

Date: October 19, 2010

To: CPC Subcommittee Members examining issues of concern regarding the proposed Boarding House ordinance and the City Attorney's office:

Michael LoGrande
Commissioner Regina Freer
Commissioner Yolanda Orozco
Deputy City Attorney Amy Brothers

Re: Concerns about City of Los Angeles Proposed Boarding House Ordinance

I have been asked to communicate to you the concerns and recommendations of the Los Angeles County Sober Living Coalition (LACSLC) regarding the Boarding House provisions of the City's proposed ordinance heard by the CPC October 14, and due to be heard again November 4.

Even though we were disappointed and frustrated at being limited to one minute in our presentations at the October 14, CPC meeting, we were gratified to hear from commissioners in their discussion that several of the concerns we raised in testimony are the issues that you want to consider more thoroughly. Chiefly those concerns for us are:

1. Changing the definition of family

- a. The LACSLC is a member of the Sober Living Network which has member coalitions in five Southern California Counties. We have worked with several local governments' planning and city attorney's offices staff. No other local government we are aware of has changed its definition of family that results in specifically excluding those who live together under shared rental agreements, including the City of Lompoc. To do so is contrary to the heart of the *City of Santa Barbara v. Adamson* 1980 California Supreme Court case. The court ruled, based on California privacy laws, that no local government could define family differently for non-related persons living together as a family than for related persons. Non-related persons, in the majority of situations, who live together must do so under shared rental agreements. This ordinance would prevent many non-related persons from living together in low density residential zones, people who already are living there under shared rental agreements.
- b. This change in definition would effectively declare war on all those who peacefully live together in single family homes or duplexes but do so under shared rental agreements.
- c. Contrary to Housing Element law, SB 520, instead of removing barriers for persons with disabilities, this change in definition would create barriers by effectively denying access to the many group homes for them, the majority of which are currently located in low density residential zones.
- d. Does the City seriously want to displace seniors sharing homes with friends, other companionable living arrangements shared by friends, and families that are having to double up due to economic problems?
- e. Does the City have any idea how many people this change in definition would impact? Just in our member homes, which are a small percentage of sober living homes, this ordinance would displace over 2,000 persons. That does not include other group homes such as independent living for the mentally ill, which are not covered by the multiple lease requirements of the MHSA, or other populations of persons with disabilities.

2. Legitimate land use or failure of enforcement

- a. It has always been our view that this proposed ordinance is not a legitimate land use issue but is, as one of your members stated, an example of the Planning Department “cleaning up a City mess” from failure to adequately use existing enforcement procedures.
- b. The LACSLC supports any increase in nuisance abatement. “Sober living” has become a generic term used by many to indicate anything from a crack house, to a flop house, to a group of people living together who annoy their neighbors to a legitimate sober living house, the majority of which exist unobtrusively in their neighborhoods.
- c. Our reputation has been dragged down by problem homes of all kinds so we have as much of an investment in seeing that problem homes are dealt with as does the City.

3. Evidence that this ordinance will succeed.

- a. We know of no local governments whose attempts to enact similar restrictions have successfully withstood a challenge.
- b. We are aware of several cases in progress and of more being filed. I’m puzzled why the City Attorney’s office has a high level of confidence that this ordinance will survive legal challenges, particularly since there will be several for the City should it pass.
- c. The City has not made its case for single lease requirements. There has been no evidence presented through a systematic City-wide study that pinpoints homes with multiple leases as the chief source of problem residents, more than other types of homes.
- d. By not doing this the City is simply caving in to NIMBY arguments principally aimed at group homes for persons with disabilities and puts itself at risk for violating fair housing laws by not supporting its position with such objective data.
- e. We have repeatedly been advised by wiser more experienced heads than ours that the single lease requirement is not defensible.
- f. Requiring a single lease in low density residential zones effectively denies persons with disabilities their equal housing rights. Over 95% of our member homes are currently located in these zones. This ordinance would create a displacement of over 2,000 recovering people just from our member homes alone with no identified sober housing for them to move to. (See last bulleted item “Discriminatory Intent”)

We have two additional concerns:

4. Enforcement

- a. To prevent a single lease requirement from being a “black box,” specifically what will the documented enforcement standards be?
 - i. What standards will determine compliance with the ordinance?
 - ii. What documentation and/or evidence would a Building & Safety staff person be required to review?
 - iii. How will the presence of an oral lease be determined and documented?
- b. If this ordinance is passed many sober living and independent living homes for the mentally ill will file applications for reasonable accommodation under fair housing laws.
 - i. Will the city suspend enforcement until the outcomes of those applications have been determined?

- ii. What is the time frame for evaluating and determining reasonable accommodation?
 - c. Will the City allow a team of trained professionals from different populations of persons with disabilities train code enforcement staff how to talk with people in a group home for the mentally ill and other disabilities without destabilizing them?
 - d. If a home is found to be a boarding house, how much time will be granted for relocation?
- 5. **Discriminatory intent** We will repeat this concern as often as we think necessary. This ordinance was conceived with discriminatory intent to target only sober living and other group homes for persons with disabilities for restrictions. After careful consideration of these matters the Planning Department stated in its January 28, 2010, staff report stated that such an approach was not legally defensible. Yet here we are. This intent is clearly documented in the following:
 - a. The first two drafts of the proposed policy
 - b. Public debate in public hearings, community meetings, Community Planning meetings, the media
 - c. Statements in Councilmember Smith's weekly newsletters.
 - d. This ordinance is publicly referred to both by those who support and oppose it as "the sober living ordinance."

To now cloak this in a package that appears facially neutral is merely a pretext to try to hide its true discriminatory intent.

We appreciate your attention to these matters.

Jeff Christensen, Project Director
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Los Angeles County Sober Living Coalition