



January 27, 2012

The Honorable Antonio Villaraigosa
Los Angeles City Hall
200 North Spring Street
Los Angeles, California 90012

RE: Opposition to Proposed Community Care Facilities Ordinance Amending Sections 12.03, 12.21, 12.22, 12.24 and 14.00 of the Municipal Code

Dear Mayor Villaraigosa:

On behalf of the Los Angeles Homeless Services Authority Commission (LAHSA), I am writing with strong objections to the final draft of the proposed Community Care Facilities Ordinance submitted to the City Council on September 13, 2011. While we understand the original intent behind the proposal, our primary concern is that the ordinance will have a disproportionate impact on the City's most vulnerable and economically disadvantaged residents. Los Angeles has the largest homeless population in the nation and a critical shortage of affordable housing. To exacerbate these serious problems during these extremely difficult financial times by creating additional barriers to housing options is NOT the direction the City should be going.

The ordinance as currently written poses significant negative and we believe, unintended impacts to thousands of low-income families and individuals by prohibiting their ability to double-up or provide housing in exchange for services. For example, an elderly woman who provides housing to a student in exchange for the student shopping for her and mowing the lawn would be considered to be operating a "boarding or rooming house" and not permitted in low-density zones (Section 2, amending Section 12.03 of the Los Angeles Municipal Code). This definition should eliminate nonmonetary consideration.

The restrictive definition of "single housekeeping unit," requiring all household members live under a single written or verbal lease in single family residential zones (R1 or R2) will substantially limit our ability to provide permanent housing and permanent supportive housing for those in most need. For example, New Directions, Inc. which has been empowering veterans and facilitating their successful return to family and society for twenty years; could be forced to stop development on a project they have been working on with LAHD and Restore Neighborhoods Los Angeles (RNLA) for two years. The project includes foreclosed single family homes in the Pacoima area that will be utilized as rental housing for veterans who have successfully graduated from New Directions' programs and are ready to move on to independent living. Funding for the project mandates that each resident have their own individual lease.

By creating these unnecessary obstacles to the siting and development of the most successful and least expensive housing models such as shared housing and scattered site housing, the proposal not only takes away a vital and proven tool to prevent and end homelessness, it also turns current city policy on

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its head. It should be noted here, that State law requires local zoning laws to treat supportive housing the same as any other dwelling of the same type (California Government Code § 65583).

The total occupancy restriction limiting residents for every bedroom or guest room to two in alcohol and drug abuse facilities will result in a loss of these valuable beds in Los Angeles (Section 8, amending section 14.00 paragraph 10(a)(7) of the Los Angeles Municipal code). For example, People in Progress, which currently operates two state licensed substance abuse programs in the city (in R and C zones), would lose 27 of their 140 beds. The loss of these 27 beds would make both programs economically infeasible and thus all 140 beds would ultimately be lost. The same scenario would apply to the other licensed treatment facility programs throughout the city.

The ordinance would also potentially force thousands of parolees/probationers onto the streets, decreasing overall public safety. At present, 26,773 probationers and 14,607 parolees reside in the city (CA Dept. of Corrections and Rehabilitation and LA County Dept. of Probation). California's Public Safety Realignment program, intended to promote alternatives to incarceration for non-violent, non-sex, non-serious offenders, will result in an additional 9,000 County residents on probation in 2012. This ordinance would severely limit housing opportunities for these individuals, increasing homelessness among a population already at risk and undermining County Realignment plans.

The ordinance poses substantial financial risks to the City. As a recipient of federal and state funds, the City is required to develop policies and programs that affirmatively further fair housing. The ordinance would violate HUD's McKinney-Vento Homeless Assistance programs, the Veterans Affairs Supportive Housing program, the Section 8 and Shelter Plus Care programs as well as the state Mental Health Services Act seriously jeopardizing significant funding for the City.

There is also a high probability the City will be tied up in legal suits defending the ordinance that would consume badly needed resources with no abatement of the issue the City is attempting to resolve. The U.S. Department of Justice (DOJ) argued in an amicus brief to the 9th Circuit Court of Appeals (10/11/11) that the US "has a significant interest" in resolution of a case involving a Newport Beach ordinance with an almost identical definition of single housekeeping unit as the City's proposed ordinance. DOJ determined the lower court erred in not allowing the plaintiff to present evidence of intentional discrimination and if not reversed could "significantly hamper the ability of both the US and private litigants to enforce the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA), as well as other federal anti-discrimination laws."

Additionally, limiting housing accessibility in low-density neighborhoods will potentially have a disparate impact on protected classes under the ADA and the FHA and runs counter to State law. It has been noted in various hearings that the proposal would not hamper efforts to house homeless persons with disabilities because they may live in licensed facilities which are permitted in low-density zones. Licensed facilities are NOT a substitute for permanent supportive housing. Not all people with disabilities require or desire the care/supervision of a licensed facility. In recognition of this, State law specifically exempts permanent supportive housing from community care licensing requirements (Health and Safety Code § 1504.5). It is the intent of the Legislature that "persons with disabilities be permitted to receive one or more community living support services in the least restrictive setting possible, such as in a supportive housing residence." To obtain the exemption, tenants must have an individual lease in their own name (Health and Safety code § 1504.5[c][2]).

Over the past twenty-two years, Homes for Life Foundation has completed 256 units for persons with chronic mental illness. This ordinance would prevent them continuing to develop and operate this much needed shared supportive housing for formerly homeless persons with disabilities – such as Buchanan House – located in Highland Park (R1 zone). As with New Directions, their funding requires that each resident have their own lease.

To address Neighborhood Council concerns and limit the unintended negative housing impacts, the City should revise its existing nuisance abatement laws to effectively address problematic and/or improperly managed group homes. In lieu of this, at a minimum, the City Council should narrow the negative impacts of the ordinance.

- Eliminate the definition of and reference to “parolee-probationer home.” The current draft would have immeasurable ramifications on the City’s and County’s response to homelessness, affecting almost all supportive housing developments in the City.
- Eliminate the re-definition of “boarding or rooming house.” The draft re-definition is overbroad and inaccurate. Consistent with Planning and City Attorney staff statements, the ordinance should be limited to “commercial enterprises” housing people on a short-term basis.
- Eliminate the single lease requirement or, at the very least, limit the requirement to commercial for-profit enterprises that restrict a tenant’s length of stay in housing to avoid unintended impact.
- Eliminate the occupancy restriction limiting residents for every bedroom or guest room to two in alcohol and drug abuse facilities.

In conclusion, the proposed ordinance is overly broad and will detrimentally impact a variety of housing types for homeless and other low-income people. The ordinance, as proposed, is also contrary to the City’s commitment to reducing and ending chronic and veteran homelessness by restricting the City’s ability to increase the supply of permanent supportive housing over the next five years. While well intentioned, the proposed ordinance will have significant detrimental consequences.

Thank you for your consideration, and we look forward to continuing our work with you and all members of the City Council to prevent and end homelessness in the City of Los Angeles.

Sincerely,

Owen Newcomer
Chair, LAHSA Commission

Cc: Hon. Ed Reyes, Chair, PLUM & Vice Chair HCED
Hon. José Huizar, Vice Chair, PLUM
Hon. Eric Garcetti, Council President
Hon. Paul Kerkorian, Member, PLUM
Hon. Alarcon, member HCED
Hon. Jan Perry, Member, HCED
Hon. Wesson, Member, HCED