



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JUNE 11, 2024

FROM: CITY ATTORNEY WARDS: ALL

SUBJECT: WORKSHOP ON STATE-LICENSED RESIDENTIAL FACILITIES AND SOBER LIVING HOMES.

ISSUE:

To receive a presentation from staff on state-licensed residential facilities and sober living homes.

RECOMMENDATION:

That the City Council receives staff's presentation.

BACKGROUND:

This workshop arose from a request by Councilmember Falcone, following a presentation given to the Neighbors of the Wood Streets (NOWS) that addressed state-licensed residential facilities, and a sober living home that is planned for their area.

STATE LICENSED GROUP HOMES

In 1973, California enacted the Community Care Facilities Act (Health and Safety Code Section 1500, et seq.). The intent was to remove patients needing certain medical care or supervision from large, institutional facilities and place them in a family environment in residential homes. This allowed for a lower cost and better living environment for the patients, while state oversight ensured proper care.

The California Department of Health Care Services (DHCS) regulates alcohol and drug treatment or recovery facilities, while the California Department of Social Services (CDSS) regulates "Community Care" facilities for the physically or mentally handicapped, elderly (assisted living facilities), foster care facilities and the like.

Both types of facilities (DHCS and CDSS) often operate out of traditional single-family homes, and by law, must be treated as any other home in the neighborhood, if the facility serves six or fewer residents. For example, in the case of detox facilities, Health and Safety Code section

11834.23 states:

"Whether or not unrelated persons are living together, an alcoholism or drug abuse recovery or treatment facility which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purpose of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

. . .

No conditional use permit, zoning variance, or other zoning clearance shall be required of an alcoholism or drug abuse recovery or treatment facility which serves six or fewer persons that is not required of a single-family residence in the same zone."

(There is nearly identical language for the laws regarding CDSS Community Care facilities.)

However, for both DHCS and CDSS facilities that have seven or more residents, a local jurisdiction has the authority to require a Conditional Use Permit before the facility can operate.

SOBER LIVING HOMES

Sober living homes are transitional living arrangements, where people suffering from alcohol or drug addiction live together in a communal environment and support each other in maintaining their sobriety. After addicts have successfully "detoxed" in a state-licensed facility, they often move to a sober-living home to maintain their sobriety. Sober living homes do not and cannot provide any recovery, treatment, or detoxification services. Such services require a state license. (Meetings such as Alcoholics Anonymous or Narcotics Anonymous are allowed). Since no licensable services are provided, sober living homes are not regulated by the state.

Disability = Family

Drug addiction and alcoholism are defined as disabilities under a myriad of federal and state fair housing laws. Persons with disabilities are entitled to live together in a congregate environment. Any local ordinance that treats a "family" of disabled people differently than a traditional family gives rise to an inference of discrimination and is likely to run afoul one or more fair housing laws. Most lawsuits involving sober living homes have been brought in federal court for alleged violations of the federal Fair Housing Act. State law is more expansive than federal law in this field, so an ordinance that survives federal scrutiny may still violate state law.

CALIFORNIA CASE LAW

Right to privacy. In *Santa Barbara v. Adamson* (1980), the California Supreme Court invalidated a local ordinance that defined a family as a group of two or more people related by blood, marriage, adoption, or a group of not more than five other persons. In this case, Santa Barbara sued Ms. Adamson, who lived in a large single-family home with ten unrelated adults. The court held the Santa Barbara ordinance violated the California Constitution's right to privacy, which includes the right to be left alone.

Maximum occupancy is determined by the Uniform Housing Code. In *Briseno v. City of Santa Ana* (1992), the city council enacted an ordinance that reduced the maximum occupancy of a one-bedroom apartment from five people to four. This meant the Briseno family of five would have to find different living arrangements. The court held that the state Uniform Housing Code superseded local regulations. Under the square footage formula of the UHC, the typical one-bedroom apartment could house six people.

Discriminatory Zoning. *Grandma's House of Hope v. City of Anaheim* (Feb 3, 2024). The trial court ruled that Anaheim's ordinance requiring a CUP for transitional housing of seven or more disabled people was discriminatory and violated state fair housing laws. This case is politically significant since the state attorney general intervened on behalf of the group home provider.

SUMMARY:

Under state law, the recognized disability of alcoholism / drug addiction transforms a group of unrelated people living together into a "family" that must be treated the same as a traditional family for zoning purposes. No special permits or restrictions can be placed on a sober living "family" that is not placed on all the other families in the neighborhood.

The California Department of Housing and Community Development (HCD) has released guidelines on these issues in its publication "Group Home Technical Advisory" dated December 2022. This advisory is attached to this presentation. Local policy makers are especially encouraged to read section 7 "Common Issues In Local Ordinances That Regulate Group Homes." By following HCD's guidance, local jurisdictions can avoid violating fair housing laws when crafting housing ordinances.

FISCAL IMPACT:

There is no fiscal impact in receiving staff's presentation.

Prepared by: Phaedra Norton, City Attorney

Attachments:

1. Group Home Technical Advisory
2. Presentation