RESOLUTION NO. HO-2009-023

A RESOLUTION OF A HEARING OFFICER OF THE CITY OF NEWPORT BEACH DENYING WITH PREJUDICE REQUEST NO. ONE OF A REQUEST FOR REASONABLE ACCOMMODATION NO. 2009-009 FOR AN EXISTING LICENSED ADULT ALCOHOL AND/OR DRUG ABUSE RECOVERY AND TREATMENT FACILITY LOCATED AT 1216 WEST BALBOA BOULEVARD, NEWPORT BEACH, CALIFORNIA (PA 2008-104)

WHEREAS, Ordinance No. 2008-05 was adopted by the Newport Beach City Council on January 22, 2008, following noticed public hearings; and

WHEREAS, the adoption of Ordinance No. 2008-05 amended the City of Newport Beach's Municipal Code (NBMC) relating to Group Residential Uses; and

WHEREAS, Ordinance No. 2008-05 added Chapter 20.98 to the NBMC. Chapter 20.98 sets forth a process to provide reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling; and

WHEREAS, an application was filed by Newport Coast Recovery, LP, ("applicant") with respect to property located at 1216 West Balboa Boulevard, and legally described as Lots 5 and 6, Block 112, Tract 234 in the City of Newport Beach, County of Orange, State of California (APN 047-234-14), as per map recorded in Book 013, Pages 36-37 of Miscellaneous Maps, requesting approval of the following requests for one of two alternate reasonable accommodations:

1. Request No. One - An exemption from the portions of NBMC Section 20.10.020 (Residential Districts: Land Use Regulations) that require Residential Care Facilities, General to be established only in residential districts zoned Multifamily Residential (MFR) with a use permit, subject to the operational conditions recommended by City staff in the January 12, 2009 staff report for Use Permit No. 2008-33, including a maximum occupancy of 14 residents, which was denied by the Hearing Officer;

   or, in the alternative,

2. Request No. Two - An exemption from the requirements specified in NBMC Section 20.91A.050 (Development and Operational Standards), including:

   - A waiver of the occupancy restriction of two persons per bedroom plus one staff member, and to allow a total occupancy of 18 residents;
   - An exemption from parking requirements specified in NBMC Section 20.66.030 and to impose parking requirements that treat the residents and the visitors of the residents in the same manner as any other resident or visitor to Newport Beach, particularly those requirements that pertain to weekend visitation;
   - Treat the use of the licensed residential care facility as a legal nonconforming use;

- Apply the California Building Code provisions that were applicable at the time the residential care facility was established as relates to life and fire safety matters; and
- A waiver of the required finding specified in NBMC Section 20.91A.060 (D), relative to the compatibility of the use with the character of the surrounding neighborhood, which requires a finding that the continued use will not contribute to the changing of the residential character of the neighborhood, such as creating an overconcentration of residential care uses in the vicinity, and waiving the impact analysis contained in the Factors A through C which the Hearing Officer must consider in making or sustaining the finding with regard to the proximity of the use to schools, churches, playgrounds, day care centers, and alcoholic beverage outlets, and the application of the American Planning Association standard of permitting one or two such uses per block.

WHEREAS, a public hearing was held on July 7, 2009 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code. Evidence, both written and oral, was presented and considered at this meeting, both written and oral from the applicant, City staff and the public; and

WHEREAS, the hearing was presided over by Thomas W. Allen, Hearing Officer for the City of Newport Beach; and

WHEREAS, after considering the testimony presented by the applicant, City staff and the public during the July 7, 2009 public hearing, the Hearing Officer established a two-week period of time during which the applicant and City staff were granted additional time to present additional written information relevant to the application to the Hearing Officer in the form of a written letter brief by July 21, 2009; and

WHEREAS, the City of Newport Beach submitted additional written information to the Hearing Officer within the two-week period; however, the applicant did not file a letter brief until July 29, 2009, which included a response to the City's July 21, 2009 letter brief therein; and

WHEREAS, in response to the City's objection to the applicant's late filing, the Hearing Officer accepted the applicant's late filing but allowed the City an additional period of five days to file a response; and

WHEREAS, the Hearing Officer considered the written letter briefs in addition to the oral testimony presented at the July 7, 2009 public hearing; and

WHEREAS, pursuant to Section 20.98.025(B) of the NBMC, the written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on five findings, all of which are required for approval; and

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WHEREAS, with respect to Request No. One (Request No. Two is analyzed separately in Resolution No. HO-2009-024), the Hearing Officer has determined that not all five of the required findings can be made pursuant to NBMC Section 20.98.025(B), based on the following facts:

1. **Finding: That the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.**

   Facts in support of finding: This finding can be made. The applicant submitted a statement that every resident of the facility is in recovery from alcohol and/or drug addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

2. **Finding: That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.**

   The Hearing Officer has determined that a primary element of the necessity analysis is to determine whether there are alternative housing opportunities available for a disabled individual to receive the desired therapeutic benefits of a residential care facility.

   The applicant has stated that individuals in recovery from alcohol or drug addiction need to maintain daily living skills closely related to those of individuals that are not addicted and that having a setting of family dwellings surrounding the facility will help maintain sober living and prevent relapse. The applicant asserted that Newport Coast Recovery is the only facility within the City that provides an all-male residential primary treatment facility, and therefore provides a unique service in the community that cannot be obtained elsewhere in the City. However, there are other all-male residential treatment facilities on the Balboa Peninsula cited by the City that provide State ADP-licensed residential treatment in duplex and apartment buildings of a similar nature. During the public hearing the applicant did not present any additional information documenting the unique services provided by their facility, but the Hearing Officer invited the applicant to submit further information on the unique program and therapeutic benefit in its letter brief. The applicant did not submit any information in its letter brief about whether it was licensed for primary treatment, or whether such primary treatment was either offered by the applicant, or offered by other facilities within the City.

   The Hearing Officer finds that the applicant does not provide a unique or specialized therapeutic value to disabled individuals in the community that is not generally available in other similar facilities in the Balboa Peninsula area. Therefore, as to

prospective clients, the requested accommodation is not necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.

However, as to current residents, the Hearing Officer recognizes that the facility currently houses residents who could be denied housing if abatement proceeds while they are still in residence at the facility. The Hearing Officer finds that an accommodation to allow only the current client residents residing in the Newport Coast Recovery facility under a contract to receive treatment services to remain until they choose to leave, or until their original intended stay is complete, whichever occurs first, is reasonable. Therefore:

As to current residents, this finding can be made. As the Hearing Officer has again denied Newport Coast Recovery's use permit application on remand, if the requested accommodation is not granted, the facility will be subject to abatement. The facility currently houses residents who could be denied housing if abatement proceeds while they are still in residence at the facility. The Hearing Officer has determined that granting the requested accommodation is necessary to provide the current residents only with the opportunity to use and enjoy their current dwelling.

As to prospective residents, this finding cannot be made. The applicant seeks to provide housing for 14 to 18 residents in a seven-unit apartment building. The Hearing Officer finds that prospective residents seeking to live in a large licensed recovery environment have alternative available housing opportunities offering similar therapeutic benefit in a similar location and residential setting. All of these facilities are surrounded by family dwellings similar to those that surround Newport Coast Recovery, and can provide a similar example of and support for sobriety and daily living skills. The Hearing Officer finds that granting the requested accommodation is not necessary to provide prospective residents with an equal opportunity to use and enjoy the dwelling of their choice within the community.

NBMC Section 20.98.025(C) allows the City to consider the following factors in determining whether the requested accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

A. *Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.*

Living with other individuals in recovery from addiction has been shown to prevent relapse in recovering clients, and if the requested accommodation were granted, the applicant's current and potential clients would be able to live in an apartment building in an R-2 District with other individuals in recovery. This situation could affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society.

At January 12, 2009 public hearing for Newport Coast Recovery's use permit application, the Hearing Officer determined that allowing more than one such facility within a 617-foot calculable median block length in a nonstandard subdivision area would create an overconcentration of such uses in the neighborhood, to the detriment of the individuals in recovery at the facility. Concern about overconcentration is consistent with the position taken by the Department of Housing and Urban Development (HUD) and Department of Justice (DOJ) in their *"Joint Statement of Group Homes, Local Land Use and the Fair Housing Act,"* which was duly considered by the Hearing Officer in making such determination.

B. *Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.*

As to current residents: The applicant requested an exception from the requirements of NBMC Section 20.10.020, to allow the continued operation of an existing licensed residential care facility located in an R-2 District, where the NBMC permits such uses only in an MFR District with approval of use permit. As a prohibited use, the facility is subject to abatement. The applicant seeks to continue to house 14 to 18 disabled individuals in seven units of an apartment building. The facility currently houses residents who could be denied housing if abatement proceeds while they are still in residence at the facility. The Hearing Officer finds that if the requested accommodation is denied and abatement proceeds before current residents have completed their original intended stay, such residents will be denied an equal opportunity to enjoy the housing type of their choice.

As to prospective clients: The Hearing Officer finds that potential future residents seeking to recover from alcoholism and drug addiction by living in a large licensed recovery facility would not be deprived of an equal opportunity to live in a substantially similar dwelling situation of the same type (see discussion in item D below).

C. *In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.*

The applicant did not provide information or evidence demonstrating that the size or type of facility requested is necessary for the facility's financial viability. Instead, the applicant stated in its application that it objected to the application requirement to provide an explanation of why the requested accommodation is

necessary to make the facility economically viable in light of the relevant market and market participants.

In the case of Request No. One, the applicant did not request a population level that is higher than that which was recommended by staff in its January 12, 2009 use permit staff report. Therefore, staff did not recommend an alternate accommodation, and had no forum for analyzing the financial viability needs of the applicant. Absent this information from the applicant, the Hearing Officer was unable to consider this factor in determining whether the requested accommodation is necessary to provide a disabled individual an equal opportunity to use and enjoy a dwelling.

D. *In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

The applicant stated in its application that it objected to the application requirement to provide an explanation of whether the requested accommodation is necessary to provide individuals with a disability an equal opportunity to live in a residential setting by providing evidence regarding the existing supply of facilities of a similar nature and operation in the community.

The Municipal Code authorizes the Hearing Officer to consider whether the existing supply of facilities "of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting." Based on ADP's most recently published list of licensed facilities (list current as of December 12, 2008) and use permits granted by the Hearing Officer, City staff prepared a revised estimate of the number of licensed beds for alcohol and drug recovery in Newport Beach. Including the applicant's ADP license for 29 beds, staff estimates that there are currently approximately 236 ADP-licensed treatment beds in the City, many of which are located in duplex and apartment units on the Balboa Peninsula and in West Newport. Without the applicant's 29 beds, there are still 207 licensed recovery beds in Newport Beach. Like the applicant's facility, the majority of these facilities are located near the beach in residential districts zoned R-2. At the July 7, 2009 public hearing, Assistant City Manager Dave Kiff reported he was informed by residential care facility operators in the City of Newport Beach that there is a high vacancy of residential care facility beds. Based on this information, and given there was no controverting evidence presented, the Hearing Officer finds there is a sufficient supply of facilities of a similar nature and operation in the community and that denial of the reasonable accommodation would not deprive prospective residents of the opportunity of live in a similar residential setting in Newport Beach.

3. **Finding: That the requested accommodation 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.**

With regard to current residents, this finding can be made. Allowing the facility to remain at its current location for a period of time that allows current client residents to complete their intended stay would not impose a financial or administrative burden on the City that is undue in relation to requiring disabled residents to leave their present housing. Therefore, the Hearing Officer has determined this finding can be made with regard to current client residents only.

With regard to prospective residents, this finding cannot be made. Numerous residents in the vicinity of this use testified at hearings regarding the conduct of Newport Coast Recovery and its impacts on neighboring uses. This conduct has in the past and may in the future require administrative and code enforcement staff time to be expended to address complaints.

In addition, on April 1, 2009, a California Department of Social Services (DSS) officer investigated allegations of minors being admitted to treatment at the facility and confirmed that Newport Coast Recovery had provided unlicensed care and supervision of minors at its 1216 West Balboa Boulevard facility. The DSS officer issued a Notice of Operation in Violation of Law to Newport Coast Recovery for providing unlicensed care and supervision to minors. This violation of law resulted in the involvement of staff in several City departments, who spent substantial time assisting complainants and assisting in the location of one of the minors whom Newport Coast Recovery had placed in another facility. The Hearing Officer finds that granting the requested accommodation to a facility that operates in this manner would create an undue administrative burden on the City.

4. **Finding: That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.**

As to current residents, this finding can be made. Most recovery facilities operating in the City of Newport Beach have reported an average length of resident stay of 30 to 90 days, which is temporary in nature. Because of potential hardship to current residents enrolled in Newport Coast Recovery's treatment program, the Hearing Officer finds that allowing current residents in treatment to remain at the facility for the remainder of their original intended stay will not result in a fundamental alteration in the nature of the City's zoning program.

As to prospective residents, this finding cannot be made. When an applicant requests an exemption from the requirements of NBMC Section 20.10.020, City staff analyzes whether granting the requested accommodation would undermine the basic purposes

the R-2 zoning district was put in place to achieve, and the purposes of requiring a use permit in a residential district. Accordingly, staff provided analysis and the Hearing Officer considered the intent of the Municipal Code in relation to Newport Coast Recovery's requests.

Ordinance No. 2008-05 places regulations on all groups not living as either a single housekeeping unit or a designated "Residential Care Facilities, Small Licensed" in residential districts. The basic purpose of these regulations is to ensure: (1) the fundamental purposes of the Zoning Code can be achieved; (2) that the adverse secondary impacts created by group residential uses not living as a single housekeeping unit can be mitigated, and; (3) that the adverse secondary impacts that "Residential Care Facilities, General" and "Residential Care Facilities, Small Unlicensed" may have on the surrounding neighborhood can be mitigated. To accommodate the needs of the disabled for housing opportunities, Ordinance No. 2008-05 provides that non-conforming residential care facilities located in residential districts may be allowed to continue operating subject to approval of either a use permit or a request for reasonable accommodation.

Zoning District Considerations: NBMC Section 20.10.010 sets forth the basic purposes for establishing zoning districts which include locating residential development in areas which are consistent with the General Plan and with standards of public health and safety established by the Municipal Code, ensuring adequate light, air and privacy for each dwelling, protecting residents from the harmful effects of excessive noise, population density, traffic congestion and other adverse environmental effects, and providing public services and facilities to accommodate planned population and densities. The specific purpose of Section 20.10.010 of the NBMC for the R-2 District is that the district "provides areas for single-family and two-family residential land uses."

Section 20.10.020 of the NBMC establishes those uses that are permitted, conditionally permitted, and prohibited within the R-2 District. In accordance with Section 20.10.020 of the NBMC, uses designated as "Residential Care Facilities, General" are not a permitted use in the R-2 District and are only permitted in the MFR District subject to approval of a use permit.

In the January 12, 2009 staff report, staff provided facts in support of analysis that limiting Newport Coast Recovery's capacity to 14 beds would result in a level of population density that was equivalent to a typical multi-family building occupancy of two persons per unit, and would be more consistent with the residential character of the neighborhood. The Hearing Officer concurred with the analysis in general that 14 residents in a seven-unit apartment building would not undermine the basic purposes the R-2 zoning districts were put in place to achieve.

Use Permit Considerations: The NBMC requires use permits for use classifications typically having operating characteristics that require special consideration, so that they may be located and operated compatibly with uses on adjoining properties and in the surrounding area. NBMC Section 20.91A.010 sets forth the purposes for requiring use permits in residential districts. The first stated purpose is:

> . . .to promote the public health, safety, and welfare and to implement the goals and policies of the Newport Beach General Plan by ensuring that conditional uses in residential neighborhoods do not change the character of such neighborhoods as primarily residential communities.

The second stated purpose is:

> . . to protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery. In doing so, the City seeks to avoid the overconcentration of residential care facilities so that such facilities are reasonably dispersed throughout the community and are not congregated or over-concentrated in any particular area so as to institutionalize that area.

The Hearing Officer finds that a primary therapeutic benefit for those in recovery from alcohol and drug addiction is integration into residential settings in the community, and that dispersal of recovery facilities to avoid institutionalization of such residential is therefore a fundamental part of the use permit process in the R-2 District.

In adopting Ordinance No. 2008-05, the City Council developed flexible standards for analysis and evaluation of the issue of overconcentration. These more flexible standards are recommended by the American Planning Association to be applied on a case by case basis to maintain the family setting and avoid institutionalization in residential neighborhoods while affording the disabled an equal opportunity to reside there. In the applicant's January 12, 2009 use permit hearing, the Hearing Officer determined that allowing more than one such facility within a 617-foot calculable median block length in a nonstandard subdivision area would create an overconcentration of such uses in the neighborhood, to the detriment of the individuals in recovery at the facility.

The Hearing Officer finds that the same analysis applies in the reasonable accommodation context and is equally applicable as a basis for denial. Because the Hearing Officer has already granted a use permit to another existing recovery facility within the 617-foot calculable median block length in which the Newport Coast Recovery facility is located, the Hearing Officer finds that granting the requested accommodation would result in an overconcentration of recovery facilities in the area. Therefore, the Hearing Officer finds that granting the accommodation would

fundamentally alter the City's purpose of avoiding clustering and preserving the residential character of the mid-Balboa Peninsula neighborhood.

The Hearing Office also finds that the use did not conform to all applicable provisions of Section 20.91A.050, (Development and Operational Standards), and in particular, Section 20.91A.050 (B), as discussed above. In March 2009, while its appeal of the Hearing Officer's denial of its use permit application was pending before the City Council, the applicant twice violated state law by accepting minor clients without a DSS license or the ADP adolescent waiver required to provide residential treatment, care and supervision to minors. NBMC Section 20.91A.050(B) requires that all facilities within the City be operated in compliance with applicable State and local laws. In order to grant a use permit, the Hearing Officer must make all findings required by NBMC Section 20.91A.060, and one of those required findings is that the facility operates in accordance with all operational standards of NBMC Section 20.91A.050. Because the facility has not operated in compliance with state law, the facility does not operate in accordance with all operational standards of NBMC Section 20.91A.050. The Hearing Officer finds that the results of the Department of Social Services officer's investigation constitute a basis for finding the applicant does not operate its facility in accordance with applicable law, as required by NBMC Section 20.91A.050(B), which requires that the facility be operated in compliance with state and local law. Ignoring these violations would undermine one of the basic purposes the use permit requirement was put in place to achieve: "to protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery." Granting discretionary permits only to applicants that operate their facilities in compliance with state laws protecting their potential clients is necessary to protect and implement the recovery of the disabled.

Pursuant to Section 20.98.025(D) of the NBMC, the City may also consider the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

A. *Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

At the applicant's January 12, 2009 use permit hearing, the Hearing Officer determined that more than one facility within a 617-foot calculable median block could result in an overconcentration of residential care facilities, and noted that such overconcentration, along with the operator's inability to adequately control and supervise the facility's residents in a manner that allows the neighbors to have quiet enjoyment of their properties, would fundamentally alter the character of the neighborhood.

B. *Whether the accommodation would result in a substantial increase in traffic or insufficient parking.*

Staff analyzed whether Newport Coast Recovery had sufficient on-site parking for the use and whether traffic and transportation impacts had been mitigated to a level of insignificance in its January 12, 2009 staff report. The Hearing Officer determined this finding could be made if conditions of approval were included that would limit the occupancy to 14 beds and require the applicant to: (1) purchase one master parking permit from the City to use for on-street parking by each client who is permitted to drive his personal vehicle to and from the facility; and (2) restrict to the maximum of three the number of clients who reside at 1216 West Balboa who are permitted to have personal vehicles; (3) require that all on-site spaces remain permanently clear and open for parking; (4) require all staff members to use the on-site parking for personal cars and transport vans; and (5) regulate family counseling activities on-site when on-street parking was utilized to Sundays between 9:00 a.m. and 12:00 noon. In the event family counseling occurs during other times of day, the applicant would have been required to provide on-site parking in a manner that that did not result in placement of resident cars on the street, or provide family members alternative transportation modes to and from the facility.

C. *Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable Specific Plan.*

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-05 to implement General Plan Policy LU 6.2.7. Under the conditions described in the Finding 4 analysis above, the Hearing Officer believes granting the requested accommodation would substantially undermine an express purpose of the General Plan.

D. *In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.*

As noted above, the Hearing Officer determined that granting use permits or reasonable accommodations that resulted in more than one such use within a 617-foot calculable median block length would create an institutionalized environment. As a use permit has already been granted to another existing facility located within 300 feet of Newport Coast Recovery and within the same median block length of the applicant's facility, the Hearing Officer determined

that granting the requested accommodation would create an institutionalized environment in the surrounding neighborhood.

5. **Finding: That the requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.**

Facts in support of finding: A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others." *See* 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by disabled persons.

WHEREAS, to approve a request for Reasonable Accommodation all five required findings contained Section 20.98.025(B) of the NBMC must be made; and

WHEREAS, specifically, Findings Nos. 2, 3 and 4 of Section 20.98.025(B) of the NBMC cannot be made; and

WHEREAS, the project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section15061(b)(3) of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA; and

NOW THEREFORE, BE IT RESOLVED:

Section 1. The Hearing Officer of the City of Newport Beach hereby denies with prejudice Request No. One of Reasonable Accommodation No. 2009-009, with respect to prospective residents.

Section 2. The Hearing Officer finds that it is reasonable and necessary to grant the request as to the current client residents only residing in the Newport Coast Recovery facility under a contract to receive treatment services. It is condition of the denial of Request No. One of Reasonable Accommodation No. 2009-009 that during abatement proceedings current client residents only be allowed to remain at the facility until they choose to leave, or until their original intended stay is complete pursuant to the terms of their contract, whichever occurs first.

Section 3. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 17th DAY OF SEPTEMBER, 2009.

By: _____
Thomas W. Allen, Hearing Officer

ATTEST:

_____
City Clerk