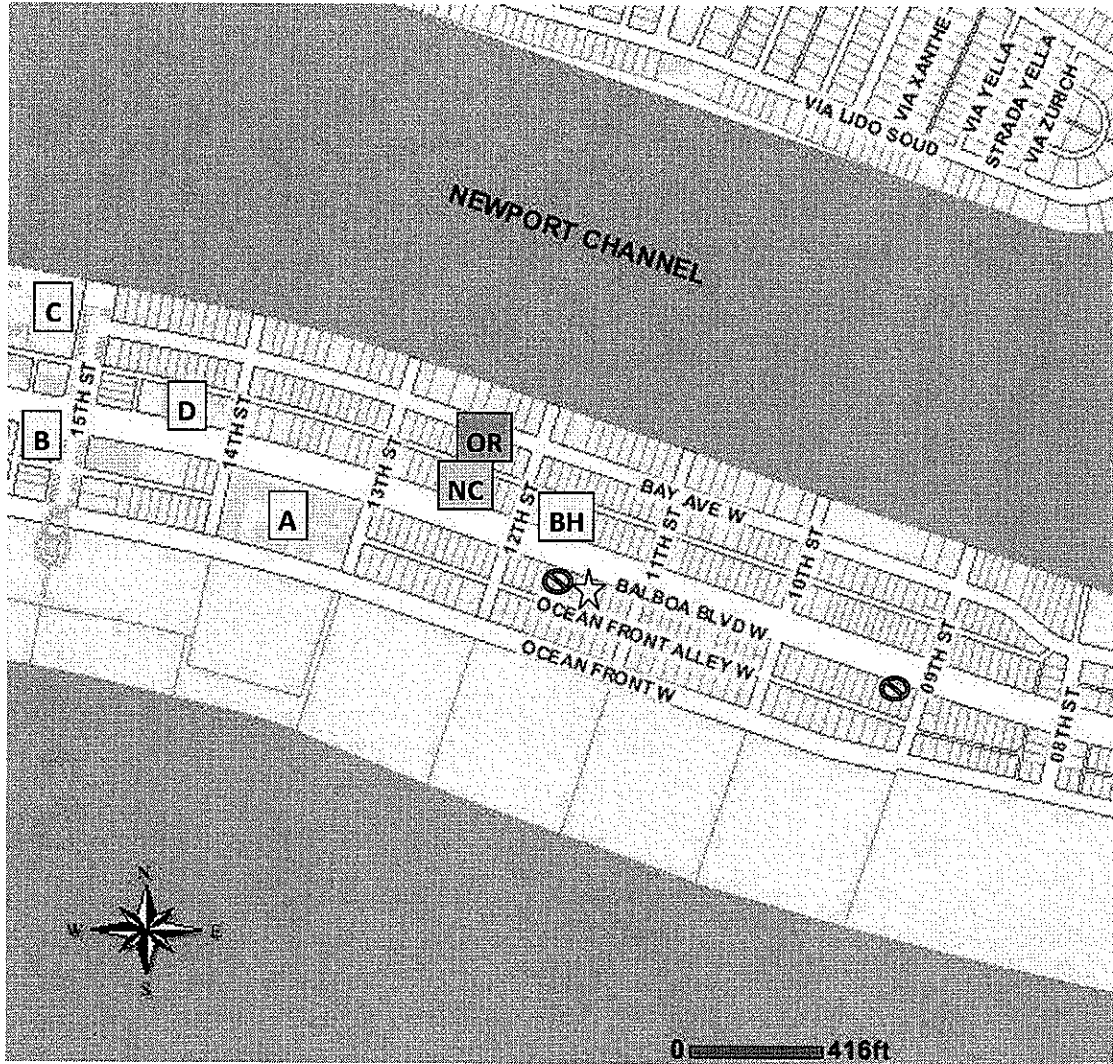


***Exhibit No. 7***  
***Location Map***

# Ocean Recovery

1115 West Balboa ☆

Item #5 – Location Map and Similar Uses



## Known Group Residential Uses within three blocks:

- BH – Balboa Horizons Recovery, 1132 West Balboa (11 beds, women, approved use permit) – 154' away
- NC – Newport Coast Recovery, 1216 West Balboa (29 beds, men, denied use permit) – 475' away
- OR – Ocean Recovery, 1217 West Bay (pending ADP license, 6 beds, women) – 570' away
- 🚫 – 1129 West Balboa (unlicensed 12-bed sober living home subject to abatement) – 30' away

## Other Uses:

- A – Newport Elementary School – 1327 West Balboa – 740' away
- B – Fry's Market (alcoholic beverage outlet) – 115 East 15<sup>th</sup> Street – 1,701' away
- C – American Legion Post 291 Hall (alcoholic beverage outlet) – 215 East 15<sup>th</sup> Street – 1,820' away
- D – Christ Church DSS-licensed day care – 1440 West Balboa – 1,220' away
- 🚫 – 911 West Balboa (unlicensed 15-bed boarding house subject to closure) – 950' away

***Exhibit No. 8***  
***Correspondence Received from***  
***Residents***

## **Brown, Janet**

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**From:** Kiff, Dave  
**Sent:** Monday, January 26, 2009 11:54 AM  
**To:** 'kim flores'  
**Cc:** Brown, Janet; Wolcott, Cathy  
**Subject:** 1115 West Balboa - Ocean Recovery

Kim -

Thank you for your comments. They are specific and focused, and that's helpful to us.

Dave Kiff  
Assistant City Manager  
City of Newport Beach

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**From:** kim flores [mailto:kimf@paulfrank.com]  
**Sent:** Monday, January 26, 2009 9:13 AM  
**To:** Kiff, Dave  
**Cc:** paul lopez; Colleen Darling  
**Subject:** neighborhood letter

Hello Dave,

My name is Kim Flores and I rent the back house at 1113 1/2 West Balboa Blvd. I am writing this letter because i believe the permit of the Ocean Recovery Center should be denied. i have lived at this residence with my family for almost 5 years. Since the facility has moved in, there have been many problems with the recovery house.

I have 2 young daughters, they are 16 and 12 years old. Many times my children have been out in the yard playing or just relaxing out there and the men have looked over the wall and tried to talk to them, even striking up a conversation with them. They have done this with me too. To me this is unacceptable. I don't know what these men have done to be in this recovery center but the last thing I need is for them to be friends with my family. Trash day is Monday morning and it never fails how they like to take their trash cans out at 10:30pm Sunday night. This wakes up our entire family, especially in the summer time when we keep all our windows open. Their trash is so bad and over stacked that in the summer time the flies from the trash have become such a nuisance. We have such a bad problem with flies over the summer that we have to buy fly spray and spray our house on a daily basis and keep about 3 fly trap bags in our yard. Every Thursday night they have a BBQ at the facility and about 20-30 people attend. It gets very loud and we have to deal with this on a weekly basis. They are constantly smoking and cussing outside of their facility in the patio area. We have found many cigarette buds in our yard and nobody in my family smokes or in the front house. There have been many times that a recovery patient plays an instrument that he will constantly play it during the day or at night. The guitar playing and bongos can be very annoying. Also, they constantly open and slam their screen doors throughout the day.

I noticed when the facility first opened up the parking situation had gotten worse. I know that they use their garage for their meetings and never use it for parking. This is just another problem we have with it being a recovery center and having too many people

living there. We never had any issues when it was just rented out to tenants. Too many of these facilities are being allowed to come in and reside here. They are close to our schools and families. I pay a lot of rent to live here at the beach and I never planned on living next to a recovery center. I could move to another house and trust me I have looked at other places. There are so many recovery centers down here, no matter where I move they would still be a few doors away from me. I never thought Newport Beach would be a place where recovery centers would even exist. Please take this into consideration when you decide on the renewal permit of the Ocean Recovery Center at 1115 West Balboa Blvd.

Thank you,  
Kim Flores  
1113 1/2 West Balboa Blvd.  
Newport Beach, Ca 92661  
949.673.1564

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**KIM FLORES**

270 E. Baker • Suite 200

Costa Mesa, Ca 92626-4505

P: 714.881.0100 F: 714.754.5747



## **Brown, Janet**

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**From:** Kiff, Dave  
**Sent:** Monday, February 09, 2009 1:12 PM  
**To:** Brown, Janet  
**Subject:** FW: Rehabilitation housing

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**From:** Steve Merkel [mailto:smerkel@rsdevco.com]  
**Sent:** Monday, February 02, 2009 8:33 AM  
**To:** Kiff, Dave  
**Subject:** Rehabilitation housing

Dear Mr. Kiff,

We, in the surrounding area, are OPPOSED to any new rehabilitation housing facilities! My father was the Director of Crossroads Inc., which is the largest rehabilitation facility in the state of Arizona. I know first hand what they entail! I personally have the utmost respect for those who want to "kick the habit" from their drug of choice, however, the Peninsula is not an ideal location! These places are popping up like wild fire because the owners can't afford the house to begin with. Instead of losing the house, they seem to have discovered a loop hole in the State of California system which enables them to set up a DBA and use our taxpayer money to support them. I realize the law was created with good intentions, but it is simply unfair to the people who make this their permanent residence or the few legitimate agencies operating these facilities on the peninsula.

It is a double edged sword! First it increases the City's expenditures and secondly, decreases property values! These are two things that do not need to happen, especially with the economic problems that exist today! It will be very detrimental over the long term!

There are already four or five of these facilities within a two block area. These proposed facilities are very close to a public school. They pose a burden with traffic and parking. These facilities create loud noise and profanity. Loitering and litter are also concerns with these facilities.

Please take these issues into consideration at the hearing on February 4<sup>th</sup>!

Sincerely,

The Citizens of Newport Beach

## **Brown, Janet**

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**From:** Kiff, Dave  
**Sent:** Monday, February 09, 2009 5:18 PM  
**To:** Brown, Janet  
**Subject:** FW: Group Residential Use Permits up for review

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**From:** Laurie McKenzie [mailto:mcktalk@mac.com]  
**Sent:** Monday, December 08, 2008 9:55 AM  
**To:** Kiff, Dave  
**Cc:** Henn, Michael  
**Subject:** Group Residential Use Permits up for review

Dear Dave,

Regarding the applications for group recovery homes on the Balboa Peninsula, specifically those in the 1100 and 1200 blocks of West Balboa Blvd.:

As 32 year residents of Newport Beach, specifically the Balboa Peninsula at 11th and 12th Streets, we would like to voice our concerns.

1. The over-concentration of these homes in this residential area will continue to hurt our home values and it changes the neighborhood feel.
2. These 'recovery homes' are for profit businesses. They add a burden on the city's trash services, traffic, security, parking, as well as added noise and air pollution.
3. The homes in this area under review have more than 6 beds and need to be strictly regulated.
4. A vast number of these group homes are owned and operated by a handful of for profit businesses. These businesses need to be regulated by density of their facilities within a given area to avoid over-concentration.

We urge the City of Newport Beach to continue its efforts in making this City one of the finest in the country. We hope that you put the citizens and local taxpayers interests and needs at the forefront, as you review and regulate these Residential Care Facilities so that their density and proliferation will not negatively affect this wonderful beach community.

Sincerely,

Terry and Laurie McKenzie  
1151 W. Balboa Blvd.  
Balboa Peninsula, CA 92661  
949-673-2379

## **Brown, Janet**

---

**From:** Kiff, Dave  
**Sent:** Monday, February 09, 2009 1:12 PM  
**To:** Brown, Janet  
**Subject:** FW: Ocean Recovery Use Permit Application UP 2008 30 and 31

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**From:** Ronel Mathena [mailto:[ronelis@pacbell.net](mailto:ronelis@pacbell.net)]  
**Sent:** Monday, February 02, 2009 10:42 AM  
**To:** Kiff, Dave  
**Subject:** Ocean Recovery Use Permit Application UP 2008 30 and 31

Mr. Kiff:

I cant begin to explain to you how awful it is to have rehab facilities on either side of my home at 1125 W. Balboa Boulevard. I keep the windows on the first two stories closed all year (even in Summer)- all the time to avoid the cigarette smoke, offensive language and noise of the 1115 W. Balboa house. I wont sit on my patio deck across from the Ocean Recovery home. The residents stare at me. They never close their blinds.

The staff at Ocean Recovery sound helpful. But even the staff have issues. I believe they are addicts too. I saw a driver of Ocean Recovery smash into a parked car in front of the 1115 West Balboa and run screaming into the building. There are serious parking problems on our block because 1115 West Balboa has closed its garage parking in total.

The residents wander around the neighborhood unsupervised all the time. There is constant turnover at the home. There is always a brand new set of troubled young men. Some are truly scary. One Ocean Recovery resident directly threatened my daughter. I ran up to him in front of 1115 W. Balboa Boulevard and got him to back off by screaming at him that I would call the cops. The staff said they were sorry and the person disappeared. But what about the next one?

I called the fire department when an ashtray caught fire at a rehab. Smoke was

entering my home. I was directly told by a senior fireman that it was wrong that I called them for such a small fire.

I shouldn't have to feel like a prisoner within my own home. I shouldn't have to feel that the City will do nothing about these halfway homes. I shouldn't have to feel at risk. I shouldn't have to bear cigarette smoke, litter, and foul language.

Please reject Ocean Recovery's use permit at 1115 West Balboa Boulevard and 1601 West Balboa Boulevard.

Thank you,

Ronel Mathena

949-566-0107

**Paul A. Lopez**  
**1125 ½ W. Balboa Blvd.**  
**Newport Beach, CA 92661**  
**949-673-0489**

RECEIVED BY  
PLANNING DEPARTMENT

FEB 02 2009

CITY OF NEWPORT BEACH

January 27, 2009

To: Thomas W. Allen, Hearing Officer  
David Kiff, Assistant City Manager

Subject: Opposition to Use Permit # UP 2008-030 & UP 2008-031  
Ocean Recovery Facilities at 1115 and 1601 W. Balboa Blvd.

I am writing this letter as a 10 year resident of Newport Beach, eight years as owner of my current residence at 1125 ½ W. Balboa Blvd and two years as a renter at 1115 W. Balboa Blvd. My residence lies directly between the Ocean Recovery facility at 1115 W. Balboa Blvd and the sober living facility operated by Richard Perlin at 1129 W. Balboa Blvd. Within 100 feet of my home and across the street is the recently approved Balboa Horizons facility at 1132 W. Balboa Blvd. My proximity to these three facilities qualifies me to speak directly to the issues of overconcentration of sober living facilities in my local neighborhood and the negative impact that such businesses have on my family and my neighbors' quality of life as homeowners in Newport Beach.

The City is now reviewing Conditional Use Permit applications for the Ocean Recovery facility located at 1115 W. Balboa (which abuts my home to the south), and its sister facility at 1601 W. Balboa Blvd. I am requesting that the City deny these applications on the following grounds:

**Overconcentration of of sober living facilities within 1000 feet of Newport Elementary School**

At present, *at least* five (5) sober living facilities with more than six beds operate within 1000 feet of Newport Elementary School. These facilities include: 1115 (22 residents), 1129 (14 residents), 1132 (11 residents), 1216 (29 residents) and 1601 (18 residents) W.

Balboa Blvd. There are also several other <6 bed facilities operating or requesting to operate within this same area. All of these facilities have residents that routinely attend weekend alcohol and drug rehabilitation gatherings on the beach at 15<sup>th</sup> street, just 50 feet away from children utilizing the playground. This group has grown dramatically as the number of sober living homes has increased in the neighborhood. Over 100 recovering individuals attend these weekly meetings.

It is well known that many of the recovering individuals now housed in our community come to us with legal issues, multiple behavior problems, and a vulnerability to relapse. They are people at risk for behaving impulsively and without good judgment, and as such do not represent good role models for our children—in fact, one could easily argue that such individuals are at risk for endangering our children. Despite the fact that the community has gone on record *multiple times* with the City regarding our concerns for the safety of children attending Newport Elementary and other children using our public playgrounds between 13<sup>th</sup> and 14<sup>th</sup> streets, the City still approved the facility at 1132 W. Balboa Blvd. Enough is enough! The City must now exercise reasonable judgment and legal responsibility to reject the applications for both of these facilities on grounds that this overconcentration will endanger the well being and safety of our community and children.

See attached pictures # 1, 2 & 3

**Overconcentration of sober living facilities in my local neighborhood and within 1000 feet of my residence.**

As noted, the City has already approved the use permit at 1132 W. Balboa Blvd (11 residents). This facility is within 100 feet of my residence and within 100 feet of two other sober living facilities at 1129 W. Balboa and 1115 W. Balboa , both of which abut my property line and are within 5 feet of my residence. If we then include the current sober living facility at 1216 W. Balboa Blvd, *I now have four facilities and 65 residents within <800 feet of my residence.* Any reasonable city official or local resident would conclude that this represents an overconcentration of sober living facilities within one local neighborhood.

I am looking to the City to rectify this situation immediately. The 1115 W. Balboa Blvd. Ocean Recovery application should be rejected due to 1.) its close proximity to four other sober living facilities and 2.) the overconcentration of these facilities in direct proximity to my residence. I am a tax paying and respectful resident, and I don't believe I or my neighbors should be subject to such unreasonable concentration. It is clear that the operators of these facilities are taking advantage of their rights for reasonable accommodation at the expense of our rights as citizens of Newport Beach. Furthermore, the City has made this possible by failing to enforce any type of limitations on the proliferation of these facilities. The time is now for the City to rectify this unfair situation for the benefit of all residents within the 1000 to 1200 blocks of W. Balboa Blvd.

See attached picture # 4

**Elimination of onsite parking at 1115 W. Balboa Blvd has worsened an already difficult parking situation on W. Balboa Blvd and to the detriment of other local residents.**

The Ocean Recovery facility at 1115 W. Balboa Blvd. has three two-car parking garages that open to the alley. Since moving into the building approximately four years ago, Ocean Recovery has *never* used any of these six parking spaces for parking automobiles, but has used them instead as meeting or living rooms equipped with carpet, chairs, white boards, stereos, couches, and TVs. Furthermore, Ocean Recovery assembles anywhere from 10-40 people on a regular basis in these garages. During summertime, the garage doors are regularly raised, permitting unwanted group conversation, profanity, yelling, and other unacceptable behavior to invade the privacy of neighbors. Not only is this a violation of the rights of the local community, but it is also further testament to the fact that Ocean Recovery is not a residence, but rather a business operating within a residential neighborhood.

In the past, the owner has indicated that none of his clients have vehicles on site while in treatment. Truthfully, many clients own cars that are regularly parked on W. Balboa Blvd. Although clients sometimes travel by van to outside meetings, they continually come and go in their own cars throughout the day. Additionally, visitors to this facility also park on W. Balboa Blvd. In fact, I am sure the City has assessed many violations for parking in the alley behind 1115, as clients and their visitors often cannot find available parking on W. Balboa.

Personal vehicles and facility visitors make it difficult, if not impossible, for other residents to find parking on the 1100 block of W. Balboa Blvd. Residents are disadvantaged because Ocean Recovery uses garages as meeting rooms and not for parking. This is another example of Ocean Recovery misleading the City and failing to consider the needs and rights of their neighbors.

See attached pictures # 5,6,7,8,9,10 & 11

**Constant second-hand smoke from the 1115 W. Balboa facility is a serious health hazard for my family and all other residents within the 1100 block of W. Balboa Blvd.**

Numerous clients at the 1115 facility *constantly* smoke cigarettes in the courtyard, in front of the facility, and behind the facility. It is not uncommon for 10-20 individuals to smoke at the same time in these areas. At the facility's regular Thursday evening barbecue--which individuals from other sober living locations and/or recently departed residents attend-- the number of smokers can exceed 40 individuals. The courtyard where most smokers gather is within fifteen feet of four other residences that abut the property.

This is a genuine health and safety concern for all of us who live within range of this second-hand smoke.

From my own experience, attempting to avoid second-hand smoke has left me and my family literally shuttered in our home. We cannot open any windows on the south side of our residence without being exposed. I know the neighbors on the south side of 1115 W. Balboa have the same problem. Like most residences on the Peninsula we do not have air conditioning, so we are forced to open windows in warmer weather and endure these noxious fumes, which not only settle in our upholstery and shades but pose a serious health risk. Coincidentally, I developed asthma approximately three years ago. I am now wondering whether the second-hand smoke from 1115 has been a contributing factor.

Living next to Ocean Recovery has burdened me financially as well. My house was built in the 1980's with wood and single-pane glass windows. Shortly after Ocean Recovery moved in to 1115 W. Balboa Blvd., cigarette fumes and noise penetrated my home even when my windows were closed. This problem worsened when the sober living facility at 1129 W. Balboa Blvd. took up residence about 6 months later next door to the north. Consequently, I spent \$30,000 replacing 31 windows with double-paned glass. I also had to replace the north and south side windows with opaque glass, as we found residents peering into our home when the shades were up and/or windows opened.

Should I as a tax-paying and respectful resident have to spend this kind of money to block out the detrimental and unsafe environmental impacts created by each of the facilities at 1115 and 1129 W. Balboa? This doesn't seem fair or legally right. The City has banned smoking on the beach and in most areas in City buildings, but I am subjected to second-hand smoke seven days a week. This is a health hazard for my family and me, and I request that the City reject the 1115 W. Balboa Blvd. application based upon these safety risks to myself and my neighbors.

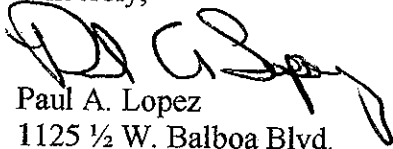
**Lack of full time supervision and/or lax supervision of residents at the Ocean Recovery facility at 1115 W. Balboa leads to all kinds of behavior detrimental to the living environment and quality of life of fellow neighbors.**

When Ocean Recovery first opened, a full-time manager lived on site. He has since left, and I am not aware that Ocean Recovery has replaced him. If they have, I have not been able to distinguish the new manager from the other residents. This lack of leadership and poor management has led to an increase in noise level (e.g., residents yelling at each other, fighting, loud stereos, loud TVs, etc.) and behavior detrimental to the neighbors at all hours of the day and night. I don't think there is even a curfew, as I see and hear clients leaving the facility on bikes at all hours of the night, residents' cars pulling up in the alley in the late evening with stereos blasting, and large groups of clients gathering in selected rooms and making noise well into the night. The profanity that emanates from the facility on a daily basis is disgusting and offensive to anyone who can hear. Groups of residents frequently loiter aimlessly in front and behind the facility. They are intimidating to other residents and visitors and rude to those who approach them about unreasonable

consistent with the City executing its legal responsibility of protecting the rights of the citizens and neighborhood that they have been entrusted to protect.

Importantly, approximately 125 local residents have signed a petition opposing approval of these applications. Over 30 of these signatures were secured from families with children at Newport El and 70 from owners and renters within 3 blocks of the 1115 facility. Additionally, the City has received at least 10 letters from **immediate neighbors** of the facility at 1115 W. Balboa Blvd., voicing their specific concerns and experiences for opposing these applications. I trust that the City will take this strong community opposition and deny the Ocean Recovery facilities at 1115 and 1601 W. Balboa Blvd.

Sincerely,



Paul A. Lopez  
1125 ½ W. Balboa Blvd.  
Newport Beach, CA  
949-673-0489

FEB 02 2009

CITY OF NEWPORT BEACH

February 5, 2009

To: Thomas W. Allen, Hearing Officer  
David Kiff, Assistant City Manager

Subject: Petition Opposing the Ocean Recovery Facility Group Residential Use Permit  
For 1115 W. Balboa and 1601 W. Balboa Blvd.

Dear Mr. Allen and Mr. Kiff,

Attached please find a petition that has been signed by 120 local residents who are strongly opposing the issuance of Residential Use Permits for both 1115 W. Balboa Blvd. and 1601 W. Balboa Blvd. These local Newport Beach and peninsula residents are requesting that the City deny the approval of these Ocean Recovery facilities on the following grounds:

- **The two business locations- are less than 1,000 feet away from Newport Elementary School and its adjacent playgrounds, and are incompatible with surrounding uses, public health & safety.**
- **Neighbors have experienced repeated nuisance problems for over 5 years: smoking (second hand smoke and butts); litter; loud noise and profanity; loitering; and confrontational incidents.**
- **The business operations provide an undue burden on parking and traffic. At the 1115 facility, all onsite parking has been eliminated.**
- **The operation of the business precludes neighbors and families with children frequenting the area to have a safe, healthy and peaceful environment.**
- **There is an overconcentration of facilities- with a City approved facility at 1132 W. Balboa; a facility that is expected to appeal the City's denial of its permit request at 1216 W. Balboa; two more facilities that face abatement under City regulations at 1129 and 1111 W. Balboa Boulevard; and another one in licensing at 1217 West Bay- that the City can not abate- there are simply too many facilities too close to the school and the playgrounds.**

I also know that several residents have elected to voice their opposition to these applications through writing letters and or sending their petition signatures directly to Dave Kiff. I am aware of a least nine letters that have been sent or are being sent to the attention of Dave. I have copies of each and trust that you both do also. Additionally, please note that these signatures and letters have been generated by the following individuals:

- 1) Approximately 30 signatures on the petition are from parents/families of children attending Newport Elementary; over 70 of the signatures are from residents within 3 blocks of the 1115 W. Balboa facility.
- 2) Includes signatures and/ or letters of all neighbors abutting directly to the north, south, and west side of the 1115 facility, including owners and renters.

I trust that the City will take into consideration this overwhelming opposition to the Group Residential Use Permits for the Ocean Recovery facilities at 1115 and 1601 W. Balboa Blvd. We strongly urge the City to reject these applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Lopez", written over the word "Sincerely,".

Paul A. Lopez  
1125 ½ W. Balboa Blvd.  
Newport Beach, CA 92661  
949-673-0489

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

We, the undersigned do hereby petition the City of Newport Beach to deny a Conditional Use Permit and urge the City to immediately abate the business: Ocean Recovery, operating at 1115 W. Balboa Boulevard and at 1601 W. Balboa Boulevard, based on the following:

- The two business locations- are less than 1,000 feet away from Newport Elementary School and its adjacent playgrounds, and are incompatible with surrounding uses, public health & safety.
- Neighbors have experienced repeated nuisance problems for over 5 years: smoking (second hand smoke and butts); litter; loud noise and profanity; loitering; and confrontational incidents.
- The business operations provide an undue burden on parking and traffic. At the 1115 facility, all onsite parking has been eliminated.
- The operation of the business precludes neighbors and families with children frequenting the area to have a safe, healthy and peaceful environment.
- There is an overconcentration of facilities- with a City approved facility at 1132 W. Balboa; a facility that is expected to appeal the City's denial of its permit request at 1216 W. Balboa; two more facilities that face abatement under City regulations at 1129 and 1111 W. Balboa Boulevard; and another one in licensing at 1217 West Bay- that the City can not abate- there are simply too many facilities too close to the school and playgrounds.

<p>Name <u>[Signature]</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>106 1/2 9th St.</u> <u>Newport Beach, CA 92661</u></p>	<p>Name <u>Shannon Wadsworth</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>417 Bellevue Lane</u> <u>NB, CA 92661</u></p>
<p>Name <u>Eric F Ogden</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>106 1/2 9th St</u> <u>Balboa, Ca 92661</u></p>	<p>Name <u>Nicole Soto</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>204 Washington</u> <u>NB CA 92661</u></p>
<p>Name <u>EMILY P. OGDEN</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>106 1/2 9th St</u> <u>Balboa, Ca. 92661</u></p>	<p>Name <u>Celine Soto</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>1305 E BALBOA BLVD</u></p>
<p>Name <u>MARI JUDGE</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>823 W. Balboa Blvd</u> <u>Newport Beach 92661</u></p>	<p>Name <u>Pat McMillan</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>900 W. Ocean Front</u> <u>N.B. 92661</u></p>

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

We, the undersigned do hereby petition the City of Newport Beach to deny a Conditional Use Permit and urge the City to immediately abate the business: Ocean Recovery, operating at 1115 W. Balboa Boulevard and at 1601 W. Balboa Boulevard, based on the following:

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- Neighbors have experienced repeated nuisance problems for over 5 years: smoking (second hand smoke and butts); litter; loud noise and profanity; loitering; and confrontational incidents.
- The business operations provide an undue burden on parking and traffic. At the 1115 facility, all onsite parking has been eliminated.
- The operation of the business precludes neighbors and families with children frequenting the area to have a safe, healthy and peaceful environment.
- There is an overconcentration of facilities- with a City approved facility at 1132 W. Balboa; a facility that is expected to appeal the City's denial of its permit request at 1216 W. Balboa; two more facilities that face abatement under City regulations at 1129 and 1111 W. Balboa Boulevard; and another one in licensing at 1217 West Bay- that the City can not abate- there are simply too many facilities too close to the school and playgrounds.

Name <u>Tom Hayden Jr</u> Signature <u>[Signature]</u> Address <u>908 W Ocean front</u>	Name <u>Becky Schuler</u> Signature <u>[Signature]</u> Address <u>942 W Oceanfront</u> <u>NB 92661</u>
Name <u>JOSH EVANS</u> Signature <u>[Signature]</u> Address <u>913 W. BALBOA</u>	Name <u>Ann Smith</u> Signature <u>[Signature]</u> Address <u>1133 E. Balboa</u> <u>N.B.</u>
Name <u>Alan Haklerman</u> Signature <u>[Signature]</u> Address <u>813 1/2 W. Balboa Blvd</u>	Name <u>John Weydoff</u> Signature <u>[Signature]</u> Address <u>908 W ocean front</u>
Name <u>Stoetram</u> Signature <u>[Signature]</u> Address <u>901 W. Balboa Blvd.</u>	Name <u>Cindy Powell</u> Signature <u>[Signature]</u> Address <u>916 W. Ocean Front</u> <u>NB 92661</u>

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

We, the undersigned do hereby petition the City of Newport Beach to deny a Conditional Use Permit and urge the City to immediately abate the business: Ocean Recovery, operating at 1115 W. Balboa Boulevard and at 1601 W. Balboa Boulevard, based on the following:

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Name <u>Joan Finiano</u> Signature <u>Joan Finiano</u> Address <u>820 West Oceanfront NB</u>	Name _____ Signature _____ Address _____
Name <u>Andy Finiano</u> Signature <u>Andy Finiano</u> Address <u>820 West Oceanfront NB</u>	Name _____ Signature _____ Address _____
Name <u>Greg Boston</u> Signature <u>Greg Boston</u> Address <u>916 W. Ocean NB 92661</u>	Name _____ Signature _____ Address _____
Name _____ Signature _____ Address _____	Name _____ Signature _____ Address _____

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

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Name <u>MARCO BACICH</u> Signature <u>[Signature]</u> Address <u>1100 E. BALBOA BL.</u> <u>NEWPORT BEACH CA 92661</u>	Name <u>MR. MRS Bronsch</u> Signature <u>[Signature]</u> Address <u>3435 Oceanview</u> <u>Newport Beach CA</u>
Name <u>JAN-ERIK PALM</u> Signature <u>[Signature]</u> Address <u>1104 W. Bay Ave.</u> <u>N.B. ca 92661</u>	Name <u>Howard Alley</u> Signature <u>[Signature]</u> Address <u>1406 W. Ocean Front</u>
Name <u>DIANE PALM</u> Signature <u>[Signature]</u> Address <u>1104 W Bay Ave</u> <u>NB 92661 Diane Palm</u>	Name <u>Therese Olson</u> Signature <u>[Signature]</u> Address <u>1526 W. Oceanfront Dr</u> <u>Newport Beach CA 92663</u>
Name <u>Michael S. Kendall</u> Signature <u>[Signature]</u> Address <u>107 14th St, Newport Beach</u>	Name <u>Cliff Rusin</u> Signature <u>[Signature]</u> Address <u>1526 W. Oceanfront</u> <u>Newport Beach CA 92663</u>

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<p>Name <u>Steve Moore</u></p> <p>Signature <u>Steve Moore</u></p> <p>Address <u>1706 W Oceanfront</u></p>	<p>Name <u>Jodi Datt</u></p> <p>Signature <u>Jodi Datt</u></p> <p>Address <u>1710 W. Oceanfront</u> <u>Newport Beach, Ca 92663</u></p>
<p>Name <u>MURIEL M. WEINER</u></p> <p>Signature <u>Muriel M Weiner</u></p> <p>Address <u>1608 W OCEAN FRONT</u> <u>NEWPORT BEACH, CA 92663</u></p>	<p>Name <u>PETER ANDERSON MD</u></p> <p>Signature <u>Peter Anderson</u></p> <p>Address <u>1610 WEST OCEANFRONT</u> <u>NEWPORT BEACH, CALIF 92663</u></p>
<p>Name <u>ORIE T. PFEIFFER</u></p> <p>Signature <u>Orie Pfeiffer</u></p> <p>Address <u>108 18th St</u> <u>Newport Beach, CA</u></p>	<p>Name <u>Susan Anderson</u></p> <p>Signature <u>Susan Anderson</u></p> <p>Address <u>1610 W. Oceanfront</u> <u>Newport Beach 92663</u></p>
<p>Name <u>Ruth Gerber</u></p> <p>Signature <u>Ruth Gerber</u></p> <p>Address <u>1708 W Oceanfront</u></p>	<p>Name <u>Pam Brauch</u></p> <p>Signature <u>PAM BRAUCH</u></p> <p>Address <u>1100 E. Balboa Blvd</u> <u>Newport Beach, Ca 92661</u></p>

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Name <u>DAVID FOLLETT</u> Signature <u>David B. Follett</u> Address <u>306 ISLAND AVE</u> <u>NEWPORT BEACH CA 92661</u>	Name <u>Judith L. Young</u> Signature <u>Judith L. Young</u> Address <u>306 Island Avenue</u> <u>Newport Beach 92661</u>
Name <u>TOM CARRETT</u> Signature <u>T. Carrett</u> Address <u>1032 W. Oceanfront</u> <u>N.B. 92661</u>	Name <u>Glen Gwarda</u> Signature <u>Glen Gwarda</u> Address <u>840 Irvine Ave</u> <u>NB CA 92663</u>
Name <u>Fred Leslie</u> Signature <u>Fred Leslie</u> Address <u>1408 west oceanfront</u> <u>UPB CA</u>	Name <u>ED DILLON</u> Signature <u>Edwin Dillon</u> Address <u>1770 W BALBOA BL #4E</u>
Name <u>James R Cantwell</u> Signature <u>James R Cantwell</u> Address <u>1511 W. BALBOA</u>	Name <u>Gail M. LaBass</u> Signature <u>Gail M. LaBass</u> Address <u>1521 W. Balboa Blvd.</u>

**CONCERNED FAMILIES - PETITION TO DENY CONDITIONAL USE PERMIT  
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Name <u>MARILYN BENEDICT</u> Signature <u>Marilyn Benedict</u> Address <u>118 1/2 Opal Ave</u> <u>Balboa Isl, Ca 92662</u>	Name <u>Mike Saltman</u> Signature <u>Mike Saltman</u> Address <u>1216 W. Oceanfront</u> <u>NB 92661</u>
Name <u>Dickson Jennings</u> Signature <u>Dickson Jennings</u> Address <u>3264 MARINE AVE</u> <u>Newport Beach CA 92662</u>	Name <u>Sonya Saltman</u> Signature <u>Sonya Saltman</u> Address <u>1216 W. Oceanfront</u> <u>Newport 92661</u>
Name <u>Sandy Christopherson</u> Signature <u>Sandy Christopherson</u> Address <u>P.O. Box 5156 Balboa Is, CA 92662</u>	Name <u>Ben Younglove</u> Signature <u>Ben Younglove</u> Address <u>1212 W. Oceanfront</u> <u>Newport Beach 92661</u>
Name <u>David G. Sherbeck</u> Signature <u>David G. Sherbeck</u> Address <u>1210 W. Oceanfront, NB 92660</u>	Name _____ Signature _____ Address _____

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Name <u>Elliott Adams</u> Signature <u>[Signature]</u> Address <u>1607 W Balboa</u> <u>Newport Beach, CA 92663</u>	Name _____ Signature _____ Address _____
Name <u>Rob Meinhardt</u> Signature <u>[Signature]</u> Address <u>1617 W Balboa</u> <u>N.B. CA 92663</u>	Name _____ Signature _____ Address _____
Name <u>Jerome H Thomas</u> Signature <u>[Signature]</u> Address <u>1612 W. Ocean Front</u>	Name _____ Signature _____ Address _____
Name <u>Bonny L Thompson</u> Signature <u>[Signature]</u> Address <u>1612 W. Ocean Front</u>	Name _____ Signature _____ Address _____

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<p>Name <u>Tamara McKennon</u></p> <p>Signature <u>Tamara McKennon</u></p> <p>Address <u>1212 W. Balboa Blvd</u> <u>Newport Beach 92661</u></p>	<p>Name <u>Le Appleban</u></p> <p>Signature <u>Le Appleban</u></p> <p>Address <u>121 29th</u> <u>Newport Beach</u></p>
<p>Name <u>Barbara Roy</u></p> <p>Signature <u>Barbara Roy</u></p> <p>Address <u>1806 B W OCEAN FRONT</u> <u>N.D.</u></p>	<p>Name <u>ED VANDER BOSCH</u></p> <p>Signature <u>Ed Vander Bosch</u></p> <p>Address <u>121 40th ST, NB 92663</u></p>
<p>Name <u>Charles H. Grier</u></p> <p>Signature <u>Charles H. Grier</u></p> <p>Address <u>645 Via Lido Woods</u> <u>Newport Beach, CA 92663</u></p>	<p>Name <u>James J. McKennon</u></p> <p>Signature <u>James J. McKennon</u></p> <p>Address <u>1930 Port Dunleigh</u> <u>Newport Beach, Ca. 92660</u></p>
<p>Name <u>REW WETHERHOLT</u></p> <p>Signature <u>Rew Wetherholt</u></p> <p>Address <u>217 30th ST, NEWPORT 92663</u></p>	<p>Name <u>NORMA R. LARZELERE</u></p> <p>Signature <u>Norma R. Larzelere</u></p> <p>Address <u>917 W. Bay Ave, Balboa, Ca. 92661</u></p>

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Name <u>DENISE LOPEZ</u> Signature <u>[Signature]</u> Address <u>1125 1/2 W. BALBOA BLVD.</u> <u>NEWPORT BEACH, CA 92661</u>	Name <u>LAURE MCKENZIE</u> Signature <u>[Signature]</u> Address <u>1151 W. Balboa</u> <u>NB Ca 92661</u>
Name <u>PAUL LOPEZ</u> Signature <u>[Signature]</u> Address <u>1125 1/2 W. BALBOA BLVD.</u> <u>NEWPORT BEACH, CA 92661</u>	Name <u>JAMES JORGENSEN</u> Signature <u>[Signature]</u> Address <u>1136 W Oceanfront</u> <u>NB CA 92661</u>
Name <u>Anna Saba</u> Signature <u>[Signature]</u> Address <u>108 11th St.</u> <u>NB 92661</u>	Name <u>MIKE FLYNN</u> Signature <u>[Signature]</u> Address <u>103 17th St.</u> <u>Newport Beach CA.</u>
Name <u>GERALD W SPAH</u> Signature <u>[Signature]</u> Address <u>108 11th St.</u>	Name <u>ROBERT WILHELM</u> Signature <u>[Signature]</u> Address <u>1636 W. Oceanfront N.B.</u>

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Name <u>LARRY MATHENA</u> Signature <u>[Signature]</u> Address <u>1125 W. BALBOA BLVD</u> <u>Newport Beach CA 92661</u>	Name <u>LOVEL MATHENA</u> Signature <u>Ronal Mathena</u> Address <u>1125 W. BALBOA BLVD</u> <u>Newport Beach CA 92661</u>
Name <u>HOPE MATHENA</u> Signature <u>[Signature]</u> Address <u>1125 W. BALBOA BLVD</u> <u>Newport Beach CA 92661</u>	Name <u>ROD CANADA</u> Signature <u>[Signature]</u> Address <u>828 W OCEAN FRONT</u> <u>NEWPORT BEACH CA 92661</u>
Name <u>Aleha J. Canada</u> Signature _____ Address _____	Name <u>Laura Keane</u> Signature <u>Laura Keane</u> Address <u>808 W Oceanfront</u> <u>Newport Beach, CA 92661</u>
Name <u>DEBRA CANADA</u> Signature <u>Aleha J. Canada</u> Address <u>828 W. Ocean Front</u> <u>Newport Beach 92661</u>	Name <u>ROSEMARY KEANE</u> Signature <u>[Signature]</u> Address <u>808 W. OCEANFRONT, N.B.</u>

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Name <u>Julie McBride</u> Signature <u>[Signature]</u> Address <u>1600 W. Balboa Blvd #C</u> <u>Newport Beach, CA 92661</u>	Name <u>Laura Hamilton</u> Signature <u>[Signature]</u> Address <u>1273 West Bay Ave</u> <u>NB, Ca 92661</u>
Name <u>Todd McBride</u> Signature <u>[Signature]</u> Address <u>1200 W. Balboa Blvd #C</u> <u>Newport Beach CA 92661</u>	Name <u>Dolly Shaw</u> Signature <u>[Signature]</u> Address <u>1150 W. Balboa Blvd,</u> <u>Newport Beach 92661</u>
Name <u>John ZAKANY</u> Signature <u>[Signature]</u> Address <u>1127 W BAY AVE</u> <u>NEWPORT BEACH CA 92661</u>	Name <u>Pat Botwinich</u> Signature <u>[Signature]</u> Address <u>1201 W Balboa Blvd</u> <u>Newport Beach CA 92661</u>
Name <u>Susan E. Khorouzan</u> Signature <u>[Signature]</u> Address <u>1127 W. Bay ave.</u> <u>Not. Beach, CA 92661</u>	Name <u>Tenealle SATZ</u> Signature <u>[Signature]</u> Address <u>1125 West Balboa</u> <u>Newport Beach</u>

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Name <u>TOM TECHENTIN</u> Signature <u>Thomas L. Techentin</u> Address <u>1136 West Ocean Front</u> <u>Newport Beach 92661</u>	Name _____ Signature _____ Address _____
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Name <u>Jym Fisher</u> Signature <u>Jym Fisher</u> Address <u>514 1/2 Bay Cove</u> <u>Balboa, Ca</u>	Name <u>Kim Flores</u> Signature <u>Kim Flores</u> Address <u>1113 1/2 W. Balboa Blvd.</u>
Name <u>Jane Taylor</u> Signature <u>Jane Taylor</u> Address <u>901 W. Balboa Blvd.</u> <u>Newport Beach, CA 92661</u>	Name <u>Dolly Snow</u> Signature <u>Dolly Snow</u> Address <u>1150 W. Balboa</u> <u>N.B. 92661</u>
Name <u>Melinda Avakian</u> Signature <u>Melinda Avakian</u> Address <u>1106 W. Grandmont</u> <u>Newport Beach, CA 92661</u>	Name <u>Barbara Snow</u> Signature <u>BARBARA Snow</u> Address <u>1001 W. Bay</u> <u>N.B.</u>
Name <u>Frankie Flores</u> Signature <u>[Signature]</u> Address <u>1113 1/2 W Balboa Blvd.</u>	Name _____ Signature _____ Address _____

Paul -

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

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Name <u>TAM TECHENTIN</u> Signature <u>[Signature]</u> Address <u>1136 West Ocean Front</u> <u>Newport Beach 92661</u>	Name _____ Signature _____ Address _____
Name <u>John VAN</u> Signature <u>[Signature]</u> Address <u>1141 W. Balboa Blvd</u> <u>Newport Beach 92661</u>	Name _____ Signature _____ Address _____
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Name <u>Richard A Riddle</u> Signature <u>RICHARD A. RIDDE</u> Address <u>1124 West Oceanfront Blvd</u> <u>Newport Beach, Ca</u>	Name _____ Signature _____ Address _____
Name <u>Nancy L Riddle</u> Signature <u>Nancy L Riddle</u> Address <u>1124 West Oceanfront</u> <u>Newport Beach, Ca</u> <sup>Bvd</sup>	Name _____ Signature _____ Address _____
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Name <u>Andrew C Edwards</u> Signature <u><i>Andrew C Edwards</i></u> Address <u>1128 N Oceanfront</u> <u>Newport Beach CA 928</u>	Name _____ Signature _____ Address _____
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Name <u>Tom Taylor</u> Signature <u>[Signature]</u> Address <u>901 W. BALBOA BLVD</u> <u>NEWPORT BEACH 92661</u>	Name <u>Taylor Amick</u> Signature <u>[Signature]</u> Address <u>125 E. BAY AVE.</u> <u>Newport 92661</u>
Name <u>Rachel Daichendt</u> Signature <u>[Signature]</u> Address <u>601 Lido Park</u> <u>Newport Beach 92663</u>	Name <u>Cherie Amick</u> Signature <u>[Signature]</u> Address <u>Same as above</u>
Name <u>Glenn Buend</u> Signature <u>[Signature]</u> Address <u>1726 MIRAMAR</u> <u>DR Newport 92661</u>	Name <u>Erick Roebuck</u> Signature <u>[Signature]</u> Address <u>203 Walnut #B</u> <u>Newport Beach, CA 92663</u>
Name <u>Debra Sahl</u> Signature <u>[Signature]</u> Address <u>312 Colton</u> <u>Newport 92663</u>	Name <u>Geni Walton</u> Signature <u>[Signature]</u> Address <u>235 Canal Street</u> <u>NB CA 92663</u>

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Name <u>Tina Lipkowsky</u> Signature <u>Tina Lipkowsky</u> Address <u>3110 1/2 W. Oceanfront</u> <u>NB CA 92663</u>	Name <u>ERIC AUST</u> Signature <u>E. Aust</u> Address <u>218 WALNUT ST.</u> <u>NEWPORT BEACH, CA 92663</u>
Name <u>GERALD AUST</u> Signature <u>Gerald Aust</u> Address <u>218 Walnut St.</u> <u>Newport Beach CA 92663</u>	Name <u>JoAnn Sloman</u> Signature <u>JS</u> Address <u>3091 Canal St</u> <u>NB CA 92663</u>
Name <u>RONNIE ROSE</u> Signature <u>R/R</u> Address <u>2855 VISTA DR.</u> <u>NEWPORT BEACH, CA 92663</u>	Name <u>PHILIP LATRAITE</u> Signature <u>Ph Latraite</u> Address <u>34 PROSPECT</u>
Name <u>MIKE ROSIL</u> Signature <u>M. Rosil</u> Address <u>140 Via Yella, NB, CA 92663</u>	Name <u>Christy Brigandini</u> Signature <u>Christy Brigandini</u> Address <u>1606 W. Oceanfront</u>

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Name <u>Ailee Johnson</u> Signature <u>Ailee Johnson</u> Address <u>1502 K St</u> <u>NB 92661</u>	Name <u>Wendy Mitchell</u> Signature <u>Wendy Mitchell</u> Address <u>471 62nd St</u> <u>NB CA 92663</u>
Name <u>B. M. Math</u> Signature <u>B. M. Math</u> Address <u>1013 E BALBOA</u>	Name <u>Stacy Christensen</u> Signature <u>Stacy Christensen</u> Address <u>259 Lucania St</u> <u>NB CA 92663</u>
Name <u>JEFF MYERS</u> Signature <u>Jeff Myers</u> Address <u>1215 WEST BAY</u> <u>92661</u>	Name <u>Jana Daryl</u> Signature <u>Jana Daryl</u> Address <u>22A 62nd St</u> <u>NB CA 92663</u>
Name _____ Signature _____ Address _____	Name _____ Signature _____ Address _____

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Name <u>SALAM, ABDUL</u> Signature <u>Abdul Salam</u> Address <u>1020 W OCEAN FRONT</u> <u>N.B CA 92661</u>	Name _____ Signature _____ Address _____
Name <u>Janelly Salam</u> Signature <u>Janelly Salam</u> Address <u>1020 W. Ocean Fr</u> <u>N. B Cal 92661</u>	Name _____ Signature _____ Address _____
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**Larry Mathena  
1125 West Balboa Boulevard  
Newport Beach, California 92661  
949-752-5115 Extension 18  
mathenaesq@aol.com**

**February 2, 2009**

**TO: Thomas W. Allen, Hearing Officer  
David Kiff, Assistant City Manager**

**SUBJECT: Ocean Recovery at 1115 West Balboa Boulevard, Newport Beach  
• Use Permit No. 2008-030 Application**

**ISSUE:**

Should the Hearing Officer approve or deny Ocean Recovery's application for a Use Permit for 1115 West Balboa Boulevard (UP- 2008-030), to allow a residential care facility to operate a state licensed adult alcohol and/or drug abuse sober living facility for 22 resident (male only) clients?

**RECOMMENDED ACTION:**

1. Conduct the Public Hearing; and
2. *Deny* the Use Permit for Failure to meet the requirement of the City's Group Residential Uses Ordinance ("Ordinance" or "Ordinance 2008-05").

**BACKGROUND:**

To protect the integrity of residentially zoned areas of the city, residential uses like boarding houses and fraternities/sororities have been prohibited in all residential districts. Following the adoption of Ordinance 2008-05 on January 22, 2008, the City has changed the way it regulates residential uses that do not consist of a single housekeeping unit, but provide group home living arrangements for the disabled, such as sober homes and alcohol and drug recovery treatment homes licensed by the State of California's Department of Alcohol and Drug Programs ("ADP").

In California ADP Fact Sheet, California in Treatment: Fiscal Year 2006-07 the following point is noted: 27% of residents of a rehabilitation facility do not abstain from using their primary drug during their residency. This is consistent with the Operations

Manual of Newport Coast Recovery- which has a goal of getting and keeping “75% of all clients sober/clean for the duration of the program.”

Therefore statistically in the discussion of the facilities that follow, one can reasonably assume that one quarter of the residents of the facilities continue to use and abuse their primary drug.

As of the date of this submittal, the following has occurred:

- The 11-bed Balboa Horizons facility for women at 1132 West Balboa received a conditional use permit under the Ordinance.
- The 29-bed Newport Coast Recovery facility for men at 1216 West Balboa was denied a permit under the Ordinance. However, an appeal is anticipated based on Mr. Mike Newman’s (one of the owners of Newport Coast) statements to the Daily Pilot in the Sunday, February 1, 2009 paper.
- The 12-bed Kramer Center facility hearing on Thursday, January 29, 2009 was cancelled- because the operator has withdrawn its application. [In accordance with an email from Mr. Kiff to interested parties, this does not mean that the operator won’t seek reasonable accommodation.]
- An Ocean Recovery 6-bed rehabilitation facility is expected to receive a state ADP license shortly at 1217 West Bay Street. As a six bed licensed facility- the City has no power to reject its operations at this location.
- An unlicensed fourteen bed facility at 1129 West Balboa Boulevard is scheduled for abatement.
- Two Ocean Recovery facilities- the one discussed in this memorandum at 1115 West Balboa Boulevard (UP- 2008-030) and its facility at 1601 West Balboa Boulevard (UP- 2008-031) are set for hearing under the Ordinance on February 5<sup>th</sup>, 2009.

## **DISCUSSION**

### **Ocean Recovery Operations at 1115 W. Balboa Boulevard**

Ocean Recovery operates a residential care facility located at 1115 West Balboa Boulevard. There are two buildings at the project which house a total of 22 adult residents in a sober living environment.

The facility has been operating since the summer of 2004. Under the Ordinance Ocean Recovery applied for a Use Permit from the City for its activities.

There has been a substantial amount of evidence submitted proving Ocean Recovery's inability to meet the requirements necessary to receive a Use Permit.

Correspondence from nearby residents delivered to you (some but not all of which is attached to this document as Exhibit One) indicate that at the 1115 West Balboa site- Ocean Recovery:

- has eliminated all on-site parking, despite the fact that some of its residents and many of its regular visitors drive and park automobiles at the facility;
- constantly generates second-hand smoke at the facility which permeates the adjoining neighbors' properties;
- has clients at the facility regularly using inappropriate coarse, vulgar language full of curse words often within hearing range of young girls;
- accumulates dramatic amounts of trash which is stored without proper bagging directly below the open windows of neighbors' bedroom windows- causing odor and bug problems when it is warm;
- has not adequately supervised its clients. There is a reoccurring theme in the correspondences received of inappropriate behavior;
- does not adhere to the required "quiet time" from 10 pm to 8 am, and in violating this requirement, its clients use loud and crude language both late at night and very early in the morning;
- clients participate in the institutionalized weekend alcohol and drug rehabilitation gatherings on the beach at 15th street, just 50 feet away from children utilizing the playground; and
- is evidence of over the overconcentration of residential care facilities on the 1100 and 1200 blocks of West Balboa Boulevard.

Additional salient facts:

Ocean Recovery, despite having its operations begin in 2004 at 1115 West Balboa Boulevard in 2004, never applied for a Federal Exemption Permit under the law that existed prior to the Ordinance.

A petition signed by 120 neighborhood residents of the neighborhood expressing their position that there is an overconcentration of group residential facilities and that there are too many- too close to Newport Elementary school and the Use Permit for 1115 West Balboa Boulevard (as well as 1601 West Balboa Boulevard) should be denied. A copy of the petition is attached as Exhibit Two.

## ANALYSIS

In order to allow an existing *legally* operating group residential care facility to remain in operation, a Hearing Officer must find, following a noticed public hearing, that all four of the findings identified in NBMC §20.91.035 (A) and all seven of the findings identified in §20.91A.060 have been met.

Ocean Recovery is located at 1115 West Balboa Boulevard ("Use Location") in Newport Beach, California. It is a group residential care facility that is a state-licensed alcohol or drug residential treatment home for up to 22 persons (ADP License No. 300144BP). The Use Location is within the Nonstandard Subdivision Area as defined by the Ordinance.

Proximate to the Use Location are the following uses referred to in NBMC §20.91A.060 (D):

### Other Residential Care Facilities:

1. Within 122 feet: Balboa Horizons Recovery Services (11 bed licensed treatment facility located at 1132 West Balboa Boulevard, with an approved use permit), almost directly across the street from the Use Location.
2. Within 33 feet: 1129 West Balboa Boulevard (14 residents- unlicensed facility subject to abatement).
3. Within 400 feet: Newport Coast Recovery (29 bed licensed treatment facility located at 1216 West Balboa Boulevard, with a use permit denied by the Hearing Officer but with appeal anticipated).
4. Within 550 feet: Ocean Recovery- 6 bed license (being finalized) treatment facility located at 1217 West Bay.

### Schools and Child Care Facilities:

1. Within 700 feet: Newport Elementary School for students in grades Kindergarten through 5th grade at located 1327 West Balboa Boulevard.
2. Within 1175 feet: Christ Church's large (44 children capacity) state-licensed day care center located at 1400 West Balboa Boulevard).

### Outlets for Alcoholic Beverages:

1. Within 1650 feet: Outlet for alcoholic beverages is Fry's Market located at 115 E. 15th Street the American Legion Hall located at 215 W. 15th Street.
2. Within 1725 feet: Outlet for alcoholic beverages is the American Legion Hall located at 215 W. 15th Street.

In analyzing the circumstances of this Use Permit application and reviewing the project setting, supporting evidence to make the required findings of NBMC Sections 20.91.035 (A) and 20.91A.060 is simply not present. The required findings, and discussion regarding whether or not the finding can be made are as follows:

1. NBMC Section 20.91.035(A) Finding NO. 1: That the proposed location of the use is in accord with the objectives of this code and the purposes of the district in which the site is located.

The use is not in conformance with the requirements of this finding and this finding cannot be made for the following reasons:

This finding cannot be made because the use is not in accord with the objectives of NBMC Section 20.91A.010. One of the two stated purposes in the provisions of this section 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 the area."

The achievement of this purpose is compromised at the subject property location by the proximity of the surrounding uses. There is easy access to alcoholic beverages at two locations- three and a half blocks away. Due to the sober living objective of the project use, nearby commercial uses that either serve and/or sell alcoholic beverages is a concern.

Even more troubling is the degree of residential care facilities nearby. It rises to the level of institutionalization of the area. There are four other facilities less than a block length away. An 11 bed facility is directly across the street (1132 West Balboa Boulevard). Another 14 bed facility is one house away (1129 West Balboa Boulevard). A third 29 bed facility is a block away (1216 West Balboa Boulevard). Another 6 bed facility will be a little more than a block away (1217 West Bay). Including the Applicant- within less than 550 feet (less than calculable median block length of 617 feet in the area as will be discussed in greater detail below) there are currently five residential care facilities with a total of 82 beds). This is institutionalization.

2. NBMC Section 20.91.035(A) Finding NO.2: That the proposed location of the use permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

The use is not in conformance with the requirements of this finding and this finding cannot be made for the following reasons:

General Plan Policy LU 6.2.7 directs that the City regulate day care and residential care facilities to the maximum extent allowed by federal and state law so as to minimize impacts on residential neighborhoods. But based on the record provided- substantial

detriment to the public health, safety, peace, morals, comfort and welfare of persons has been demonstrated in the record presented especially in light of the fact that the facility is only a block and a half from the elementary school (700 feet).

During any particular time statistically there will be over five individuals who are continuing to abuse drugs at the Applicant's facility. Combined with the other four residential care facilities listed above there will statistically be at least twenty ongoing abusers of drugs within 700 feet or less of Newport Elementary School- every day. This is too many, too troubled people at such a sensitive location.

If Ocean Recovery's 1601 facility is included in the count (it is 1,000 feet from the elementary school), this number increases to nearly 25 ongoing abusers of drugs 1,000 feet or less from our elementary school- every day.

3. NBMC Section 20.91.035(A) Finding NO.3: That the proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.

The use is not in conformance with the requirements of this finding and this finding cannot be made because the facility does not comply with the requirements outlined below in Items NO.5, NO.6, NO.8, NO.9, and NO.11.

4. NBMC Section 20.91.035(A) Finding NO.4: If the use is proposed within a Residential District (Chapter 20.10) or in an area where residential uses are provided for in Planned Community Districts or Specific Plan Districts, the use is consistent with the purposes specified in Chapter 20.91A and conforms to all requirements of that Chapter.

This finding cannot be made because the use is not consistent with the purposes of Chapter 20.91A.

As stated earlier, one of the two stated purposes in the provisions of this section 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 the area."

There are simply so many residential rehabilitation facilities nearby that clearly there is institutionalization that needs to be mitigated. In addition there is alcoholic beverage accessibility too close to this facility.

5. NBMC Section 20.91A.060 Finding A: The use conforms to all of the following applicable provisions of Section 20.91A.050 (Development and Operational Standards). These development and operational standards are summarized as follows:

- a) No secondhand smoke can be detectable outside the property.
- b) Operations must comply with state and local law, the submitted management standards plan, including any modifications required by this Use Permit.
- c) A contact name and number be provided.
- d) No services requiring a license can be provided if the facility does not have a license for those services.
- e) There shall be no more than 2 persons per bedroom plus one additional resident, unless a greater occupancy is requested and granted. Occupancy must also comply with state licensing if applicable.
- f) If certification from an entity other than ADP's licensing program is available, applicants must get that certification.
- g) All individuals and entities involved in the facility's operation and ownership must be disclosed.
- h) No owner or manager shall have any demonstrated pattern of operating similar facilities in violation of the law.

There is substantial evidence in the record indicating that Development and Operational Standards Item (a) will not be met and therefore, this finding cannot be made because many residents of the City have provided testimony of the serious, unrelenting problem of second hand smoke at the facility. The applicant has not provided any reasonable basis for how it would avoid this problem at the facility.

6. NBMC Section 20.91A.060 Finding B: The project includes sufficient on-site parking for the use, and traffic and transportation impacts have been mitigated to a level of insignificance.

The use is not in conformance with the requirements of this finding and this finding can not be made for the following reasons:

The NBMC states that the required number of off-street parking and loading spaces for a residential care facility is one space per three beds. Based on the evidence provided, the project site provides *no* parking spaces in the garage at the rear of the building. The number of parking spaces provided do not meet requirements of the code. Based on the evidence provided by adjoining residents the complete elimination of parking spaces provided on-site by the Applicant, leaves it to meet the parking needs for the activities of the facility.

In addition the adjoining residents have provided evidence indicating that the facility vans provides transportation for residents are blocking the alley behind the facility.

7. NBMC Section 20.91A.060 Finding C: The property and existing structures are physically suited to accommodate the use.

The writer is unable to generate a conclusion on this finding at this time.

8. NBMC Section 20.91A.060 Finding D: The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood, such as creating an over concentration of residential care uses in the vicinity of the proposed use. In making this finding or sustaining such a finding, the Hearing Officer and/or City Council shall consider, as appropriate, the following factors:

- a. The proximity of the use location to schools, parks, other residential care facilities, outlets for alcoholic beverages and any other uses which could be affected by or affect the operation of the subject use; and
- b. The existence of substandard physical characteristics of the area in which the use is located such as lot widths, setbacks, narrow streets, limited available parking, short blocks, and other substandard characteristics which are pervasive in certain areas of the City of Newport Beach, including portions of West Newport, Lido Isle, Balboa Peninsula, Balboa Island, Corona Del Mar and Newport Heights, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Newport Beach Planning Commission on September 20, 2007 and on file with the Director of Planning; and
- c. Whether, in light of the factors applied in subsections 20.91A.D.1 and 0.2, it would be appropriate to apply the American Planning Association standard of permitting one or two such uses per block. Median block lengths in different areas of Newport Beach widely range from 300 feet in the Nonstandard Subdivision Areas to as much as 1,422 feet in standard subdivision areas. The average calculable block length in much of the standard subdivision areas is 711 feet and the calculable median block length is 617 feet. The Hearing Officer shall apply the American Planning Association standard in all areas of Newport Beach in a manner which eliminates the differences in block lengths. In making this determination, the Hearing Officer shall be guided by average or median block lengths in standard subdivisions of the City. The Hearing Officer shall retain the discretion to apply any degree of separation of uses, which he or she deems appropriate in any given case. A copy of the American Planning Association standard is on file with the Director of Planning.

The use is not in conformance with the requirements with Subsection 8a above and this finding cannot be made for the following reasons:

The subject property's location in relatively close proximity to commercial uses which sell and/or serve alcoholic beverages is not conducive to the facility's sober living objectives. At three-block and a half blocks of the subject property there are two alcohol sources- a restaurant/bar that sells alcohol, and a convenience store that sells alcohol.

Additionally the dramatic number of residential care facilities so close to an elementary school and a large day care facility is indicative of an overconcentration of these facilities and the institutionalization of an extremely sensitive area. The ongoing concerns of the

weekend mammoth drug and alcohol meetings beside the school playground are direct evidence of this overconcentration in precisely the wrong location for the City and its residents. The petition submitted by the surrounding residents of the elementary school speaks directly to this overconcentration at such a sensitive point.

In addition, if the Hearing Officer did determine to apply the American Planning Association Standard under Subsection 8c above, he should determine under the Standard that the Use Permit should be denied under the terms of the Standard. A detailed analysis of the Standard is attached as Exhibit Three. As the analysis notes, the Standard states that one or two "Group Homes" are acceptable per city block. But Applicant's Use Permit is not for a "Group Home" as defined under the Standard-- it is for a Halfway House. The Standard is clear that a higher degree of regulation and separation is warranted for such a use. Clearly, in light of the existence of a total of five facilities and 82 beds (if Applicants facility is included) within a distance shorter than a median block in the area the Standard is dramatically exceeded.

9. NBMC Section 20.91A.060 Finding E: The operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area.

The use is *not* in conformance with the requirements of this finding, subject to appropriate conditions. This finding can not be made because facility vans do park, load, and unload illegally in the alley blocking the flow of traffic, because there are no garages available onsite.

10. NBMC Section 20.91A.060 Finding F: Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.

The writer is unable to generate a conclusion on this finding at this time.

11. NBMC Section 20.91A.060 Finding G: Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.

The use is *not* in conformance with the requirements of this finding. This finding can not be made because there has been credible evidence presented that trash in excess of usual residential collection is present but *no* commercial trash collection occurs at the facility.

#### **APPLICANT UNQUALIFIED TO MAKE PERMIT APPLICATION**

In any event, Ocean Recover is not qualified to apply for and receive a Use Permit under NBMC Section 20.62.030 (Determination of Nonconformity). Subsection B of NBMC

Section 20.62.030 provides that a use that was lawfully established under the laws in place at the time, but that no longer conforms with the use regulations or required conditions for the district in which it was located because of a subsequent Code amendment, shall be deemed to be a nonconforming use.

However, "A use shall not be considered to have been "lawfully established and maintained" and is an illegal use if it was established *or operated without required permits* (emphasis added) and licenses, including but not limited to permits and licenses required by any federal, state, or local agency".

When the applicant applied for licensure with ADP in 2004, it applied for a license to house and treat more than six clients onsite. Commencing or continuing operations as a use then characterized as "Residential Care, General" by the City of Newport Beach required an FEP under the Zoning Code in effect at that time. As was noted by the City Staff in its Attachment C to the January 22, 2008 Submittal to the City Council seeking the adoption of Ordinance No. 2008-5- Summary of Comments (page one of six)- Denys Oberman is attributed as stating: "Existing uses need to be legally compliant." The Response from City Staff was: "Agreed, generally. Existing uses that have violated the Moratorium or did not apply for an FEP yet should have are ineligible to receive a Use Permit."

These are the circumstances that Ocean Recovery finds itself in and therefore its non-conforming use should simply be abated.

#### **ANALYSIS SUMMARY**

As indicated at the beginning of this memorandum, denial of the Use Permit request of Ocean Recovery at 1115 West Balboa Boulevard should occur for the following reasons:

1. Inability to make all of the findings required by the NBMC Sections 20.91.035 (A) and 20.91A.060.
2. The proposed use is not consistent with the purposes of NBMC Section 20.91A as set forth in Section 20.91A.010, and the requirements of Section 20.91.020.
3. Failure of Applicant to be a legally operating residential care facility at the time of applying for a Use Permit under the Ordinance.

Thank you for your attention to this matter.



Larry Mathena

## **EXHIBITS**

1. Newport Beach Residents Correspondences
2. Newport Beach Residents Petition
3. American Planning Association Standard Analysis



**From:** kim flores  
**To:** [DKiff@city.newport-beach.ca.us](mailto:DKiff@city.newport-beach.ca.us)  
**Cc:** paul lopez ; Colleen Darling  
**Sent:** Monday, January 26, 2009 9:13 AM  
**Subject:** neighborhood letter

Hello Dave,

My name is Kim Flores and I rent the back house at 1113 1/2 West Balboa Blvd. I am writing this letter because I believe the permit of the Ocean Recovery Center should be denied. I have lived at this residence with my family for almost 5 years. Since the facility has moved in, there have been many problems with the recovery house.

I have 2 young daughters, they are 16 and 12 years old. Many times my children have been out in the yard playing or just relaxing out there and the men have looked over the wall and tried to talk to them, even striking up a conversation with them. They have done this with me too. To me this is unacceptable. I don't know what these men have done to be in this recovery center but the last thing I need is for them to be friends with my family.

Trash day is Monday morning and it never fails how they like to take their trash cans out at 10:30pm Sunday night. This wakes up our entire family, especially in the summer time when we keep all our windows open. Their trash is so bad and over stacked that in the summer time the flies from the trash have become such a nuisance. We have such a bad problem with flies over the summer that we have to buy fly spray and spray our house on a daily basis and keep about 3 fly trap bags in our yard. Every Thursday night they have a BBQ at the facility and about 20-30 people attend. It gets very loud and we have to deal with this on a weekly basis. They are constantly smoking and cussing outside of their facility in the patio area. We have found many cigarette buds in our yard and nobody in my family smokes or in the front house. There have been many times that a recovery patient plays an instrument that he will constantly play it during the day or at night. The guitar playing and bongos can be very annoying. Also, they constantly open and slam their screen doors throughout the day.

I noticed when the facility first opened up the parking situation had gotten worse. I know that they use their garage for their meetings and never use it for parking. This is just another problem we have with it being a recovery center and having too many people living there. We never had any issues when it was just rented out to tenants. Too many of these facilities are being allowed to come in and reside here. They are close to our schools and families. I pay a lot of rent to live here at the beach and I never planned on living next to a recovery center. I could move to another house and trust me I have looked at other places. There are so many recovery centers down here, no matter where I move they would still be a few doors away from me. I never thought Newport Beach would be a place where recovery centers would even exist. Please take this into consideration when you decide on the renewal permit of the Ocean Recovery Center at 1115 West Balboa Blvd.

Thank you,  
Kim Flores  
1113 1/2 West Balboa Blvd.  
Newport Beach, Ca 92661  
949.673.1564

**From:** Colleen Darling  
**Sent:** Tuesday, January 13, 2009 11:32 AM  
**To:** '[dkiff@city.newport-beach.ca.us](mailto:dkiff@city.newport-beach.ca.us)'  
**Cc:** '[p.lopez@adelphia.net](mailto:p.lopez@adelphia.net)'  
**Subject:** Property at 1115 West Balboa Blvd.

Hi Dave,

My name is Colleen Darling and I am the owner of record for the property at 1113 and 1113 ½ W. Balboa Blvd.

I understand there is a hearing coming up regarding a permit issuance for the rehab facility at 1115 West Balboa Boulevard. I would like to speak up in opposition of this.

I spent 6 months at my property, in the spring and summer of 2008, updating the house and living in it after a long term tenant moved out in March. I would like to share with you what I experienced firsthand.

The hours stated for quiet time of 10 pm to 8 am are not, in my experience, followed. I have personally gone to the fence after 10:30 pm and asked them to quiet down many times. They congregate out in the patio area and talk but this is right next to our house. They can get loud and keep our children and ourselves awake when we are trying to sleep. They were always respectful but I didn't think I should have to ask them to quiet down. The on site manager would typically come down and apologize but, it's his job to make sure the 10PM-8AM ordinance is in effect. Why isn't he doing it up front?

The residents would then go to their rooms with the doors and windows open. Their televisions were blaring so loud that we had to keep our windows shut to get some sleep. In the summertime, it's not ideal.

The clients of the recovery house are up at 6am outside their rooms, talking with little or no regard to the hour of the day. They congregate outside in the patio area at the tables and smoke. They talk about what they are doing that day and believe me again, everyone can hear their conversations (good and bad language).

Another issue is second hand smoke. Many of the men (it is an all male facility by our observation) over there were smokers. It is disgusting to be near that much smoke. It can get so annoying that we will not let our children in the backyard to play. We did not enjoy the backyard dining area as it too is affected by the secondhand smoke.

Regarding the smoking, I know there are laws set up for commercial spaces. There should be regulations that with the number of people occupying such a small space, that they must provide smokeless ash trays, high fences to block the smoke and or some type of odor absorbing green shrubbery to help out. The regulations should also address the trash generated from the cigarette butts. Cigars are worse and at times, there are men there smoking them.

Parking in front of my own house was interesting. I bought a permit to help out. I know there is a garage out back since it used to be an apartment house. I don't think it was used for parking

though. Parking in this area of Newport is already crowded. This group has used the garage space of this apartment house for a meeting room. This means that cars that could be parked in the garage are now taking up space in front of our house. This is just another negative impact of having this group next door.

Now I have tenants in both houses next to 1115 W. Balboa property. Neither tenant uses the yard very much because of the facility next door (noise, smoke, strangers). Do you know I have to tell people before I rent that house that it's a recovery house of some sort? Not a good opener for bringing someone into the area is it. Having a "recovery house" right next door makes it much more difficult to rent. Potential renters are very concerned about the type of person that is over there. We know they cycle through and so there are new men there every few weeks or so. It is very unsettling .

Dave, I have owned this property for over ten years. I remember the apartment building being filled with great people, one of them being Paul Lopez. Please help us put it back to way it was in Newport. Bring the community back to a place that people can live and families can grow up comfortably. Nobody wants a recovery house next to them and I'm sure many would be as uncomfortable as I am to communicate with the some of the people next door. We want it back to where we could barbeque together, go and enjoy the beach and boat parade together and be proud of our block. We pay a lot of money to the city for taxes and should be able to enjoy our home.

I will see you at the meeting. Thank you for your time and consideration.

Colleen Darling  
1161 Letty Lane  
Tustin, CA 92780  
714-263-6998 P  
714-730-5163 F  
310-528-1174 C

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

**From:** Jillian Visser  
**To:** [dkiff@city.newport-beach.ca.us](mailto:dkiff@city.newport-beach.ca.us)  
**Sent:** Monday, January 19, 2009 9:32 AM  
**Subject:** Letter for Mr. David Kiff

Dear Mr. Kiff,

We are concerned residents who live at 1100 W. Oceanfront on the Balboa Peninsula. We are writing to you to respectfully make our concerns known.

My wife and I have four children, ages 17-25 and a two-year-old granddaughter. We love and cherish the time our family is able to spend together at our beach home in Newport. Our prime location between the two piers was originally ideal to us as it was quiet, safe, and surrounded by wonderful families, neighbors, and other small children.

We are strongly concerned about the local neighborhood sobriety living facilities. The disturbing foul language, smell of cigarette smoke, police visits, and late night brawls on the sidewalk next to our home have made me troubled about the safety of my family.

Of course, we are supportive of individuals seeking to turn away from alcohol and other substance abuse problems....but our residential neighborhood is certainly **NOT** the place.

We are aware that two of these facilities are within 300 feet of our residence. I am writing to you asking for your help, for the safety of my family and neighbors, and to restore the peace of our neighborhood.

Best regards,

John Visser

1100 West Oceanfront

Newport Beach, CA 92661

[visserranch@aol.com](mailto:visserranch@aol.com)

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

From: mathenaesq@aol.com

To: DKiff@city.newport-beach.ca.us

Sent: Sat, 31 Jan 2009 3:27 pm

Subject: Ocean Recovery Hearings For February 5th, 2008

Dear Mr. Kiff:

Here is my personal letter to the Hearing Officer regarding the circumstances that I have lived with- between two rehabilitation facilities and my personal objection to the Ocean Recovery petition for a permit at 1115 W. Balboa Boulevard as well as at 1601 W. Balboa Boulevard.

Being surrounded on either side by rehab facilities for four years has been difficult. Everyone living in my home has been detrimentally affected by these facilities.

My children on the ground floor do not open their windows, even in Summer because the cigarette smoke is too great from both facilities. Each member of my family has had multiple run-ins with residents of the facilities.

I have found beer at left at the back of our building left hidden by a resident of 1115 W. Balboa so he could go get the beer after some function at the facility. I have had confrontations with rehab residents claiming that people in my house have threatened their dog. I have been sworn at, stared at and generally made to feel unwelcome at my own home. My wife will no longer sit on our patio deck because it is adjacent to 1115 and the residents stare at her when she sits there. They never close their blinds.

I have had operators of facilities tell me to tell them if there are any problems- but the problem is there are always problems. I feel as though they are requiring me to be unpaid staff for the operators to supervise their troubled clients. There is a constant turnover of typically young men with serious problems who seem to spend a substantial amount of time doing nothing more than hanging around. Their language is offensive and disturbing. They play music and instruments late at night. Most of them seem to smoke relentlessly. They constantly litter with their cigarette butts. Some are truly troubled. One of them residing at 1115 W. Balboa Boulevard assaulted one of my daughters and only backed off when my wife threatened to call the police. The manager of the facility was apologetic. The facility was smart enough to remove this disturbed individual from the facility. But there is a constant turnover at these facilities and there will be more seriously disturbed individual's right next door to me and my family in the future.

There are times, when conditions are right- particularly on Thursday nights at around 7pm that the smoke from the 1115 W. Balboa facility funnels down their

back walkway and to my front door so that the air at my front door and my neighbor's front door reeks of cigarette smoke.

I have also seen the disturbing scene of a driver of the van of the 1115 West Balboa facility (presumably someone done with treatment?) smash into the back of a car and then run out of the van and hide in the facility.

Additionally the 1115 West Balboa facility has permanently eliminated its onsite parking. I put tape down on the edge of their garage doors and none of it has been disturbed since I put it down prior to Christmas. There are parking issues- particularly in Summer as a result of this lost parking. There are often twenty plus people coming to their Thursday events. Clearly they are not parking on site.

The City review process seems to put some weight on the number of police calls at a facility. The police are not called because the police do n't do anything. They have no power to do anything. We had a circumstance where a cigarette ash tray receptacle caught fire at a facility and was spewing toxic fumes into our home. The fire department was called. We were told by the fire department that it was inappropriate for us to call them for such a small fire.

Fortunately the 1115 West Balboa facility was only established itself after my children were at least 16. If my children were much younger I would have felt compelled to move. How a facility like this can be allowed a short block and a half from Newport Elementary School- is simply unforgiveable.

Both of the Ocean Recovery facilities use permits should be denied. I will provide a separate legal analysis explaining why many of the requirements that must be met to receive a use permit can not be met by Ocean Recovery.

Larry Mathena  
949 265 2018

**From:** Ronel Mathena [mailto:ronelis@pacbell.net]  
**Sent:** Monday, February 02, 2009 10:42 AM  
**To:** DKiff@city.newport-beach.ca.us  
**Subject:** Ocean Recovery Use Permit Application UP 2008 30 and 31

Mr. Kiff:

I cant begin to explain to you how awful it is to have rehab facilities on either side of my home at 1125 W. Balboa Boulevard. I keep the windows on the first two stories closed all year (even in Summer)- all the time to avoid the cigarette smoke, offensive language and noise of the 1115 W. Balboa house. I wont sit on my patio deck across from the Ocean Recovery home. The residents stare at me. They never close their blinds.

The staff at Ocean Recovery sound helpful. But even the staff have issues. I believe they are addicts too. I saw a driver of Ocean Recovery smash into a parked car in front of the 1115 West Balboa and run screaming into the building. There are serious parking problems on our block because 1115 West Balboa has closed its garage parking in total.

The residents wander around the neighborhood unsupervised all the time. There is constant turnover at the home. There is always a brand new set of troubled young men. Some are truly scary. One Ocean Recovery resident directly threatened my daughter. I ran up to him in front of 1115 W. Balboa Boulevard and got him to back off by screaming at him that I would call the cops. The staff said they were sorry and the person disappeared. But what about the next one?

I called the fire department when an ashtray caught fire at a rehab. Smoke was entering my home. I was directly told by a senior fireman that it was wrong that I called them for such a small fire. I shouldnt have to feel like a prisoner within my own home. I shouldnt have to feel that the City will do nothing about these halfway homes. I shouldnt have to feel at risk. I shouldnt have to

bear cigarette smoke, litter, and foul language.

Please reject Ocean Recoverys use permit at 1115 West Balboa Boulevard and 1601 West Balboa Boulevard.

Thank you,

Ronel Mathena  
949-566-0107

**Brown, Janet**

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**From:** Kiff, Dave  
**Sent:** Monday, December 08, 2008 9:56 AM  
**To:** 'Tom Allen'; Brown, Janet  
**Subject:** FW: Group Residential Use Permits up for review

FYI

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**From:** Laurie McKenzie [mailto:mcktalk@mac.com]  
**Sent:** Monday, December 08, 2008 9:55 AM  
**To:** Kiff, Dave  
**Cc:** Henn, Michael  
**Subject:** Group Residential Use Permits up for review

Dear Dave,

Regarding the applications for group recovery homes on the Balboa Peninsula, specifically those in the 1100 and 1200 blocks of West Balboa Blvd.:

As 32 year residents of Newport Beach, specifically the Balboa Peninsula at 11th and 12th Streets, we would like to voice our concerns.

1. The over-concentration of these homes in this residential area will continue to hurt our home values and it changes the neighborhood feel.
2. These 'recovery homes' are for profit businesses. They add a burden on the city's trash services, traffic, security, parking, as well as added noise and air pollution.
3. The homes in this area under review have more than 6 beds and need to be strictly regulated.
4. A vast number of these group homes are owned and operated by a handful of for profit businesses. These businesses need to be regulated by density of their facilities within a given area to avoid over-concentration.

We urge the City of Newport Beach to continue its efforts in making this City one of the finest in the country. We hope that you put the citizens and local taxpayers interests and needs at the forefront, as you review and regulate these Residential Care Facilities so that their density and proliferation will not negatively affect this wonderful beach community.

Sincerely,

Terry and Laurie McKenzie  
1151 W. Balboa Blvd.  
Balboa Peninsula, CA 92661  
949-673-2379

**EXHIBIT TWO**

**NEWPORT BEACH RESIDENTS PETITION**

February 5, 2009

To: Thomas W. Allen, Hearing Officer  
David Kiff, Assistant City Manager

Subject: Petition Opposing the Ocean Recovery Facility Group Residential Use Permit  
For 1115 W. Balboa and 1601 W. Balboa Blvd.

Dear Mr. Allen and Mr. Kiff,

Attached please find a petition that has been signed by 118 local residents who are strongly opposing the issuance of Residential Use Permits for both 1115 W. Balboa Blvd. and 1601 W. Balboa Blvd. These local Newport Beach and peninsula residents are requesting that the City deny the approval of these Ocean Recovery facilities on the following grounds:

- **The two business locations- are less than 1,000 feet away from Newport Elementary School and its adjacent playgrounds, and are incompatible with surrounding uses, public health & safety.**
- **Neighbors have experienced repeated nuisance problems for over 5 years: smoking (second hand smoke and butts); litter; loud noise and profanity; loitering; and confrontational incidents.**
- **The business operations provide an undue burden on parking and traffic. At the 1115 facility, all onsite parking has been eliminated.**
- **The operation of the business precludes neighbors and families with children frequenting the area to have a safe, healthy and peaceful environment.**
- **There is an overconcentration of facilities- with a City approved facility at 1132 W. Balboa; a facility that is expected to appeal the City's denial of its permit request at 1216 W. Balboa; two more facilities that face abatement under City regulations at 1129 and 1111 W. Balboa Boulevard; and another one in licensing at 1217 West Bay- that the City can not abate- there are simply too many facilities too close to the school and the playgrounds.**

I also know that several residents have elected to voice their opposition to these applications through writing letters and or sending their petition signatures directly to Dave Kiff. I am aware of a least nine letters that have been sent or are being sent to the attention of Dave. I have copies of each and trust that you both do also. Additionally, please note that these signatures and letters have been generated by the following individuals:

- 1) Approximately 30 signatures on the petition are from parents/families of children attending Newport Elementary; over 70 of the signatures are from residents within 3 blocks of the 1115 W. Balboa facility.
- 2) Includes signatures and/ or letters of all neighbors abutting directly to the north, south, and west side of the 1115 facility, including owners and renters.

I trust that the City will take into consideration this overwhelming opposition to the Group Residential Use Permits for the Ocean Recovery facilities at 1115 and 1601 W. Balboa Blvd. We strongly urge the City to reject these applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Lopez", written over the word "Sincerely,".

Paul A. Lopez  
1125 ½ W. Balboa Blvd.  
Newport Beach, CA 92661  
949-673-0489

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

We, the undersigned do hereby petition the City of Newport Beach to deny a Conditional Use Permit and urge the City to immediately abate the business: Ocean Recovery, operating at 1115 W. Balboa Boulevard and at 1601 W. Balboa Boulevard, based on the following:

- The two business locations- are less than 1,000 feet away from Newport Elementary School and its adjacent playgrounds, and are incompatible with surrounding uses, public health & safety.
- Neighbors have experienced repeated nuisance problems for over 5 years: smoking (second hand smoke and butts); litter; loud noise and profanity; loitering; and confrontational incidents.
- The business operations provide an undue burden on parking and traffic. At the 1115 facility, all onsite parking has been eliminated.
- The operation of the business precludes neighbors and families with children frequenting the area to have a safe, healthy and peaceful environment.
- There is an overconcentration of facilities- with a City approved facility at 1132 W. Balboa; a facility that is expected to appeal the City's denial of its permit request at 1216 W. Balboa; two more facilities that face abatement under City regulations at 1129 and 1111 W. Balboa Boulevard; and another one in licensing at 1217 West Bay- that the City can not abate- there are simply too many facilities too close to the school and playgrounds.

<p>Name <u>[Signature]</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>106 1/2 9TH ST</u> <u>NEWPORT BEACH, CA 92661</u></p>	<p>Name <u>Shannon Wadsworth</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>417 Belvue Lane</u> <u>NB, CA 92661</u></p>
<p>Name <u>Eric F Ogden</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>106 1/2 9th St</u> <u>Balboa, Ca 92661</u></p>	<p>Name <u>Nicole 200</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>NB CA 92661</u></p>
<p>Name <u>EMILY P. OGDEN</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>106 1/2 9th St</u> <u>Balboa, Ca 92661</u></p>	<p>Name <u>Celine Dasset</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>1305 E BALBOA BLVD</u></p>
<p>Name <u>MARI JUDGE</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>823 W. Balboa Blvd</u> <u>Newport Bch 92661</u></p>	<p>Name <u>Pat McMillan</u></p> <p>Signature <u>[Signature]</u></p> <p>Address <u>900 W. Ocean Front</u> <u>N.B. 92661</u></p>

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

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Name <u>Tom Keyday Jr</u> Signature <u>[Signature]</u> Address <u>908 W Oceanfront</u>	Name <u>Becky Schiller</u> Signature <u>[Signature]</u> Address <u>942 W Oceanfront</u> <u>NB 92661</u>
Name <u>JOSH EVANS</u> Signature <u>[Signature]</u> Address <u>913 W. BALBOA</u>	Name <u>Ann Smith</u> Signature <u>[Signature]</u> Address <u>1133 E. Balboa</u> <u>N.B.</u>
Name <u>Alan Haklerman</u> Signature <u>[Signature]</u> Address <u>813 1/2 W. Balboa Blvd</u>	Name <u>John Keyday</u> Signature <u>[Signature]</u> Address <u>908 W ocean front</u>
Name <u>Stoetram</u> Signature <u>[Signature]</u> Address <u>901 W. Balboa Blvd</u>	Name <u>Cindy Powell</u> Signature <u>[Signature]</u> Address <u>916 W. Ocean Front</u> <u>NB 92661</u>

**January, 2009 – PETITION TO DENY CONDITIONAL USE PERMIT & IMMEDIATELY ABATE RESIDENTIAL DRUG and ALCOHOL TREATMENT BUSINESS- OCEAN RECOVERY, LOCATED AT: 1115 W. Balboa Blvd. and 1601 W. Balboa Boulevard**

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Name <u>Joan Fimiano</u> Signature <u>Joan Fimiano</u> Address <u>820 West</u> <u>Oceanfront NB</u>	Name _____ Signature _____ Address _____
Name <u>Andy Fimiano</u> Signature <u>Andy Fimiano</u> Address <u>820 West</u> <u>Oceanfront NB</u>	Name _____ Signature _____ Address _____
Name <u>Greg Boston</u> Signature <u>Greg Boston</u> Address <u>916 W. Ocean</u> <u>NB 92661</u>	Name _____ Signature _____ Address _____
Name _____ Signature _____ Address _____	Name _____ Signature _____ Address _____

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Name <u>MARCO BACICH</u> Signature <u>[Signature]</u> Address <u>1100 E. BALBOA BL.</u> <u>NEWPORT BEACH CA 92661</u>	Name <u>MR. MRS Bensch</u> Signature <u>[Signature]</u> Address <u>3435 Ocean View</u> <u>Newport Beach CA</u>
Name <u>JAN-ERIK PALM</u> Signature <u>[Signature]</u> Address <u>1104 W. Bay Ave.</u> <u>N.B. ca 92661</u>	Name <u>Howard Alley</u> Signature <u>[Signature]</u> Address <u>1406 W. Ocean Front</u>
Name <u>DIANE PALM</u> Signature <u>[Signature]</u> Address <u>1104 W Bay Ave</u> <u>NB 92661 Diane Palm</u>	Name <u>Therese Olson</u> Signature <u>[Signature]</u> Address <u>1526 W. Ocean front Dr</u> <u>Newport Beach CA 92663</u>
Name <u>Michael S. Kendall</u> Signature <u>[Signature]</u> Address <u>107 14th St, Newport Beach</u>	Name <u>Cliff Rusin</u> Signature <u>[Signature]</u> Address <u>1526 W. Ocean front</u> <u>Newport Beach CA 92663</u>

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Name <u>Steve Moore</u> Signature <u>Steve Moore</u> Address <u>1706 W Oceanfront</u>	Name <u>Jodi Datt</u> Signature <u>Jodi Datt</u> Address <u>1710 W. Oceanfront</u> <u>Newport Beach, Ca 92663</u>
Name <u>MURIEL M. WEINER</u> Signature <u>Muriel M. Weiner</u> Address <u>1608 W. OCEAN FRONT</u> <u>NEWPORT BEACH, CA 92663</u>	Name <u>PETER ANDERSON MD</u> Signature <u>Peter Anderson</u> Address <u>1610 WEST OCEANFRONT</u> <u>NEWPORT BEACH, CALIF 92663</u>
Name <u>ORIAN T. PFEIFFER</u> Signature <u>Orian Pfeiffer</u> Address <u>108 18th St</u> <u>Newport Beach, CA</u>	Name <u>Susan Anderson</u> Signature <u>Susan Anderson</u> Address <u>1610 W. Oceanfront</u> <u>Newport Beach 92663</u>
Name <u>Ruth Gerber</u> Signature <u>Ruth Gerber</u> Address <u>1708 W Oceanfront</u>	Name <u>Pam Basich</u> Signature <u>PAM BASICH</u> Address <u>1100 E Balboa Blvd</u> <u>Newport Beach, Ca 92661</u>

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Name <u>DAVID FOLLETT</u> Signature <u>David B. Follett</u> Address <u>306 ISLAND AVE</u> <u>NEWPORT BEACH CA 92661</u>	Name <u>Judith L. Youno</u> Signature <u>Judith L. Young</u> Address <u>306 Island Avenue</u> <u>Newport Beach 92661</u>
Name <u>TOM CARRETT</u> Signature <u>T. Carrett</u> Address <u>1032 W. Oceanfront</u> <u>N.B. 92661</u>	Name <u>Glen Guardia</u> Signature <u>Glen Guardia</u> Address <u>840 Irvine Ave</u> <u>NB CA 92663</u>
Name <u>Fred Levine</u> Signature <u>[Signature]</u> Address <u>1408 west oceanfront</u> <u>UPB CA</u>	Name <u>ED DILLON</u> Signature <u>Edwin Dillon</u> Address <u>1770 W BALBOA BL #4E</u>
Name <u>James R Cantwell</u> Signature <u>James R Cantwell</u> Address <u>1511 W. BALBOA</u>	Name <u>Gail M. LaBass</u> Signature <u>Gail M. La Bass</u> Address <u>1521 W. Balboa Blvd</u>

**CONCERNED FAMILIES - PETITION TO DENY CONDITIONAL USE PERMIT  
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Name <u>MARILYN BENEDICT</u>	Name <u>Mike Saltman</u>
Signature <u>Marilyn Benedict</u>	Signature <u>Mike Saltman</u>
Address <u>11812 Opal Ave Balboa Isl, Ca 92662</u>	Address <u>1216 W. Oceanfront NB 92661</u>
Name <u>Dickie Spanglers</u>	Name <u>Sonya Saltman</u>
Signature <u>Dickie Spanglers</u>	Signature <u>Sonya Saltman</u>
Address <u>3264 Marine Ave Newport Beach CA 92662</u>	Address <u>1216 W. Oceanfront Newport 92661</u>
Name <u>Sandy Christopherson</u>	Name <u>Ben Younglove</u>
Signature <u>Sandy Christopherson</u>	Signature <u>Ben Younglove</u>
Address <u>P.O. Box 5156 Balboa Is, CA 92662</u>	Address <u>1212 W. Oceanfront Newport Beach 92661</u>
Name <u>David E. Sherbeck</u>	Name _____
Signature <u>David E. Sherbeck</u>	Signature _____
Address <u>1210 W. Oceanfront, NB 92661</u>	Address _____

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Name <u>Elliott Brown</u> Signature <u>[Signature]</u> Address <u>1607 W Balboa</u> <u>Newport Beach, CA 92663</u>	Name _____ Signature _____ Address _____
Name <u>Rob Meinhardt</u> Signature <u>[Signature]</u> Address <u>1613 W Balboa</u> <u>N.B CA 92663</u>	Name _____ Signature _____ Address _____
Name <u>Jerome H Thompson</u> Signature <u>[Signature]</u> Address <u>1612 W. Ocean Front</u>	Name _____ Signature _____ Address _____
Name <u>Bonny L Thompson</u> Signature <u>[Signature]</u> Address <u>1612 W. Ocean Front</u>	Name _____ Signature _____ Address _____

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Name <u>Tamara McKennon</u> Signature <u>Tamara McKennon</u> Address <u>1212 W. Balboa Blvd</u> <u>Newport Beach 92661</u>	Name <u>Le Applebar</u> Signature <u>Le Applebar</u> Address <u>121 29th</u> <u>Newport Beach</u>
Name <u>Barbara Ray</u> Signature <u>Barbara Ray</u> Address <u>1806 BW OCEAN FRONT</u> <u>N.D.</u>	Name <u>ED VANDER BOSSCHE</u> Signature <u>Ed Vander Bossche</u> Address <u>121 40th ST. NPS92663</u>
Name <u>Charles H. Grier</u> Signature <u>Charles H. Grier</u> Address <u>645 Via Lido Road</u> <u>Newport Beach, CA 92663</u>	Name <u>James J. McKennon</u> Signature <u>James J. McKennon</u> Address <u>1930 Port Dunleigh</u> <u>Newport Beach, Ca. 92660</u>
Name <u>DREW WETHERHOLT</u> Signature <u>Drew Wetherholt</u> Address <u>217 30th ST. NEWPORT 92663</u>	Name <u>NORMA R. LARZELERE</u> Signature <u>Norma R. Larzelere</u> Address <u>917 W. Bay Ave, Balboa, Ca. 92661</u>

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Name <u>DENISE LOPEZ</u> Signature <u>[Signature]</u> Address <u>1125 1/2 W. BALBOA BLVD.</u> <u>NEWPORT BEACH, CA 92661</u>	Name <u>LAURE MCKENNA</u> Signature <u>[Signature]</u> Address <u>1151 W. BALBOA</u> <u>NB CA 92661</u>
Name <u>PAUL LOPEZ</u> Signature <u>[Signature]</u> Address <u>1125 1/2 W. BALBOA BLVD.</u> <u>NEWPORT BEACH, CA 92661</u>	Name <u>JAMES JENSEN</u> Signature <u>[Signature]</u> Address <u>1136 W OCEAN FRONT</u> <u>NB CA 92661</u>
Name <u>Ana Saba</u> Signature <u>[Signature]</u> Address <u>108 11th St.</u> <u>NB 92661</u>	Name <u>MIKE FLYNN</u> Signature <u>[Signature]</u> Address <u>107 12th St.</u> <u>Newport Beach CA.</u>
Name <u>GERALD W SABA</u> Signature <u>[Signature]</u> Address <u>108 11th St.</u>	Name <u>ROBERT WILHELM</u> Signature <u>[Signature]</u> Address <u>1636 W. Oceanfront N.B.</u>

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Name <u>LARRY MATHEWA</u> Signature <u>[Signature]</u> Address <u>1125 W. BALBOA BLVD</u> <u>Newport Beach CA 92661</u>	Name <u>LOREL MATHEWA</u> Signature <u>Rorel Mathe</u> Address <u>1125 W. BALBOA BLVD</u> <u>Newport Beach CA 92661</u>
Name <u>LOREL MATHEWA</u> Signature <u>[Signature]</u> Address <u>1125 W. BALBOA BLVD</u> <u>Newport Beach CA 92661</u>	Name <u>ROD CANADA</u> Signature <u>[Signature]</u> Address <u>828 W OCEANFRONT</u> <u>NEWPORT BEACH CA 92661</u>
Name <u>[Signature]</u> Signature _____ Address _____	Name <u>Laura Keane</u> Signature <u>Laura Keane</u> Address <u>808 W Oceanfront</u> <u>Newport Beach, CA 92661</u>
Name <u>DEBRA CANADA</u> Signature <u>Debra L. Canada</u> Address <u>828 W. Oceanfront</u> <u>Newport Beach 92661</u>	Name <u>ROBYN KEANE</u> Signature <u>[Signature]</u> Address <u>808 W. OCEANFRONT, N.B.</u>

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Name <u>Julie McBride</u>	Name <u>Laura Hamilton</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>
Address <u>1200 W. Balboa Blvd #C</u> <u>Newport Beach, CA 92661</u>	Address <u>1223 West Bay Ave</u> <u>NB, Ca 92661</u>
Name <u>Todd McBride</u>	Name <u>Dolly Shaw</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>
Address <u>1200 W. Balboa Blvd #C</u> <u>Newport Beach CA 92661</u>	Address <u>1150 W. Balboa Blvd</u> <u>Newport Beach 92661</u>
Name <u>John ZAKANY</u>	Name <u>Pat Botwinich</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>
Address <u>1127 W BAY AVE</u> <u>NEWPORT BEACH CA 92661</u>	Address <u>1201 W Balboa Blvd</u> <u>Newport Beach CA 92661</u>
Name <u>Susan E. Khorouzan</u>	Name <u>Teneille Scott</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>
Address <u>1127 W. Bay Ave</u> <u>Npt. Beach, CA 92661</u>	Address <u>1125 West Balboa</u> <u>Newport Beach</u>

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Name <u>TOM TECHENTIN</u> Signature <u>Thomas L. Techentin</u> Address <u>1136 West Ocean Front</u> <u>Newport Beach 92661</u>	Name _____ Signature _____ Address _____
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Name <u>Jim Fisher</u> Signature <u>[Signature]</u> Address <u>1115 W. Balboa Blvd</u> <u>Balboa, Ca</u>	Name <u>Kim Flores</u> Signature <u>[Signature]</u> Address <u>1113 1/2 W. Balboa Blvd.</u>
Name <u>Jane Taylor</u> Signature <u>[Signature]</u> Address <u>90 W. Balboa Blvd.</u> <u>Newport Beach, CA 92661</u>	Name <u>[Signature]</u> Signature <u>[Signature]</u> Address <u>1150 W. Balboa</u> <u>CA 92661</u>
Name <u>Melinda Avakian</u> Signature <u>Melinda Avakian</u> Address <u>1106 W. Grandcourt</u> <u>Newport Beach, CA 92661</u>	Name <u>[Signature]</u> Signature <u>BARBARA SNOW</u> Address <u>1601 W. Bay</u> <u>N.B.</u>
Name <u>Frankie Flores</u> Signature <u>[Signature]</u> Address <u>1113 1/2 W Balboa Blvd.</u>	Name _____ Signature _____ Address _____

*Recd.*

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Name <u>Tom Techenin</u>	Name _____
Signature <u>[Signature]</u>	Signature _____
Address <u>136 West Ocean Front Newport Beach 92661 DUPLICATE</u>	Address _____
Name <u>John Van</u>	Name _____
Signature <u>[Signature]</u>	Signature _____
Address <u>1141 W. Balboa Blvd Newport Beach 92661</u>	Address _____
Name _____	Name _____
Signature _____	Signature _____
Address _____	Address _____
Name _____	Name _____
Signature _____	Signature _____
Address _____	Address _____

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Name <u>Richard a Riddle</u> Signature <u>RICHARD A. RIDDE</u> Address <u>1124 West Oceanfront Blvd</u> <u>Newport Beach, Ca</u>	Name _____ Signature _____ Address _____
Name <u>Nancy R. Riddle</u> Signature <u>Nancy R. Riddle</u> Address <u>1124 West Ocean Front</u> <u>Newport Beach, Ca</u> <sup>Bld</sup>	Name _____ Signature _____ Address _____
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Name <u>Andrew C Edwards</u> Signature <u><i>Andrew C Edwards</i></u> Address <u>1128 N Oceanfront</u> <u>Newport Beach CA 928</u>	Name _____ Signature _____ Address _____
Name _____ Signature _____ Address _____	Name _____ Signature _____ Address _____
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Name <u>Tom Taylor</u> Signature <u>[Signature]</u> Address <u>901 W. BALBOA BLVD</u> <u>Newport Beach 92661</u>	Name <u>Taylor Amick</u> Signature <u>[Signature]</u> Address <u>125 E. BAY AVE</u> <u>Newport 92661</u>
Name <u>Rachel Daichendt</u> Signature <u>[Signature]</u> Address <u>601 Lido Park</u> <u>Newport Beach 92663</u>	Name <u>Cherie Amick</u> Signature <u>[Signature]</u> Address <u>Same as above</u>
Name <u>Glenn Buend</u> Signature <u>[Signature]</u> Address <u>1726 MIRAMAR</u> <u>Dr Newport 92661</u>	Name <u>Erick Roebuck</u> Signature <u>[Signature]</u> Address <u>203 Walnut #B</u> <u>Newport Beach, CA 92663</u>
Name <u>Debra Sahl</u> Signature <u>[Signature]</u> Address <u>312 Colton</u> <u>Newport 92663</u>	Name <u>Geni Walton</u> Signature <u>[Signature]</u> Address <u>235 Canal Street</u> <u>NB CA 92663</u>

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Name <u>Tina Liphowski</u> Signature <u>Tina Liphowski</u> Address <u>3110 1/2 W. Oceanfront</u> <u>NB CA 92663</u>	Name <u>ERIC AUST</u> Signature <u>Eric Aust</u> Address <u>218 WALNUT ST.</u> <u>NEWPORT BEACH, CA 92663</u>
Name <u>GERALD AUST</u> Signature <u>Gerald Aust</u> Address <u>218 Walnut St.</u> <u>Newport Beach, CA 92663</u>	Name <u>Jo-Ann Sloman</u> Signature <u>Jo-Ann Sloman</u> Address <u>3091 Canal St</u> <u>NB CA 92663</u>
Name <u>RONNEE JOSEPH</u> Signature <u>RJ</u> Address <u>2555 VISTA DR.</u> <u>NEWPORT BEACH, CA 92663</u>	Name <u>PHILIP LATRANTE</u> Signature <u>Philip Latrante</u> Address <u>341 PROSPECT</u>
Name <u>Mike Posil</u> Signature <u>Mike Posil</u> Address <u>140 Via Yella, N.B., CA 92663</u>	Name <u>Christy Brigandj</u> Signature <u>Christy Brigandj</u> Address <u>1406 W. Oceanfront</u>

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Name <u>Ailee Johnson</u> Signature <u>Ailee Johnson</u> Address <u>1502 R St</u> <u>NB 92661</u>	Name <u>Wendy Mitchell</u> Signature <u>Wendy Mitchell</u> Address <u>471 62nd St</u> <u>NB CA 92663</u>
Name <u>B. H. Math</u> Signature <u>B. H. Math</u> Address <u>1013 E. BALBOA</u>	Name <u>Stacy Christensen</u> Signature <u>Stacy Christensen</u> Address <u>259 Lucia St</u> <u>NB CA 92663</u>
Name <u>JEFF MYERS</u> Signature <u>Jeff Myers</u> Address <u>1215 WEST BAY . 92661</u>	Name <u>Jenna Daryl</u> Signature <u>Jenna Daryl</u> Address <u>224 62nd St</u> <u>NB CA 92663</u>
Name _____ Signature _____ Address _____	Name _____ Signature _____ Address _____

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Name <u>SALAM, ABDUL</u> Signature <u>Abdul Salam</u> Address <u>1020 W OCEAN FRONT</u> <u>N.B CA 92661</u>	Name _____ Signature _____ Address _____
Name <u>Janelly Salam</u> Signature <u>Janelly Salam</u> Address <u>1020 W. Ocean Fr</u> <u>N. B Cal 92661</u>	Name _____ Signature _____ Address _____
Name _____ Signature _____ Address _____	Name _____ Signature _____ Address _____
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**EXHIBIT THREE**

**American Planning Association Standard Analysis**

**Larry Mathena**  
**1125 West Balboa Boulevard**  
**Newport Beach, California 92661**  
**949-752-5115 Extension 18**  
**mathenaesq@aol.com**

**January 13, 2009**

**To: David Kiff, Assistant City Manager of Newport Beach**

**Subject: Newport Beach American Planning Association Standard Policy  
Guide dated September 21, 1997**

**From: Larry Mathena**

**Question:** What does the American Planning Association Standard (“Standard”) that Newport Beach is relying on in regulating the typical alcohol/ drug rehab group home in Newport Beach define these homes as?

**Answer:** Because the homes in Newport Beach typically have clientele stay 30, 60, or 90 days that they are “Halfway Houses” under the Standard not “Group Homes.”

**Question:** What is the significance of the homes in question in Newport Beach being defined as “Halfway Houses” as compared to “Group Homes”?

**Answer:** The Standard is clear in defining that the “Halfway Houses” are more akin to multifamily housing as opposed to single family housing and should generate “significant differences with implications for proper zoning regulation.”

**Question:** What does this mean practically?

**Answer:** If nothing else, there is a clear basis in the Standard for taking into consideration the more intensive use of “Halfway Houses” compared to “Group Homes” under the Standard in determining the location and the concentration of “Halfway Houses” compared to “Group Homes”.

**Discussion:** What the Standard says (note all language below is from a scanned and translated copy of the Standard (but with emphasis added):

## Definitions

Because there is so much misunderstanding of this subject, it is essential to first define several terms.

### Group Homes

A **group home** is a relatively permanent living arrangement where tenancy is measured in years.

\*\*\*

Residency in a **group home** is long term relatively permanent and measured in years, not months or weeks.

\*\*\*

Recovery homes for people with drug or alcohol addictions are another type of group home. Occupants typically sign an annual lease and can live in a recovery home for years.

\*\*\*

### Halfway house ...

These are persons who are receiving therapy and counseling from support staff who are present when residents are present, for the following purposes: (a) to help them recuperate from the effects of drug or alcohol addiction (a disability); ... Residency is limited to a specific number of weeks or months.

People with drug or alcohol addictions often need to live in a halfway house as a transitional living arrangement before they can live more independently in the community or return to their homes. The key for them is to learn to abstain completely from using drugs or alcohol. Treatment usually consists of an initial withdrawal period followed by intensive counseling and support both through treatment programs and through residential living arrangements. **Such community residences are based on the group home model with some significant differences with implications for proper zoning regulation.**

Nearly all **halfway houses** place a limit, measured in months, how long someone can live there. Unlike a **group home**, the **halfway house** aims to place all its residents into independent living situations upon graduation. ... Because the number of residents in a **halfway house** is greater than in a **group home** and their length of tenancy shorter, halfway houses more closely resemble multiple family housing than single family residences, although, like group homes, they work best in single family neighborhoods.

\*\*\*

## FINDINGS

\*\*\*

5 Community residences should be scattered throughout residential districts rather than concentrated in any single neighborhood or on a single block.

For a **group home** to enable its residents to achieve normalization and integration into the community, it should be located in a normal residential neighborhood. If several **group homes** were to locate next to one another, or be placed on the same block, the ability of the **group homes** to advance their residents' normalization would be compromised. Such clustering would create a de facto social service district in which many facets of an institutional atmosphere would be recreated and would change the character of the neighborhood.

\*\*\*

**POLICY 2:** When a proposed **group home** for persons with disabilities does not comply with the jurisdiction's definition of family, then the jurisdiction is required to make a reasonable accommodation in its zoning code to allow group homes for people with disabilities as of right in all residential districts if it meets these two requirements:

...

A one block spacing distance appears to be long enough to assure that community residences achieve the normalization they seek for their residents and help preserve the residential character of a neighborhood. Concentrating or clustering several community residences on a block can recreate an institutional atmosphere exactly the opposite of what community residences seek to achieve.

**Group homes** include recovery homes for people with drug or alcohol addictions, like other **group homes**, recovery homes are long term residences that do not limit how long individuals may live there. **They should not be confused with halfway houses for people with disabilities, including drug or alcohol addiction.**

**POLICY 3:** When a proposed **halfway house** for persons with disabilities does not comply with the jurisdiction's definition of family, then the jurisdiction is required to make a reasonable accommodation in its zoning code to allow halfway houses for people with disabilities as of right in all **multiple family** residential districts if the proposed halfway house meets these two requirements:

1. That a rationally based spacing requirement be provided to avoid an undue concentration of community residences and
2. When the proposed group home or its operator must be licensed or certified by the appropriate state, national, regional, or local licensing or certification body.

From a zoning perspective, **halfway houses** perform more like multiple family housing than single family housing. They don't emulate a family quite as closely as a group home does. They billet many more people. They place a limit on length of residency, unlike a group home which is a more permanent living arrangement akin to single family housing.

**POLICY 4:** **Halfway houses** should be allowed in all single family zones by special use permit due to their multiple family characteristics that warrant the extra scrutiny provided by the special use permit or comparable review process when locating in a single family district.

On many occasions the operator of a **halfway house** may prefer to locate it in a single family district. **Halfway houses** are not, per se, incompatible with single family homes. However, the heightened scrutiny of a conditional use permit hearing is warranted to assure that a proposed halfway house will be compatible with the other land uses in a single family district. The standards to apply are the same ones used for other special uses.

**Analysis:**

The conclusions to reach from the language above follows:

1. Halfway Houses are *not* Group Homes.
2. As compared to Group Homes, Halfway Houses are more the equivalent of multifamily housing not single family housing.
3. There should be no more than one or at most two *Group Homes* per block.
4. For a CUP hearing in a single family district for a Halfway House, the standards that can be applied are those for other special uses (which can certainly be something more burdensome than those of an equivalent group home in light of the distinctions that the standard goes out of its way to point out).

If the writers of the Standard wanted to state that the permit requirements for a Halfway House were the same as those of a Group Home- they would of, could have, and should have easily said so. They did not- in fact they went out of their way to observe that Halfway Houses are different than Group Homes and a stricter standard in determining conditions of approval- should apply.

A clear place to apply this stricter standard for Halfway Houses compared to Group Homes is in the case of density and another of course is location.

If you have any questions feel free to call me.

Larry Mathena

February 6, 2009

Mr. David Kiff, Assistant City Manager  
3300 Newport Blvd.  
Newport Beach, CA 92661

RECEIVED BY  
PLANNING DEPARTMENT

FEB 06 2009

Re: 1115 W. Balboa Blvd., Newport Beach, CA 92661

CITY OF NEWPORT BEACH

Dear Mr. Kiff,

This letter is being written to inform you, the City Council Members, and the Independent Hearing Officer of some of the negative experiences my family and I have experienced living next door to the Ocean Recovery facility located at 1115 W. Balboa Blvd. It is also to confirm our opposition to its use permit application. Make certain I am writing, even though I fear retaliation against my family and/or myself for doing so. But, have decided it best to report the truth. We moved in five short months ago and suffer from daily stress regarding parking issues, loitering, loud noises, profanity and inappropriate discussions, fear of tenants, lack of privacy, and side-stream smoke. The following is our perspectives and opinions.

Some specific examples of these issues are:

**PARKING**

- I come home and there is no street parking near my home, so I park around the corner. As I approach my home, I see the Ocean Recovery van and the supervisor's vehicle parked in front of my house. My thoughts are, "Don't they have a six-car garage-why are they taking up street parking?" The fact is this facility, its vendors, and its visitors all occupy street parking, which only exacerbates the already crowded street parking.
- On several occasions, I have had to park elsewhere because their cleaning lady's van is parked in front of my home. This in and of itself seems of no issue, however, this is a very strange situation. At first, I thought she was waiting for a drug deal. One of the ladies sits in the van from 10am until after 10pm - and smokes cigarettes, literally, the entire time. The odd behavior, so noticeable, that my kids ask, "What is that lady doing?"

**LOITERING**

- I come home with my children in tow and we have a very rough looking guy standing in our yard, smoking his cigarette, like he lives there. As we park, he continues to remain on our step, smoking his cigarette. We have to walk through side-stream smoke to get to our front door; a very intimidating and unhealthy situation.

**LOUD NOISES, PROFANITY, INAPPROPRIATE DISCUSSION**

- Last night, among many, many other nights, I lay in bed listening to groups of people talking, yelling, laughing, coughing, banging, televisions blaring, in and out of doors; just beyond my bedroom windows. The kid's room experiences the same. When I asked one of my school age children about it, he tells me he falls asleep listening to the neighbors every night. People calling across the courtyard to one another, late night, is not unusual. This is

especially disruptive when my kids are trying to get to sleep on school nights. The inappropriate and noticeable noise also includes the packing of cigarette packs-constantly (the kids are very aware of this now). There have also been incidents of musical instruments played outside late at night. Lately, yelling across the street to another apartment full of affiliates has been witnessed.

- My husband, all my children, and myself have heard profanity, almost on a daily basis! It is extremely disturbing, especially, as a parent trying to limit inappropriate exposure to negative behavior.
- One night, while in my bathroom, I could hear two people talking, quite late in the night. One was discussing details of his extreme problems, the other providing counsel. Again, a situation I do not want in my life, nor want my kids to have to be exposed to. I was forced to close the windows and door of that room.

### **SIDE-STREAM SMOKE**

- Three rooms of our home have become dungeon-like because the windows and shades cannot be opened. This having been discovered after several incidents of cigarette smoke has come directly into our home (front door, back door, windows). We have had to close our front door and retreat to back rooms for several minutes to allow smoke in the living room to clear out. The same incidents have happened in the bedrooms, as well. Smoke has been and continues to be breathed by my children, husband, and myself. I am asthmatic and have respiratory issues from the frequent side-stream smoke exposure. We have eighteen windows in our house and eleven can never be opened, because of the constant smoking next door. The children and my husband have complained of being hot and stuffy in the house, due to lack of fresh air! While it is winter now, I fear what will happen to us in the summer. Our back door is also kept closed almost constantly because of side-stream smoke. This is a real inconvenience because I personally like the idea of having a back door for fresh air. But, in this house, that is not the case.
- When the kids and I come home, we are bombarded with side-stream smoke surrounding the two properties. It makes it nearly impossible to go and come without breathing it! Some actions I have had to take are having my kids cover their faces with their shirt, holding their breath, running past, waiting inside the house until I open the car, and the list goes on. The smoke is almost constant. We have had various negative experiences coming in the back gate too, where we have had to run in, hold our breath, cover our faces, etc.
- Constant smoke next door has prohibited my children from being able to play in the backyard (for which we pay rent)! If the rare occasion arises and no one is outside next door, we are able to sneak out for about three minutes. Then, someone (or many) comes out to smoke - then the protocol is, "Hurry, get inside, Mommy smells smoke." It is quite sad, actually.

### **FEAR OF TENANTS**

- It is a rule for us that our kids cannot go in the backyard alone, ever. I feel fear not knowing the various backgrounds of the multiple, ever-changing tenancy next door. This, especially, after my young daughter was given a piece of cake over the fence, from a man next door. Having heard many conversations of these tenants, I fear where they have been, what they have done, and who they know. It is very apparent jail is a commonality among them, as my children have become aware of this, as well. As I stated in the

beginning of my letter, I am writing this letter knowing the people living in these facilities are criminals. Many of them actually belong in jail, but have been allowed to live next door to me because they agreed to this program, instead of jail time. My husband and son have to walk around on alert all the time, never knowing what could arise with these type of men (and number of men) next door. Not to mention the unnerving feelings of the females in our household.

- Because there are always multiple men outside next door, we have experienced problems with people looking over the fence and into our windows. This makes it uncomfortable; therefore, we have been forced to keep many of our window shades closed at all times. The last thing I want is for a tenant there knowing the set up and whereabouts of my kid's room. Just yesterday, I was getting my child out of the car in front of my house and turned around to see a man watching us from inside his screen door, over there. It was very unsettling. When I come and go with my children, I always remind them to not look "over there."

Additionally, the fact is that Newport Elementary School is in very close proximity to this and many other like-kind facilities, which the City has allowed to operate. This is not right and does pose an unnecessary danger to children. It is also, within close proximity to other facilities of like kind, another situation the City has allowed to occur. This over-concentration is also not right. I thought there were rules regarding a 1000 foot proximity to schools and one another. The number of these facilities throughout our City is ridiculous!

I want to say this letter is just the tip of the iceberg of daily experiences and added stress that our family has, and is, going through. It is unfair my children have to go through this so someone can keep their profits up. It is undeniable; Newport Beach is expensive to reside in. For this reason alone, we expect a nice place to live. And right now, it is not a very nice place to live. Good families like ours will not continue to be community members here if this is how it is going to be. Isn't it your job to protect and serve all the community members of Newport Beach?

I hope the City Council Members and Hearing Officer will take our perspective (and other concerned community members) into account and **deny**, without appeal, the use permit application for the Ocean Recovery facility located at 1115 W. Balboa Blvd. If this facility is abated, it would allow our family and neighbors to live a more normal life without daily exposure to side-stream smoke, lack of parking and privacy, loitering, intimidation, fear, loud noise, and profanity.

Sincerely,

Kristi Verdugo

Cc: Colleen Darling, Landlord

Cc: Paul Lopez

Deirdre M. Lopez  
1125 ½ W. Balboa Blvd.  
Newport Beach, CA 92661

RECEIVED BY  
PLANNING DEPARTMENT

FEB 09 2009

CITY OF NEWPORT BEACH

February 7, 2009

To: Thomas W. Allen, Hearing Officer  
David Kiff, Assistant City Manager

Subject: Opposition to Use Permit # UP 2008-030 & UP 2008-031  
Ocean Recovery Facilities at 1115 and 1601 W. Balboa Blvd

Dear Mr. Allen:

My name is Deirdre Lopez. I am a clinical psychologist who treats individuals who use drugs and alcohol to cope. Getting sober is a long and painful journey that takes enormous courage, and I have great compassion and respect for the people who have successfully roughed the road of recovery. I believe that treatment is a better solution than jail for the sole "crime" of being an addict, and because of this I support the concept of sober living.

But let us move from the *concept* of sober living to the *reality* of sober living on Balboa Peninsula, specifically on the 1100 block of W. Balboa Blvd., where there are at least three residential care facilities for recovering drug and alcohol abusers. I can speak to this because not only do I *work* with the daily challenges of sobriety in an outpatient setting, but for the last five of the eight years of residing at 1125-1/2 W. Balboa Blvd., I have *lived* with the daily challenges of residing between two residential care facilities. Please understand that these are not facilities down the street, but literally 6-10 feet on either side of my home. The facility on the south side of my home at 1115 W. Balboa Blvd., Ocean Recovery, is up for a Use Permit approval hearing on February 12, and I am writing this letter to voice my opposition.

There are at least four residential care facilities within 800 feet of my husband's and my home that house a total of 65 residents. As noted, two of these facilities abut our home and a third is across the street. My husband and I are nearly surrounded by residential care homes, and the facility across the street at 1132 W. Balboa has already been approved by the City to continue operations. I cannot open my windows without breathing cigarette smoke, and the City will not permit us to install air conditioning because of the "noise pollution" this will create for our next door neighbors. If this is not an issue of overconcentration, a violation of my right to a healthy living environment, and an absurdly skewed idea about who is polluting whom, I'm not sure what is.

More importantly, all four of the facilities in our immediate neighborhood are within 1000 feet of Newport Elementary School, and upwards of 100 residential care residents cross the playground area and attend meetings on the beach at 15<sup>th</sup> St. on weekends. A disproportionate number of these residents smoke cigarettes, they are predominantly male, and they use profanity excessively. The net result is overwhelming second-hand smoke, litter (particularly cigarette butts), and a locker room culture replete with loud, offensive language and conversation that is

impossible to ignore in such numbers. Moreover, behavior problems abound in this population, and it is not uncommon for many of these men to be in trouble with the law for their substance abuse and poor judgment. Despite the repeated protests of the community about these issues, the City has already approved a use permit for the residential care facility at 1132 W. Balboa Blvd. It would be unconscionable for the City to approve yet another facility and abdicate their responsibility to better protect our children from being repeatedly exposed to poor role modeling and maladaptive behaviors. For this reason alone, I am in complete opposition of granting a use permit to either of the Ocean Recovery facilities.

With respect to the operation of the Ocean Recovery facility at 1115 W. Balboa, in my opinion it is poorly managed. First, they are not in compliance with the City's regulations regarding garage usage, as they utilize their 6-car garage for meetings, entertainment, and bicycle storage. In addition, I am angry that time after time it has fallen on my shoulders to "police" the behaviors of the residents, whether it be for parking behind my garage, dumping obsolete appliances in the side yard in front of my front door, playing loud music, or leaving cigarette butts in the alley. I am also frustrated by the total lack of compliance with curfews. Time and again my husband and I hear groups of residents rounding the corner of the building on their bicycles well after 10 pm, voices raised with no regard for the fact that most of the neighborhood is trying to sleep. Part of recovery involves learning to respect yourself *and the rights of others*. While every recovering individual must ultimately make this commitment him or herself, it is also the responsibility of the counselors and operators to model and encourage these practices. In my estimation, none of these entities has taken a responsible leadership role with respect to the Ocean Recovery facility, which has left the owners and residents on my block rightly frustrated, angry, and crying for change.

The City has already approved one facility on our block, which is fair and reasonable accommodation on its part. But the City also has a duty to preserve the culture of our neighborhood, protect our children, and provide a healthy environment for all of us; denying the use permits at 1115 and 1601 W. Balboa will alleviate the overconcentration issue and go a long way in restoring balance to our neighborhood.

Respectfully,

Deirdre Lopez

## **Brown, Janet**

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**From:** Kiff, Dave  
**Sent:** Monday, February 09, 2009 5:04 PM  
**To:** Brown, Janet  
**Subject:** FW: Opposition To Halfway Residential Homes

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**From:** lrizz5@aol.com [mailto:lrizz5@aol.com]  
**Sent:** Wednesday, February 04, 2009 9:28 PM  
**To:** Kiff, Dave  
**Cc:** p.lopez@roadrunner.com  
**Subject:** Opposition To Halfway Residential Homes

Dear Mr. Kiff,

I'm writing to let you know that I am opposed to the application for the halfway house's located at 1115 W. Balboa Blvd. and also 1601 W. Balboa Blvd. These types of facilities are, for some reason, in abundance in this area. This neighborhood was initially safe and clean and only negatively affected by visitors that would misbehave on occasion, now we have a constant issue. I don't understand how these facilities keep getting approved. We have schools, churches, playgrounds and preschools. Shouldn't we be concerned about the health and safety of our children.

I have a significant investment in my home and I am very concerned about preserving the safety and security as well as the value of my property.

I urge the City Council to deny any requests that is before them for halfway residential homes.

Thank you for considering this email in your effort to maintain our neighborhood.

Lisa Rizzolo  
1104 W. Oceanfront  
Newport Beach, California 92661

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