



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660
949 644-3004 | 949 644-3039 FAX
newportbeachca.gov

August 23, 2023

Mayor

Noah Blom

Mayor Pro Tem

Will O'Neill

Council Members

Brad Avery

Robyn Grant

Lauren Kleiman

Joe Stapleton

Erik Kenneth Weigand

The Honorable Maria D. Hernandez
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Response to Grand Jury Report, "Welcome to the Neighborhood-
Are cities responsibly managing the integration of group homes?"

Dear Judge Hernandez:

The attached is the City of Newport Beach 's formal response to the above-
noted Grand Jury Report.

If you or any members of the Grand Jury have questions about our
response, please contact Jaime Murillo, Planning Manager, at (949) 644-
3209 or jmurillo@newportbeachca.gov.

Sincerely,


Noah Blom
Mayor of Newport Beach

**Welcome to the Neighborhood - Are cities responsibly managing the integration of group homes?
ORANGE COUNTY GRAND JURY 2022**

	FINDING	AGREE OR DISAGREE	RESPONSE <i>(Include portion of the finding that is disputed and include an explanation of the reasons)</i>
F1	Group homes too close to one another contribute to the problems associated with overconcentration.	Agree	The overconcentration of residential care facilities can create an institutional environment that defeats the purpose of community-based care and is inconsistent with the objective of integrating persons with disabilities into the community. The American Planning Association's Policy Guide on Community Residences states that community residences should be scattered throughout residential districts rather than being concentrated on any single block or in any single neighborhood. If several residential care facilities are located next to one another, or are placed on the same block, the ability of the residential care facilities to achieve normalization and community integration can be compromised.
F2	Common nuisances are more likely and disruptive when sober living homes are concentrated in a small geographic area of a neighborhood.	Agree	As stated in the Grand Jury Report, it is the City of Newport Beach's ("City") experience that when facilities are concentrated in a small geographic area, common nuisances may be more visible and disruptive. For instance, when facilities are overconcentrated in a small geographical area, the City has received more inquiries related to the impacts of second-hand smoke, noise, deliveries, parking, medical testing/waste, and general waste removal/collection.
F3	Some cities have successfully addressed and informed community members about the challenges faced in regulating group homes.	Agree	<p>As recognized in the Grand Jury Report, the City has had past success with town hall style meetings and continues to strive to keep residents informed regarding the topic of group homes. The City agrees it is especially important to educate residents about the importance of creating housing opportunities for all segments of the community, the City's legal duty to affirmatively further fair housing, and the constraints imposed by both State and Federal law with respect to local regulation.</p> <p>The City maintains a website on group homes where residents can obtain information regarding City regulations, State laws forms and applications for operators of new facilities, links to State regulatory websites, and past community meeting presentations.</p> <p>While the Grand Jury Report highlights the 2007 town hall meeting, the City has held several community meetings, study sessions, and public hearings on this topic. The two most recent meetings were held on October 11, 2021, and April 4, 2022, and included local and State leaders and subject matter experts. The October 11, 2021, community meeting included CA Assemblywoman Cottie Petrie-Norris, Orange County Supervisor Katrina Foley, CA Senator Dave Min, Orange County District Attorney Todd Spitzer, and City Council Members Dianne Dixon, Joy Brenner, Duffy Duffield, and Will O'Neill. Discussion topics included an overview of current City regulations, the interaction of local laws with State and Federal laws including affirmatively further fair housing, and current and future efforts to promote legislative changes that better protect the residents of group homes and ensure that these homes are successfully integrated into residential neighborhoods. The April 4, 2022, community meeting included representatives from the CA Department of Social Services, Community Care Licensing Division providing an overview of their department, contact information, licensing and regulations. Assemblywoman Cottie Petrie-Norris was also present to discuss efforts at the State legislative level to ensure the welfare</p>

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			of group home residents and promote the integration of group homes into surrounding communities.
F4	Community satisfaction was minimal when cities took the traditional public comment approach towards addressing community complaints.	Agree	Occasionally, organized residents appear at City Council meetings to voice their concerns during public comment on non-agenda items. Due to limits on the duration of public comments, and the need for council members to focus on agenda items, residents are often frustrated and discouraged with the feedback received at regular public meetings. Community meetings that focus on community concerns provide a better forum for City leaders to communicate City policies and educate residents about the scope of local authority, and for City leaders to hear resident concerns. This type of forum generally results in a more collaborative process where residents feel heard, and concerns can be addressed. The community meetings discussed in the Response to F3 above, have enabled a much higher level of communication between City officials, City staff, State representatives and the community. These meetings highlighted that there are current issues with State regulations, outside the local control, that must be addressed for community concerns to be addressed.
F5	Cities are not utilizing police, fire, and code enforcement complaints as a means of locating and tracking Group Homes.	Partially Disagree	The City utilizes all possible means of comprehensively tracking code enforcement complaints, regardless of whether they relate to group homes or not. The City's Police, Fire, and Code Enforcement departments maintain records related to all code violations. The City, however, does not use such resources to specifically locate and track group homes. The City complies with all State and Federal fair housing laws with respect to the use of its resources and enforcement of its laws.
F6	Cities are inhibited from enacting and enforcing ordinances due to fears over the potential cost of litigation.	Agree	On January 22, 2008, the City Council approved Ordinance No. 2008-5 with the intent of maintaining zoning protections for residential districts, while benefiting disabled persons who wished to live in those districts. The ordinance balances the protections granted to persons with disabilities under the Federal Fair Housing Act, Fair Housing Act Amendments (42 U.S.C. Section 3601) and other State and Federal laws, while also ensuring that homes for disabled persons are integrated into the residential character of the neighborhood. As extensively documented in the Grand Jury Report, the City has been involved in several lengthy and costly lawsuits defending the 2008 ordinance. The City implements its existing ordinance within the bounds of the State and Federal fair housing laws.
F7	Several cities have created an ordinance that requires a ministerial permit or registration to operate a group home, however many of these cities do not enforce their ordinances.	Partially Disagree	The City partially disagrees with this finding as it relates to the City. To the extent allowed by State and Federal fair housing laws, the City implements its ordinance regarding group homes, requiring a permit for certain larger and/or unlicensed facilities. As necessary, the City also implements its reasonable accommodation ordinance to ensure that all persons have an equal opportunity to use and enjoy residential dwellings.

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	FINDING	AGREE OR DISAGREE	RESPONSE <i>(Include portion of the finding that is disputed and include an explanation of the reasons)</i>
F8	City and County officials are deterred from regulating group homes by California Housing and Community Development's housing element approval process.	Agree	<p>The City cannot confirm whether other cities enforce their ordinances.</p> <p>The Grand Jury Report accurately identifies this issue. The Housing Element component of a local government's General Plan is required by State law to be updated periodically and is subject to review and approval by the California Department of Housing and Community Development ("HCD"). The City's current group home regulations have been in effect since 2008 and the permitting procedures were analyzed as part of the 4th and 5th Cycle Housing Element reviews and found in compliance with Housing Element law. However, during the 6th Cycle Housing Element review, the permitting process for group homes proved to be an issue that HCD focused on, not just for Newport Beach, but for all cities.</p> <p>The City's 6th Cycle Housing Element update was submitted to HCD a total of four times for review. During their review, HCD commented that the City should analyze the City's application requirement for residential care facilities serving 7 or more persons as a constraint on housing for person with disabilities. Specifically, HCD commented that "The element should analyze the process' impact on approval certainty, timing, supply, and other relevant factors. Depending on the results of a complete analysis, the element should add or modify programs to ensure zoning permits group homes objectively and with approval certainty." Given the complexities associated with the regulation of group homes and that cities approach this issue in different ways, the City found that it can be difficult to explain to HCD how the City's regulations are in full compliance with all applicable State and Federal laws. Ultimately, the City and HCD agreed to adopt Housing Policy Action 3P (Residential Care Facilities) committing the City to review and amend the permitting procedures, application requirements, and development standards applicable to residential care facilities for 7 or more persons. The addition of this policy resolved HCD's correction regarding this issue. The City's 6th Cycle Housing Element was ultimately found compliant with State Housing Element law on October 5, 2022.</p>
F9	Cities have historically strategized and acted independently in addressing group home challenges and solutions.	Agree	<p>In October of 2021, the City Council formed a Residential Care Facilities Ad-Hoc Committee with the intent of ensuring local standards are consistent with State and Federal law, recommending legislative positions regarding State and Federal law, and reviewing and recommending code enforcement protocols and updates. Through this effort, the City has acknowledged that it cannot solve these issues alone and that collaboration, especially with State officials, is needed. Since the creation of the Residential Care Facilities Ad-Hoc Committee, City officials and staff have attempted to involve other cities and especially State representatives in identifying issues and pursuing legislative changes as evidenced by the community meetings referenced in Response to Finding 3.</p>

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	FINDING	AGREE OR DISAGREE	RESPONSE <i>(Include portion of the finding that is disputed and include an explanation of the reasons)</i>
F10	Well-operated group homes can integrate smoothly into neighborhoods.	Agree	<p>The City is open to working more with other cities and counties, and especially State representatives, to pursue updates and legislative changes to better protect residents of group homes and safely integrate group homes into neighborhoods in cities across California.</p> <p>In 2009, the City entered into a Zoning Agreement with the largest residential care facility operator in the City. The Zoning Agreement is reviewed on an annual basis and the operator has consistently been found to operate in good faith with the terms of the Zoning Agreement. The agreement establishes: a maximum number of beds in the City; minimum separation between facilities and other operators; operational regulations on offices, staff, vehicles, deliveries, smoking, trash, medical waste, quiet hours, etc.; inspections of the interior and exterior of all facilities by Code Enforcement; and abiding by Good Neighbor Policies. The Zoning Agreement has proven to work well for the City residents and the operator. It prevents overconcentration in neighborhoods and minimizes disturbances to adjacent residents. If impacts increase or change for some reason, there are action plans required to immediately address them, which are reviewed annually.</p> <p>The City also has a good relationship with other long-standing operators with conditional use permits or reasonable accommodations that went through a regulatory review process lawfully. Many of these operators have been in operation since 2008/2009 with very few complaints because there are conditions and regulations in place to address problems or disturbances.</p>
F11	There is a lack of regulatory oversight for the health and safety of residents of unlicensed group homes.	Partially Disagree	<p>The City partially disagrees with this finding because, to the extent allowed by State and Federal law, the City does regulate "unlicensed" (i.e., non-State licensed) group homes. Specifically, the City does not permit unlicensed facilities within the single- and two-unit residential zoning districts and limits facilities within the multi-unit residential zoning districts. A reasonable accommodation may be requested to allow unlicensed facilities in all residential districts. However, the City acknowledges that there are significant limitations placed on the City that prohibit the City from ensuring "unlicensed" group homes are properly regulated to protect the health and safety of residents. The City is an advocate for the return of local control since the lack of regulatory oversight creates additional impacts to the community.</p>

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RECOMMENDATIONS	ACTION (1-4 Below)	SUMMARY/EXPLANATION
R1 Orange County cities and the County of Orange should address citizen concerns regarding group homes by providing an opportunity for an open dialog where an interdisciplinary panel of subject matter experts can share with attendees the challenges cities are facing in the management of group homes. To be implemented by July 1, 2024. (F3, F4)	1	As recognized in the Grand Jury Report and as outlined in Finding 3, the City has had past success with town hall style meetings and continues to strive to keep residents informed regarding the topic of group homes. The City agrees it is especially important to educate residents about the importance of creating housing opportunities for all segments of the community, the City's legal duty to affirmatively further fair housing, and the constraints imposed by both State and Federal law with respect to local regulation.
R2 By December 31, 2024, Orange County cities and the County of Orange should collaborate in their efforts to create ordinances for the regulation of group homes, including the development of model ordinances. (F6, F7, F9)	4	As noted in the Grand Jury Report, the City was the first city in Orange County to adopt a comprehensive ordinance addressing the issue of group homes. The City's ordinance has been working well and addresses the specific local issues that are applicable to the City of Newport Beach. Because each city has its own local issues, the City does not believe a one size fits all "model ordinance" approach is warranted. As noted in Finding 8, the City has committed to HCD that it will review its ordinance to determine if any updates are appropriate. In addition, the City is happy to share its ordinance as a model and collaborate with other cities needing assistance in their efforts to develop their ordinances.
R3 Orange County cities and the County of Orange should pool resources for defense of lawsuits challenging group home ordinances. To be implemented by July 1, 2024. (F6, F8, F9)	4	The City supports local control and has expended significant funds on lawsuits where the ability of cities to manage their own affairs are at issue, including, but not limited to, the regulation of group homes. However, the City must make decisions on whether to participate in litigation involving issues of local control, including other cities regulation of group homes, on a case-by-case basis. While the City is open to collaborating with the County of Orange and other Orange County cities to obtain greater clarity in State and Federal law and to ensure that cities can exercise local control related to land use matters; the City will need to continue to evaluate litigation measures involving other cities on a case-by-case basis.
R4 The County of Orange and Orange County cities should create a Task Force that includes representatives from OC cities, unincorporated areas, and other entities as appropriate and charge it with the responsibility of developing a plan to generate awareness among State legislators and regulators of the need for improved regulations and management standards to ensure health and safety for Group Home residents. To be implemented by July 1, 2024. (F2, F10, F11)	3	The City is collaborating with the County of Orange and other Orange County cities. The City is working with the Sober Living Task Force, started by the City of Mission Viejo, and will be hosting the September 8 th , 2023, meeting. Additionally, the City will leverage its existing relationships with State agency representatives and State legislators to participate in the effort as well.
R5 Orange County cities and the County of Orange should modify code enforcement report data collection forms to include a searchable field that enables the identification of a residence	4	The City collects information regarding code enforcement matters, while acknowledging that State and Federal laws require the City to respect the privacy rights of persons with disabilities. The City does not believe any further action is warranted; however, to the extent that the State maintains information related to State

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	operating as a group home. To be implemented by July 1, 2024. (F5, F7, F11)	licensed residential care facilities, the City will ensure that it informs the public about how to access this information on the City's website. The City believes it is important for the public to know which facilities are licensed by the State, rather than the City, and the process for addressing concerns regarding State regulated facilities.

ACTIONS

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.