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## **Federal Judge Finds Newport Beach Group Homes Ordinance Nondiscriminatory**

SANTA ANA, Ca. -- A federal judge ruled Wednesday that an ordinance adopted in early 2008 by the City of Newport Beach (city) regulating residential recovery facilities and sober living homes in Newport Beach does not discriminate against disabled individuals as written.

Ordinance 2008-05 requires all sober living and large, licensed recovery facilities in Newport Beach to apply for a use permit. The use permit process, which includes a public hearing, requires operators to meet certain conditions, primarily geared toward reducing overconcentration and mitigating impacts on surrounding neighbors.

Judge James V. Selna, of the United States District Court for the Central District of California, granted the city's motion to dismiss portions of a lawsuit filed by plaintiff Pacific Shores Properties, LLC (Pacific Shores). Pacific Shores claims that the city violated the Fair Housing Act, Americans with Disabilities Act and Equal Protection clauses of the state and federal constitutions were dismissed. Judge Selna also dismissed Pacific Shores' claim that the city violated the state Fair Employment and Housing Act. The lawsuit will continue on three remaining claims which allege that the city applied its nondiscriminatory laws in a discriminatory manner against Pacific Shores.

"With this decision, the city's group homes ordinance has cleared another legal hurdle," said Mayor Edward Selich. "Though each is significant, this one is particularly important because it reinforces that we have a well-written ordinance that is fair to both the disabled residents of recovery facilities and their neighbors."

Pacific Shores operates three unlicensed "sober-living homes" in the Newport Heights neighborhood of Newport Beach. The city estimates that up to 60 people may have resided in the three homes at any one time.

Pacific Shores opted not apply for a use permit by the May 22, 2008 application deadline and must now apply for “reasonable accommodation” from the ordinance in order to remain at its Newport Heights location.

Under federal law, persons in recovery are considered disabled. Reasonable accommodation is a process under federal law that allows persons with disabilities to ask for a case-by-case waiver of local regulations if those local regulations impair the ability of disabled persons to attain housing.

“We’re very pleased with Judge Selna’s ruling, but honestly not surprised,” said Council Member Steve Rosansky. “Our city has spent significant time and resources researching and developing what we believe is a precedent-setting ordinance. It allows our city to protect our residential neighborhoods while respecting the legal rights of people in recovery.”

Newport Beach City Attorney Robin Clauson expects the city to prevail on their remaining claims as well. Attorney Peter Pierce of the law firm Richards Watson Gershon represented the city in oral arguments on the city’s motion to dismiss before Judge Selna on Monday, October 27.

For more information, please contact City Attorney Robin Clauson or Deputy City Attorney Catherine Wolcott at 949-644-3131.