



## **NEIGHBORHOOD WATCH NEWS**

Volume 17, Issue 4

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April 2013

### **SOBER LIVING FACILITIES**

During the past decade, local governments have expressed ongoing concerns about the impact of federal and state laws on land use decisions affecting residential care facilities (including group homes). It is widely accepted that persons with physical and mental disabilities, and other special needs, deserve to live in the community – in contrast to an institution – and that facilities located in residential neighborhoods allow them to participate in, and become a part of, that community. However, local governments face concern from homeowners that these residential facilities will have a negative impact on their neighborhoods.

The right of individuals with special needs to live in the community versus the right of neighbors to preserve the integrity of their neighborhood results in the longstanding conflict between federal, state, and local government requirements that affect land use regulation. This newsletter identifies these requirements and their impact on the placement of residential care facilities in communities.

Community members generally agree that persons with disabilities and other special needs deserve to live in a community setting like a residential care or treatment facility instead of being isolated and institutionalized. But, it is a common reaction to feel uneasy, concerned, or fearful when a facility moves in next door or down the street. Advocates and facility licensees point out that care and treatment facilities have to be put in *someone's* neighborhood. They argue that neighbors' fear is largely unfounded; they point to examples of facilities peacefully coexisting with neighbors and studies that conclude that residential care facilities do not have a negative effect on neighborhood safety and property values. In addition, advocates find that neighbors are often uninformed about the facility program and residents, which leads to misconceptions.

However, communities do experience problems with facilities. Seventy-two cities responding to a 1999 League of California Cities survey had received one or more complaints ranging from increased traffic, noise, and other neighborhood disturbances – to code violations – to criminal activities such as assaults and burglaries. The majority of complaints involved facilities that serve youth, individuals with mental illness, and individuals with alcohol or drug addictions.

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## **LICENSED RESIDENTIAL CARE FACILITIES**

There are over 15,000 licensed residential care facilities throughout the state. Four state agencies are responsible for licensing and overseeing the range of community-based residential facilities. Several types of facilities provide services to diverse populations. Residential care facilities are designed for individuals who require 24-hour supervision but who do not generally need medical care beyond routine health checks and medication monitoring. Residents generally share responsibilities, meals, and recreational activities; they attend schools, work, and use other services in the community.

The California Department of Social Services licenses group homes and small family homes for children and youth. Group Homes provide supervision and services in a structured environment primarily for children and youth in the foster care system. Small Family Homes provide care in a family setting for six or fewer children with physical and developmental disabilities. In addition, the department licenses facilities for adult and elderly residents who are not able to provide for their own daily needs, have AIDS or HIV, or are recovering from mental illness.

The Department of Alcohol and Drug Programs (DAPD) licenses Alcoholism or Drug Abuse Recovery or Treatment Facilities which provide a range of services in a supportive environment for adults who are addicted to alcohol or drugs. In addition, the Department of Corrections uses DAPD-licensed facilities to provide community-based drug treatment and recovery services to offenders under the Substance Abuse and Crime Prevention Act.

The Department of Health Services licenses community-based residential health facilities that provide skilled nursing care on a continuous and intermittent basis. These facilities serve adults and children who are severely developmentally or physically disabled, or are terminally ill.

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## **STATE REQUIREMENTS AND RESPONSIBILITIES**

State laws also impact local land use practices with respect to residential care facilities. The California Fair Employment and Housing Act, like the federal FHA, prohibit housing discrimination based on disability and familial status. Other state laws protect residents with disabilities from discrimination in housing, and require that reasonable accommodation or modification of the premises be made for individuals with disabilities.

Residential care facilities must have a valid license to operate. The licensing process consists of a background check on the applicant and an on-site facility inspection to ensure that the facility meets health and safety standards. When all health and safety requirements are met, the licensing agency issues a license valid for two years. It conducts a comprehensive facility evaluation on an annual or bi-annual basis. Deficiencies are cited and monetary penalties can be assessed if the facility does not come into compliance with licensing laws and regulations. In addition, the state licensing agency investigates complaints and addresses the concerns of neighbors and other community members.

State law requires that residential care facilities that serve six or fewer residents be considered a residential property and be treated the same as a single-family home. This means that local government can impose on these facilities only those local use restrictions or fees that apply to other single-family residences.

State laws also address overconcentration of facilities. Except for residential facilities for the elderly and alcohol and drug facilities, new residential care facilities must be located at least 300 feet from another facility. Local governments can object to requests for placement closer than these limits.

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**Next Neighborhood Watch Meetings – Thursday, April 11 and Thursday, May 9 – 7:00 p.m.**  
**Ann Kinzle Community Room located in the L.A.P.D. West Valley Area Station**

## **LOCAL REQUIREMENTS AND RESPONSIBILITIES**

Cities and counties have authority to adopt local land use and related regulations, such as zoning and permit requirements. Unlike small facilities, large residential care facilities (those with seven or more residents) are subject to local land use regulations and other restrictions such as special permit requirements (for example, having to obtain a local health department permit for central food service). Local governments may impose notification and public hearing requirements. However, the requirements must not apply exclusively to residential care facilities, and local governments must follow state mandated procedural requirements such as holding hearings for zoning decisions.

Local government entities are required to make reasonable accommodations for programs serving individuals with disabilities. In some instances, accommodation may include exceptions to zoning ordinances for large facilities with seven or more residents.

Public safety is a major issue related to residential care facilities in the community. Service providers contend that the safety issue is often used as a smokescreen by neighbors and local governments for discriminatory actions that are based on fear.

However, some neighbors have experienced problems that impact neighborhood safety (such as assaults, threats and other actions by facility residents as described in the League of California Cities survey). When public safety issues occur, federal and state laws do not pre-empt local authority or responsibility to deal with it. Local rules that are enacted and enforced to provide for the community's safety are not prohibited under federal or state law as long as they are applied to all community members and groups.

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## **COMPLICATED ISSUES, NO EASY RESOLUTIONS**

In conclusion, there are no easy resolutions to the complicated ongoing issues around siting residential care facilities in the community. Some goals conflict, like local control and federal/state protections. In addition some "quality" issues are hard to legislate. For example, what are the best strategies for making marginal licensed facilities (those that generate the greatest number of concerns and complaints) into quality facilities and good neighbors? A related issue concerns both quality and capacity. Should marginal facilities be tolerated in areas where there are not enough quality facilities to meet the demand? Resolutions that address and balance the needs of neighbors, the needs of residents needing services, and the needs of local government are difficult to identify and achieve.

## **GOOD NEIGHBOR GUIDELINES**

The Department of Social Services and the Department of Alcohol and Drug Programs have each published "good neighbor" guidelines for group homes and alcohol and drug treatment facilities. These resource guides address neighborhood concerns about safety, client and staff conduct, and poor maintenance. They include strategies for establishing and maintaining positive relationships with neighbors and the community.

## **COMPLAINTS/CONCERNS**

**Small Facilities** (six or fewer) are treated by state law as residential properties; they have the same restrictions as other single family residences. The state licensing agency is responsible for addressing concerns and complaints about the facility, staff, and residents.

**Large Facilities** (seven or more) are subject to local requirements and restrictions. These generally include advance notice and a public hearing process. The county or city is responsible for addressing concerns and complaints about local requirements and processes. The state licensing agency is responsible for addressing concerns and complaints about the facility, staff, and residents.