

# **Public Hearing 1 – Public Comments**

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**From:** Mary Helen Beatificato <mh@nsightrecovery.com>  
**Sent:** Monday, January 31, 2022 10:12 AM  
**To:** CITY CLERK; CONSTITUENT SERVICES; STEPHENS, JOHN; MARR, ANDREA; CHAVEZ, MANUEL; GAMEROS, LOREN; HARLAN, JEFFREY; HARPER, DON; REYNOLDS, ARLIS  
**Cc:** McDougall, Paul@HCD; Prasse, Marisa@HCD; BARLOW, KIMBERLY HALL  
**Subject:** [NOENCRYPT] Comment on Public Hearing Item #1 - CITY OF COSTA MESA 2021-2029 (SIXTH CYCLE) HOUSING ELEMENT (GP-21-01)  
**Attachments:** DOC012722.pdf

Madam City Clerk and Honorable Members of the City Council,

Attached please find a comment letter on Public Hearing Item #1 for the February 1, 2022 City Council meeting — the 2021-2029 (Sixth Cycle) Housing Element Update. This is the comment letter I sent to HCD on the final draft of Costa Mesa's Housing Element Update. A link to the attachments to the letter is below.

 [HCD Attachments](#)

Best regards,

*Mary Helen Beatificato*

CEO & General Counsel

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January 27, 2022

To: Paul.McDougall@hcd.ca.gov; Marisa.Prasse@hcd.ca.gov

RE: City of Costa Mesa's 6th Cycle (2021-2029) Draft Housing Element

Dear Mr. McDougall and Ms. Prasse,

The City of Costa Mesa's Draft Housing Element update for the Sixth Cycle (2021-2029) does not address the comments relating to "Housing for Persons with Disabilities" that the California Department of Community Development ("HCD") provided to Costa Mesa in your letter, dated December 3, 2021. (Attachment 1.) We (and others) raised this issue through written comments before the City Council's January 11, 2022, public hearing on the draft Housing Element update. (Attachment 3.) City staff and the City Council did not address (or even acknowledge) our comment letters during the public hearing.

**Insight's Housing in Costa Mesa**

As you may recall, my company (Insight Psychology and Addiction, Inc.) provides supportive housing for adults transitioning from 24-hour psychiatric care to community living (i.e., being able to live where and with whom one chooses, such as living alone, living with loved ones, or living with housemates/roommates). Our housing is located in one of Costa Mesa's multifamily residential zoning districts. At the time we established our housing (which consists of six units, each with six or fewer beds), it was permitted by right.

The purpose of our housing is to foster autonomy in the least restrictive environment possible. For this reason, our Costa Mesa housing does not provide any licensable services on site and, therefore, is not required to obtain — nor eligible for — any state licenses. Although there is a desperate unmet need for this type of transitional supportive housing, there is no other housing like it in Orange County. (See Attachment 6, pp. 64, 67-68, ¶¶ 20-21, 37-40.) We are not a sober living home. We are not a licensed residential care facility. Costa Mesa created definitions of "family" and "single housekeeping unit" that are designed to ensure our residents could never qualify. (See Attachment 12, pp. 94, 101.)

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### Costa Mesa's Group Home Regulations

In late 2015, Costa Mesa adopted group home regulations and operator's permit requirements for "group homes" in multifamily zones. The express purpose of the City's group home regulations is to address a perceived "proliferation" of a narrow subset of group homes — i.e., sober living homes. (Attachment 4, p. 2, last recital.) Costa Mesa did not perform any technical studies or other formal analysis for its group home regulations (Attachment 12, p. 56), and Costa Mesa's Director of Economic and Development Services (Jennifer Le) acknowledges its group home regulations were largely based on "unsubstantiated citizen complaints." (Attachment 13, p. 6, ¶ 16.)

### Impact of Group Home Regulations on Shared Housing for People with Disabilities

The City's group home regulations set out to reduce the number of group homes in the City, and they are working as designed. They have had a drastic impact on the City's stock of shared housing for people with disabilities:

Group Home Beds*	2014	2017	2021
Beds in the Single Family Residential Zone	386	425	183
Beds in Multi-Family Residential Zones	762	1,273	296**
Beds in Other Zones	76	82	0
<b>TOTAL BEDS</b>	<b>1,224</b>	<b>1,780</b>	<b>479</b>

\* All of these figures come from the City's own data, which Insight provided to the City in connection with its summary judgment motion in its legal action against Costa Mesa. (See Attachments 19, 20, and 21; see also Attachment 13 [Exhibit 2 – 2014 data]; Attachment 13 [Exhibit 3 – 2017 data]; Attachments 14-18 [2021 data].)

\*\* This figure and the grand total include the 30 beds my company is currently providing. Closing Insight's housing will therefore, result in a further loss of 6.26% of the City's total beds (i.e., 30 of 479 is 6.26%).

### Impact of Group Home Regulations on Insight's Housing

My company's experience navigating Costa Mesa's group home regulations is a case-in-point on why the City has lost so many of its group homes and has not replaced them with new operators. Even though our housing is a lawful preexisting use, Costa Mesa's group home regulations purport to require it to obtain a conditional use permit (CUP) and require it to comply with the City's 650-foot separation requirement (i.e., group homes cannot be located within 650 feet of a state-licensed facility or another group home). City staff told us our housing **cannot obtain a CUP** because it is 476 feet and 636 feet respectively from state-licensed residential drug or alcohol treatment facilities that are located outside Costa Mesa's jurisdiction in unincorporated

Orange County. Notably, our housing was there first, but that was irrelevant to the City. (Attachment 9, p. 41].)

We applied for a reasonable accommodation asking the City to relax its separation requirement in this instance to allow us to continue providing this much-needed housing. (Attachment 6.) We told the City there is no other housing like ours in Orange County. (Attachment 6, pp. 6, 12; Attachment 9, p. 23.) We told the City we cannot feasibly move our housing to another location. (Attachment 9, p. 32.) We pointed out that we'd been providing our housing for more than three years with no code enforcement complaints. (Attachment 9, p. 33-37, 40.) We offered to stipulate to conditions of approval to address the City's stated concerns (e.g., limiting occupancy, limiting vehicles). (Attachment 8, pp. 39-40; Attachment 9, p. 29.) Nevertheless, Costa Mesa *denied* our accommodation request to relax the separation requirement because, in their words, "[i]t doesn't meet the separation requirement." (Attachment 9, p. 70, lines 14-17.)

The process took *more than three years* (October of 2016 through November of 2019). We spent *hundreds of hours* on submittals and *thousands of dollars* on application fees and mailing labels. We endured *two vicious public hearings*, one for the Planning Commission and one for the City Council. Before both hearings, the City sent mailers to the owners and occupants of all of the properties within 500 feet of our housing and published notice on its website and in the newspaper identifying our housing as a "group home" and, in doing so, "outing" our residents' disabilities to their neighbors and the community as a whole. At those hearings, public commenters did not hide their fear and animosity about people with disabilities. (See, e.g., Attachment 9, p. 53, lines 22-23 ["... somebody is mentally disabled does not belong in a neighborhood next door to me or any of us in this room."]; *id.*, at p. 54, lines 17-22 ["... mentally ill cannot associate with our children, neighbors. They are just having a ... disability that can be helped only in a mental institution."].) It wasn't just me who had to withstand this cruelty — two of my former residents attended the Planning Commission hearing, and one of my former residents attended the City Council hearing. (Attachment 8, pp. 74-77 ["When you say no to Nsight, you're saying no to a woman like me..."]; Attachment 9, pp. 59-60.)

Our request was doomed from the start. The City has since acknowledged that there was never any possibility the City would relax the separation requirement for us because the Council had previously given "very clear direction that they didn't want to have any kind of deviation from the 650-foot separation, no matter what type of group home it was." (Attachment 11, p. 112, lines 22-25.) Indeed, even though more than twenty preexisting group homes have requested the City relax the separation requirement to allow them to continue providing housing, Costa Mesa has *never* approved such a request for a group home that required a CUP. (Attachment 22.)

### **Litigation Regarding Costa Mesa's Group Home Regulations**

In March of 2020, my company and one of our former residents filed a legal action against the City of Costa Mesa alleging its actions with respect to Insight violate a variety of fair housing and disability discrimination laws — *Insight Psychology and Addiction, Inc. v. City of Costa Mesa*, United States District Court for the Central District of California, Case No. 8:20-cv-00504-JVS-JDE. Our trial date is April 5, 2022, and we currently have cross motions for summary judgment pending (with a hearing date of February 14, 2022).

Contrary to the City's claims in its revised Housing Element update, the City's group home regulations have *not* been "upheld by numerous courts in both state and federal court." (Attachment 2, p. 3-21.) Conspicuously, the City's proposed changes to its Housing Element update do not cite any legal decisions upholding its (or any other agency's) group home regulations. There are numerous decisions finding similar regulations in other cities discriminatory, such as *Pacific Shores Properties, LLC v. City of Newport Beach*, 730 F.3d 1142, 1165 (9th Cir. 2013) ("Subjecting an entity protected by anti-discrimination laws to a permit or registration requirement, when the requirement is imposed for a discriminatory purpose, has obvious adverse impacts upon that entity ... This would be true even if such permits were granted freely, which is decidedly not the case here.")

In fact, a recent United States District Court decision denied Costa Mesa's motion for summary judgment in an action brought by an operator of a sober living home (Ohio House, LLC). With respect to that disparate treatment claim, the Court found:

... Ohio House has presented evidence from which *a reasonable jury could conclude that there are no set of circumstances under which the Regulations would be valid*. For instance, if the fact-finder accepts Ohio House's claim that the Regulations are impermissibly discriminatory under a disparate treatment theory, they could conclude that this would be true in every circumstance. This is especially true because *the City has not identified any circumstances under which the Regulations would be permissible* if Ohio House otherwise proves its discrimination claim.

(Attachment 5, p. 16 [emphasis added].) The legality of the Costa Mesa's group home regulations are very much in question.

#### **Unrefuted Expert Analysis Shows Disparate Impact**

In connection with Insight's legal action, Insight retained a well-respected demographer and statistician (Ann Moss Joyner of the Cedar Grove Institute for Sustainable Communities) to analyze the impacts of Costa Mesa's group home regulations. To Insight's knowledge, no one has done this before (including the City). Ms. Moss Joyner prepared a detailed report. (Attachment 23.) Her conclusions are on pages 88-89. Among other things, Ms. Moss Joyner concluded:

- I find that the City's zoning regulations on Group Homes and boardinghouses reduce the availability of housing for people with disabilities in ways that they do not restrict the availability of housing for the population at large living in dwellings that are less likely to house people with disabilities (e.g. single family and multifamily housing).

...

- I find that the City set out to reduce the presence of existing Group Homes in the City and did this by its use of its Zoning Code, its Special and Conditional Use Permit process, its Reasonable Accommodation process, and its implementation practices, all of which reduced the availability of Group Homes as supportive housing for those with disabilities.
- I find that the City's Zoning Code, its Special and Conditional Use Permit process, its Reasonable Accommodation process, and its implementation of implementation practices made it more difficult to site Group Homes than to provide housing for the residents of the City without disabilities (e.g. single family and multifamily housing).

...

Taken together, all of the analysis above shows that the City set out to reduce the purported "overconcentration" of Group Homes without providing a mechanism whereby there were sufficient sites wherein Group Homes that serve residents with varied kinds of disabilities might locate within the City with City approval. Thus, the result is a severe reduction in the availability of supportive housing for residents with disabilities in Costa Mesa and – without Insight's supportive housing – no transitional community supportive housing for those with mental health disabilities.

(Attachment 23, p. 89.) Insight provided this report to the City in July of 2021. After that, the City had two months to retain its own expert to peer review Ms. Moss Joyner's findings and prepare a rebuttal report. Insight does not know what effort, if any, the City made to find an expert to review Ms. Moss Joyner's findings, but what is clear is that ***the City has never provided a rebuttal report***. To Insight's knowledge, Ms. Moss Joyner is the only expert who has ever analyzed the impacts of Costa Mesa's group home regulations.

### **Housing Element Update**

Costa Mesa's housing regulations must proactively account for the needs of residents with disabilities. Its housing element must include "[a]n analysis of any special housing needs, such as those of ... persons with disabilities." Gov. Code § 65583(a)(7). Its zoning actions are "null and void" if they deny "to any individual or group of individuals the enjoyment of a residence ... because of ... [disability]." *Id.*, at § 65008(a)(1)(B). Even if the City claims its group home regulations are ***intended*** to "benefit" people with disabilities (which Insight disputes), this Housing Element update requires Costa Mesa to take stock and meaningfully analyze whether its group home regulations are ***actually*** benefitting people with disabilities who rely on shared housing. They are not. They have resulted in the loss of more than 70% of the City's group home beds since 2017. (See Attachments 20-21.)

Insight, its residents, operators of many other group homes, their residents, and disability rights advocates have been ringing the alarm bell for years that there are serious problems with Costa Mesa's group home regulations. The City has ignored us.

Your office's December 3, 2021 comment letter told the City in no uncertain terms that it needs to undertake a "specific analysis of these and any other constraints, including their enforcement and considering public comments, for impacts on housing for persons with disabilities and add or modify programs as appropriate." (Attachment 1, p. 8.) Instead of providing the "specific analysis" HCD and the Housing Element Law requires, Costa Mesa's revised Housing Element update adds superficial language that, in many instances, is demonstrably false:

Additional Language in Housing Element Update	Insight's Response
<p><b>Group Homes</b></p> <p>"Although there are several different housing types outlined in the zoning code including group homes, the City's zoning code does not exclude group homes or more specifically housing for disabled people from any residential zones in the City. On the contrary, disabled individuals can live in any residential property in the City." (Attachment 2, p. 3-21.)</p>	<p>Many people with disabilities (including residents of our housing) cannot "live in any residential property in the City." This is no different than telling individuals who rely on wheelchairs they can live in "any residential property" without regard to whether the property has wheelchair access. As a result of our residents' disabilities, they need shared housing — it is therapeutic for individuals transitioning from inpatient psychiatric hospitals to have housemates going through similar experiences they can confide in. As a result of their disabilities, they do not have the ability to arrange this housing for themselves (e.g., find an available unit, furnish it, set up utilities, find roommates with similar disabilities, etc.). They need someone (in this case, Insight) to make those arrangements for them.</p> <p>Importantly, the City's Zoning Code does not allow group homes in the exact same places it allows single and multi-family dwellings. To illustrate, if Insight stopped providing its shared housing for people with disabilities (which the City deems an unpermitted "group home"), the City would permit (by right) the <i>same six units</i> to be used for apartment rentals for the <i>same number of occupants</i> (or more) with the <i>same number of vehicles</i> (or more) with no requirements for length of tenancy. If our units were used for apartment rentals, they would not need a CUP or</p>



Additional Language in Housing Element Update	Insight's Response
	operator's permit. There would be no separation requirements.
"The city's code provisions regarding group homes have been upheld by numerous courts in both state and federal court." (Attachment 2, p. 3-21.)	This is false. See Attachment 5 for an example of a recent Federal Court decision that held "a reasonable jury could conclude that there are no set of circumstances under which the Regulations would be valid."
The group home regulations are "intended to and actually protective of persons with disabilities." (Attachment 2, p. 3-21.)	The Housing Element Law requires the City to evaluate the <b>actual results</b> of its housing regulations (not their intended results). Costa Mesa's group home regulations have resulted in a loss of more than 70% of its group home beds. (See Attachments 20-21; see also Attachment 13 [Exhibit 3 – 2017 data] and Attachments 14-21 [2021 data].) At a minimum, the Housing Element Law requires the City to investigate whether its own actions are a constraint of shared housing for people with disabilities. Based on Insight's experience navigating the City's group home regulations, and the City's own data, the obvious, unavoidable answer is yes.
"Group homes are intended to be integrated into residential communities for the benefit of both the disabled and the non-disabled." (Attachment 2, p. 3-21.)	The City's SUP, CUP, operator's permit, and separation requirements make it exceptionally difficult to site group homes in the City's residential zoning districts. They have not resulted in group homes being "integrated into residential communities." There were substantially more group homes in residential communities before the City adopted its group home regulations than there are now. The only areas where the City's zoning purports to permit group homes by right are <b>institutional</b> districts (where the Land Use Element of the City's General Plan outright prohibits residential uses).
"The City's code protects the disabled from being forced to live in multiple adjoining properties clustered together -- institutionalized settings -- in cramped quarters, subject to eviction without warning and left vulnerable and homeless in a	"Multiple adjoining properties clustered together" is not an "institutionalized setting[]." It is simply medium or high density housing (e.g., apartment rentals or condos). The City's zoning allows this kind of housing <b>by right</b> for multi-family units. It should do the same for group homes.

Additional Language in Housing Element Update	Insight's Response
<p>City far from their actual homes.” (Attachment 2, p. 3-21.)</p>	<p>Other than the occupancy standards in the State Housing Code, the City has no constraints on the occupancy of a single-family or multi-family household. If any household (group home or not) has “crammed quarters,” the City could address this by enforcing the State’s occupancy limits. Insight’s housing, for instance, does not have more than two residents per bedroom.</p> <p>Any eviction could result in homelessness, but the City does not regulate evictions for other types of rental housing. Moreover, if the City is concerned about “eviction[s] without warning,” it’s regulations should preserve pre-existing group homes (not prohibit them). Instead, the City’s group home regulations have resulted in numerous “eviction[s] without warning.” They have resulted in the closure of more than 80 group homes with no protection or transition plan for the residents of those homes. For example, after the City denied Insight’s CUP and accommodation request, the City ordered us to “cease and desist” from providing housing within 30 days. The City was not concerned about what would happen to our residents if we closed.</p>
<p>“It also preserves the very character of residential neighborhoods which make them desirable places to live, by preventing unreasonably increased traffic, noise, parking difficulties, and drug-related activity when residents relapse during the recovery process.” (Attachment 2, p. 3-21.)</p>	<p>The City did no studies to determine if group homes have a greater impact on traffic, noise, parking, etc. than other types of housing. (Attachment 12, p. 56.)</p> <p>The City’s assumption that there is more “drug-related activity” in a group home than any other type of household is based on prejudice about people in recovery. The City has no data that shows group homes generate more drug-related calls for service than other types of residences.</p> <p>Finally, it is incredibly disappointing that the City’s Housing Element would say group homes detract from the residential character of neighborhoods or make them less desirable places to live. The residents of group homes want to live in residential neighborhoods just as much as the residents of other households. The</p>

Additional Language in Housing Element Update	Insight's Response
	City has no data showing property values or rental values decreased in neighborhoods with group homes.
<p>"The recovery community, including industry associations like Sober Living Network and the National Alliance for Recovery Residences, acknowledged these issues, and recommend that group recovery homes – including sober living homes – adopt model operational standards to ensure proper care of their residents. Costa Mesa's code does exactly that, regulating <i>operators</i>, not disabled individuals, and ensuring the disabled safe and appropriate residential environments." (Attachment 2, p. 3-21.)</p>	<p>Even if this is true, the "model operational standards" of the "recovery community" would not be appropriate for every type of group home. The residents of Insight's housing are not in the "recovery community." They are a <i>clinically distinct population</i> with different needs (e.g., they would not benefit from Big Book study or 12-step meetings).</p> <p>Simply put, you cannot have one set of "model operational standards" for every type of group home. If there are to be operational standards, the operators (or the pertinent industry) are in a better position than the City to determine what those standards should be.</p>
<p>"Numerous group homes for the disabled, including sober living homes have been approved and operate throughout the City. There is no shortage of options for those seeking to live in a recovery home in low or high density areas of the City." (Attachment 2, p. 3-21.)</p>	<p>The City's' data reports that, as of April of 2021, it has only approved 16 group homes, and at least five of those approvals (more than 30%) pre-date the City's group home regulations. Of the 67 group homes that applied for CUPs, the City has only approved one. That is an approval rate of less than 1.5%. (Attachment 23, p. 20; see also Attachment 14.)</p>
<p>"There is no shortage of options for those seeking to live in a recovery home in low or high density areas of the City." (Attachment 2, p. 3-21.)</p>	<p>Costa Mesa's approach to group homes it treats all group homes, sober living homes, and state-licensed facilities as if they are interchangeable. They are not. Different types of group homes and facilities provide different levels of care to clinically distinct populations. Even if the City had a sufficient number of one type of group home (e.g., sober living homes), it could still have a <i>shortage</i> of another type of group home that meets a different need (e.g., transitional housing for people with psychiatric illness who do not need addiction care). Claiming "there is no shortage of options" for people with disabilities who rely on shared housing ignores overwhelming evidence in the record from group home operators, their residents, and</p>

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<p>“... the City does not regulate state licensed homes of six or fewer residents, as that is permitted by state law.” (Attachment 2, p. 3-21.)</p>	<p>disability rights advocates that there is a dire shortage of housing for certain groups.</p> <p>This is another example of Costa Mesa treating all group homes, sober living homes, and state-licensed facilities as if they are interchangeable. Our residents do not need (nor want) to live in a state-licensed home. The purpose of our Costa Mesa housing is to foster autonomy in the least restrictive environment possible. State-licensed homes provide a higher level of care that would defeat the core purpose of our housing.</p> <p>Importantly, Costa Mesa’s group home regulations prohibit group homes within 650 feet of state-licensed facilities, so the location of these facilities (which the City cannot regulate if they have 6 beds or less) inherently impacts where group homes can be sited. For example, our housing is located within 650 feet of state-licensed facilities that opened <i>after</i> we had already been operating (and are outside Costa Mesa’s jurisdictional boundaries), but the existence of these new facilities is the reason the City is telling us we need to shutter our housing.</p> <p>The City’s group home regulations prioritize state-licensed facilities to the detriment of group homes. The result is that the City may have a sufficient amount of state-licensed facilities to meet the needs of its community, but it suffers from a dearth of group homes.</p>
<p><b>SOLUTION:</b> Costa Mesa’s Housing Element update should include a program that requires the City to repeal its group home regulations <i>by a specified deadline</i>. Costa Mesa’s housing should treat group homes the same way it treats other households in the same zones in the same structures. If multi-family housing is permitted by right, a household comprised of shared housing for people with disabilities in a multi-family structure should be permitted by right as well.</p>	
<p><b>Transitional Housing</b></p>	
<p>“Currently, the city permits transitional housing in consistent with the development standards and</p>	<p>Costa Mesa’s Zoning Code definition of “transitional housing” (CMMC § 13-6) is very similar to the definition in the Housing Element Law (Gov. Code §</p>

Additional Language in Housing Element Update	Insight's Response
<p>regulations of the type of unit it is proposed as; for example, if a transitional housing project is proposed as a single-family unit (SFU), it is subject to the same provisions of the identified zone for a SFU. The City has identified Program 2J to update the zoning code to acknowledge transitional housing distinctively in the City's land use matrix, consistent with state law." (Attachment 2, p. 3-21.)</p>	<p>65582(j)). There are many types of shared housing for people with disabilities that do not meet the Housing Element Law's definition of "transitional housing," e.g., because their length of tenancy is not necessarily six months or longer. Insight's housing is transitional (i.e., it is a safe place for psychiatric patients to transition to community living), but it does not qualify as "transitional housing" under this definition because there is no requirement that residents live there for six months or longer.</p> <p>Moreover, Costa Mesa's Zoning Code does not define or use the term "single-family unit" or "SFU," but its definitions of "family" and "single housekeeping unit" <i>preclude</i> "transitional housing" (as defined) from qualifying as either a "family" or a "single housekeeping unit" for a variety of reasons.</p> <p>Residents of "transitional housing":</p> <ul style="list-style-type: none"> <li>• Will not have "established ties and familiarity with each other;</li> <li>• Will not necessarily "share meals", "household activities", and "responsibilities";</li> <li>• Probably will not share "expenses";</li> <li>• Probably will not have control over who becomes a member of the household;</li> <li>• Probably will not share a lease agreement;</li> <li>• May have locks on their bedroom doors; and</li> <li>• May have separate food storage facilities.</li> </ul> <p>Many providers of transitional housing do not operate on a "nonprofit basis."</p> <p>If a provider of transitional housing has more than one unit or operation in Costa Mesa, it is considered an "integral facility" (see CMMC §13-6) which results in a "rebuttable presumption" that its housing is not a</p>

Additional Language in Housing Element Update	Insight's Response
	<p>single housekeeping unit. Costa Mesa outright prohibits group homes from operating as "integral facilities. (See CMMC §§ 9-374(b)(4), 13-311(a)(7).)</p> <p>Even if the tenancies of transitional housing are 6+ months, it is not clear that the City would consider this "fairly stable as opposed to transient." The City's Zoning Code does not define "transient."</p> <p>This means that, unless transitional housing is state-licensed and has six beds or less (in which case, State law requires Costa Mesa to treat it the same as a single-family residence), Costa Mesa will regulate it as a "group home" with: (1) discretionary permit requirements (i.e., SUP and CUP); (2) operator permit requirements; (3) separation requirements; and (4) an outright prohibition on "integral facilities (as broadly defined by Costa Mesa's Zoning Code). This is a constraint on transitional housing for all of the reasons discussed above.</p>
<p><b>SOLUTION:</b> At a minimum, Program 2J should require Costa Mesa to amend its definition of "transitional housing" <i>by a specific deadline</i> to ensure that "transitional housing" is not treated differently from other households (e.g., single-family dwellings, "multi-family dwellings," "common interest developments," etc.), regardless of whether the "transitional housing" meets the City's definition of "family" and/or "single housekeeping unit."</p>	
<p><b>Supportive Housing</b></p>	
<p>"Currently, the city permits supportive housing in consistent with the development standards and regulations of the type of unit it is proposed as; for example, if a supportive housing project is proposed as a single-family unit (SFU), it is subject to the same provisions of the identified zone for a single family unit. The City has identified Program 2J to update the zoning code to acknowledge supportive housing distinctively in</p>	<p>Costa Mesa's Zoning Code definition of "supportive housing" (CMMC § 13-6) is very similar to the definition in the Housing Element Law (Gov. Code § 65582(g)). There are many types of shared housing for people with disabilities that do not meet the Housing Element Law's definition of "supportive housing," e.g., because it does not restrict occupancy to the "target population" (as defined in § 65582(i)). Insight's housing is a supportive community, but it does not qualify as "supportive housing" under this definition. Although Insight's housing is affordable (\$1,500/month), it does not limit eligibility to "persons with low incomes." Although virtually all</p>

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<p>the City's land use matrix, consistent with state law." (Attachment 2, p. 3-22.)</p>	<p>residents receive psychiatric services off site, Insight's housing is not "linked to an onsite or offsite service."</p> <p>Under Costa Mesa's Zoning Code, "supportive housing" cannot qualify as a "single-family unit" (which we infer means "family" or "single housekeeping unit") for all of the reasons discussed in the previous row. As with transitional housing, this means that, unless supportive housing is state-licensed and has six beds or less (in which case, State law requires Costa Mesa to treat it the same as a single-family residence), Costa Mesa will regulate it as a "group home" with: (1) discretionary permit requirements (i.e., SUP and CUP); (2) operator permit requirements; (3) separation requirements; and (4) an outright prohibition on "integral facilities (as broadly defined by Costa Mesa's Zoning Code). This is a constraint on supportive housing for all of the reasons discussed above.</p>

**SOLUTION:** At a minimum, Program 2J should require Costa Mesa to amend its definition of "supportive housing" *by a specific deadline* to ensure that "supportive housing" is not treated differently from other households (e.g., single-family dwellings, "multi-family dwellings," "common interest developments," etc.), regardless of whether the "supportive housing" meets the City's definition of "family" and/or "single housekeeping unit."

#### Reasonable Accommodations

"The inherent constraints of any reasonable accommodation process are that the accommodation must be both 'reasonable' and 'necessary.' Each of these concepts are unavoidably subjective in some ways and entail a highly specific inquiry into a particular, typically unique, set of circumstances. The examples offered by HCD in its comments on the draft element reference consideration of General Plan consistency, for example. A General Plan and evaluation of uses as

Costa Mesa's "Reasonable Accommodation" procedure (CMMC §§ 13-200.60 to 13.300.63) blatantly violates federal and state fair housing and disability discrimination laws. (See, e.g., 28 C.F.R. § 35.130(b)(7); 28 C.F.R. § 35.150(a)(3).)

Its submittal requirements alone (CMMC §13-200.62(a)-(b)) require a level of sophistication, time, and resources that will deter or disqualify a broad range of people with disabilities from even applying. For example, requiring the request to be submitted "in writing" disqualifies individuals who cannot write. The submittal requirements also include unrestricted catchalls allowing the Director and Hearing Officer to

Additional Language in Housing Element Update	Insight's Response
<p>consistent or inconsistent with the General Plan may be a constraint, but both a General Plan and acting consistently with the General Plan are obligations imposed on the City by State law. Similarly, impacts to individuals and properties in the vicinity of any requested deviation from standards is a routine and appropriate factor to review in determining whether a particular accommodation requested is reasonable under all the circumstances presented. Nevertheless, the City has established Program 2N and has committed to review and revise its reasonable accommodation procedures to be consistent with the requirements of State law as needed, and to consider public comments to determine whether revisions can be made to minimize constraints in the process.” (Attachment 2, p. 3-34.)</p>	<p>demand “[a]ny other information” they determine is necessary. In my company’s case, staff used this process to justify invasive and burdensome demands into my company’s proprietary business operations, which we provided because we had no other choice.</p> <p>The City will not grant an accommodation request unless the Director can make eight separate findings (CMMC § 13-200.62(f)), and contrary to Federal and State law, the City <i>puts the burden on the requester</i> to prove up <i>all eight</i> findings. (Attachment 8, pp. 27-28[.]) For example, the City’s Code requires it to deny an accommodation request unless the requester can prove (among other things) that the request “will not impose an undue financial or administrative burden on the city, as ‘undue financial or administrative burden’ is defined in fair housing laws and interpretive case law.” (CMMC § 13-200.62(f)(3).) This is an impossible task for most (if not all) requesters. It requires requesters to <i>prove a negative</i> (i.e., that granting their request will not result in an fundamental alternation or an undue burden), and the information needed to even begin this analysis is exclusively within the City’s control. That is why State and Federal law requires agencies <i>to grant</i> an accommodation request unless the agency can prove doing so would be an undue burden or fundamental alteration. (28 C.F.R. § 35.130(b)(7); 28 C.F.R. § 35.150(a)(3).)</p>
<p><b>SOLUTION:</b> Program 2N should require the City to amend its reasonable accommodation process <i>by a specified deadline</i> to do all of the following:</p> <ol style="list-style-type: none"> <li>1. Specify that City staff will assist requesters with the submittal process (e.g., requesters who are not able to write may make verbal requests) (see CMMC § 13-200.62(a)-(b));</li> <li>2. Clarify that requesters do not need to provide any medical information or documentation as part of their submittal for a disability-related accommodation request (see CMMC § 13-200.62(b)(2), (4));</li> <li>3. Remove open-ended submittal requirements (see CMMC § 13-200.62(b)(3), (7));</li> </ol>	



## Additional Language in Housing Element Update

## Insight's Response

4. To protect the requesters' privacy, provide an appeal procedure that does not require any noticed public hearings or meetings of any kind that are open to the public (see CMMC § 13-200.62(d));
5. Remove the "Grounds for reasonable accommodation" and "Findings" subsections (CMMC § 13-200.62(e)-(g)) entirely and replace them with a procedure that places the burden on the requester to establish the request is "reasonable" and "necessary" and, if the requester makes those showings, places the burden on the City to establish granting the request is an "undue burden," "fundamental alteration," or "direct threat," and specify that the City *must grant the request* unless it makes one or more of these findings.

## Definition of Family

"The courts have clearly distinguished between single housekeeping units and those of a more transient nature, such as boarding homes, motels, etc. The City's code does not restrict single housekeeping units to those who are related, but does properly define a single housekeeping unit consistently with the law. State zoning law allows the city to establish zones of different residential density, such as R-1 (single family residential), R-2 (two unit/family residential), multi-family, mixed use, etc. The City's definition of family does not touch on whether the members are disabled or not, is not based on and is not intended to discriminate against any based on different levels of ability or disability." (Attachment 2, p. 3-34)

The City's residential zones regulate density of housing units (i.e., how many housing units can be on an acre) without regard to *who* lives in them or *how many* occupants live in them (subject to the State's occupancy limits). In contrast, the City's definition of "single housekeeping unit" has nothing to do with density. It regulates the occupants' relationships with each other (e.g., whether they have "established ties and familiarity with each other) and how they manage their household (e.g., whether they share common areas, meals, household activities, expenses, responsibilities, etc.). This definition also regulates the business operations of the housing provider — the "residential activities of the household" must be "conducted on a nonprofit basis."

There are many households in Costa Mesa that would not meet all of the City's requirements for "single housekeeping units." For example, rental properties are not typically "conducted on a nonprofit basis." The purpose of rental properties is to draw income. Costa Mesa has no concerns about the inherently profit-driven nature of the housing market unless the property is a "group home." As another example, many blood-related households do not share meals or chores, but that result in Costa Mesa imposing heightened permitting requirements for them. The City only invokes its requirements for "single housekeeping unit" to exclude (or impose onerous

Additional Language in Housing Element Update	Insight's Response
	<p>permitting requirements) on shared housing for people with disabilities (i.e., group homes).</p>
<p><b><u>SOLUTION:</u></b> Add a Program requiring the City to amend its definition of "single housekeeping unit" <i>by a specified deadline</i> to remove arbitrary constraints on shared housing for people with disabilities. For example, "single housekeeping unit" could simply be defined as "the occupant(s) of a dwelling unit."</p>	

### **Conclusion**

In December of 2020, the City of Encinitas adopted group home regulations that Encinitas explicitly modeled after Costa Mesa's regulations. In March of 2021, HCD sent Encinitas a Notice of Violation outlining the numerous ways Encinitas's regulations failed to protect people with disabilities. (Attachment 24.) HCD's Notice of Violation to Encinitas hit the nail on the head. My company's experience navigating Costa Mesa's group home regulations prove all of HCD's concerns were valid. For the sake of our residents and others like them whose lives depend on shared housing, we respectfully request HCD provide the same direction to Costa Mesa.

Sincerely,

  
Mary Heleh Beatificato

**Attachments:**

1. HCD's Comment Letter on Costa Mesa's Housing Element Update, December 3, 2021
2. Redline of Costa Mesa's Housing Element Update (Excerpts), January 18, 2022
3. Written Comments for Costa Mesa's City Council's Public Hearing on Housing Element Update, January 11, 2022
4. Costa Mesa Ordinance No. 14-13
5. Order on Cross Motions for Summary Judgment in *Ohio House, LLC v. City of Costa Mesa*, United States District Court for the Central District of California Case No. 8:19-cv-1710-JVS (GJSx), January 12, 2022
6. Insight's Request for a Reasonable Accommodation, August 3 10, 2018
7. Declaration of Carla DiCandia, Senior Outreach Manager for Oceanview Adult Psychiatric Hospital, December 5, 2021
8. Transcript of the Planning Commission Hearing on Insight's Appeal, August 12, 2019
9. Transcript of the City Council Hearing on Insight's Appeal, November 5, 2019
10. City Council Resolution Denying Insight's Appeal, November 5, 2019
11. Transcript of the Deposition of Willa Bouwens-Killeen, Costa Mesa's Zoning Administrator at the time of Insight's Appeals (Excerpts), October 27, 2021
12. Transcript of the Deposition of Jennifer Le, Costa Mesa's Director of Economic and Development Services (Excerpts), November 4, 2021
13. Declaration of Jennifer Le, Costa Mesa's Director of Economic and Development Services, December 6, 2021
14. 2021 Smartsheet – Application Status
15. 2021 Smartsheet – City Approved Sober Living/Group Homes
16. 2021 Smartsheet – DHCS Facilities
17. 2021 Smartsheet – Closed Operations
18. 2021 Smartsheet – Group Homes Cited
19. 2014 Data on Costa Mesa Group Homes
20. 2017 Data on Costa Mesa Group Homes
21. 2021 Data on Costa Mesa Group Homes
22. Chart of Outcomes of Group Homes' Reasonable Accommodation Requests
23. Disparate Effect Analysis: Costa Mesa California Group Homes Zoning Policies and Action, by Ann Moss Joyner, July 26, 2021
24. HCD's Notice of Violation to City of Encinitas, March 25, 2021

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**From:** Zeenat Hassan <Zeenat.Hassan@disabilityrightsca.org>  
**Sent:** Monday, January 31, 2022 11:14 AM  
**To:** CITY CLERK; CONSTITUENT SERVICES; STEPHENS, JOHN; MARR, ANDREA; CHAVEZ, MANUEL; GAMEROS, LOREN; HARLAN, JEFFREY; HARPER, DON; REYNOLDS, ARLIS  
**Cc:** Autumn Elliott; paul.mcdougall@hcd.ca.gov; marisa.prasse@hcd.ca.gov; BARLOW, KIMBERLY HALL  
**Subject:** Comment on Public Hearing Item #1: Costa Mesa 2021-2029 (6th Cycle) Housing Element  
**Attachments:** 2022.01.24 DRC letter to HCD re public comments to Costa Mesa on HE.pdf; Attachment A - 01.18.2021 DRC public comment on Costa Mesa HE.pdf

Good morning,

For tomorrow's City Council meeting, please find attached DRC's public comments on Public Hearing Item #1: The City's Sixth Cycle Housing Element. It is a copy of the letter DRC submitted to HCD in regards to the City's Housing Element. The letter references a prior comment letter we submitted to the City Council on January 18, 2021, which is included here for reference as Attachment A.

Thank you,

**Zeenat Hassan** (she/her)  
Staff Attorney 2, Civil Rights Practice Group  
Disability Rights California  
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Direct: (510) 267-1225 | Fax: (510) 267-1201  
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Website: [www.disabilityrightsca.org](http://www.disabilityrightsca.org) | [www.disabilityrightsca.org/espanol](http://www.disabilityrightsca.org/espanol)

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[www.disabilityrightsca.org](http://www.disabilityrightsca.org)

*Sent Via Email Only*

January 18, 2022

City Council  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
[cityclerk@costamesaca.gov](mailto:cityclerk@costamesaca.gov)

Re: PUBLIC HEARING ITEM #1 - CITY OF COSTA MESA 2021-2029  
(SIXTH CYCLE) HOUSING ELEMENT (GP-21-01)

To Mayor John Stephens and the Honorable Members of the City Council:

We are writing to urge the City Council not to approve the draft Housing Element until it is revised to reflect changes that are needed in Costa Mesa's laws and procedures to reduce barriers to housing for people with disabilities. Disability Rights California is a non-profit agency established under federal law to protect, advocate for and advance the human, legal and service rights of Californians with disabilities.<sup>1</sup> Disability Rights California works in partnership with people with disabilities, striving towards a society that values all people and supports their rights to dignity, freedom, choice, and quality of life. Since 1978, Disability Rights California

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<sup>1</sup> Disability Rights California provides services pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 15001, PL 106-402; the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. § 10801, PL 106-310; the Rehabilitation Act, 29 U.S.C. § 794e, PL 106-402; the Assistive Technology Act, 29 U.S.C. § 3011, 3012, PL 105-394; the Ticket to Work and Work Incentives Improvement Act, 42 U.S.C. § 1320b-20, PL 106-170; the Children's Health Act of 2000, 42 U.S.C. § 300d-53, PL 106-310; and the Help America Vote Act of 2002, 42 U.S.C. § 15461-62, PL 107-252; as well as under California Welfare and Institutions Code §§ 4900 et seq.

has provided essential legal services to people with disabilities regarding access to housing and other critical needs.

The California Department of Housing and Community Development (“HCD”) sent the City a December 3, 2021 letter regarding revisions that the City must make to the draft Housing Element to bring it into compliance with the law. The December 3 letter explained that the City would need to address a number of issues concerning “Housing for People with Disabilities.” However, the revisions to the draft Housing Element before the Council’s consideration today fail to adequately respond to the issues raised by HCD. We write to call particular attention to the following:

### **1. Reasonable Accommodation**

HCD’s December 3, 2021 letter noted that the “additional factors” that the City may consider in its review of a reasonable accommodation application “may act as constraints,” and explained that the draft Housing Element must “include specific analysis of any potential constraint, including considering public comments and add or modify programs as appropriate.” The revisions to the draft Housing Element do not adequately respond to this comment. If an accommodation is necessary to provide people with disabilities full and equal access to housing due to their disabilities, an accommodation must be provided unless the City can demonstrate that doing so would be an undue financial and administrative burden or would be a fundamental alteration of the relevant programs, services, or activities. The same is true if a reasonable accommodation is necessary to provide meaningful access to housing for people with disabilities. The City’s current reasonable accommodation procedures create additional and unnecessary barriers to access because they allow for consideration of additional factors, such as impact on neighbors. Impact on neighbors, for instance, may only come into the reasonable accommodation analysis if it gives rise to an undue financial and administrative burden on the City, in light of the full resources available to the City, or if it would result in an unavoidable and fundamental alteration to a relevant City program, service, or activity. Otherwise it may not be considered at all, and the City should not be inviting neighbors, who may oppose a reasonable accommodation request due to fear and stereotypes regarding people with disabilities, to weigh in on the request. Moreover,

the City's draft Housing Element notes that the City's current procedure is to consider "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." Draft HE at 3-33. This is an illegal factor: the City must consider each reasonable accommodation request on its own and may not deny an accommodation request on the grounds that others may make a similar request.

Additionally, Disability Rights California has gained some familiarity with the actual operation of Costa Mesa's reasonable accommodation process through our representation of an individual plaintiff in the *Insight v. Costa Mesa* case, and we have been appalled at what we have learned. Costa Mesa Zoning Code and practice put the burden on the *applicant* to demonstrate that a requested accommodation would not be an undue burden or fundamental alteration, which is contrary to law. Moreover, Costa Mesa requires applicants to submit their reasonable accommodation requests to City staff for a purported consideration of their request, but City staff admitted to us in deposition testimony that this is a sham proceeding in the case of group homes seeking a waiver of the City's 650-foot separation requirement, because the City Council has directed staff *never* to grant such a request.

The City's revised Housing Element neither adequately acknowledges nor responds to these problems, which result in unnecessary and illegal barriers to access for people with disabilities.

## **2. Definition of Family**

HCD's December 3 letter observed that the City defines "family" as "a single housekeeping unit with multiple restrictions that may act as constraints on housing for persons with disabilities" and explained that the Housing Element "should include specific analysis of any potential constraint, including considering public comment and add or modify programs as appropriate." However, the revised Housing Element does not do this. The definition ignores the fact that many individuals with disabilities do have a disability-related reason for needing separate leases, or for taking their meals separately, or for keeping expenses separate from other members of the household, or for relying on a third party to

determine who else lives in the household, for instance. Public benefits programs that people qualify for on the basis of disability, such as housing or income subsidies, for instance, can require things such as separate leases, meals, or finances. People can have a disability-related reason for having separate food. Due to a disability-related impairment, a person may need a third party to organize their housing and determine who else will be living with them. The revised Housing Element does not engage with any of these matters and entirely disregards the constraints that they place on housing options for people with disabilities.

Nor does the Housing Element acknowledge that, as a practical matter, these are *only* constraints for people with disabilities. The City has no practice of investigating whether blood relatives, or roommates without disabilities, are actually eating meals or doing chores together. The restrictions only become an issue with people with disabilities are living together, because they will be treated as a “group home” if they cannot demonstrate that they are a family/single housekeeping unit.

### **3. Group Homes**

HCD’s December 3 letter accurately observes that the “City’s zoning code appears to isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors.” As noted above, the City does not have “a barrier-free definition of family,” as the December 3 letter explains is required. As a result, the City subjects housing for people with disabilities to onerous regulations and excludes them from some residential zones. And, as the December 3 letter notes, “these housing types in many cases are subject to a special use or conditional use permit, potentially subjecting housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses.”

The revised Housing Element does not “include specific analysis of these and any other constraints, including their enforcement and considering public comments, for impacts on housing for persons with disabilities and add or modify programs as appropriate,” as the December 3 letter explains that it should. Instead, the revised Housing Element



simply argues without evidence that Costa Mesa is justified in imposing these restrictions on housing options for people with disabilities. The revised Housing Element argues that, by limiting housing options for people with disabilities, the City is actually *protecting* them. But this is nonsensical. Many people have a disability-related reason for needing to live in the kind of housing that Costa Mesa terms a “group home.” Our client in the *Insight* case, for instance, is a woman with mental health disabilities who needed to live in a supportive environment for a month or two while she transitioned from a psychiatric facility to community living. Costa Mesa’s group home ordinances restrict the ability of housing providers to create this kind of housing in the community. There are far too few housing options for people with disabilities as it is. And in the case of our client, enforcement of Costa Mesa’s group home ordinances will result in *Insight*’s housing being shut down, with nowhere else in the City to go. Because it is the only housing of its kind in the region, people like our client will have nowhere to go for that kind of housing, and will be either stuck in an institution or living in a housing situation that does not provide what they need.

We urge the City Council not to approve the draft Housing Element until it fully responds to these and other barriers to access for people with disabilities.

Sincerely,



Autumn M. Elliott  
Litigation Counsel

Zeenat Hassan  
Staff Attorney

CC: [Marisa.Prasse@hcd.ca.gov](mailto:Marisa.Prasse@hcd.ca.gov); [HousingElements@hcd.ca.gov](mailto:HousingElements@hcd.ca.gov);  
[melinda.coy@hcd.ca.gov](mailto:melinda.coy@hcd.ca.gov); [Kyle.Krause@hcd.ca.gov](mailto:Kyle.Krause@hcd.ca.gov);

DRC Comments on Public Hearing Item #1: Housing Element  
January 18, 2022  
Page 6 of 6

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January 21, 2022

***Sent via email only***

Paul McDougall and Marisa Prasse  
Department of Housing and Community Development  
Division of Housing Policy Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Re: City of Costa Mesa's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element

Dear Mr. McDougall and Ms. Prasse:

This letter follows our public comments to the City of Costa Mesa at yesterday's City Council meeting (included for your reference here as Attachment A). We write to draw your attention to the City's decision to ignore comments from our office on barriers to housing for people with disabilities and instead move forward with approval of its revised Housing Element.

Yesterday, the Costa Mesa City Council held a public hearing on revisions to its draft Housing Element (public hearing item #1 on the agenda). In accordance with the City's procedural rules, DRC emailed our written comments to the City Clerk before noon. The City Clerk confirmed receipt and informed us that our comment letter would be provided to the City Council, posted on the City's website, and made part of the meeting record. However, the City Council failed to address our comments in any way.

Our comments focused on three key points:

- 1) The City's reasonable accommodation process violates fair housing laws by, among other problems, considering inappropriate factors like neighbors' opinions, illegally putting the burden on applicants to demonstrate that their requested accommodation is *not* an undue burden or fundamental alteration, and having a sham administrative process that purports to evaluate reasonable accommodation requests from group home operators, when the result is in fact a foregone conclusion;
- 2) The City's definitions of "family" and "single housekeeping unit" discriminate against people with disabilities; and
- 3) The City's zoning code imposes discriminatory barriers on housing for people with disabilities.

Our letter also noted that HCD raised each of these issues in its December 3, 2021 letter to the City on its draft Housing Element, and that the City's revised Housing Element failed to consider or evaluate any of these problems. The City Council did not include our concerns in its summary of public comments. In fact, they did not discuss their zoning code's effect on housing for people with disabilities (particularly its group home ordinances) at all.

Worse, the City Council also engaged in a procedural irregularity that has the effect of curtailing opportunities for public participation. The notice of public hearing on the approval of the Housing Element stated that there would be two public hearings: the first on January 18, 2022 and the second on February 1, 2022. But at yesterday's public hearing, the City Council voted to continue the hearing to February 1, 2022. This means that there will be only one public hearing (held over two days) instead of two separately noticed public hearings. The City Council did this to avoid noticing the second public hearing. Their decision means that members of the public who missed yesterday's meeting will not receive notice of a second public hearing as expected.

We urge HCD not to certify the City's revised Housing Element until it addresses the identified barriers to housing for people with disabilities.

Sincerely,



Autumn M. Elliott  
Litigation Counsel

Zeenat Hassan  
Staff Attorney II

CC: [HousingElements@hcd.ca.gov](mailto:HousingElements@hcd.ca.gov); [melinda.coy@hcd.ca.gov](mailto:melinda.coy@hcd.ca.gov);  
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[Pedro.Galvao@hcd.ca.gov](mailto:Pedro.Galvao@hcd.ca.gov)

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**From:** Choum, Lea [JWA] <LChoum@ocair.com> on behalf of Mailbox, ALUC  
<alucinfo@ocair.com>  
**Sent:** Tuesday, February 1, 2022 10:45 AM  
**To:** CITY CLERK  
**Subject:** ALUC Comments on Public Hearing Item 1  
**Attachments:** ALUC Comments to City Council Item 1.pdf

To the City Clerk,

Please see the attached comment letter from the Airport Land Use Commission regarding Item 1 on today's City Council Agenda related to the Housing Element Update (GP-21-01).

Thank you,  
Lea

Lea U. Choum  
Executive Officer  
Airport Land Use Commission for Orange County  
Office: 949-252-5123  
ALUC Line: 949-252-5170

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# AIRPORT LAND USE COMMISSION

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## FOR ORANGE COUNTY

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3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

February 1, 2022

City Council Members  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

**Subject: Public Hearing Item #1 – City of Costa Mesa 2021-2029 (SIXTH CYCLE) Housing Element (GP-21-01)**

City Council Members:

Public Hearing Item #1 on your February 1, 2022 City Council Meeting Agenda states that the Council shall “adopt a Resolution that approves and adopts the Initial Study/Mitigated Negative Declaration (IS/MND) including the Mitigation Monitoring and Reporting Program, and approve General Plan Amendment 21-01 for the City of Costa Mesa 2021-2029 (Sixth Cycle) Housing Element update.”

On December 23, 2021, the proposed Housing Element Update was referred to the Airport Land Use Commission (ALUC) for Orange County for a consistency determination at its January 20, 2022 meeting. After reviewing the submittal and discussing the proposed sites with Community Development staff, we received a letter from Community Development Director Jennifer Le requesting to withdraw the Housing Element Update submittal and remove the item from the ALUC agenda (see attached letter). On Friday, January 28<sup>th</sup>, we received notice that the Housing Element would be on today's agenda with a staff recommendation of approval by City Council.

Please note that housing sites proposed in the Housing Element Update fall within the Planning/Notification Area for John Wayne Airport, and therefore require ALUC review. Pursuant to California Public Utilities Code (PUC) Section 21676(b):

“Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission for a consistency review. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local

agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670."

As such, in accordance with state law, the City's proposed General Plan Amendment/Housing Element Update must be reviewed by ALUC prior to approval by City Council. Otherwise, the intent of the PUC will be overlooked and the City would be in violation of PUC 21676.

Also, please keep in mind that to overrule ALUC's findings, the City must provide 45 days' notice of an intent to overrule ALUC's findings and must allow ALUC thirty (30) days to provide advisory comments before a hearing to overrule is conducted. Failing to do so would be a violation of PUC Sections 21676 and 21676.5.

Thank you for your consideration on this matter. Should you need additional information, please contact me at 949-252-5123 or [Ichoum@ocair.com](mailto:Ichoum@ocair.com).

Sincerely,



Lea U. Choum  
Executive Officer, ALUC for Orange County

cc: Members of the ALUC for Orange County  
Jennifer Le, Community Development Director





## CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

January 13, 2022

Lea U. Choum  
Planning Manager, Facilities Development  
John Wayne Airport, Orange County  
3160 Airway Avenue  
Costa Mesa, CA 92626

Dear Lea Choum,

As we discussed, this letter is in response to the City's recent submittal and request for scheduling the Housing Element consideration at the January 21, 2022 Airport Land Use Commission regular meeting. Thank you for the time that you and other ALUC staff has provided to Costa Mesa in this regard. As we discussed, staff is considering the best options going forward and, presently, narrowing-down what this path may be. Therefore, please consider this letter as the City's request to, for now, table the ALUC review. Staff will reach out to you once a clearer direction for this review is determined.

Thank you again for your efforts assisting the City with this matter.

Sincerely,

JENNIFER LE,

Director of Economic and Development Services

---

**From:** Sherry Daley <sherry.ccapp@gmail.com>  
**Sent:** Tuesday, February 1, 2022 11:53 AM  
**To:** CITY CLERK; STEPHENS, JOHN; MARR, ANDREA; CHAVEZ, MANUEL; GAMEROS, LOREN; HARLAN, JEFFREY; HARPER, DON; REYNOLDS, ARLIS  
**Cc:** Pete Nielsen  
**Subject:** Opposition to Housing Element  
**Attachments:** CCAP objection to CM misrepresentation in Housing Element.pdf; Exh 1 - 02-2022 Updated Draft CM Housing Element.pdf; Exh 2 - 02-2022 Updated Draft CM Housing Element.pdf

Please see attached letter and exhibits concerning:

**City of Costa Mesa: Updated Draft Costa Mesa Housing Element  
Sixth Cycle, 2021-2029 (January 2022)**

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**Sherry Daley**  
Vice President of Governmental Affairs and  
Corporate Communications  
(209)200-0757



California Consortium of  
Addiction Programs and  
Professionals

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January 31, 2022

Via Email

City Council  
City of Costa Mesa  
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Costa Mesa, CA 92626  
[cityclerk@costamesaca.gov](mailto:cityclerk@costamesaca.gov)  
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[arlis.Reynolds@costamesaca.gov](mailto:arlis.Reynolds@costamesaca.gov)

**Re: City of Costa Mesa: Updated Draft Costa Mesa Housing Element  
Sixth Cycle, 2021-2029 (January 2022)**

Dear City Council Members:

On behalf of the California Consortium of Addiction Programs and Professionals (CCAPP) - the largest statewide consortium of community-based, for-profit and nonprofit recovery residences and the only National Association for Recovery Residences (NARR) affiliate in California - we object to the misrepresentation in the *City of Costa Mesa: Updated Draft Costa Mesa Housing Element Sixth Cycle, 2021-2029* (Draft dated: February 2022), which the City Council considers on February 1, 2022.

In the latest draft of the City's Housing Element (February 2022), the City of Costa Mesa continues to misrepresent the position of CCAPP and NARR. Despite our written comments to the City to the contrary, the City continues to erroneously asserts that its discriminatory zoning regulation of group homes is consistent with NARR and CCAPP's voluntary operational standards:

The recovery community, including industry associations like Sober Living Network and the **National Alliance for Recovery Residences**, acknowledged these issues, and recommend that group recovery homes – including sober living homes – adopt model operational standards to ensure proper care of their residents. Costa Mesa's code does

exactly that, regulating operators, not disabled individuals, and ensuring the disabled safe and appropriate residential environments. (See Exhibit 1, pp. 3-20, 3-21.)

NARR and CCAPP vigorously object to this misrepresentation for two reasons:

- First, it is a deliberate misrepresentation of CCAPP/NARR's position. The City has been on notice since at least September 15, 2021, that CCAPP/NARR view the City's group homes regulations as discriminatory and injurious to disabled persons seeking housing. In fact, the City's Housing Element (February 2022) includes our written comment objecting to the City's group home regulation, including a section-by-section analysis of the City discriminatory operator's permit regulations. (Exhibit 2, [Public Comments, Updated Draft (February 2022)).
- Second, the City attempts to invoke our good name as a cover for discriminatory housing regulation that we oppose, misrepresenting our position and injuring our organization.

CCAPP urges City Council and HCD to reject the City's Housing Element, as written (February 2022), because its zoning regulations continues to be discriminatory requiring housing for disabled persons to adhere to regulation that people who are not disabled are not required to conform to. CCAPP continues to oppose the adoption of the Housing Element due to the refusal, on the city's part, to rescind this ordinance.

The City's ordinance in no way resembles what CCAPP/NARR require for certification. Certification is a voluntary method of encouraging owners, operators, residents, and communities to learn and grow together. The ordinance is not even a thinly veiled attempt to ban this housing. Please refrain from insinuating that CCAPP standards resemble or support the City's ordinance in any way.

This letter serves as our notice to you that CCAPP has not changed its position on your ordinance and refutes the insinuation made by the City that CCAPP, in any way, supports the city's approach to recovery residence housing bans. As such, we respectfully request that the city ceases further enforcement of the ordinance until it is repealed. We also respectfully request that the city refund any and all permit fees, compliance-related fees, and any ordinance-related fines if levied and collected, to the recovery residences that were compelled to comply with the ordinance.

Thank you for your consideration.

Sincerely,



Pete Nielsen  
Chief Executive Officer

c.c.:

Megan Kirkeby, Marisa Prasse, Melinda Coy, and Robin Huntley HCD (Megan.Kirkeby@hcd.ca.gov)

*Robin.Huntley@hcd.ca.gov*

*Marisa.Prasse@hcd.ca.gov*

*Melinda.Coy@hcd.ca.gov*

*compliancereview@hcd.ca.gov)*

*Nelson Chan, Department of Fair Employment and Housing*

*Rob Bonta, Department of Justice*

*Steve Padilla, California Coastal Commission*

*Senator Richard Pan*

*Assemblyman Jim Wood*

*Richard Figueroa, Office of the Governor*



# **City of Costa Mesa**

## **Housing Element**

### *2021-2029*

*CITY COUNCIL HEARING DRAFT*

*FEBRUARY 2022*



more than 6 rooms. Small boarding house developments are permitted in all zones where manufactured/mobile homes are permitted, and large boarding house developments are conditionally permit in these zones.

### **Residential Care Facility**

In Costa Mesa, a Residential Care Facility must be licensed by the State to provide care, services, or treatment to persons living in supportive community residential setting. Residential care facilities may include, but may not be limited to: intermediate care facilities for the developmentally disabled; community care facilities; residential care facilities for the elderly; residential care facilities for the chronically ill; alcoholism and drug abuse facilities; pediatric day health and respite care facilities; residential health care facilities, including congregate living health facilities; family care home, foster home, group home for the mentally disordered or otherwise handicapped persons or dependent and neglected children. Residential care facilities are permitted in all residential, planned development, and institutional zones.

### **Group Homes**

A Group Home is a facility that is being used as a supportive living environment for persons who are considered handicapped under state or federal law. A group home operated by a single operator or service provider (whether State licensed or unlicensed) constitutes a single facility, whether the facility occupies one or more dwelling units. Small group homes are permitted with a special use permit in residential and planned development zones, and they are permitted as a primary use in institutional zones. Large group homes are conditionally permitted in residential and planned development zones and are permitted as a primary use in the I&R institutional zone.

Although there are several different housing types outlined in the zoning code including group homes, the City's zoning code does not exclude group homes or more specifically housing for disabled people from any residential zones in the City. On the contrary, disabled individuals can live in any residential property in the City. The city's code provisions regarding group homes have been upheld by numerous courts in both state and federal court, and have been found to be intended to and actually protective of persons with disabilities. Group homes are intended to be integrated into residential communities for the benefit of both the disabled and the non-disabled. The City's code protects the disabled from being forced to live in multiple adjoining properties clustered together -- institutionalized settings -- in cramped quarters, subject to eviction without warning and left vulnerable and homeless in a City far from their actual homes. It also preserves the very character of residential neighborhoods which make them desirable places to live, by preventing unreasonably increased traffic, noise, parking difficulties, and drug-related activity when residents relapse during the recovery process. The recovery community, including industry associations like Sober Living Network and the National Alliance for Recovery Residences, acknowledged these issues, and recommend that group recovery homes – including sober living homes – adopt model operational standards to ensure proper care of their residents. Costa Mesa's code does exactly that, regulating *operators*, not disabled individuals, and ensuring the disabled safe and appropriate residential environments. Numerous group homes for the disabled, including sober living homes have been approved and operate throughout the City. There is no shortage of options for those seeking to live in a recovery





home in low or high density areas of the City. Further, the City does not regulate state licensed homes of six or fewer residents, as that is preempted by state law.

#### **Transitional Housing**

The Costa Mesa Zoning Code defines Transitional Housing as a development with buildings configured as rental developments but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which may not be less than 6 months. Transitional housing that is provided in single family dwelling, multi-family dwelling units, residential care facilities, or boarding house uses, shall be permitted, conditionally permitted, or prohibited in the same manner as the other single-family dwelling, multi-family dwelling units, residential care facilities, or boarding house uses. Currently, the city permits transitional housing consistent with the development standards and regulations of the type of unit it is proposed as; for example, if a transitional housing project is proposed as a single-family unit (SFU), it is subject to the same provisions of the identified zone for a SFU. The City has identified **Program 2J** to update the zoning code to acknowledge transitional housing distinctively in the City's land use matrix, consistent with state law.

#### **Supportive Housing**

Supportive Housing includes housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing their ability to live and, when possible, work in the community. Supportive housing that is provided in single family dwelling, multi-family dwelling units, residential care facilities, or boarding house uses, shall be permitted, conditionally permitted, or prohibited in the same manner as the other single-family dwelling, multi-family dwelling units, residential care facilities, or boarding house uses. Currently, the city permits supportive housing consistent with the development standards and regulations of the type of unit it is proposed as; for example, if a supportive housing project is proposed as a single-family unit (SFU), it is subject to the same provisions of the identified zone for a single family unit. The City has identified **Program 2J** to update the zoning code to acknowledge supportive housing distinctively in the City's land use matrix, consistent with state law.

#### **Referral Facility**

A Referral Facility or a group home may include one or more person who resides there pursuant to a court order or directive from an agency in the criminal justice system. Referral facilities are conditionally permitted in the R2-MD, R2-HD, and R3 residential zones, the PDR-MD, PDR-HD Planned Development zones and the C2 commercial zone.

#### **Single Room Occupancy Residential Hotel (SRO)**





California Consortium of  
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Professionals

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September 15, 2021

Lori Ann Farrell Harrison  
City Manager  
City of Costa Mesa  
77 Fair Dr.,  
Costa Mesa, CA 92626

**Re: Objection to Housing Element.**

Dear Ms. Harrison:

On behalf of the California Consortium of Addiction Programs and Professionals (CCAPP) - the largest statewide consortium of community-based for profit and non-profit recovery residences – we respectfully object to Costa Mesa’s housing element because it contains discriminatory clauses against people in recovery in blatant violation of fair housing.

Several items<sup>1</sup> in Costa Mesa’s municipal code (see detailed list attached) echo practices already proven discriminatory per the outcome of *Encinitas and Pacific Shores et. Al. v. City of Newport Beach*. They specifically target recovery residences and are discriminatory at every level because they ask people of a disabled class to adhere to regulation that people who are not disabled are not required to conform to. Employment checks, 24-hour supervision of adults in recovery, and distance requirements are glaringly not “reasonable accommodations,” in any sense of the definition.

On March 25, 2021, the Department of Housing and Community Development (HCD) sent the City of Encinitas a letter declaring their ordinance to be discriminatory and contrary to both state and federal law (see attached). This led to an immediate response from the city and this ordinance has since then been repealed. Subsequently, on May 3, 2021, the City of Anaheim was sent a letter of technical assistance regarding its discriminatory ordinance that is very similar to the Encinitas notice of violation. CCAPP has notified HCD of all known ordinances of similar nature including yours so that the same enforcement action can be taken.

In *Pacific Shores et. al. v. City of Newport Beach*, the City of Newport Beach settled with the plaintiffs, agreeing to pay \$5.25 million to a group of recovery residences. Given the settlement and both outside and in-house counsel, this case cost the City of Newport Beach well over \$10 million over the seven year course of trying to defend its actions. This outcome was prior to the attached 10-page notice of violation sent to the City of Encinitas which reads, in part:

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<sup>1</sup> Title 9, Chapter II, Article 23 of the Municipal Code, Chapters XV and XVI of Title 13 (Zoning), and Article 23 of Title 9 (Licenses and Business Regulations)

“On December 16, 2020, the City adopted Ordinance No. 2020-16, amending the Municipal Code to regulate Group Homes and, as a subset of Group Homes, Sober Living Facilities. Described in greater detail below, HCD finds that the City’s ordinance is in violation of statutory prohibitions on discrimination in land use (Gov. Code, § 65008) by imposing separate requirements on housing for a protected class (based on familial status and disability), limiting the use and enjoyment of their home, and jeopardizing the financial feasibility of group and sober living homes. The City must take immediate steps to repeal Ordinance No. 2020-16.”

The notice of violation is a clear and unmistakable declaration that these ordinances are in violation of state housing laws. It also makes clear that HCD will take action, up to and including, the assistance of the California Office of the Attorney General.

And it is for these reasons that we object to your housing element as proposed.

Sincerely,

A handwritten signature in blue ink that reads "Pete Nielsen". The signature is fluid and cursive, with the first name "Pete" being more prominent than the last name "Nielsen".

Pete Nielsen  
President and Chief Executive Officer

### Specific Considerations Objectionable in the Municipal Code

1. Municipal Code Title 9, Chapter II, Article 23. Group Homes, 9-374. Requirements for issuance of operator's permit.

(a) The owner/operator shall submit an application to the director that provides the following information:

(7) relapse policy

Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

(a) A group home that may otherwise be considered an unpermitted use may locate in an R1 zone with a special use permit provided:

(1) An application for a group home is submitted to the director by the owner/operator of the group home. The application shall provide the following:

(vii). The relapse policy;

**These provisions target persons with disability. Other homes within the jurisdiction are not required to report to the city when a person relapses or what preparations are made for such an occurrence.**

2. Municipal Code Title 9, Chapter II, Article 23. Group Homes, 9-374. Requirements for issuance of operator's permit.

(b) *Requirements for operation of group homes.*

(1) The group home has a house manager who resides at the group home or any multiple of persons acting as a house manager who are present at the group home on a twenty-four (24) hour basis and who are responsible for the day-to-day operation of the group home.

Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

(a) A group home that may otherwise be considered an unpermitted use may locate in an R1 zone with a special use permit provided:

(4) The group home has a house manager who resides at the group home or any multiple of persons acting as a house manager who are present at the group home on a twenty-four (24) hour basis and who are responsible for the day-to-day operation of the group home.

**Recovery residences are homes, not facilities. There are no "day-to-day operations" which require 24 hour supervision. This requirement, particularly for smaller homes will make it economically unfeasible to exist. Recovery residences cannot simply require 24-hour supervision without paying the persons responsible for providing this service. Typical, house managers, senior residents, or mentors are paid a small stipend of their contributions to the leadership they provide. To change this model to 24-hour supervision would make this type of housing unaffordable. Three 8-hours shifts at \$15 per hour would increase the cost of the unit to \$2,520 per week, or \$10,080 per month. If it is the city's intention to expel this housing from the jurisdiction via onerous financial requirements, the resulting homelessness increase should be taken into consideration.**

**Persons in this stage of recovery are not in need of supervision as determined by the American Society of Addiction Medicine:**

Although persons in recovery are afforded protections under the Americans with Disabilities Act, the disability concerned does not imply that persons in recovery are in need of physical assistance (dressing, feeding) or in need of supervision. In fact, the American Society of Addiction Medicine Placement criteria for addictions patients, originally published in 1991 and now in its third edition (2013), directly contradicts the notion that persons in recovery residences are being supervised, in a clinical sense. Use of this criteria is a decades old industry standard and is now required for all programs licensed or certified by the Department of Health Care Services. By definition, persons living in a recovery residence do not require supervision. Applying ASAM criteria, persons in a supportive living environment would, at most, be classified as level 1.0, although many in long term recovery may not even be assessed as needing any treatment:

*“At ASAM Level 1 placement/Recovery Environment, it is clear that medical experts do not consider supervision to be necessary. Likening this level to a mental health scenario, one could compare this level to a patient who has received a higher level of care, inpatient or otherwise, and is now perhaps receiving medication and attending weekly therapy.”*

3. Municipal Code Title 9, Chapter II, Article 23. Group Homes, 9-374. Requirements for issuance of operator’s permit.

(b) Requirements for operation of group homes.

(11) In addition to the regulations listed above, the following shall also apply to sober living homes:

- i. All occupants, other than the house manager, must be actively participating in legitimate recovery programs including but not limited to Alcoholics Anonymous or Narcotics Anonymous and the sober living home must maintain current records of meeting attendance. Under the sober living home’s rule and regulations, refusal to actively participate in such a program shall be cause for eviction.
- ii. The sober living home’s rules and regulations must prohibit the use of any alcohol or any non-prescription drugs at the sober living home or by any recovering addict either on or off site. The sober living home must also have a written policy regarding the possession, use and storage of prescription medications. The facility cannot dispense medications but must make them available to the residents. The possession or use of prescription medications is prohibited except for the person to whom they are prescribed, and in the amounts/dosages prescribed. These rules and regulations shall be posted on site in a common area inside the dwelling unit. Any violation of this rule must be cause for eviction under the sober living home’s rules for residency and the violator cannot be re-admitted for at least ninety (90) days. Any second violation of this rule shall result in permanent eviction. Alternatively, the sober living home must have provisions in place to remove the violator from contact with the other residents until the violation is resolved.

(e) In addition to denying an application for failing to comply, or failing to agree to comply, with subsections (a) and/or (b) of this section, an operator’s permit shall also be denied, and if already issued shall be revoked upon a hearing by the director, under any of the following circumstances:

(6) An operator's permit for a sober living home shall also be denied, and if already issued shall be revoked upon a hearing by the director, under any of the following additional circumstances:

- i. The owner/operator of a sober living home fails to immediately take measures to remove any resident who uses alcohol or illegally uses prescription or non-prescription drugs, or who is not actively participating in a legitimate recovery program from contact with all other sober residents.

Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

(a) A group home that may otherwise be considered an unpermitted use may locate in an R1 zone with a special use permit provided:

(14) In addition to the regulations outlined above, the following shall also apply to sober living homes:

- ii. All occupants, other than the house manager, must be actively participating in legitimate recovery programs, including, but not limited to, Alcoholics Anonymous or Narcotics Anonymous and the sober living home must maintain current records of meeting attendance. Under the sober living home's rules and regulations, refusal to actively participate in such a program shall be cause for eviction.

iii. The sober living home's rules and regulations must prohibit the use of any alcohol or any non-prescription drugs at the sober living home or by any recovering addict either on or off site. The sober living home must also have a written policy regarding the possession, use and storage of prescription medications. The facility cannot dispense medications but must make them available to the residents. The possession or use of prescription medications is prohibited except for the person to whom they are prescribed, and in the amounts/dosages prescribed. These rules and regulations shall be posted on site in a common area inside the dwelling unit. Any violation of this rule must be cause for eviction under the sober living home's rules for residency and the violator cannot be re-admitted for at least ninety (90) days. Any second violation of this rule shall result in permanent eviction. Alternatively, the sober living home must have provisions in place to remove the violator from contact with the other residents until the violation is resolved.

(b) The special use permit shall be issued by the director as a ministerial matter if the applicant is in compliance or has agreed to comply with subsections (a)(1) through (a)(14) of this section. At least ten (10) days prior to issuing a special use permit, the director shall cause written notice to be mailed to the owner of record and occupants of all properties within five hundred (500) feet of the location of the group home. Prior to issuance of the special use permit, the director shall hold a public hearing for the purpose of receiving information regarding compliance with the applicable provisions of subsections (a) and (b) of this section. The issuance of the special use permit shall be denied upon a determination, and if already issued shall be denied or revoked upon a hearing, by the director that any of the following circumstances exist:

- (6) A special use permit for a sober living home shall also be denied upon a determination, and if already issued, any transfer shall be denied or revoked, upon a hearing, by the director that any of the following additional circumstances exist:

(ii) The owner/operator of a sober living home fails to immediately take measures to remove any resident who uses alcohol or illegally uses prescription or non-prescription drugs, or who is not actively participating in a legitimate recovery program from contact with all other sober residents.

The ordinances asks for “immediate removal” of persons not “actively participating” in a “legitimate recovery program” and to ban communication with other residents should relapse occur.

Substance use disorder is prone to relapse. A person should not become homeless for relapse. Substance use disorder is a medical issue. Anyone relapsing may be in physical danger and in need of detoxification or treatment. In fact, “immediate removal” of a client in a licensed treatment program is prohibited by regulation due to safety concerns for the relapsing client. It takes time to contact family, arrange for detoxification, and find an open treatment bed, immediate removal is unrealistic and dangerous.

As for “legitimate recovery programs” as define in the ordinances, many persons in long term recovery do not necessarily attend meetings or have a need for outpatient services. For some hiking in the wilderness, working, or reuniting with family constitutes all the recovery services that they need. You cannot force people to attend a religious group or seek medical attention that they no longer need and do not desire to participate in. It is their right, this right was made clear when the City of Dana Point successfully sued a recovery residence for requiring that outside services be attended as a violation of state licensing law for alcohol drug treatment facilities. People in recovery are mature adults with civil rights which include the right to pursue personal recovery activities as they choose. How can city staff, with no knowledge of recovery define what is “legitimate?”

And what constitutes “active participation?” Who decides how much attendance is necessary for each person? To prove any program attendance, requires violating the disabled persons' privacy (particularly if the attendance involves outpatient treatment, a medical service, as opposed to mutual aid meetings). Maintaining records regarding medical and spiritual attendance for an individual is a violation of privacy, and in the case of outpatient treatment, a violation of Health Insurance Portability and Accountability Act of 1996. Asking city staff to review the personal health and spiritual activities of any of its citizens is a violation of privacy on every level.

4. Municipal Code Title 9, Chapter II, Article 23. Group Homes, 9-374. Requirements for issuance of operator’s permit.

(e) In addition to denying an application for failing to comply, or failing to agree to comply, with subsections (a) and/or (b) of this section, an operator’s permit shall also be denied, and if already issued shall be revoked upon a hearing by the director, under any of the following circumstances:

- (1) Any owner/operator or staff person has provided materially false or misleading information on the application or omitted any pertinent information.
- (2) Any owner/operator or staff person has an employment history in which he or she was terminated during the past two (2) years because of physical assault, sexual harassment, embezzlement or theft; falsifying a drug test; and selling or furnishing illegal drugs or alcohol.
- (3) Any owner/operator or staff person has been convicted of or pleaded nolo contendere, within the last seven (7) to ten (10) years, to any of the following offenses:
  - i. Any sex offense for which the person is required to register as a sex offender under California Penal Code section 290 (last ten (10) years);



- ii. Arson offenses—Violations of Penal Code Sections 451—455 (last seven (7) years); or
  - iii. Violent felonies, as defined in Penal Code section 667.5, which involve doing bodily harm to another person (last ten (10) years).
  - iv. The unlawful sale or furnishing of any controlled substances (last seven (7) years).
- (4) Any owner/operator or staff person is on parole or formal probation supervision on the date of the submittal of the application or at any time thereafter.

Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

(b) The special use permit shall be issued by the director as a ministerial matter if the applicant is in compliance or has agreed to comply with subsections (a)(1) through (a)(14) of this section. At least ten (10) days prior to issuing a special use permit, the director shall cause written notice to be mailed to the owner of record and occupants of all properties within five hundred (500) feet of the location of the group home. Prior to issuance of the special use permit, the director shall hold a public hearing for the purpose of receiving information regarding compliance with the applicable provisions of subsections (a) and (b) of this section. The issuance of the special use permit shall be denied upon a determination, and if already issued shall be denied or revoked upon a hearing, by the director that any of the following circumstances exist:

- (1) Any owner/operator or staff person has provided materially false or misleading information on the application or omitted any pertinent information;
- (2) Any owner/operator or staff person has an employment history in which he or she was terminated during the past two (2) years because of physical assault, sexual harassment, embezzlement or theft; falsifying a drug test; and selling or furnishing illegal drugs or alcohol.
- (3) Any owner/operator or staff person has been convicted of or pleaded nolo contendere, within the last seven (7) to ten (10) years, to any of the following offenses:
  - i. Any sex offense for which the person is required to register as a sex offender under California Penal Code section 290 (last ten (10) years);
  - ii. Arson offenses—Violations of Penal Code Sections 451—455 (last seven (7) years); or
  - iii. Violent felonies, as defined in Penal Code section 667.5, which involve doing bodily harm to another person (last ten (10) years).
  - iv. The unlawful sale or furnishing of any controlled substances (last seven (7) years).
- (4) Any owner/operator or staff person is on parole or formal probation supervision on the date of the submittal of the application or at any time thereafter.
- (5) The owner/operator accepts residents, other than a house manager, who are not handicapped as defined by the FHAA and FEHA.
- (6) A special use permit for a sober living home shall also be denied upon a determination, and if already issued, any transfer shall be denied or revoked, upon a hearing, by the director that any of the following additional circumstances exist:
  - i. Any owner/operator or staff person of a sober living home is a recovering drug or alcohol abuser and upon the date of application or employment has had less than one (1) full year of sobriety.

As per California statute, employers are prohibited from denying employment based upon disability. A one year sobriety requirement clearly violates employment laws.

Many people with substance use disorder lose employment for reasons stated in the ordinances. House managers live at the residence. Denial of housing based on employment history is beyond reasonable. Realizing that people in early recovery often have legal issues connected to previous drug use, denial of housing based on criminal history, including simple possession of cannabis, is discriminatory and specifically designed to limit this type of housing. Are other renters in the jurisdiction denied housing for this broad array of criminal acts? Are other renters denied housing based on employment loss? Are other businesses who provide housing held to this standard?

5. Municipal Code Title 9, Chapter II, Article 23. Group Homes, 9-374. Requirements for issuance of operator's permit.

(b) *Requirements for operation of group homes.*

(11) In addition to the regulations outlined above, the following shall also apply to sober living homes:

v. The sober living home shall have a good neighbor policy that shall direct occupants to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit. The good neighbor policy shall establish a written protocol for the house manager/operator to follow when a neighbor complaint is received.

Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

(a) A group home that may otherwise be considered an unpermitted use may locate in an R1 zone with a special use permit provided:

(14) In addition to the regulations outlined above, the following shall also apply to sober living homes:

vi. The sober living home shall have a good neighbor policy that shall direct occupants to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit. The good neighbor policy shall establish a written protocol for the house manager/operator to follow when a neighbor complaint is received.

Are other citizens prohibited from profanity or being "obnoxious?" Are other families required to respond to neighbor's complaints? Who decides what "unduly interfering" means? There are code compliance mechanisms in place to handle such complaints for other persons in the jurisdiction. Why is this disabled class being subjected to different criteria with consequences that can lead to removal of housing for them? Should all citizens in the jurisdiction who violate noise codes or use their First Amendment rights to express themselves in poor taste be subject to loss of residency and homelessness? Is an arbitrary "be good" clause a reasonable accommodation?

6. Municipal Code Title 9, Chapter II, Article 23. Group Homes, 9-374. Requirements for issuance of operator's permit.



*(b) Requirements for operation of group homes.*

- (2) All garage and driveway spaces associated with the dwelling unit shall, at all times, be available for the parking of vehicles. Residents and the house manager may each only store or park a single vehicle at the dwelling unit or on any street within five hundred (500) feet of the dwelling unit. The vehicle must be operable and currently used as a primary form of transportation for a resident of the group home.

Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

- (a) A group home that may otherwise be considered an unpermitted use may locate in an R1 zone with a special use permit provided:

(5) All garage and driveway spaces associated with the dwelling unit shall, at all times, be available for the parking of vehicles. Residents and the house manager may each only store or park a single vehicle at the dwelling unit or on any street within five hundred (500) feet of the dwelling unit. The vehicle must be operable and currently used as a primary form of transportation for a resident of the group home.

**There exist parking regulation that governs where individuals can park. These parking requirements go beyond existing regulations and subject a disabled class of individuals to separate and discriminatory rules. Individuals without disability are not told they can only park one car in a 500 feet distance from their home.**

7. Municipal Code Title 13, Chapter XV, 13-311. Special use permit required.

- (a) A group home that may otherwise be considered an unpermitted use may locate in an R1 zone with a special use permit provided:

(14) In addition to the regulations outlined above, the following shall also apply to sober living homes:

- i. The sober living home is not located within six hundred fifty (650) feet, as measured from the closest property lines, of any other sober living home or a state licensed alcoholism or drug abuse recovery or treatment facility.

(b) The special use permit shall be issued by the director as a ministerial matter if the applicant is in compliance or has agreed to comply with subsections (a)(1) through (a)(14) of this section. At least ten (10) days prior to issuing a special use permit, the director shall cause written notice to be mailed to the owner of record and occupants of all properties within five hundred (500) feet of the location of the group home. Prior to issuance of the special use permit, the director shall hold a public hearing for the purpose of receiving information regarding compliance with the applicable provisions of subsections (a) and (b) of this section. The issuance of the special use permit shall be denied upon a determination, and if already issued shall be denied or revoked upon a hearing, by the director that any of the following circumstances exist:

- (6) A special use permit for a sober living home shall also be denied upon a determination, and if already issued, any transfer shall be denied or revoked, upon a hearing, by the director that any of the following additional circumstances exist:

- iii. The sober living home, as measured by the closest property lines, is located within six hundred fifty (650) feet of any other sober living home or state licensed alcoholism

or drug abuse recovery or treatment facility. If a state-licensed alcoholism or drug abuse recovery or treatment facility moves within six hundred fifty (650) feet of an existing sober living home this shall not cause the revocation of the sober living home's permit or be grounds for denying a transfer of such permit.

Municipal Code Title 13, Chapter XVI, 13-322. Group homes in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (planned development zones) zones with six (6) or fewer occupants.

(a) A special use permit shall be required for and may be granted to permit the operation of a group home including a sober living home with six (6) or fewer occupants in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (planned development zones) zones subject to the following requirements:

(3) The group home or sober living home is at least six hundred fifty (650) feet from any other property, as defined in section 13-321, that contains a group home, sober living home or state-licensed drug and alcohol treatment facility, as measured from the property line.

Municipal Code Title 13, Chapter XVI, 13-223. Conditional use permit required for group homes, residential care facilities and drug and alcohol treatment facilities in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (planned development zones) w

A conditional use permit shall be required for and may be granted to allow the operation of a group home, state-licensed residential care facility or state-licensed drug and alcohol treatment facility with seven (7) or more occupants in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (planned development zones) zones subject to the following conditions:

(b) The group home, residential care facility or state-licensed drug and alcohol treatment facility is at least six-hundred fifty (650) feet from any property, as defined in section 13-321, that contains a group home, sober living home or state-licensed drug and alcohol treatment facility, as measured from the property line, unless the reviewing authority determines that such location will not result in an over-concentration of similar uses.

**The types of facilities where distance requirements may be imposed is set by state statute. These ordinances are contrary to this statute. State statute applies to licensed facilities only and the arbiter who decides whether "overconcentration" exists is the Department of Health Care Services:**

**"1520.5. (b) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of residential facilities that impair the integrity of residential neighborhoods. Therefore, the department shall deny an application for a new residential facility license if the department determines that the location is in a proximity to an existing residential facility that would result in overconcentration."**

**The distance requirements set forth in the aforementioned ordinances more than double the distance requirements set by state statute. It is excessive and discriminates against a disabled class of people as it excludes what is in essence a normal residence from many spaces that other residents without this disability would not have to adhere to.**

**Furthermore, if say a group of birdwatchers wanted to move into a residence they would not be expected to notify every neighbor within 500 ft of their property that they are moving in. They would**

**also not be required to hold a hearing to make a case as to why they should be permitted to move in to that space. These practices are discriminatory and clearly meant to exclude sober living homes.**

8. Municipal Code Title 13, Chapter XVI, 13-320. Purpose.

This chapter is intended to **preserve the residential character** the City of Costa Mesa's residential neighborhoods and to further the purposes of the FEHA, the FHAA and the Lanterman Act by, among other things:

- (b) Limiting the secondary impacts of group homes by **reducing noise and traffic, preserving safety and providing adequate off-street parking;**

**This is discriminatory on face value. Would a concentration of birdwatchers living together degrade a neighborhood? Would a concentration of LGBTQ individuals degrade a neighborhood? There are no services in a recovery residence; they are not institutions. As for "secondary impacts" of group homes we ask that the city produce concrete evidence of such impacts.**

9. Municipal Code Title 13, Chapter XVI, 13-322. Group homes in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (planned development zones) zones with six (6) or fewer occupants.

- (a) A **special use permit shall be required for and may be granted to permit the operation of a group home including a sober living home with six (6) or fewer occupants** in the R2-MD, R2-HD and R3 residential zones and the PDR-LD, PDR-MD, PDR-HD, PDR-NCM, PDC, and PDI (planned development zones) zones subject to the following requirements:

- (2) The application includes **a live scan of the house manager and/or operator** of the group home.

**House managers typically live with residents and are a part of the family in much the same way a parent would act as a mentor, leader, and a person who encourages that rules are followed, chores are completed, and disputes are amicably resolved. Requiring a live scan is excessive and discriminatory. As per California employment statute, employers are prohibited from sharing background information about their employees.**

# Costa Mesa Affordable Housing Coalition

February 1, 2022

Mayor John Stephens and Members of the City Council  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA

## RE: Measure Y and Complying with Costa Mesa's RHNA Requirement

Dear Mayor Stephens and Council Members:

There are two critical things Costa Mesa must do to comply with its legal obligation to accommodate its 2021-2029 RHNA for lower income households. The first thing is to **adopt a strong inclusionary housing ordinance** requiring a **minimum of 15%** of all new homes to be affordable to lower income households. The second is to **amend Measure Y** so it no longer impedes housing development in Costa Mesa.

Members of the Costa Mesa Affordable Housing Coalition (the Coalition) participated in the City's well-attended January 11<sup>th</sup> community meeting on Measure Y. We were very pleased to hear **widespread support for amending Measure Y**. Many residents who called in during the meeting specifically lamented Costa Mesa's lack of affordable housing. These same residents expressed the common sense view that Measure Y's burdensome "city-wide vote" requirement is impeding the construction of new residential development in our city. While a few commenters warned the City not to touch Measure Y, the vast majority of callers supported amending this voter-enacted law so Costa Mesa can gain the affordable housing so many of our residents desperately need.

In my public comments, I suggested the City should **amend Measure Y to state that it does not apply to any housing development which includes a minimum percentage of lower-income affordable units**. At the time, I urged a 20% requirement for exemption from Measure Y. While 20% would be terrific, our Coalition would also support a 15% lower-income affordable requirement for exemption from Measure Y. Absent such an amendment, Costa Mesa will never meet its lower income RHNA obligation, and its residents will continue to suffer the life-constricting consequences of paying unaffordable rents. We urge you to act.

Thank you for considering our concerns about the draft 2021-2029 Housing Element Update.

Sincerely,

*Kathy Esfahani*

Kathy Esfahani  
For The Costa Mesa Affordable Housing Coalition

cc: Justin Arias, Associate Planner for the City of Costa Mesa  
Paul McDougal and Marisa Prasse, California Department of Housing and Community  
Development  
Richard Walker, Public Law Center  
Cesar Covarrubias, The Kennedy Commission

# **Old Business 1 – Public Comments**

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**From:** Luis Miramontes <Luis.Miramontes@boilermakerslocal92.org>  
**Sent:** Friday, January 28, 2022 10:19 AM  
**To:** CITY CLERK  
**Subject:** CWA Support Letter  
**Attachments:** BM L92 CWA Support Letter.pdf

Good morning,

On behalf of The International Brotherhood of Boilermakers Local 92, please see attachment for our CWA support letter.

Please call or E-mail me at any time if you should have any questions.

Sincerely,

Luis Miramontes  
Business Manager/Secretary-Treasurer  
Boilermakers Local 92  
2260 Riverside Avenue  
Bloomington CA 92316  
(909) 877 9382  
<http://www.boilermakerslocal92.org>

An organized association of workers in a trade, group of trades, or profession,  
formed to protect and further their rights and interests -Trade Union



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*International Brotherhood of*  
**BOILERMAKERS • IRON SHIP BUILDERS**

Luis Miramontes  
Business Manager/Secretary-Treasurer



*Local Lodge 92*  
**BLACKSMITHS • FORGERS & HELPERS**

2260 South Riverside Ave. • Bloomington, CA 92316  
(909) 877-9382 • (909) 877-8318

January 28, 2022

Dear Mayor Stephens/City Council member

I am writing on behalf of the International Brotherhood of Boilermakers Local 92 members to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained craft workers in the Nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of The International Brotherhood of Boilermakers Local 92, I want to express appreciation for your hard work and urge an "Aye" vote for item 1 under Old Business, the Community Workforce Agreement.

Sincerely,

Luis Miramontes  
Business Manager/ Secretary-Treasurer  
Boilermakers Local 92





## Ironworkers Local 433

International Association of Bridge, Structural &  
Ornamental Iron Workers A.F.L.-C.I.O.  
Established 1929

17495 HURLEY STREET EAST

CITY OF INDUSTRY, CALIFORNIA 91744

PHONE: (626) 964-2500

FAX: (626) 964-1745

January 28, 2022

Dear Mayor Stephens/City Council member

I am writing on behalf of the 5000 members of Ironworkers Local 433 to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained craft workers in the Nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of Ironworkers Local 433, I want to express appreciation for your hard work and urge an "Aye" vote for item 1 under Old Business, the Community Workforce Agreement.

Thank you,

Paul Moreno  
Business Agent  
Local 433

---

**From:** GONZALEZ, ALEXANDER  
**Sent:** Monday, January 31, 2022 11:14 AM  
**To:** BENNETT, STACY  
**Cc:** GREEN, BRENDA; REYES, ALMA  
**Subject:** FW: Project Labor Agreements or Community Workforce Agreements

Good morning Stacy,

This is the first of two messages we've received this morning regarding the CWA/PLA scheduled for tomorrow's city council meeting. Thank you!

Warm regards,  
Alex

---

**From:** Hallgren, Joseph (LLU) <jhallgren06p@llu.edu>  
**Sent:** Monday, January 31, 2022 10:41 AM  
**To:** CONSTITUENT SERVICES <constituentservices@costamesaca.gov>  
**Subject:** Project Labor Agreements or Community Workforce Agreements

Dear City of Costa Mesa Council,

While I adamantly do NOT affiliate with any political party or action group, I must agree that the details of 'Project Labor Agreement' and 'Community Workforce Agreements' are concerning enough to appose it. When it comes to tax payer dollars and budget for contractor services, it's evident that there should be a clear line drawn between political donors and contracts that tie any city to utilize a limited number of vendors or contractors.

Frankly, I believe city of CM leadership has done a good job of transparency in the past and while I understand that it may be less administrative work to enter into these agreements, I do NOT believe it to be a smart move from simply a perspective of having options in the future...including legal recourse. Please do NOT enter into these agreements and continue to ensure true transparency of city operations.

Sincerely,

Joe Hallgren (Costa Mesa Home Owner, Tax Payer, and Small Business Owner)  
2826 Loreto Ave.,  
Costa Mesa, CA 92626  
Cell: (949) 793-5950

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**From:** GONZALEZ, ALEXANDER  
**Sent:** Monday, January 31, 2022 11:14 AM  
**To:** BENNETT, STACY  
**Cc:** GREEN, BRENDA; REYES, ALMA  
**Subject:** FW: Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

Here is the second message.

Alex

**From:** JUANITA MORA <wahlahla@sbcglobal.net>  
**Sent:** Monday, January 31, 2022 11:01 AM  
**To:** CONSTITUENT SERVICES <constituentservices@costamesaca.gov>  
**Subject:** Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

I am writing to express my opposition to the Costa Mesa City Council passing a special interest deal for their political donors on all future construction in the city. If this discrimination is approved, it will cost Costa Mesa taxpayers \$7.8 million dollars! I would rather see the \$7.8 million saved from not doing a PLA help Costa Mesa fund more police officer positions, firefighter jobs or prevent the next round of 5% furloughs to our city workers. Instead, our City Council Members decided to pay off their special interest donors. Worse yet, the \$7.8 million dollars is only the amount wasted from the \$52 million dollars the city has currently planned for future construction projects. This give-away would be in effect for all future construction projects too. These special interest deals, (known as Project Labor Agreement or Community Workforce Agreement,) are so controversial that they have been banned in over half of the United States. That is why I oppose this discriminatory special interest deal. Our message to the City Council is simple: Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

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## INTERNATIONAL ASSOCIATION OF HEAT & FROST INSULATORS & ASBESTOS WORKERS

Local No. 5 City Ontario State California  
Address 3833 Ebony Street (Mailing): P.O. Box 3160 Zip 91761

January 31, 2022

Dear Mayor Stephens/City Council member

I am writing on behalf of the over 1000 members of the Heat & Frost Insulators Union Local 5 to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained mechanics in the Nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time. In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle-class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of Heat & Frost Insulators Local 5, I want to express appreciation for your hard work and urge an "Aye" vote for item 1 under Old Business, the Community Workforce Agreement.

Business Manager/Representative

---

**From:** Lupe Aldaco <bac4aldaco@gmail.com>  
**Sent:** Monday, January 31, 2022 2:11 PM  
**To:** CITY CLERK  
**Subject:** CWA  
**Attachments:** SBizhub22013114070.pdf

Please provide the attached letter to the city council for consideration at the council meeting tomorrow.

*Thank You,*  
Lupe

*Lupe Aldaco Jr.*  
**President**  
**BAC Local 4**  
**2679 Sierra Way**  
**LaVerne, Ca. 91750**  
**[BAC4aldaco@gmail.com](mailto:BAC4aldaco@gmail.com)**  
*Office- 626-739-5600*



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# BRICKLAYERS & ALLIED CRAFTWORKERS

## LOCAL NO. 4 CA

(626) 739-5600 • TOLL FREE 1-800 972-3338 • FAX (626) 739-5610  
[www.bac4ca.org](http://www.bac4ca.org)

January 31, 2022

Dear Mayor Stephens/City Council member

I am writing on behalf of the 2200 members of Bricklayers & Tile Layers Local #4 to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained craft workers in the Nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of Bricklayers & Tile Layers Local #4, I want to express appreciation for your hard work and urge an "Aye " vote for item 1 under Old Business, the Community Workforce Agreement.

Sincerely,



Lupe Aldaco, Jr.  
President  
BAC Local #4

---

**From:** Nick Garcia <nick.garcia@boilermakerslocal92.org>  
**Sent:** Monday, January 31, 2022 3:10 PM  
**To:** CITY CLERK  
**Cc:** Luis Miramontes  
**Subject:** Community Work Force Support  
**Attachments:** supportletter.pdf

To whom it may concern

Attached is out letter of support for the Community Work Force Agreement. Thank you.

Nick Garcia  
Business Representative  
Boilermakers Local 92  
USMC SEMPER FI  
P: 909-877-9382  
F: 909-877-8318  
[Nick.Garcia@boilermakerslocal92.org](mailto:Nick.Garcia@boilermakerslocal92.org)

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# Boilermakers Local 92

## Joint Apprenticeship Committee

**Luis Miramontes**  
Business Manager/Secretary-Treasurer

**Alfredo Leyva**  
Apprentice Coordinator

2260 S. Riverside Avenue, Bloomington, CA 92316-9998

Date January 31, 2022

Dear Mayor Stephens/City Council member,

I am writing on behalf of the 1500 members of Boilermakers Local 92 to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained craft workers in the Nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of Boilermaker local 92, I want to express appreciation for your hard work and urge an "Aye" vote for item 1 under Old Business, the Community Workforce Agreement.

Nicolas Garcia Jr.  
Business Representative/ Trustee Chairman  
Boilermakers Local 92





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**From:** GONZALEZ, ALEXANDER  
**Sent:** Monday, January 31, 2022 4:05 PM  
**To:** BENNETT, STACY  
**Cc:** GREEN, BRENDA; REYES, ALMA  
**Subject:** FW: Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

Hello again Stacy,

Forwarding a public comment for tomorrow. Thank you!

Warm regards,  
Alex

-----Original Message-----

From: Mary Beth Dorish <marybethdorish@yahoo.com>  
Sent: Monday, January 31, 2022 4:01 PM  
To: CONSTITUENT SERVICES <constituentservices@costamesaca.gov>  
Subject: Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

I am writing to express my opposition to the Costa Mesa City Council passing a special interest deal for their political donors on all future construction in the city.

If this discrimination is approved, it will cost Cost Mesa taxpayers \$7.8 million dollars!

I would rather see the \$7.8 million saved from not doing a PLA help Costa Mesa fund more police officer positions, firefighter jobs or prevent the next round of 5% furloughs to our city workers.

Instead, our City Council Members decided to pay off their special interest donors. Worse yet, the \$7.8 million dollars is only the amount wasted from the \$52 million dollars the city has currently planned for future construction projects. This give-away would be in effect for all future construction projects too.

These special interest deals, (known as Project Labor Agreement or Community Benefits Agreement,) are so controversial that they have been banned in over half of the United States.

That is why I oppose this discriminatory special interest deal.

Our message to the City Council is simple:

Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

Mary Beth Dorish

Sent from my iPhone

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**From:** Dana Miranda <accounting@allstarairsystemsinc.com>  
**Sent:** Monday, January 31, 2022 4:22 PM  
**To:** CITY CLERK  
**Cc:** jack dresser  
**Subject:** CWA 21-419

Dear City Council,

??

I am writing in opposition to the proposed Community Workforce Agreement (CWA).??The agreement, as written, prevents all Apprentices training in Orange County from participating in the Costa Mesa Workforce.??

??

??Apprenticeship is a pathway to a highroad career in construction, and by preventing some apprentices from working and training in Costa Mesa, you are preventing local residents from the local workforce.????

??

Please allow all apprentices to work and amend or vote no on the current CWA. As an employer/contractor providing prevailing wages for the past 20 years in Orange County, we are concerned that our employees are afforded the opportunity to work in our neighboring city. Most of our employees have more than 20 years of experience and under your current legislation, they would be forbidden from working in your city.

??

Thank you for your consideration.

??

Thank You,

*Dana Miranda*

*All??Star Air Systems, Inc.*

(714) 277-5557 Office,??(714) 849-1229 Fax

18627 Brookhurst Street #315, Fountain Valley, CA ??92708

??

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**From:** Eric Glover <EGlover@abcsocal.net>  
**Sent:** Monday, January 31, 2022 4:24 PM  
**To:** CITY CLERK  
**Subject:** CWA 21-419

I am writing in opposition to the proposed Community Workforce Agreement (CWA). The agreement, as written, prevents all Apprentices training in Orange County from participating in the Costa Mesa Workforce.

Apprenticeship is a pathway to a highroad career in construction, and by preventing some apprentices from working and training in Costa Mesa, you are preventing local residents from the local workforce.

Please allow all apprentices to work and amend or vote no on the current CWA.

Thank you for your consideration.

**Eric Glover**

*Safety Specialist*

Associated Builders and Contractors – Southern California

1400 N. Kellogg Dr., Suite A

Anaheim, CA 92807

📞 (714) 779-3199 | 📠 (562) 584-3236

[eglover@abcsocal.net](mailto:eglover@abcsocal.net)

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**From:** Andre Ramirez <ramirezandre92@yahoo.com>  
**Sent:** Monday, January 31, 2022 4:53 PM  
**To:** CITY CLERK  
**Subject:** "CWA 21-419"  
**Attachments:** CWA 21-419-Apprentice Letter.docx

Costa Mesa

Local ABC Low-voltage apprentice, I have an attached letter for your review. Please feel free to contact me if you have any questions.

Andre Ivan Ramirez  
ABC SoCal Low-Voltage Apprentice  
530 W. Wilson St Apt#26  
Costa Mesa, CA, 92627  
Personal Cell # (949)630-1312

---

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Dear Costa Mesa City Council:

I am a local ABC Apprentice and I train right here in Orange County. I support your effort to bring good-paying jobs to our community.

However, the community workforce agreement currently under consideration by the city will unfairly discriminate against merit shop apprentices by freezing them out of local jobs and opportunities.

Please do not unnecessarily shut out local workers from good-paying jobs. The apprenticeship advantage is real, and everyone deserves a chance to participate, regardless of their union membership.

I urge you to oppose this discriminatory community workforce agreement until all apprentices are allowed to participate in the workforce.

Thank you for your consideration,

Andre Ivan Ramirez

---

**From:** Luis Aleman <Luis@oclabor.org>  
**Sent:** Monday, January 31, 2022 5:03 PM  
**To:** CITY CLERK  
**Cc:** Gloria Alvarado; Ernesto Medrano  
**Subject:** OCLF Letter of Support for Old Business Item 1  
**Attachments:** OCLF Costa Mesa CWA Support Letter.pdf

Mayor Stephens & City Councilmembers,

Attached in this email is a letter of support from the Orange County Labor Federation, regarding Old Business Item 1. We strongly encourage a yes vote on this item. A community Workforce Agreement with greatly benefit the city of Costa Mesa.

In Solidarity,  
Luis Aleman

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Orange County Labor Federation, AFL-CIO

309 N. RAMPART STREET, SUITE A • ORANGE, CALIFORNIA 92868  
(714) 385-1534 • FAX: (714) 385-1544

January 31<sup>st</sup>, 2022

Dear Mayor Stephen & City Council members,

I am writing on behalf of the Orange County Labor Federation. We represent over 250,000 members in Orange County and respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. Our trades represent some of the highest skilled and trained craft workers in the Nation. This is possible through Joint Labor Management Apprenticeship Training Centers. The Community Workforce Agreement will provide you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As Executive Director of the Orange County Labor Federation, I want to express appreciation for your hard work and urge an "Aye" for item 1 under Old Business, the Community Workforce Agreement.

Gloria  
Alvarado,

Orange County Labor Federation Executive Director

---

**From:** GONZALEZ, ALEXANDER  
**Sent:** Monday, January 31, 2022 5:09 PM  
**To:** BENNETT, STACY  
**Cc:** GREEN, BRENDA; REYES, ALMA  
**Subject:** FW: Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

[FYI...additional public comment](#)

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**From:** Lee Naqvi <ajnaqvi@yahoo.com>  
**Sent:** Monday, January 31, 2022 4:59 PM  
**To:** CONSTITUENT SERVICES <constituentservices@costamesaca.gov>  
**Subject:** Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

I am writing to express my opposition to the Costa Mesa City Council passing a special interest deal for their political donors on all future construction in the city. If this discrimination is approved, it will cost Cost Mesa taxpayers \$7.8 million dollars! I would rather see the \$7.8 million saved from not doing a PLA help Costa Mesa fund more police officer positions, firefighter jobs or prevent the next round of 5% furloughs to our city workers. Instead, our City Council Members decided to pay off their special interest donors. Worse yet, the \$7.8 million dollars is only the amount wasted from the \$52 million dollars the city has currently planned for future construction projects. This give-away would be in effect for all future construction projects too. These special interest deals, (known as Project Labor Agreement or Community Benefits Agreement,) are so controversial that they have been banned in over half of the United States. That is why I oppose this discriminatory special interest deal. Our message to the City Council is simple: Don't use our tax dollars to give special interest deals to your political donors! PERIOD.

Ali Naqvi

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**From:** Matthew Cocanig <Matthew.Cocanig@tradesmeninternational.com>  
**Sent:** Tuesday, February 1, 2022 6:46 AM  
**To:** CITY CLERK  
**Subject:** CWA 21-419

I am writing in opposition to the proposed Community Workforce Agreement (CWA). The agreement, as written, prevents all Apprentices training in Orange County from participating in the Costa Mesa Workforce.

Apprenticeship is a pathway to a highroad career in construction, and by preventing some apprentices from working and training in Costa Mesa, you are preventing local residents from the local workforce.

Please allow all apprentices to work and amend or vote no on the current CWA.

Thank you for your consideration

[CLICK HERE](#) to See How Our CORE+Flex Staffing Strategy Makes Even More Sense Today

**Matthew Cocanig | Area Manager**  
Tradesmen International  
7827 Convoy Ct Suite 406, San Diego, CA 92111  
Phone: 858.223.0914  
Fax: 858.223.0915  
Cell: 619.994.7415



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**From:** John Knapp <jknapp@helixelectric.com>  
**Sent:** Tuesday, February 1, 2022 7:24 AM  
**To:** CITY CLERK  
**Subject:** CWA 21-419

Costa Mesa City Council,

I am writing in opposition to the proposed Community Workforce Agreement (CWA). The agreement, as written, prevents all Apprentices training in Orange County from participating in the Costa Mesa Workforce.

Apprenticeship is a pathway to a highroad career in construction, and by preventing some apprentices from working and training in Costa Mesa, you are preventing local residents from the local workforce.

Please allow all apprentices to work and amend or vote no on the current CWA.

Thank you for your consideration.



HELIX ELECTRIC

**John Knapp**

Field Recruitment Manager



**o:** 562.941.7200 ext: 2103 | **m:** 626.320.5472

**w:** [www.helixelectric.com](http://www.helixelectric.com)

**a:** 5745 Rickenbacker Road, Commerce, CA 90040

**a:** 224 North 143<sup>rd</sup> Avenue Goodyear, AZ 85338

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**From:** Tim Steed <tsteed@oceas.org>  
**Sent:** Tuesday, February 1, 2022 7:44 AM  
**To:** CITY CLERK  
**Subject:** Letter of Support - City Council Meeting - February 1, 2022  
**Attachments:** CWA\_2\_1\_22.pdf

City of Costa Mesa City Clerk,

Please find the attached letter from the Orange County Employees Association regarding item 1 under Old Business.

**TIM STEED**  
ASSISTANT GENERAL MANAGER



ORANGE COUNTY EMPLOYEES ASSOCIATION  
d: 714-564-3227 | o: 714-835-3355 | w: [www.ocea.org](http://www.ocea.org)

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February 1, 2022

Dear Mayor Stephens/City Council members:

I am writing on behalf of the 18,000 members of the Orange County Employees Association to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. Our union represents frontline public servants in multiple jurisdictions in Orange County, including Costa Mesa City workers represented by the Costa Mesa Employees Association (CMCEA). Our members work in the City and will benefit from the highest construction and safety standards in City public works projects.

The Los Angeles/Orange County Building and Construction Trades Council members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, this agreement provides for Veteran preference hire and recruitment through the "Helmets to Hardhats" program. Furthermore, this agreement grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via the Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle-class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of the Orange County Employees Association, I want to express appreciation for your hard work and urge an "Aye" vote for item 1 under Old Business, the Community Workforce Agreement.

Thank you,

Charles Barfield, General Manager  
Orange County Employees Association

---

**From:** Russell Johnson <RJohnson@abcsocal.net>  
**Sent:** Tuesday, February 1, 2022 8:48 AM  
**To:** CITY CLERK  
**Subject:** PUBLIC COMMENT SUGGESTED REVISIONS TO THE CWA  
**Attachments:** Final letter to Costa Mesa on CWA.pdf

Please provide the following to the Mayor and City Council related to item #1 on Old Business.

Thank you.



Russell Johnson  
Director of Government Affairs  
M 661-203-1838  
rjohnson@abcsocal.net

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January 31, 2022

Mayor John Stephens and Council  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

Dear Mayor Stephens and Members of the Council:

On behalf of the Associated Builders and Contractors and the Apprentices we train in Orange County, we are asking your council to accept a minor change to the proposed Community Workforce Agreement (CWA). We feel that the proposed amendment will make the CWA more inclusive and allow for all Apprentices trained in Orange County to participate in the local workforce.

We have been communicating with your staff and have requested that all State Approved Apprenticeship Programs be allowed to participate under the terms of the proposed CWA. In those discussions, we provided some potential language. Since those talks, it has come to our attention that in late December the San Diego Association of Governments (SANDAG) approved a document that accomplishes this very task.

By allowing all apprentices to participate in the workforce, we ensure pathways to careers in construction are enjoyed by all. The language in the SANDAG CWA provides the framework for this to occur and we have attached it for your reference.

Don't shut out the apprentices that train right here in Orange County; let's work together to make the CWA inclusive for all.

Best regards,

A handwritten signature in blue ink, appearing to read "Russell Johnson".

Russell Johnson  
Director of Government Affairs

The relevant sections of the SANDAG CBA that should be incorporated into the proposed Costa Mesa agreement are as follows:

**Section 1.2 page 3 of the Costa Mesa CWA Change the definition of Apprentice to read:**

“Apprentice” means an apprentice properly registered in an Apprenticeship Program for the entire time they are employed on a Covered Project. “Apprenticeship Program” means an apprenticeship program (i) approved by the State of California’s Division of Apprenticeship Standards; (ii) registered with the U.S. Department of Labor; or (iii) registered with a State Apprenticeship Agency granted authority by the U.S. Department of Labor to register apprenticeship programs for federal purposes, pursuant to 29 CFR Part 29.

**Modify Article 14 page 24 of the Costa Mesa CWA agreement should read:**

ARTICLE 14  
APPRENTICES

Section 14.1 Importance of Training. The Parties and Contractors recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by SANDAG, and the opportunities to provide continuing work on Covered Projects for Disadvantaged Workers and Targeted Workers. To these ends, and consistent with any laws or regulations, the Parties and Contractors will facilitate, encourage, and assist Disadvantaged Workers and Targeted Workers in enrolling in and progressing through Apprenticeship Programs and/or apprenticeship readiness programs in the construction industry that lead to participation in Apprenticeship Programs. SANDAG, the Project Labor Coordinator, other SANDAG consultants, the Contractors, and the Council and Unions, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the entry into Apprenticeship Programs.

**Section 14.2 Use of Apprentices.**

(a) The Unions and Contractors agree to cooperate in referring and employing Apprentices up to the maximum percentage allowed by the State Labor Code or applicable federal law, and the standards of each Apprenticeship Program. The minimum ratios for Apprentice to journeyman hours worked shall be in compliance, at a minimum, with the applicable provisions of the State Labor Code relating to utilization of Apprentices. SANDAG, unless otherwise required by law, shall encourage such utilization, and, both as to Apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council, Apprenticeship Programs, and Contractors to assure appropriate and maximum utilization of Apprentices and the continuing availability of both Apprentices and journeymen.

(b) The Parties and Contractors will comply with all applicable laws and regulations in the request for dispatch and employment of Apprentices.

(c) The Parties and Contractors agree that Apprentices will not be dispatched to Contractors working under this CBA unless there is a journeyman or other

Contractor employee working on the Project where the Apprentice is to be employed who is qualified to assist and oversee the Apprentice's progress through the program in which he/she is participating. Apprentices must be supervised and utilized in accordance with all applicable Federal and State laws.



---

**From:** BA South <basouth@ualocal582.org>  
**Sent:** Tuesday, February 1, 2022 9:08 AM  
**To:** CITY CLERK  
**Subject:** CWA

Dear Mayor Stephens

I am writing this letter on behalf of our members of U.A. Plumbers and Steamfitters Local 582 We would like to urge you to vote in support of the Community Workforce Agreement for the city of Costa Mesa .

Our local has some of the most qualified plumbers and steamfitters in southern California. Many of our members call Costa Mesa Home, and wouldn't it be nice to work in your own back yard for a change rather than driving all the way to Los Angeles. Shorter commute means more time to spend with family and friends right here in Costa Mesa. A little about our members they are all highly trained professionals many with years of experience on large and small projects. And as an added bonus we have over 25 members the live in Costa Mesa, if the CWA is approved we may have many more because our program is always bringing in new people from all walks of life we have a program called V.I.P." Veterans In Piping" this has been a very successful program for us. We get these guys and women while they are still enlisted in the military and start their training before they get out. That way they are more prepared to join the workforce and be successful. In close I would just like to say thank you for all the hard work that you and the city council do, and urge support for the Costa Mesa Community Workforce Agreement .

Thank you

Robert James  
Business Agent



**Plumbers & Steamfitters, Local 582**  
**1916 W. Chapman Avenue**  
**Orange, CA 92868**  
**Office: 714-978-0582**  
**Fax: 714-978-1582**  
**Cell: 714-904-8353**

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**From:** BA North <banorth@ualocal582.org>  
**Sent:** Tuesday, February 1, 2022 9:18 AM  
**To:** CITY CLERK  
**Subject:** City of Costa Mesa Community Workforce Aggrement.  
**Attachments:** OC Workforce Development Event.docx

Thank you for all you do. Please see my attached letter.

Henry Hillebrecht  
Business Agent



**Plumbers & Steamfitters, Local 582**  
**1916 W. Chapman Avenue**  
**Orange, CA 92868**  
**Office: 714-978-0582**  
**Fax: 714-978-1582**  
**Cell: 949-433-8738**

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2-1-22

Dear Mayor Stephens and City Council Members,

My Name is Henry Hillebrecht, and I am a Business Agent of Local 582 Plumbers and Steamfitters and Welders in the City of Orange Ca. I am writing you on behalf of the 1300 members that we represent and many of whom reside in the City of Costa Mesa. We are urging you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa.

As a member of the OC Building Trades, we represent the highest skilled and trained Craft Workers in the Country and we are able to do this through our Joint Labor Management Apprenticeship Training Centers. With our Highly Trained Craft Workers, we will provide you workers of the Safest Standards and who know how to bring projects in under budget and on schedule. We are the most efficient Trades on the Nation.

With this agreement, it will help provide with Local Hire and will allow workers to be able to spend more family time and not have to be commuting dozens of miles away for work. This agreement is also a pathway to a good middle class living. This agreement will also provide a veteran preference hire and recruitment through our Helmets to hardhats Program.

We at the Building Trades, see this as an opportunity to be a partnership with the City of Costa Mesa on giving you the best Skilled and Trained Craft Workers in the Nation to do your projects with Pride and Safety and Quality and on schedule and on budget. As we say about Union Crafts, We Do It Right the First Time.

I would like to thank you for your hard work and urge you to a YES VOTE for Item 1, under Old Business, the Community Workforce Agreement.

Sincerely

Henry Hillebrecht

Local Union 58 Plumbers and Steamfitters and Welders

Orange County Ca

---

**From:** Ernesto Medrano <emedrano@laocbuildingtrades.org>  
**Sent:** Tuesday, February 1, 2022 9:24 AM  
**To:** CITY CLERK  
**Subject:** Letter in support of the Community Workforce Agreement  
**Attachments:** BTC Support Letter 2-12022.docx

Good morning,

I am attaching our letter in support of the Community Workforce Agreement.

Thank you.

Respectfully,



Ernesto Medrano, Council Representative  
**LA/OC Building and Construction Trades Council**  
1626 Beverly Boulevard  
Los Angeles, CA 90026  
C: 714-651-7273  
T: 213-483-4222 F: 213-483-4419  
E: [emedrano@laocbuildingtrades.org](mailto:emedrano@laocbuildingtrades.org)

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Chris Hannan

*Los Angeles / Orange Counties  
Building and Construction  
Trades Council*

*Affiliated with the Building & Construction Trades Dept., AFL-CIO*

1626 Beverly Boulevard

Los Angeles, CA 90026-784

Phone (213) 483-4222

February 1, 2022

Mayor Stephens and City Council  
City of Costa Mesa

Dear Mayor Stephens and City Council,

We are writing to urge the Costa Mesa City Council to support item 1 under "Old Business" tonight. This item approves a Community Workforce Agreement negotiated between the City and the Los Angeles and Orange Counties Building and Construction Trades Council. The Building Trades Council represent 48 affiliate organizations with 140,000 hardworking members within the Construction industry. The agreement is a partnership between the parties that establishes various community benefit components.

This Agreement will provide true local hire mechanism through our Trades hiring halls for Costa Mesa residents, Costa Mesa High School graduates and true Veteran preference hiring regardless of where that veteran resides. It enables the recruitment of Veterans through our Helmets to Hardhats program and it facilitates prompt entry into our Joint Labor Management Apprenticeship Training Programs. It also provides career opportunities for transitional workers that are formerly homeless.

It also provides the pathway to middle class careers through our Joint Labor Management Apprenticeship Training Centers and we self-fund them at no cost to the taxpayer. The Building Trades provide opportunities to students with our Apprenticeship Readiness Curriculum. We have graduated students from the Rancho Santiago Community College District's program and placed them in one of the apprenticeship training programs enabling them to learn as they earn with anyone of the Trades.

The labor cost for public works projects are the same without or with an agreement, since you are paying the Prevailing Wage. Without this type of agreement you don't get the benefits for your constituents as this is the only process to dispatch your residents.

This agreement will provide you with a Skilled and Trained workforce. We build it efficiently and in the safest manner – Do it right the first time and with minimum or no liabilities. We don't have seniority and work hard and smart to maintain competitiveness for the contractors.

In California, we invest \$200 million in our Joint Labor Management Training Centers and graduate 93% of the journey level workers of the State Certified Apprenticeship Programs in Construction. There are currently approximately over 60,000 apprentices in our programs of which 20% are from disadvantaged communities. We proudly provide the highest skilled and trained workforce in the industry.

Again, we urge approve item 1 under "Old Business", the Community Workforce Agreement.

Respectfully,

Ernesto Medrano  
Council Representative

---

**From:** Katrina Diaz <kdiaz@teamsters952.org>  
**Sent:** Tuesday, February 1, 2022 10:21 AM  
**To:** CITY CLERK  
**Cc:** channan@laocbuildingtrades.org; Norma Lopez  
**Subject:** Costa Mesa CWA Support Letter  
**Attachments:** Costa Mesa CWA Support Letter.pdf

Good morning,

Please see the attached letter is being sent on behalf of Norma Lopez.

Thank you,

**Katrina Diaz**  
Administrative Assistant  
**TEAMSTERS UNION LOCAL NO. 952**  
140 S. Marks Way  
Orange, CA 92868  
Direct (714)740-6225



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# LOCAL UNION NO. 952

GENERAL TRUCK DRIVERS, OFFICE, FOOD & WAREHOUSE UNION

140 S. Marks Way, Orange, CA 92868  
Phone:(714) 740-6200|Fax:(714) 978-0576  
[www.teamsters952.org](http://www.teamsters952.org)



Eric Jimenez  
Secretary-Treasurer  
and Principal Officer

January 31, 2022 John Green  
President

**Sent Via e-mail: [cityclerk@costamesaca.gov](mailto:cityclerk@costamesaca.gov)**

Dear Mayor Stephens/City Council member,

I am writing on behalf of the 9,000 members of Teamsters Local 952 to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained craft workers in the nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a leader of Teamsters Local 952, I want to express appreciation for your hard work and urge an "Aye" vote for item 1 under Old Business, the Community Workforce Agreement.

Respectfully,

Norma Lopez  
Special Assistant to the Secretary-Treasurer

CC: Chris Hannan, Executive Secretary  
[channan@laocbuildingtrades.org](mailto:channan@laocbuildingtrades.org)

---

**From:** Randy Wetmur <randy@ironworkers416.org>  
**Sent:** Tuesday, February 1, 2022 10:27 AM  
**To:** CITY CLERK  
**Subject:** CWA support letter  
**Attachments:** Local 416 Letterhead Randy verifcaiton letter.pdf

Randy Wetmur  
Ironworkers Local 416  
Business agent LA/Orange County  
randy@ironworkers416.org

---

**From:** Randy Wetmur  
**Sent:** Tuesday, February 1, 2022 10:18:57 AM  
**To:** cityclerk@costamesa.gov <cityclerk@costamesa.gov>  
**Subject:** CWA support letter

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*International Association of*  
**Bridge, Structural, Ornamental, and Reinforcing Ironworkers**  
*Local Union 416*

February 1, 2022

Dear Mayor Stephens/City Council members,

I am writing you on behalf of the 2800 members of Ironworkers Local 416 to respectfully urge you to vote in SUPPORT of approving the Community Workforce Agreement for the City of Costa Mesa. Our members are one of the highest skilled and trained crafts in the Nation. We are able to do this through our Joint Labor Management Apprenticeship Training Centers, with the Training Center being in La Palma, we have members that live in the Costa Mesa/Orange County area that are ready and willing to build the safest and efficient projects in their community. The Ironworkers also train Veterans that are returning from their Military service who are recruited as part of the Helmets to Hardhats Program with a Career. Furthermore, it grants Transitional workers with a chance to start over and be self-sufficient. With this agreement you will have the value of a local workforce that perform without a increase in Labor cost that is already set within the State requirements for prevailing wage laws. As the Business agent for Orange County and a Member of Ironworkers local 416 I want to express appreciation for your hard work and urge a "AYE" vote for ITEM 1 under old business of the COMMUNITY WORKFORCE AGREEMENT. I am grateful for projects I have worked on in Costa Mesa in the last 30 years and look forward to many more great projects to come.

Sincerely,

Randy Wetmur  
Ironworkers local 416  
Business Agent Orange County

---

**From:** Mel Smith <mel@melsmithelectric.com>  
**Sent:** Monday, January 31, 2022 5:32 PM  
**To:** CITY CLERK  
**Cc:** 'Kevin Garrett'  
**Subject:** [SPAM - ESET] Community Workforce Agreement.

To Whom It May Concern,

I am writing to strongly urge a no vote on the proposed CWA for public works construction in Costa Mesa. As a nonunion public works contractor in Orange County for the past 46 years we believe we should not have to join a union to perform public works projects. Additionally, our apprentices would not be able to work on these projects as well. One of our apprentices lives in Costa Mesa and he would be excluded from working. I would like to remind everyone involved in this vote that work on these projects is PUBLIC WORK NOT UNION ONLY WORK. Please vote no on this CWA.

Respectfully,

Mel Smith, President

Mel Smith Electric, Inc

10950 Dale Avenue

Stanton CA 90680

Ph 714-761-3205

Fax 714-761-4710

mel@melsmithelectric.com <mailto:mel@melsmithelectric.com>

www.melsmithelectric.com

<[https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.melsmithelectric.com&c=E,1,jKGWCSLbbca\\_\\_2Hy5Kqb-4ZzLzRFg0RuHj5OrgLpaoOcPJN3QU7YAONrf9RjWpw4ITfaHURBrXIUF8rL0ULGCKUrosI\\_qnDVfCmMxZsVzyN0piUOCXRd9cQ,&typo=1&ancr\\_add=1](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.melsmithelectric.com&c=E,1,jKGWCSLbbca__2Hy5Kqb-4ZzLzRFg0RuHj5OrgLpaoOcPJN3QU7YAONrf9RjWpw4ITfaHURBrXIUF8rL0ULGCKUrosI_qnDVfCmMxZsVzyN0piUOCXRd9cQ,&typo=1&ancr_add=1)>

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**From:** Andrew Gonzales <AGonzales@local105.org>  
**Sent:** Tuesday, February 1, 2022 10:51 AM  
**To:** CITY CLERK  
**Subject:** Support for the Community Workforce Agreement  
**Attachments:** Costa Mesa CWA Support Letter.pdf

To whom it may concern,

Please see the attached letter expressing our support for the Community Workforce Agreement being voted on in tonight's city council meeting.

Regards,

**Andrew Gonzales**

Political/Communications Liaison  
SMART Sheet Metal Workers Local 105  
Cell (626) 482-0597  
Office (909) 305-2800  
Fax (909) 305-2040  
[www.local105.org](http://www.local105.org)

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INTERNATIONAL ASSOCIATION  
OF SHEET METAL,  
AIR, RAIL, AND  
TRANSPORTATION  
WORKERS

SHEET METAL | AIR | RAIL | TRANSPORTATION WORKERS



Local Union 105

ANDREW GONZALES  
POLITICAL/COMMUNICATIONS LIAISON

SHEET METAL WORKERS'  
LOCAL UNION 105  
2120 AUTO CENTRE  
GLEN DORA, CA. 91740  
TEL: (909) 305-2800  
FAX: (909) 305-2822

Brenda Green  
City Clerk, City Of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

February 1, 2022

RE: Support for the Community Workforce Agreement

Dear Mayor Stephens and City Council Members,

SMART Sheet Metal Workers Local 105 is excited to support for the Community Workforce Agreement with the City of Costa Mesa. We believe that this historic agreement will create a mutually beneficial relationship that will bring quality projects that are on time and on budget, while supporting high quality careers in the city and surrounding communities.

In the city of Costa Mesa, there are currently 30 union sheet metal workers. Through out Orange County there are over 900. This agreement would allow these skilled tradesman and women to work on projects closer to home rather than being forced to commute Los Angeles or San Diego. These projects will also help to fund the apprenticeship training for the 8 current apprentices that reside in the city. Once they graduate, these apprentices will have high paying and stable careers with no student loan or training debt. This agreement doesn't just create jobs in the city, it supports careers and education opportunities for the city's residents.

These benefits come at no additional cost to the city or the projects this agreement covers since the projects are being built under prevailing wage standards. This agreement though ensures that your citizens are prioritized for the work, that they work in safe conditions, that they are treated fairly by the contractors, and that their health and retirement is being provided for. It's all benefit for no additional cost.

SMART Local 105 is eager to work with the city to support high quality projects and careers for your citizens. This agreement codifies that relationship and sets the expectation for how your residents will be treated and compensated for their work. This is a win-win for the City of Costa Mesa.

For all these reasons, we ask you to vote yes on the Community Workforce Agreement.

In Solidarity,

A handwritten signature in black ink, appearing to be "AG" or "Andrew Gonzales", written in a cursive style.

Andrew Gonzales  
Political/Communications Liaison  
SMART Sheet Metal Workers Local 105

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**From:** UALocal582 Manager <manager@ualocal582.org>  
**Sent:** Tuesday, February 1, 2022 10:58 AM  
**To:** CITY CLERK  
**Cc:** emedrano@laocbuildingtrades.org  
**Subject:** CWA Letter of Support  
**Attachments:** Costa Mesa CWA Support Letter..docx

Hello there,

Please accept my letter in support of the CWA, item #01 under 'Old Business'.

Thank you,

Anthony Novello  
Business Manager/  
Financial Secretary Treasurer



**Plumbers & Steamfitters, Local 582**  
**1916 W. Chapman Avenue**  
**Orange, CA 92868**  
**Office: 714-978-0582**  
**FAX: 714-978-1582**  
**Cell: 714-329-9516**

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February, 1, 2022,

Dear Mayor Stephens and Honorable City Council Members,

I am writing on behalf of the 1,075 members of Plumbers & Steamfitters, Local 582 in Orange County to respectfully urge you to vote in support of approving the Community Workforce Agreement for the City of Costa Mesa. We represent some of the highest skilled and trained craft workers in the Nation. We are able to do that through our Joint Labor Management Apprenticeship Training Centers. We see ourselves providing you with these Craft workers under this partnership agreement.

Our members perform the safest and most efficient work in the construction sector. More importantly, they are your constituents and neighbors. This Agreement will provide them an opportunity to work on the municipal projects and not have to commute dozens of miles on the road, allowing them to spend more quality family time.

In addition to the local resident hire, it provides for Veteran preference hire and recruitment through our Helmets to Hardhats program. Furthermore, it grants transitional workers such as formerly homeless individuals hiring preference to Capital Improvement Projects. We currently have 24 members who reside in Costa Mesa who will enjoy this community benefit.

This Agreement will provide a career pathway to young men and women in Costa Mesa and Orange County via our Joint Labor Management Apprenticeship Training Program. It will give them an opportunity to access the American dream through a middle-class income, family healthcare and defined pension benefit plans.

This Agreement enhances the value of your local workforce without an increase in Labor cost as it is still performed under the State required Public Works Prevailing Wage laws that are in effect already.

As a member of the United Association, I want to express my appreciation for your hard work and urge an "Aye" vote for Item 1 under Old Business, the Community Workforce Agreement.

*Anthony W. Novello*

Anthony W. Novello  
Business Manager  
UA Plumbers & Steamfitters  
Local Union 582

# Why A “Community Workforce Agreement” Is Bad For Costa Mesa, Bad For Union Members & Restricts The Use Of Minority Contractors On Public Projects

Tuesday, February 1, 2022

Testimony from 13-year Costa Mesa homeowner Dave Everett

I’m testifying today as a Costa Mesa resident who represents the Western Electrical Contractors Association here in Southern California. The Western Electrical Contractors Association (WECA) is a statewide nonprofit organization serving merit shop electrical contractors & their employees.

WECA offers federal and state-approved Commercial, Residential, Low-Voltage Electrical Apprenticeship programs, an Electrical Trainee program, and offers workforce development to the electrical and low voltage fields. WECA has a training facility right here in Southern California, so I appreciate you taking the time to review this material.

WECA strongly opposes government -mandated PLAs on public construction projects. Anti-competitive PLAs are special interest schemes that end open, fair and competitive bidding on public works projects. Typical PLAs are pre-hire contracts that require projects to be awarded only to contractors and subcontractors that agree to obtain apprentices exclusively from union apprenticeship programs.

Less competition and archaic and inefficient union rules **increase the cost of construction projects** subject to PLAs. According to the most recent data from the U.S. Department of Labor’s Bureau of Labor Statistics, only 14 percent of the 2020 U.S. private construction workforce belongs to a union. This means **PLAs discriminate against more than eight out of 10 construction workers** who would otherwise work on construction projects if not for a PLA. Plus they come with a long list of other problems for taxpayers.

A Project Labor Agreement or “Community Workforce Agreement”(it doesn’t matter what you call it, the language is always the exact same) discriminates against 8 out of 10 construction workers and raises the cost of construction 13-15%. The bids cost more. A project that would get 25-30 bids would get only 4-5 with a PLA, so the bids come in at a higher price.

**To further illustrate that point, I have attached the most comprehensive study ever done on PLA’s** – “Measuring the Cost of Project Labor Agreements on School Construction in California.” National University System Institute for Policy Research, By Vince Vasquez, Dr. Dale Glaser, and W. Erik Bruvold. This study has been peer-reviewed and authenticated by the University of Southern California (USC) also.

Another unforeseen consequence of PLAs is that **PLAs actually hurt the ability of unions and union members to strike**. Just last month in Seattle, the carpenters wanted to strike, but they were limited by PLAs. “More than 2,000 members of the Northwest Carpenters Union continued their biggest strike since 2003 on Tuesday, driving their work stoppage against the Associated General Contractors of Washington to its fourth day, and one worker called for an unsanctioned wildcat strike Wednesday morning. Carpenters walked picket lines Tuesday demanding better pay and benefits in six locations across the greater Seattle area at jobsites for major tech companies including Amazon, Microsoft, Google and Facebook. But work continued on some of the city’s biggest projects, such as the Climate Pledge Arena, Sound Transit light rail and the Washington Convention Center, which

have project labor agreements in place that prohibit strikes. More than 10,000 non-striking workers at those projects will have to contribute two hours of pay each day to support their striking fellow union members. One union member called for a wildcat strike at a Conco project Wednesday morning, but the carpenters union made clear it wasn't endorsing the action. "This is not a sanctioned NWCU picket and we do not support this action," the Northwest Carpenters Union said on its website Wednesday morning... **"Workers are frustrated at the number of PLAs — 45 in total — at jobs in the region because they reduce workers' bargaining power.** "When you can't strike over half the jobs that you're working on, what use is a union?" Local 30 journey worker Jason Bartos told Labor Notes. "All we have is the ability to withhold our labor."

<https://www.constructiondive.com/news/seattle-carpenters-strike-but-are-limited-by-plas/606963/>

Ultimately, we all know that discrimination is wrong. Forbes has a great piece how PLAs are obviously discriminatory and how "No one can really argue with a straight face you're going to get better work at a lower price from union contractor." Minority contractors say PLA agreements perpetuate the discrimination that has long pervaded construction unions. In an affidavit submitted to the court, Harry C. Alford, president of the National Black Chamber of Commerce, said about **98% of black and Latino-owned construction companies are non-union and PLAs restrict the use of minority contractors on public projects.**

<http://www.forbes.com/sites/danielfisher/2013/11/15/lawsuit-asks-should-taxpayers-pay-more-for-labor-peace/>

Also attached is some information to point out how the unions will not meet their minority, women, veterans, or local hire goals. They rarely to never meet these "goals" and there is no penalty if they do not meet the "goals." As former L.A. Mayor Villraigosa pointed out, despite minority hiring goals, no black workers had been hired. Of course they didn't meet their phony hiring "goals." **The point of a PLA is to hire the next union guy in line - not to meet minority hiring goals.** (Or veteran goals or local goals or women goals...etc. All can be met without a PLA and as this story illustrates — nothing in a PLA ensures those goals are met.) In Lodi, an energy plant with a bunch of union "goals" to hire veterans hired no veterans. These are just two of dozens stories like this. The City of Baltimore and Carson have Democrat councilmember's realizing how fake these goals are and how politically difficult it is to explain those failures during election time. If the board is really interested in local hiring goals, we worked with the overwhelmingly Democrat majority at San Bernardino Community College to establish a local hire policy that allowed union and non-union workers to participate without discrimination. If you are interested, I'd be happy to get a copy of that policy for you that achieved 71% local hire.

Lastly, because SB776 passed in 2014 by the California Legislature, **there will be very little to no monitoring to see if the unions comply with the PLA.** I have included information from a 2014 press release that shows Orange County union contractors cheated 70 construction workers over \$91,000 in back wages. I will leave you with some easy to digest, pertinent material regarding PLAs:

1. Here is a link to a video about PLA's called, "Not What We Need": [http://youtu.be/3ITdRvoG\\_Kc](http://youtu.be/3ITdRvoG_Kc)
2. Here is a link to a video on PLA's from Americans For Prosperity:  
[http://www.youtube.com/watch?feature=player\\_embedded&v=wb4q7Uza2\\_8](http://www.youtube.com/watch?feature=player_embedded&v=wb4q7Uza2_8)
3. "Why Project Labor Agreements Are Not in the Public Interest." Cato Journal, Vol. 30, No. 1 (Winter 2010) By David G. Tuerck. Chairman and Professor of Economics and Executive Director of the Beacon Hill Institute at Suffolk University, Boston.



4. "Measuring the Cost of Project Labor Agreements on School Construction in California." National University System Institute for Policy Research, By Vince Vasquez, Dr. Dale Glaser, and W. Erik Bruvold. <https://thetruthaboutplas.com/2011/07/27/project-labor-agreements-on-california-school-construction-raise-costs-up-to-15-percent-study-says/>

## **Please oppose this wasteful, discriminatory PLA.**

**86% of construction workers are non-union.** The public deserves to know how their tax money is going to be spent.

Please call my cell phone at (949) 346-4665 or email me at [\*\*DaveLeonEverett@gmail.com\*\*](mailto:DaveLeonEverett@gmail.com) if you have any questions I may be able to assist with. I look forward to working with you to save our city millions of dollars on future construction and provide even more state-of-the-art facilities to assist our community. Thank you.

**Dave Everett**  
**Western Electrical Contractors Association**  
**(949) 346-4665 cell**  
**[DaveLeonEverett@gmail.com](mailto:DaveLeonEverett@gmail.com)**



## Minority Community Public Opposition to PLAs

Across the nation, members of the minority community have publicly opposed PLAs:

· "[C]laims that a PLA can be a tool to ensure minority construction workers and businesses are used on a public project is a farce," states Harry C. Alford, president & CEO of the National Black Chamber of Commerce.

· "Government-mandated PLAs are opposed by the NBCC because almost all minority-owned contracting firms are not affiliated with unions. African American-owned contracting firms are typically small businesses and employ their own core workforce of skilled construction workers who are not unionized and are generally more diverse than construction workers coming from union hiring halls." (Harry C. Alford, president & CEO of the National Black Chamber of Commerce.)

· "98% of Black and Hispanic construction companies are non-union shops. Thus, a Project Labor Agreement greatly limits the opportunities for Black and Hispanic firms," said John Harmon, Sr., IOM Founder, President & CEO of the African American Chamber of Commerce of New Jersey.

"The possibility of Black and Hispanic labor is greatly suppressed. It is beyond disappointing when we see diversity clauses added to legislation that is fundamentally harmful to minority communities."



**PAY WITHOUT A PLA:**

**\$61.45 PER HOUR X 40 HOURS PER WEEK**

**X 4 WEEKS X 3 MONTHS**

**= \$29,496**

**PAY UNDER A PLA:**

**\$39.96 PER HOUR (BASE PREVAILING WAGE PAY)**

**X 40 HOURS PER WEEK**

**X 4 WEEKS X 3 MONTHS**

**= \$19,180.80**

**\$29,496**

**>**

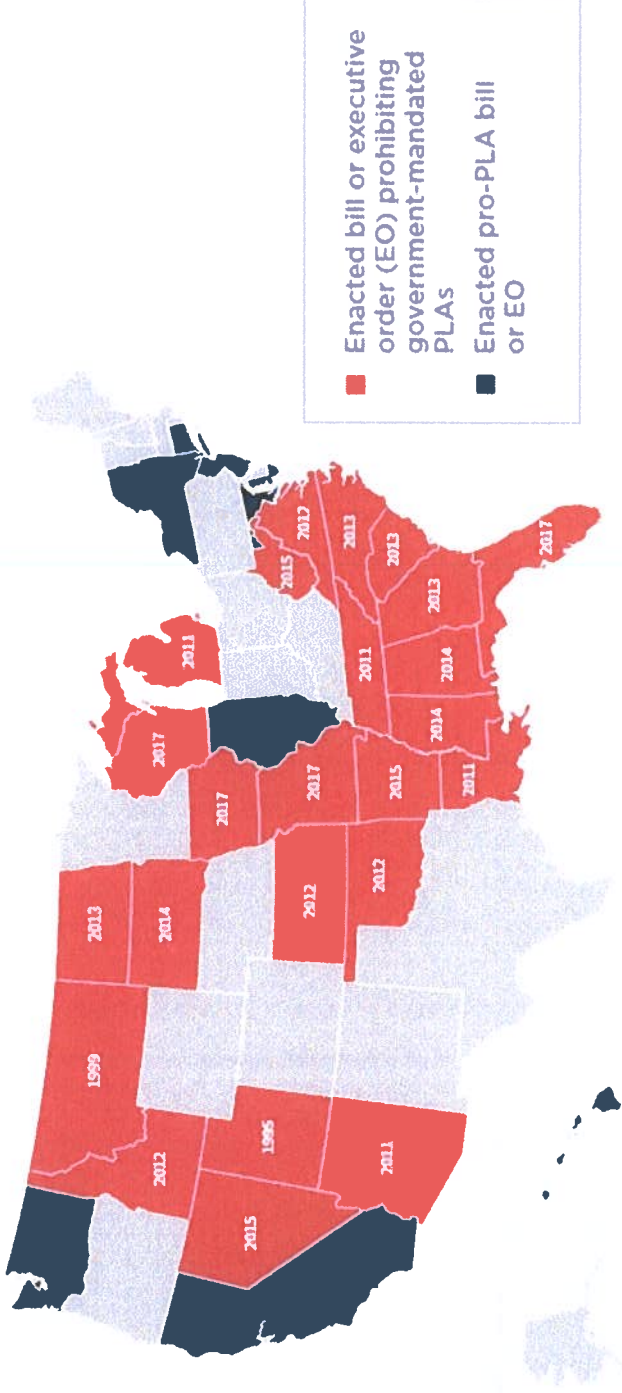
**\$19,180.80**

**PLAs Cost Non-Union Construction Workers Over \$41,260 /yr**

([tinyurl.com/ybqkywoh](http://tinyurl.com/ybqkywoh))

# PLAs Are So Wasteful That Nearly **Half** of the United States **Bans** These Special Interest Deals On State Construction!

[TruthAboutPLAs.com](http://TruthAboutPLAs.com)



Cost Taxpayers 13-15% More. (tinyurl.com/6pek7mc) Cost Non-Union Construction Worker Over \$41,000/yr. (tinyurl.com/ybqkywoh)



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**From:** GREEN, BRENDA  
**Sent:** Tuesday, February 1, 2022 12:35 PM  
**To:** BENNETT, STACY  
**Subject:** FW: Support Letter for Agenda Item No. 1 Community Workforce Agreement 21-419 - Costa Mesa  
**Attachments:** DC 36 Support Letter for CWA in City of Costa Mesa.pdf

*Brenda Green*  
City Clerk  
City of Costa Mesa  
714/754-5221

Effective, Thursday, January 6<sup>th</sup>, City Hall will operate solely on an **APPOINTMENT ONLY CUSTOMER SERVICE** system until further notice.

Appointments can be made at [www.costamesaca.gov/appointments](http://www.costamesaca.gov/appointments).

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**From:** Tony DeTrinidad [mailto:Tony.DeTrinidad@dc36.org]  
**Sent:** Tuesday, February 1, 2022 10:06 AM  
**To:** GREEN, BRENDA <brenda.green@costamesaca.gov>  
**Cc:** Robert D. Smith <robert.smith@dc36.org>; Stephanie Von Slomski <stephanie.vonslomski@dc36.org>  
**Subject:** Support Letter for Agenda Item No. 1 Community Workforce Agreement 21-419 - Costa Mesa

Good morning, please use the attached letter for tonight's Agenda (Item No. 1 21-419 Community Workforce Agreement) in Public Testimony for support of the CWA.

Thank you

Tony DeTrinidad  
IUPAT DC 36 – Government Affairs  
(626) 216 – 3089

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## Painters & Allied Trades District Council 36

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**Luis F. Robles**  
**Business Manager**

DRYWALL FINISHERS, FLOORLAYERS, GLAZIERS, PAINTERS, TRADESHOW & SIGNCRAFT

2/1/2022

Mayor and Members of the City Council,

On behalf of the Painters & Allied Trades District Council 36, we are urging support of the approval of the Community Workforce Agreement (CWA) for the city of Costa Mesa.

This CWA will provide for thousands of high skilled, middle class construction career opportunities for hard working men and women in Costa Mesa and the Orange County area. It will also provide veterans hire priorities allowing them to be rewarded for their service by earning good wages and benefits.

These goals will be achieved through a Community Workforce Agreement with the LA/OC Building and Construction Trades Council.

We expect the CWA will also provide for increased Housing, including est. 15% of affordable units. Furthermore, it also will provide the City with additional Park and Open Space for the local residents.

We also expect the CWA will provide commercial space for retailers, restaurants, and hotels, which shall provide revenue that will feed into the region's economy including revenue for the City's General Fund.

Again, we urge the City of Costa Mesa to approve this Historic Community Workforce Agreement.

Thank you for your hard work and service.

Respectfully,

Robert Smith  
Political Director  
District Council 36 - Painters & Allied Trades

# **New Business 1 – Public Comments**

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**From:** Kim Hendricks <kimhendricks26@gmail.com>  
**Sent:** Monday, January 31, 2022 8:09 PM  
**To:** Kim Hendricks  
**Cc:** CITY CLERK; REYNOLDS, ARLIS; CHAVEZ, MANUEL; MARR, ANDREA; STEPHENS, JOHN; HARLAN, JEFFREY; GAMEROS, LOREN; donharper@costamesaca.gov  
**Subject:** Public Comments for New Business Item 1  
**Attachments:** Kim's Response to Endemic 2022 Contract.pdf; Talbert Channel from Pond E, May 28, 2020.jpg; Pond E, May 10, 2020.jpg; Ponds April 11, 2019.jpg

Please find my public comments attached along with some pictures for city council to review for the city council meeting Tues., Feb.1, 2022

Thank you,  
Kim Hendricks

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Looking at the proposed contract for Endemic Environmental Services I have some concerns. One of my concerns is that one of the expected Deliverables will not be met by this consultant since it has not been met in the past. I am referring to the page with the title **Scope of Work**, and under **III Scope of Consultant Services** which tells us what the consultant is expected to do. I see that once again the work is focused down in the Fairview Park Wetlands and Riparian Habitat area and this is a good thing since an overall restoration plan should first be designed before venturing out of this manmade wetlands/riparian area.

The main items I am concerned about are under **A**.

*Monitor water changes and conditions; adjust water flows to prevent formation of mosquito habitat and other undesirable environmental conditions.*

*Keep the ponds and channels clear of algae and standing water*

*Continual maintenance of cattail trimming/thinning/mowing.*

This service is not new to Endemic since the last contract had these deliverables as well.

**April 14, 2017 - 2020 not to exceed \$397,640.00 total** This was the most Endemic had received from the city up to this point, but the city was willing to pay more to get better services. This contract's Deliverables were very specific and included 20 hours a week of on-site project manager to look for issues with interrupted water flow, pump station functionality and non-native invasive species. Submit monthly reports as well as quarterly maintenance services to clear ponds and channels.

**October 2, 2018 (Amendment 1)** the city increased **Endemic's** maximum compensation (till April 2020 still) up to **\$950,000.00** Adding an additional **\$552,360.00** and additional services of **Daily maintenance services for the wetland ponds of 30 hours a week**. Endemic still couldn't keep the ponds clear and the water flowing.

**October 1, 2018 – 2019 Dudek \$78,000.00** Comprehensive Evaluation of Fairview Park Wetlands and Riparian Habitat

**November 2018 McNabb Construction dba DK Environmental** was hired to remove cattails from the ponds costing the city **\$238,497.00** this time.

**April 4, 2020** Endemic Environmental Services contract was **increased to a maximum compensation to \$1,132,081.00** and extended till **April 2021**.

**October 1, 2019 (Amendment 1) Dudek** contract extended till 2020 and increased to **\$81,900.00**

So, in just 4 years the city spent over one million dollars on just Endemic alone and the deliverables which supposedly were the most costly, weren't done.

I have seen the Endemic Reports and don't see any problem with the ponds mentioned and the photos don't show problems either. Oddly enough, I have seen the ponds full of algae when I've been out in Fairview Park. I do frequent Fairview Park because I love its nature. I can't help see what is there.

The city hired Dudek to do a comprehensive evaluation on the riparian/wetlands area design and give the city recommendations. Do you know what Dudek said?

On page 42 of the Dudek "Comprehensive Operational Evaluation of Fairview Park Wetlands and Riparian Habitat", under 4.1.2 Operational,

***" b) The City does not have regular access to the pump station. Obtaining access to the pump station from the County, for the City to be able to maintain and monitor the pump station operations is key to controlling water flows in the system and understanding exactly how much of the water coming into the system is recycled water and how much is from the GBC."***

How can Endemic meet their deliverables of this contract if they do not have access to the pump station on a regular basis? Will Endemic be working with the County as well? If so, why isn't that part of the contract deliverables?

This consultant looks very good on paper but doesn't really reflect what is going on in reality.

This leads me to the cost of this proposed two year contract of \$645,190.00.

This amount is exorbitant when looking at the Consumer Price Index and the services asked for.

Does Endemic pay Brightview for their services in Fairview Park? What is that amount? I see Brightview has a current contract with the city already – does that include Fairview Park?

What exactly will they do in Fairview Park? I would like to see more details regarding the deliverables of this contract. What if the ponds are not kept clear of algae and cattails? Will the consultant pay for the removal or will the city have to foot the bill again?











