March 20, 2012 ***Via U.S. Mail and E-mail***

Councilmember Tom LaBonge
200 N. Spring Street, Room 480
Los Angeles, CA 90012
E-mail: Jeanne.Min@lacity.org

Re: Community Care Facilities and Anti-shared Housing Ordinance
Case No. CPC-2009-800-CA
Council File No. 11-0262

Dear Councilmember:

On behalf of Disability Rights California ("DRC"), Disability Rights Legal Center ("DRLC"), Western Center on Law and Poverty ("WCLP"), and the people with disabilities and low-income families and individuals we represent in the City of Los Angeles, we write to respond to the proposed changes to the "Community Care Facilities" ordinance, Council File 11-0262, in the March 8, 2012 report submitted to the Council from the Department of City Planning. The Planning Department's report does not address the impact of the ordinance on people with disabilities or the displacement that will occur if the ordinance is passed, although we have repeatedly shared our concerns regarding these and other issues with Council and Planning Department staff. We continue to urge the Council not to pass the ordinance.

Number of Allowable Leases in Single-Family Dwellings

One of the fundamental problems with the proposed ordinance is that it would prevent people from living in low density residential areas of the City who need to be on separate leases. Because people who need to have separate leases within the same household are disproportionately people with disabilities, the proposed ordinance is both discriminatory and incredibly bad policy.

Many providers of shared housing require each person in a household to have their own lease, both in order to comply with funding requirements and for programmatic reasons. For example, clients of Regional Centers are people with severe disabilities arising from diagnoses of mental retardation, cerebral palsy, autism, seizure disorder and other related conditions that arose before the age of 18. They have been determined to need life-long case management and care coordination. One of the alternatives for institutional care is supported living in one's own apartment. Under that program, regional center clients are often paired into an apartment with the support of services to assist them to move toward increasingly independent living. The regional center case managers and supportive living services providers assist in the process of matching compatible roommates. Each of the residents has his or her own apartment rental agreement. The supported living program is one way California seeks to bring itself into compliance with state and federal integration mandates for people with disabilities.

The Westside Regional Center, which is only one of five Regional Centers serving people with developmental disabilities in the City of Los Angeles, reported to us last year that 750 of their clients live in a non-institutional setting and estimate that one-third of those are in the City of Los Angeles. H.O.M.E., an organization dedicating to providing housing for people with developmental disabilities, reported that they have well over one hundred tenants in Los Angeles County, many of whom live in the City of Los Angeles and many of whom are required by funding sources to have separate leases.

In addition to people with developmental disabilities, a significant number of people with other disabilities have a disability-related need for a shared living situation. According to the 2009 California Health Interview Survey, an estimated 1,045,000 Los Angeles County residents needed professional help for mental/emotional and/or alcohol-drug issues (of these, over half fell below 300% of the federal poverty level). Many of these individuals are able to avoid institutionalization or homelessness, as well as manage the symptoms of their disability, by living in shared supportive home. Tenants have their own lease, are responsible for their own rent, live independently, and remain housed for long periods with the help of an array of supportive

services. For example, SHARE! is one of the organizations receiving Mental Health Services Act funding from the Los Angeles County Department of Mental Health; they have identified fifteen houses where residents with disabilities share housing with separate leases in low density neighborhoods. This housing would be illegal under the proposed ordinance. As another example, in a May 15, 2011 letter to the Council, the organization New Directions has identified $2 million in lost Mental Health Services Act funds that it would be unable to utilize to provide housing for American veterans with disabilities.

The ordinance would also limit housing options for a wider swath of the city's residents who have need to share housing, including lower-income people, people of color, immigrants, homeowners who rent out rooms to help make mortgage payments in difficult economic times, and students.

As we have explained in a number of prior letters to the Council, the proposed ordinance would violate fair housing laws, the Americans with Disabilities Act and similar state law provisions, state land use and zoning ordinances, and the state and federal constitutions. Because the ordinance would violate the City's obligation to affirmatively further fair housing, its passage threatens the loss of millions of dollars of federal housing funds.

The Planning Department report states that "Should the City Council believe that this lease limitation too onerously restricts housing opportunities, it may wish to remove the lease limitation altogether . . . ." The facts before the Council make it clear that limiting the number of leases is an onerous restriction on housing opportunities that has its most dramatic impact on people with disabilities. Therefore, as suggested by the Planning Department report, the Council should strike that portion of the draft ordinance.

The Council should do so rather than adopt the Planning Department's recommendation that the Council raise the number of leases allowed in low-density residential neighborhoods from one to two leases. Such a change would not make the proposed ordinance any less discriminatory – the weight of the ordinance would still fall most heavily on people with disabilities due to their disability-related need for shared housing with individual leases.

The Council should not rely, as the Planning Department invites it to, on the 2003 opinion of the California Attorney General regarding restrictions on the number of leases within a unit. First, the Attorney General's office only considered one of the legal problems with such an ordinance: whether it violates the California Constitution's privacy provisions. It did not consider any of the other legal problems that we and others have identified regarding this particular ordinance, including violation of state and local fair housing and disability rights laws. Second, we disagree with the Attorney General's analysis of the constitutional privacy question, which the Attorney General itself called "debatable."

Definition of Parolee/Probationer Home

We concur with the Planning Department's recommendation that the Council remove the provision in the draft ordinance regarding people on parole or probation.

Definition of Single Housekeeping Unit

The Planning Department also proposes a number of changes to the definition of "family" and "single housekeeping unit" that are discriminatory, invasive of constitutionally protected privacy rights, and bad policy: adding that a single housekeeping unit must be "the functional equivalent of a traditional family," that it must be "stable and semi-permanent," and that the makeup of the household cannot be determined by a "third party."

As it stands, the proposed ordinance prevents elderly or disabled homeowners, renters, or roommates from keeping their food and meal preparation separate from others in their household in order receive full food stamp benefits. Further, a roommate or the homeowner/primary renter may have dietary needs that require that meals and food preparation be handled separately. The new changes proposed by the Planning Department regarding the proposed definition of a "single housekeeping unit" resolve none of these issues. The proposed ordinance also interferes with the right of a resident to choose his or her own support system, including In-Home Supportive Services (IHSS) attendants, and to handle meals, laundry, and cleaning of one's own space separately to the extent that this arrangement would also conflict with the definition of a "single

housekeeping unit." Moreover, in shared supportive housing programs such the one run by H.O.M.E. for people with developmental disabilities, the program itself takes primary responsibility for placing residents within a unit. The requirement that the makeup of the unit be determined by the residents rather than a third party would prevent all shared supportive housing from qualifying as a "single housekeeping unit." The changes proposed by the Planning Department, including insertion of the ambiguous terms "traditional family" and "stable and semi-permanent" only exacerbate these problems.

The City Council must also consider the sheer invasiveness of the proposed effort to define a "traditional family." Does the Council truly wish to usher in an era where it is the business of Building and Safety or other City officials whether the people in a household share their milk?

Regulating Licensed Facilities of Seven Residents and Over

The move from a variance to a less restrictive process for locating licensed facilities for seven or more is commendable and a needed reform to the law. However, the Planning Department report misstates the law regarding density standards and the Council should not rely on it; nor should the Council adopt the two-per-bedroom occupancy standard in the proposed ordinance.

The Provisions Regarding Shared Housing Remain Illegal

The changes proposed by the Planning Department will not fix the problems outlined in the letters and public comments we and others have previously submitted; in fact, many of the proposed changes would make the ordinance more discriminatory and more harmful to the people we represent.

For the foregoing reasons, and the reasons set out by other organizations, including Legal Aid Foundation of Los Angeles, Public Counsel and others,

which we hereby incorporate by reference, Disability Rights California, Disability Rights Legal Center, and Western Center on Law & Poverty respectfully request that you oppose the ordinance.

Sincerely,

DISABILITY RIGHTS CALIFORNIA
Dara Schur, Director of Litigation
Autumn Elliott, Associate Managing Attorney
Lisa Concoff Kronbeck, Staff Attorney

DISABILITY RIGHTS LEGAL CENTER
Michelle Uzeta, Legal Director
Umbreen Bhatti, Staff Attorney

WESTERN CENTER ON LAW & POVERTY
Lynn Martinez, Managing Attorney
Stephanie Haffner, Senior Litigator

cc: Sharon Gin, Legislative Analyst for Chief Legislative Analyst Gerry F. Miller