance use between baseline and 6 month follow up and then maintained those improvements at 12 and 18 months. This was the case for both substance use measures that assessed 6 month period of time: 1) complete

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abstinence over the 6 months and 2) maximum number of days of any substance use during the month of highest use. For example, at ORS 6-month abstinence rates improved from 11% at baseline to 68% at 6- and 12-months. At 18 months abstinence was a bit lower, (46%) but still significantly better than the time period before they entered the houses. For CSLT, abstinence improved from 20% at baseline, to 40% at 6 months, 45% at 12 months and 42% at 18 months. Maximum number of days of use per month at ORS on average declined from 19 days per month at baseline, to 3 days at 6 months, 4 days at 12 months and 7 days at 18 months. CSLT declined from 19 days at baseline, to 11 days at 6 months, 9 days at 12 months and 13 days at 18 months.

Findings on the ASI alcohol and drug scales measuring the past 30 days reflected different patterns. At CSLT, residents entered with low alcohol (mean=0.16, se=0.02) and drug (mean=0.08, se=0.01) severity. Because severity was low there was limited room to improve on these measures. Nevertheless, we found significant improvement at 6 months for both alcohol (mean=0.10, se=0.02) and drug (mean=0.05, se=0.01). Those improvements were maintained at 12 and 18 months. At ORS, residents entered with even lower alcohol (mean=0.07, se=0.02) and drug (mean=0.05, se=0.01) severity that was maintained at 6, 12 and 18 month follow up. Potential reasons for low alcohol and drug severity at baseline included large proportions spending some time in a controlled environment during the 30 days before they entered the houses. In addition, many residents had begun working on a recovery program shortly before they entered the houses (e.g., attending 12-step meetings). In fact, the ORS program typically required 30 days of abstinence before being eligible to enter the residence.

It was noteworthy that a wide variety of individuals in both programs had positive outcomes. There were no significant differences within either program on outcomes among demographic subgroups or different referral sources. In addition, it is important to note that residents were able to maintain improvements even after they left the SLHs. At 12 months 68% had left ORS and 82% had left CSLT. By 18 months nearly all had left, yet improvements were for the most part maintained.

Secondary Outcomes

There were also improvements noted on the secondary outcome measures. At CSTL these included improvements on employment, psychiatric symptoms, and arrests. The pattern was again significant improvement between baseline and 6 months that was generally maintained at 12 and 18 months. The percent arrested 6 months pre-baseline was 42%, which dropped to 26% at 6-month follow up and 22% at 12 months. There was a light increase at 18 months (28%), which was still significantly lower than pre-baseline. Employment severity on the ASI improved from a mean of 0.76(se=0.02) at baseline to a mean of 0.53(se=0.02) at six months. At 12 months the mean was 0.54(se=0.03), which increased only slightly at 18 months (mean=0.59, se=0.02). Psychiatric symptoms improved from a mean of 0.83(se=0.05) at baseline to 0.69(se=0.05) at 6 months. By 18 months there was a bit of an increase (mean=0.72, se=0.06), which was no longer statistically significant but was still a statistical trend ($p<.10$).

At ORS there were similar patterns of improvement on employment and arrests. From baseline to 6 months the average score on the ASI employment scale improved from 0.61 (se=0.02) to 0.51 (se= 0.03) and was maintained at 12 and 18 months. The odds of being arrested were reduced from baseline to 6 months by 80% and even further reduced at 12 and 18 months.

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Factors that Predicted Outcome

In addition to documenting longitudinal outcomes, we were interested in assessing factors that predicted outcomes. Using GEE models that assessed a variety of factors across data collection time points we found involvement in 12-step groups to be the strongest predictor of our primary outcomes. For CSLT, 12-step involvement was associated with being abstinent for at least 6 months ($p<.001$), lower maximum days of substance us per month ($p<.001$, and fewer arrests ($p<.01$). For ORS, 12-step involvement was associated with abstinent for at least 6 months ($p<.05$), lower maximum days of substance us per month ($p<.01$), and lower ASI legal severity ($p<.05$).

We also examined how drinking and drug use in the participant's social network related to outcomes. At CSLT we found heavier drinking and drug use in the social network was related to worse outcome on all alcohol and drug outcome measures ($p<.01$ for all variables). At ORS the findings were mixed. There was a significant relationship between maximum number of days of substance use per month and drinking in the social network ($p<.05$) and drug use in the social network ($p<.01$). However, there were no significant relationships between social network variables and abstinence. In addition, for the ASI alcohol and drug scales at ORS, the only significant association with social network variables was heavier drug use in the social network predicting ASI alcohol outcome ($p<.01$).

In a recent analysis of CSTL residents we looked at psychiatric severity as a predictor of alcohol and drug outcome using growth curve models (Korcha et al (2010). We found that a subgroup of about a third of the residents had significantly higher psychiatric severity than other residents and had significantly worse outcomes. Our work on identifying and describing these residents with worse outcome is continuing.

Limitations

There are several limitations to the study that are important to consider. First, we could not directly compare which type of SLH was most effective because there were demographic and other individual characteristics that differed between the two types of houses. Second, individuals self selected themselves into the houses and a priori characteristics of these individuals may have at least in part accounted for the longitudinal improvements. Although self selection can be viewed as a weakness of the research designs, it can also be conceived as a strength, especially for studying residential recovery programs. Our study design had characteristics that DeLeon, Inciardi and Martin (1995) suggested were critical to studies of residential recovery programs. They argued that self selection of participants to the interventions being studies was an advantage because it mirrored the way individuals typically choose to enter treatment. Thus, self selection was integral to the intervention being studied and without self selection it was difficult to argue that a valid examination of the invention had been conducted. In their view, random assignment of participants to conditions was often appropriate for medication studies but often inappropriately applied when used to study residential services for recovery from addiction.

Significance of the Study

Our study represents the first examination of sober living house residents using a longitudinal design. To date, our papers have looked at study findings in terms of the types of improvements residents make and factors associated with outcome, the substance of which has been summarized above. One of our aims here, however, is also to look at significance from the perspective of how SLHs might impact various service systems in the community. The promising outcomes for SLH residents suggest that sober living houses

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might play more substantive roles for persons: 1) completing residential treatment, 2) attending outpatient treatment, 3) seeking non-treatment alternatives for recovery, and 4) entering the community after criminal justice incarceration.

Treatment Systems

The two types of recovery houses assessed in this study showed different strengths and weaknesses and served different types of individuals. Communities and addiction treatment systems should therefore carefully assess the types of recovery housing that might be most helpful to their communities. Several considerations are reviewed below.

Outpatient programs in low income urban areas might find the Options Recovery Services model of SLHs helpful. Relative to the other housing programs, this model was inexpensive and the houses were conveniently located near the outpatient facility. Typically, residents entered these SLHs after establishing some period of sobriety while they resided in a nearby shelter and attended the outpatient program. A significant strength of the Options houses was that residents were able to maintain low alcohol and drug severity at 12-month follow up.

There are several significant advantages of establishing SLHs associated with outpatient treatment as apposed to traditional halfway houses. First, residents in SLHs are free to stay as long as they wish after completing the outpatient program as long as they abide by program rules. This eliminates arbitrary discharge dates determined by the program, a procedure often used by halfway houses to free up beds. Rather, the resident is able to decide when he or she is ready to transition to more independence. Among other things, this eliminates the need to move to questionable living environments that might not support recovery due to time limitations. SLHs are also less costly than halfway houses, which are usually funded by treatment programs.

SLHs combined with outpatient treatment may be especially valuable to resource poor communities that do not have funds to establish residential treatment programs or have the income levels that could support freestanding sober living houses which are more expensive. Most of the rent for the Options SLHs was paid by General Assistance or Social Security Income, so a variety of low income residents could be accommodated. While the level of support is less intensive (and less expensive) than that offered in residential treatment, it is more intensive than the relative autonomy found in freestanding SLHs. Some residents probably benefit from the mandate that they attend outpatient treatment during the day and comply with a curfew in the evening. For some individuals, the limited structure offered by freestanding SLHs could invite association with substance using friends and family and thus precipitate relapse. This could be particularly problematic in poor communities where residents have easy access to substances and people who use them.

Freestanding SLHs

The roles that freestanding SLHs can play in communities are different from SLHs that are associated with outpatient treatment. First, freestanding houses are often used by individuals who have some previous experience with residential treatment. While some of these individuals transition directly from the inpatient program to the SLH, others enter the houses after some post-treatment period in the community. They may slip, relapse or feel vulnerable to relapse, but for a variety of reasons not want to reenter a formal treatment program. Nevertheless, they may feel the need to take action and get support for reestablishing abstinence. Freestanding SLHs can be a good match for these individuals because they offer support for sobriety outside the context of formal treatment.

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Freestanding SLH's offer a limited amount of structure and no formal treatment services. Thus, they are optimal for residents who are capable of handling a fair amount of autonomy and who can take personal responsibility for their recovery. Despite these limitations, CSLT appeared to benefit many different types of residents who were referred from an array of personal and institutional sources (i.e., self, family, criminal justice systems, and inpatient treatment programs). Expansion of freestanding SLHs in communities might therefore ease the burden on overwhelmed treatment systems. In communities that are unable to fund a sufficient number of treatment programs for individuals with substance use disorders, freestanding SLHs might be a clinically and economically effective alternative. The availability of treatment slots for individuals released from jail or prison or particularly lacking. For some those offenders who are motivated for abstinence and capable of handling some degree of autonomy SLHs might be a viable and effective option for recovery that is currently underutilized.

Criminal Justice Systems

Prison and jail overcrowding in the U.S. has reached a crisis point. Each year more than 7 million individuals are released from local jails into communities and over 600,000 are released on parole from prison (Freudenberg, Daniels, Crum, Perkins & Richie, 2005). Although the need for alcohol and drug treatment among this population is high, very few receive services during or after their incarceration. In California, studies show that few offenders being released from state prisons have adequate housing options and in urban areas such as San Francisco and Los Angeles up to a third become homeless (Petersilia, 2003). Housing instability has contributed to high reincarceration rates in California, with up to two-thirds of parolees are reincarcerated within three years. In a study of women offenders released from jails in New York City 71% indicated that lack of adequate housing was their primary concern.

Despite the enormous need for housing among the offender population, SLHs have been largely overlooked as a housing option for them (Polcin, 2006c). This is particularly concerning because our analysis of criminal justice offenders in SLHs showed alcohol and drug outcomes that were similar to residents who entered the houses voluntarily. However, as reviewed elsewhere (i.e., Polcin, 2006c), SLHs need to carefully target criminal justice involved individuals so that they select offenders that have sufficient motivation to remain abstinent and are able to meet their financial obligations.

Where do We go from Here?

There are multiple directions one could go in pursuit of additional research on SLHs. For example, studies comparing different living situations for individuals in early recovery could help highlight the relative strengths and weaknesses of SLHs. In addition, longer follow up time periods could be assessed as well as outcomes for a wider variety of subgroups. These might include minority groups, larger samples of women, and a variety of individual level characteristics not assessed here (e.g., self efficacy and interpersonal skills). However, we have opted to look at two topics that we think are of immediate relevance to communities: 1) documenting and improving outcomes for criminal justice referred residents and 2) understanding the community context within which SLHs operate.

Improving Outcomes for Criminal Justice Referred Residents

Findings from our study suggested that alcohol and drug outcomes for residents referred from the criminal justice system were equivalent to that of voluntary residents. However, offenders did not fare as well as others in two areas: finding and maintaining employment and avoiding arrests. In addition, the numbers of criminal justice referred residents was

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relatively small and an examination of a larger sample of offenders is warranted. Among other things, the larger sample would enable us to identify predictors of outcome among offenders. The field would therefore be better equipped to identify those offenders who are more likely to do well in SLHs.

In addition to studying a larger number of offenders, we hope to explore an innovative intervention designed to improve outcomes for these residents in terms of employment, arrests, and other areas. Toward that end, we are in the process of developing a Motivational Interviewing Case Management (MICM) intervention designed to help offenders successfully transition into SLHs, avoid rearrest by complying with the terms of probation or parole, and succeed in activities that support successful transition into the community (e.g., employment). Our intervention modifies motivational interviewing to address the specific needs of the offender population (Polcin, 2006b). Specifically, it helps residents resolve their mixed feelings (i.e., ambivalence) about living in the SLH and engaging in other community based services. Thus, the intervention is a way to help them prepare for the challenges and recognize the potential benefits of new activities and experiences.

Assessing the Impact of the Community Context

The fact that residents in SLHs make improvement over time does not necessarily mean that SLHs will find acceptance in the community. In fact, one of the most frustrating issues for addiction researchers is the extent to which interventions that have been shown to be effective are not implemented in community programs. We suggest that efforts to translate research into treatment have not sufficiently appreciated how interventions are perceived and affected by various stakeholder groups (Polcin, 2006a). We therefore suggest that there is a need to pay attention to the community context where those interventions are delivered.

As a next step in our research on SLHs we plan to assess how they are viewed by various stakeholder groups in the community, including house managers, neighbors, treatment professionals, and local government officials. Interviews will elicit their knowledge about addiction, recovery, and community based recovery houses such as SLHs. Their perceptions of the strengths and weaknesses of SLHs in their communities should provide data that can be used to modify houses to improve acceptance and expand to serve more drug and alcohol dependent persons. We hypothesize that barriers to expansion of SLHs might vary by stakeholder groups. Different strategies may be needed for those who lack information about SLHs, have beliefs that they are not effective, have allegiances to other treatment approaches, have views that minimize social factors in recovery, and live in communities where public policy hinders expansion of SLHs. Drug and alcohol administrators and operators of houses might therefore need different strategies to address the concerns of different stakeholders.

Conclusion

Many individuals attempting to abstain from alcohol and drugs do not have access to appropriate housing that supports sustained recovery. Our study found positive longitudinal outcomes for 300 individuals living in two different types of SLHs, which suggests they might be an effective option for those in need of alcohol- and drug-free housing. Improvements were noted in alcohol and drug use, arrests, psychiatric symptoms and employment. Owners and operators of SLHs should pay attention to factors that predicted better alcohol and drug outcomes, including higher involvement in 12-step meetings, lower alcohol and drug use in the social network, and lower psychiatric severity. Although criminal justice referred residents had alcohol and drug use outcomes that were similar to other residents, they had a harder time finding and keeping work and had higher rearrest rates. Areas for further research include testing innovative interventions to improve criminal

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justice outcomes, such as Motivational Interviewing Case Management (MICM) and examining the community context of SLHs. Recognizing stakeholder views that hinder and support SLHs will be essential if they are to expand to better meet the housing needs of persons suffering from alcohol and drug disorders.

Acknowledgments

Supported by R01AA14030 and R21DA025208

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EXHIBIT 12

RECOVERY HOUSING:

BEST PRACTICES AND SUGGESTED GUIDELINES

On October 24, 2018 the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities was signed into law by President Trump. Subtitle D, Ensuring Access to Quality Sober Living (SEC. 7031), of this law mandates that the Secretary of Health and Human Services, in consultation with other specified individual stakeholders and entities, shall identify or facilitate the development of best practices for operating recovery housing. These best practices may include model laws for the implementation of suggested minimum standards that:

(1) consider how recovery housing is able to support recovery and prevent relapse, recidivism, and overdose, including by improving access to medication assisted treatment
(2) identify or facilitate the development of common indicators that could be used to pinpoint potentially fraudulent recovery housing operators

The SUPPORT legislation seeks to improve resident care for individuals suffering from a substance use disorder who are in need of supportive recovery-oriented transitional housing. The Administration has dedicated time, attention, and resources to ensuring that individuals with substance use disorders have access to lifesaving medications, treatments, and services in settings throughout the continuum of care, including recovery housing. This document is intended to serve as a guidance tool for states, governing bodies, treatment providers, recovery house operators, and other interested stakeholders to improve the health of their citizens related to substance use issues.

This report identifies ten specific areas, or guiding principles, that will assist states and federal policy makers in defining and understanding what comprises safe, effective, and legal recovery housing. National organizations have contributed significant and valuable work in developing policies, practices, and guidance to improve recovery housing as an integral model of care. The guiding principles in this document are meant to provide an overarching framework that builds upon and extends the foundational policy and practice work that had guided the development of recovery housing to date. SAMHSA recommends following these Ten Guiding Principles to guide recovery house operators, stakeholders and states in enacting laws designed to provide the greatest level of resident care and safety possible.

Recovery housing is an intervention that is specifically designed to address the recovering person's need for a safe and healthy living environment while supplying the requisite recovery and peer supports. The ten best practices and minimum standards are further described below in the following principles.

Ten Guiding Principles

1. Have a clear operational definition

All recovery housing should have a clear operational definition that accurately delineates the type of services offered and to what degree or intensity these services are provided. The SUPPORT legislation defined the term 'recovery housing' to describe a shared living environment free from alcohol and illicit drug use and centered upon peer supports and connection to services that promote sustained recovery from substance use disorders.

Additionally, the Substance Abuse and Mental Health Services Administration (SAMHSA) official definition of recovery housing is described below:

> *Recovery houses are safe, healthy, family-like substance-free living environments that support individuals in recovery from addiction. While recovery residences vary widely in structure, all are centered on peer support and a connection to services that promote long-term recovery. Recovery housing benefits individuals in recovery by reinforcing a substance-free lifestyle and providing direct connections to other peers in recovery, mutual support groups and recovery support services. Substance-free does not prohibit prescribed medications taken as directed by a licensed prescriber, such as pharmacotherapies specifically approved by the Food and Drug Administration (FDA) for treatment of opioid use disorder as well as other medications with FDA-approved indications for the treatment of co-occurring disorders.*

For purposes of this document, SAMHSA's official definition will serve as the benchmark from which to ascribe best practices and suggested minimum standards. The utilization of this definition is because it encompasses the basic tenets as set forth in the statute and it stipulates the inclusion of FDA approved pharmacological interventions for substance use disorders and other co-occurring conditions.

To deliver the best care possible, recovery house operators should include to which level of care their facility delivers services to their residents. SAMHSA supports the levels of care, as identified by the National Alliance of Recovery Residences (NARR) and other stakeholder agencies depicted below, as these levels accurately reflect the basic structural blueprint of quality recovery housing and highlights the continuum of support ranging from nonclinical recovery housing to clinical and usually licensed treatment and highlights the continuum of support ranging from nonclinical recovery housing (Level 1 and II) to clinical and usually licensed treatment (Level III & IV).

NARR Level	Typical Resident	On-site Staffing	Governance	On-site Supports
Level 1 **(e.g., Oxford Houses)**	Self-identifies as in recovery, some long-term, with peer-community accountability	No on-site paid staff, peer to peer support	Democratically run	On-site peer support and off-site mutual support groups and, as needed, outside clinical services
Level 2 **(e.g., sober living homes)**	Stable recovery but wish to have a more structured, peer-accountable and supportive living environment	Resident house manager(s) often compensated by free or reduced fees	Residents participate in governance in concert with staff/recovery residence operator	Community/house meetings, peer recovery supports including "buddy systems", outside mutual support groups and clinical services are available and encouraged
Level 3	Those who wish to have a moderately structured daily schedule and life skills supports	Paid house manager, administrative support, certified peer recovery support service provider	Resident participation varies; senior residents participate in residence management decisions; depending on the state, may be licensed; peer recovery support staff are supervised	Community/house meetings, peer recovery supports including "buddy systems". Linked with mutual support groups and clinical services in the community, peer or professional life skills training on-site, peer recovery support services
Level 4 **(e.g., therapeutic community)**	Require clinical oversight or monitoring, stays in these settings are typically briefer than in other levels	Paid, licensed/ credentialed staff and administrative support	Resident participation varies, organization authority hierarchy, clinical supervision	On-site clinical services, on-site mutual support group meetings, life skills training, peer recovery support services

Source: The National Alliance for Recovery Residences

2. Recognize that a substance use disorder is a chronic condition requiring a range of recovery supports:

The transition from active addiction into lasting recovery is often a difficult and emotionally trying journey for many people with a substance-use disorder. NIDA (2018) indicated that the relapse rates for substance-use disorders is approximately 40-60%, and that relapses could signify the necessity to reexamine a person's course of treatment, as relapses can be very dangerous and in many instances deadly. The first 12 months of this transitional period prior to the onset of sustained full remission, sometimes referred to as early recovery, is a crucial period during which people contend with raw core clinical issues such as family history, unresolved trauma, grief and loss, emotional immaturity, low frustration tolerance, and other factors that make them susceptible to relapse. However, Moos & Moos (2006) determined that individuals with more 'social capital' are more likely to show improved outcomes for short term remission. Therefore, recovery houses are uniquely qualified to assist individuals in all phases of recovery, especially those in early recovery, by furnishing social capital and recovery supports.

Communities support is a critical aspect of achieving and maintaining recovery. A support network comprising friends and family who are not abusing substances, peers with lived experience, trained recovery housing staff, clinical support, and access to community resources is essential to helping people maintain recovery. Community, camaraderie, empathy and guidance are necessary ingredients in helping somebody

remain on track as they navigate their way into a healthy lifestyle of recovery. This is true for individuals recently discharged from inpatient treatment, criminal justice custody, or people seeking a safe, drug free living environment conducive to recovery.

3. Recognize that co-occurring mental disorders often accompany substance-use disorders:

SAMHSA recommends that all recovery house operators and their designated staff should be informed about co-occurring disorders and the close association these ailments have with substance-use disorders. The 2018 National Survey on Drug Use and Health (NSDUH) produced by SAMHSA determined that 9.2 million adults live with a co-occurring mental and substance use disorder. The NSDUH also demonstrates that those with mental disorders, including serious mental illness, are more likely to engage in substance use; conversely, those with substance use disorders are also more likely to have a mental illness.

It is critical that recovery house operators, staff, and certified peers need to be informed as to how co-occurring disorders and resulting symptomology can contribute to increase a person's susceptibility for relapse. Furthermore, SAMHSA believes that all residents and staff should be instructed to treat each other with compassion and understanding regardless of mental health status.

4. Assess applicant (potential resident) needs and the appropriateness of the residence to meet these needs:

SAMHSA recommends that all resident referrals and placement decisions be predicated upon what gives the resident the best chance for obtaining lasting recovery. To help guide placement decisions, SAMHSA strongly encourages all clinically oriented recovery house programs to accurately assess each prospective resident according to their unique needs, strengths, challenges and current recovery capital. SAMHSA maintains that proper resident placement where an individual's needs and goals are appropriately matched to the facility including therapeutic services, recovery supports and the surrounding environment will help to ensure resident safety. To best achieve these ends, the assessment should include the prospective residence and important information about the person.

Resident assessment is an integral part of the comprehensive assessment that should be performed prior to referral and placement into a recovery house system of care. Whether the referent is a licensed clinician, concerned family member, criminal justice professional, or other stakeholder it is important to know and consider the relevant and pertinent information about a person before making impactful decisions regarding their chances for a successful recovery. Usually a licensed clinician obtains intimate knowledge of the resident throughout the therapeutic process.

State governing agencies, including law enforcement, are often important referral sources to recovery housing, it is necessary for these entities to be well versed about the

prospective program prior to referring a potential resident. Relevant information to be considered in determining the most appropriate setting includes:

- House Culture: such as permissiveness of unhealthy behaviors, degree of adherence to outside meeting attendance, general living environment including other peer's investment in recovery, etc.
- Level of Care: the type, nature and intensity of therapeutic services and recovery supports provided, ability to address specific needs.
- Utilization of certified or appropriately trained peers with relevant lived experience
- Geographic area, neighborhood or external surrounding environment of the recovery house
- Physical living environment
- Current residents: welcoming, committed to sobriety, are they mostly employed, supportive of one another
- Medication Assisted Treatment: does the operator or other house staff support the use of medication assisted treatment, is the use of this medication properly monitored, are the other residents in the house also supportive of MAT, are peers with MAT experience available for residents with severe opioid use disorder (OUD)
- Level of training and professionalism of house staff (e.g., co-occurring disorder, crisis interventions, etc.)
- Reputation regarding ethical business practices, including fraud and abuse of residents
- Relapse policy
- Availability of opioid-overdose reversal drugs

5. Promote and use evidence-based practices:

Given the critical importance of stable housing and community supports to attaining recovery, it is important to ensure that residents in recovery housing are afforded high-quality, evidence-based care. It is important to recognize that many in recovery housing will also need access to outpatient treatment. Polcin (2009) found significant improvements in abstinence and employment rates, as well as a reduction in the number of arrest rates for those residents who also participated in outpatient treatment for substance use disorder(s). Additionally, 76% of the residents that participated in this study remained domiciled in a recovery house for at least five months. For many, the combination of recovery housing with evidenced-based outpatient treatment is an efficacious model of care.

Medication Assisted Treatment (MAT) is a lifesaving evidence-based practice. MAT includes the use of FDA-approved medications for the treatment of opioid use disorders. Medication therapy in conjunction with counseling, behavioral therapies, and community recovery supports provide a whole-individual approach to the treatment of substance-use disorders. The National Academies of Science, Engineering, and Medicine (NASEM)

notes that medications for opioid use disorders save lives and cite the use of these medications as an integral strategy in addressing opioid misuse.

Peers and recovery coaches are other essential components that model the societal and fellowship aspects of recovery, and are fully endorsed by SAMHSA as integral components of recovery houses. Peer Support Recovery Services (PRSS) and recovery coaches have emerged as an efficacious intervention to help utilize lived experience to assist others in achieving and maintaining recovery. (Smelson et al, 2013; Tracey et al, 2011).

6. Written policies, procedures, and resident expectations

Recovery house operators should have clearly written and easy to read documentation for all standard operating procedures and policies. To avoid ambiguity, SAMHSA recommends that the standard operating procedures are clearly explained to each new resident by a house staff member or designated senior peer. It is also advisable for programs to establish a resident handbook to help ease transition and ensure compliance with house rules.

Each resident should sign the documents to verify comprehension; residents should be given a copy for future reference. The house should store the signed documents. The communication of these procedures should also be accompanied by an orientation process.

7. Ensures quality, integrity and resident safety:

SAMHSA is strongly recommending that all recovery houses adhere to ethical principles that place resident safety as the chief priority. SAMHSA believes that unethical practices must be acted upon very quickly. One emerging unethical issue is patient brokering. Patient brokering is a potentially life threatening form of healthcare /treatment fraud that involves using vulnerable people with a substance use disorder as a pawn or commodity to be traded.

In patient-brokering type practices, a broker or agent refers a person, who is either in active use or has relapsed after treatment, to an unethical treatment center for a financial fee or some other valuable kickback. In many instances, the brokered individual, who is already in sobriety after completing treatment, is enticed through financial inducements and/or free drugs to resume use by the brokering agent, who then refers this person back to treatment for a kickback. The unethical treatment center is then able to bill a third party payer for services rendered, which far exceed the kickback paid making this fraudulent business very lucrative. In other brokering type scenarios, people with an active substance use disorder are lured by inducements such as free travel, rent or drugs from around the country to seek treatment in another state or location. Once these individuals arrive at treatment they are then recruited to engage in the brokering process.

Recovery house operators should be well aware of the existence of these types of practices and should understand that these are unacceptable and unethical practices.

Program Certification

Program or recovery house certification or accreditation is one noted remedy to some of the problems stated above. States are advised to adopt a process of certification to assure program quality.

> In July 2017 the city of Delray Beach Florida required certification for all recovery residences housing 4 or more unrelated individuals. A year later after this rule was implemented the city of Delray Beach witnessed a significant 60% decline in overdoses from 635 to 245. The city of Delray Beach also saw another 48% decrease in overdoses for the most recent year since this ordinance became law.

In regards to the Fair Housing Act, it should be noted that in Bangarter v. Orem City Corp (1995) the court stated that the Fair Housing Amendments Act should not be viewed to preclude special restrictions on disabled or vulnerable people if the benefit of such restrictions for these populations clearly outweighs the burden of these restrictions. Therefore, certification of recovery residences should not be prohibited as a discriminatory practice if the certification is narrowly tailored to benefit the needs of vulnerable populations, and these benefits clearly outweigh whatever burdens are imposed by these rules.

It is standard clinical protocol for all treatment centers and recovery houses to require clients submit to random urine analyses and breathalyzers. In other situations clients or residents may be required to submit an additional sample if they are suspected of using or after returning to the treatment center after time spent in a potentially using type of environment. This protocol is designed to ensure safety by confirming people are sober, on track in their recovery and not in need of additional therapeutic interventions. Fair Health examined claims data based on Current Procedural Terminology (CPT) codes and determined that costs associated with laboratory testing have increased more than 900 percent between 2011 and 2014. This large increase is an indication that a standard clinical practice has been exploited for financial gain. SAMHSA panelists identified 3 key areas of concern for this unethical practice:

- Testing for quantitative amounts on negative samples
- Charging exorbitant fees over and above the standard costs for lab tests
- Excessive drug screenings during residential treatments (testing can also become excessive in some outpatient treatments)

Medication Policy:

According the NSDUH (2018) buprenorphine was the opioid with the highest rate of misuse by those with a prescription for it. The misuse of any medication in a sober living environment can have detrimental effects not just for the individual misusing but also for other members of the house. As such, the following strategies are recommended:

- Locking medication up and house staff providing medication at specified time to clients
- Medication counts with staff and resident
- Increase drug testing (if suspected of diversion)
- Communication between stakeholders, providers & staff (releases of information)
- Maintain proper documentation
- Monitor specific residents as needed
- Open discussion of medications (e.g., group topic, potential triggers, etc.)
- Daily dosing within a licensed facility

8. Learn and Practice Cultural Competence:

The concept of cultural competency is of extreme importance, as the disease of addiction does not discriminate along racial, cultural or socioeconomic lines.

The staff and peers who operate and work in recovery houses should treat all individuals with respect regardless of their personal backgrounds and beliefs. Staff should be trained to deal with individuals on a personal basis and respect different beliefs and backgrounds.

9. Maintain ongoing communication with interested parties and care specialists

Ongoing communication is another important aspect of clinical practice that recovery houses should implement as part of their operating procedures. Provided there is a signed release of confidential information, ongoing communication between the resident's referent, concerned loved one, treatment provider, former treatment provider, certified peer recovery coach and criminal justice professional, is essential to helping the resident stay on track with recovery. In certain vocational programs, it could also be advantageous to maintain contact with the person's place of employment. Listed below are some topics areas that could be covered during communication between stakeholders to improve the quality of resident care.

- Level of program adherence
- Resident behavior – potential relapse indictors
- Attendance concerns at treatment
- MAT dosage changes, take home doses
- Progress reports
- Psychotropic medication changes

- Employment status
- Referral decisions (especially following a relapse to help alleviate any brokering type activities)
- Drug testing
- Discharge planning
- Any social network concerns
- Relapse history

10. Evaluate program effectiveness and resident success:

As recovery houses become recognized as vital components in the continuum of care, it is important to properly assess how each house is ultimately performing in delivering quality resident care. SAMHSA recognizes that program evaluation may occur at varying levels depending on the size and scope of the recovery house; however, collecting data on measures such as abstinence from use; employment; criminal justice involvement; and social connectedness would greatly assist the home in gauging the effectiveness of services provided and would also enable these entities to utilize data to justify requests for state and federal funding.

CONCLUSION

SAMHSA strongly believes in the use of recovery housing as a key strategy to assist individuals living with substance use disorder in achieving and maintaining recovery. Providing individuals with a safe and stable place to live can potentially be the foundation for a lifetime of recovery. It is critical that these houses function with sound operating procedures which center on a safe, sober living environment in which individuals can gain access to community supports and therapeutic services to advance their recovery.

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EXHIBIT 13

PLANNING COMMISSION AGENDA REPORT

MEETING DATE: FEBRUARY 11, 2019 **ITEM NUMBER: PH-1**

SUBJECT: CONDITIONAL USE PERMIT PA-17-10 TO OPERATE A SOBER LIVING FACILITY HOUSING UP TO 45 ADULTS IN FIVE UNITS; INCLUDING AN APPEAL OF THE DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION FOR RELIEF FROM CERTAIN LAND USE REQUIREMENTS OF THE ZONING CODE; OPERATED BY THE OHIO HOUSE AT 115 EAST WILSON STREET

DATE: JANUARY 31, 2019

FROM: DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: JENNIFER LE, ASSSISTANT DIRECTOR OF DEVELOPMENT SERVICES
WILLA BOUWENS-KILLEEN, AICP, ZONING ADMINISTRATOR

STAFF CONTACT: WILLA BOUWENS-KILLEEN 714.754.5153
willa.bouwens-killeen@costamesaca.gov

DESCRIPTION

Planning Application 17-10 is a request for a Conditional Use Permit (CUP) to operate a sober living facility housing up to 45 residents in five units, with up to seven male adults and a maximum of two resident managers in each unit. The applicant also submitted a request for reasonable accommodation to allow this facility to be within 650 feet of another property that contains a state-licensed treatment facility and/or sober living home, and to provide relief from certain land use requirements of the Zoning Code. The application for accommodation was denied. The applicant has appealed that decision to the Planning Commission.

APPLICANT OR AUTHORIZED AGENT

The applicant, Ryan Stump, is representing the operator, The Ohio House, and the property owners Edie Johnson, Sharon Ackerman, and Brandon Stump.

RECOMMENDATION

Adopt a Resolution upholding the Director's denial of the request for reasonable accommodation and denying Conditional Use Permit PA-17-10.

EXHIBIT 182

PLANNING APPLICATION SUMMARY

Location: 115 East Wilson St. # A - E Permit No.: PA-17-10[1]

Request: Conditional use permit for a sober living facility with 45 occupants (seven residents and two resident house managers per unit) per the multi-family group home ordinance.

SUBJECT PROPERTY:

Zone: R2-MD
General Plan: Commercial Residential
Lot Dimensions: 66 FT x 323 FT
Lot Area: 21,362 SF
Existing Development: Five, two-story, four bedroom residences each with an attached two-car garage and two open parking spaces in the driveways leading to the garages

SURROUNDING PROPERTY:

North: (Acr. Wilson St.) PDR-MD, Apts. for Vanguard students
East: R2-MD, Multiple-Family Residential, residential use
West: (Across Alley) C1, Commercial uses
South: R2-MD, Multiple-Family Residential, residential use

DEVELOPMENT STANDARD COMPARISON

Development Standard	Code Requirement	Proposed/Provided
Lot Size:		
Lot Width	100 FT	66 FT[2]
Lot Area	12,000 SF	21,362 SF
Density:		
Zone/General Plan	1 DU/3,630 5 DUs	1 DU/4,272 SF 5 DUs
Building Coverage:		
Residences/garages	NA	41% (8,741 SF)
Driveway	NA	9% (1,979 SF)
Open Space	40% (8,545 SF)	50% (10,642 SF)
TOTAL:	NA	100% (21,362 SF)
Building Height:	2 stories/27 FT	2 stories/26 FT
Building separation:	10 FT	10 FT
Setbacks (East Wilson Street considered the front):		
Front	20 FT	20 FT
Side -- left	5 FT	5 FT
Side – right	5 FT	9.5 FT
Rear	20 FT	21 FT
Parking Totals:		
Covered	10	10
Open	10	10
TOTAL:	20	20
Driveway width	10 FT	16 FT
Vehicular backup	25 FT	25 FT

[1] Project approved under PA-02-48/T-164-16448 as a residential common interest development in 2003.
[2] Property existing at this non-conforming width when PA-02-48 was processed/approved

Environmental Determination: Exempt -- Section 15301, Existing Facilities

Final Action: Planning Commission

BACKGROUND/ANALYSIS

The subject property is located on East Wilson Street between Newport Boulevard and Elden Avenue. The property is zoned R2-MD (Multiple-Family Residential, Medium Density) and has a General Plan Land Use Designation of Commercial Residential. Multi-family residential uses that are also zoned R2-MD abut the site to the east and south; student housing for Vanguard University under a PDR-MD (Planned Development Residential – Medium Density) zone exists across East Wilson Street to the north; with a commercial center zoned C1 (Local Business District) existing across the alley to the west of the subject property.

This development was approved as a five-unit common interest development in 2003. Each individual lot is separately owned; however, each individual lot owner is also part owner of a commonly-held lot and is part of a joint homeowners association. In addition, the application is for the operation of one facility by a single operator. Therefore, it is being processed under one CUP.

In the letter requesting the reasonable accommodation, the applicant's attorney states that the operation of these group homes predated the City's 2015 ordinance. However, the attorney did not include a date when the facilities were established; the City conducted its first investigations of the subject sober living facilities in early 2016. The applicant's information is inconsistent on the application forms originally submitted for the sober living homes, but it appears that each unit houses seven male residents as well as two live-in managers, for a total of 45 residents. The applicant's project description is provided as Attachment 2. Pursuant to Costa Mesa Municipal Code (CMMC) Section 13-323, group homes serving more than six residents may be permitted on sites zoned for multi-family development, subject to approval of a CUP. Therefore, a CUP is required.

The subject property is located approximately 550 feet away from another group home at 165 East Wilson Street approved under Conditional Use Permit PA-16-03; consequently, because the other facility is less than 650 feet away, there is a separation conflict for the subject application. A separation map is provided as Attachment 1.

Because the subject property is located within 550 feet of a City-approved sober living facility, approval of the requested CUP will result in an overconcentration of sober living and drug and alcohol treatment facilities in a residential neighborhood.

On October 27, 2017, the City received a request from the applicant's attorney for a reasonable accommodation to allow the facility to continue without having to apply for the reasonable accommodation to deviate from the required separation standard. This request was based on the attorney's assertion that the facility should be allowed to continue because they are a nonconforming use predating the adoption of the group home ordinance in 2015 and that each unit is considered a single housekeeping unit. (The attorney's letter was dated September 12, 2017 but the City did not receive it until October 27, 2017.) On November 27, 2017, the City denied the request; the applicant filed an appeal of that decision on

November 29, 2017. This request, denial, and appeal are labeled as Attachments 4, 5 and 6, respectively.

Conditional Use Permit Requirement for Large Group Homes, including Sober Living Homes, and Licensed Drug and Alcohol Treatment Facilities in Multi-Family Residential Zones

On November 17, 2015, the City Council adopted Ordinance 15-11 revising Title 13 of the CMMC to add Chapter XVI which established conditions for granting a CUP to group homes, residential care facilities, and drug and alcohol treatment facilities serving more than six residents in the City's multiple family residential zones. All group homes and residential care facilities operating in multi-family zones before the ordinance was adopted were required to come into compliance with Ordinance 15-11 by December 17, 2016.

Although the CUP application for Unit E was submitted on March 23, 2017, the application was deemed incomplete with the additional required information not submitted until December 7, 2018. The CUP applications for the remainder of the units (Units A through D) were received between October 27, 2017 and December 5, 2017.

Sections 65008(a) and (b) of the California Government Code prohibit discrimination in local governments' zoning and land use actions based on (among other categories) race, sex, lawful occupation, familial status, disability, source of income, or occupancy by low to middle income persons. Section 65008(d)(2) also prevents agencies from imposing different requirements on single-family or multi-family homes because of the familial status, disability, or income of the intended residents. Individuals in recovery from drug and alcohol addiction are defined as disabled under the Fair Housing Act. Therefore, the City is obligated to treat residents of licensed drug and alcohol facilities as it treats other residents of the City. Conditions of approval must reflect this obligation.

In addition to a CUP, an Operator's Permit application is required for group homes with seven or more occupants if the facility is not licensed by the State of California. Staff has reviewed the Operator's Permit application for compliance. The applicant submitted documentation, but the information is inconsistent with current Code. Should the Planning Commission wish to approve this CUP, the applicant will be required to submit complete information showing that the facilities meet the operational requirements for issuance of an Operator's Permit. The requirements include but are not limited to the following:

- The group home is required to have a house manager who resides at the group home or any multiple persons acting as a house manager who are present at the group home on a twenty-four-hour basis and who are responsible for the day-to-day operation of the group home. The applications include the names of six live-in house managers but not the 14 it appears they propose to provide.
- Occupants must not require and operators must not provide "care and supervision" as those terms are defined by Health and Safety Code 1503.5 and Section 80001(c)(3) of title 22, California Code of Regulations. The applicant has confirmed that they will not

provide "care and supervision" in some of the units but has not confirmed this for all five of the units.

- The sober living home shall not provide any of the following services as they are defined by Section 10501(a)(6) of Title 9, California Code of Regulations: Detoxification; educational counseling; individual or group counseling sessions; and treatment or recovery planning. The applicant has confirmed that they will not provide "care and supervision" in some of the units but has not confirmed this for all five of the units.
- Upon eviction from or involuntary termination of residency in a group home, the operator of the group home shall make available to the occupant transportation to the address listed on the occupant's driver license, state issued identification card, or the permanent address identified in the occupant's application or referral to the group home. The responses provided by the applicant are unclear as to its consistency with certain Code requirements, in the opinion of staff; therefore, additional information would be required to be submitted before the Operator's Permit could be issued.

If the Planning Commission approves the CUP request for the subject property, the applicant will be required to submit additional information before the Operator's Permit could be issued. Once the correct information has been submitted demonstrating compliance with Code requirements related to the Operator's Permit, the Development Services Director could issue an Operator's Permit to the applicant. If the operator does not maintain compliance with the Operator's Permit requirements, the Operator's Permit may be revoked upon a hearing by the Director. Failure to maintain an Operator's Permit may also subject the CUP to revocation.

Property Description

Pursuant to the CMMC, "property" is defined as any single development lot that has been subdivided, bearing its own assessor's parcel number or with an approved subdivision or condominium map. The CMMC specifies that group homes and facilities providing drug and alcohol treatment in residential areas shall only occupy a single parcel. The subject site consists of five, approximately 2,400-square-foot, two-story units on individual lots ranging in size from approximately 3,800 square feet to 4,900 square feet. Each unit contains four bedrooms and three bathrooms. The five lots are held together by a common lot and is, therefore, considered a common interest development.

Facility Description

It appears the existing sober living facilities began operation in early 2016, based on the opening of cases by the City's Code Enforcement Division, after the enactment of Ordinance 15-11. It appears that each of the five units houses up to seven residents and two managers; however the applicant's submitted information is inconsistent. Staff still needs confirmation that there is a staff member/house manager present on the site at all times. The applicant's description is provided as Attachment 2 and the site and floor plans are included in this report as Attachment 3.

A sober living home is a sub-type of group home. Article 2 of Section 13-6 (Definitions) defines a group home as follows:

> *"A facility that is being used as a supportive living environment for persons who are considered handicapped under state or federal law. A group home operated by a single operator or service provider (whether licensed or unlicensed) constitutes a single facility whether the facility occupies one or more dwelling units."*

With the exception of the lot width, this project satisfied all development standards when it was approved in 2003; those same development standards still apply. Consequently, with the exception of the non-conforming minimum lot width requirements, all applicable standards for developing five common interest, multiple family residential units are met on this property.

Each of the five units contains four bedrooms and three bathrooms, as well as a kitchen, family room, and living/dining room.

TABLE 1- UNIT BREAKDOWN

Unit	Bedrooms	Beds[1]	Bathrooms	Total Rooms[2]	Persons per room[3]
A	4	8 to 9	3	6	1.3 to 1.5
B	4	8 to 9	3	6	1.3 to 1.5
C	4	8 to 9	3	6	1.3 to 1.5
D	4	8 to 9	3	6	1.3 to 1.5
E	4	8 to 9	3	6	1.3 to 1.5
Totals:	**20**	**40 to 45**	**15**	**30**	1.3 to 1.5

[1] Applicant's information is incomplete; cannot confirm if 8 or 9 beds per unit are provided
[2] Number of bedrooms combined with family room and living/dining room
[3] Based on seven residents plus one to two beds for live-in managers per unit

The proposed occupancy of these units does constitute overcrowding pursuant to the Housing Element of the General Plan, page HOU-23, which states:

> Overcrowding is defined as a housing unit occupied by more than one person per room. A severely overcrowded housing unit is one with more than 1.5 persons per room. A room is defined as a bedroom, living room, dining room, or finished recreation room, but excludes a kitchen or bathroom.

This definition is consistent with the Federal HUD standards, which generally define "overcrowding" to mean housing units with 1.01 or more persons per room. See 42 USCS § 5302(a)(10). Under this standard, all five units would be overcrowded.

In the past three years, Code Enforcement received one complaint related to the facility expressing concern with the number of people and type of activity that was occurring within the five group homes. The complainant also expressed concern with the amount

of trash and cigarette butts, the poor condition of the alley, and homeless and other people "hanging out" in the alley next to the homes. Code Enforcement investigated the complaint and, ultimately, closed the case when it was confirmed that a CUP for the group homes was in process. The Police Department reports that, from January 1, 2016 to January 30, 2019, there have been a total of 14 calls for service in the last three years, eight of which are attributable to the property. These calls for service related primarily to theft and disturbances, with two calls for medical aid.

Separation Conflict Map

The CMMC requires a separation of 650 feet between sober living and licensed drug and alcohol treatment facilities. The following types of facilities are depicted on the map:

- State-licensed treatment facilities serving six or fewer adults, as these facilities are permitted by right under State law.
- Sober living and state-licensed treatment facilities for which the City has issued a CUP to serve more than six adults
- Sober living facilities serving up to six adults for which the City has issued a Special Use Permit (SUP)
- State-licensed facilities or sober living homes which require but have not obtained a CUP or SUP and are operating in violation of City zoning regulations

The attached separation map indicates that there are four facilities within 650 feet of the subject property. The sober living facility at 165 East Wilson Street was approved by the City in 2016 under PA-16-03. In addition, facilities exist at 125 and 131 East Wilson Street (both facilities are licensed by the Department of Health Care Services and are operating without a CUP). There is also a facility at 114 Albert Place that has been cited for operating without a permit. (Refer to Attachment 1, Separation Map). Refer to Table 2 below for details.

TABLE 2- SEPARATION MAP SUMMARY	
Location	**Status**
165 East Wilson Street	Sober living facility approved by the City in 2016 as PA-16-03, serving 10 male residents plus one live-in house manager This facility is shown as a separation conflict on the map.
125 East Wilson Street	State-licensed treatment facility serving 7 or more in violation of the CMMC; CUP denied in April 2018 but use continues; Active Code Enforcement case
131 East Wilson Street	State-licensed treatment facility serving 7 or more in violation of the CMMC; CUP denied in April 2018 but use continues; Active Code Enforcement case
114 Albert Place	Facility cited twice for operating without a permit in violation of the CMMC

Ownership

The City Council adopted Ordinance Nos. 17-05 and 17-06 in May of 2017. These ordinances changed the submittal requirements for applications for sober living homes. Applicants are now required to provide the following information:

> If the applicant and/or operator is a partnership, corporation, firm, or association, then the applicant/operator shall provide the additional names and addresses as follows and such persons shall also sign the application:
>
> a. every general partner of the partnership;
> b. every owner with a controlling interest in the corporation;
> c. the person designated by the officers of a corporation as set forth in a resolution of the corporation that is to be designated as the permit holder;
>
> The license and permit history of the applicant(s), including whether such applicant(s), in previously operating a similar use in this or another city, county or state under license and/or permit, has had such license and/or permit revoked or suspended, and the reason therefore.

Brandon Stump has confirmed that he is the owner and sole member of Ohio House.

General Plan Conformance

The provision of a variety of housing types, including housing for the disabled, is consistent with the Land Use and Housing Elements of the City's General Plan.

- **Goal LU-1F.1: Land Use and Goal HOU-1.2:** *Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks) from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

  Consistency: The City's regulations are intended to preserve the residential character of the City's neighborhoods. This facility has demonstrated its compatibility with the neighborhood over the past three years.

- **Goal HOU-1.8:** *Housing Element: Encourage the development of housing that fulfills specialized needs.*

  Consistency: The proposed request provides for a supportive living environment for persons who are considered disabled under state and federal law.

REQUIRED FINDINGS

Pursuant to Section 13-29(g) of the CMMC, the Planning Commission must make required findings in order to approve the CUP, based on evidence presented in the administrative record.

Reasonable Accommodation Findings

On October 27, 2017, the City received a request from the applicant for a reasonable accommodation to deviate from the required separation standard. (The applicant's letter was dated September 12, 2017 but the City did not receive it until October 27, 2017.) The applicant's attorney stated that the five units were each single housekeeping units and not sober living homes; therefore, they satisfied the parameters of a reasonable accommodation and were not subject to the City's group home ordinance. On November 27, 2017, the City denied the request, based on the findings below. The applicant filed an appeal on November 29, 2017. However, because a CUP was needed for the group homes, coupled with the delay on the part of the applicant to provide the necessary information to process the CUP, there was a delay in hearing the appeal of the reasonable accommodation until now. The appeal contained no justification for the Planning Commission to reverse the Director of Development Services' decision. The Director denied the request because he was unable to make all of the findings required by CMMC Section 13-200.62(f). Specifically, his decision was based on the following factors:

- *The requested accommodation is not necessary to provide one or more individuals with a disability with an equal opportunity to use and enjoy a dwelling.*

  The City recognizes that, while not in character with residential neighborhoods, when operated responsibly, group homes, including sober living homes, provide a societal benefit by providing disabled persons the opportunity to live in residential neighborhoods. These facilities provide recovery programs for individuals attempting to overcome their drug and alcohol addictions. The City has established separation criteria to ensure that an over-concentration of sober living homes and licensed drug and alcohol treatment facilities does not occur in any neighborhood, thereby, preserving the residential character for all who choose to reside there.

  The application established that the waiver of the separation requirement would allow one or more individuals who are recovering from drug and alcohol abuse to enjoy the use of these dwellings. However, approval of the request is not necessary to allow one or more individuals who are recovering from drug and alcohol abuse to enjoy the use of a dwelling within the City.

  The operation of a group home is inconsistent with the City's definition of a single housekeeping unit. The City has established procedures to allow group homes in residential neighborhoods; allowing a group to be considered a single housekeeping unit is not necessary to allow the disabled to reside in residential neighborhoods.

  The City has adopted standards for sober living homes and licensed treatment facilities in residential zones to ensure the disabled have the opportunity to live in a typical residential neighborhood. The permit process ensures that sober living homes and licensed treatment facilities comply with the City's standards. The City

specifically required all existing group homes to comply with the new regulations within one year. The applicant's letter failed to provide a basis to "grandfather" this facility when all other facilities in operation at the time the regulations were adopted are also required to comply.

- *The requested accommodation is not consistent with the surrounding uses in scale and intensity of use.*

The subject facility does not operate as a single housekeeping unit, or even five single housekeeping units, making it dissimilar to the composition of households on surrounding properties. The facility is occupied solely by adults at a higher occupancy than is typical in Costa Mesa. Each resident is allowed to keep a car on the property, providing opportunities for parking conflicts with owners of nearby properties who also rely on on-street parking. The City's intent in adopting its group home regulations was to ensure an over-concentration of group homes did not occur in any neighborhood. The facility would contribute to over-concentration given that it includes five units on five individual lots.

- *Whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability and equal opportunity to live in a residential setting.*

The City has received applications for 64 sober living homes and 11 licensed treatment facilities that are subject to compliance with Ordinance Nos. 14-13 and 15-11. Twelve sober living homes serving six or fewer residents have been approved by the City, and two sober living homes serving seven or more residents have been approved by the City. In addition, there are 74 existing state licensed drug and alcohol facilities in Costa Mesa that are exempt from City regulation, or have already obtained the required Conditional Use Permit. No evidence has been submitted to indicate that the number of sober living homes and drug and alcohol residential care facilities existing or potentially allowed in compliance with the City's standards is inadequate.

- *The requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program.*

Ordinance 15-11 established requirements for sober living homes, group homes, and licensed drug and alcohol treatment facilities in multi-family zoning districts. When the City Council adopted this ordinance, it specifically included a provision requiring a separation of at least 650 feet between such facilities. The intent of this limitation is to ensure that sober living and drug and alcohol treatment facilities do not occupy a disproportionate number of homes in any neighborhood, and to avoid over-concentration of sober living and drug and alcohol treatment facilities in any area. The City also sought to ensure that

disabled persons recovering from an addiction can reside in a comfortable residential environment versus in an institutional setting. The City determined that housing inordinately large numbers of unrelated adults in a single dwelling or congregating sober living and drug and alcohol treatment facilities in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings" but, rather, places them into living environments bearing more in common with the types of institutional/campus/dormitory living that the state and federal laws were designed to avoid. The subject property consists of five units on five individual lots, which already contributes to an over-concentration of sober living homes in the area. The site's proximity to another sober living home serving more than six adults contributes to an over-concentration of sober living facilities in this neighborhood. Granting the accommodation to consider this facility as a single housekeeping unit and/or waive the separation standard will result in an over-concentration of sober living facilities in this area that is in conflict with the intent of the City's zoning program.

When the City adopted Ordinance 15-11, it specifically included provisions requiring all existing group home operators to come into compliance with the new regulations within one year of their adoption. The ordinance did not create or recognize any nonconforming uses. Given the intent of the ordinance, it is not appropriate to grant the request for reasonable accommodation to allow the subject facility to be "grandfathered" and exempted from compliance with current regulations.

The application for reasonable accommodation failed to justify any reason to waive compliance with the provisions of Section 9-374(b)(11) of the CMMC that require the applicant to have a house manager; ensure all occupants, other than the house manager, are actively participating in legitimate recovery programs; prohibit the use of any alcohol or non-prescription drugs by any recovering addict; have a policy regarding use and storage of prescription medications; post house rules in a common area inside the dwelling unit; prohibit visitors who are under the influence of any drug or alcohol; and maintain a good neighbor policy.

CUP Findings

If the Planning Commission upholds the denial of the reasonable accommodation, the Planning Commission may not approve the CUP unless it makes a finding that approval of the application will not result in an over-concentration of similar uses pursuant to CMMC Section 13-323, as set forth below. Staff recommends upholding the denial of the reasonable accommodation as well as denial of the CUP based on the following assessment of facts and findings. These findings are also reflected in the draft resolution.

- *The proposed use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.*

The facility consists of five units on five parcels with a common lot constituting a common interest development. Approval of this request would allow 45 adults to occupy the subject facility. With the exception of minimum required lot width requirements, the site satisfies all applicable development standards.

The proposed occupancy constitutes overcrowding pursuant to the Housing Element of the City of Costa Mesa's General Plan, page HOU-23, which states:

> Overcrowding is defined as a housing unit occupied by more than one person per room. A severely overcrowded housing unit is one with more than 1.5 persons per room. A room is defined as a bedroom, living room, dining room, or finished recreation room, but excludes a kitchen or bathroom.

This definition is consistent with the Federal HUD standards, which generally define "overcrowding" to mean housing units with 1.01 or more persons per room. See 42 USCS § 5302(a)(10). Under this standard, all five units are considered overcrowded.

The subject property is located within approximately 550 feet of a sober living facility located at 165 East Wilson Street.

The CMMC establishes criteria for approval of group homes in multi-family zones. Group homes serving disabled persons as defined by state and federal law are not considered to be boardinghouses. Rather, these facilities offer disabled persons the opportunity to live in residential neighborhoods in compliance with state and federal laws. Recovering alcoholics and drug addicts, who are not currently using alcohol or drugs, are considered disabled under state and federal law. Standards for large group homes are set forth in the Zoning Code. The intent of the regulations is to preserve the residential character of the City's neighborhoods while providing opportunities for the disabled to live in comfortable residential surroundings.

The City adopted standards for group homes in response to a proliferation of drug and alcohol treatment facilities in the community. The City found that an over-concentration of sober living homes and drug and alcohol treatment facilities in the City's residential neighborhoods could be deleterious to the residential character of these neighborhoods and could also lead to the institutionalization of such neighborhoods. Drug and alcohol treatment facilities and sober living homes generally do not function as a single housekeeping unit because they house extremely transient populations; the residents generally have no established ties to each other when they move in and typically do not mingle with other neighbors; the residents have little to no say about who lives or doesn't live in the home; the residents do not generally share expenses; the residents are often responsible for their own food, laundry and phone; when residents disobey house rules they are often just evicted from the house; and the residents generally do not share the same acquaintances. The City found that the size and makeup of the households

in sober living and drug and alcohol treatment facilities is dissimilar and larger than the norm, creating impacts on water, sewer, roads, parking and other City services that are far greater than the average household. In addition, all the individuals residing in a drug and alcohol treatment facility are generally over the age of 18, while the average household in Costa Mesa has just 2.2 individuals over the age of 18.

Because of their transient populations, above-normal numbers of individuals/adults residing in a single dwelling and the lack of regulations, drug and alcohol treatment facilities and sober living homes present problems not typically associated with more traditional residential uses. These issues may include the housing of large numbers of unrelated adults who may or may not be supervised; disproportionate numbers of cars associated with a single housing unit, which causes disproportionate traffic and utilization of on-street parking; excessive noise and outdoor smoking, which interferes with the use and enjoyment of neighbors' properties; neighbors who have little to no idea who does and does not reside in the home; little to no participation by residents in community activities that form and strengthen neighborhood cohesion; disproportional impacts from the average dwelling unit to nearly all public services including sewer, water, parks, libraries, transportation infrastructure, fire and police; a history of residents congregating in the same general area; and the potential influx of individuals with a criminal record.

Nevertheless, the City recognizes that while not in character with residential neighborhoods, when operated responsibly, group homes, including drug and alcohol treatment facilities, provide a societal benefit by providing disabled persons the opportunity to live in residential neighborhoods. These facilities also provide recovery programs for individuals attempting to overcome their drug and alcohol addictions. The City's regulations provide group homes, including sober living homes and licensed drug and alcohol treatment facilities, greater access to residential zones than to boardinghouses or other types of group living arrangements not catering to disabled individuals. This favorable access for group homes provides a benefit to the City and its residents.

In response to the needs and concerns described above, the City established a minimum separation of 650 feet between group homes, residential care facilities and/or state-licensed drug and alcohol facilities. The City found that a separation requirement would still allow for a reasonable market for the purchase and operation of sober living homes and drug and alcohol treatment facilities within the City. The requirement still resulted in preferential treatment for sober living homes and drug and alcohol treatment facilities in that non-disabled individuals in a similar living situation (e.g., in boardinghouse-style residences) have fewer housing opportunities than the disabled. The City determined that housing inordinately large numbers of unrelated adults in a single dwelling or congregating sober living homes and drug and alcohol treatment facilities in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings," but rather places them into living environments bearing more in

common with the types of institutional/campus/dormitory living that the state and federal laws were designed to provide them relief from.

The Federal Housing Act Amendments (FHAA), 42 U.S.C. § 3601 et seq., provide that a city "commits discrimination under the FHAA if it refuses to make reasonable accommodations in rules, policies, practices, or services, when such accommodation may be necessary to afford [the disabled] equal opportunity to use and enjoy a dwelling." Budnick v. Town of Carefree, 518 F.3d 1109, 1119 (9th Cir. 2008).

The FHAA requires a city to provide a requested accommodation if such accommodation "(1) is reasonable, and (2) necessary, (3) to afford a handicapped person the equal opportunity to use and enjoy a dwelling." Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F.3d 775, 783 (7th Cir. 2002); 42 U.S.C. § 3604(f)(3)(B).

The applicant requested relief from the Zoning Code requirement that a sober living home or drug and alcohol treatment facility be located at least 650 feet from another property that contains a group home, sober living home or state-licensed drug and alcohol treatment facility. The request for a reasonable accommodation was denied by the Director of Development Services on November 27, 2017, because another sober living or drug and alcohol treatment facility exists within 650 feet of the subject property, at 165 East Wilson Street. The applicant appealed the decision on November 29, 2017 but gave no reason for the appeal.

The facility is located within approximately 550 feet of a City-approved sober living facility serving 10 occupants plus one live-in house manager at 165 East Wilson Street, approved under PA-16-03.

Because there is no need for a reasonable accommodation, the facility would contribute to over-concentration and does not comply with the City's adopted standards for separation between group homes, residential care facilities, and state-licensed drug and alcohol facilities. Therefore, this finding cannot be made.

- *Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.*

The City has found that over-concentration of drug and alcohol treatment facilities and group homes changes the character of a residential neighborhood to one that is more institutional in nature. This change in neighborhood character can compound secondary effects related to noise, traffic, and parking. In these neighborhoods, street life is often characterized by large capacity vans picking up and dropping off residents and staff; staff in scrubs carrying medical kits going from unit to unit, and vans dropping off prepared meals in large numbers. The City has experienced frequent Fire Department deployments in response to medical aid calls. In some neighborhoods, Police Department deployments are a regular

occurrence as a result of domestic abuse calls, burglary reports, disturbing the peace calls and parole checks at drug and alcohol treatment facilities. Large and often frequent Alcoholics Anonymous or Narcotics Anonymous meetings are held at some drug and alcohol treatment facilities. Attendees of these meetings contribute to the lack of available on-street parking and neighbors report finding an unusual amount of litter and debris, including beverage containers, condoms and drug paraphernalia in the wake of these meetings. These types of impacts have been identified in other communities as well (see Attachment 7). The facility will contribute to the over-concentration of sober living homes and drug and alcohol treatment facilities in this neighborhood, which could lead to negative impacts in the neighborhood. Additionally, Code Enforcement has received a complaint for this specific property alleging trash and cigarettes in the alley abutting this site.

There are only 20 parking spaces on the site available to serve 35 adults as well as the 10 on-site managers. Approval of this CUP could result in conflicts with residents of nearby properties for the use of on-street parking spaces.

- *Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.*

The proposed use is consistent with the City's General Plan. However, an over-concentration of group homes, sober living homes and licensed treatment facilities for alcohol and drug addiction is not consistent with the General Plan. The City's regulations are intended to preserve the residential character of the City's neighborhoods. The City Council has determined that an over-concentration of drug and alcohol treatment facilities would be detrimental to the residential character of the City's neighborhoods. The proposed facility is located within 650 feet of another sober living or drug and alcohol treatment facility, contributes to over-concentration, and is therefore, not consistent with the intent of the General Plan.

Overconcentration Pursuant to CMMC 13-323(b)

Section 13-323(b) of the CMMC was amended by Ordinance 17-05 in May of 2017. As amended, it provides:

> The group home, residential care facility or state-licensed drug and alcohol treatment facility is at least six-hundred fifty (650) feet from any property, as defined in Section 13-321, that contains a group home, sober living home or state-licensed drug and alcohol treatment facility, as measured from the property line, unless the reviewing authority determines that such location will not result in an over-concentration of similar uses. (*Emphasis added.*)

The effect of this amendment is to allow the Planning Commission and the City Council to approve deviations to the separation requirement where the evidence shows that such location will not result in an over-concentration, yet all the findings necessary for a reasonable accommodation are not met or otherwise cannot be granted. Should the

Commission be unable to make all findings necessary to grant a reasonable accommodation, (i.e., if the finding that accommodation is "necessary" within the meaning of the federal and state fair housing laws cannot be made), the Commission retains the ability to waive the separation requirement if supported by the evidence and approve this CUP.

LEGAL REVIEW

The report and draft resolution has been reviewed and approved by the City Attorney's Office.

PUBLIC NOTICE

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. Mailed notice. A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property. (See attached Notification Radius Map.)
2. On-site posting. A public notice was posted on each street frontage of the project site.
3. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

ALTERNATIVES

A draft resolution upholding the denial of the reasonable accommodation and denying the CUP has been provided (Attachment 10). Should the Planning Commission wish to approve the CUP and/or the request for reasonable accommodation, the hearing may be continued to a subsequent meeting in order to allow staff to prepare a resolution of approval containing the necessary findings therefore.

ENVIRONMENTAL DETERMINATION

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Existing Facilities.

CONCLUSION

The applicant has requested a CUP and an accommodation to allow a sober living facility to be within 650 feet of a property that contains a state-licensed drug and alcohol treatment facility and/or sober living home. The applicant has failed to demonstrate that all of the required findings can be made. Staff recommends denial of the appeal of the reasonable accommodation decision and denial of the Conditional Use Permit.

WILLA BOUWENS-KILLEEN, AICP
Zoning Administrator

BARRY CURTIS, AICP
Director of Economic and Development Services

Attachments:
1. Vicinity, Zoning, Separation and Notification Radius Maps
2. Applicant's Project Description
3. Project Plans
4. Reasonable Accommodation Request dated September 12, 2017
5. Reasonable Accommodation Denial dated November 27, 2017
6. Appeal of Reasonable Accommodation Denial dated November 29, 2017
7. *Community Context of Sober Living Houses*, Douglas L. Polcin, Ed.D., et al., NIH Public Access Author Manuscript, December 1, 2012 (published in final edited form as *Addict Res Theory*. 2012 December 1; 20(6): 480-491. doi: 0.3109/16066359.2012.665967)
8. *Recovery Housing: Assessing the Evidence*, Sharon Reif, Ph.D. at al., Psychiatric Services, March 2014 Vol. 65 No. 3
9. *Residential Treatment for Individuals With Substance Use Disorders: Assessing the Evidence*, Sharon Reif, Ph.D. at al., Psychiatric Services, March 2014 Vol. 65 No. 3
10. Draft Resolution upholding the denial of the requested Reasonable Accommodation and denying PA-17-10

Distribution:
Director of Economic and Development Services
Assistant Director of Development Services
Assistant City Attorney
Public Services Director
City Engineer
Transportation Services Manager
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Applicant: Ryan Stump
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Costa Mesa, CA 92627

EXHIBIT 14

RESOLUTION NO. 19-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO DENY A REASONABLE ACCOMMODATION REQUEST TO DEVIATE FROM CERTAIN LAND USE REQUIREMENTS OF THE ZONING CODE; AND TO DENY CONDITIONAL USE PERMIT PA-17-10 TO ALLOW A SOBER LIVING FACILITY OPERATED BY OHIO HOUSE HOUSING UP TO 45 OCCUPANTS AT 115 EAST WILSON STREET, UNITS A THROUGH E

THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, Ohio House (the "Applicant") currently operates a sober living facility serving more than six persons at 115 East Wilson Street, Units A through E, Costa Mesa; and

WHEREAS, the Applicant filed a request for a Reasonable Accommodation to allow this facility to be located within 650 feet of a property that contains a group home, sober living home or state-licensed drug and alcohol treatment faciltity; and an application requesting approval of Conditional Use Permit PA-17-10 to allow the subject sober living facility to serve up to 35 male adults with 10 live-in managers within five existing units; and

WHEREAS, the City of Costa Mesa recognizes that while not in character with residential neighborhoods, when operated responsibly, group homes, including sober living homes and drug and alcohol treatment facilities, provide a societal benefit by providing disabled persons as defined by state and federal law the opportunity to live in residential neighborhoods, as well as providing recovery programs for individuals attempting to overcome their drug and alcohol addictions; therefore, providing greater access to residential zones to group homes, including sober living homes and drug and alcohol treatment facilities, than to boardinghouses or any other type of group living that provides a benefit to the City and its residents; and

WHEREAS, the City of Costa Mesa has adopted standards for the operation of group homes, residential care facilities and state-licensed drug and alcohol facilities that are intended to provide opportunities for disabled persons, as defined by state and federal law to enjoy comfortable accommodations in a residential setting; and

WHEREAS, the City of Costa Mesa has found that congregating drug and alcohol treatment facilities and sober living homes in close proximity to each other does not provide disabled persons as defined in state and federal law with an opportunity to "live in normal residential surroundings," but rather places them into living environments bearing more in common with the types of institutional/campus/dormitory living that the FEHA and FHAA were designed to provide relief from for the disabled, and which no reasonable person could contend provides a life in a normal residential surrounding; and

WHEREAS, the City of Costa Mesa has determined that a separation requirement for such facilities will still allow for a reasonable market for the purchase and operation of drug and alcohol treatment and sober living facilities within the City and still result in preferential treatment for sober living and drug and alcohol treatment facilities in that non-disabled individuals in a similar living situation (i.e., in boardinghouse-style residences) have fewer housing opportunities than disabled persons; and

WHEREAS, the City of Costa Mesa has determined that a group home, sober living home or state-licensed drug and alcohol treatment faciltity shall be operated on a single parcel of land; and

WHEREAS, the Applicant filed an application with the City's Director of Economic and Development Services (the "Director") requesting an accommodation from the Costa Mesa Municipal Code including the requirement that a group home, residential care facility or state licensed drug and alcohol facility is at least 650 feet from another property that contains a group home, sober living home or state licensed drug and alcohol treatment facility, as well as a request to deviate from various zoning code requirements including separation requirements the requirement to have a house manager; the need for occupants ot be actively participating in legitimate recovery programs; rules regarding use of drugs and alcohol by residents and visitors; and the requirement for a good neighbor policy as well as from single housekeeping unit standards; and

WHEREAS, the request for a Reasonable Accommodation and the Conditional Use Permit application were processed in the time and manner prescribed by federal, state and local laws, and the Director denied the request for the Reasonable Accommodation in a letter dated November 27, 2017; and

WHEREAS, the Applicant appealed the Director's decision to deny a Reasonable Accommodation on November 29, 2017; and

WHEREAS, on February 11, 2019 the Planning Commission conducted a duly noticed public hearing, at which time interested persons had an opportunity to testify either in support of or in opposition to the application and voted to deny the application; and

WHEREAS, the Applicant appealed the decision of the Planning Commission in a timely manner; and

WHEREAS, a duly noticed public hearing was held by the City Council on August 6, 2019, with all persons have the opportunity to speak for or against the proposal.

BE IT RESOLVED, therefore, that based on the evidence in the record and the findings contained in this resolution, the City Council hereby **UPHOLDS THE PLANNING COMMISSION'S DECISION AND DENIES** the Applicant's request for Reasonable Accommodation and Conditional Use Permit PA-17-10.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 6th day of August, 2019.

Katrina Foley, Mayor

ATTEST:

Brenda Green, City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 19-41 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of August, 2019, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: CHAVEZ, GENIS, REYNOLDS, MANSOOR, MARR, STEPHENS, FOLEY

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of August, 2019.

Brenda Green

Brenda Green, City Clerk

EXHIBIT A

FINDINGS FOR DENIAL

The City's evidence consists of a staff report with attachments. The staff report provided the factual background, legal analysis and the City's analysis supporting the denial of the Applicant's request for a Reasonable Accommodation and the Conditional Use Permit, based on the Applicant not meeting its burden to demonstrate compliance with all required findings per the Costa Mesa Municipal Code (CMMC).

A. The subject property is located approximately 550 feet from a sober living facility at 165 East Wilson Street. The City approved a Conditional Use Permit (CUP) in 2016 for this facility (PA-16-03). The Applicant applied for Reasonable Accommodation on October 27, 2017 to allow the subject sober living facility to be located within 650 feet of the existing sober living facility (the Applicant's letter was dated September 12, 2017 but was received by the City on October 27, 2017). The CUP application was received for Unit E on March 23, 2017 with CUP applications for the remainder of the units received between October 27, 2017 and December 5, 2017. The applicant's request for a Reasonable Accommodation to allow this sober living facility to be located within 650 feet of the sober living facility was denied by the Director of Economic and Development Services on November 27, 2017. The applicant appealed the request on November 29, 2017, but gave no reasons for the appeal. On February 11, 2019, Planning Commission upheld the Director's denial of the requested Reasonable Accommodation.

B. The Application does not meet the findings required by the Costa Mesa Municipal Code for approval of a Reasonable Accommodation:

- *The requested accommodation is necessary to provide one or more individuals with a disability with an equal opportunity to use and enjoy a dwelling.*

  The City recognizes that, while not in character with the residential neighborhoods, when operated responsibly, group homes, including sober living homes, provide a societal benefit by providing disabled persons the opportunity to live in residential neighborhoods. These facilities provide recovery programs for individuals attempting to overcome their drug and alcohol addictions. The City has established separation criteria to ensure that an overconcentration of sober living homes and licensed drug and alcohol treatment facilities does not occur in any neighborhood, thereby, preserving the residential character for all who choose to reside there.

  The application established that the waiver of the separation requirement would allow one or more individuals who are recovering from drug and alcohol abuse to enjoy the use these dwellings. However, approval of the request is not necessary to allow one or more individuals who are recovering from drug and alcohol abuse to enjoy the use of a dwelling within the City.

The operation of a group home is inconsistent with the City's definition of a single housekeeping unit. The City has established procedures to allow group homes in residential neighborhoods; allowing a group to be considered a single housekeeping unit is not necessary to allow the disabled to reside in residential neighborhoods.

The City has adopted standards for sober living homes and licensed treatment facilities in residential zones to ensure the disabled have the opportunity to live in a typical residential neighborhood. The permit process ensures that sober living homes and licensed treatment facilities comply with the City's standards. The City specifically required all existing group homes to comply with the new regulations within one year. The applicant's letter failed to provide a basis to "grandfather" this facility when all other facilities in operation at the time the regulations were adopted are also required to comply.

- *The requested accommodation is consistent with the surrounding uses in scale and intensity of use.*

The subject facility does not operate as a single housekeeping unit, or even five single housekeeping units, making it dissimilar to the composition of households on surrounding properties. The facility is occupied solely by adults at a higher occupancy than is typical in Costa Mesa. Each resident is allowed to keep a car on the property. With 35 residents and 10 onsite managers, the facility provides opportunities for parking conflicts with owners of nearby properties who also rely on on-street parking. The City's intent in adopting its group home regulations was to ensure an overconcentration of group homes did not occur in any neighborhood. The facility would contribute to overconcentration given that it includes five units on five individual lots.

- *Whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability and equal opportunity to live in a residential setting.*

The City has received applications for 64 sober living homes and 11 licensed treatment facilities that are subject to compliance with Ordinance Nos. 14-13 and 15-11. Twelve sober living homes serving six or fewer residents have been approved by the City, and two sober living homes serving seven or more residents have been approved by the City. In addition, there are 74 existing state licensed drug and alcohol facilities in Costa Mesa that are exempt from City regulation, or have already obtained the required Conditional Use Permit. No evidence has been submitted to indicate that the number of sober living homes and drug and alcohol residential care facilities existing or potentially allowed in compliance with the City's standards is inadequate.

- *The requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program.*

Ordinance 15-11 established requirements for sober living homes, group homes, and licensed drug and alcohol treatment facilities in multi-family zoning districts. When the City Council adopted this ordinance, it specifically included a provision requiring a separation of at least 650 feet between such facilities. The intent of this limitation is to ensure that sober living and drug and alcohol treatment facilities do not occupy a disproportionate number of homes in any neighborhood, and to avoid overconcentration of sober living and drug and alcohol treatment facilities in any area. The City also sought to ensure that disabled persons recovering from an addiction can reside in a comfortable residential environment versus in an institutional setting. The City determined that housing inordinately large numbers of unrelated adults in a single dwelling or congregating sober living and drug and alcohol treatment facilities in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings" but, rather, places them into living environments bearing more in common with the types of institutional/campus/dormitory living that the state and federal laws were designed to avoid. The subject property consists of five units on five individual lots, which already contributes to an overconcentration of sober living homes in the area. The site's proximity to another sober living home serving more than six adults contributes to an overconcentration of sober living facilities in this neighborhood. Granting the accommodation to consider this facility as a single housekeeping unit and/or waive the separation standard will result in an overconcentration of sober living facilities in this area that is in conflict with the intent of the City's zoning program.

When the City adopted Ordinance 15-11, it specifically included provisions requiring all existing group home operators to come into compliance with the new regulations within one year of their adoption. The ordinance did not create or recognize any previously legally existing non-licensed group homes and/or group homes with 7 or more residents as uses that would be considered nonconforming. Given the intent of the ordinance, it is not appropriate to grant the reasonable accommodation to allow the subject facility to be "grandfathered" and exempted from compliance with current regulations.

The application for reasonable accommodation failed to justify any reason to waive compliance with the provisions of Section 9-374(b)(11) of the CMMC that require the applicant to have a house manager; ensure all occupants, other than the house manager, are actively participating in legitimate recovery programs; prohibit the use of any alcohol or non-prescription drugs by any recovering addict; have a policy regarding use and storage of prescription medications; post house rules in a common area inside the dwelling unit; prohibit visitors who are under the influence of any drug or alcohol; and maintain a good neighbor policy.

C. The Application does not meet the findings required by the Costa Mesa Municipal Code for approval of a Conditional Use Permit:

- *The proposed use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.*

The facility consists of five units on five parcels with a common lot to hold the project as a common interest development. Approval of this request will allow up to 45 adults to occupy the site. With the exception of minimum required lot width requirements, the site satisfies all applicable development standards.

The proposed occupancy of these units constitutes overcrowding pursuant to the Housing Element of the General Plan, page HOU-23, which states:

> Overcrowding is defined as a housing unit occupied by more than one person per room. A severely overcrowded housing unit is one with more than 1.5 persons per room. A room is defined as a bedroom, living room, dining room, or finished recreation room, but excludes kitchen and bathroom.

This definition is consistent with the Federal HUD standards, which generally define "overcrowding" to mean housing units with 1.01 or more persons per room. See 42 USCS § 5302(a)(10). Under this standard, all the units would be overcrowded.

The subject property is located within approximately 550 feet of a sober living facility located at 165 East Wilson Street. This facility is licensed to serve 11 adults and was issued a CUP by the City in 2016 (PA-16-03).

Allowing multiple group homes, sober living homes and/or state-licensed drug and alcohol treatment facilities to cluster in residential neighborhoods effects a fundamental change to the residential character of the neighborhood. Overconcentration of drug and alcohol treatment facilities and group homes changes the residential character of a neighborhood to one that is far more institutional in nature. Strong evidence exists that a supportive living environment in a residential neighborhood provides more effective recovery than an institutional-style environment. The City's zoning regulations address overconcentration and secondary effects of drug and alcohol treatment facilities. The goal of the regulations is to provide the disabled with an equal opportunity to live in a residential neighborhood, while maintaining the residential character of existing neighborhoods. Housing 40 to 45 residents in five units which operate as an integral facility is not in keeping with the residential character of the neighborhood.

The operator of a group home may request reasonable accommodation when compliance with all of the standards is not possible. Section 13-200.62 (f) of the Zoning Code sets forth the required findings to be used in the determination to approve, conditionally approve, or deny a request for reasonable accommodation. The Code specifies that all findings must be made in order to approve such a request. The findings to deny this requested accommodation were enumerated above.

The CMMC establishes criteria for approval of group homes in multi-family zones. Group homes serving disabled persons as defined by state and federal law are not considered to be boardinghouses. Rather, these facilities offer disabled persons the opportunity to live in residential neighborhoods in compliance with state and federal laws. Recovering alcoholics and drug addicts, who are not currently using alcohol or drugs, are considered disabled under state and federal law. Standards for large group homes are set forth in the Zoning Code. The intent of the regulations is to preserve the residential character of the City's neighborhoods while providing opportunities for the disabled to live in comfortable residential surroundings.

The City adopted standards for group homes in response to a proliferation of drug and alcohol treatment facilities in the community. The City found that an overconcentration of sober living homes and drug and alcohol treatment facilities in the City's residential neighborhoods could be deleterious to the residential character of these neighborhoods and could also lead to the institutionalization of such neighborhoods. Drug and alcohol treatment facilities and sober living homes generally do not function as a single housekeeping unit because they house extremely transient populations; the residents generally have no established ties to each other when they move in and typically do not mingle with other neighbors; the residents have little to no say about who lives or doesn't live in the home; the residents do not generally share expenses; the residents are often responsible for their own food, laundry and phone; when residents disobey house rules they are often just evicted from the house; and the residents generally do not share the same acquaintances. The City found that the size and makeup of the households in drug and alcohol treatment facilities is dissimilar and larger than the norm, creating impacts on water, sewer, roads, parking and other City services that are far greater than the average household. In addition, all the individuals residing in a drug and alcohol treatment facility are generally over the age of 18, while the average household in Costa Mesa has just 2.2 individuals over the age of 18.

Because of their transient populations, above-normal numbers of individuals/adults residing in a single dwelling and the lack of regulations, drug and alcohol treatment facilities and sober living homes present problems not typically associated with more traditional residential uses. These issues may include the housing of large numbers of unrelated adults who may or may not be supervised; disproportionate numbers of cars associated with a single housing unit, which causes disproportionate traffic and utilization of on-street parking; excessive noise and outdoor smoking, which interferes with the use and enjoyment of neighbors'

properties; neighbors who have little to no idea who does and does not reside in the home; little to no participation by residents in community activities that form and strengthen neighborhood cohesion; disproportional impacts from the average dwelling unit to nearly all public services including sewer, water, parks, libraries, transportation infrastructure, fire and police; a history of residents congregating in the same general area; and the potential influx of individuals with a criminal record.

Nevertheless, the City recognizes that while not in character with residential neighborhoods, when operated responsibly, group homes, including drug and alcohol treatment facilities, provide a societal benefit by providing disabled persons the opportunity to live in residential neighborhoods. These facilities also provide recovery programs for individuals attempting to overcome their drug and alcohol addictions. The City's regulations provide group homes, including sober living homes and licensed drug and alcohol treatment facilities, greater access to residential zones than to boardinghouses or other types of group living arrangements. This favorable access for group homes provides a benefit to the City and its residents.

In response to the needs and concerns described above, the City established a minimum separation of 650 feet between group homes, residential care facilities and/or state-licensed drug and alcohol facilities. The City found that a separation requirement will still allow for a reasonable market for the purchase and operation of sober living homes and drug and alcohol treatment facilities within the City. The requirement will still result in preferential treatment for sober living homes and drug and alcohol treatment facilities in that non-disabled individuals in a similar living situation (i.e., in boardinghouse-style residences) have fewer housing opportunities than the disabled. The City determined that housing inordinately large numbers of unrelated adults in a single dwelling or congregating sober living homes and drug and alcohol treatment facilities in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings," but rather places them into living environments bearing more in common with the types of institutional/campus/dormitory living that the state and federal laws were designed to provide them relief from.

The Federal Housing Act Amendments (FHAA), 42 U.S.C. § 3601 et seq., provide that a city "commits discrimination under the FHAA if it refuses to make reasonable accommodations in rules, policies, practices, or services, when such accommodation may be necessary to afford [the disabled] equal opportunity to use and enjoy a dwelling." Budnick v. Town of Carefree, 518 F.3d 1109, 1119 (9th Cir. 2008).

The FHAA requires a city to provide a requested accommodation if such accommodation "(1) is reasonable, and (2) necessary, (3) to afford a handicapped person the equal opportunity to use and enjoy a dwelling." Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F.3d 775, 783 (7th Cir. 2002); 42 U.S.C. § 3604(f)(3)(B).

The applicant requested relief from the Zoning Code requirement that a sober living home or drug and alcohol treatment facility be located at least 650 feet from another property that contains a group home, sober living home or state-licensed drug and alcohol treatment facility. The request for a Reasonable Accommodation was denied by the Director of Development Services on November 27, 2017 because another sober living or drug and alcohol treatment facility exists within 650 feet of the subject property. The applicant appealed the decision on November 29, 2017 but gave no reason for the appeal.

The facility is located within approximately 550 feet of a City-approved sober living facility serving 11 occupants at 165 East Wilson Street, approved under PA-16-03.

The facility contributes to overconcentration and does not comply with the City's adopted standards for separation between group homes, residential care facilities and state-licensed drug and alcohol facilities. Further, pursuant to CMMC Section 13-323(b), the Planning Commission and the City Council did not find that approval of this CUP application would not result in an overconcentration of sober living homes and licensed treatment facilities in this neighborhood.

- *Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.*

The City has found that overconcentration of sober living homes, drug and alcohol treatment facilities, and other group homes changes the character of a residential neighborhood to one that is more institutional in nature. This change in neighborhood character can compound secondary effects related to noise, traffic, and parking. In these neighborhoods, street life is often characterized by large capacity vans picking up and dropping off residents and staff; staff in scrubs carrying medical kits going from unit to unit, and vans dropping off prepared meals in large numbers. The City has experienced frequent Fire Department deployments in response to medical aid calls. In some neighborhoods, Police Department deployments are a regular occurrence as a result of domestic abuse calls, burglary reports, disturbing the peace calls and parole checks at drug and alcohol treatment facilities. Large and often frequent Alcoholics Anonymous or Narcotics Anonymous meetings are held at some drug and alcohol treatment facilities. Attendees of these meetings contribute to the lack of available on-street parking and neighbors report finding an unusual amount of litter and debris, including beverage containers, condoms and drug paraphernalia in the wake of these meetings. These types of impacts have been identified in other communities as well. The facility will contribute to the overconcentration of sober living and drug and alcohol treatment facilities in this neighborhood, which could lead to negative impacts in the neighborhood. Code Enforcement has already received a complaint alleging trash and cigarettes in the alley abutting this site.

There are only 20 parking spaces on the site available to serve 35 adults as well as the 10 on-site managers. Approval of this CUP could result in conflicts with residents of nearby properties for the use of on-street parking spaces.

- *Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.*

  The proposed use is consistent with the City's General Plan. However, an overconcentration of group homes, sober living homes and licensed treatment facilities for alcohol and drug addiction is not consistent with the General Plan. The City's regulations are intended to preserve the residential character of the City's neighborhoods. The City Council has determined that an overconcentration of drug and alcohol treatment facilities would be detrimental to the residential character of the City's neighborhoods. The proposed facility is located within 650 feet of another sober living or drug and alcohol treatment facility, contributes to overconcentration, and is therefore, not consistent with the intent of the General Plan.

D. The Costa Mesa City Council has denied the requested Reasonable Accommodation and Conditional Use Permit PA-17-10. Pursuant to Public Resources Code Section 21080(b) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.

E. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT 15

CITY OF COSTA MESA
P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628 - 1200

DEVELOPMENT SERVICES DEPARTMENT

November 27, 2017

SENT VIA ELECTRONIC & US MAIL

Steven G. Polin, Esq.
Attorney at Law
3034 Tennyson St. NW
Washington, D.C. 20015

Email: spolin2@earthlink.net

Subject: Reasonable Accommodation for The Ohio House Located at 115 E. Wilson, Units A through E, in Costa Mesa; Conditional Use Permit PA-17-10 filed by Edie Johnson and Brandon Stump

Dear Mr. Polin,

The City is in receipt of your letter dated September 12, 2017, requesting a reasonable accommodation. Please be advised that the City has no record of receiving this letter until October 27, 2017, when a paper copy was submitted to the City by the applicant.

Your request asks the City to treat the residents of The Ohio House facility captioned above as a "single housekeeping unit" and to treat the use of this property as a single family use, or grandfather the use of the property, or deem the use to be legal nonconforming. Your letter also requests an accommodation to allow this facility to be located within 650 feet of another facility providing services to those in recovery from addiction to drugs and/or alcohol. Finally, your letter requests a waiver of certain requirements of the Costa Mesa Municipal Code (CMMC) addressing the size of group homes; the requirement to have a house manager; the need for occupants to be actively participating in legitimate recovery programs; rules regarding use of drugs and alcohol by residents and visitors; and the requirement for a good neighbor policy.

Section 13-6 of the CMMC defines a single housekeeping unit as a unit where *"occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, and expenses and responsibilities; membership in the single housekeeping unit is fairly stable as opposed to transient, members have some control over who becomes a member of the household,*

and the residential activities of the household are conducted on a nonprofit basis. There is a rebuttable presumption that integral facilities do not constitute single housekeeping units. Additional indicia that a household is not operating as a single housekeeping unit include but are not limited to: the occupants do not share a lease agreement or ownership of the property; members of the household have separate, private entrances from other members; members of the household have locks on their bedroom doors; members of the household have separate food storage facilities, such as separate refrigerators."

The house rules submitted as part of the Operator's Permit for this property make it clear that the facility is not operated as a Single Housekeeping Unit as defined above.

- Residents purchase and prepare their own food. Each resident has a designated area for food storage.
- Daily chores are assigned by the house manager.
- Rent is collected from each resident.
- The rental agreement covers one month, indicating that membership in the household is transient.
- Visitors must be approved by the Facility Manager.
- Residents must take direction from the staff.
- Occupancy of the units is determined by The Ohio House staff, not the residents of the facility.

The CMMC specifies that a minimum separation of 650 feet shall be provided between group homes, residential care facilities and/or state licensed drug and alcohol facilities. The subject property is within approximately 500 feet of a sober living facility located at 165 E. Wilson. This facility has an existing CUP (PA-16-03) to serve more than six individuals and is located on the same street as the subject property, one block to the east.

Requirements of Section 13-311 of the CMMC are cited in your letter. However, this section of the Code applies to the operation of group homes located in single-family zones. The subject property is located in the R2-MD zoning district. Therefore, the regulations set forth in Section 9-374 of the CMMC regarding Operator's Permits apply to the property. Many of the requirements for operation of group homes in single family zones also apply to those operated in multi-family zones.

In single family zones, the size of a group home is limited to six or fewer occupants, not counting the house manager. In a multi-family zone, there is no such limitation on the number of residents in a group home, except that those serving seven or more residents are required to obtain a conditional use permit (CUP). Therefore, there is no need for the City to waive the provisions regarding the size of a group home, as requested in your letter.

The operator of a group home may request reasonable accommodation when compliance with all City standards is not possible. Section 13-200.62 (f) of the Zoning Code sets forth the required findings to be used in the determination to approve, conditionally approve, or

deny a request for reasonable accommodation. The Code specifies that all findings must be made to approve such a request. Based on the information submitted, the City cannot approve any of your requests for reasonable accommodation, as all the required findings described below cannot be made.

- *The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under the fair housing laws.*

  I accept that this application was submitted on behalf of persons who are considered disabled under state and federal law.

- *The requested accommodation is necessary to provide one (1) or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

  The application explains the benefits of allowing those recovering from alcoholism and substance abuse to live in a setting that offers a self-paced recovery option that provides sufficient time for personal psychological growth while avoiding the use of alcohol and other substances. The City recognizes that while not in character with residential neighborhoods, when operated responsibly, group homes, including sober living homes, provide a societal benefit by providing disabled persons the opportunity to live in residential neighborhoods. These facilities provide recovery programs for individuals attempting to overcome their drug and alcohol addictions. The City has established separation criteria to ensure that an overconcentration of sober living homes and licensed drug and alcohol treatment facilities does not occur in any neighborhood, thereby, preserving the residential character for all who choose to reside there.

  The application established that the waiver of the separation requirement would allow one or more individuals who are recovering from drug and alcohol abuse to enjoy the use of <u>these</u> dwellings. However, approval of the request is not necessary to allow one or more individuals who are recovering from drug and alcohol abuse to enjoy the use of <u>a</u> dwelling within the City.

  The operation of a group home is inconsistent with the City's definition of a single housekeeping unit. The City has established procedures to allow group homes in residential neighborhoods; allowing a group home to be considered as a single housekeeping unit is not necessary to allow the disabled to reside in residential neighborhoods.

  The City has adopted standards for sober living homes and licensed treatment facilities in residential zones to ensure the disabled have the opportunity to live in a typical residential neighborhood. The permit process ensures that sober living homes and licensed treatment facilities comply with the City's standards. The City specifically required all existing group homes to comply with the new regulations within one year. Your letter fails to provide a basis to "grandfather" this facility when all other facilities in operation at the time the regulations were adopted are also required to comply.

- *The requested accommodation will not impose an undue financial or administrative burden on the city, as "undue financial or administrative burden" is defined in fair housing laws and interpretive case law.*

  There is no evidence that approval of this request will impose an undue financial or administrative burden on the City.

- *The requested accommodation is consistent with surrounding uses in scale and intensity of use.*

  The subject facility does not operate as a single housekeeping unit, or even five single housekeeping units, making it dissimilar to the composition of households on surrounding properties. The facility is occupied solely by adults at a higher occupancy than is typical in Costa Mesa. Each resident is allowed to keep a car on the property, providing opportunities for parking conflicts with owners of nearby properties who also rely on on-street parking. The City's intent in adopting its group home regulations was to ensure an overconcentration of group homes did not occur in any neighborhood. The facility would contribute to overconcentration given that it includes five units on five individual lots.

- *The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

  There is no evidence that approval of this request would result in a direct threat to the health or safety of anyone, or substantial physical damage to the property of others.

- *If economic viability is raised by the applicant as part of the applicant's showing that the requested accommodation is necessary, then a finding that the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants generally, not just for that particular applicant.*

  The applicant did not cite economic viability as a factor in requesting an accommodation to consider the facility as a single housekeeping unit, or to waive the separation standard between facilities serving those in recovery. No economic justification was provided to justify the waiver of compliance with other standards that apply to all sober living homes.

- *Whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

The City has received applications for 66 sober living homes and 11 licensed treatment facilities that are subject to compliance with Ordinance Nos. 14-13 and 15-11. Twelve (12) sober living homes serving six or fewer residents have been approved by the City, and one sober living home serving 13 men has been approved. In addition, there are 63 state-licensed drug and alcohol residential treatment facilities in Costa Mesa that are not subject to the Special Use Permit requirements, or have already obtained the required conditional use permit. No evidence has been submitted to indicate that the number of sober living homes and drug and alcohol facilities existing or potentially allowed in compliance with the City's standards is inadequate.

- *The requested accommodation will not result in a fundamental alteration in the nature of the city's zoning program.*

Ordinance 15-11 established requirements for sober living homes, group homes and licensed drug and alcohol treatment facilities in multi-family zoning districts. When the City Council adopted this ordinance, it specifically included a provision requiring a separation of at least 650 feet between such facilities. The intent of this limitation is to ensure that sober living facilities do not occupy a disproportionate number of homes in any neighborhood, and to avoid overconcentration of sober living units in any area. The City also sought to ensure that disabled persons recovering from addiction can reside in a comfortable residential environment versus in an institutional setting. The City determined that housing inordinately large numbers of unrelated adults in a single dwelling or congregating sober living homes in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings," but rather places them into living environments bearing more in common with the types of institutional/campus/dormitory living that the state and federal laws were designed to avoid. The subject property consists of five units on five individual lots, which already contributes to an overconcentration of sober living homes in the area. The site's proximity to another sober living home serving more than six adults contributes to an overconcentration of sober living facilities in this neighborhood. Granting the accommodation to consider this facility as a single housekeeping unit, and/or to waive the separation standard, will result in an overconcentration of sober living facilities in this area.

When the City adopted Ordinance 15-11, it specifically included provisions requiring all existing group home operators to come into compliance with the new regulations within one year of their adoption. The ordinance did not create or recognize any nonconforming uses. Given the intent of the ordinance, it is not appropriate to grant your requested accommodation to be "grandfathered" and exempt from compliance with the current regulations.

The application for reasonable accommodation failed to justify any reason to waive compliance with the provisions of Section 9-374(b)(11) of the CMMC that require the applicant to have a house manager; ensure all occupants, other than the house manager, are actively participating in legitimate recovery programs; prohibit the use

of any alcohol or non-prescription drugs by any recovering addict; have a policy regarding use and storage of prescription medications; post house rules in a common area inside the dwelling unit; prohibit visitors who are under the influence of any drug or alcohol; and maintain a good neighbor policy.

The City carefully crafted regulations to allow group homes, including sober living homes and licensed treatment facilities, to be located in residential neighborhoods. The intent of these regulations is to ensure that facilities maintain compatibility with the residential neighborhood in which they are situated, and to ensure that the disabled are able to live in normal residential settings. The approval of this request will contribute to an overconcentration of sober living units in this neighborhood. The application did not include adequate information to allow me to make all of the required findings set forth in the CMMC. Therefore, your request for a reasonable accommodation has been denied.

This determination may be appealed. An appeal must be filed with the City Clerk within seven (7) days of the date of this decision. A fee of $1,220.00 must accompany an appeal. If no appeal is filed by 5:00 p.m. on December 4, 2017, this decision shall be final.

Please contact Sheri Vander Dussen, consultant to the City, at (714)754-5230 if you have any questions regarding this decision or the appeal process.

Sincerely,

Barry Curtis, AICP
Economic and Development Services Director

c: Brandon Stump, The Ohio House
234 2nd St., Huntington Beach, CA 92648
Tarquin Preziosi, Assistant City Attorney
Katie Angel, Management Analyst
Sheri Vander Dussen, Consultant
File: PA-17-10

EXHIBIT 16

SUD Recovery Treatment Facilities from California Department of Health Care Services website

Record_ID	Legal Name	Program Name	Facility Address	Type of Application	Service Type	Resident Capacity	Target Population
300067AP	NANCY CLARK AND ASSOCIATES, INC.	THE RECOVERY CENTER	1110 VICTORIA STREET	Licensed	**RES**	38	CO-ED
300121AN	YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.	YELLOWSTONE, WROC	3132 BOSTON WAY	Licensed	**RES**	13	MEN ONLY
300121LN	YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.	YELLOWSTONE RECOVERY - EAST HOUSE	590 TRAVERSE DRIVE	Licensed	**RES**	6	CO-ED
300270CP	HOTEL CALIFORNIA BY THE SEA, LLC	HOTEL CALIFORNIA BY THE SEA, LLC	1509 ORANGE AVENUE, #A	Licensed	**RES**	6	CO-ED
300270DP	HOTEL CALIFORNIA BY THE SEA, LLC	HOTEL CALIFORNIA BY THE SEA	317 ROCHESTER STREET	Licensed	**RES**	6	CO-ED
300007LN	NEW DIRECTIONS FOR WOMEN, INC.	NEW DIRECTIONS FOR WOMEN	2601, 2603, 2607 WILLO LANE and 334 UNIVERSITY AVE	Licensed	**RES-DETOX**	36	WOMEN ONLY
300012BN	SOUTH COAST COUNSELING, INC.	SOUTH COAST COUNSELING, INC.	693 PLUMER STREET	Licensed	**RES-DETOX**	15	CO-ED
300043BP	ASANA RECOVERY	ASANA RECOVERY	3062 JOHNSON AVENUE	Licensed	**RES-DETOX**	6	CO-ED
300121FN	YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.	THE YELLOWSTONE BRIDGE	2028 FULLERTON AVENUE, Units A, B & C	Licensed	**RES-DETOX**	16	CO-ED
300121BN	YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.	YELLOWSTONE (WOMEN'S RECOVERY OF CALIFORNIA)	154, 160 EAST BAY STREET	Licensed	**RES-DETOX**	12	CO-ED
300313JP	SOUTH COAST BEHAVIORAL HEALTH	SOUTH COAST BEHAVIORAL HEALTH	559 PIERPONT DRIVE	Licensed	**RES-DETOX**	6	CO-ED
300313MP	SOUTH COAST BEHAVIORAL HEALTH	SOUTH COAST BEHAVIORAL HEALTH	3125, 3129 PIERCE AVE	Licensed	**RES-DETOX**	12	CO-ED
300326BP	CASA CAPRI LLC	CASA CAPRI RECOVERY	671, 675, 679, 687 GOVERNOR STREET	Licensed	**RES-DETOX**	24	WOMEN ONLY
300382BP	KKB HEALTH SOLUTIONS, LLC	CLEAR LIFE RECOVERY	2822 MONTEREY AVENUE	Licensed	**RES-DETOX**	6	CO-ED
300394BP	TEAGLE HALL LLC	WINDWARD WAY RECOVERY	395 VICTORIA STREET	Licensed	**RES-DETOX**	6	CO-ED
300394CP	TEAGLE HALL LLC	WINDWARD WAY RECOVERY	2136 THURIN STREET, Unit B	Licensed	**RES-DETOX**	6	CO-ED
300394FP	TEAGLE HALL LLC	WINDWARD WAY RECOVERY	2136 THURIN STREET, Unit A	Licensed	**RES-DETOX**	6	CO-ED
300394DP	TEAGLE HALL LLC	WINDWARD WAY RECOVERY	2137 DOCTORS CIRCLE, Unit A	Licensed	**RES-DETOX**	6	CO-ED

Record_ID	Legal Name	Program Name	Facility Address	Type of Application	Service Type	Resident Capacity	Target Population
300394EP	TEAGLE HALL LLC	WINDWARD WAY RECOVERY	2137 DOCTORS CIRCLE, Unit B	Licensed	***RES-DETOX***	6	CO-ED
300412BP	RECOVERY SOLUTIONS, LLC	SADDLEBACK RECOVERY	209, 211 E. 18TH STREET	Licensed	***RES-DETOX***	12	CO-ED
300028AP	OPUS HEALTH, LLC	OPUS HEALTH, LLC	925 VICTORIA STREET and 2738 LORENZO AVE	Licensed and Certified	***RES-DETOX***	12	CO-ED
300043DP	ASANA RECOVERY	ASANA RECOVERY	3073 MADISON AVE	Licensed and Certified	***RES-DETOX***	6	FAMILIES
300154RP	SAFE HARBOR TREATMENT CENTER FOR WOMEN, INC.	THE HARBOR	240 KNOX STREET	Licensed and Certified	***RES-DETOX***	6	CO-ED
300154NP	SAFE HARBOR TREATMENT CENTER FOR WOMEN, INC.	SAFE HARBOR TREATMENT CENTER FOR WOMEN, INC.	546, 548, 550A, 550B BERNARD STREET	Licensed and Certified	***RES-DETOX***	20	CO-ED
300154SP	SAFE HARBOR TREATMENT CENTER FOR WOMEN, INC.	SAFE HARBOR TREATMENT CENTER	236 KNOX STREET	Licensed and Certified	***RES-DETOX***	6	CO-ED
300269AP	DIVINE BLISS	THE HO TAI WAY	1219 PARNELL PLACE	Licensed and Certified	***RES-DETOX***	6	CO-ED
300297CP	AKUA BEHAVIORAL HEALTH, INC.	AKUA MIND & BODY	369 RALCAM PLACE	Licensed and Certified	***RES-DETOX***	6	CO-ED
300394AP	TEAGLE HALL LLC	WINDWARD WAY RECOVERY	316 HAMILTON STREET	Licensed and Certified	***RES-DETOX***	6	CO-ED
300423AP	JJLT HOLDINGS LLC	OCEAN COAST RECOVERY CENTER	1799 HUMMINGBIRD DRIVE	Licensed and Certified	***RES-DETOX***	6	DUAL DIAGNOSIS
300438AP	EMBRACE TREATMENT LLC	EMBRACE TREATMENT LLC	1912 SUMBA CIRCLE	Licensed and Certified	***RES-DETOX***	6	CO-ED
300647AP	AKUA BEHAVIORAL HEALTH, INC.	AKUA MIND & BODY	326, 328 UNIVERSITY DRIVE	Licensed and Certified	***RES-DETOX***	12	MEN ONLY
300647CP	AKUA BEHAVIORAL HEALTH, INC.	AKUA MIND & BODY	319- A UNIVERSITY DR.	Licensed and Certified	***RES-DETOX***	6	CO-ED
300647DP	AKUA BEHAVIORAL HEALTH, INC.	AKUA MIND & BODY	319- B UNIVERSITY DR.	Licensed and Certified	***RES-DETOX***	6	CO-ED
300778BP	RENU HEALTHCARE, LLC	RENU HEALTHCARE	1008 W WILSON ST., Suite B	Licensed and Certified	***RES-DETOX***	6	CO-ED
300778AP	RENU HEALTHCARE, LLC	RENU HEALTHCARE	1008 W WILSON ST, Suite B	Licensed and Certified	***RES-DETOX***	6	CO-ED
300626EP	ELITE CARE, INC.	BEGINNINGS TREATMENT CENTERS	930, 934 MAGELLAN STREET	Licensed	***RES-DETOX***	12	CO-ED

EXHIBIT 17

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE OHIO HOUSE LLC,
Plaintiff,
vs.
CITY OF COSTA MESA, a
Defendant.

CASE NO. 8:19-cv-01710-JVS GJS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INSIGHT PSYCHOLOGY AND ADDICTION, INC., et al.,
Plaintiffs,
vs.
CITY OF COSTA MESA, et al.,
Defendants,

AND RELATED ACTION.

CASE NO. 8:20-cv-00504-JVS (JDEx)

Videotaped/Videoconferenced Deposition of NANCY CLARK, taken on behalf of Insight Psychology and Addiction, Inc., Mary Helen Beatificato, Gerald Grosso, and Ohio House, commencing at 9:39 a.m. and ending at 3:26 p.m. on Monday, November 15, 2021, before LAURA L. CORNING, Federal Certified Realtime Reporter, Certified Shorthand Reporter No. 8363.

Irvine, California

Monday, November 15, 2021

9:39 a.m. - 3:26 p.m.

(At this time Ms. Beatificato was not present in the Zoom deposition proceedings.)

PLEASE BE ADVISED THAT THE DISMANTLING AND/OR UNBINDING OF THE ORIGINAL TRANSCRIPT WILL VOID THE CERTIFICATION OF THE CERTIFIED SHORTHAND REPORTER, FEDERAL CERTIFIED REALTIME REPORTER, AND NULLIFY THE INTEGRITY OF THE ORIGINAL TRANSCRIPT.

THE VIDEOGRAPHER: We're on the record. My name is Gary Wade. I am a videographer employed by Wade Enterprises located at 166 North Eckoff Street, Orange, California. This is the video recording of the deposition of Nancy Clark. We are starting at approximately 9:39 a.m. on November 15th, 2021 via remote videoconference. This is the matter of Insight Psychology and Addiction, Inc., et al., versus City of Costa Mesa, et al., and The Ohio House versus City of Costa Mesa. Case numbers are 8:20-cv-00504-JVS (JDEx) and Case Number 8:19-cv-01710-JVS GJS. This deposition is taken on behalf of the plaintiff.

May we have the introductions beginning with

the witness? Can you please state your name.

THE WITNESS: Nancy Clark.

THE VIDEOGRAPHER: Thank you.

Counsel?

MR. LEE: This is Christopher Lee on behalf of the City of Costa Mesa.

MS. PATTERSON: Ms. Anderson, do you want to introduce yourself? Okay. I'll go next.

Good morning. Alisha Patterson, Rutan and Tucker, on behalf of Plaintiff and Counterdefendant Insight Psychology and Addiction, Inc. and Counterdefendants Mary Helen Beatificato and Dr. Gerald Grosso.

MS. HASSAN: Good morning. Zeenat Hassan with Disability Rights California for Plaintiff Jane doe.

MS. PATTERSON: Ms. Anderson, are you there?

MR. LEE: Ashley Anderson for Everett Dorey, also counsel for City of Costa Mesa.

NANCY CLARK,

having been first duly sworn to state the whole truth, testified as follows:

EXAMINATION

BY MS. PATTERSON:

Q. Good morning, Ms. Clark.

A. Good morning.

One of the -- one of the fraudulent situations that's been taking place is that insurance will pay for IOP -- outpatient treatment -- for a lot longer than residential. So many of these facilities were using insurance money to pay for the sober living of a person living -- who was enrolled in their outpatient program, and that's not legal.

Q. So I want to take these one at a time.

Do you think there's a sufficient amount of, what you're calling, traditional sober living in Costa Mesa to meet the needs of the community?

A. Well, when my people graduate, they're hard-pressed to find an affordable living situation in Costa Mesa. Many of them have to move to Santa Ana or less expensive places to live.

Q. Are the people who graduate from your program looking for traditional sober living?

A. Yes.

Q. And what about sober living connected to an IOP? Do you think that there is a sufficient amount of that in Costa Mesa to meet the need?

A. I -- I really don't know about that, because those would not be sober livings to which I would refer people.

Q. So when you have Opinion Number 4 about how

THE WITNESS: I don't think there's anything the City of Costa Mesa could do. The reality is that the price of housing in Costa Mesa has gone up so much that -- I mean, they're selling million dollar condos in Costa Mesa. So, you know, the days of where I rented a four-bedroom house for 1200 a month are long gone.

Q. (By Ms. Patterson) Is that a problem beyond just recovery industry housing?

A. Yeah. Yeah. I mean, I rented a sober living home for $1200 a month, and I -- I charged 400 to 500 dollars per person.

Q. So if a facility that was operating before the group home regulations went into effect was then told you're going to need to move because we have regulations now and you're within 650 feet of another center and that's a conflict, do you think that that facility would be able -- or that housing would be able to find an alternate site in this market?

MR. LEE: Objection to form.

THE WITNESS: No, I don't.

Q. (By Ms. Patterson) And your report throughout uses the term "overcrowded," and I want to understand what you mean when you say "overcrowded" in your report.

A. You mean overconcentration?

Q. So I'm going to get to that one too. I want

Q. Was that one an area where it was overconcentrated? Was there more than one recovery residence?

A. Yes. Yes.

Q. Did all of the recovery residences have this issue where walls and kitchens had been removed?

A. All the ones owned by these people did.

Q. Did the same people own a whole bunch of different buildings on the same street?

A. They did.

Q. They did?

And how many buildings would you say there were?

A. They probably owned at least three or four, but they have since been shut down.

Q. Okay. I can't remember the name of it. Are you aware of any areas in Costa Mesa that feel institutionalized due to group homes?

A. No.

Q. Do you know if Insight's housing is in an area that feels institutionalized?

A. I only drove by it once, and I -- I don't -- I don't -- that wasn't my impression.

Q. What about Ohio House's housing? Does that area feel institutionalized?

A. I have not driven by Ohio House, but in the area where I think it is, no.

Q. Do you know what year you drove by Insight's housing? Would it have been after 2017?

A. Oh, this has been within the last -- I want to say, within the last year.

Q. Oh, okay. And I want to circle back just a little more to normal residential environments.

I think you describe the average person being somebody who goes to work and drops their kids off at school. Is that what you're envisioning as a normal residential environment is households like that?

A. Households where people, you know, get up in the morning and get dressed and go to work and are gone significant portions of the day, as opposed to an area where people are retired and -- older people are retired and home all day. To me, a normal residential environment is, you know, people who live somewhere, and they live there for some period of time.

Q. So if a household has people who are retired and they don't work, does that fit into your idea of a normal household?

A. Well, I suppose so. I -- I just -- I mean, I -- I think about my street of 17 houses, and we have, you know, a few retired people. We have a few people

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: November 21, 2021

LAURA L. CORNING
FCRR, CSR No. 8363

EXHIBIT 18

City Approved Sober Living/Group Homes WEB

smartsheet

	Street No.	Street Name	Reference No.	Program Name	Beds	
1	492	Broadway	SL-15-0017	Breakaway Health Corp.	6	
2	2735	Cibola Avenue	SL-15-0018	California Women's Recovery	12	Women only
3	2879	Monterey	SL-15-0031	Agape House	6	Women only
4	582	Pierpont Drive	SL-15-0038	Providence Recovery	6	No contact information/not operating
5	2152	Raleigh Avenue	SL-15-0014	Keystone Sober Living	6	No response to calls
6	2064	Republic Avenue	SL-15-0033	Sheldon Riley	6	No response to calls and texts
7	1068	San Pablo Circle	SL-15-0036	South Coast Behavioral Healthcare	6	
8	862	Senate Street	SL-15-0002	The Ohio House	6	
9	506	Traverse Drive	SL-15-0001	South Coast Behavioral Health	6	
10	693 licensed treatment	Plumer Street	300012BN, PA-91-55	South Coast Counseling, Inc.	15	
11	2015	Charle Street	PA-91-93	First Step House / Mcmillen House	13	Homeless Men
12	331	16th Place	SL-16-0004	Northbound Treatment Services	6	No longer operating
13	209-211 licensed treatment	18th Street E	300207AP, PA-87-166	The Joshua House, National Therapeutic Services	12	No longer licensed or operating
14	165	Wilson Street E	PA-16-03	Summit Coastal Living	12	
15	2025	Charle Street	PA-95-14	First Step House	21	Homeless Men
16	1110 licensed treatment	Victoria Street	300067AP, PA-97-36	Nancy Clark and Associates, Inc.	38	

112 beds in approved unlicensed sober living homes

EXHIBIT 19

SAMHSA
Substance Abuse and Mental Health Services Administration
5600 Fishers Lane • Rockville, MD 20857
www.samhsa.gov • 1-877-SAMHSA-7 (1-877-726-4727)

January 27, 2022

CERTIFICATION OF AGENCY RECORDS

Pursuant to Rule 44 of the Federal Rules of Civil Procedure, I, CAPT. Michael King, hereby certify that I have custody of the official records for the Center for Behavioral Health Statistics and Quality. Attached are certified and authentic copies of records of the Center for Behavioral Health Statistics and Quality:

- Exhibit 733, excerpt from "2016-2018 National Survey on Drug Use and Health Substate Region Definitions." This was obtained from this link: https://www.samhsa.gov/data/sites/default/files/reports/rpt29374/NSDUHsubstateRegionDefs2018/NSDUHsubstateRegionDefs2018.pdf
- Exhibit 732, substate data for California. This was obtained from this link: https://www.samhsa.gov/data/sites/default/files/reports/rpt29375/NSDUHsubstateStateTabs2018/NSDUHsubstateCalifornia2018.pdf

These records are kept in the ordinary course of the regularly conducted business of the Center for Behavioral Health Statistics and Quality.

Sincerely,

Michael King

CAPT. Michael King
Acting Director
Center for Behavioral Health Statistics and Quality

Table 5.1 ***Illicit Drug Use in the Past Month and Illicit Drug Use Other Than Marijuana in the Past Month*** **in California among Individuals Aged 12 or Older, by Substate Region: Percentages, Annual Averages Based on 2016, 2017, and 2018 NSDUHs**

State/Substate Region	Illicit Drug Use in the Past Month		Illicit Drug Use Other Than Marijuana in the Past Month	
	Estimate	95% Confidence Interval	Estimate	95% Confidence Interval
California	13.33	(12.62 - 14.07)	3.75	(3.39 - 4.15)
Region 1R	20.74	(17.80 - 24.01)	4.76	(3.62 - 6.24)
Region 2R	14.92	(12.10 - 18.26)	4.02	(2.94 - 5.48)
Region 3R (Sacramento)	14.47	(12.16 - 17.15)	3.48	(2.57 - 4.68)
Region 4R	14.98	(12.13 - 18.35)	3.98	(2.96 - 5.32)
Region 5R (San Francisco)	20.84	(16.86 - 25.48)	4.41	(3.20 - 6.06)
Region 6 (Santa Clara)	10.17	(8.36 - 12.31)	3.13	(2.33 - 4.18)
Region 7R (Contra Costa)	13.35	(11.08 - 16.00)	3.66	(2.73 - 4.89)
Region 8R (Alameda)	17.08	(14.46 - 20.07)	4.45	(3.33 - 5.91)
Region 9R (San Mateo)	13.23	(10.76 - 16.15)	2.92	(2.13 - 4.00)
Region 10	12.56	(10.00 - 15.66)	4.16	(3.05 - 5.65)
Region 11 (Los Angeles)	13.56	(12.44 - 14.76)	3.88	(3.37 - 4.46)
LA SPA 1 and 5	14.33	(11.77 - 17.33)	3.92	(2.89 - 5.29)
LA SPA 2	14.04	(11.72 - 16.72)	3.80	(2.83 - 5.10)
LA SPA 3	9.80	(7.92 - 12.05)	3.02	(2.23 - 4.09)
LA SPA 4	19.22	(15.82 - 23.15)	5.62	(4.15 - 7.57)
LA SPA 6	13.91	(11.38 - 16.91)	3.64	(2.69 - 4.91)
LA SPA 7	10.74	(8.50 - 13.47)	3.44	(2.51 - 4.71)
LA SPA 8	14.45	(12.11 - 17.16)	4.11	(3.11 - 5.40)
Region 12R	13.92	(11.25 - 17.10)	4.40	(3.22 - 5.99)
Regions 13 and 19R	11.47	(9.71 - 13.50)	2.83	(2.12 - 3.76)
Region 14 (Orange)	10.18	(8.56 - 12.08)	3.32	(2.55 - 4.32)
Region 15R (Fresno)	11.91	(9.68 - 14.57)	3.77	(2.76 - 5.11)
Region 16R (San Diego)	13.88	(11.95 - 16.06)	3.99	(3.11 - 5.11)
Region 17R	10.19	(8.41 - 12.30)	3.50	(2.59 - 4.71)
Region 18R (San Bernardino)	10.61	(8.81 - 12.72)	3.28	(2.43 - 4.41)
Region 20R	12.60	(10.33 - 15.30)	4.08	(3.02 - 5.50)
Region 21R	16.82	(13.90 - 20.21)	4.42	(3.28 - 5.93)

NOTE: For substate region definitions, see the "2016-2018 National Survey on Drug Use and Health Substate Region Definitions" at https://www.samhsa.gov/data/.

NOTE: Estimates along with the 95 percent Bayesian confidence (credible) intervals are based on a survey-weighted hierarchical Bayes estimation approach and generated by Markov Chain Monte Carlo techniques.

NOTE: Illicit Drug Use includes the misuse of prescription psychotherapeutics or the use of marijuana, cocaine (including crack), heroin, hallucinogens, inhalants, or methamphetamine. Illicit Drug Use Other Than Marijuana includes the misuse of prescription psychotherapeutics or the use of cocaine (including crack), heroin, hallucinogens, inhalants, or methamphetamine. Misuse of prescription psychotherapeutics is defined as use in any way not directed by a doctor, including use without a prescription of one's own; use in greater amounts, more often, or longer than told; or use in any other way not directed by a doctor. Prescription psychotherapeutics do not include over-the-counter drugs.

Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2016, 2017, and 2018.

Ohio House v City of CM
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11/5/21
Exh 732

Table 5.9 ***Needing But Not Receiving Treatment at a Specialty Facility for Illicit Drug Use in the Past Year, Needing But Not Receiving Treatment at a Specialty Facility for Alcohol Use in the Past Year, and Needing But Not Receiving Treatment at a Specialty Facility for Substance Use in the Past Year*** **in California among Individuals Aged 12 or Older, by Substate Region: Percentages, Annual Averages Based on 2016, 2017, and 2018 NSDUHs**

State/Substate Region	Needing But Not Receiving Treatment at a Specialty Facility for Illicit Drug Use in the Past Year[1]		Needing But Not Receiving Treatment at a Specialty Facility for Alcohol Use in the Past Year		Needing But Not Receiving Treatment at a Specialty Facility for Substance Use in the Past Year[1]	
	Estimate	95% Confidence Interval	Estimate	95% Confidence Interval	Estimate	95% Confidence Interval
California	2.88	(2.59 - 3.20)	5.65	(5.20 - 6.13)	7.43	(6.91 - 7.99)
Region 1R	4.05	(3.07 - 5.31)	8.14	(6.39 - 10.32)	10.99	(8.95 - 13.41)
Region 2R	2.82	(2.07 - 3.83)	6.11	(4.67 - 7.96)	8.11	(6.31 - 10.36)
Region 3R (Sacramento)	2.91	(2.21 - 3.82)	5.95	(4.62 - 7.64)	7.91	(6.36 - 9.81)
Region 4R	2.68	(1.99 - 3.60)	6.09	(4.62 - 7.99)	7.79	(6.10 - 9.90)
Region 5R (San Francisco)	3.45	(2.50 - 4.73)	7.04	(5.28 - 9.32)	9.90	(7.64 - 12.73)
Region 6 (Santa Clara)	2.47	(1.87 - 3.25)	4.90	(3.79 - 6.33)	6.63	(5.32 - 8.23)
Region 7R (Contra Costa)	2.48	(1.87 - 3.27)	5.78	(4.47 - 7.44)	6.97	(5.38 - 8.97)
Region 8R (Alameda)	3.15	(2.39 - 4.16)	5.36	(4.11 - 6.95)	7.70	(6.13 - 9.64)
Region 9R (San Mateo)	2.42	(1.78 - 3.28)	5.64	(4.24 - 7.47)	6.70	(5.20 - 8.60)
Region 10	3.07	(2.26 - 4.15)	5.70	(4.30 - 7.52)	7.70	(5.92 - 9.96)
Region 11 (Los Angeles)	2.90	(2.51 - 3.36)	5.49	(4.89 - 6.16)	7.25	(6.49 - 8.09)
LA SPA 1 and 5	2.86	(2.11 - 3.86)	5.50	(4.16 - 7.24)	6.95	(5.39 - 8.91)
LA SPA 2	2.95	(2.25 - 3.86)	5.68	(4.45 - 7.22)	7.76	(6.19 - 9.69)
LA SPA 3	2.33	(1.74 - 3.11)	4.62	(3.57 - 5.97)	5.69	(4.46 - 7.23)
LA SPA 4	3.63	(2.67 - 4.94)	6.34	(4.83 - 8.30)	9.06	(6.99 - 11.68)
LA SPA 6	3.27	(2.43 - 4.41)	4.70	(3.55 - 6.21)	6.70	(5.19 - 8.60)
LA SPA 7	2.77	(2.04 - 3.75)	4.79	(3.61 - 6.31)	6.13	(4.67 - 8.01)
LA SPA 8	2.85	(2.13 - 3.80)	6.64	(5.15 - 8.51)	8.41	(6.69 - 10.54)
Region 12R	3.10	(2.29 - 4.17)	5.89	(4.45 - 7.74)	8.13	(6.31 - 10.42)
Regions 13 and 19R	2.86	(2.24 - 3.66)	5.70	(4.58 - 7.07)	7.45	(6.18 - 8.95)
Region 14 (Orange)	2.18	(1.65 - 2.88)	4.76	(3.75 - 6.02)	5.79	(4.64 - 7.20)
Region 15R (Fresno)	3.04	(2.28 - 4.06)	5.58	(4.31 - 7.20)	7.20	(5.62 - 9.17)
Region 16R (San Diego)	2.89	(2.24 - 3.71)	5.90	(4.77 - 7.27)	7.66	(6.35 - 9.21)
Region 17R	2.91	(2.22 - 3.82)	5.38	(4.19 - 6.89)	7.10	(5.63 - 8.92)
Region 18R (San Bernardino)	3.07	(2.38 - 3.96)	5.13	(4.01 - 6.55)	7.12	(5.69 - 8.87)
Region 20R	3.04	(2.30 - 4.01)	5.18	(3.94 - 6.77)	6.78	(5.26 - 8.70)
Region 21R	3.47	(2.61 - 4.60)	7.44	(5.79 - 9.51)	9.25	(7.32 - 11.62)

NOTE: For substate region definitions, see the "2016-2018 National Survey on Drug Use and Health Substate Region Definitions" at https://www.samhsa.gov/data/.

NOTE: Estimates along with the 95 percent Bayesian confidence (credible) intervals are based on a survey-weighted hierarchical Bayes estimation approach and generated by Markov Chain Monte Carlo techniques.

NOTE: Respondents were classified as needing substance use treatment if they met the criteria for an illicit drug or alcohol use disorder as defined in the 4th edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV) or received treatment for illicit drug or alcohol use at a specialty facility (i.e., drug and alcohol rehabilitation facility [inpatient or outpatient], hospital [inpatient only], or mental health center). Needing But Not Receiving Substance Use Treatment refers to respondents who are classified as needing illicit drug or alcohol treatment, but who did not receive illicit drug or alcohol treatment at a specialty facility.

[1] Illicit Drug Use includes the misuse of prescription psychotherapeutics or the use of marijuana, cocaine (including crack), heroin, hallucinogens, inhalants, or methamphetamine. Misuse of prescription psychotherapeutics is defined as use in any way not directed by a doctor, including use without a prescription of one's own; use in greater amounts, more often, or longer than told; or use in any other way not directed by a doctor. Prescription psychotherapeutics do not include over-the-counter drugs.

Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2016, 2017, and 2018.