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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 1 - 0 3 3 9
SEP 13 2011

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTIONS 12.03, 12.21, 12.22, 12.24 AND
14.00 OF THE LOS ANGELES MUNICIPAL CODE REGULATING STATE
LICENSED COMMUNITY CARE AND RESIDENTIAL CARE FACILITIES;
DEFINING SINGLE HOUSEKEEPING UNIT; AND AMENDING DEFINITIONS
FOR BOARDING OR ROOMING HOUSE AND FAMILY**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File 11-0262
CPC-2009-800-CA

Honorable Members:

We are transmitting to you for your consideration, approved as to form and legality, a draft ordinance amending Sections 12.03, 12.21, 12.22, 12.24 and 14.00 of the Los Angeles Municipal Code (LAMC).

On April 5, 2011, the PLUM Committee considered a Department of City Planning (Department) report and proposed ordinance relative to adding definitions of Community Care Facilities, licensed; Residential Care Facilities for the Elderly, licensed, and Alcoholism or Drug Abuse Recovery or Treatment Facilities, licensed, and regulating facilities serving seven or more residents as public benefit projects, subject to performance standards. The draft ordinance also amends the definitions of Boarding or Rooming House, not amended since 1956, and Family, and adds a definition of Single

Housekeeping Unit, to enhance the City's enforcement capabilities concerning unauthorized boarding houses.

On June 1, 2011, the City Council approved the Department report and requested that the City Attorney prepare and present an ordinance substantially similar to the proposed ordinance transmitted by the City Planning Commission.

Summary of Ordinance Provisions

The draft ordinance balances the goal of the California Community Care Facilities Act, and other state laws, to expand housing for the disabled by creating additional residential housing opportunities for residents in larger state-licensed residential facilities, while maintaining the quality of life in low-density residential neighborhoods. State law prevents cities from regulating smaller licensed facilities serving six or fewer residents differently from other single-family residences. In addition, state licensed facilities serving seven or more residents currently are required to obtain a conditional use permit before operating in any zone. The draft ordinance adds definitions of Community Care Facility, licensed; Residential Care Facility for the Elderly, licensed; and Alcoholism or Drug Abuse Recovery or Treatment Facility, licensed, to the LAMC. The definitions, along with other Code amendments, permit facilities serving seven or more residents to operate as "public benefit projects" in any zone, including low-density residential zones, through a ministerial process, subject to specific parking, density, noise, and other land use based performance standards.

The draft ordinance also enhances the City's enforcement capabilities concerning unauthorized boarding houses operating in low-density residential zones, thereby maintaining the stable, non-transient residential character of these zones. The draft ordinance updates and amends the definitions of "Boarding House" and "Family", and adds a definition for "Single Housekeeping Unit" to enforce the distinction between residential and commercial uses, (i.e., boarding houses). A "Single Housekeeping Unit" is defined as a unit of people living together as a traditional family, by sharing monetary responsibilities, chores and experiences; and where residents rent the unit, they must do so under one lease and have control over the makeup of the household occupying the unit. A Boarding House is defined as any place providing lodging for residents in separate guest rooms or under two or more leases. Under the draft ordinance, boarding houses are still permitted in R-3 and less restrictive zones and still prohibited in R-1 and in most R-2 zones. The draft ordinance would also prohibit boarding houses from operating in one-family dwellings in RD zones.

Finally, the draft ordinance adds a definition of Parolee-Probationer Home and permits them as conditional uses only in R-3 and less restrictive zones.

Findings under Charter Section 558

When the City Planning Commission has failed to act on a Council initiated ordinance, as it has here, the City Council must make several findings under Charter Section 558.

First, Council must make a finding that the draft ordinance is consistent with what it intended when it requested preparation of this ordinance. See Charter Section 558(b)(3)(C). ("if the Commission fails to make any recommendation within the time specified by ordinance, an ordinance ... in conformity with that which was initiated by the Council... shall be prepared and presented to Council and may be adopted by majority vote.")

Second, in order to adopt this ordinance, under Charter Sections 556 and 558(b)(2), the Council must also find a) that the proposed ordinance is in substantial conformance with the purposes, intent and provisions of the General Plan and b) that the adoption of the proposed ordinance will be in conformity with public necessity, convenience, general welfare and good zoning practice.

CEQA Determination

Regarding the California Environmental Quality Act (CEQA), you may find that this project will not have a significant effect on the environment, pursuant to the City's Environmental Guidelines, and is in compliance with the California Environmental Quality Act; that the Negative Declaration reflects the independent judgment of the lead agency in the City of Los Angeles; that the documents constituting the record of proceedings in this matter are located in Council file No. 11-0262 in the custody of the City Clerk and in the files of the Department of City Planning in the custody of the Environmental Review Section; and ADOPT the Negative Declaration [ENV 2009-801-ND]. You must make this determination prior to or concurrent with your action on the ordinance. If the subject ordinance is enacted, it is also recommended that the City Clerk file a Notice of Determination in accordance with Section 15075 of the State CEQA Guidelines.

Council Rule 38 Referral

The draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, the Department of Housing and the Department on Disability. The departments were requested to forward any comments concerning the proposed ordinance to Deputy City Attorney Amy Brothers. The responses from the Department of Building and Safety have been incorporated into the draft ordinance. The responses from the Department of Housing and the Department on Disability are attached.

If you have any questions regarding this matter, please contact Deputy City Attorney Amy Brothers at (213) 978-8069. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE/AB:gl
Transmittal

ORDINANCE NO. _____

An ordinance amending Sections 12.03, 12.21, 12.22, 12.24, and 14.00 of the Los Angeles Municipal Code consistent with the California Community Care Facilities Act to add definitions of *Community Care Facility, licensed*; *Residential Care Facility for the Elderly, licensed*; and *Alcoholism or Drug Abuse Recovery or Treatment Facility, licensed*; permit State licensed facilities with seven or more residents as public benefit projects subject to performance standards in any zone; amend the definitions of *Boarding or Rooming House* and *Family* to provide clear guidelines for the appropriate enforcement of boarding houses with transient characteristics; and prohibit *Boarding or Rooming Houses* in one-family dwellings in the RD Zone. The proposed ordinance also adds a definition of *Parolee-Probationer Home* and permits them by conditional use in all zones except the RW2 or more restrictive zones.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 12.03 of the Los Angeles Municipal Code is amended by adding the following definitions in alphabetical order to read as follows:

ALCOHOLISM OR DRUG ABUSE RECOVERY OR TREATMENT FACILITY, LICENSED. As defined in Section 11834.02 of the Health and Safety Code, any premises, place or building licensed by the State of California that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug or alcohol and drug misuse or abuse, and who need alcohol and drug recovery treatment or detoxification services.

COMMUNITY CARE FACILITY, LICENSED. Any facility, place or building licensed by the State of California that is maintained and operated as a residential facility or as a social rehabilitation facility, as defined in Sections 1502(a)(1) and 1502(a)(7) of the Health and Safety Code, respectively, to provide nonmedical residential care for persons in need of services, supervision or assistance essential for sustaining the activities of daily living.

PAROLEE – PROBATIONER HOME. Any residential structure or unit, whether owned and/or operated by an individual or a for-profit or not-for-profit entity, which houses three or more parolees – probationers unrelated by blood, marriage, foster care status, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee – probationer and/or any public or private entity or person on behalf of the parolee – probationer. A parolee – probationer includes (i) any individual who has been convicted of a federal crime, sentenced to a United States prison, and received conditional and revocable release in the community under the supervision of a federal parole officer; (ii) any individual who has served a term of imprisonment in a State prison and who is serving a period of supervised community custody, as defined in Penal Code Section 3000, and is under the jurisdiction of the California

Department of Corrections, Parole and Community Services Division; (iii) an adult or juvenile sentenced to a term in the California Youth Authority and who has received conditional and revocable release in the community under the supervision of a Youth Authority Parole Officer; or (iv) an individual who has been convicted of a felony, sentenced to any correctional facility, including County correctional facilities, and is under the jurisdiction of any federal, state, or County parole or probation officer. For the purposes of this paragraph, "felony" means a felony as defined by any California or United States statute.

RESIDENTIAL CARE FACILITY FOR THE ELDERLY, LICENSED. As defined in Section 1569.2 of the Health and Safety Code, a housing arrangement licensed by the State of California and chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels of intensities of care and supervision, protective supervision, or personal care, or health-related services are provided, based upon the varying needs of the residents, as determined in order to be admitted and to remain in the facility. A Residential Care Facility for the Elderly, Licensed, may house residents under 60 years of age with compatible needs pursuant to Section 1569.316 of the Health and Safety Code and provide health-related services pursuant to Section 1569.70 of the Health and Safety Code.

SINGLE HOUSEKEEPING UNIT. One household where all the members have common access to and common use of all living, kitchen, and eating areas within the dwelling unit, and household activities and responsibilities such as meals, chores, expenses and maintenance of the premises are shared or carried out according to a household plan or other customary method. If a resident owner rents out a portion of the dwelling unit, those renters must be part of the household and under no more than one lease, either written or oral. If a non-resident owner rents out the dwelling unit, all residents 18 years and older have chosen to jointly occupy the entire premises of the dwelling unit under a single written lease and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Sec. 2. The following definitions set forth in Section 12.03 of the Los Angeles Municipal Code are amended to read as follows:

BOARDING OR ROOMING HOUSE. A one-family dwelling where lodging is provided to individuals with or without meals, for monetary or non-monetary consideration under two or more separate agreements or leases, either written or oral, or a dwelling with five or fewer guest rooms or suites of rooms, where lodging is provided to individuals with or without meals, for monetary or non-monetary consideration under two or more separate agreements or leases, either written or oral. A leased bedroom shall be considered the same as a guest room for density and parking requirements. This definition does not include any state licensed facility serving six or fewer persons which, under state law, is not considered a boarding house.

FAMILY. One or more persons living together in a dwelling unit as a single housekeeping unit.

Sec. 3. Subparagraph (d) of Paragraph 4 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended by adding a new Sub-subparagraph (6) to read as follows:

(6) Any alcoholism or drug abuse recovery or treatment facility, licensed; community care facility, licensed; or residential care facility for the elderly, licensed, shall provide a minimum of two automobile parking spaces, with 0.2 automobile parking space provided for each additional resident over the number seven. The parking spaces are calculated based on the maximum number of residents authorized by the state license.

Sec 4. Subsection D of Section 12.21 of the Los Angeles Municipal Code is amended to read:

D. (None)

Sec. 5. Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended by adding a new Subdivision 31 to read:

31. Boarding or Rooming Houses in the RD Zone. Notwithstanding the provisions of Section 12.09.1 of this Code, any one-family dwelling located on a lot zoned RD shall not be used as a boarding or rooming house.

Sec. 6. Paragraph 9 of Subsection X of Section 12.24 of the Los Angeles Municipal Code is amended to read:

9. (None)

Sec 7. The first paragraph of Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended to read:

A. Public Benefit Projects and Performance Standards. Where not permitted by right or by Conditional Use Permit pursuant to Subsections U, V or W of Section 12.24, the following public benefit uses are permitted in any zone, unless restricted to certain zones or locations. The uses shall meet the following performance standards or alternative compliance measures approved pursuant to Subsection B.

Upon the Director's determination that the public benefit use meets the stated performance standards, the Director shall record a covenant of the determination with the Office of the County Recorder. The covenant shall be valid as long as the property is used as a public benefit. The covenant shall be terminated when the land is no longer used as a

public benefit. Upon recordation with the Department of City Planning of a covenant affirming the performance standards of a public benefit, notification of the public benefit shall be sent to adjoining and abutting property owners, the applicable certified neighborhood council, and the applicable City Council office. Public notification shall identify the applicable performance standards and a statement that if the public benefit does not adhere to the performance standards, the Director of Planning may revise the performance standards or discontinue the use and terminate the covenant.

Sec. 8. Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended by adding a new Paragraph 10 to read:

10. Alcoholism or drug abuse recovery or treatment facilities, licensed; community care facilities, licensed; and residential care facilities for the elderly, licensed, serving seven or more residents in the A, R, and C zones.

(a) **Performance standards:**

(1) The use meets the applicable automobile parking space requirements set forth in Section 12.21A 4 (d) (6);

(2) The use avoids interference with traffic by providing access through driveways and/or loading docks for deliveries and pickups;

(3) The use is conducted in conformance with the City's noise regulations pursuant to Chapter 11 of this Code; any household noise or music shall be sufficiently modulated to ensure that adjacent residents are not disturbed;

(4) In the A and R zones, the existing residential character of the building and site are maintained, including the exterior façade, landscaping, fences, walls, lawn areas, and driveways;

(5) Security night lighting is shielded so that the light source cannot be seen from adjacent residential properties;

(6) The use does not create an unreasonable level of disruption or interference with the peaceful enjoyment of adjoining and neighborhood properties; and

(7) Total occupancy of the use does not exceed two residents for every bedroom or guest room as shown on the building plans approved by the Department of Building and Safety.

(b) **Purposes:** Alcoholism or drug abuse recovery or treatment

facilities, licensed; community care facilities, licensed; and residential care facilities for the elderly, licensed, serving seven or more residents in the A, R and C zones, shall be compatible with the character of the neighborhood and not adversely impact the health, safety and welfare of the persons residing in the facility or the neighborhood. Parking, traffic and transportation impacts shall be insignificant. The operation must comply with State law and must have a State license. The number of residents allowed per facility is limited in order to keep density within acceptable limits.

Sec. 9. Paragraph 53 of Subsection W of Section 12.24 of the Los Angeles Municipal Code is added to read:

53. Parolee -- Probationer Homes in all zones except the RW2 and more restrictive zones.

Sec 10. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

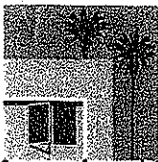
CARMEN A. TRUTANICH, City Attorney

By  _____
AMY BROTHERS
Deputy City Attorney

Date September 13, 2011

Council File No. 11-0262

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OFFICE OF THE GENERAL MANAGER
Los Angeles Housing Department
LAHD

1200 West 7th Street, 9th Floor, Los Angeles, CA 90017
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lahd.lacity.org



Antonio R. Villaraigosa, Mayor
Douglas Guthrie, General Manager

July 27, 2011

Amy Brothers, Deputy City Attorney
Land Use Division
City Hall East, Room 701
Los Angeles, CA 90012

Re: Proposed Ordinance Amending Sections 12.03, 12.21, 12.22, 12.24 and 14.00 of the Municipal Code

Dear Ms. Brothers:

The Los Angeles Housing Department (LAHD) is writing in response to the aforementioned draft ordinance which adds definitions of Community Care Facility, licensed; Residential Care Facility for the Elderly, licensed; and Alcoholism or Drug Abuse Recovery or Treatment Facility, licensed, to the Los Angeles Municipal Code to bring it into conformance with the California Community Care Facilities Act. The proposed ordinance would allow these State licensed facilities to exist in any zone that permits single-family homes as public benefits. The proposed ordinance also amends the definitions of *Boarding or Rooming House* and *Family* and adds a definition of *Single Housekeeping Unit* to provide clear guidelines for the appropriate enforcement of boarding houses.

Based on the Department's review of the proposed ordinance (sent on July 12, 2011), and given the City's housing mission and objectives, we outline the following observations:

Americans with Disabilities Act & Fair Housing Act

The proposed ordinance may conflict with the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA). Due to the proposed ordinance's limits on accessibility in low density neighborhoods, it may have a disparate impact on protected classes.

As a recipient of federal funds (i.e., CDBG, HOME, and ARRA) from the U.S. Department of Housing & Urban Development (HUD), the City of Los Angeles is required to develop policies and programs that affirmatively further fair housing. The Housing Department's funding consists of substantial HOME and Community Development Block Grants (CDBG) funding. Currently, the LAHD receives federal dollars to execute the Housing Opportunities for Persons with AIDS (HOPWA) Program, the Neighborhood Stabilization Program (NSP) and the Emergency Shelter Grants/Emergency Solutions Grants (ESG). HOPWA and ESG funding in particular assist individuals with special needs to obtain some type of housing. As a result to these funding sources, the City may be subject to scrutiny by HUD if it creates policies that disproportionately impact protected classes which can then result in the withholding of these federal funds.

Furthermore, the LAHD and the Department of City Planning (DCP) intend to apply to the FY2011 Sustainable Communities Regional Planning Grant Program. The federal HUD grant advance notice of requirements for this

program states: "...HUD requires recipients of HUD funds, including those awarded and announced under HUD's FY2011 funding notices, to take affirmative steps to further fair housing." The City views this grant as a valuable funding opportunity for the Departments and its partners to help implement a region-wide sustainability effort, to comply with the Southern California Association of Governments' (SCAG) Compass Blueprint Report and help address the City's regional transportation growth (e.g., Measure R). If awarded funds under this program, the City of Los Angeles must comply with the fair housing requirements as outlined in the funding regulations.

The LAHD also currently uses its Analysis of Impediments to Fair Housing (AI) Report to list impediments experienced by members of all seven protected classes (i.e., race, color, religion, national origin, sex, familial status, and disability), whether caused by intentional discrimination or by policies and practices that have a disparate impact on members of a protected class than on those not in a protected class. The elimination of identified impediments to fair housing must be maintained to prevent any future impacts (e.g. loss or withholding of federal funding).

Potential Impact on Facilities Serving the Special Needs Population

The proposed ordinance amends the definitions of *Family* and *Boarding or Rooming House* and creates the *Single Housekeeping Unit* definition in order to enact zoning restrictions that prohibit housing with transient characteristics from locating in low-density RD, R1 and R2 zones. These elements may have a disproportionate impact on shared and transitional housing facilities which are mandated to provide housing to persons with disabilities (i.e., mental health patients, physically disabled individuals, people with HIV or AIDS, and formerly homeless individuals, etc.). These types of living arrangements assist individuals with special needs to transition into independent living environments. To date, the estimated number of unlicensed facilities and residents that this ordinance may potentially impact in the City of Los Angeles are 39 properties that house approximately 238 individuals. Impacted projects include those from The Los Angeles Homeless Services Authority (LAHSA), LAHD's HOPWA Program, the Los Angeles County Department of Mental Health's SHARE! Program, and the Department of Children and Family Services' (DCFS) program for transition-age youth.

Questions: Proposed Ordinance

1. A new definition, *Parolee-Probationer Home* was added to the current draft ordinance; however this definition was not included in the previously reviewed draft ordinance. This new definition was not discussed at prior meetings with DCP and the City Attorney. How does this new definition impact the proposed ordinance in its current form?
2. We continue to have concerns regarding how the ordinance will be enforced to address the licensed facilities serving seven or more residents and the unlicensed facilities.

We thank you for the opportunity to work with you and the DCP staff on discussing and considering the various LAHD issues and programs as they relate to this proposed ordinance and we look forward in continuing to work with you. Should you have any questions, please contact Claudia Monterrosa, Policy & Planning Director at (213) 808-8650.

Sincerely,



RUSHMORE CERVANTES
Executive Officer

From: **angela kaufman** <angela.kaufman@lacity.org>
Date: Thu, Jul 28, 2011 at 12:28 PM
Subject: Re: Proposed Ordinance Amending §12.03, 12.21, 12.22, 12.24, and 14.00 of the Municipal Code
To: Amy Brothers <amy.brothers@lacity.org>
Cc: Regina Houston Swain <regina.houston-swain@lacity.org>, Stephen Simon <stephen.simon@lacity.org>, Noreen Vincent <noreen.vincent@lacity.org>

Ms. Brothers,

Sorry I am a day late. I did review the Ordinance and after extensive research on the issue raised by some constituents regarding the limiting of 2 persons per room in drug/alcohol recovery programs or transitional homes, the DOD does not have issue with the Ordinance as written.

Thank you for allowing DOD to review the document and provide comments.

Have a wonderful weekend,

Angela
Angela M. Kaufman, MA, CI/CT
ADA Compliance Coordinator
Department on Disability
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