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September 11, 2023

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

RE: City of San Juan Capistrano Response to Orange County Grand Jury Report Entitled "Welcome to the Neighborhood" Are Cities Responsibly Managing the Integration of Group Homes?"

Dear Honorable Judge Hernandez:

Please accept this letter as the City of San Juan Capistrano's response to the applicable findings and recommendations in the Grand Jury's report entitled "Welcome to the Neighborhood" Are Cities Responsibly Managing the Integration of Group Homes?" The City was required to respond to Findings F1 through F11 and Recommendations R1 through R5. Each of the findings and recommendations is listed below in italics, followed by the City's response.

FINDINGS

F1 *Group homes too close to one another contribute to the problems associated with overconcentration.*

The respondent agrees with the finding.

The answer is inherent in the question. The question assumes that the homes are "*too* close," which by definition constitutes *over*concentration.

F2 *Common nuisances are more likely and disruptive when sober living homes are concentrated in a small geographic area of a neighborhood.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. The answer may vary depending on the facts of each specific case. How large is each facility? How are they run? What regulations govern them? How close is "concentrated"? How small is "small"? The City does not assume that sober living homes of any type, of any size, regardless of how they are run, are, as a category, a disruptive source of nuisance

F3 *Some cities have successfully addressed and informed community members about the challenges faced in regulating group homes.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. The City does not know what all other cities do. Nor does the City have in-depth knowledge about what any other city might have done or not done to inform its residents about regulation of group homes. The City can only opine as to its own efforts. But it is unclear what *successfully* means in the context of this finding, as it is a subjective qualifier. Also, what does it mean to successfully *address* community members on this topic, versus successfully *informing* them? And what is meant by *challenges*? The City has taken steps to educate members of the public about federal and state laws that might apply to group homes, depending on the facts, but whether or not the City has been *successful* in those efforts remains unknown. We have no way to measure whether residents understand the law and its application to specific situations in the City or whether they are convinced of its wisdom from a policy matter.

F4 *Community satisfaction was minimal when cities took the traditional public comment approach towards addressing community complaints.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. What is meant by *community satisfaction*? How is that measured? What constitutes *minimal*? What is the "traditional public comment approach"? What kinds of complaints? About the existence of "group homes" per se? About nuisances? State regulation (too much, too little)? State and federal oversight of vulnerable populations? About treatment and welfare of group-home residents?

F5 *Cities are not utilizing police, fire, and code enforcement complaints as a means of locating and tracking Group Homes.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. The City cannot say with certainty what other cities do or don't do. There might be some city or cities somewhere that do use these kinds of complaints to track Group Homes, but the City does not know this to be the case.

For its part, the City does not use police, fire, and code-enforcement complaints as a means of locating and tracking "Group Homes" per se. The City does not single out group-homes for regulation or tracking.

F6 *Cities are inhibited from enacting and enforcing ordinances due to fears over the potential cost of litigation.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. The City cannot say with certainty what other cities do or don't do. There might be some city or cities somewhere that chooses to not enact or enforce ordinances due to fears over potential litigation, but the City does not know this to be the case. What is meant here by *inhibited*? What kind of ordinances? The potential for litigation and associated costs are likely a factor in considering any new regulation.

For its part, the City does not single out group homes for particular regulation or tracking.

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.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. What is meant by *several*? How many is *many*? Regardless, the City cannot say with certainty what other cities do or don't do. There might be some city or cities somewhere that have adopted an ordinance that requires a ministerial permit or registration to operate a group home, and, if so, some of them might not be enforcing their ordinances.

For its part, the City does not single out group homes for particular regulation.

F8 *City and County officials are deterred from regulating group homes by California Housing and Community Development's housing element approval process.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. What is meant by *deterred*? Prevented or merely discouraged? Regardless, the City cannot say with certainty what motivates or deters officials in other cities or counties. The City has no knowledge of whether they are deterred from regulating group homes or, if they are, by what. There might be some city or county official somewhere who takes a different approach to regulating group homes based on HCD's comments on housing elements. The City cannot speak for them.

For its part, the City does not single out group homes for particular regulation, and the City strives to comply with the requirements of the Housing Element Law as it has been enacted.

F9 *Cities have historically strategized and acted independently in addressing group home challenges and solutions.*

The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

The City lacks knowledge and information sufficient to reach this conclusion. What is meant by *historically* in this context? By *strategized*, *independently*, *challenges*, and *solutions*? The findings itself presumes a certain view of group homes that the City does not necessarily understand. Regardless, the

City cannot say with certainty what other cities do or don't do. There might be some city or cities somewhere that have "historically strategized and acted independently in addressing group home challenges and solutions." The City cannot speak for them.

For its part, the City does not single out group homes for particular regulation and acts independently to protect public health, safety, and welfare regardless of the nature of the use or the identify or ability of occupants. The City strives to follow all applicable laws regardless of what other cities or counties might do.

F10 *Well-operated group homes can integrate smoothly into neighborhoods.*

The respondent agrees with the finding.

The answer is inherent in the question. The question assumes that the homes are "*well*-operated," which by definition would result in "smooth" integration into a neighborhood if the home is also appropriately located and sized.

F11 *There is a lack of regulatory oversight for the health and safety of residents of unlicensed group homes.*

The respondent agrees with the finding.

The City is aware that there have been over-doses, over-dose-related deaths, and assaults and other abuses at some unlicensed group homes. By definition, these occurrences indicate inadequate on-site supervision and oversight. Appropriate governmental oversight can serve to encourage appropriate on-site supervision and oversight for the benefit of the vulnerable populations who reside in the homes. The City supports efforts to provide appropriate oversight of unlicensed group homes.

RECOMMENDATIONS

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)*

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The City does not single out group homes for particular regulation. It is not reasonable to convene a panel on the challenges that a city faces in regulating group homes because it would imply that the City does single them out or that it is attempting to single them out for particular restrictions.

This is a policy choice left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

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)*

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The City does not single out group homes for particular regulation. It is not reasonable to require the City to collaborate with other cities to regulate contrary to the City's own policy direction.

This is a policy choice left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

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)*

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The City does not single out group homes for particular regulation. It is not reasonable to require the City to pool its resources with those of other cities to defend lawsuits against other cities challenging those other cities' group-home ordinances based on those other cities' different policies.

This is a policy choice left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

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)*

The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

The City would support a Task Force that helps ensure the health and safety of group-home residents. But it is up to the County to form and administer the Task Force. The City is willing to participate.

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 operating as a group home. To be implemented by July 1, 2024. (F5, F7, F11)*

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The City does not single out group homes for particular regulation or tracking. If the City receives a request for a waiver of generally applicable regulations based on an owner's or operator's disability-related reasonable accommodation, in accordance with applicable law, the City makes note of that. But whether or not to track group homes per se, or residents of group homes per se or based on any other indicia of disability is contrary to the City's own policy direction.

This is a policy choice left to the City under its police power, and the Grand Jury is not justified in attempting to impose it on the City.

Thank you for the opportunity to respond to the Grand Jury report. If you have any questions, please feel free to contact me at (949) 443-6314.

Sincerely,

Benjamin Siegel
City Manager

cc: Orange County Grand Jury, 700 Civic Center Drive West, Santa Ana, CA 92701
San Juan Capistrano City Council