

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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June 8, 2026

Carrie Tai, Economic and Development Services Director
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Carrie Tai:

**RE: City of Costa Mesa – Request for Reasonable Accommodation,
115 E. Wilson Street – Letter of Technical Assistance**

The California Department of Housing and Community Development (HCD) received an inquiry regarding the City of Costa Mesa's (City) denial of a May 2, 2025, application for a reasonable accommodation for the sober living home operated by The Ohio House, LLC (Ohio House) at 115 E. Wilson Street (the application or May 2025 reasonable accommodation application). HCD understands that the denial has been appealed. This letter notifies the City that the denial violates state law and that the City Council must grant the appeal and approve the application.

Denying the application is part of Costa Mesa's ongoing group home and reasonable accommodation policies and practices that violate state fair housing and planning and zoning laws (state housing laws), as HCD explained to the City in a November 29, 2023 technical assistance letter (November 2023 TA Letter).¹ That letter advised the City:

"To comply with state law, the City must, among other things, immediately stop enforcing its group home ordinances, repeal them, and revise its reasonable accommodations policies. These actions are also necessary to timely and effectively implement the programs in the 6th cycle housing element that the City adopted on November 15, 2022, which are required for the City's housing element to substantially comply with State Housing Element Law. These include Program 2J (Transitional and Supportive Housing), 2N (Reasonable Accommodation), Program 2O (Definition of Single Housekeeping Unit), Program 2P (Group Homes), and 4A (Fair Housing)."

¹ Available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/costa-mesa-group-home-ta-112923.pdf>.

Definitions

Various laws use the term “group homes” to refer to different types of housing for different populations. For the purposes of state housing laws, the following terms refer to various types of residences in which unrelated persons share the residence:

- **Shared Living Residences**—any housing shared by unrelated persons, including, for example, communal homes, group homes, recovery residences, some community care residential facilities, some supportive and transitional housing, emergency shelters, boardinghouses, and dormitories.
- **Communal Homes**—single residential units in which unrelated persons live together in communal environments, including homes in which landlords’ charge rent to occupants or in which a single operator is running more than one communal home.
- **Group Homes**—housing shared by unrelated persons with disabilities that provide peer and other support for their residents’ disability-related needs and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housekeeping, and other communal living activities and that do not provide services that require licenses under state law.
- **Recovery Residences or Sober Living Homes**—group homes for persons recovering from alcoholism or drug addiction in which the residents mutually support each other's recovery and sobriety and that do not require state licenses because they do not provide alcoholism or drug addiction recovery and treatment services.²
- **Licensed Facilities**—shared living residences that provide services that require licenses under state law, including facilities that provide alcoholism or drug addiction recovery and treatment services.

Statutory Background

Anti-Discrimination in Land Use (ALU) Law

ALU Law³ prohibits jurisdictions from engaging in discriminatory land use and planning activities. Specifically, the law deems any action taken by a city to be null and void if it denies an individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in the state due to illegal discrimination.⁴ ALU Law

² Individuals recovering from alcoholism or addiction are recognized as people with disabilities (see Gov. Code, § 12926, subd. (j)), and “sober living homes and other dwellings intended for occupancy by persons recovering from alcoholism and drug addiction are protected from illegal discrimination against the disabled.” *SoCal Recovery, LLC v. City of Costa Mesa* (9th Cir. 2023) 56 F.4th 802, 814 (*SoCal Recovery*).

³ Gov. Code, § 65008.

⁴ *Id.* at subd. (a)(1).

prohibits discrimination based on any characteristic, including disabilities, protected by other state or federal laws, while adding its own prohibitions of discrimination against individuals or households who have very low, low, moderate, or middle incomes.⁵ The law further recites multiple categories of actions that are determined to be discriminatory, including enactment or administration of ordinances that prohibit or discriminate based on a protected characteristic⁶ and imposition of requirements on a residential use for persons with protected characteristics that are not generally imposed upon other residential uses.⁷ Failing to make reasonable accommodations to rules or policies in order to allow persons with disabilities the opportunity to access housing is also a form of unlawful discrimination.⁸

Affirmatively Furthering Fair Housing (AFFH) Law

AFFH Law⁹ requires all California public agencies, including cities, “to administer their programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with [this] obligation”¹⁰ AFFH means:

taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.¹¹

The “duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development,” including making reasonable accommodations in local zoning rules.¹²

Housing Element Law

In addition to the general AFFH requirements in AFFH Law, Housing Element Law includes more specific AFFH requirements for cities. Government Code section 65583

⁵ *Id.* at subds. (a)(1)(A), (a)(1)(B)(3), (b)(1)(B)-(C), (b)(2)(B), (b)(3), and (d)(2)(A).

⁶ *Id.* at subd. (b)(1)(B).

⁷ *Id.* at subd. (d)(2)(A).

⁸ See, e.g., § 12927, subd. (c)(1); Cal. Code Regs., tit. 2, § 12161, subd. (b)(8) (specifying as unlawful the refusal or failure “to make reasonable accommodations in public . . . land use practices”).

⁹ Gov. Code, § 8899.50.

¹⁰ *Id.* at subds. (a)(2)(B) and (b)(1), (2).

¹¹ *Id.* at subd. (a)(1).

¹² *Id.*

requires cities to thoroughly analyze fair housing issues related to housing for people with disabilities and set forth a program of actions that protect and promote such housing. Through their housing elements, cities must “remove governmental constraints that hinder . . . meeting the need for housing for persons with disabilities,” which requires “remov[ing] constraints to, and provid[ing] reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.”¹³ Section 65583 also requires cities to “promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities all persons regardless of . . . disability” or “other protected characteristics.”¹⁴ And cities’ housing elements must include a fair housing assessment with specific goals, implementation strategies, and “metrics and milestones” for evaluating results.¹⁵ In complying with these AFFH duties, cities are required to analyze data and set measurable objectives and milestones.¹⁶

Fair Employment and Housing Act (FEHA)

FEHA and its implementing regulations similarly prohibit cities from discriminating based on a protected characteristic in their land use practices, decisions, or policies, which includes violations of reasonable accommodation duties.¹⁷ Although the Civil Rights Department (CRD) leads the enforcement of FEHA, the statute and its implementing regulations are relevant to applying the ALU, AFFH, and Housing Element Laws here because the fair housing provisions in all these laws are designed to be applied jointly and consistently.¹⁸

State Constitutional Protections for Shared Living Residences

Ordinance standards, policies, or regulations for group homes must also be viewed in the context of the state Constitution’s protections for communal homes shared by residents with or without disabilities. In *City of Santa Barbara v. Adamson*, the California Supreme Court held that the right to privacy under Article, Section 1 of the California Constitution prohibited a city from enforcing an ordinance that prevented more than five persons unrelated by blood or marriage from occupying a house where the owner was

¹³ Gov. Code, § 65583, subds. (a)(5)(A) and (c)(3).

¹⁴ *Id.* at subd. (c)(5).

¹⁵ *Id.* at subd. (c)(10)(A)(iv).

¹⁶ See, e.g., Gov. Code, § 65583, subds. (a)(5), (a)(7), (b)(1) and (c)(10)(A)(ii); Cal. Code Regs., tit. 2, § 12161, subd. (b)(8).

¹⁷ See, e.g., Gov. Code, § 12955, subd. (l); Cal. Code Regs., tit. 2, §§ 12005, subd. (bb), 12161, subd. (b)(8).

¹⁸ See, e.g., *Martinez v. City of Clovis* (2023) 90.Cal.App.5th 193, 268-269, 271, 279, 288-289 (applying the FEHA concurrently with ALU, AFFH, and Housing Element Laws to an issue involving a local land use policy); Gov. Code, §§ 65008, subds. (a)(1)(A), (b)(1)(B)(i), (d)(1)(2)(A), 65583, subd. (c)(5) (prohibiting discrimination against and applying AFFH duties to persons with characteristics protected by the FEHA).

renting out rooms for a group of unrelated adults to live together in a communal setting.¹⁹ Applying *Adamson*, a state appellate court in *City of Chula Vista v. Pagard* invalidated for the same reason a city's permitting requirement and regulations (e.g., spacing requirements, occupancy limits, parking, periodic inspections) for several communal homes in single family zones that were run by the same operator.²⁰ These same protections under the state Constitution apply to group homes, which are a form of communal homes intended for occupancy by persons with disabilities. And this more generally applicable constitutional doctrine informs and reinforces the specific protections for group homes under the ALU Law, AFFH Law, and Housing Element Law.

Background

General Findings Regarding the City's Group Home Policies and Practices

HCD has previously shared guidance and research materials with Costa Mesa relevant to its unlawful group home and reasonable accommodation policies and practices.²¹ HCD incorporates that guidance and research in this letter, while highlighting some background findings particularly relevant to the May 2025 reasonable accommodation application.

Sober living homes play a key role in substance abuse recovery²² by providing "alcohol and drug free living environments that offer peer support for recovery."²³ According to the United States Substance Abuse and Mental Health Services Administration (SAMHSA), the community support that sober living homes provide "is a critical aspect of achieving and maintaining recovery," and thus, these homes "are uniquely qualified to assist individuals in all phases of recovery, especially those in early recovery, by furnishing social capital and recovery supports."²⁴ This enables people recovering from substance abuse disabilities to live in noninstitutional housing that facilitates their integration into community life.²⁵

¹⁹ *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 127-128, 130, 134-135; see also *City of Santa Barbara v. Adamson* (1979) 90 Cal.App.3d 606, 153 Cal.Rptr. 507, 509 (confirming that Adamson was charging rent to her home's other occupants).

²⁰ *City of Chula Vista v. Pagard* (1981) 115 Cal.App.3d 785, 791, 793-780.

²¹ See, e.g., Nov. 2023 TA Letter (citing earlier guidance documents and research materials, and providing guidance on specific Costa Mesa group home policies, including its reasonable accommodation policies).

²² U.S. Dep't of Health & Human Servs., *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health* (2016) at p. 4-4, available at: <https://tinyurl.com/ssnem8v3>.

²³ Polcin et al., What Did We Learn from Our Study on Sober Living Houses and Where Do We Go from Here? *J. of Psychoactive Drugs* (Dec. 2010) 42(4):425-433, at p. 2, available at: <https://tinyurl.com/yzcxmb3r>.

²⁴ Substance Abuse and Mental Health Servs. Admin., *Recovery Housing: Best Practices and Suggested Guidelines* (2018) at p. 3 (SAMHSA Best Practices), available at: <https://tinyurl.com/mr4c4arz>.

²⁵ Laurie C. Malkin, *Troubles at the Doorstep: The Fair Housing Amendments Act of 1988 and Group Homes for Recovering Substance Abusers* (1995) 144 U. Pa. L. Rev. 757, pp. 769, 772-73.

Starting in 2014, Costa Mesa initiated a series of amendments to its zoning code that imposed new restrictions on group homes, with particularly strict restrictions on sober living homes. The City has stated that the purpose of its 2015 Multiple Family Group Home Ordinance, which applies to 115 E. Wilson Street, is to “limit the number and concentration of group homes and sober living facilities in the Multiple Family Residential zones.”²⁶

The City’s records show that it has implemented its goal, with severe consequences for Costa Mesa’s group homes. Before adopting its group home ordinances, the City estimated that there were 94 sober living homes in its residential zones. The City’s website currently counts only 16 approved group homes of any kind in its residential neighborhoods, and reports that 83 group homes have closed.²⁷

The estimated 94 sober living homes in Costa Mesa before the City adopted its group home ordinances represented less than one-quarter percent of the City’s 43,100 total housing units and less than one-half percent of its 20,355 single family units.²⁸ The 16 remaining approved group homes represent under .04 percent and .08 percent of these same respective housing units. This is consistent with research showing that sober living homes are not highly concentrated in Orange County, relative to the rest of California or the nation as a whole.²⁹ This is also consistent with the City’s group home consultant stating that people leaving treatment programs in Costa Mesa are “hard-pressed” to find sober living homes in the City and “many of them have to move” to other cities.³⁰ Ohio House also submitted evidence to the City that if it is forced to close 115 E. Wilson Street, its residents would not only be displaced from housing that they have chosen because it meets their disability-related needs, but also would be displaced from Costa Mesa because there are not enough other sober living homes available for them there.³¹

²⁶ See 2015-2019 Costa Mesa Annual Reviews of General Plan, available at: <https://www.costamesaca.gov/government/departments-and-divisions/economic-and-development-services/planning/general-plan/annual-progress-reports>.

²⁷ This data is drawn from the City’s website at <https://www.costamesaca.gov/government/departments-and-divisions/economic-and-development-services/community-improvement-division/group-homes-sober-living-information>, and is discussed in *SoCal Recovery*, *supra*, 56 F.4th at 806.

²⁸ Costa Mesa Adopted 6th Cycle Housing Element at pp. 2-29-2-30, available at: <https://www.hcd.ca.gov/housing-open-data-tools/housing-element-download-tool>.

²⁹ Mericle et al., *Identifying the Availability of Recovery Housing in the U.S.: The NSTARR Project*, Drug and Alcohol Dependence 230 (2022), at 6-8, figs. 1, 2, tbl. 1, available at: <https://tinyurl.com/y48mpfze>.

³⁰ May 2025 reasonable accommodation application at Ex. 17, p. 154.

³¹ *Id.* at pp. 17-19; May 6, 2025 supplement (residents’ statements)

Detailed studies filed in court cases involving the City's group home policies have shown the discriminatory effects of Costa Mesa's group home and reasonable accommodation policies and the City's enforcement and application of them.³² In the records from these cases and the May 2025 reasonable accommodation application, the City has not presented evidence that negates these studies' findings. In fact, the City's group home consultant has acknowledged a significant adverse impact of the City's policies, stating that due to rising housing prices and rents in Costa Mesa, group homes that were closed after the City amended its zoning code could not afford to relocate within the City.³³

As the lead agency responsible for state housing policy, HCD must also consider the broader impacts of Costa Mesa's group home policies. Other local jurisdictions have looked to Costa Mesa's regulations as models to use in proposing or adopting their own zoning code restrictions on group homes, including at least 11 other cities in Orange County. Such widespread adoption and enforcement of policies like Costa Mesa's would drastically reduce and restrict housing opportunities for persons with disabilities in California. This would contravene not only state housing laws but the policies underlying them, which recognize that persons with disabilities lack sufficient housing opportunities and require localities to remove constraints on and promote access to housing that meets their needs.³⁴

History of 115 E. Wilson Street

Since 2012, Ohio House has been providing recovery residences for up to eight residents in each of five adjacent single-family homes at 115 E. Wilson Street. Originally developed as a common interest development, the property includes five 2,400-square foot, two-story detached units, each with four bedrooms, three bathrooms, a backyard, garage, and parking for four cars. The homes' entrances are in an alley behind a strip mall, one of a series of commercial properties above a sunken freeway.

³² See, e.g., Ann Moss Joyner, *Disparate Effect Analysis: Costa Mesa California Group Homes Zoning Policies and Actions* (Jul. 26, 2021) Docket Entry No. 147, Ex. 60, *Insight Psychology and Addiction, Inc. v. City of Costa Mesa* (C.D. Cal. 2025, No. 8:20CV00504) 801 F.Supp.3d 942; Expert Witness Report of Brian J. Connelly, *The Ohio House, LLC v. City of Costa Mesa*, 2022 WL 17064032 (C.D. Cal. Feb. 14, 2022, No. 819CV01710).

³³ May 2025 reasonable accommodation application at Ex. 17, p. 156.

³⁴ See, e.g., § 65583, subds. (a)(5), (7)(A), (c)(3), (5), (10)(A)(5) (requiring localities to analyze the "special housing needs" of persons with disabilities, remove constraints on housing intended for them, and develop and implement programs and actions that will affirmatively promote more housing opportunities for them); see also *Broadmoor San Clemente Homeowners Ass'n v. Nelson*, (1994) 25 Cal.App.4th 1, 6, 9 (noting that the Legislature considered the history of localities using zoning laws to exclude group homes when amending the FEHA to prohibit local land use discrimination based on disabilities and finding that it is the policy of California and the nation to "encourage and support handicapped persons right to live in a group home in the community of their choice," internal quotations and citation omitted) ("Broadmoor").

In its 14 years of operation, Ohio House has not caused problems that disrupt or fundamentally alter the community. Notably, the City has not contended that its denial of the application was based on any actual threats to neighbors' health and safety or damage to their property. On the contrary, the residents' statements confirm—and the City does not dispute—that they are good neighbors. The City also does not dispute that the five homes, which were permitted when the site became a shared interest development, comply with the City's objective standards for dwellings on this property.

Furthermore, Ohio House is not so fundamentally different from or incompatible with other nearby properties that it would fundamentally alter the surrounding community. This community is located in a medium density multi-family zone, within an area that the City designates as commercial-residential. Across a narrow alley from 115 E. Wilson Street, a long strip of commercial properties lines a freeway. These include, among other things, strip malls, restaurants, motels, a hotel, a massage parlor, and a storage facility. A four-building, 40-unit student housing complex that has housed 100 students for many years sits across Wilson Street, with the university running this complex recently selling it to a developer that could potentially build even denser housing there under state housing laws. The neighborhood also has apartment buildings, including an apartment complex on 115 E. Wilson Street's block.³⁵

The City has sought to close 115 E. Wilson Street for many years, resulting in denial of a conditional use permit application, denial of an earlier reasonable accommodation request, and litigation between the City and Ohio House. A federal case, in which HCD was not a party but in which the Attorney General filed an amicus brief on behalf of HCD and CRD, resulted in a Ninth Circuit decision in the City's favor in 2025, without fully analyzing the relevant state laws.³⁶

On May 2, 2025, Ohio House and five of the current residents of 115 E. Wilson Street submitted a new request for reasonable accommodation to the City. Presenting new evidence for the City to consider, adding the five individual residents as applicants, and citing state housing laws, the request sought a reasonable accommodation from the strict application of the City's definition of "single housekeeping unit" or, in the alternative, relaxation of the required 650-foot separation between 115 E. Wilson Street and a City-permitted sober living home located at 165 E. Wilson Street, approximately 550 feet away.

On July 2, 2025, the City denied the request for reasonable accommodation. The City's Planning Commission upheld the denial on September 22, 2025. That denial has been appealed.

³⁵ This information was readily available to the City in the applicants' submissions and through online maps, Vanguard University's websites, and local media articles.

³⁶ See *The Ohio House, LLC v. City of Costa Mesa* (9th Cir. 2025) 135 F.4th 645 (*Ohio House*).

Analysis

Reasonable Accommodation Should Not Have Been Necessary

The City violated state housing laws by requiring Ohio House and its residents to request a reasonable accommodation instead of simply allowing 115 E. Wilson Street to continue operating.

In the November 2023 TA Letter, HCD found that the City's group home and reasonable accommodations policies, and its enforcement and application of them, violated the ALU, AFFH, and Housing Element Laws. These violations included the City failing to treat group homes like Ohio House's the same as other single family homes through, among other things, the zoning code's overly restrictive definition of a single housekeeping unit, its 650-foot separation requirement for group homes, and its lack of grandfathering for group homes like Ohio House's that already were in place before the City amended its zoning code to impose restrictions on them.³⁷

Requiring and then denying Ohio House's latest reasonable accommodation request, instead of merely allowing it to continue operating, shows that the City's violations are ongoing and that it has not complied with HCD's instructions to "immediately stop enforcing its group home ordinances, repeal them, and revise its reasonable accommodations policies" and "timely and effectively implement" the relevant housing element programs listed in the November 2023 TA letter.³⁸

The City's Reasonable Accommodation Policies Violate State Housing Laws³⁹

As mentioned above, through their housing elements, cities must "remove governmental constraints that hinder . . . meeting the need for housing for persons with disabilities," which requires "remov[ing] constraints to . . . housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities."⁴⁰

Several provisions of the City's reasonable accommodations policies create constraints on housing for persons with disabilities that are contrary to the intent of Housing Element Program 2N, which commits the City to revise its reasonable accommodation procedure to, among other things "address potential constraints and establish potential objective standards." For example, one of the City's required findings to approve a reasonable accommodation request is that "[t]he requested accommodation is consistent with surrounding uses in scale and intensity of use."⁴¹

³⁷ See, e.g., November 2023 TA Letter at pp. 1, 5-10.

³⁸ *Id.* at pp. 1, 10.

³⁹ Both the reasonable accommodation policies in place at the time of the July 2, 2025 denial and the amended version adopted on April 7, 2026 by the City Council violate state law as described in this letter.

⁴⁰ Gov. Code, § 65583 subds. (a)(5)(A) and (c)(3).

⁴¹ Costa Mesa Municipal Code (MC), § 13-200.62, subd. (f)(4).

Furthermore, other factors the policy allows the City to consider include “[w]hether the requested accommodation would fundamentally alter the character of the neighborhood,”⁴² “[w]hether the accommodation would result in a substantial increase in traffic or insufficient parking,”⁴³ and “[w]hether granting the requested accommodation would substantially undermine any express purpose of either the City’s general plan or an applicable specific plan.”⁴⁴ These provisions are subjective, potentially prejudicial, and can serve as constraints, violating Housing Element Law.

Another required finding under the City’s policies is that “[t]he requested accommodation will not . . . result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.”⁴⁵ Similarly, the provision regarding factors that shall be considered in determining whether to grant a requested accommodation includes a note that “[t]he director may also consider whether the requested accommodation would potentially have adverse external impacts on properties in the vicinity.”⁴⁶ These provisions are not consistent with state regulations, which allow a reasonable accommodation request to be denied if it “would constitute a direct threat to the health or safety of others (i.e. a significant risk of bodily harm) or would cause substantial physical damage to the property of others, and such risks cannot be sufficiently mitigated or eliminated by another reasonable accommodation”⁴⁷ Specifically, the City’s code allows reasonable accommodations to be denied based on the subjective, and potentially prejudicial and overly constraining “adverse external impacts” clause, and it does not provide for consideration of whether risks can be “sufficiently mitigated or eliminated by another reasonable accommodation.”

Several provisions of the City’s reasonable accommodation policies require considerations beyond the individual request and the residence it involves, in violation of state law. For example, “[i]n considering the financial or administrative burden on the City, the director may consider, among other things, the extent to which the City would have to dedicate resources, such as staff time and funds, to grant the request *and other requests like it*”⁴⁸ (emphasis added). And “[i]f economic viability is raised by the applicant as part of the applicant’s showing that the requested accommodation is necessary, then a finding that the requested accommodation is necessary to make facilities of a similar nature or operation economically viable *in light of the particularities of the relevant market and market participants generally, not just for that particular applicant*”⁴⁹ (emphasis added). However, each reasonable accommodation request

⁴² MC, § 13-200.62, subd. (g)(1).

⁴³ MC, § 13-200.62, subd. (g)(2).

⁴⁴ MC, § 13-200.62, subd. (g)(3).

⁴⁵ MC, § 13-200.62, subd. (f)(5).

⁴⁶ MC, § 13-200.62, subd. (e)(2)(b).

⁴⁷ Cal. Code Regs, tit. 2, § 12179, subd. (b)(3).

⁴⁸ MC, § 13-200.62, subd. (e)(2)(a).

⁴⁹ MC, § 13-200.62, subd. (f)(6).

must be considered and evaluated on a fact-specific, case-by-case basis.⁵⁰ A reasonable accommodation request may not be denied based on concerns that granting it “might possibly become an undue burden if extended to multiple other individuals”⁵¹ And cities must also give “significant weight” to the right of disabled persons to choose to live in a home that they have decided meets their needs.⁵²

In sum, Costa Mesa violated the ALU, AFFH, and Housing Element Laws by subjecting the application to the City’s unlawful reasonable accommodation procedures.

Denying the Application Violated State Law

Even under the City’s own unlawful reasonable accommodation procedures, the City failed to meet its burden of justifying its denial of the application.

The City justified its denial by asserting that (1) 115 E. Wilson Street does not meet the City’s definition of a single housekeeping unit and therefore no accommodation can be granted, and (2) it would be a fundamental alteration of the City’s zoning code to make any accommodation to its rule requiring that sober living homes not be located within 650 feet of another sober living home or licensed recovery or treatment facility.⁵³

HCD has considered the City’s justifications in light of the record from the May 2025 reasonable accommodation application and the more general findings, guidance, and research that HCD has shared with the City and incorporated and summarized in this

⁵⁰ For the applicable standards under state law, see, e.g., Cal. Code Regs., tit. 2, §§ 12161, 12176-12181; *Auburn Woods I Homeowners Assn. v. Fair Employment & Housing Com.* (2004) 121 Cal.App.4th 1578, 1593 (“Each [reasonable accommodation] inquiry is fact specific and requires a case-by-case determination.”); Cheng et al., Cal. Practice Guide: Cal. Fair Hous. & Public Accommodations (The Rutter Group 2025) §1:11, subds. (m), (n) (discussing cases showing that once an applicant meets its minimal burden of showing an accommodation seems reasonable on its face, the city bears the burden of justifying a denial that is based, as Costa Mesa’s was, on an asserted fundamental alteration of a rule or program).

⁵¹ Cal. Code Regs., tit. 2, section 12179, subd. (f).

⁵² See, e.g., HCD Group Home Technical Advisory (Group Home TA) at p. 10, nn. 24-26 (discussing rights of disabled persons to choose their housing and citing examples of relevant authorities), available at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>; see also Cal. Code Regs. tit 2, §§ 12177, subd. (c), 12180, subd. (c)(6) (preferences of persons requesting housing accommodations must be given “significant weight” and cities must grant reasonable accommodations in how their zoning code applies to an applicant’s home).

⁵³ Although the City did not specifically cite “fundamental alteration” of a City policy as the reason it denied an accommodation of its single housekeeping unit standard, that appears to be the basis of the City’s decision. And the City did not rely on other permissible reasons for denying either of the reasonable accommodation requests here, such as that they would “impose an undue financial and administrative burden” on the city, pose “a direct threat to the health or safety of others,” or “cause substantial physical damage to the property of others.” Cal. Code Regs., tit. 2, § 12179, subd. (b)(1)-(3).

letter. HCD finds that the City violated the ALU, AFFH, and Housing Element Laws by applying unlawful standards, failing to engage in the case-specific, fact-based inquiry required to justify denying the requested accommodations, and failing to consider its AFFH duties, as described below.

Definition of Single Housekeeping Unit

The City asserts that because the homes at 115 E. Wilson Street do not meet the City's definition of single housekeeping units, no accommodation can be granted to that definition's application here.

But the City fails to consider that 115 E. Wilson Street is a type of communal home protected by the California Constitution's right to privacy, which prohibits cities from imposing special restrictions on communal homes.⁵⁴ The communal living environment at 115 E. Wilson Street is confirmed, for example, by the peer support that the residents provide for each other's sobriety, their sharing of cooking and living spaces, and the group activities they participate in with each other, which include meals, social activities, household meetings, chores, and service activities like cleaning up the adjacent alley.⁵⁵ At the very least, for the purposes of reasonable accommodation analysis, 115 E. Wilson Street is not fundamentally different from the communal homes that the California Constitution requires the City to treat as permissible uses in this zone.

The City further asserts that it cannot grant an accommodation to its definition of a single housekeeping unit because Ohio House is a for profit business and sets rules for the home (e.g., prohibition of using alcohol or nonprescription drugs, mandatory drug testing, requirements to attend house meetings and contribute to chores, etc.).⁵⁶ But fair housing laws have long prohibited cities from treating a group home differently from other homes because it is run by a for-profit business.⁵⁷ In addition, the City fails to consider that (1) Ohio House's rules are consistent with nationally recognized best practices for sober living homes and support its residents' sobriety and recoveries; (2) landlords renting single family homes or apartment units generally, if not always, set rules for their tenants, including requiring approval for who lives there; and (3) there is no evidence that the rules adversely affect the local community in any way, much less fundamentally alter it—if anything, the rules address some of the City's purported, and even its unlawfully prejudicial, concerns about sober living homes. And the City ignores that Ohio House's residents freely and deliberately choose to live in a home with these rules—when they move in and while they choose to continue living there—because they

⁵⁴ See *supra* at p. 4.

⁵⁵ See May 2025 reasonable accommodation application at pp. 22-24 & May 6, 2025 supplement (statements from the five resident applicants).

⁵⁶ See May 2025 reasonable accommodation application at Ex. 9 (Ohio House Admissions Agreement and Rules).

⁵⁷ *Broadmoor, supra*, 25 Cal.App.4th at 1, 8-9.

feel the rules support their sobriety, as shown by the statements that the five residents submitted with the application.⁵⁸

The City contends that 115 E. Wilson Street's residents are too transitory for the homes at the property to be treated as single housekeeping units. But residents live there for seven months on average, with some staying more than two years, and, as shown by the five residents' statements, they regard 115 E. Wilson Street as their home while living there. This is more than sufficient for 115 E. Wilson Street to be protected as a dwelling under fair housing laws.⁵⁹ And the City has not shown that 115 E. Wilson Street is fundamentally more transitory than, for example, the student housing across Wilson Street, the apartment complex on the same block, and the nearby motels and hotel, or that the length of its residents' stays fundamentally alters this community.

The City also cites the number of people living in the five homes at 115 E. Wilson Street as a reason to deny an accommodation of its definition of a single housekeeping unit.⁶⁰ But occupancy limits are set by state law, which bars cities from setting stricter limits unless they are supported by studies, which Costa Mesa has not made, demonstrating that local climate, geology, or topography require stricter limits.⁶¹ Based on the houses' sizes at 115 E. Wilson Street and the number of bedrooms in each house, the occupancy levels at 115 E. Wilson Street appear to be well within state occupancy limits.⁶² Therefore, the number of people currently living at the property is not a reasonable basis to deny the requested accommodation.

In sum, it was both unlawful for the City to refuse to treat the homes at 115 E. Wilson Street like other single housekeeping units and, at the very least, unreasonable for the City to refuse to grant an accommodation of its definition of a single housekeeping unit that would continue to allow sober living housing at this property.

⁵⁸ See, e.g., May 2025 reasonable accommodation application at Ex. 12 (SAMHSA Report discussing best practices for recovery residences) & May 6, 2025 supplement (residents' statements).

⁵⁹ See *Lakeside Resort Enters., LP v. Board of Supervisors of Palmyra Twp.* (3d Cir. 2006) 455 F.3d 154, 156-160 (reviewing cases holding that group homes and licensed facilities that were designed for residents to stay in them for 30 days or longer were protected under the federal fair housing laws and holding that a drug and alcohol treatment facility where residents stayed on average for roughly two weeks was protected because many of the residents stayed significantly longer than that and treated the facility as their home during their stays); Cal. Code Regs., tit. 2, § 12005, subd. o (including sober living homes as dwellings protected by the FEHA).

⁶⁰ The City does not cite the existence of five homes at 115 E. Wilson Street as a reason to deny an accommodation of its single housekeeping unit definition, likely because it is undisputed that the City had originally allowed the five homes to be developed at this property.

⁶¹ Cal. Health & Saf. Code, §§ 17958, 17958.5, 17958.7.

⁶² Group Home TA at p. 30 (discussing state occupancy limits).

650-foot Separation Requirement

For over a decade, 115 E. Wilson Street has been located 550 feet away from another sober living home in this neighborhood. The City asserts that it would fundamentally alter its zoning code to allow 115 E. Wilson Street a 100-foot accommodation from the zoning code's 650-foot separation rule. The City contends that anything less than a 650-foot separation will fundamentally alter its zoning code by causing "overconcentration" that will create "institutional" living settings for persons with disabilities. But the City has not engaged in the case specific, fact-based inquiry required to justify denying the requested accommodation for this reason. It has not produced any evidence, conducted any research, or cited any studies showing that the 550-foot separation between these two sober living homes is already causing or will cause "overconcentration" or "institutional" living.

Instead, evidence readily available to the City shows that its concerns about overconcentration and institutional living in these two sober living homes are unfounded. From the broadest perspective, there are only 16 group homes currently permitted to operate in this 16-square-mile city with a population of 112,780, that has 43,100 multi-family housing units and 20,355 single family units. More specifically, there are no reports of the residents from the two sober living homes regularly encountering each other or being segregated together in any way that replicates the historic isolation and segregation of institutions for persons with disabilities that state housing laws seek to address. The City's own consultant has not found evidence of institutional living at Ohio House, which operates consistently with SAMHSA's best practices and helps people in recovery live in a residential, noninstitutional setting. The residents' statements further confirm that they are living in a home, not in an institution.⁶³

Other Evidence and Analysis That the City Did Not Consider

As discussed above, Ohio House has used 115 E. Wilson Street as sober living housing for 14 years without disrupting or fundamentally altering the community. And this use is not fundamentally inconsistent with "the nature of the particular zoning district, and with nearby uses" as required by the City's reasonable accommodation policies.⁶⁴ The City failed to consider all this in denying the reasonable accommodation requests.

⁶³ May 2025 reasonable accommodation application & May 6, 2025, supplement (residents' statements). For guidance that was available to the City regarding the differences between residential uses like sober living homes and the more institutional settings of licensed facilities, see, for example, *id.* at June 2, 2025, second supplement, Nov. 2023 TA Letter at p. 2, and Group Home TA at pp. 5-6, *supra* at p. 2, and Group Home TA at pp. 5-6, 25-26.

⁶⁴ MC, § 13-200.62, subd. (e)(2)(b).

The City also did not consider that sober living is not a fundamentally inconsistent use compared to other ways that Ohio House could use this property. For example, Government Code section 65582, subdivision (o) defines transitional housing as rental housing that requires the “termination of assistance . . . at a predetermined future point in time that shall be no less than six months from the beginning of assistance.” Government Code section 65583, subdivision (c)(3) requires cities to treat transitional housing operating in single family dwelling like other single family dwellings in the same zone.⁶⁵ The only difference between Ohio House and transitional housing is that Ohio House does not limit the time that its residents may live there because this flexibility is needed to support the residents’ sobriety and recoveries, as shown by the residents’ statements and the SAMHSA Best Practices.⁶⁶ Even considering this difference, granting an accommodation to allow Ohio House to continue operating at this site would not affect this neighborhood in fundamentally different ways than transitional housing would.

Lastly, the City’s analysis and denial of the application shows that it did not consider that AFFH laws require the City to remove constraints on housing for persons with disabilities and promote this housing, did not conduct the required fact- and data-based analysis of whether the City is meeting the housing needs of persons with disabilities, and did not abide by its duties to implement metric-driven plans and actions to meet those needs while “protecting existing residents from displacement.”⁶⁷

In sum, for each and all of the reasons discussed above, the City’s analysis and denial of the requested accommodations violated ALU Law, AFFH Law, and Housing Element Law.

Ohio House Court Decision

The City mistakenly relies on the Ninth Circuit’s decision in *The Ohio House* to justify its denial of an accommodation.⁶⁸

The City contends because the Ninth Circuit rejected Ohio House’s earlier arguments that the City’s reasonable accommodation rules discriminated on the basis of disability, this justifies the City denying Ohio House’s and the five residents’ subsequent May 2025 reasonable accommodation application. The City’s reliance on *Ohio House* is misplaced.

This is shown by the district court’s ruling in *Insight Psychology and Addiction, Inc. v. City of Costa Mesa* (C.D. Cal. 2025) 801 F.Supp.3d 942 (*Insight Psychology*), which was issued after the Ninth Circuit’s *Ohio House* decision.

⁶⁵ See also Group Home TA at pp. 20-22.

⁶⁶ See *supra* at n. 24.

⁶⁷ See, e.g., Gov. Code, § 65583, subds. (a)(5), (a)(7), (b)(1), and (c)(10)(A)(i)-(v).

⁶⁸ *Ohio House*, *supra*, 135 F.4th 645.

In *Insight Psychology*, the court rejected *Costa Mesa*'s argument that *Ohio House* barred a group home plaintiff from bringing to trial its fair housing claims based on the City's group home and reasonable accommodation policies. This included rejecting *Costa Mesa*'s more specific argument that the Ninth Circuit had barred further scrutiny of *Costa Mesa*'s argument that any accommodation from the City's 650-foot separation rule would fundamentally alter its zoning code. In rejecting *Costa Mesa*'s arguments, the district court found that in *Ohio House*, the Ninth Circuit (1) stated that reasonable accommodation claims must be decided on a case by case basis and "will turn on the facts of each case," (2) did not bar plaintiffs from litigating disputes based on new evidence over whether granting an accommodation from the City's group home rules would fundamentally alter its zoning code, and (3) ruled that the terms of the City's reasonable accommodation ordinance complied with federal law but did not consider or rule on whether they complied with state housing laws.⁶⁹

Costa Mesa should also consider the legal alert that HCD, CRD, and the Attorney General's Office issued on June 3, 2026, which discusses additional reasons why cities should still follow HCD's guidance on how state housing laws apply to local group home regulations and reasonable accommodation requests after the *Ohio House* decision.⁷⁰

Conclusion

The City violated ALU Law, AFFH Law, and Housing Element Law by (1) requiring *Ohio House* and the five other applicants to request a reasonable accommodation instead of simply allowing 115 E. Wilson Street to continue operating, (2) imposing an unlawful reasonable accommodations process on them, and (3) failing to comply with its reasonable accommodations duties in analyzing and denying the application.

The City Council must grant the appeal and approve the reasonable accommodation application.

HCD has enforcement authority over ALU Law, AFFH Law, and Housing Element Law. Accordingly, HCD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction is in violation of state law, HCD may notify the California Office of the Attorney General.⁷¹

⁶⁹ *Insight Psychology*, *supra*, 801 F.Supp.3d at pp. 973-974, 980-981, citing and quoting *Ohio House*, *supra*, 135 F.4th at 678. See also *Insight Psychology and Addiction, Inc. v. City of Costa Mesa* (Aug. 11 2025) 2025 WL 3190819 at p. *3, fn.1. HCD has learned that shortly before the *Insight Psychology* trial, the City agreed to a settlement that, among other things, obliged it to amend its reasonable accommodation ordinance after consulting with disability rights advocates who participated in the case.

⁷⁰ Legal alert available at <https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20re%20Ohio%20House%20v.%20City%20of%20Costa%20Mesa%20-%20Final.pdf>.

⁷¹ Gov. Code, § 65585, subds. (i) and (j).

If you have any questions regarding this letter or require additional technical assistance, please contact Stephanie Reyes at stephanie.reyes@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long, sweeping horizontal stroke extending to the right.

Melinda Coy
Housing Accountability Unit Chief