

May 18, 2012

Dear Neighbors,

Councilmember Sherri Lightner asked that I provide an update on rehabilitation homes in University City. Having dealt with this issue for many years in her own neighborhood before becoming a City Councilmember, Sherri understands the concern that the neighbors have. Please feel free to forward this email.

What's the latest?

- The University City Community Association is sponsoring a community meeting regarding this issue on Wednesday, June 13 from 6 pm to 8 pm at University City United Church of Christ at 2877 Governor Drive. Sherri will be there.
- Sherri's office reviewed the state licensing documents for the two residential rehab homes operated by Practical Recovery in University City. We have verified that the two homes owned by Practical Recovery are licensed by the state as facilities for six or fewer individuals.
- Sherri's office reviewed the applicable California law regarding residential rehabilitation. State law (California Health and Safety Code §11834.23) specifically does not allow a city to pass any law treating licensed residential rehab facilities with six or fewer patients any differently than any other single family residence. "In other words, a licensed group home serving six or fewer residents must be a permitted use in all residential zones in which a single-family home is permitted, with the same parking requirements, setbacks, design standards, and the like. No conditional use permit, variance, or special permit can be required for these small group homes unless the same permit is required for single-family homes, nor can parking standards be higher, nor can special design standards be imposed." The state laws specifically say "that these facilities cannot be considered to be boarding houses or rest homes or regulated as such. Staff members and operators of the facility may reside in the home in addition to those served. Homeowners' associations and other residents also cannot enforce restrictive covenants limiting uses of homes to 'private residences' to exclude group homes for the disabled serving six or fewer persons" (Select California Laws Relating to Residential Group Homes).
- Sherri's office has reviewed applicable Federal law, including the Fair Housing Act (FHA). The FHA definition of handicapped includes "drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism" (24 C.F.R. 100.201.)
- Sherri's office has contacted the Newport Beach City Attorney's office to discuss that city's regulations. As described in this 2008 LA Times article, Newport Beach passed the most restrictive residential rehab legislation in the state. They were immediately sued by rehab home operators, and this litigation is ongoing. Cities throughout California are watching this litigation as a test case for how the courts will allow cities to regulate residential rehabilitation homes. Importantly, the Newport Beach law is still subject to state law and does not place any limitations on "licensed, six-and-under" homes, as described in this 2008 letter from the Newport Beach city manager.
- Sherri's office has discussed this issue with the San Diego City Attorney's office, which has referenced the state law as why we are prohibited to place restrictions on licensed residential recovery homes with six or fewer residents. We are continuing to meet with the City Attorney's office to discuss the specifics of this case.

What's next?

- Be informed about this issue and know your rights. A good place to start is “Residential Care Facilities in the Neighborhood,” a state publication.
- Contact your state officials. Let them know your concern about the existing state law and ask them to consider legislation to strengthen local government’s ability to regulate residential rehabilitation facilities. Sherri will also be contacting them.

Your University City state elected officials are as follows:

State Senator Chris Kehoe

619-645-3133

senator.kehoe@sen.ca.gov

Assemblyman Nathan Fletcher (75th District)

858-689-6290

<http://assembly.ca.gov/assemblymembernathanfletcher>

Assemblywoman Toni Atkins (beginning after the 2012 election, should she be elected to represent the 78th District)

619-645-3090

<http://asmdc.org/members/a76/>

- Keep a detailed log if there are any neighborhood nuisance issues caused by these facilities. These can be submitted as to the local office of the State of California Health Services Licensing and Certification:

San Diego North District Office

7575 Metropolitan Drive, Suite 104

San Diego, CA 92108-4402

Phone: (619) 278-3700

Toll-free: (800) 824-0613

Fax: (619) 278-3725

- Report any neighborhood nuisance or code compliance issues to the San Diego Police at 619-531-2000 or Neighborhood Code Compliance Department at 619-236-5500.

You can always feel free to contact our office for referral to the most appropriate department.

Please don't hesitate to contact me with any questions, concerns, or comments.

Sincerely,

Jesse Mays

Council Representative

Office of Councilmember Sherri S. Lightner (First District)

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Follow Sherri on Facebook!

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***You are receiving this email because you previously contacted Councilmember Sherri Lightner regarding residential rehabilitation in University City. If you would no longer like to receive these updates, please reply with the word "Remove" in the subject line. If you received this email as a forward and would like to be added to our update list, please email jmays@sandiego.gov with the request.