



# CITY OF COSTA MESA

77 Fair Drive | P.O. Box 1200, Costa Mesa | California 92628-1200  
Phone 714.754-5107 | [citycouncil@costamesaca.gov](mailto:citycouncil@costamesaca.gov)

November 13, 2023

**SENT VIA UNITED STATES POSTAL SERVICE**

The Honorable Maria Hernandez  
Presiding Judge of the Orange County  
Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 29701

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

Dear Judge Hernandez,

The City Council of the City of Costa Mesa (City) has authorized the attached responses to the 2022-23 Orange County Grand Jury report titled "Welcome to the Neighborhood-Are cities responsibly managing the integration of group homes"? The City respectfully submits these comments in accordance with Penal Code sections 933 and 933.05(a) and (b).

Sincerely,

John B. Stephens  
Mayor, City of Costa Mesa

Enclosure

cc: Lori Ann Farrell Harrison, City Manager  
Kim Barlow, Esq., City Attorney  
Tarquin Preziosi, Esq., Assistant City Attorney  
Jennifer Le, Economic and Development Services Director

<b>MAYOR</b> John Stephens	<b>COUNCIL MEMBER</b> Don Harper <i>District 1</i>	<b>COUNCIL MEMBER</b> Loren Gameros <i>District 2</i>	<b>COUNCIL MEMBER</b> Andrea Marr <i>District 3</i>	<b>COUNCIL MEMBER</b> Manuel Chavez <i>District 4</i>	<b>COUNCIL MEMBER</b> Arlis Reynolds <i>District 5</i>	<b>MAYOR PRO TEM</b> Jeffrey Harlan <i>District 6</i>
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**Responses to Grand Jury Report Titled “Welcome to the Neighborhood- Are cities responsibly managing the integration of group homes?”**

**Findings**

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

Response: The City agrees with this finding.

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

Response: The City agrees with this finding.

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

Response: The City partially agrees with this finding. The City does not have sufficient information about the efforts of other cities in addressing and informing community members about the challenges in regulating group homes. When the City of Costa Mesa’s Ordinances 14-11 and 15-13 were first introduced addressing non-boardinghouse group homes, the City conducted several community meetings to inform members of the public about the City’s regulation efforts and to answer any questions. From the inception of these Ordinances, staff took the approach of informing the public regarding the different facets of the City’s policy efforts including the need to affirm Fair Housing practices as codified in State and Federal law, to prevent overconcentration and institutionalization, and to promote responsible operational practices of group homes and residential care facilities thereby allowing them to successfully integrate into residential communities. These meetings often allowed the City to also inform residents about the role of the State of California Department of Health Care Services in regulating residential drug and alcohol treatments centers and that State law prohibits cities from applying any additional regulations to state licensed residential care facilities with six or fewer occupants than would otherwise not apply to a single-family residence. Additionally, there has consistently been well-informed staff members available to answer questions and provide information to members of the community via telephone, email or at the public counter.

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

Response: This City partially agrees with this finding. The City does not have information about the community satisfaction in other cities following a “traditional public comment approach”. The City recognizes that a public hearing is one part of a multifaceted approach in community engagement efforts in the area of public policy. Public comments that are provided as a part of public hearings serve a purpose and provide a forum for decision makers to receive

and deliberate on information from the public that is relevant to a specific proposal, site and business. As mentioned, in the City's response to Finding #3, the City also acknowledges the important role that community meetings played in both introducing new regulations to the community and in explaining their broader context in supporting Federal and State fair housing laws.

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

The City partially agrees with this finding. The City does not have adequate information regarding the utilization of police, fire and code enforcement complaints in other cities. The City of Costa Mesa's police, fire and code enforcement staff are well informed and make great efforts to communicate any land use or health and safety issues that cross or overlap disciplines or Departments. These practices are not specific to group homes. For example, a Fire Department's call for service may identify unpermitted building construction or a Police Department's call for service may identify a business operating as an unpermitted land use that requires City approvals. In both cases, Code Enforcement would be notified to address the Code violation. City staff do not "track" or "locate" group homes beyond its efforts to resolve violations of the Municipal Code.

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

The City agrees with this finding. The City enacted the aforementioned ordinances as well as later Ordinances 17-05 and 17-06 with the intention of affording the disabled with the opportunity to live in a truly residential setting, rather than in an institutional setting, and to preserve the residential character of existing neighborhoods. Following the adoption of these ordinances, the City has been sued numerous times and those lawsuits have been costly.

The City has been sued by at least 12 group home operators since the original enactment of the regulations. Two of those cases have gone to verdict after jury trial in federal court in favor of the City, finding no discriminatory intent on the City's part, and that the ordinances are actually beneficial to the disabled. One of those cases has been upheld on appeal, the other is pending appeal. One case is pending trial. The other cases have been disposed of in favor of the City, with most not pursuing appeals. Two of the cases the City won in pre-trial motions were appealed and overturned. A Petition is pending before the United States Supreme Court regarding those cases, and other cities have provided amicus support to the City's position.

In addition, the City has engaged in significant enforcement efforts both through code enforcement and bringing nuisance abatement action to shut down group homes which are out of compliance with the City's codes. At least seven nuisance abatement cases have been decided in favor of the City. The City has spent over \$7 million in defending and enforcing its codes.



7. 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 City does not have adequate information about other cities choosing to not enforce adopted ordinances. The City has enforced the requirements of ministerial and discretionary permits consistently since these regulations were adopted and has abided by applicable court orders.

8. City and County officials are deterred from regulating group homes by California Housing and Community Development's (HCD) housing element approval process.

The City partially agrees with this finding. The City lacks adequate information as to whether the County or the officials in other cities are deterred from regulating group homes by HCD's housing element approval process. As it applies to Costa Mesa, the City has continued to regulate group homes through our adopted ordinances and in accordance with Federal and State fair housing laws, with the intention of affording the disabled with the opportunity to live in a residential setting rather than in an institutional setting, to preserve the residential character of existing neighborhoods, and to provide protection of vulnerable group home residents who are harmed by unscrupulous operators. However, the City recognizes that the housing element approval process may present challenges to the effective regulation of group homes based on HCD's interpretation of local regulation as set forth in its Technical Advisory.

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

Response: The City mostly agrees with this finding. Prior to 2015, cities acted independently on this issue. Since that time, the City has participated in meetings with other cities for the purpose of sharing information and collaborating on policy efforts. At the same time, the City acknowledges that although some issues and policy objectives may overlap, there may be challenges and solutions that do not apply uniformly to every city. Nonetheless, greater collaboration will lead to more consistency and perhaps offer regional solutions that individual cities cannot attain independently.

10. Well-operated group homes can integrate smoothly into neighborhoods.

Response: The City agrees with this finding.

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

Response: The City agrees with this finding as there is a lack of oversight at the state level.

## Recommendations

1. Orange County cities and the County of Orange should address citizen concerns regarding group home[s] 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.

Response: This recommendation is already being implemented as the City has participated with the Southern California Sober Living and Recovery Task Force since January 2023. The task force is comprised of a panel of members of law enforcement, state and local elected officials, administrative staff and other subject matter experts. The Sober Living and Recovery Task Force's mission is to combine expert education and research, public input, and bi-partisan regional ideas and initiatives to determine critical pathways forward for possible short and long-term policy solutions that help those in recovery, as well as community members and neighborhoods that have been impacted.

2. 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.

Response: This recommendation is already being implemented as the City has been willing to share information about its own ordinances since they were adopted. Additionally, participation in the Southern California Sober Living Recovery Task Force provides opportunities for on-going information sharing about a variety of other policy initiatives underway in other jurisdictions.

3. Orange County cities and the County of Orange should pool resources for defense of lawsuits challenging group home ordinances. To be implemented July 1, 2024.

The City wholeheartedly agrees with this recommendation. The City of Costa Mesa has been carrying the majority of the cost burden defending its efforts to regulate group homes to protect their residents from exploitation and institutionalization, and retain the residential character of neighborhoods for the benefit of all residents, regardless of their characteristics. We believe these efforts benefit all cities in Orange County and its residents. This recommendation will be implemented to the extent possible. Costa Mesa has sought, and received, amicus support from some other Orange County cities in its ongoing litigation regarding its group home ordinances. However, more county-wide financial support of cities defending ordinances designed to protect the residents of group homes and surrounding residents would be welcome and could help further these policy goals county-wide.

4. The County of Orange and Orange County cities should create a Task Force that includes representative from OC cities, unincorporated areas and other entities as appropriate and charge to 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.

Response: This recommendation is already being implemented through the Southern California Sober Living and Recovery Task Force described in the response to Recommendation #1.

5. 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.

Response: The City is already implementing this recommendation. In August, 2023, the City implemented a new comprehensive land management system that allows code enforcement reports to be generated based on a variety of different parameters affording staff the ability to filter violations by different fields including but not limited to whether the violation involves operation of a group home without appropriate permits.