

RESOLUTION NO. HO-2010-001

A RESOLUTION OF A HEARING OFFICER OF THE CITY OF NEWPORT BEACH APPROVING A REASONABLE ACCOMMODATION FOR A RESIDENTIAL CARE FACILITY LOCATED AT 124 30TH STREET AND OPERATED BY BALBOA RECOVERY, INC. (PA 2009-012)

WHEREAS, Ordinance No. 2008-05 was adopted by the Newport Beach City Council on January 22, 2008, following noticed public hearings, and the ordinance amended the City of Newport Beach's Municipal Code (NBMC) relating to Group Residential Uses; and

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

WHEREAS, an application was filed by Kevin Cullen, on behalf of Balboa Recovery, Inc., requesting a reasonable accommodation from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020 (*Residential Districts: Land use Regulations*) with respect to property located at 124 30th Street, and legally described as Newport Beach City Block 29, Lot 18, Tract 512; and

WHEREAS, a public hearing was held on May 20, 2009, presided by Hearing Officer Thomas Allen, who determined that the findings required by Section 20.98.025(B) of the NBMC could not be made to grant a reasonable accommodation for 10 resident clients and two resident managers, and on July 2, 2009, the Hearing Officer adopted Resolution No. HO-2009-015 denying Reasonable Accommodation No. 2009-002 without prejudice, granting the applicant a one-year period in which to abate the use; and

WHEREAS, on February 1, 2010, Kevin Cullen submitted a request for an amendment to his request for Reasonable Accommodation No. 2009-002 to allow the continued operation of an existing sober living facility with a reduced population from 10 female adult resident clients and two resident managers to no more than six female adult resident clients and two resident managers in the two units of a duplex building. The facility is located in the R-2 District, where such uses are not permitted, and the applicant requests an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit; and

WHEREAS, a public hearing was held on June 11, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code and other applicable laws. Evidence, both written and oral, was presented and considered at this meeting; and

WHEREAS, the hearing was presided over by Judy Sherman, Hearing Officer for the City of Newport Beach; and

WHEREAS, the required findings of Section 20.98.025(B) of the NBMC and facts in support of such findings are as follows:

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

Facts in Support of Finding: Balboa Recovery, Inc. submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol and/or drug addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

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

Facts in Support of Finding: The applicant has submitted an amended request for reasonable accommodation to allow six female resident clients and two resident managers in the two units of the duplex building. The applicant has stated that continued operation in this location provides a therapeutic benefit to its clients, and that it is necessary to provide a resident manager in each unit in order to monitor the residents' activities and ensure their safety.

In the interim, between now and the end of September 2010, the applicant has requested that the current population level of eight resident clients be allowed to remain in the two units of the duplex building. This would allow the current resident clients to complete their intended stay, and provide these residents an equal opportunity to use and enjoy their current dwelling.

The Hearing Officer finds that with a reduced facility population of six female resident clients in both units of the duplex building, the amended accommodation will continue to afford disabled individuals an equal opportunity to use and enjoy a dwelling in a small sober living environment.

The Hearing Officer deems it appropriate to condition the grant of accommodation to include an interim period in which all eight resident clients currently residing in the facility may remain at the property between July 2, 2010 and September 30, 2010. Further, the Hearing Officer determines it is appropriate to condition the grant of accommodation to state that, as of the date of approval of the accommodation, no additional residents shall be accepted at the facility until attrition of current clients causes the facility to house fewer than six resident clients.

The Hearing Officer finds there are limited opportunities within the City for females in recovery to live in a female-only building with six or fewer other recovering individuals, surrounded by other single housekeeping units. The Hearing Officer has determined the requested reasonable accommodation is necessary to provide an opportunity for

disabled female residents to live in a small self-paced recovery environment in a residential setting which allows the residents to reintegrate into the world and workforce.

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

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

With the granting of the requested accommodation, the applicant's current and potential clients will be able to live in a dwelling unit in an R-2 District with other individuals in recovery from addiction. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. This facility appears to be the only residential care facility of any description on this block, or any of the adjacent blocks with the exception of an all-male sober living facility located at 127 29th Street which is currently subject to abatement. The operators of the 29th Street facility are in the process of entering an abatement agreement with the City which requires closure of the facility by August 31, 2010, at the latest.

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

The applicant requests an exemption from the requirements of NBMC Section 20.10.020 to allow the continued operation of an existing unlicensed residential care facility located in an R-2 District where the NBMC permits such uses only in an MFR District with approval of a use permit. The applicant seeks to continue the operations of the existing sober living facility with no more than six disabled individuals in the two units of a duplex building. The Hearing Officer finds that facts have been provided that support a finding that by allowing the facility to continue at its current location with no more than six female resident clients, females with a disability would be afforded an equal opportunity to enjoy the housing type of their choice in a small, gender-specific recovery environment.

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

The applicant contends that relocation of the current facility would be a significant financial burden, and reports that, with the requested accommodation, changed

circumstances now allow the facility to be financially viable under conditions similar to those at other facilities of a similar nature and operation.

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

The Municipal Code authorizes the City to consider the availability of other facilities that are of a "similar nature and operation." Based on an inventory conducted in April 2010, females in recovery from alcoholism or chemical dependency wishing to live in Newport Beach in a sober living environment have the following housing opportunities that they can choose from:

- Balboa Recovery operates a single comparable facility, with housing for six female resident clients in two units of a duplex at 204 21st Street under a reasonable accommodation granted in May 2009; and
- Pacific Shores Properties operates one female-only sober living home, in one unit of its 492 and 492 ½ Orange Street facility. This unit was granted a reasonable accommodation allowing it to continue to house up to 12 resident clients; and
- An unlimited number of beds are available via the use of any home in Newport Beach, provided that the occupants reside there as a single housekeeping unit in compliance with the City's definition of single housekeeping unit.

There are also sober living beds affiliated with a formal treatment program, Sober Living by the Sea (SLBTS), which are approved and not subject to abatement. For individuals who wish to reside in a duplex occupied entirely by sober living residents with up to six individuals *per duplex unit*, 60 beds (located in both units of five duplexes) will remain in their current location. Twenty-four additional beds (located in both units of two duplexes) are currently in operation but plan to close within 30 months of the effective date of the agreement, under the terms of the Zoning Agreement between the City and SLBTS. SLBTS also operates six beds in one unit of a duplex, also due to close within 30 months of the effective date of the agreement. The City is not aware of how many of these beds are available specifically to female clients.

Currently, the City is in the process of entering a similar zoning agreement with Morningside Recovery, which would allow Morningside Recovery to continue operation of sober living facilities housing up to 36 resident clients in five duplex units and one single-family condominium dwelling. The City is not currently aware of how many of these beds are available specifically to female clients.

A denial of the reasonable accommodation would not deprive prospective residents of Balboa Recovery of the opportunity of live in a residential setting with 11 other individuals in recovery in two units of a duplex building. These alternate residential settings also provide self-paced recovery options that allow residents sufficient time for personal psychological growth while avoiding the use of alcohol and other substances. However, at this time it appears that the only other sober living facility in the City that offers housing for only three female resident clients per duplex unit is the other female-only Balboa Recovery facility located at 204 21st Street.

3. **Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as “undue financial or administrative burden” is defined in Fair Housing Laws and interpretive case law.**

Facts in Support of Finding: The Hearing Officer finds that allowing the facility to remain at its current location so long as it is necessary to provide disabled individuals with an equal opportunity to use and enjoy a dwelling would not impose an undue financial or administrative burden on the City. To date, there have been no complaints made to the City regarding the operations of this facility.

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

Facts in Support of Finding: As analyzed below, the Hearing Officer finds that allowing the current residents to remain for an interim period between July 2, 2010 and September 30, 2010, and a maximum of no more than six female resident clients and two resident managers, as requested by the applicant, would not result in a fundamental alteration of a City zoning program.

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

Section 20.10.020 of the NBMC establishes those uses that are permitted, conditionally permitted, and prohibited within the R-2 District. In accordance with Section 20.10.020 of the NBMC, unlicensed residential care facilities are not permitted in the R-2 District, and are only permitted in the MFR District subject to approval of a use permit.

The Hearing Officer finds that the intensity of the use would be consistent with typical residential development intensity in the R-2 District with the granting of the reasonable accommodation to allow the continued operations of the sober living facility with a maximum occupancy of six resident clients and two resident managers in the two units of the duplex building. The Hearing Officer finds that the intensity of the use would also be compatible with the surrounding two-family residential properties.

Building Code and Life Safety Consideration: The State Fire Marshal has made the determination that residential care occupancies with more than six residents have characteristics that require a certain degree of extra protection for the safety of the residents. Pursuant to the provisions of the California Building Code, facilities providing residential care and housing for more than six resident clients in a building are classified as an R-4 occupancy. This occupancy group includes buildings arranged for social rehabilitation, including alcoholism or drug abuse recovery or treatment for seven or more resident clients.

If the occupancy of the facility is reduced to provide housing for six resident clients and two resident managers within the two units of the duplex building, the building would be classified as an R-3.1 occupancy. Building code requirements for R-3.1 occupancies are similar to requirements for occupancies classified as R-3. The R-3 occupancy classification and requirements apply to single family homes and duplexes. The code requirements of an R-3.1 occupancy are less stringent than an R-4 occupancy, and the existing duplex building can easily and cost-effectively be brought into compliance with the R-3.1 code requirements.

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

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

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

The second stated purpose is:

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

Even if the facility is exempted from Section 20.10.020 and permitted to remain in its current location, it is not exempt from reasonable controls the Hearing Officer might place on it. NBMC Section 20.98.015 states that the Hearing Officer shall approve, conditionally approve, or deny applications for reasonable accommodation. The Hearing Officer can impose the same conditions through a reasonable accommodation that he or she could impose under a use permit. A reasonable accommodation, with appropriate conditions, can mitigate adverse secondary impacts such as noise, overcrowding, parking and traffic impacts, excessive second-hand smoke, and unruly behavior by residents of a facility to the detriment of neighbors.

The Hearing Officer finds that conditions of approval should be and accordingly are applied to the use that will allow the accommodation to be granted consistent with the basic purposes of NBMC Sections 20.10.010, 20.10.020, and Chapter 20.91A. The Hearing Officer's conditions of approval are described below.

1. The operator of the sober living facility shall agree to a bed cap of no more than six female resident clients plus two resident managers, who shall be qualified recovery specialists;
2. If the applicant obtains a license from ADP to operate a facility for six or fewer clients in one of the duplex units, the other unit may only be used to provide housing for a single housekeeping unit; and
3. Quiet hours between 10:00 p.m. and 8:00 a.m.;
4. Compliance with the standards of NMBC Section 20.91A.050(A), relating to secondhand smoke detectable from off the parcel upon which the facility is located is required.

Essentially, these conditions would require that the facility comply with the development and operational standards required of similar facilities receiving a use permit under NBMC Chapter 20.91A. The Hearing Officer finds that with these conditions, the findings required by NMBC Section 20.91A.060 for issuance of a use

permit could be made with regard to this facility. With conditions of approval, the use could conform to all applicable provisions of Section 20.91A.050.

The Hearing Officer finds, that as conditioned, the use would be compatible with the character of the surrounding neighborhood, and the continued maintenance of the use would not contribute to changing the residential character of the neighborhood or create an overconcentration of residential care uses in the vicinity. In considering whether the residential character of the neighborhood would be changed, the Hearing Officer has considered that the American Planning Association standard of one or two such uses per block is not exceeded by allowing the continued maintenance of this facility as there will be no other residential care uses on this block, or any of the immediately adjacent blocks. In addition, there has been no evidence presented to the Hearing Officer that indicates that there have been any issues with delivery of goods that adversely affect the peace and quiet of neighboring properties, or issues of trash generated in excess of surrounding properties.

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

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

Balboa Recovery, Inc. requests an amended reasonable accommodation to allow the continued operation of an existing sober living facility to provide housing for no more than six disabled individuals in a facility in both units of a duplex. The requested accommodation would permit a maximum of six disabled individuals in recovery and two resident managers in the two units of the duplex building, all of which are not living as a single housekeeping unit, to live on a block of single housekeeping units. As a condition of approval, the Hearing Officer requires that the facility be limited to a maximum occupancy of six resident clients and two resident managers in the two units of the duplex building.

With the reduction in resident population as required by conditions of approval, the intensity of the use would be consistent with the intensity of use that would be produced by single housekeeping units in two-family residential districts, and would be compatible with the surrounding two-family residential properties. The Hearing Officer finds that approval of the reasonable accommodation with appropriate conditions of approval to allow the facility to remain in its current location in the R-2 District will not undermine the basic purpose of this portion of the City's zoning program.

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

Parking – The duplex building occupied by the facility has two enclosed garage parking spaces. The Zoning Code requires one on-site parking space per three residential care facility beds. With six residential care facility beds, the required parking for the facility would be two spaces. As such, the facility currently meets the required parking standards.

A condition of approval is included requiring that the two designated garage parking spaces at the sober living facility shall remain open and available for parking for staff and the resident clients at all times. In addition, the applicant shall limit the number of vehicles onsite at anytime to two, which must be parked in the garage. At most, one other resident client may have a vehicle and park on the street in a legally designated parking space. Client move-in and move-out shall be accomplished in a manner that does not block traffic, area driveway or alleys.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a duplex, the standard trip rate is based on 6.72 average daily trips per dwelling unit. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a duplex would generate approximately 13.44 average daily trips, whereas a six-bed residential care facility with two resident manager beds occupying both units of a duplex would generate approximately 16.44 average daily trips. The Hearing Officer finds that this number does not represent a substantial increase in traffic.

Due to the fact that the applicant limits and manages the use of personal vehicles by residents at the facility, the number of trips generated would not be significantly in excess of trips generated by that of a duplex with the granting of the reasonable accommodation with a condition of approval limiting the maximum number of residents to six resident clients and two resident managers. Approval of the amended request for reasonable accommodation includes conditions that restrict use of residents' personal vehicles while living at the facility, which will reduce impacts on parking to an insubstantial level.

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

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-005 in order to implement General Plan Policy LU 6.2.7. The Hearing Officer finds that granting the requested accommodation with the recommended conditions of approval enables the City to apply appropriate reasonable regulations on the facility, consistent with the express purpose of the General Plan with regard to these facilities.

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

With the upcoming abatement of the sober living facility at 127 29th Street, there are no other documented facilities similar in nature or operation to the subject facility within this block or any of the immediately adjacent blocks. The Hearing Officer finds that granting the reasonable accommodation with a condition of approval limiting the maximum occupancy of the facility to six residents and two resident managers in the two units of the duplex building would not create an institutionalized environment.

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

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

WHEREAS, the project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA; and

NOW THEREFORE, BE IT RESOLVED:

Section 1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. 2009-002, subject to the Conditions set forth in Exhibit "A" attached hereto and made a part hereof.

Section 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 18th DAY OF JUNE, 2010.

By: Judy Sherman
Judy Sherman, Hearing Officer

ATTEST:

Xelani L Brown
City Clerk



EXHIBIT "A"

**CONDITIONS OF APPROVAL
REASONABLE ACCOMMODATION NO. 2009-002
BALBOA RECOVERY INC. at 124 30th Street, Units A and B**

1. **Grant of Reasonable Accommodation.** Reasonable Accommodation No. 2009-002 is granted solely to Balboa Recovery, Inc. (hereinafter "the Operator") to operate an adult sober living facility for disabled female clients in the two units of a duplex building located at 124 30th Street. Reasonable accommodation to occupy the building (inclusive of both units) is granted to six disabled female persons and two resident managers. The Operator shall execute an affidavit declaring that all clients receiving services from this facility are disabled persons.
2. **Interim Occupancy Level.** For an interim period, from the date of adoption of this resolution to September 30, 2010, the Operator shall limit occupancy of the building to eight resident female client beds and two on-site resident managers, who shall be qualified recovery specialists. If any of the eight resident clients currently residing at the facility as of the date of approval of Reasonable Accommodation No. 2009-002 cease residency at the facility after July 2, 2010, the Operator shall not accept any additional residents that would cause the facility's population to exceed six resident clients. Under no circumstance shall more than eight female clients in recovery reside in the building during this interim period.
3. **Occupancy Level.** Effective October 1, 2010 (or earlier, if attrition of current residents permits), the Operator shall limit occupancy of the building to six female resident client beds and two on-site resident managers, who shall be qualified recovery specialists. No more than six persons in recovery may reside in the building.
4. **Annual Compliance Review.** The Operator shall comply in good faith with the conditions of approval of this Reasonable Accommodation. On or before December 31st of each year, the Operator shall deliver to the City a certification (Exhibit "B"), under penalty of perjury, stating the facility is operating in compliance with the terms of the Conditions of Approval granted with this Reasonable Accommodation. To confirm compliance with the conditions of approval agreed upon by City and Operator in this Reasonable Accommodation, the City shall schedule an annual on-site inspection of the sober living facility, providing the Operator 24-hour notice by email and telephone of the time and date of the inspection.
5. **Staffing.** Operator shall have two qualified resident managers on-site at all time (24 hours a day, seven days a week) to appropriately and responsibly manage the facility.

6. **Governmental Referrals.** Operator shall not provide any services to any client or house any client who has been referred or caused to be referred to this facility by any governmental agency, including but not limited to probationers or parolees.
7. **Assembly Uses.** Assembly uses are prohibited, except those that are limited solely to client residents of the facility and facility staff.
8. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.
9. **Trash.** Operator shall abide by the City's regulations regarding trash disposal including providing the proper amount of trash cans for the property's use (so that cans do not overflow), placing the cans out no earlier than 7:00 pm the evening prior to collection, and placing the cans back in the side yard (or other contained area) no later than 6:00 pm the day of collection.
10. **Smoking & Cigarette Litter.** Per NBMC Section 2091A.050(A), no clients, guests, or any other users of the subject property may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the use is located. Balboa Recovery Inc. will enforce house rules against litter, including allowing clients, staff, or residents from littering cigarette butts on the ground, sidewalk, gutter or street.
11. **Vehicles, Parking & Garages.** This facility may have a maximum of three vehicles associated with its use. The Operator shall keep the two designated garage parking spaces at the facility open and available for parking for staff, and resident clients at all times. At most one other client in the facility may have a vehicle and park on the street in a legally-designated parking spot. Client move-in and move-out shall be accomplished in such a manner that traffic on 30th Street is not blocked, nor may area alleys be blocked.
12. **Transportation.** No transportation services shall be provided by the facility operator.
13. **Quiet Hours.** The on-site facility manager shall maintain "Quiet Hours" between 10:00 p.m. and 8:00 a.m., daily, where persons on the street or on adjacent properties cannot hear any noise (including music, TV's, voices) from the facility except in an emergency.
14. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.

15. **Deliveries.** Any deliveries of business products and other packages and goods to the facility during weekdays shall be made between the hours of 9:00 a.m. to 5:00 p.m.
16. **Contact Information.** Operator shall provide area residents and the City with a 24/7 contact name, phone number and e-mail address to assist residents and the City with problems or concerns arising from the facility. E-mails or messages left for the Operator's designated contact shall be returned in prompt manner within the next 24-hour period.
17. **Building and Zoning.** Operator recognizes that the subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of obstruction, including building obstruction. The orderly storage of trashcans is acceptable in setbacks.
18. **Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regard to any of these issues, Operator shall correct the violation with seven days or contact the City directly to discuss an alternative timeline consistent with the Newport Beach Municipal Code.
19. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches for meetings, prayer, conversation, or other gatherings shall show due respect to non-resident visitors, residents, and other beachgoers, thus allowing them to take full enjoyment of the beach. Operator shall not conduct business on the beach (per NBMC 10.08.030)
20. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and encouragement of 12-Step meetings or counseling). Operator has represented that the facility operates with an average client stay of 300-days. Operator shall use best efforts to maintain, at a minimum, average client stay of 300-days. Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home.
21. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this reasonable accommodation shall not constitute a waiver of the requirements of any federal, state or local law, including the requirements of the California Building Code and Fire Code.
22. **Additions or Modifications to Conditions of Approval, or Revocation of Reasonable Accommodation.** The Hearing Officer or City Council may add or modify conditions of approval to this reasonable accommodation, or revoke this Reasonable Accommodation upon a finding of failure to comply with the conditions

set forth. The City Council may also revoke, modify, or amend this Reasonable Accommodation if it determines the conditions under which this facility is being operated or maintained are detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, or if the facility is materially injurious to property or improvements in the vicinity, or if the facility is operated or maintained so as to constitute a public nuisance. In any proceeding to revoke this Reasonable Accommodation, the cumulative effect of a violation of two or more conditions shall be considered.

23. **Compliance with Conditions of Approval.** Per NMBC Section 20.98.035 (Amendments), a request for changes in conditions of approval shall be treated as a new application unless they are minor, do not involve a substantial alteration to the plan or conditions of approval, and are consistent with the intent of the original approval. Any changes in operational characteristics, including but not limited to the following, shall require amendment to this reasonable accommodation or can only take effect upon issuance of a new reasonable accommodation:
- a. Increase in number of resident clients.
 - b. Change in gender-specific nature of housing.
 - c. Change in on-site staffing affecting the ability of the operator to adequately manage the facility and provide supervision of its residents.
 - d. A change in physical capacity of facility including number of beds, number of bedrooms, floor area of facility, etc.
 - e. Request for amendment to any condition or conditions or approval.
 - f. Change in property ownership in a manner that causes the majority of the property to be owned by a person or entity not identified in the Reasonable Accommodation or its application.
 - g. Change in client base such that persons living there are no longer classified as disabled or verified to be disabled.
 - h. Alteration and/or loss of approved on-site parking.
 - i. Upon determination by the Planning Director, a change in facility management, a change in facility ownership, or a change in the population served by this facility. The term "change in facility management" shall include but not be limited to a change in the current management of Balboa Recovery, Inc. and/or the conveyance, sale or assignment of a majority of Balboa Recovery, Inc.'s rights and obligations as to the facility at 124 30th Street to any successors in interest or assignees of Balboa Recovery, Inc.

- j. Any other material change in the operational characteristics that is not in substantial conformance with the Operation and Management Plan, upon determination by the Planning Director.

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EXHIBIT "B"

Annual Compliance Certification

Balboa Recovery, Inc.
124 30th Street

The Operator of Balboa Recovery Inc. certifies, under penalty of perjury, that each of the following statements is true and correct as of the date of this Certification:

1. The building is occupied by no more than six female resident clients and two on-site resident managers.
2. There are no more than six persons in recovery from alcoholism and/or drug addiction residing at the building.
3. Two qualified resident managers are on-site at all times.
4. Services or housing are not provided to any client who has been referred or caused to be referred to this facility by any governmental agency, including but not limited to probationers or parolees.
5. No assembly uses are conducted at this facility, except those that are limited solely to client residents of the facility and facility staff.
6. All medical waste is disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.
7. Trash is disposed in a manner consistent with the City's regulations, with trash receptacles placed for collection no earlier than 7:00 p.m. the evening prior to collection, and the receptacles are returned to the side yard (or other contained area) no later than 6:00 p.m. the day of collection.
8. Clients, guests, or any other users of the subject property smoke in a designated area in which the secondhand smoke is not detected on any parcel other than the parcel upon which the use is located. House rules are enforced against littering the ground, sidewalk, gutter or street with cigarette butts.
9. No more than three vehicles are associated with resident clients or resident managers at any time at the facility. The two garage parking spaces are open and available for vehicle parking by staff and resident clients at all times. The third vehicle is parked on the street in a legally-designated parking spot.
10. No transportation services for the resident clients are provided by the Operator.

11. "Quiet Hours" are maintained daily between 10:00 p.m. and 8:00 a.m.
12. Lewd behavior, lewd speech, or profanity at the facility by the resident clients is not tolerated by the resident managers.
13. Deliveries of business products and other packages and goods are scheduled for receipt during weekdays between the hours of 9:00 a.m. to 5:00 p.m.
14. Efforts are made to maintain the subject property in a clean and safe manner.
15. The resident managers and Operator of the facility use the industry's best practices to ensure that the facility's resident clients stay in recovery (including scheduled substance testing, random substance testing, and encouragement of 12-Step meetings or counseling). The resident managers and Operator use best efforts to maintain, at a minimum, average client stay of 300-days.
16. I, _____, certify that I am authorized to sign this certification on behalf of Balboa Recovery, Inc.

Signed under penalty of perjury on this _____ day of _____.
(day) (month, year)

Signature

Name printed

**CITY OF NEWPORT BEACH
HEARING OFFICER STAFF REPORT**

June 11, 2010
Agenda Item #1

TO: Judy Sherman, Hearing Officer

SUBJECT: Balboa Recovery, Inc. (PA2009-012)
124 30th Street

- Reasonable Accommodation No. 2009-002

APPLICANT: Kevin Cullen

PLANNER: Janet Johnson Brown, Associate Planner
(949) 644-3236, jbrown@city.newport-beach.ca.us

PROJECT SUMMARY

An amendment to a reasonable accommodation application for relief from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020, (*Residential Districts: Land use Regulations*) due to changed factual circumstances. The applicant requests an amendment to Reasonable Accommodation No. 2009-002 to allow the continued operation of an existing sober living home with a reduced population from 10 female adult resident clients and two resident managers to no more than six female adult resident clients and two resident managers in the two units of a duplex building. The facility is located in the R-2 District, where such uses are not permitted. The applicant requests an amendment to its original application for an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit.

RECOMMENDATION

Staff recommends the Hearing Officer conduct a public hearing to consider the applicant's amended request for reasonable accommodation, and receive testimony from the applicant, the City of Newport Beach and its legal counsel, and members of the public. At the conclusion of the public hearing, staff recommends the Hearing Officer:

1. Approve the request for Reasonable Accommodation No. 2009-002 based on the findings discussed in this report, and
2. Adopt a Resolution of Approval with Conditions of Approval for Reasonable Accommodation No. 2009-002 (Attachment 1); or
3. Issue a written determination and findings within 10 days of this public hearing, and direct staff to prepare a resolution based on the Hearing Officer's written determination and findings, with appropriate conditions, for adoption by the Hearing Officer.

BACKGROUND

On May 20, 2009, Hearing Officer Thomas Allen conducted a public hearing to consider an application for reasonable accommodation requesting relief from the provisions of Newport Beach Municipal Code Section 20.10.020 (*Residential Districts: Land Use Regulations*). The applicant requested an accommodation to allow the continued operation of an existing sober living facility for up to 10 female adult resident clients and two resident managers in two units of a duplex building. A copy of the May 20, 2009 staff report is attached as Attachment 2.

Section 20.10.020 of the NBMC establishes permitted land uses or conditionally permitted land uses in residential districts. The applicant's existing facility would be classified as a "Residential Care Facilities, General" use (seven or more resident clients). Per Section 20.10.020, "Residential Care Facilities, General" uses that are licensed or unlicensed, and "Residential Care Facilities, Small Unlicensed" uses (six or fewer resident clients) are permitted only within a Multi-Family Residential (MFR) District subject to the approval of a use permit issued by a Hearing Officer. The existing facility is located in the R-2 District, where such uses are not permitted. The applicant requested an accommodation from the requirements that unlicensed "Residential Care Facilities, General" are permitted only in MFR Districts with approval of a use permit.

During the May 20, 2009 public hearing, staff reported that they had discussed their initial recommendation with the applicant, which was to recommend that the Hearing Officer grant approval for no more than six resident clients occupying one unit of the duplex building or no more than six resident clients in the whole building. Staff stated that with a resident population of no more than six adult females in the duplex building, it would have been able to provide facts in support of all five findings required by NBMC Chapter 20.98 to grant the requested accommodation. However, the applicant indicated that it would not be financially feasible to maintain the sober living facility with no more than six resident clients in this location. The applicant indicated that he would like the opportunity to maintain operations at the existing sober living facility with 10 resident clients for a one-year period of time in order to find a facility where he could house six resident clients in an economic environment that allowed the facility's continued operation. A copy of the May 20, 2009 hearing transcript is attached as Attachment 3.

On July 2, 2009, the Hearing Officer adopted a resolution denying without prejudice the applicant's request for reasonable accommodation. The Hearing Officer determined that the findings required by Section 20.98.025(B) of the NBMC could not be made to grant a reasonable accommodation to allow 10 resident clients and two resident managers in a duplex building. The Hearing Officer allowed the applicant to continue the operations for a one-year period, subject to certain conditions of operation, after which time he ordered that the nonconforming use of the facility shall abate. A copy of Resolution No. HO-2009-015 is attached as Attachment 4.

AMENDED REQUEST FOR REASONABLE ACCOMMODATION

In late 2009 the applicant contacted City staff stating there had been a change in circumstances, and that with an upcoming reduction in rent for the property, he could afford to continue operations at this facility with no more than six resident clients. In February 2010, the applicant submitted a letter (Attachment 5) to the City of Newport Beach requesting to amend the original reasonable accommodation application due to changed factual circumstances.

Balboa Recovery has requested to remain in operation at the same location with a reduced population of six female resident clients and two resident managers in the two units of the duplex building. Staff communicated with the applicant on May 28, 2010, to verify there had been no other changes in the information submitted in the original reasonable accommodation application. This was confirmed by the applicant the same date. (Attachment 6). Staff requests that the Hearing Officer refer to the May 20, 2009 staff report attached hereto for a complete description of the facility and operations.

During a conversation with the applicant on June 5, 2010, staff was further informed that the sober living facility currently provides housing for eight resident clients and two resident managers in the two units of the duplex, and has since March 2010. The applicant stated that by the end of September 2010 at the latest, the two current resident clients in excess of six would complete their intended stay at the facility, and he could then permanently reduce the population to three resident clients in each unit.

DISCUSSION

As discussed in the May 2009 staff report, the federal Fair Housing Amendments Act (FHAA), adopted in 1988, prohibits housing discrimination based on a resident's disability. Under the FHAA, it is discriminatory for government entities to refuse to make reasonable accommodations from rules, policies, and practices when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling (42 U.S.C. § 3604(f)(3)(B)).

The Ninth Circuit has repeatedly emphasized this requirement, stating that under the Fair Housing Act, *"unlawful discrimination includes refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. We have repeatedly interpreted this language as imposing an affirmative duty on landlords and public agencies to reasonably accommodate the needs of disabled individuals."* *McGary v. City of Portland*, 386 F.3d 1259, 1261 (9th Cir. 2004) (italics added).

Cases interpreting the FHAA have held that a government agency has an affirmative duty to grant a requested reasonable accommodation if: (1) the request is made by or on behalf of a disabled individual or individuals, (2) the accommodation is necessary to

afford the disabled applicant an equal opportunity to use and enjoy a dwelling, and (3) the request is reasonable.

Cities may find an accommodation request unreasonable if granting the request would: (1) result in a fundamental alteration in the nature of a City program (often described as undermining "the basic purpose which the requirement seeks to achieve"), or (2) would impose undue financial or administrative burdens on the City (See *U.S. v. Village of Marshall*, 787 F.Supp. 872, 878 (W.D. Wisc. 1991)). Whether a requested accommodation is reasonable and necessary must be determined on a case-by-case basis.

Analysis

Balboa Recovery requests a reasonable accommodation to allow the continued operation of the existing sober living facility in this location with a reduced number of resident clients of no more than six adult female resident clients and two resident house managers in the two units of the duplex building. Specifically, the applicant is requesting a reasonable accommodation exemption from the Newport Beach Municipal Code (NBMC) Section 20.10.020 *Residential Districts: Land Use Regulation*. This section of the NBMC establishes permitted land uses or conditionally permitted land uses in residential districts, and includes special requirements, if any, for specific uses.

Ordinance No. 2008-05, adopted by the City in February 2008, codified the procedures for requesting, reviewing and granting, conditionally granting, or denying all requests for reasonable accommodation in the City of Newport Beach. The Hearing Officer is designated to approve, conditionally approve, or deny all applications for reasonable accommodation. The ordinance also establishes the required findings that must be made to grant approval, and factors the Hearing Officer may consider when making those findings.

Even if the applicant provides housing for the disabled, and even if the requested accommodation is necessary, the City is not required to grant a request for accommodation that is not reasonable. Cities may find a requested accommodation unreasonable if it either (1) imposes an undue financial or administrative burden on the City, or (2) results in a fundamental alteration in the nature of a City program, often described as undermining "the basic purpose which the requirement seeks to achieve."

As stated earlier in this report, in May 2009 the Hearing Officer determined not all of the five findings required pursuant to Section 20.98.025(B) to grant a reasonable accommodation could be made. Specifically, the Hearing Officer determined Finding No. 2 and Finding No. 4 could not be made to allow the continued operation of the existing sober living facility with 10 resident clients and two resident managers. However, staff believes with the reduced number of six female resident clients and two resident managers in two units of the duplex building, all five findings can be made. Following are analyses of Finding No. 2 and Finding No. 4 under the new conditions proposed by the applicant, and the facts in support of these findings.

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

It is the applicant's burden to demonstrate that the requested accommodation is necessary. "The 'necessary' element requires the demonstration of a direct linkage between the proposed accommodation and the 'equal opportunity' to be provided to the handicapped person." *Lapid-Laurel, LLC v. Zoning Bd. of Adjustment of the Township of Scotch Plains*, 284 F.3d 442, 460 (3rd Cir. 2002)

In the *Lapid-Laurel* case, the court found that the necessity element was established as to disabled elderly residents' need to live in a single-family residential area. However, the need for the facility to house the number of residents requested by the facility operator was not demonstrated. The court said that for the operator to show necessity for the size of the facility, the operator would have to show either that: (1) the size of the facility was necessary for the facility's financial viability (which the court appeared to equate with giving the disabled an equal opportunity to use and enjoy a dwelling); or (2) the size of the facility was necessary to provide a therapeutic benefit (and thus ameliorate an effect of the handicap.) The court found the facility operator had not demonstrated that the proposed size of the facility was necessary for either financial viability or therapeutic benefit. 284 F.3d at 460-461.

The Ninth Circuit followed the same requirement that a sober living facility operator show a certain number of residents was necessary for financial viability or therapeutic benefit to the residents in order to demonstrate the necessity of a reasonable accommodation in *City of Edmonds v. Washington State Building Council*, 18 F.3d 802 (9th Cir. 1994). In that case, the court noted that a sober living home had made a preliminary showing of necessity because it had shown that it required six or more residents to ensure financial self-sufficiency, and to provide a supportive atmosphere for successful recovery. 183 F.3d at 803.

Similarly, in *Advocacy and Resource Center v. Town of Chazy*, 62 F.Supp.2d 686 (N.D.N.Y. 1999), the court declined to find that the plaintiff facility operator had established necessity because, in part, the plaintiff offered "only conclusory allegations . . . without any substantiation in the form of financial records demonstrating that the residence would not be economically viable without a larger (population) . . ." 62 F.Supp.2d at 689-690.

Consistent with court decisions, the City requires that applicants for reasonable accommodation demonstrate the necessity of reasonable accommodation requests by showing therapeutic benefit to residents at the requested population levels and/or location (also referred to as "affirmatively enhancing the quality of life" of a disabled individual or individuals), or by showing that the requested number of residents is necessary for the financial viability of the facility.

Reasonable Accommodation No. 2009-002 was denied in July 2009. However, the Hearing Officer allowed the continued operations of the sober living facility with the requested 10 resident clients for a one-year period, subject to certain conditions of operation, after which time he directed the use of the facility to cease. Thus, the existing facility is currently subject to abatement in July 2010.

Facts in support of finding:

The applicant has submitted an amended request for reasonable accommodation to allow six resident clients and two resident managers in the two units of the duplex building. The applicant has stated that continued operation in this location provides a therapeutic benefit to its clients, and that it is necessary to provide a resident manager in each unit in order to monitor the residents' activities and ensure their safety.

In the interim, between now and the end of September, the applicant has requested that the current population level of eight resident clients be allowed to remain in the two units of the duplex building. This would allow the current resident clients to complete their intended stay, and provide these residents an equal opportunity to use and enjoy their current dwelling.

With a reduced facility population of six female resident clients in both units of the duplex building, the amended accommodation will continue to afford disabled individuals an equal opportunity to use and enjoy a dwelling in a small sober living environment. There are limited opportunities within the City for females in recovery to live in a female-only building with six or fewer other recovering individuals, surrounded by other single housekeeping units. At this time, staff is aware of only one similar facility which provides housing to no more than three disabled female clients per unit in a duplex building. That facility is also operated by Balboa Recovery, pursuant to a reasonable accommodation granted on May 20, 2009. The requested reasonable accommodation is necessary to provide an opportunity for disabled female residents to live in a small self-paced recovery environment in a residential setting which allows the residents to reintegrate into the world and workforce.

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

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

If the requested accommodation is granted, the applicant's current and potential clients will be able to live in a dwelling unit in an R-2 District with other individuals in recovery from addiction. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. This facility appears to be the only residential care

facility of any description on this block, or any of the adjacent blocks with the exception of an all-male sober living facility located at 127 29th Street which is currently subject to abatement. The operators of the 29th Street facility are in the process of entering an abatement agreement with the City which requires closure of the facility by August 31, 2010, at the latest.

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

The applicant requests an exemption from the requirements of NBMC Section 20.10.020 to allow the continued operation of an existing unlicensed residential care facility located in an R-2 District where the NBMC permits such uses only in an MFR District with approval of use permit. The applicant seeks to continue the operations of the existing sober living facility with no more than six disabled individuals in the two units of a duplex building. In May 2009, staff provided facts that supported a finding that an accommodation that allowed the facility to continue at its current location with no more than six female resident clients would afford females with a disability an equal opportunity to enjoy the housing type of their choice in a small, gender-specific recovery environment.

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

The applicant contends that relocation of the current facility would be a significant financial burden, and reports that, with the requested accommodation, changed circumstances now allow the facility to be financially viable under conditions similar to those at other facilities of a similar nature and operation.

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

The Municipal Code authorizes the City to consider other facilities that are of a "similar nature and operation." Based on an inventory conducted in April 2010, females in recovery from alcoholism or chemical dependency wishing to live in Newport Beach in a sober living environment have the following housing opportunities that they can choose from:

- Balboa Recovery operates a single comparable facility, with housing for six female resident clients in two units of a duplex at 204 21st Street under a reasonable accommodation granted in May 2009; and

- Pacific Shores Properties operates one female-only sober living home, in one unit of its 492 and 492 ½ Orange Street facility. This unit was granted a reasonable accommodation allowing it to continue to house up to 12 resident clients in each unit; and
- An unlimited number of beds via the use of any home in Newport Beach, provided that the occupants reside there as a single housekeeping unit in compliance with the City's definition of single housekeeping unit.

There are also sober living beds affiliated with a formal treatment program, Sober Living by the Sea (SLBTS), which are approved and not subject to abatement. For individuals who wish to reside in a duplex occupied entirely by sober living residents with up to six individuals *per duplex unit*, 60 beds (located in both units of five duplexes) will remain in their current location. Twenty-four additional beds (located in both units of two duplexes) are currently in operation but plan to close within 30 months of the effective date of the agreement, under the terms of the Zoning Agreement between the City and SLBTS. SLBTS also operates six beds in one unit of a duplex, also due to close within 30 months of the effective date of the agreement. The City is not aware of how many of these beds are available specifically to female clients.

Currently, the City is in the process of entering a similar zoning agreement with Morningside Recovery, which would allow Morningside Recovery to continue operation of sober living facilities housing up to 36 resident clients in five duplex units and one single-family condominium dwelling. The City is not currently aware of how many of these beds are available specifically to female clients.

A denial of the reasonable accommodation would not deprive prospective residents of Balboa Recovery of the opportunity of live in a residential setting with 11 other individuals in recovery in two units of a duplex building. These alternate residential settings also provide self-paced recovery options that allow residents sufficient time for personal psychological growth while avoiding the use of alcohol and other substances. However, to the best of staff's knowledge, the only other sober living facility in the City that offers housing for only three female resident clients per duplex unit is the other female-only Balboa Recovery facility located at 204 21st Street.

Summary: Staff asserts that Finding No. 2 can be made with the reduced population of a maximum of six resident clients and two resident managers in both units of the duplex building. Staff recommends that if the requested reasonable accommodation is granted, a condition of approval be imposed limiting the maximum occupancy of the facility to six resident clients and two resident managers. In addition, if the Hearing Officer deems it appropriate to grant the applicant's request to include an interim period in which all eight resident clients currently residing in the facility may remain at the property between July 2, 2010 and September 30, 2010, staff recommends that the Hearing Officer condition the grant of accommodation. Staff has prepared a draft

condition of approval addressing this request to state that as of the date of approval of the accommodation, no additional residents shall be accepted at the facility until attrition of current clients causes the facility to house fewer than six resident clients.

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

Even if the applicant provides housing for the disabled, and even if the requested accommodation is necessary, the City is not required to grant a request for accommodation that is not reasonable. Cities may find a requested accommodation unreasonable if it either (1) imposes an undue financial or administrative burden on the city, or (2) results in a fundamental alteration in the nature of a city program, often described as undermining "the basic purpose which the requirement seeks to achieve."

Facts in support of finding:

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

Section 20.10.020 of the NBMC establishes those uses that are permitted, conditionally permitted, and prohibited within the R-2 District. In accordance with Section 20.10.020 of the NBMC, unlicensed residential care facilities are not permitted in the R-2 District, and are only permitted in the MFR District subject to approval of a use permit.

If the amended reasonable accommodation were granted to allow the continued operations of the sober living facility with a requirement to limit the maximum occupancy to six resident clients and two resident managers in the two units of the duplex building, the intensity of the use would be consistent with typical residential development intensity in the R-2 District. The intensity of the use would also be compatible with the surrounding two-family residential properties.

Building Code and Life Safety Consideration: The State Fire Marshal has made the determination that residential care occupancies with more than six residents have characteristics that require a certain degree of extra protection for the safety of the residents. Pursuant to the provisions of the California Building Code, facilities providing residential care and housing for more than six resident clients in a building are classified as an R-4 occupancy. This occupancy group includes buildings arranged for social

rehabilitation, including alcoholism or drug abuse recovery or treatment for seven or more resident clients.

If the occupancy of the facility is reduced to provide housing for six resident clients and two resident managers within the two units of the duplex building, the building would be classified as an R-3.1 occupancy. Building code requirements for R-3.1 occupancies are similar to requirements for occupancies classified as R-3. The R-3 occupancy classification and requirements apply to single family homes and duplexes. The code requirements of an R-3.1 occupancy are less stringent than an R-4 occupancy, and the existing duplex building can easily and cost-effectively be brought into compliance with the R-3.1 code requirements.

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

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

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

The second stated purpose is:

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

Even if the facility is exempted from Section 20.10.020 and permitted to remain in its current location, it is not exempt from reasonable controls the City might place on it. NBMC Section 20.98.015 states that the Hearing Officer shall approve, conditionally approve, or deny applications for reasonable accommodation. The City can impose the same conditions through a reasonable accommodation that it could impose under a use permit. A reasonable accommodation, with appropriate conditions, can mitigate adverse secondary impacts such as noise, overcrowding, parking and traffic impacts, excessive second-hand smoke, and unruly behavior by residents of a facility to the detriment of neighbors.

Unlike a use permit, a reasonable accommodation is not a land use entitlement that runs with the land to future owners and facility operators. A reasonable accommodation is a disability-related exemption that is specific to the housing provider or disabled individual(s) to whom it is granted, as well as specific to the dwelling. If Balboa Recovery ceased to provide disabled housing at this location, the accommodation would no longer be necessary and would cease.

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

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

Balboa Recovery, Inc. requests an amended reasonable accommodation to allow the continued operation of an existing sober living facility to provide housing for no more than six disabled individuals in a facility in both units of a duplex. The requested amended accommodation would permit a maximum of six disabled individuals in recovery and two resident managers in the two units of the duplex building, all of which are not living as a single housekeeping unit, to live on a block of single housekeeping units. As a condition of approval, staff recommends that the facility be required to limit the maximum occupancy to six resident clients and two resident managers in the two units of the duplex building.

With the reduction in resident population as required by conditions of approval, the intensity of the use would be consistent with the intensity of use that would be produced by single housekeeping units in two-family residential districts, and would be compatible with the surrounding two-family residential properties. Staff believes approval of the amended reasonable accommodation with appropriate conditions of approval to allow the facility to remain in its current location in the R-2 District would not undermine the basic purpose of this portion of the City's zoning program.

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

Parking – The duplex building occupied by the facility has two enclosed garage parking spaces. The Zoning Code requires one on-site parking space per three residential care facility beds. With six residential care facility beds, the required parking for the facility would be two spaces. As such, the facility currently meets the required parking standards.

Some residents are permitted to have personal vehicles while residing at the facility. As a proposed condition of approval, the two designated garage parking spaces at the sober living facility shall remain open and available for parking for staff and the resident clients at all times. In addition, the operator shall limit the number of vehicles onsite at anytime to two, which must be parked in the garage. At most, one other resident client may have a vehicle and park on the street in a legally designated parking space. Client move-in and move-out shall be accomplished in a manner that does not block traffic, area driveway or alleys.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a duplex, the standard trip rate is based on 6.72 average daily trips per dwelling unit. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a duplex would generate approximately 13.44 average daily trips, whereas a six-bed residential care facility with two resident manager beds occupying both units of a duplex would generate approximately 16.44 average daily trips. Staff believes that this number does not represent a substantial increase in traffic.

Due to the fact that the applicant limits and manages the use of personal vehicles by residents at the facility, if the reasonable accommodation were granted with a condition of approval limiting the maximum number of residents to six resident clients and two resident managers, the number of trips generated would not be significantly in excess of trips generated by that of a duplex. Approval of the amended request for reasonable accommodation would include conditions that restrict use of residents' personal vehicles while living at the facility, which would reduce impacts on parking to an insubstantial level.

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

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-005 in order to implement General Plan Policy LU 6.2.7. Granting the requested accommodation with the recommended conditions of approval enables the City to apply appropriate reasonable regulations on the facility,

consistent with the express purpose of the General Plan with regard to these facilities.

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

With the upcoming abatement of the sober living facility at 127 29th Street, there are no other documented facilities similar in nature or operation to the subject facility within this block or any of the immediately adjacent blocks. Thus, the granting of the reasonable accommodation with a condition of approval limiting the maximum occupancy of the facility to six residents and two resident managers in the two units of the duplex building would not create an institutionalized environment.

Summary: Staff believes Finding No. 4 can be made with conditions imposed on the use that will allow the amended request for reasonable accommodation be granted consistent with the basic purposes of NBMC Sections 20.10.010, 20.10.020, and Chapter 20.91A. The recommended conditions of approval are described below.

1. That the operator of the sober living facility agree to a bed cap of no more than six resident clients plus two resident managers, who shall be qualified recovery specialists;
2. If the applicant obtains a license from ADP to operate a facility for six or fewer clients in one of the duplex units, the other unit may only be used to provide housing for a single housekeeping unit; and
3. Quiet hours between 10:00 p.m. and 8:00 a.m.;
4. Require compliance with the standards of NMBC Section 20.91A.050(A), relating to secondhand smoke detectable from off the parcel upon which the facility is located.

Essentially, these conditions would require that the facility comply with the development and operational standards required of similar facilities receiving a use permit under NBMC Chapter 20.91A. Staff believes that with these conditions, the findings required by NMBC Section 20.91A.060 for issuance of a use permit could be made with regard to this facility. With conditions of approval, the use could conform to all applicable provisions of Section 20.91A.050.

Staff believes that, as conditioned, the use would be compatible with the character of the surrounding neighborhood, and the continued maintenance of the use would not contribute to changing the residential character of the neighborhood or create an overconcentration of residential care uses in the vicinity. In considering whether the residential character of the neighborhood would be changed, staff has considered that the American Planning Association standard of one or two such uses per block is not exceeded by allowing the continued maintenance of this facility as there will be no other

residential care uses on this block, or any of the immediately adjacent blocks. There has been no evidence presented to staff that indicates that there have been any issues with delivery of goods that adversely affect the peace and quiet of neighboring properties, or issues of trash generated in excess of surrounding properties.

CONCLUSION

In accordance with the provisions of Section 20.98.025 of the NBMC, all five findings must be made in order for the Hearing Officer to approve a request for reasonable accommodation. As to the amended reasonable accommodation proposed by the applicant with a limit on the total bed count for resident clients to six beds, staff believes all five findings can be made. In addition, staff believes the sober living facility would need to retain on-site resident managers who are qualified recovery specialists to monitor and ensure the safety of the resident clients. Permitting a facility with no more than six resident client beds to remain in its current location in the R-2 District would not undermine the basic purpose of this portion of the City's zoning program

In addition, there would be conditions imposed with the granting of the reasonable accommodation that would result in the facility complying with the development and operational standards required of similar facilities receiving a use permit under NBMC Chapter 20.91A. Staff believes that with these conditions, the findings that NBMC Section 20.91A.060 requires for issuance of a use permit could be made with regard to this facility. With conditions of approval, the use would conform to all applicable provisions of Section 20.91A.050, the building provides sufficient on-site parking for the use, and traffic impacts are similar to those generated by surrounding single-family and two-family uses. The property and existing structure is physically suited to accommodate the use.

If the proposed conditions are approved and followed, staff believes that Finding No. 2 and Finding No. 4 can be made, and that granting the requested accommodation will not undermine the basic purpose which the zoning program seeks to achieve, and will not result in a fundamental alteration in the nature of the City's zoning program.

Staff recommends that the Hearing Officer:

1. Approve the request for Reasonable Accommodation No. 2009-002 based on the findings discussed in this report; and
2. Adopt a Resolution of Approval with proposed Conditions of Approval for Reasonable Accommodation No. 2009-002, which is attached to this report, or
3. Issue a written determination and findings within ten days from the date of the public hearing, and direct staff to prepare a resolution based on the Hearing Officer's written determination and findings, with appropriate conditions, for adoption by the Hearing Officer.


Environmental Review

This activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines. It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and therefore it is not subject to CEQA.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners and occupants within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting which was posted at City Hall and on the City website.

Prepared by:


Janet Johnson Brown
Associate Planner

ATTACHMENTS

- Attachment No. 1: Draft Resolution of Approval
- ~~Attachment No. 2: May 20, 2009 Staff Report~~
- ~~Attachment No. 3: May 20, 2009 Hearing Transcript~~
- ~~Attachment No. 4: Resolution No. HO-2009-015 Adopted July 2, 2009~~
- Attachment No. 5: Applicant request to amend original reasonable accommodation,
~~February 1, 2010~~
- Attachment No. 6: ~~Correspondence between City and applicant, May 28, 2010~~
- Attachment No. 7: ~~Correspondence received from public regarding this application~~

See 2009 STAFF
Report

RESOLUTION NO. HO-2010-__

**A RESOLUTION OF A HEARING OFFICER OF THE CITY OF
NEWPORT BEACH APPROVING A REASONABLE
ACCOMMODATION FOR A RESIDENTIAL CARE FACILITY
LOCATED AT 124 30TH STREET AND OPERATED BY BALBOA
RECOVERY, INC. (PA 2009-012)**

WHEREAS, Ordinance No. 2008-05 was adopted by the Newport Beach City Council on January 22, 2008, following noticed public hearings, and the ordinance amended the City of Newport Beach's Municipal Code (NBMC) relating to Group Residential Uses; and

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

WHEREAS, an application was filed by Kevin Cullen, on behalf of Balboa Recovery, Inc., requesting a reasonable accommodation from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020 (*Residential Districts: Land use Regulations*) with respect to property located at 124 30th Street, and legally described as Newport Beach City Block 29, Lot 18, Tract 512; and

WHEREAS, a public hearing was held on May 20, 2009, presided by Hearing Officer Thomas Allen, who determined that the findings required by Section 20.98.025(B) of the NBMC could not be made to grant a reasonable accommodated for 10 resident clients and two resident managers, and on July 2, 2009, the Hearing Officer adopted Resolution No. HO-2009-015 denying Reasonable Accommodation No. 2009-002 without prejudice, granting the applicant a one-year period in which to abate the use; and

WHEREAS, on February 1, 2010, Kevin Cullen submitted a request for an amendment to his request for Reasonable Accommodation No. 2009-002 to allow the continued operation of an existing sober living facility with a reduced population from 10 female adult resident clients and two resident managers to no more than six female adult resident clients and two resident managers in the two units of a duplex building. The facility is located in the R-2 District, where such uses are not permitted, and the applicant requests an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit; and

WHEREAS, a public hearing was held on June 11, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code and other applicable laws. Evidence, both written and oral, was presented and considered at this meeting; and

WHEREAS, the hearing was presided over by Judy Sherman, Hearing Officer for the City of Newport Beach; and

WHEREAS, the required findings of Section 20.98.025(B) of the NBMC and facts in support of such findings are as follows:

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

Facts in Support of Finding: Balboa Recovery, Inc. submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol and/or drug addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

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

Facts in Support of Finding: The applicant has submitted an amended request for reasonable accommodation to allow six female resident clients and two resident managers in the two units of the duplex building. The applicant has stated that continued operation in this location provides a therapeutic benefit to its clients, and that it is necessary to provide a resident manager in each unit in order to monitor the residents' activities and ensure their safety.

In the interim, between now and the end of September 2010, the applicant has requested that the current population level of eight resident clients be allowed to remain in the two units of the duplex building. This would allow the current resident clients to complete their intended stay, and provide these residents an equal opportunity to use and enjoy their current dwelling.

The Hearing Officer finds that with a reduced facility population of six female resident clients in both units of the duplex building, the amended accommodation will continue to afford disabled individuals an equal opportunity to use and enjoy a dwelling in a small sober living environment.

The Hearing Officer deems it appropriate to condition the grant of accommodation to include an interim period in which all eight resident clients currently residing in the facility may remain at the property between July 2, 2010 and September 30, 2010. Further, the Hearing Officer determines it is appropriate to condition the grant of accommodation to state that, as of the date of approval of the accommodation, no additional residents shall be accepted at the facility until attrition of current clients causes the facility to house fewer than six resident clients.

The Hearing Officer finds there are limited opportunities within the City for females in recovery to live in a female-only building with six or fewer other recovering individuals, surrounded by other single housekeeping units. The Hearing Officer has determined the requested reasonable accommodation is necessary to provide an opportunity for

disabled female residents to live in a small self-paced recovery environment in a residential setting which allows the residents to reintegrate into the world and workforce.

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

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

With the granting of the requested accommodation, the applicant's current and potential clients will be able to live in a dwelling unit in an R-2 District with other individuals in recovery from addiction. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. This facility appears to be the only residential care facility of any description on this block, or any of the adjacent blocks with the exception of an all-male sober living facility located at 127 29th Street which is currently subject to abatement. The operators of the 29th Street facility are in the process of entering an abatement agreement with the City which requires closure of the facility by August 31, 2010, at the latest.

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

The applicant requests an exemption from the requirements of NBMC Section 20.10.020 to allow the continued operation of an existing unlicensed residential care facility located in an R-2 District where the NBMC permits such uses only in an MFR District with approval of a use permit. The applicant seeks to continue the operations of the existing sober living facility with no more than six disabled individuals in the two units of a duplex building. The Hearing Officer finds that facts have been provided that support a finding that by allowing the facility to continue at its current location with no more than six female resident clients, females with a disability would be afforded an equal opportunity to enjoy the housing type of their choice in a small, gender-specific recovery environment.

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

The applicant contends that relocation of the current facility would be a significant financial burden, and reports that, with the requested accommodation, changed

circumstances now allow the facility to be financially viable under conditions similar to those at other facilities of a similar nature and operation.

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

The Municipal Code authorizes the City to consider the availability of other facilities that are of a "similar nature and operation." Based on an inventory conducted in April 2010, females in recovery from alcoholism or chemical dependency wishing to live in Newport Beach in a sober living environment have the following housing opportunities that they can choose from:

- Balboa Recovery operates a single comparable facility, with housing for six female resident clients in two units of a duplex at 204 21st Street under a reasonable accommodation granted in May 2009; and
- Pacific Shores Properties operates one female-only sober living home, in one unit of its 492 and 492 ½ Orange Street facility. This unit was granted a reasonable accommodation allowing it to continue to house up to 12 resident clients; and
- An unlimited number of beds are available via the use of any home in Newport Beach, provided that the occupants reside there as a single housekeeping unit in compliance with the City's definition of single housekeeping unit.

There are also sober living beds affiliated with a formal treatment program, Sober Living by the Sea (SLBTS), which are approved and not subject to abatement. For individuals who wish to reside in a duplex occupied entirely by sober living residents with up to six individuals *per duplex unit*, 60 beds (located in both units of five duplexes) will remain in their current location. Twenty-four additional beds (located in both units of two duplexes) are currently in operation but plan to close within 30 months of the effective date of the agreement, under the terms of the Zoning Agreement between the City and SLBTS. SLBTS also operates six beds in one unit of a duplex, also due to close within 30 months of the effective date of the agreement. The City is not aware of how many of these beds are available specifically to female clients.

Currently, the City is in the process of entering a similar zoning agreement with Morningside Recovery, which would allow Morningside Recovery to continue operation of sober living facilities housing up to 36 resident clients in five duplex units and one single-family condominium dwelling. The City is not currently aware of how many of these beds are available specifically to female clients.

A denial of the reasonable accommodation would not deprive prospective residents of Balboa Recovery of the opportunity of live in a residential setting with 11 other individuals in recovery in two units of a duplex building. These alternate residential settings also provide self-paced recovery options that allow residents sufficient time for personal psychological growth while avoiding the use of alcohol and other substances. However, at this time it appears that the only other sober living facility in the City that offers housing for only three female resident clients per duplex unit is the other female-only Balboa Recovery facility located at 204 21st Street.

3. **Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as “undue financial or administrative burden” is defined in Fair Housing Laws and interpretive case law.**

Facts in Support of Finding: The Hearing Officer finds that allowing the facility to remain at its current location so long as it is necessary to provide disabled individuals with an equal opportunity to use and enjoy a dwelling would not impose an undue financial or administrative burden on the City. To date, there have been no complaints made to the City regarding the operations of this facility.

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

Facts in Support of Finding: As analyzed below, the Hearing Officer finds that allowing the current residents to remain for an interim period between July 2, 2010 and September 30, 2010, and a maximum of no more than six female resident clients and two resident managers, as requested by the applicant, would not result in a fundamental alteration of a City zoning program.

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

Section 20.10.020 of the NBMC establishes those uses that are permitted, conditionally permitted, and prohibited within the R-2 District. In accordance with Section 20.10.020 of the NBMC, unlicensed residential care facilities are not permitted in the R-2 District, and are only permitted in the MFR District subject to approval of a use permit.

The Hearing Officer finds that the intensity of the use would be consistent with typical residential development intensity in the R-2 District with the granting of the reasonable accommodation to allow the continued operations of the sober living facility with a maximum occupancy of six resident clients and two resident managers in the two units of the duplex building. The Hearing Officer finds that the intensity of the use would also be compatible with the surrounding two-family residential properties.

Building Code and Life Safety Consideration: The State Fire Marshal has made the determination that residential care occupancies with more than six residents have characteristics that require a certain degree of extra protection for the safety of the residents. Pursuant to the provisions of the California Building Code, facilities providing residential care and housing for more than six resident clients in a building are classified as an R-4 occupancy. This occupancy group includes buildings arranged for social rehabilitation, including alcoholism or drug abuse recovery or treatment for seven or more resident clients.

If the occupancy of the facility is reduced to provide housing for six resident clients and two resident managers within the two units of the duplex building, the building would be classified as an R-3.1 occupancy. Building code requirements for R-3.1 occupancies are similar to requirements for occupancies classified as R-3. The R-3 occupancy classification and requirements apply to single family homes and duplexes. The code requirements of an R-3.1 occupancy are less stringent than an R-4 occupancy, and the existing duplex building can easily and cost-effectively be brought into compliance with the R-3.1 code requirements.

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

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

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

The second stated purpose is:

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

Even if the facility is exempted from Section 20.10.020 and permitted to remain in its current location, it is not exempt from reasonable controls the Hearing Officer might place on it. NBMC Section 20.98.015 states that the Hearing Officer shall approve, conditionally approve, or deny applications for reasonable accommodation. The Hearing Officer can impose the same conditions through a reasonable accommodation that he or she could impose under a use permit. A reasonable accommodation, with appropriate conditions, can mitigate adverse secondary impacts such as noise, overcrowding, parking and traffic impacts, excessive second-hand smoke, and unruly behavior by residents of a facility to the detriment of neighbors.

The Hearing Officer finds that conditions of approval should be and accordingly are applied to the use that will allow the accommodation to be granted consistent with the basic purposes of NBMC Sections 20.10.010, 20.10.020, and Chapter 20.91A. The Hearing Officer's conditions of approval are described below.

1. The operator of the sober living facility shall agree to a bed cap of no more than six female resident clients plus two resident managers, who shall be qualified recovery specialists;
2. If the applicant obtains a license from ADP to operate a facility for six or fewer clients in one of the duplex units, the other unit may only be used to provide housing for a single housekeeping unit; and
3. Quiet hours between 10:00 p.m. and 8:00 a.m.;
4. Compliance with the standards of NBMC Section 20.91A.050(A), relating to secondhand smoke detectable from off the parcel upon which the facility is located is required.

Essentially, these conditions would require that the facility comply with the development and operational standards required of similar facilities receiving a use permit under NBMC Chapter 20.91A. The Hearing Officer finds that with these conditions, the findings required by NBMC Section 20.91A.060 for issuance of a use

permit could be made with regard to this facility. With conditions of approval, the use could conform to all applicable provisions of Section 20.91A.050.

The Hearing Officer finds, that as conditioned, the use would be compatible with the character of the surrounding neighborhood, and the continued maintenance of the use would not contribute to changing the residential character of the neighborhood or create an overconcentration of residential care uses in the vicinity. In considering whether the residential character of the neighborhood would be changed, the Hearing Officer has considered that the American Planning Association standard of one or two such uses per block is not exceeded by allowing the continued maintenance of this facility as there will be no other residential care uses on this block, or any of the immediately adjacent blocks. In addition, there has been no evidence presented to the Hearing Officer that indicates that there have been any issues with delivery of goods that adversely affect the peace and quiet of neighboring properties, or issues of trash generated in excess of surrounding properties.

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

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

Balboa Recovery, Inc. requests an amended reasonable accommodation to allow the continued operation of an existing sober living facility to provide housing for no more than six disabled individuals in a facility in both units of a duplex. The requested accommodation would permit a maximum of six disabled individuals in recovery and two resident managers in the two units of the duplex building, all of which are not living as a single housekeeping unit, to live on a block of single housekeeping units. As a condition of approval, the Hearing Officer requires that the facility be limited to a maximum occupancy of six resident clients and two resident managers in the two units of the duplex building.

With the reduction in resident population as required by conditions of approval, the intensity of the use would be consistent with the intensity of use that would be produced by single housekeeping units in two-family residential districts, and would be compatible with the surrounding two-family residential properties. The Hearing Officer finds that approval of the reasonable accommodation with appropriate conditions of approval to allow the facility to remain in its current location in the R-2 District will not undermine the basic purpose of this portion of the City's zoning program.

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

Parking – The duplex building occupied by the facility has two enclosed garage parking spaces. The Zoning Code requires one on-site parking space per three residential care facility beds. With six residential care facility beds, the required parking for the facility would be two spaces. As such, the facility currently meets the required parking standards.

A condition of approval is included requiring that the two designated garage parking spaces at the sober living facility shall remain open and available for parking for staff and the resident clients at all times. In addition, the applicant shall limit the number of vehicles onsite at anytime to two, which must be parked in the garage. At most, one other resident client may have a vehicle and park on the street in a legally designated parking space. Client move-in and move-out shall be accomplished in a manner that does not block traffic, area driveway or alleys.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a duplex, the standard trip rate is based on 6.72 average daily trips per dwelling unit. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a duplex would generate approximately 13.44 average daily trips, whereas a six-bed residential care facility with two resident manager beds occupying both units of a duplex would generate approximately 16.44 average daily trips. The Hearing Officer finds that this number does not represent a substantial increase in traffic.

Due to the fact that the applicant limits and manages the use of personal vehicles by residents at the facility, the number of trips generated would not be significantly in excess of trips generated by that of a duplex with the granting of the reasonable accommodation with a condition of approval limiting the maximum number of residents to six resident clients and two resident managers. Approval of the amended request for reasonable accommodation includes conditions that restrict use of residents' personal vehicles while living at the facility, which will reduce impacts on parking to an insubstantial level.

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

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-005 in order to implement General Plan Policy LU 6.2.7. The Hearing Officer finds that granting the requested accommodation with the recommended conditions of approval enables the City to apply appropriate reasonable regulations on the facility, consistent with the express purpose of the General Plan with regard to these facilities.

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

With the upcoming abatement of the sober living facility at 127 29th Street, there are no other documented facilities similar in nature or operation to the subject facility within this block or any of the immediately adjacent blocks. The Hearing Officer finds that granting the reasonable accommodation with a condition of approval limiting the maximum occupancy of the facility to six residents and two resident managers in the two units of the duplex building would not create an institutionalized environment.

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

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

WHEREAS, the project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA; and

NOW THEREFORE, BE IT RESOLVED:

Section 1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. 2009-002, subject to the Conditions set forth in Exhibit "A" attached hereto and made a part hereof.

Section 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 11th DAY OF JUNE, 2010.

By: _____
Judy Sherman, Hearing Officer

ATTEST:

City Clerk

EXHIBIT "A"

**CONDITIONS OF APPROVAL
REASONABLE ACCOMMODATION NO. 2009-002
BALBOA RECOVERY INC. at 124 30th Street, Units A and B**

1. **Grant of Reasonable Accommodation.** Reasonable Accommodation No. 2009-002 is granted solely to Balboa Recovery, Inc. (hereinafter "the Operator") to operate an adult sober living facility for disabled female clients in the two units of a duplex building located at 124 30th Street. Reasonable accommodation to occupy the building (inclusive of both units) is granted to six disabled female persons and two resident managers. The Operator shall execute an affidavit declaring that all clients receiving services from this facility are disabled persons.
2. **Interim Occupancy Level.** For an interim period, from the date of adoption of this resolution to September 30, 2010, the Operator shall limit occupancy of the building to eight resident female client beds and two on-site resident managers, who shall be qualified recovery specialists. If any of the eight resident clients currently residing at the facility as of the date of approval of Reasonable Accommodation No. 2009-002 cease residency at the facility after July 2, 2010, the Operator shall not accept any additional residents that would cause the facility's population to exceed six resident clients. Under no circumstance shall more than eight female clients in recovery reside in the building during this interim period.
3. **Occupancy Level.** Effective October 1, 2010 (or earlier, if attrition of current residents permits), the Operator shall limit occupancy of the building to six female resident client beds and two on-site resident managers, who shall be qualified recovery specialists. No more than six persons in recovery may reside in the building.
4. **Staffing.** Operator shall have two qualified resident managers on-site at all time (24 hours a day, seven days a week) to appropriately and responsibly manage the facility.
5. **Governmental Referrals.** Operator shall not provide any services to any client or house any client who has been referred or caused to be referred to this facility by any governmental agency, including but not limited to probationers or parolees.
6. **Assembly Uses.** Assembly uses are prohibited, except those that are limited solely to client residents of the facility and facility staff.
7. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.

8. **Trash.** Operator shall abide by the City's regulations regarding trash disposal including providing the proper amount of trash cans for the property's use (so that cans do not overflow), placing the cans out no earlier than 7:00 pm the evening prior to collection, and placing the cans back in the side yard (or other contained area) no later than 6:00 pm the day of collection.
9. **Smoking & Cigarette Litter.** Per NBMC Section 2091A.050(A), no clients, guests, or any other users of the subject property may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the use is located. Balboa Recovery Inc. will enforce house rules against litter, including allowing clients, staff, or residents from littering cigarette butts on the ground, sidewalk, gutter or street.
10. **Vehicles, Parking & Garages.** This facility may have a maximum of three vehicles associated with its use. The Operator shall keep the two designated garage parking spaces at the facility open and available for parking for staff, and resident clients at all times. At most one other client in the facility may have a vehicle and park on the street in a legally-designated parking spot. Client move-in and move-out shall be accomplished in such a manner that traffic on 30th Street is not blocked, nor may area alleys be blocked.
11. **Transportation.** No transportation services shall be provided by the facility operator.
12. **Quiet Hours.** The on-site facility manager shall maintain "Quiet Hours" between 10:00 p.m. and 8:00 a.m., daily, where persons on the street or on adjacent properties cannot hear any noise (including music, TV's, voices) from the facility except in an emergency.
13. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.
14. **Deliveries.** Any deliveries of business products and other packages and goods to the facility during weekdays shall be made between the hours of 9:00 a.m. to 5:00 p.m.
15. **Contact Information.** Operator shall provide area residents and the City with a 24/7 contact name, phone number and e-mail address to assist residents and the City with problems or concerns arising from the facility. E-mails or messages left for the Operator's designated contact shall be returned in prompt manner within the next 24-hour period.

16. **Building and Zoning.** Operator recognizes that the subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of obstruction, including building obstruction. The orderly storage of trashcans is acceptable in setbacks.
17. **Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regard to any of these issues, Operator shall correct the violation within seven days or contact the City directly to discuss an alternative timeline consistent with the Newport Beach Municipal Code.
18. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches for meetings, prayer, conversation, or other gatherings shall show due respect to non-resident visitors, residents, and other beachgoers, thus allowing them to take full enjoyment of the beach. Operator shall not conduct business on the beach (per NBMC 10.08.030)
19. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and encouragement of 12-Step meetings or counseling). Operator has represented that the facility operates with an average client stay of 300-days. Operator shall use best efforts to maintain, at a minimum, average client stay of 300-days. Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home.
20. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this reasonable accommodation shall not constitute a waiver of the requirements of any federal, state or local law, including the requirements of the California Building Code and Fire Code.
21. **Additions or Modifications to Conditions of Approval, or Revocation of Reasonable Accommodation.** The Hearing Officer or City Council may add or modify conditions of approval to this reasonable accommodation, or revoke this Reasonable Accommodation upon a finding of failure to comply with the conditions set forth. The City Council may also revoke, modify, or amend this Reasonable Accommodation if it determines the conditions under which this facility is being operated or maintained are detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, or if the facility is materially injurious to property or improvements in the vicinity, or if the facility is operated or maintained so as to constitute a public nuisance. In any proceeding to revoke this Reasonable Accommodation, the cumulative effect of a violation of two or more conditions shall be considered.
22. **Compliance with Conditions of Approval.** Per NMBC Section 20.98.035 (Amendments), a request for changes in conditions of approval shall be treated as

a new application unless they are minor, do not involve a substantial alteration to the plan or conditions of approval, and are consistent with the intent of the original approval. Any changes in operational characteristics, including but not limited to the following, shall require amendment to this reasonable accommodation or can only take effect upon issuance of a new reasonable accommodation:

- a. Increase in number of resident clients.
- b. Change in gender-specific nature of housing.
- c. Change in on-site staffing affecting the ability of the operator to adequately manage the facility and provide supervision of its residents.
- d. A change in physical capacity of facility including number of beds, number of bedrooms, floor area of facility, etc.
- e. Request for amendment to any condition or conditions or approval.
- f. Change in property ownership in a manner that causes the majority of the property to be owned by a person or entity not identified in the Reasonable Accommodation or its application.
- g. Change in client base such that persons living there are no longer classified as disabled or verified to be disabled.
- h. Alteration and/or loss of approved on-site parking.
- i. Upon determination by the Planning Director, a change in facility management, a change in facility ownership, or a change in the population served by this facility. The term "change in facility management" shall include but not be limited to a change in the current management of Balboa Recovery, Inc. and/or the conveyance, sale or assignment of a majority of Balboa Recovery, Inc.'s rights and obligations as to the facility at 124 30th Street to any successors in interest or assignees of Balboa Recovery, Inc.
- j. Any other material change in the operational characteristics that is not in substantial conformance with the Operation and Management Plan, upon determination by the Planning Director.

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RESOLUTION NO. HO-2010-__

**A RESOLUTION OF A HEARING OFFICER OF THE CITY OF
NEWPORT BEACH APPROVING A REASONABLE
ACCOMMODATION FOR A RESIDENTIAL CARE FACILITY
LOCATED AT 124 30TH STREET AND OPERATED BY BALBOA
RECOVERY, INC. (PA 2009-012)**

WHEREAS, Ordinance No. 2008-05 was adopted by the Newport Beach City Council on January 22, 2008, following noticed public hearings, and the ordinance amended the City of Newport Beach's Municipal Code (NBMC) relating to Group Residential Uses; and

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

WHEREAS, an application was filed by Kevin Cullen, on behalf of Balboa Recovery, Inc., requesting a reasonable accommodation from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020 (*Residential Districts: Land use Regulations*) with respect to property located at 124 30th Street, and legally described as Newport Beach City Block 29, Lot 18, Tract 512; and

WHEREAS, a public hearing was held on May 20, 2009, presided by Hearing Officer Thomas Allen, who determined that the findings required by Section 20.98.025(B) of the NBMC could not be made to grant a reasonable accommodation for 10 resident clients and two resident managers, and on July 2, 2009, the Hearing Officer adopted Resolution No. HO-2009-015 denying Reasonable Accommodation No. 2009-002 without prejudice, granting the applicant a one-year period in which to abate the use; and

WHEREAS, on February 1, 2010, Kevin Cullen submitted a request for an amendment to his request for Reasonable Accommodation No. 2009-002 to allow the continued operation of an existing sober living facility with a reduced population from 10 female adult resident clients and two resident managers to no more than six female adult resident clients and two resident managers in the two units of a duplex building. The facility is located in the R-2 District, where such uses are not permitted, and the applicant requests an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit; and

WHEREAS, a public hearing was held on June 11, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code and other applicable laws. Evidence, both written and oral, was presented and considered at this meeting; and

WHEREAS, the hearing was presided over by Judy Sherman, Hearing Officer for the City of Newport Beach; and

WHEREAS, the required findings of Section 20.98.025(B) of the NBMC and facts in support of such findings are as follows:

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

Facts in Support of Finding: Balboa Recovery, Inc. submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol and/or drug addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

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

Facts in Support of Finding: The applicant has submitted an amended request for reasonable accommodation to allow six female resident clients and two resident managers in the two units of the duplex building. The applicant has stated that continued operation in this location provides a therapeutic benefit to its clients, and that it is necessary to provide a resident manager in each unit in order to monitor the residents' activities and ensure their safety.

In the interim, between now and the end of September 2010, the applicant has requested that the current population level of eight resident clients be allowed to remain in the two units of the duplex building. This would allow the current resident clients to complete their intended stay, and provide these residents an equal opportunity to use and enjoy their current dwelling.

The Hearing Officer finds that with a reduced facility population of six female resident clients in both units of the duplex building, the amended accommodation will continue to afford disabled individuals an equal opportunity to use and enjoy a dwelling in a small sober living environment.

The Hearing Officer deems it appropriate to condition the grant of accommodation to include an interim period in which all eight resident clients currently residing in the facility may remain at the property between July 2, 2010 and September 30, 2010. Further, the Hearing Officer determines it is appropriate to condition the grant of accommodation to state that, as of the date of approval of the accommodation, no additional residents shall be accepted at the facility until attrition of current clients causes the facility to house fewer than six resident clients.

The Hearing Officer finds there are limited opportunities within the City for females in recovery to live in a female-only building with six or fewer other recovering individuals, surrounded by other single housekeeping units. The Hearing Officer has determined the requested reasonable accommodation is necessary to provide an opportunity for

disabled female residents to live in a small self-paced recovery environment in a residential setting which allows the residents to reintegrate into the world and workforce.

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

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

With the granting of the requested accommodation, the applicant's current and potential clients will be able to live in a dwelling unit in an R-2 District with other individuals in recovery from addiction. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' reintegration into society. This facility appears to be the only residential care facility of any description on this block, or any of the adjacent blocks with the exception of an all-male sober living facility located at 127 29th Street which is currently subject to abatement. The operators of the 29th Street facility are in the process of entering an abatement agreement with the City which requires closure of the facility by August 31, 2010, at the latest.

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

The applicant requests an exemption from the requirements of NBMC Section 20.10.020 to allow the continued operation of an existing unlicensed residential care facility located in an R-2 District where the NBMC permits such uses only in an MFR District with approval of a use permit. The applicant seeks to continue the operations of the existing sober living facility with no more than six disabled individuals in the two units of a duplex building. The Hearing Officer finds that facts have been provided that support a finding that by allowing the facility to continue at its current location with no more than six female resident clients, females with a disability would be afforded an equal opportunity to enjoy the housing type of their choice in a small, gender-specific recovery environment.

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

The applicant contends that relocation of the current facility would be a significant financial burden, and reports that, with the requested accommodation, changed

circumstances now allow the facility to be financially viable under conditions similar to those at other facilities of a similar nature and operation.

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

The Municipal Code authorizes the City to consider the availability of other facilities that are of a "similar nature and operation." Based on an inventory conducted in April 2010, females in recovery from alcoholism or chemical dependency wishing to live in Newport Beach in a sober living environment have the following housing opportunities that they can choose from:

- Balboa Recovery operates a single comparable facility, with housing for six female resident clients in two units of a duplex at 204 21st Street under a reasonable accommodation granted in May 2009; and
- Pacific Shores Properties operates one female-only sober living home, in one unit of its 492 and 492 ½ Orange Street facility. This unit was granted a reasonable accommodation allowing it to continue to house up to 12 resident clients; and
- An unlimited number of beds are available via the use of any home in Newport Beach, provided that the occupants reside there as a single housekeeping unit in compliance with the City's definition of single housekeeping unit.

There are also sober living beds affiliated with a formal treatment program, Sober Living by the Sea (SLBTS), which are approved and not subject to abatement. For individuals who wish to reside in a duplex occupied entirely by sober living residents with up to six individuals *per duplex unit*, 60 beds (located in both units of five duplexes) will remain in their current location. Twenty-four additional beds (located in both units of two duplexes) are currently in operation but plan to close within 30 months of the effective date of the agreement, under the terms of the Zoning Agreement between the City and SLBTS. SLBTS also operates six beds in one unit of a duplex, also due to close within 30 months of the effective date of the agreement. The City is not aware of how many of these beds are available specifically to female clients.

Currently, the City is in the process of entering a similar zoning agreement with Morningside Recovery, which would allow Morningside Recovery to continue operation of sober living facilities housing up to 36 resident clients in five duplex units and one single-family condominium dwelling. The City is not currently aware of how many of these beds are available specifically to female clients.

A denial of the reasonable accommodation would not deprive prospective residents of Balboa Recovery of the opportunity of live in a residential setting with 11 other individuals in recovery in two units of a duplex building. These alternate residential settings also provide self-paced recovery options that allow residents sufficient time for personal psychological growth while avoiding the use of alcohol and other substances. However, at this time it appears that the only other sober living facility in the City that offers housing for only three female resident clients per duplex unit is the other female-only Balboa Recovery facility located at 204 21st Street.

3. **Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.**

Facts in Support of Finding: The Hearing Officer finds that allowing the facility to remain at its current location so long as it is necessary to provide disabled individuals with an equal opportunity to use and enjoy a dwelling would not impose an undue financial or administrative burden on the City. To date, there have been no complaints made to the City regarding the operations of this facility.

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

Facts in Support of Finding: As analyzed below, the Hearing Officer finds that allowing the current residents to remain for an interim period between July 2, 2010 and September 30, 2010, and a maximum of no more than six female resident clients and two resident managers, as requested by the applicant, would not result in a fundamental alteration of a City zoning program.

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

Section 20.10.020 of the NBMC establishes those uses that are permitted, conditionally permitted, and prohibited within the R-2 District. In accordance with Section 20.10.020 of the NBMC, unlicensed residential care facilities are not permitted in the R-2 District, and are only permitted in the MFR District subject to approval of a use permit.

The Hearing Officer finds that the intensity of the use would be consistent with typical residential development intensity in the R-2 District with the granting of the reasonable accommodation to allow the continued operations of the sober living facility with a maximum occupancy of six resident clients and two resident managers in the two units of the duplex building. The Hearing Officer finds that the intensity of the use would also be compatible with the surrounding two-family residential properties.

Building Code and Life Safety Consideration: The State Fire Marshal has made the determination that residential care occupancies with more than six residents have characteristics that require a certain degree of extra protection for the safety of the residents. Pursuant to the provisions of the California Building Code, facilities providing residential care and housing for more than six resident clients in a building are classified as an R-4 occupancy. This occupancy group includes buildings arranged for social rehabilitation, including alcoholism or drug abuse recovery or treatment for seven or more resident clients.

If the occupancy of the facility is reduced to provide housing for six resident clients and two resident managers within the two units of the duplex building, the building would be classified as an R-3.1 occupancy. Building code requirements for R-3.1 occupancies are similar to requirements for occupancies classified as R-3. The R-3 occupancy classification and requirements apply to single family homes and duplexes. The code requirements of an R-3.1 occupancy are less stringent than an R-4 occupancy, and the existing duplex building can easily and cost-effectively be brought into compliance with the R-3.1 code requirements.

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

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

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

The second stated purpose is:

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

Even if the facility is exempted from Section 20.10.020 and permitted to remain in its current location, it is not exempt from reasonable controls the Hearing Officer might place on it. NBMC Section 20.98.015 states that the Hearing Officer shall approve, conditionally approve, or deny applications for reasonable accommodation. The Hearing Officer can impose the same conditions through a reasonable accommodation that he or she could impose under a use permit. A reasonable accommodation, with appropriate conditions, can mitigate adverse secondary impacts such as noise, overcrowding, parking and traffic impacts, excessive second-hand smoke, and unruly behavior by residents of a facility to the detriment of neighbors.

The Hearing Officer finds that conditions of approval should be and accordingly are applied to the use that will allow the accommodation to be granted consistent with the basic purposes of NBMC Sections 20.10.010, 20.10.020, and Chapter 20.91A. The Hearing Officer's conditions of approval are described below.

1. The operator of the sober living facility shall agree to a bed cap of no more than six female resident clients plus two resident managers, who shall be qualified recovery specialists;
2. If the applicant obtains a license from ADP to operate a facility for six or fewer clients in one of the duplex units, the other unit may only be used to provide housing for a single housekeeping unit; and
3. Quiet hours between 10:00 p.m. and 8:00 a.m.;
4. Compliance with the standards of NBMC Section 20.91A.050(A), relating to secondhand smoke detectable from off the parcel upon which the facility is located is required.

Essentially, these conditions would require that the facility comply with the development and operational standards required of similar facilities receiving a use permit under NBMC Chapter 20.91A. The Hearing Officer finds that with these conditions, the findings required by NBMC Section 20.91A.060 for issuance of a use

permit could be made with regard to this facility. With conditions of approval, the use could conform to all applicable provisions of Section 20.91A.050.

The Hearing Officer finds, that as conditioned, the use would be compatible with the character of the surrounding neighborhood, and the continued maintenance of the use would not contribute to changing the residential character of the neighborhood or create an overconcentration of residential care uses in the vicinity. In considering whether the residential character of the neighborhood would be changed, the Hearing Officer has considered that the American Planning Association standard of one or two such uses per block is not exceeded by allowing the continued maintenance of this facility as there will be no other residential care uses on this block, or any of the immediately adjacent blocks. In addition, there has been no evidence presented to the Hearing Officer that indicates that there have been any issues with delivery of goods that adversely affect the peace and quiet of neighboring properties, or issues of trash generated in excess of surrounding properties.

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

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

Balboa Recovery, Inc. requests an amended reasonable accommodation to allow the continued operation of an existing sober living facility to provide housing for no more than six disabled individuals in a facility in both units of a duplex. The requested accommodation would permit a maximum of six disabled individuals in recovery and two resident managers in the two units of the duplex building, all of which are not living as a single housekeeping unit, to live on a block of single housekeeping units. As a condition of approval, the Hearing Officer requires that the facility be limited to a maximum occupancy of six resident clients and two resident managers in the two units of the duplex building.

With the reduction in resident population as required by conditions of approval, the intensity of the use would be consistent with the intensity of use that would be produced by single housekeeping units in two-family residential districts, and would be compatible with the surrounding two-family residential properties. The Hearing Officer finds that approval of the reasonable accommodation with appropriate conditions of approval to allow the facility to remain in its current location in the R-2 District will not undermine the basic purpose of this portion of the City's zoning program.

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

Parking – The duplex building occupied by the facility has two enclosed garage parking spaces. The Zoning Code requires one on-site parking space per three residential care facility beds. With six residential care facility beds, the required parking for the facility would be two spaces. As such, the facility currently meets the required parking standards.

A condition of approval is included requiring that the two designated garage parking spaces at the sober living facility shall remain open and available for parking for staff and the resident clients at all times. In addition, the applicant shall limit the number of vehicles onsite at anytime to two, which must be parked in the garage. At most, one other resident client may have a vehicle and park on the street in a legally designated parking space. Client move-in and move-out shall be accomplished in a manner that does not block traffic, area driveway or alleys.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a duplex, the standard trip rate is based on 6.72 average daily trips per dwelling unit. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a duplex would generate approximately 13.44 average daily trips, whereas a six-bed residential care facility with two resident manager beds occupying both units of a duplex would generate approximately 16.44 average daily trips. The Hearing Officer finds that this number does not represent a substantial increase in traffic.

Due to the fact that the applicant limits and manages the use of personal vehicles by residents at the facility, the number of trips generated would not be significantly in excess of trips generated by that of a duplex with the granting of the reasonable accommodation with a condition of approval limiting the maximum number of residents to six resident clients and two resident managers. Approval of the amended request for reasonable accommodation includes conditions that restrict use of residents' personal vehicles while living at the facility, which will reduce impacts on parking to an insubstantial level.

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

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-005 in order to implement General Plan Policy LU 6.2.7. The Hearing Officer finds that granting the requested accommodation with the recommended conditions of approval enables the City to apply appropriate reasonable regulations on the facility, consistent with the express purpose of the General Plan with regard to these facilities.

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

With the upcoming abatement of the sober living facility at 127 29th Street, there are no other documented facilities similar in nature or operation to the subject facility within this block or any of the immediately adjacent blocks. The Hearing Officer finds that granting the reasonable accommodation with a condition of approval limiting the maximum occupancy of the facility to six residents and two resident managers in the two units of the duplex building would not create an institutionalized environment.

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

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

WHEREAS, the project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA; and

NOW THEREFORE, BE IT RESOLVED:

Section 1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. 2009-002, subject to the Conditions set forth in Exhibit "A" attached hereto and made a part hereof.

Section 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 11th DAY OF JUNE, 2010.

By: _____
Judy Sherman, Hearing Officer

ATTEST:

City Clerk

EXHIBIT "A"

**CONDITIONS OF APPROVAL
REASONABLE ACCOMMODATION NO. 2009-002
BALBOA RECOVERY INC. at 124 30th Street, Units A and B**

1. **Grant of Reasonable Accommodation.** Reasonable Accommodation No. 2009-002 is granted solely to Balboa Recovery, Inc. (hereinafter "the Operator") to operate an adult sober living facility for disabled female clients in the two units of a duplex building located at 124 30th Street. Reasonable accommodation to occupy the building (inclusive of both units) is granted to six disabled female persons and two resident managers. The Operator shall execute an affidavit declaring that all clients receiving services from this facility are disabled persons.
2. **Interim Occupancy Level.** For an interim period, from the date of adoption of this resolution to September 30, 2010, the Operator shall limit occupancy of the building to eight resident female client beds and two on-site resident managers, who shall be qualified recovery specialists. If any of the eight resident clients currently residing at the facility as of the date of approval of Reasonable Accommodation No. 2009-002 cease residency at the facility after July 2, 2010, the Operator shall not accept any additional residents that would cause the facility's population to exceed six resident clients. Under no circumstance shall more than eight female clients in recovery reside in the building during this interim period.
3. **Occupancy Level.** Effective October 1, 2010 (or earlier, if attrition of current residents permits), the Operator shall limit occupancy of the building to six female resident client beds and two on-site resident managers, who shall be qualified recovery specialists. No more than six persons in recovery may reside in the building.
4. **Staffing.** Operator shall have two qualified resident managers on-site at all time (24 hours a day, seven days a week) to appropriately and responsibly manage the facility.
5. **Governmental Referrals.** Operator shall not provide any services to any client or house any client who has been referred or caused to be referred to this facility by any governmental agency, including but not limited to probationers or parolees.
6. **Assembly Uses.** Assembly uses are prohibited, except those that are limited solely to client residents of the facility and facility staff.
7. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.

8. **Trash.** Operator shall abide by the City's regulations regarding trash disposal including providing the proper amount of trash cans for the property's use (so that cans do not overflow), placing the cans out no earlier than 7:00 pm the evening prior to collection, and placing the cans back in the side yard (or other contained area) no later than 6:00 pm the day of collection.
9. **Smoking & Cigarette Litter.** Per NBMC Section 2091A.050(A), no clients, guests, or any other users of the subject property may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the use is located. Balboa Recovery Inc. will enforce house rules against litter, including allowing clients, staff, or residents from littering cigarette butts on the ground, sidewalk, gutter or street.
10. **Vehicles, Parking & Garages.** This facility may have a maximum of three vehicles associated with its use. The Operator shall keep the two designated garage parking spaces at the facility open and available for parking for staff, and resident clients at all times. At most one other client in the facility may have a vehicle and park on the street in a legally-designated parking spot. Client move-in and move-out shall be accomplished in such a manner that traffic on 30th Street is not blocked, nor may area alleys be blocked.
11. **Transportation.** No transportation services shall be provided by the facility operator.
12. **Quiet Hours.** The on-site facility manager shall maintain "Quiet Hours" between 10:00 p.m. and 8:00 a.m., daily, where persons on the street or on adjacent properties cannot hear any noise (including music, TV's, voices) from the facility except in an emergency.
13. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.
14. **Deliveries.** Any deliveries of business products and other packages and goods to the facility during weekdays shall be made between the hours of 9:00 a.m. to 5:00 p.m.
15. **Contact Information.** Operator shall provide area residents and the City with a 24/7 contact name, phone number and e-mail address to assist residents and the City with problems or concerns arising from the facility. E-mails or messages left for the Operator's designated contact shall be returned in prompt manner within the next 24-hour period.

16. **Building and Zoning.** Operator recognizes that the subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of obstruction, including building obstruction. The orderly storage of trashcans is acceptable in setbacks.
17. **Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regard to any of these issues, Operator shall correct the violation with seven days or contact the City directly to discuss an alternative timeline consistent with the Newport Beach Municipal Code.
18. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches for meetings, prayer, conversation, or other gatherings shall show due respect to non-resident visitors, residents, and other beachgoers, thus allowing them to take full enjoyment of the beach. Operator shall not conduct business on the beach (per NBMC 10.08.030)
19. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and encouragement of 12-Step meetings or counseling). Operator has represented that the facility operates with an average client stay of 300-days. Operator shall use best efforts to maintain, at a minimum, average client stay of 300-days. Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home.
20. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this reasonable accommodation shall not constitute a waiver of the requirements of any federal, state or local law, including the requirements of the California Building Code and Fire Code.
21. **Additions or Modifications to Conditions of Approval, or Revocation of Reasonable Accommodation.** The Hearing Officer or City Council may add or modify conditions of approval to this reasonable accommodation, or revoke this Reasonable Accommodation upon a finding of failure to comply with the conditions set forth. The City Council may also revoke, modify, or amend this Reasonable Accommodation if it determines the conditions under which this facility is being operated or maintained are detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, or if the facility is materially injurious to property or improvements in the vicinity, or if the facility is operated or maintained so as to constitute a public nuisance. In any proceeding to revoke this Reasonable Accommodation, the cumulative effect of a violation of two or more conditions shall be considered.
22. **Compliance with Conditions of Approval.** Per NMBC Section 20.98.035 (Amendments), a request for changes in conditions of approval shall be treated as

a new application unless they are minor, do not involve a substantial alteration to the plan or conditions of approval, and are consistent with the intent of the original approval. Any changes in operational characteristics, including but not limited to the following, shall require amendment to this reasonable accommodation or can only take effect upon issuance of a new reasonable accommodation:

- a. Increase in number of resident clients.
- b. Change in gender-specific nature of housing.
- c. Change in on-site staffing affecting the ability of the operator to adequately manage the facility and provide supervision of its residents.
- d. A change in physical capacity of facility including number of beds, number of bedrooms, floor area of facility, etc.
- e. Request for amendment to any condition or conditions or approval.
- f. Change in property ownership in a manner that causes the majority of the property to be owned by a person or entity not identified in the Reasonable Accommodation or its application.
- g. Change in client base such that persons living there are no longer classified as disabled or verified to be disabled.
- h. Alteration and/or loss of approved on-site parking.
- i. Upon determination by the Planning Director, a change in facility management, a change in facility ownership, or a change in the population served by this facility. The term "change in facility management" shall include but not be limited to a change in the current management of Balboa Recovery, Inc. and/or the conveyance, sale or assignment of a majority of Balboa Recovery, Inc.'s rights and obligations as to the facility at 124 30th Street to any successors in interest or assignees of Balboa Recovery, Inc.
- j. Any other material change in the operational characteristics that is not in substantial conformance with the Operation and Management Plan, upon determination by the Planning Director.

#

City of Newport Beach
Reasonable Accommodation No. 2009-002
Public Hearing of June 11, 2010

Balboa Recovery, Inc.
124 30th Street

Reasonable Accommodation Hearing

- Meeting Convened by Hearing Officer
- Staff Presentation
- Applicant's comments or presentation, if any
- Public Hearing Opened by Hearing Officer
 - Testimony limited to comments about the proceeding, and this facility
 - Comments limited to 3 minutes unless Hearing Officer determines otherwise
- Applicant can return to rebut or clarify comments made
- Questions from the Hearing Officer to the applicant or to City Staff
- Public Hearing Closed by Hearing Officer
- Hearing Officer's determination – alternatives are:
 - Determination that required findings can be made to grant the accommodation; or
 - Determination that required findings cannot be made to grant the accommodation; or
 - Decision to issue a written determination at a future date; or
 - Continue the hearing to a date certain
- Meeting Adjourned by Hearing Officer

Reasonable Accommodation Request

- Balboa Recovery has submitted a request to amend their original reasonable accommodation application for the existing unlicensed sober living facility due to a change in circumstances.
- Requesting to allow the continued operation of the facility in this location with a reduced population from 10 resident clients to no more than 6 female resident clients and 2 resident managers.
- This facility is located 124 30th Street

Location Map



Background Information

- On May 20, 2009, Hearing Officer Thomas Allen conducted a public hearing on Balboa Recovery's request for reasonable accommodation from the requirements of the NBMC to allow the continued operation of an existing sober living facility for 10 female adult resident clients and 2 resident managers.
- The Hearing Officer determined the required findings could not be made to grant the accommodation, and
- On July 2, 2009, adopted a resolution denying without prejudice the application for reasonable accommodation for continued operations with 10 resident clients.
- The resolution included abatement conditions that allowed the operations of the facility to continue for up to one year, after which time the facility shall abate.

Background Information - continued

- In February, Balboa Recovery submitted a written request to amend the original application, requesting to remain in operation at this location with a reduced population of 6 female resident clients and 2 resident managers in both units of the duplex.
- A description of the facility and operations from the original application include:
 - Resident clients reside at the facility under a written agreement with the operator
 - Subject to a set of house rules
 - Quiet hours between 10 p.m. and 8 a.m.
 - Resident clients required to be employed, actively seeking employment or attending school full-time
 - Resident client stays are dependent on individual progress, with 10 months being an average typical stay
 - No transportation is provided by the operator
 - There are 2 garage parking spaces provided on site that must be open and available at all times for parking by residents and staff
 - While residents are allowed to have personal vehicles; the operator is required to limit the number of vehicles onsite to 2 at anytime while a 3rd vehicle may be allowed which must be parked in a legally designated parking space on the street

Background Information - continued

- Facility currently provides housing for 8 resident clients and 2 managers in the two units of the duplex and has done so since March. The applicant stated he could reduce the population to 6 residents by the end of September at the latest.
- The applicant has requested during an interim period, between now and the end of September, that the current population of 8 resident clients be allowed to remain in the two units of the duplex.

Reasonable Accommodation

- Under the Federal Fair Housing Act, “unlawful discrimination includes refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. [The court has] repeatedly interpreted this language as imposing an affirmative duty on landlords and public agencies to reasonably accommodate the need of disabled individuals.” *McGary v. City of Portland*, 386 F.3d 1259, 1261 (9th Cir. 2004)

Reasonable Accommodation

The Federal Fair Housing Amendments Act (FHAA) requires cities to make exceptions from usual rules, policies and practices when:

1. Request is made on behalf of disabled individual
2. Request is *reasonable*
3. Exception (accommodation) is *necessary* to afford disabled individual an equal opportunity to use and enjoy a dwelling

Source – 42 U.S.C. 3604(f)(3)(B)

“Reasonable”

Requests are considered unreasonable if granting the request would either:

- Impose undue financial or administrative burden on the City; **or**
- Result in a fundamental alteration in the nature of a City program.
 - “Fundamental alteration” also described as *“undermining the basic purpose the requirement seeks to achieve.”*

When a request is *not* reasonable . . .

Department of Justice/Department of Housing & Urban Development:

- When a government entity refuses a requested accommodation because it is not reasonable, it must discuss whether there are alternate accommodations that would meet requester's disability-related needs.
- If an alternative accommodation would meet the needs *and is reasonable*, the government entity must grant it.

“Necessary”

- Will the accommodation allow the disabled individual to live in the dwelling?
- Would the disabled individual be unable to live in the dwelling without the accommodation?
- Is there a direct link between the accommodation and the required “equal opportunity” to use dwelling?
 - Is the required accommodation necessary to make the facility financially viable?
 - Does the required accommodation provide therapeutic benefit?

Is Applicant's Request Necessary?

- Is the request “necessary to afford a disabled individual an equal opportunity to use and enjoy a dwelling?”
- Does the facility require the requested accommodation, at the requested population level to achieve financial viability and a supportive recovery environment?

City of Edmonds v. Washington State Building Council, 18 F.3d 802 , 803(9th Cir. 1994)

Necessity - Factors Considered

NBMC 20.98.025(C) allows City to consider four factors in determining necessity:

- Whether accommodation will affirmatively enhance quality of life of individuals with a disability
- Whether the disabled individuals will be denied an equal opportunity to enjoy the housing type of their choice without the accommodation
- Whether the accommodation is necessary for financial viability . . . and

Necessity – Factors Considered

- Whether existing supply of facilities of similar nature and operation is sufficient to provide individuals with equal opportunity to live in residential setting.
- Staff analyzed reasonableness and necessity of this request with 6 residents in the duplex building (3 residents in each dwelling unit.) Staff report provides facts in support of finding of necessity.

Reasonable Request? – Factors Considered

- Whether accommodation would fundamentally alter character of the neighborhood
- Whether accommodation would result in substantial increase in traffic or insufficient parking
- Whether granting would substantially undermine any express purpose of General Plan or Specific Plan
- Whether accommodation would create institutionalized environment due to number and proximity of similar uses
 - -NBMC Section 20.98.025(D)

Request Reasonable – Required Findings

- Would granting the request impose an undue financial or administrative burden? No.
- Would granting the request result in a fundamental alteration in the nature of the City's zoning program?
 - 1. Would allowing use to continue in R-2 zone undermine basic purpose R-2 zoning seeks to achieve?
 - 2. Would allowing use to continue without a use permit undermine basic purposes the use permit requirement seeks to achieve?

Purposes of R-2 and MFR Zones

- R-2 - to provide areas for single- and two-family residential uses (NBMC Section 20.10.010) (medium to high density, depending on location)
- MFR - to provide for single-, two- and multi-family residential uses, up to 38 units per gross square acre (medium to high density)
- At staff's proposed level of density (6 residents in two duplex units), medium level of density achieved.

Purpose of Use Permit

- Required for uses with operating characteristics that require special conditions to enable them to operate compatibly with other uses in the area.
- Ordinance 2008-05 requires use permit for nonconforming uses in residential areas – purpose is to ensure purposes of Zoning Code are achieved, and adverse secondary impacts from nonconforming uses are mitigated.

Purpose of Use Permit, cont'd.

- NBMC Section 20.91A.010 – purpose is to promote the public health, safety and welfare, and implement goals of General Plan by ensuring that conditional uses do not change the character of residential neighborhoods.
- Second purpose is to protect and implement recovery and reintegration of the disabled, in part by avoiding overconcentration that would lead to institutionalization of an area.

Use Permit Purpose Undermined?

- Any reasonable controls which the Hearing Officer could impose through a use permit can also be imposed through reasonable accommodation.
- Under NBMC Chapter 20.98, all required findings must be made.
- Staff analysis – *with conditions*, findings required to issue a use permit could have been made for this facility, and use permit operational standards met.

Proposed Conditions

- Bed caps:
 - No more than 6 female clients, two resident managers
- Quiet hours – 10:00 PM – 8:00 AM
- Quiet hours for television 10:00 PM – 8:00 AM
- No secondhand smoke detectable off property
- 24-hour contact to address neighbor concerns
- Garages clear for parking
- Compliance with state & local laws
- Parking plan for residents with personal vehicles

Conclusion

- Staff believes all five findings can be made, and with certain operational conditions, the granting the requested accommodation :
 - Will not undermine the basic purpose of the Zoning Code;
 - Will not result in a fundamental alteration in the nature of the City's zoning program; and
 - With adherence to the operational conditions, adverse secondary impacts of the use of the property as a sober living facility will be mitigated.

Recommendation

- If the Hearing Officer concurs with the information presented, and the facts provided in support of the findings, staff recommends that the Hearing Officer approve the applicant's request to allow the continued operation of the facility at this location with a reduced population of 6 female resident clients and 2 resident managers, subject to operational conditions; and
- The Hearing Officer adopt a Resolution of Approval with Conditions for Reasonable Accommodation No. 2009-002.

Brown, Janet

From: Brown, Janet
Sent: Friday, June 11, 2010 1:40 PM
To: 'kcullen@oceanrecovery.com'
Subject: RE: Correspondence re: Today's Hearing Item

Be prepared to answer if asked during the hearing.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

From: kcullen [mailto:kcullen@oceanrecovery.com]
Sent: Friday, June 11, 2010 12:16 PM
To: Brown, Janet
Subject: re: Correspondence re: Today's Hearing Item

Hi Janet,

Do I need to respond to this? I believe all of these questions have been answered in both the city ordinance and in my application.

Kevin Cullen
Director of Admissions
OCEAN RECOVERY
www.oceanrecovery.com

800.641.2388
949.723.2388 Office
949.723.1288 Fax

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From: "Brown, Janet" <JBrown@newportbeachca.gov>
Sent: Friday, June 11, 2010 11:30 AM
To:
Subject: Correspondence re: Today's Hearing Item

To: Judy Sherman, Hearing Officer and Kevin Cullen, Applicant

Please find attached a copy of correspondence just received by email regarding today's hearing item.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

cc: C. Wolcott

Brown, Janet

From: Brown, Janet
Sent: Friday, June 11, 2010 11:31 AM
To: 'tomlewis@sbcglobal.net'
Subject: RE: PA2009-012

Mr. Lewis - thank you for your letter. This email shall confirm receipt. A copy of the letter has been forwarded to the Hearing Officer and applicant, and will be made available at the hearing this afternoon.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

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

From: tomlewis@sbcglobal.net [mailto:tomlewis@sbcglobal.net]
Sent: Friday, June 11, 2010 11:17 AM
To: Brown, Janet
Subject: PA2009-012

Hearing regarding 124th 30th Street, Newport Beach Ca.

Please acknowledge receipt of this attached letter.
Thank you,
Tom Lewis
108 31st Street
Newport Beach, Ca
(cell) 818 523 6589

June 11, 2010

FILE COPY

RECEIVED BY
PLANNING DEPARTMENT

JUN 11 2010

Department of City Planning
Newport Beach, Ca
Att: Janet Brown
Re: Public hearing case RA2009-002
Project file: PA2009-012

CITY OF NEWPORT BEACH

Dear Janet,

Thank you for spending time with me on the phone last week.
We spoke about the application regarding the drug recovery house
At 124 30th St.

I understand that Newport Beach is mandated by the State of California
To provide access to such facilities for accommodation. However I want to
make sure that the City Planning Department and other agencies involved
monitor these facilities continuously for compliance.

In addition I also have concerns that go along with the approval of such
sober rehab facilities in Newport Beach.

1. Has the City of Newport Beach done any studies regarding the
number of filed complaints with City agencies regarding non-
conformance with the rehab facilities. Examples could be police
reports, zoning violations, etc.
2. Do these facilities house individuals that have already been to licensed
treatment centers for there abuses whether drug or alcohol. I hope
that these houses are the final step to going back into mainstream
society.
3. Does the City of Newport Beach have controls in place to minimize
the density of such facilities in specific areas of the City? In other
words is it possible for one block to have more than one of these
facilities? I would hate to see a street lined with these facilities.
Remember these are renters with owners that are absentee landlords.
We live here and have to deal with this type of environment.

All of these issues need to be addressed before the city continues down a
path of approvals.

Both my wife Wendy and I feel strongly that these facilities be denied in the future including the request being made now. May we suggest that if there is a choice that the city might consider one facility per square mile.

I want to submit my letter for the record since my wife and I will not be able to attend.

Tom Lewis
108 31st Street
Newport Beach, Ca

FILE COPY

RECEIVED BY
PLANNING DEPARTMENT

322 W. Fern Drive
Fullerton, CA 92832

June 3, 2010

Mr. Dave Kiff, City Manager
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

JUN 08 2010

CITY OF NEWPORT BEACH

Dear Mr. Kiff:

We have received the notice of a public hearing on the reconsideration of a previously denied Reasonable Accommodation Permit No. RA2009-002 for property at 124 30th Street, for Balboa Recovery, Inc.

As nearby property owners, we wish to express our continuing opposition to the proposed use at this address. Reducing the number of occupants from 12 to 8 does not alter the fact that the use was and continues to be illegal in the R-2 District.

Approval of this request will make an illegal use legal through a process that does not change the zoning designation but in effect does change the permitted uses in the existing R-2 zone.

Normally, a change in zoning designation or in permitted uses in a zone requires a more extensive hearing process, including the Planning Commission and the City Council. We object to this abbreviated process as well as the precedent that such an action will establish. Once this so called accommodation is given to one party, how can the next application be denied? How can the City of Newport Beach allow the negation of its existing codes so easily, and how can there be a justification for rewarding the blatant violation of the code?

There are areas in the city where such uses can be legally established, and that is where they should be located. The R-2 zone is not one of them and there should be no accommodations given to reward someone who is asking for permission to violate the city ordinance.

One of the findings for approving a Reasonable Accommodation is that the approval "is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling." The operative phrase here is "equal opportunity." No one, with or without a disability, is entitled to live at the beach or anywhere else, if the condition of using and enjoying a dwelling violates the city codes. Those with this particular disability are given equal opportunity to live in a sober living facility in MFR districts along with those with no disabilities. There is no justification to allow the requested special treatment and privilege in violation of the R-2 zone permitted uses.

We respectfully request that this application be denied.

Sincerely,

Mr. & Mrs. Terry M. Galvin

Mr. & Mrs. Terry M. Galvin

cc: David Lepo, Planning Director

*Received after Staff Report
Distributed
JB*

Brown, Janet

From: Douglas M. Wood [balboawood@yahoo.com]
Sent: Thursday, June 03, 2010 10:30 AM
To: Brown, Janet
Subject: BalboA Recovery Hearing

FILE COPY

Dear Ms. Brown:

I will be out of town and unable to attend this hearing. However, I would like to express my view for the record. The appellant has had sufficient consideration and the key point is overconcentration of rehab facilities on the Peninsula.

Douglas M. Wood
Property owner at 1119 W. Bay and 1214 E. Balboa Blvd.

Brown, Janet

From: Brown, Janet
Sent: Thursday, June 03, 2010 11:37 AM
To: 'Denys Oberman'
Subject: RE: Group Residential Uses Update - Balboa Recovery

FILE COPY

Good morning, Ms. Oberman.

This is essentially a new application for reasonable accommodation, and the NBMC does not limit how many times a disabled individual or disabled housing provider may apply for reasonable accommodation. Therefore, staff has complied with all requirements for a new application, including public notice requirements. However, because the new application was based on facts identical to those the Hearing Officer reviewed in 2009, with the exception of the lower number of resident clients requested, the most efficient way to process the application is as an amended reasonable accommodation request. This is to preserve City resources, and to address concerns raised in the federal litigation that the application process presents an excessively burdensome barrier to disabled housing. However, the distinction in this case between a new and an amended request is non-substantive, because all the noticing and processing formalities for a new application have been observed.

Hearing Officer Judy Sherman will conduct the hearing.

If you have any other questions or comments, please let me know.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

From: Denys Oberman [mailto:d.oberman@obermanassociates.com]
Sent: Wednesday, June 02, 2010 11:00 AM
To: Brown, Janet
Subject: RE: Group Residential Uses Update - Balboa Recovery
Importance: High

Thank you for this Notice. Do not understand---this operator already exhausted the Administrative process provided by the City ordinance.

Did already receive approval to continue operations of related other facilities close by.

Who will be conducting the hearing?

Thank you for your response and clarification concerning these items.

Regards,
Denys H. Oberman, CEO

OBERMAN

Strategic Consulting & Transactions
OBERMAN Strategic Consulting & Transactions
2600 Michelson Drive, Suite 1700
Irvine, CA 92612
Tel (949) 476-0790

Cell (949) 230-5868
Fax (949) 752-8935
Email: d.oberman@obermanassociates.com

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From: Brown, Janet [<mailto:JBrown@newportbeachca.gov>]
Sent: Tuesday, June 01, 2010 5:48 PM
Subject: Group Residential Uses Update - Balboa Recovery

To all interested parties –

Good afternoon. Please be advised that a public hearing will be conducted on Friday, June 11, 2010 at 3:00 p.m. in the City Council Chambers. The purpose of the hearing is to consider an amended request submitted by Balboa Recovery due to changed circumstances for property located at 124 30th Street.

You may recall that in July 2009, the applicant's request for relief from the requirements of the Newport Beach Municipal Code to allow the continued operation of an existing sober living facility for up to 10 female adult resident clients and two resident managers was denied without prejudice. The Hearing Officer found that the required findings to grant the reasonable accommodation could not be made with 10 resident clients, and gave the applicant a one year period in which to abate the use. Due to changed circumstances, the applicant amends the request for reasonable accommodation to allow the continued operation of the existing facility with no more than six female adult resident clients and two resident managers in two units of a duplex building.

The staff report and related documents will be available for review at the Planning Department, and posted on the City's website on the Monday prior to the hearing.

If you have any questions or comments, please do not hesitate to contact me. Thank you.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

Brown, Janet

From: Brown, Janet
Sent: Tuesday, June 01, 2010 5:52 PM
To: 'joe reiss'
Subject: RE: Balboa Recovery

FILE COPY

Good afternoon, Mr. Reiss.

Please see the description below from an email that I just sent out to the "interested parties" list regarding the Balboa Recovery facility located at 124 30th Street.

If you have any questions, please don't hesitate to contact me.

*Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov*

To all interested parties –

Good afternoon. Please be advised that a public hearing will be conducted on Friday, June 11, 2010 at 3:00 p.m. in the City Council Chambers. The purpose of the hearing is to consider an amended request submitted by Balboa Recovery due to changed circumstances for property located at 124 30th Street.

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The staff report and related documents will be available for review at the Planning Department, and posted on the City's website on the Monday prior to the hearing.

If you have any questions or comments, please do not hesitate to contact me. Thank you.

From: joe reiss [mailto:jreiss0@gmail.com]
Sent: Tuesday, June 01, 2010 11:37 AM
To: Brown, Janet
Subject: Balboa Recovery

Hi Janet..... my name is Joe Reiss and I live on 30th Street I am curious what is occurring with Balboa Recovery at 124 30th St. The last we heard they were going to close down in July of this year. One of my

neighbors said he saw a public hearing notice that was up for a short time, but is now gone. Are they trying to extend their operation ? Is there a public hearing coming up on this location ? Thanks for your help..... Joe

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Kevin Cullen
Balboa Recovery
3419 Via Lido, #309
Newport Beach, CA 92663

2. Article Number

(Transfer from service label)

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PS Form 3811, February 2004

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☐ Addressee

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[Signature]

C. Date of Delivery

5/28/10

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

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☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

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JUN 01 2010

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(Endorsement Required)

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To

Re

Str

Cit

Mr. Kevin Cullen

Balboa Recovery

3419 Via Lido, #309

Newport Beach, CA 92663

(mailer)

PS Form 3800, February 2000

See Reverse for Instructions

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PS Form 3800, February 2000 (Reverse)

102595-00-M-1489

UNITED STATES POSTAL SERVICE

RECEIVED BY
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JUN 02 2010

CITY OF NEWPORT BEACH
PLANNING DEPARTMENT
3800 NEWPORT BOULEVARD
PO. BOX 1768
NEWPORT BEACH, CALIFORNIA 92658-8915

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USPS
Permit No. G-10

55B

Brown, Janet

From: kcullen [kcullen@oceanrecovery.com]
Sent: Friday, May 28, 2010 3:15 PM
To: Brown, Janet
Subject: re: 124 39th Street - Balboa Recovery Reasonable Accommodation Hearing

Looks good Janet.
Have a great weekend!

Kevin Cullen
Director of Admissions
OCEAN RECOVERY
www.oceanrecovery.com

FILE COPY

800.641.2388
949.723.2388 Office
949.723.1288 Fax

This email and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain material protected by HIPAA legislation (45 CFR, Parts 160 & 164). If you are not the intended recipient or the person responsible for delivering this email to the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing or copying of this email is strictly prohibited. If you have received this email in error, please notify the sender by replying to this email and then delete the email from your computer.

From: "Brown, Janet" <JBrown@newportbeachca.gov>
Sent: Friday, May 28, 2010 2:31 PM
To: kcullen@oceanrecovery.com
Subject: 124 39th Street - Balboa Recovery Reasonable Accommodation Hearing

Good afternoon, Kevin.

Attached please find a copy of a letter which is being mailed to you today. The purpose of the letter is to confirm that the City has scheduled a hearing before a hearing officer on June 11, 2010, at 3:00 p.m., and to confirm there have been no changes in the information submitted in your original reasonable accommodation application for this facility (located at 124 39th Street) other than the reduction in the number of resident clients.

If you have any questions or comments after you read the letter, please don't hesitate to contact me.

Thank you, and have a wonderful holiday weekend.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov



CITY OF NEWPORT BEACH

May 28, 2010

FILE COPY

**VIA EMAIL AND
U.S. CERTIFIED MAIL**

Mr. Kevin Cullen
Balboa Recovery
3419 Via Lido, Suite 309
Newport Beach, CA 92663

RE: REASONABLE ACCOMMODATION HEARING – 124 39TH Street

Dear Mr. Cullen:

In February 2010, you requested that the City reconsider your application for reasonable accommodation to continue the residential care facility use which was denied on July 2, 2009. You stated that the request was due to changed factual circumstances, which would allow you to comply with conditions which City staff had proposed in your original 2009 reasonable accommodation hearing. In your February 2010 letter, you state you are amending your request to allow the continued operation of the existing facility with no more than three female adult resident clients and a resident manager in each of the two units in the duplex building.

We apologize for the delay in scheduling a hearing for this matter. Unfortunately, the delay was occasioned by the untimely death of Hearing Officer Tom Allen, which was a loss for the City, the public, and reasonable accommodation applicants.

This letter shall confirm that the City has scheduled a hearing before an independent hearing officer, Ms. Judy Sherman, in the City Council Chambers at 3:00 PM on Friday, June 11, 2010. At that time, Ms. Sherman will reconsider your application for reasonable accommodation, under the amended conditions you requested to reduce the resident population from 10 resident clients and two resident managers in the two units of the duplex at 124 30th Street, to no more than three female adult resident clients and a resident manager in each of the two units in the duplex building.

Unless I hear otherwise from you, the City will assume that there have been no changes in the information submitted in your original reasonable accommodation application, other than the reduction in the requested population. Please feel free to contact me by phone or email at (949) 644-3236 or jbrown@newportbeachca.gov.

Sincerely,



Janet Johnson Brown
Associate Planner

cc: Dave Kiff, City Manager
Catherine Wolcott, Deputy City Attorney



BALBOA RECOVERY
3419 Via Lido Ste. 309
Newport Beach, CA 92663
www.balboarecovery.com

FILE COPY

February 1, 2010

To: Janet Brown

From: Kevin Cullen
BALBOA RECOVERY

Re: 124 30th Street
Newport Beach, CA 92663

Balboa Recovery would like to request to amend our original reasonable accommodation application based on a change of circumstance that would allow us to remain in operation at the 124 30th Street location. Balboa Recovery has had no complaints made against us at any of our locations. During the permitting process the City of Newport Beach recommended that we receive our permit to remain in operation at that location with a reduced bed count. We feel it is important for us to remain in business at that location because there is still an obvious need. In our original application we stated all the reasons why that location is ideal and nothing has changed.

We ask to reduce the beds to 3 upstairs with a house manager and 3 downstairs with a house manager. Since the safety of our clients is of the upmost concern we feel it necessary to have person in charge of each house. It is important for the house manager to be able to monitor the comings and goings of our residents.

Sincerely,
Kevin Cullen
Balboa Recovery
949-400-7120

JUN 07 2010

PROOF OF PUBLICATION

CITY OF NEWPORT BEACH

STATE OF CALIFORNIA)) ss.
COUNTY OF ORANGE)

I am a Citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the below entitled matter. I am a principal clerk of the NEWPORT BEACH - COSTA MESA DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa, County of Orange, State of California, and that attached Notice is a true and complete copy as was printed and published on the following dates:

May 28, 2010

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on June 3, 2010 at
Costa Mesa, California.

Signature

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on June 11, 2010, at 3:00 p.m., a public hearing will be conducted in the City Council Chambers (Building A) at 3300 Newport Boulevard, Newport Beach, California. A Hearing Officer designated by the City of Newport Beach will consider an applicant's request for reconsideration of the application of Balboa Recovery, Inc. for Reasonable Accommodation Permit No. RA2009-002 for property located at 124 30th Street due to changed circumstances, for the following:

On July 2, 2009, a Hearing Officer designated by the City of Newport Beach denied without prejudice a Reasonable Accommodation application for relief from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020, (Residential Districts: Land use Regulations) to allow the continued operation of an existing sober living home for up to 10 female adult resident clients and two resident managers in two units of a duplex. The facility is located in an R-2 District, where such uses are not permitted. The applicant requested an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit. The Hearing Officer found that the findings required by the NBMC to grant the Reasonable Accommodation could not be made with 10 resident clients, and gave the applicant a one-year period in which to abate the use. Due to changed factual circumstances, the applicant now requests that the Hearing Officer reconsider the previous application, and amends the request for Reasonable Accommodation to allow the continued operation of the existing sober living home with no more than six female adult resident clients and two resident managers in two units of a duplex.

NOTICE IS HEREBY FURTHER GIVEN THAT this activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.B.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA.

All interested parties may appear and present testimony in regard to these applications. If you challenge these projects in court, you may be limited to raising only those issues you or someone else raised at the public hearing (described in this notice) or in written correspondence delivered to the City, at, or prior to, the public hearing. The staff report may be reviewed at the Planning Department, City of Newport Beach, 3300 Newport Beach, California, 92663 or at the City of Newport Beach website at www.city.newport-beach

.ca.us beginning on the Monday prior to the hearing. For more information, call (949) 644-3200 or (949) 644-3000. To be added to a permanent notification list of these hearings, e-mail fbrown@newportbeachca.gov and ask to receive these notices.

Project File No.: PA2009-012
Activity No.: RA2009-002
Location: 124 30th Street
Applicant: Balboa Recovery, Inc.
Published Newport Beach/
Costa Mesa Daily Pilot
May 28, 2010 F534

FILE COPY

FILE COPY

**City of Newport Beach
GROUP RESIDENTIAL USES
REASONABLE ACCOMMODATION
HEARING AGENDA**



This hearing is held in accordance with Newport Beach Municipal Code Chapter 20.98 (*Reasonable Accommodation*).

DATE: Friday, June 11, 2010
TIME: 3:00 p.m. - 5:00 p.m.
LOCATION: Council Chambers, Newport Beach City Hall @ 3300 Newport Boulevard
HEARING OFFICER: Judy Sherman

AGENDA ITEM #1

REASONABLE ACCOMMODATION No. 2009-002
APPLICANT: Balboa Recovery, Inc.
SUBJECT PROPERTY: 124 30th Street

PROJECT SUMMARY: An amendment to a reasonable accommodation application for relief from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020, (*Residential Districts: Land use Regulations*) due to changed factual circumstances. The applicant requests an amendment to Reasonable Accommodation No. 2009-002 to allow the continued operation of an existing sober living home with a reduced population from ten female adult resident clients and two resident managers to no more than six female adult resident clients and two resident managers in the two units of a duplex building. The facility is located in the R-2 District, where such uses are not permitted. The applicant requests an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit. This is a public hearing item.

AGENDA ACTION

- 1. Meeting Convened (Hearing Officer)**
- 2. Agenda Item #1: Reasonable Accommodation – Balboa Recovery, Inc., 124 30th Street**
 - a) Presentation of the amended reasonable accommodation request (Newport Beach city staff)
 - b) Applicant comments, if any
 - c) Public hearing opened (Hearing Officer).
 - i. Comments are limited to comments about the subject property's application; and
 - ii. Comments limited to three minutes, unless otherwise ordered by the Hearing Officer.
 - d) Public hearing closed (Hearing Officer).
 - e) Applicant may offer rebutting or clarifying comments (Applicant).
 - f) Hearing officer's questions of City staff or applicant.

- g) Hearing Officer determination. Options include continuance, approval of reasonable accommodation with conditions, or denial of reasonable accommodation. In the latter two cases, the Hearing Officer may instruct staff to prepare a Resolution for their signature.

3. Adjournment (Hearing Officer).

CEQA: This activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from CEQA's provisions.

APPEAL PERIOD: Reasonable Accommodations do not become effective until 14 days after the date of approval, during which time the decision of the Hearing Officer may be appealed to the City Council.

#

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **June 11, 2010, at 3:00 p.m.**, a public hearing will be conducted in the City Council Chambers (Building A) at 3300 Newport Boulevard, Newport Beach, California. A Hearing Officer designated by the City of Newport Beach will consider an applicant's request for reconsideration of the application of Balboa Recovery, Inc. for Reasonable Accommodation Permit No. RA2009-002 for property located at 124 30th Street due to changed circumstances, for the following:

On July 2, 2009, a Hearing Officer designated by the City of Newport Beach denied without prejudice a Reasonable Accommodation application for relief from the requirements of Newport Beach Municipal Code (NBMC) Section 20.10.020, (Residential Districts: Land use Regulations) to allow the continued operation of an existing sober living home for up to 10 female adult resident clients and two resident managers in two units of a duplex. The facility is located in an R-2 District, where such uses are not permitted. The applicant requested an accommodation from the requirements that sober living facilities are permitted only in MFR Districts with approval of a use permit. The Hearing Officer found that the findings required by the NBMC to grant the Reasonable Accommodation could not be made with 10 resident clients, and gave the applicant a one-year period in which to abate the use. Due to changed factual circumstances, the applicant now requests that the Hearing Officer reconsider the previous application, and amends the request for Reasonable Accommodation to allow the continued operation of the existing sober living home with no more than six female adult resident clients and two resident managers in two units of a duplex.

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All interested parties may appear and present testimony in regard to these applications. If you challenge these projects in court, you may be limited to raising only those issues you or someone else raised at the public hearing (described in this notice) or in written correspondence delivered to the City, at, or prior to, the public hearing. The staff report may be reviewed at the Planning Department, City of Newport Beach, 3300 Newport Boulevard, Newport Beach, California, 92663 or at the City of Newport Beach website at www.city.newport-beach.ca.us beginning on the Monday prior to the hearing. For more information, call (949) 644-3200 or (949) 644-3000. To be added to a permanent notification list of these hearings, e-mail jbrown@newportbeachca.gov and ask to receive these notices.

Project File No.: PA2009-012

Activity No.: RA2009-002

Location: 124 30th Street

Applicant: Balboa Recovery, Inc.

SCANNED

FILE COPY

047 101 05
KENNETH E CARLSON
1750 WHITTIER AVE #79
COSTA MESA, CA 92627

047 101 06
TERI LU FERRIS ULLON
229 PHLOX AVE
REDLANDS, CA 92373

047 101 07
HENRY J MILLER
9018 BALBOA BLVD #212
NORTHRIDGE, CA 91325

047 101 08
LEO J LENOUE
18040 FLYNN DR #5204
CANYON COUNTRY, CA 91387

047 101 10
BARBARA M BANDY
201 28TH ST
NEWPORT BEACH, CA 92663

047 101 18
MARY ANNE WALSH
123 30TH ST
NEWPORT BEACH, CA 92663

047 101 19
EDWIN C ARNOLD
200 29TH ST
NEWPORT BEACH, CA 92663

932 840 21
TODD A LANDGREN
116 30TH ST #A
NEWPORT BEACH, CA 92663

932 840 22
ANTHONY M PUMA
23 VIA TIMON
SAN CLEMENTE, CA 92673

932 840 70
DANIEL L DEWITT
NA PO BOX 1857
REDLANDS, CA 92373

932 840 71
GRIGOLLA & SONS CONST CO INC
NA PO BOX 949
AZUSA, CA 91702

932 840 72
PHILIP G HIRSCH
121 29TH ST #3
NEWPORT BEACH, CA 92663

932 840 73
D & K BONDY
121 29TH ST #4
NEWPORT BEACH, CA 92663

932 840 80
ERIK YOUNG
60 VISTA TIBURON DR
BELVEDERE TIBURON, CA 94920

939 710 01
RON SEAGONDOLLAR II
NA PO BOX 1921
NEWPORT BEACH, CA 92659

939 710 02
MILO D COOK
418 S FERNWOOD ST
WEST COVINA, CA 91791

939 710 03
BARRY SAYWITZ PROPERTIES
203 30TH ST #1
NEWPORT BEACH, CA 92663

939 710 04
BARRY SAYWITZ PROPERTIES
203 30TH ST #A
NEWPORT BEACH, CA 92663

939 710 05
TAQUINO
205 LAUREL AVE
ARCADIA, CA 91006

939 710 06
MARK WILLIAM OKAY
128 VIA SAN REMO
NEWPORT BEACH, CA 92663

939 710 15
JOSEPH ALEXANDER DALLAL
10457 TROON AVE
LOS ANGELES, CA 90064

939 710 16
GAGE S L CORPORATION
3101 W COAST HWY #312
NEWPORT BEACH, CA 92663

939 710 27
214 30TH STREET LLC
161 FASHION LN #110
TUSTIN, CA 92780

939 710 28
JEROME JOSEPH REISS JR.
214.5 30TH ST
NEWPORT BEACH, CA 92663

WEST NEWPORT BEACH ASSN.
2901 NEWPORT BLVD
NEWPORT BEACH, CA 92663

Applicant

Keven Cullen
3419 Via Lido #309
Newport Beach, CA 92663

5-25-2010

PA2009-012 for RA2009-002
124 30th Street
Balboa Recovery

SCANNED
FILE COPY

262 Labels
owner/occupant

PA2009-012

047 071 02
GALLO OF CORONA DEL MAR
3345 NEWPORT BLVD #203
NEWPORT BEACH, CA 92663

047 071 03
HOWARD K MINNICK
793 W 30TH ST
SAN PEDRO, CA 90731

047 071 04
DANIEL A RALSKY
3010 W BALBOA BLVD
NEWPORT BEACH, CA 92663

047 071 08
PETER S RODGERS
3001 CLIFF DR
NEWPORT BEACH, CA 92663

047 071 09
W E & P J GARRETT JR.
209 30TH ST
NEWPORT BEACH, CA 92663

047 071 12
JEAN A LOWRY
3508 MARCUS AVE
NEWPORT BEACH, CA 92663

047 071 13
RICHARD GLASSMAN
NA PO BOX 3476
NEWPORT BEACH, CA 92659

047 072 04
STEVEN C NICHOLSON
419 EL MODENA AVE
NEWPORT BEACH, CA 92663

047 072 05
DREW M WETHERHOLT
217 30TH ST
NEWPORT BEACH, CA 92663

047 072 06
RUBEN LOZANO
3281 WASHINGTON AVE
COSTA MESA, CA 92626

047 072 09
FRED JAMES GALLUCCIO
9182 CHRISTINE DR
HUNTINGTON BEACH, CA 92646

047 072 10
KAUSHIK L MANEK
1350 W LAMBERT RD
BREA, CA 92821

047 072 11
SARKIS H MEHTEMETIAN
657 W HARVARD ST
GLENDALE, CA 91204

047 072 12
RALPH H REIMER
15036 LOS ROBLES AVE
HACIENDA HEIGHTS, CA 91745

047 072 13
NBH HOLDINGS LLC
16485 LAGUNA CANYON RD #250
IRVINE, CA 92618

047 072 14
PETER H SWANBERG
1423 W SAN BERNARDINO RD #E
COVINA, CA 91722

047 072 15
MARY A ROUSE
522 SEAWARD RD
CORONA DEL MAR, CA 92625

047 072 16
KENNETH A ROUSE
522 SEAWARD RD
CORONA DEL MAR, CA 92625

047 072 21
MARTIN
NA PO BOX 3707
TUSTIN, CA 92781

047 072 22
CLIFFORD STARK
6344 E ABBEYWOOD RD
ORANGE, CA 92867

047 072 23
PETER JOSEPH FENTON
NA PO BOX 1676
LAKE FOREST, CA 92609

047 082 01
FRANCIS A URSINI
177 RIVERSIDE AVENUE F 1164
NEWPORT BEACH, CA 92663

047 082 02
WILLIAM L & JULIANNE EBELING
119 39TH ST
NEWPORT BEACH, CA 92663

047 082 03
LEONARD J LOVALO
2469 W STUART AVE
FRESNO, CA 93711

047 082 05
MARVIN KESSLER
NA PO BOX 3935
CHATSWORTH, CA 91313

047 082 06
KEVIN G BEALE
114 31ST ST
NEWPORT BEACH, CA 92663

047 082 07
JOHN J & HERLINDA HYATT
5536 LOS ROBLES
LA VERNE, CA 91750

047 082 08
MARY L HYATT
110 31ST ST
NEWPORT BEACH, CA 92663

047 082 09
THOMAS G LEWIS
21400 NASHVILLE ST
CHATSWORTH, CA 91311

047 082 10
SALLY A COLOME
1222 LAS ARENAS WAY
COSTA MESA, CA 92627

047 082 14
JAN COBB
1400 RAVENSWOOD LN
RIVERSIDE, CA 92506

047 082 15
MICHAEL B VAN DAELE
2900 ADAMS ST #C25
RIVERSIDE, CA 92504

047 082 16
GORDON BARIENBROCK
3000 W OCEANFRONT
NEWPORT BEACH, CA 92663

047 082 17
LEONARD G TROELLER
3310 S LANDS END RD
COEUR D ALENE, ID 83814

047 082 18
JOY JEAN WITTE
5517 PASEO DEL LAGO E #1A
LAGUNA WOODS, CA 92637

047 082 19
LESLIE TATE FIELDS
10621 MORADA
ORANGE, CA 92869

047 082 22
PHILIP ABRAMOWITZ
29475 WEEPING WILLOW DR
AGOURA HILLS, CA 91301

047 082 23
BARBARA J BOLAND
115 30TH ST
NEWPORT BEACH, CA 92663

047 082 25
TRENT B SMITH
404 EVENING STAR LN
NEWPORT BEACH, CA 92660

047 082 28
SHARON L FISCHER
1223 CENTENNIAL AVE
CAMARILLO, CA 93010

047 082 31
LAURIE J TRIMBACH
127 30TH ST
NEWPORT BEACH, CA 92663

047 082 33
TARA RANDS
3200 E VILLA KNOLLS DR
PASADENA, CA 91107

047 082 34
MARY RANDS
4642 FLORAL DR
LOS ANGELES, CA 90022

047 082 35
RICHARD A MILLET
6410 SILVER MESA DR #F
HIGHLANDS RANCH, CO 80130

047 082 36
GEORGE E FOLTZ
15932 RIO FLORIDA DR
WHITTIER, CA 90603

047 082 39
MARIN-FINN
1324 W BAY AVE
NEWPORT BEACH, CA 92661

047 082 40
BATLEY
NA PO BOX 15845
NEWPORT BEACH, CA 92659

047 083 02
DOUGLAS E MANISTA
22460 MISSION HILLS LN
YORBA LINDA, CA 92887

047 083 05
JACK BRESSON
NA PO BOX 2401
LAKE ARROWHEAD, CA 92352

047 083 07
AQUILA BERNARINO D
1235 MOUNT SPRINGS RANCH RD
LA VERNE, CA 91750

047 083 08
EDWARD M FITCH
2100 WINDWARD LN
NEWPORT BEACH, CA 92660

047 083 09
CHARLES JOHNSON
2255 GRACE ST
RIVERSIDE, CA 92504

047 083 12
BARBARA MARIE MCPROUD
505 COYOTE ST #A
NEVADA CITY, CA 95959

047 083 13
JOHN L HAGUE
2904 W OCEANFRONT
NEWPORT BEACH, CA 92663

047 083 14
SECURITY PACIFIC BANK
3903 BELLAIRE BLVD
HOUSTON, TX 77025

047 083 15
ANNE C WALKER
302 PINE AVE
LONG BEACH, CA 90802

047 083 16
RICHARD D DAUBEN
109 29TH ST
NEWPORT BEACH, CA 92663

047 083 17
STAN LEDER
111 29TH ST
NEWPORT BEACH, CA 92663

047 083 18
MITCHELL PROPERTIES LLC
4320 WILLOW TREE LN
YORBA LINDA, CA 92887

047 083 19
PETER BONACIC
115 29TH ST
NEWPORT BEACH, CA 92663

047 083 20 ROBERT LOWELL MARTIN 1064 LA MIRADA ST LAGUNA BEACH, CA 92651	047 083 21 UDO HELFERICH 22061 CAPE MAY LN HUNTINGTON BEACH, CA 92646	047 083 24 PAUL TERRENCE 1225 W LINCOLN AVE ANAHEIM, CA 92805
047 083 25 TERRY M GALVIN 322 W FERN DR FULLERTON, CA 92832	047 083 26 JOAN D V GILMORE COY 3713 E WOODBINE RD ORANGE, CA 92867	047 083 27 DALE A WILLIAMS 2914 W OCEANFRONT NEWPORT BEACH, CA 92663
047 083 28 WILLIAM E WISELEY 108 29TH ST NEWPORT BEACH, CA 92663	047 083 29 BARRY SAYWITZ PROPERTIES 4740 VON KARMAN AVE #100 NEWPORT BEACH, CA 92660	047 083 30 ROBERT MENDEZ 126.5 30TH ST NEWPORT BEACH, CA 92663
047 083 31 OCEAN 1 LLC 650 CAMINO DE GLORIA WALNUT, CA 91789	047 083 32 JOHN MCMORRIS 1841 W COOPER CT LA HABRA, CA 90631	047 083 33 PATRICK G THEODORA 120 30TH ST NEWPORT BEACH, CA 92663
047 091 01 ADINA INVESTMENTS LLC 16882 BOLSA CHICA ST #105 HUNTINGTON BEACH, CA 92649	047 091 02 JOHN P ELLIOTT 9210 E HACKAMORE DR SCOTTSDALE, AZ 85255	047 091 03 DAN L LAMB 124 29TH ST NEWPORT BEACH, CA 92663
047 091 04 LEONARD D STIMPSON 2055 ROSEMONT AVE #3 PASADENA, CA 91103	047 091 05 LYNN E GERNERT 7232 MCCOOL AVE LOS ANGELES, CA 90045	047 091 06 ARCH HEIGHTS INVESTMENTS NA PO BOX 1014 NEWPORT BEACH, CA 92659
047 091 07 EUGENE ODOU 924 N DONER DR MONTEBELLO, CA 90640	047 091 08 HARLAN M LASSITER 114 29TH ST NEWPORT BEACH, CA 92663	047 091 10 D B & S B KRAMER 1851 PORT SEABOURNE WAY NEWPORT BEACH, CA 92660
047 091 11 DENIS W KIDD 22874 PICO ST GRAND TERRACE, CA 92313	047 091 12 SHK ENTERPRISES LLC 1128 E BALBOA BLVD NEWPORT BEACH, CA 92661	047 091 22 PETER A WESNER 2151 PACIFIC AVE #B205 COSTA MESA, CA 92627
047 091 23 PHIL PEARLMAN 2001 N WESTWOOD AVE SANTA ANA, CA 92706	047 091 24 ALBERT G & JOAN E PIZZO 2227 FRANCISCO DR NEWPORT BEACH, CA 92660	047 091 25 RICHARD H KRUSE 34392 STARBOARD LANTERN DANA POINT, CA 92629
047 091 26 LINDA D HALLIDY 2864 ELLESMERE AVE COSTA MESA, CA 92626	047 091 31 LONG K PHAM 2805 W BALBOA BLVD NEWPORT BEACH, CA 92663	047 091 34 CHARLES C PALMER 1701 KINGS RD NEWPORT BEACH, CA 92663

047 101 07
RESIDENT
206 29TH ST
NEWPORT BEACH, CA 92663

047 101 07
RESIDENT
206 29TH ST 1/2
NEWPORT BEACH, CA 92663

047 101 08
RESIDENT
204 29TH ST
NEWPORT BEACH, CA 92663

047 101 08
RESIDENT
204 29TH ST 1/2
NEWPORT BEACH, CA 92663

047 101 10
RESIDENT
201 28TH ST
NEWPORT BEACH, CA 92663

047 101 18
RESIDENT
202 29TH ST
NEWPORT BEACH, CA 92663

047 101 19
RESIDENT
200 29TH ST
NEWPORT BEACH, CA 92663

932 840 21
RESIDENT
116 30TH ST
NEWPORT BEACH, CA 92663

932 840 22
RESIDENT
116 30TH ST 1/2
NEWPORT BEACH, CA 92663

932 840 70
RESIDENT
123 29TH ST
NEWPORT BEACH, CA 92663

932 840 71
RESIDENT
123 29TH ST 1/2
NEWPORT BEACH, CA 92663

932 840 72
RESIDENT
121 29TH ST
NEWPORT BEACH, CA 92663

932 840 73
RESIDENT
121 29TH ST 1/2
NEWPORT BEACH, CA 92663

932 840 80
RESIDENT
125 30TH ST A
NEWPORT BEACH, CA 92663

932 840 81
RESIDENT
125 30TH ST B
NEWPORT BEACH, CA 92663

939 710 01
RESIDENT
201 30TH ST A
NEWPORT BEACH, CA 92663

939 710 02
RESIDENT
201 30TH ST B
NEWPORT BEACH, CA 92663

939 710 03
RESIDENT
203 30TH ST A
NEWPORT BEACH, CA 92663

939 710 04
RESIDENT
203 30TH ST B
NEWPORT BEACH, CA 92663

939 710 05
RESIDENT
205 30TH ST A
NEWPORT BEACH, CA 92663

939 710 06
RESIDENT
205 30TH ST B
NEWPORT BEACH, CA 92663

939 710 15
RESIDENT
3008 BALBOA BLVD
NEWPORT BEACH, CA 92663

939 710 16
RESIDENT
3008 BALBOA BLVD 1/2
NEWPORT BEACH, CA 92663

939 710 27
RESIDENT
214 30TH ST
NEWPORT BEACH, CA 92663

939 710 28
RESIDENT
214 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 071 02 RESIDENT 3014 BALBOA BLVD NEWPORT BEACH, CA 92663	047 071 03 RESIDENT 3012 BALBOA BLVD NEWPORT BEACH, CA 92663	047 071 04 RESIDENT 3010 BALBOA BLVD NEWPORT BEACH, CA 92663
047 071 08 RESIDENT 207 30TH ST B NEWPORT BEACH, CA 92663	047 071 08 RESIDENT 207 30TH ST A NEWPORT BEACH, CA 92663	047 071 09 RESIDENT 209 30TH ST NEWPORT BEACH, CA 92663
047 071 12 RESIDENT 213 30TH ST NEWPORT BEACH, CA 92663	047 071 13 RESIDENT 215 30TH ST NEWPORT BEACH, CA 92663	047 072 04 RESIDENT 212 30TH ST NEWPORT BEACH, CA 92663
047 072 05 RESIDENT 210 30TH ST B NEWPORT BEACH, CA 92663	047 072 05 RESIDENT 210 30TH ST A NEWPORT BEACH, CA 92663	047 072 05 RESIDENT 210 30TH ST C NEWPORT BEACH, CA 92663
047 072 06 RESIDENT 208 30TH ST NEWPORT BEACH, CA 92663	047 072 09 RESIDENT 201 29TH ST NEWPORT BEACH, CA 92663	047 072 09 RESIDENT 201 29TH ST 1/2 NEWPORT BEACH, CA 92663
047 072 10 RESIDENT 203 29TH ST NEWPORT BEACH, CA 92663	047 072 11 RESIDENT 205 29TH ST NEWPORT BEACH, CA 92663	047 072 12 RESIDENT 207 29TH ST NEWPORT BEACH, CA 92663
047 072 13 RESIDENT 209 29TH ST NEWPORT BEACH, CA 92663	047 072 14 RESIDENT 211 29TH ST NEWPORT BEACH, CA 92663	047 072 15 RESIDENT 213 29TH ST NEWPORT BEACH, CA 92663
047 072 16 RESIDENT 215 29TH ST NEWPORT BEACH, CA 92663	047 072 21 RESIDENT 206 30TH ST NEWPORT BEACH, CA 92663	047 072 22 RESIDENT 204 30TH ST B NEWPORT BEACH, CA 92663
047 072 22 RESIDENT 204 30TH ST A NEWPORT BEACH, CA 92663	047 072 23 RESIDENT 200 30TH ST NEWPORT BEACH, CA 92663	047 072 24 RESIDENT 202 30TH ST NEWPORT BEACH, CA 92663
047 082 01 RESIDENT 126 31ST ST NEWPORT BEACH, CA 92663	047 082 02 RESIDENT 124 31ST ST NEWPORT BEACH, CA 92663	047 082 03 RESIDENT 122 31ST ST NEWPORT BEACH, CA 92663

047 082 05
RESIDENT
116 31ST ST
NEWPORT BEACH, CA 92663

047 082 06
RESIDENT
114 31ST ST B
NEWPORT BEACH, CA 92663

047 082 06
RESIDENT
114 31ST ST A
NEWPORT BEACH, CA 92663

047 082 07
RESIDENT
112 31ST ST A
NEWPORT BEACH, CA 92663

047 082 07
RESIDENT
112 31ST ST B
NEWPORT BEACH, CA 92663

047 082 08
RESIDENT
110 31ST ST
NEWPORT BEACH, CA 92663

047 082 09
RESIDENT
108 31ST ST
NEWPORT BEACH, CA 92663

047 082 10
RESIDENT
106 31ST ST
NEWPORT BEACH, CA 92663

047 082 14
RESIDENT
3006 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 082 15
RESIDENT
3004 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 082 16
RESIDENT
3000 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 082 17
RESIDENT
105 30TH ST
NEWPORT BEACH, CA 92663

047 082 18
RESIDENT
107 30TH ST
NEWPORT BEACH, CA 92663

047 082 19
RESIDENT
109 30TH ST
NEWPORT BEACH, CA 92663

047 082 22
RESIDENT
113 30TH ST
NEWPORT BEACH, CA 92663

047 082 23
RESIDENT
115 30TH ST
NEWPORT BEACH, CA 92663

047 082 25
RESIDENT
121 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 082 25
RESIDENT
121 30TH ST
NEWPORT BEACH, CA 92663

047 082 26
RESIDENT
123 30TH ST
NEWPORT BEACH, CA 92663

047 082 26
RESIDENT
123 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 082 28
RESIDENT
111 30TH ST
NEWPORT BEACH, CA 92663

047 082 31
RESIDENT
127 30TH ST
NEWPORT BEACH, CA 92663

047 082 33
RESIDENT
3010 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 082 34
RESIDENT
3008 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 082 35
RESIDENT
117 30TH ST
NEWPORT BEACH, CA 92663

047 082 36
RESIDENT
119 30TH ST
NEWPORT BEACH, CA 92663

047 082 39
RESIDENT
118 31ST ST A
NEWPORT BEACH, CA 92663

047 082 39
RESIDENT
118 31ST ST B
NEWPORT BEACH, CA 92663

047 082 40
RESIDENT
120 31ST ST
NEWPORT BEACH, CA 92663

047 083 02
RESIDENT
122 30TH ST
NEWPORT BEACH, CA 92663

047 083 02
RESIDENT
122 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 083 06
RESIDENT
112 30TH ST
NEWPORT BEACH, CA 92663

047 083 07
RESIDENT
110 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 083 07
RESIDENT
110 30TH ST
NEWPORT BEACH, CA 92663

047 083 08
RESIDENT
108 30TH ST
NEWPORT BEACH, CA 92663

047 083 09
RESIDENT
106 30TH ST
NEWPORT BEACH, CA 92663

047 083 12
RESIDENT
2906 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 083 13
RESIDENT
2904 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 083 14
RESIDENT
2900 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 083 15
RESIDENT
107 29TH ST
NEWPORT BEACH, CA 92663

047 083 16
RESIDENT
109 29TH ST B
NEWPORT BEACH, CA 92663

047 083 16
RESIDENT
109 29TH ST A
NEWPORT BEACH, CA 92663

047 083 17
RESIDENT
111 29TH ST
NEWPORT BEACH, CA 92663

047 083 18
RESIDENT
113 29TH ST
NEWPORT BEACH, CA 92663

047 083 19
RESIDENT
115 29TH ST
NEWPORT BEACH, CA 92663

047 083 20
RESIDENT
117 29TH ST
NEWPORT BEACH, CA 92663

047 083 21
RESIDENT
119 29TH ST
NEWPORT BEACH, CA 92663

047 083 24
RESIDENT
2910 OCEAN FRONT W A
NEWPORT BEACH, CA 92663

047 083 24
RESIDENT
2910 OCEAN FRONT W B
NEWPORT BEACH, CA 92663

047 083 25
RESIDENT
2908 OCEAN FRONT W B
NEWPORT BEACH, CA 92663

047 083 25
RESIDENT
2908 OCEAN FRONT W A
NEWPORT BEACH, CA 92663

047 083 26
RESIDENT
2912 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 083 27
RESIDENT
2914 OCEAN FRONT W B
NEWPORT BEACH, CA 92663

047 083 27
RESIDENT
2914 OCEAN FRONT W A
NEWPORT BEACH, CA 92663

047 083 28
RESIDENT
125 29TH ST
NEWPORT BEACH, CA 92663

047 083 29
RESIDENT
127 29TH ST
NEWPORT BEACH, CA 92663

047 083 30
RESIDENT
126 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 083 30
RESIDENT
126 30TH ST
NEWPORT BEACH, CA 92663

047 083 31
RESIDENT
124 30TH ST
NEWPORT BEACH, CA 92663

047 083 31
RESIDENT
124 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 083 32
RESIDENT
118 30TH ST
NEWPORT BEACH, CA 92663

047 083 33
RESIDENT
120 30TH ST
NEWPORT BEACH, CA 92663

047 083 33
RESIDENT
120 30TH ST 1/2
NEWPORT BEACH, CA 92663

047 091 01
RESIDENT
128 29TH ST
NEWPORT BEACH, CA 92663

047 091 02
RESIDENT
126 29TH ST A
NEWPORT BEACH, CA 92663

047 091 02
RESIDENT
126 29TH ST B
NEWPORT BEACH, CA 92663

047 091 03
RESIDENT
124 29TH ST
NEWPORT BEACH, CA 92663

047 091 04
RESIDENT
122 29TH ST
NEWPORT BEACH, CA 92663

047 091 05
RESIDENT
120 29TH ST
NEWPORT BEACH, CA 92663

047 091 06
RESIDENT
118 29TH ST
NEWPORT BEACH, CA 92663

047 091 07
RESIDENT
116 29TH ST
NEWPORT BEACH, CA 92663

047 091 07
RESIDENT
116 29TH ST 1/2
NEWPORT BEACH, CA 92663

047 091 08
RESIDENT
114 29TH ST
NEWPORT BEACH, CA 92663

047 091 10
RESIDENT
106 29TH ST
NEWPORT BEACH, CA 92663

047 091 11
RESIDENT
2814 OCEAN FRONT W B
NEWPORT BEACH, CA 92663

047 091 11
RESIDENT
2814 OCEAN FRONT W A
NEWPORT BEACH, CA 92663

047 091 11
RESIDENT
2814 OCEAN FRONT W C
NEWPORT BEACH, CA 92663

047 091 12
RESIDENT
2812 OCEAN FRONT W
NEWPORT BEACH, CA 92663

047 091 22
RESIDENT
115 28TH ST
NEWPORT BEACH, CA 92663

047 091 23
RESIDENT
117 28TH ST
NEWPORT BEACH, CA 92663

047 091 24
RESIDENT
119 28TH ST
NEWPORT BEACH, CA 92663

047 091 25
RESIDENT
121 28TH ST
NEWPORT BEACH, CA 92663

047 091 26
RESIDENT
123 28TH ST
NEWPORT BEACH, CA 92663

047 091 31
RESIDENT
2805 BALBOA BLVD
NEWPORT BEACH, CA 92663

047 091 33
RESIDENT
108 29TH ST
NEWPORT BEACH, CA 92663

047 091 33
RESIDENT
110 29TH ST
NEWPORT BEACH, CA 92663

047 091 34
RESIDENT
113 28TH ST
NEWPORT BEACH, CA 92663

047 091 34
RESIDENT
113 28TH ST 1/2
NEWPORT BEACH, CA 92663

047 101 05
RESIDENT
210 29TH ST
NEWPORT BEACH, CA 92663

047 101 06
RESIDENT
208 29TH ST
NEWPORT BEACH, CA 92663

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124 30th St (PA2009-012) - OWNER

APN	RESIDENT/OWNER	ADDRESS	STREET/SUITE	CITY	STATE	ZIP
047 071 02	GALLO OF CORONA DEL MAR	3345	NEWPORT BLVD #203	NEWPORT BEACH	CA	92663
047 071 03	HOWARD K MINNICK	793	W 30TH ST	SAN PEDRO	CA	90731
047 071 04	DANIEL A RALSKY	3010	W BALBOA BLVD	NEWPORT BEACH	CA	92663
047 071 08	PETER S RODGERS	3001	CLIFF DR	NEWPORT BEACH	CA	92663
047 071 09	W E & P J GARRETT JR.	209	30TH ST	NEWPORT BEACH	CA	92663
047 071 12	JEAN A LOWRY	3508	MARCUS AVE	NEWPORT BEACH	CA	92663
047 071 13	RICHARD GLASSMAN	NA	PO BOX 3476	NEWPORT BEACH	CA	92659
047 072 04	STEVEN C NICHOLSON	419	EL MODENA AVE	NEWPORT BEACH	CA	92663
047 072 05	DREW M WETHERHOLT	217	30TH ST	NEWPORT BEACH	CA	92663
047 072 06	RUBEN LOZANO	3281	WASHINGTON AVE	COSTA MESA	CA	92626
047 072 09	FRED JAMES GALLUCCIO	9182	CHRISTINE DR	HUNTINGTON BEACH	CA	92646
047 072 10	KAUSHIK L MANEK	1350	W LAMBERT RD	BREA	CA	92821
047 072 11	SARKIS H MEHTEMETIAN	657	W HARVARD ST	GLENDALE	CA	91204
047 072 12	RALPH H REIMER	15036	LOS ROBLES AVE	HACIENDA HEIGHTS	CA	91745
047 072 13	NBH HOLDINGS LLC	16485	LAGUNA CANYON RD #250	IRVINE	CA	92618
047 072 14	PETER H SWANBERG	1423	W SAN BERNARDINO RD #E	COVINA	CA	91722
047 072 15	MARY A ROUSE	522	SEAWARD RD	CORONA DEL MAR	CA	92625
047 072 16	KENNETH A ROUSE	522	SEAWARD RD	CORONA DEL MAR	CA	92625
047 072 21	MARTIN	NA	PO BOX 3707	TUSTIN	CA	92781
047 072 22	CLIFFORD STARK	6344	E ABBEYWOOD RD	ORANGE	CA	92867
047 072 23	PETER JOSEPH FENTON	NA	PO BOX 1676	LAKE FOREST	CA	92609
047 082 01	FRANCIS A URSINI	177	RIVERSIDE AVENUE F 1164	NEWPORT BEACH	CA	92663
047 082 02	WILLIAM L & JULIANNE EBELING	119	39TH ST	NEWPORT BEACH	CA	92663
047 082 03	LEONARD J LOVALO	2469	W STUART AVE	FRESNO	CA	93711
047 082 05	MARVIN KESSLER	NA	PO BOX 3935	CHATSWORTH	CA	91313
047 082 06	KEVIN G BEALE	114	31ST ST	NEWPORT BEACH	CA	92663
047 082 07	JOHN J & HERLINDA HYATT	5536	LOS ROBLES	LA VERNE	CA	91750
047 082 08	MARY L HYATT	110	31ST ST	NEWPORT BEACH	CA	92663
047 082 09	THOMAS G LEWIS	21400	NASHVILLE ST	CHATSWORTH	CA	91311
047 082 10	SALLY A COLOME	1222	LAS ARENAS WAY	COSTA MESA	CA	92627
047 082 14	JAN COBB	1400	RAVENSWOOD LN	RIVERSIDE	CA	92506
047 082 15	MICHAEL B VAN DAELE	2900	ADAMS ST #C25	RIVERSIDE	CA	92504
047 082 16	GORDON BARIENBROCK	3000	W OCEANFRONT	NEWPORT BEACH	CA	92663
047 082 17	LEONARD G TROELLER	3310	S LANDS END RD	COEUR D ALENE	ID	83814
047 082 18	JOY JEAN WITTE	5517	PASEO DEL LAGO E #1A	LAGUNA WOODS	CA	92637
047 082 19	LESLIE TATE FIELDS	10621	MORADA	ORANGE	CA	92869
047 082 22	PHILIP ABRAMOWITZ	29475	WEeping WILLOW DR	AGOURA HILLS	CA	91301
047 082 23	BARBARA J BOLAND	115	30TH ST	NEWPORT BEACH	CA	92663
047 082 25	TRENT B SMITH	404	EVENING STAR LN	NEWPORT BEACH	CA	92660
047 082 28	SHARON L FISCHER	1223	CENTENNIAL AVE	CAMARILLO	CA	93010
047 082 31	LAURIE J TRIMBACH	127	30TH ST	NEWPORT BEACH	CA	92663
047 082 33	TARA RANDS	3200	E VILLA KNOLLS DR	PASADENA	CA	91107
047 082 34	MARY RANDS	4642	FLORAL DR	LOS ANGELES	CA	90022
047 082 35	RICHARD A MILLET	6410	SILVER MESA DR #F	HIGHLANDS RANCH	CO	80130
047 082 36	GEORGE E FOLTZ	15932	RIO FLORIDA DR	WHITTIER	CA	90603
047 082 39	MARIN-FINN	1324	W BAY AVE	NEWPORT BEACH	CA	92661
047 082 40	BATLEY	NA	PO BOX 15845	NEWPORT BEACH	CA	92659

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124 30th St (PA2009-012) - OWNER

047 083 02	DOUGLAS E MANISTA	22460	MISSION HILLS LN	YORBA LINDA	CA	92887
047 083 05	JACK BRESSON	NA	PO BOX 2401	LAKE ARROWHEAD	CA	92352
047 083 07	AQUILA BERNARINO D	1235	MOUNT SPRINGS RANCH RD	LA VERNE	CA	91750
047 083 08	EDWARD M FITCH	2100	WINDWARD LN	NEWPORT BEACH	CA	92660
047 083 09	CHARLES JOHNSON	2255	GRACE ST	RIVERSIDE	CA	92504
047 083 12	BARBARA MARIE MCPROUD	505	COYOTE ST #A	NEVADA CITY	CA	95959
047 083 13	JOHN L HAGUE	2904	W OCEANFRONT	NEWPORT BEACH	CA	92663
047 083 14	SECURITY PACIFIC BANK	3903	BELLAIRE BLVD	HOUSTON	TX	77025
047 083 15	ANNE C WALKER	302	PINE AVE	LONG BEACH	CA	90802
047 083 16	RICHARD D DAUBEN	109	29TH ST	NEWPORT BEACH	CA	92663
047 083 17	STAN LEDER	111	29TH ST	NEWPORT BEACH	CA	92663
047 083 18	MITCHELL PROPERTIES LLC	4320	WILLOW TREE LN	YORBA LINDA	CA	92887
047 083 19	PETER BONACIC	115	29TH ST	NEWPORT BEACH	CA	92663
047 083 20	ROBERT LOWELL MARTIN	1064	LA MIRADA ST	LAGUNA BEACH	CA	92651
047 083 21	UDO HELFERICH	22061	CAPE MAY LN	HUNTINGTON BEACH	CA	92646
047 083 24	PAUL TERRENCE	1225	W LINCOLN AVE	ANAHEIM	CA	92805
047 083 25	TERRY M GALVIN	322	W FERN DR	FULLERTON	CA	92832
047 083 26	JOAN D V GILMORE COY	3713	E WOODBINE RD	ORANGE	CA	92867
047 083 27	DALE A WILLIAMS	2914	W OCEANFRONT	NEWPORT BEACH	CA	92663
047 083 28	WILLIAM E WISELEY	108	29TH ST	NEWPORT BEACH	CA	92663
047 083 29	BARRY SAYWITZ PROPERTIES	4740	VON KARMAN AVE #100	NEWPORT BEACH	CA	92660
047 083 30	ROBERT MENDEZ	126 1/2	30TH ST	NEWPORT BEACH	CA	92663
047 083 31	OCEAN 1 LLC	650	CAMINO DE GLORIA	WALNUT	CA	91789
047 083 32	JOHN MCMORRIS	1841	W COOPER CT	LA HABRA	CA	90631
047 083 33	PATRICK G THEODORA	120	30TH ST	NEWPORT BEACH	CA	92663
047 091 01	ADINA INVESTMENTS LLC	16882	BOLSA CHICA ST #105	HUNTINGTON BEACH	CA	92649
047 091 02	JOHN P ELLIOTT	9210	E HACKAMORE DR	SCOTTSDALE	AZ	85255
047 091 03	DAN L LAMB	124	29TH ST	NEWPORT BEACH	CA	92663
047 091 04	LEONARD D STIMPSON	2055	ROSEMONT AVE #3	PASADENA	CA	91103
047 091 05	LYNN E GERNERT	7232	MCCOOL AVE	LOS ANGELES	CA	90045
047 091 06	ARCH HEIGHTS INVESTMENTS	NA	PO BOX 1014	NEWPORT BEACH	CA	92659
047 091 07	EUGENE ODOU	924	N DONER DR	MONTEBELLO	CA	90640
047 091 08	HARLAN M LASSITER	114	29TH ST	NEWPORT BEACH	CA	92663
047 091 10	D B & S B KRAMER	1851	PORT SEABOURNE WAY	NEWPORT BEACH	CA	92660
047 091 11	DENIS W KIDD	22874	PICO ST	GRAND TERRACE	CA	92313
047 091 12	SHK ENTERPRISES LLC	1128	E BALBOA BLVD	NEWPORT BEACH	CA	92661
047 091 22	PETER A WESNER	2151	PACIFIC AVE #B205	COSTA MESA	CA	92627
047 091 23	PHIL PEARLMAN	2001	N WESTWOOD AVE	SANTA ANA	CA	92706
047 091 24	ALBERT G & JOAN E PIZZO	2227	FRANCISCO DR	NEWPORT BEACH	CA	92660
047 091 25	RICHARD H KRUSE	34392	STARBOARD LANTERN	DANA POINT	CA	92629
047 091 26	LINDA D HALLIDY	2864	ELLESMERE AVE	COSTA MESA	CA	92626
047 091 31	LONG K PHAM	2805	W BALBOA BLVD	NEWPORT BEACH	CA	92663
047 091 34	CHARLES C PALMER	1701	KINGS RD	NEWPORT BEACH	CA	92663
047 101 05	KENNETH E CARLSON	1750	WHITTIER AVE #79	COSTA MESA	CA	92627
047 101 06	TERI LU FERRIS ULLON	229	PHLOX AVE	REDLANDS	CA	92373
047 101 07	HENRY J MILLER	9018	BALBOA BLVD #212	NORTHRIDGE	CA	91325
047 101 08	LEO J LENOUE	18040	FLYNN DR #5204	CANYON COUNTRY	CA	91387
047 101 10	BARBARA M BANDY	201	28TH ST	NEWPORT BEACH	CA	92663

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124 30th St (PA2009-012) - OWNER

047 101 18	MARY ANNE WALSH	123	30TH ST	NEWPORT BEACH	CA	92663
047 101 19	EDWIN C ARNOLD	200	29TH ST	NEWPORT BEACH	CA	92663
932 840 21	TODD A LANDGREN	116	30TH ST #A	NEWPORT BEACH	CA	92663
932 840 22	ANTHONY M PUMA	23	VIA TIMON	SAN CLEMENTE	CA	92673
932 840 70	DANIEL L DEWITT	NA	PO BOX 1857	REDLANDS	CA	92373
932 840 71	GRIGOLLA & SONS CONST CO INC	NA	PO BOX 949	AZUSA	CA	91702
932 840 72	PHILIP G HIRSCH	121	29TH ST #3	NEWPORT BEACH	CA	92663
932 840 73	D & K BONDY	121	29TH ST #4	NEWPORT BEACH	CA	92663
932 840 80	ERIK YOUNG	60	VISTA TIBURON DR	BELVEDERE TIBURON	CA	94920
939 710 01	RON SEAGONDOLLAR II	NA	PO BOX 1921	NEWPORT BEACH	CA	92659
939 710 02	MILO D COOK	418	S FERNWOOD ST	WEST COVINA	CA	91791
939 710 03	BARRY SAYWITZ PROPERTIES	203	30TH ST #1	NEWPORT BEACH	CA	92663
939 710 04	BARRY SAYWITZ PROPERTIES	203	30TH ST #A	NEWPORT BEACH	CA	92663
939 710 05	TAQUINO	205	LAUREL AVE	ARCADIA	CA	91006
939 710 06	MARK WILLIAM OKAY	128	VIA SAN REMO	NEWPORT BEACH	CA	92663
939 710 15	JOSEPH ALEXANDER DALLAL	10457	TROON AVE	LOS ANGELES	CA	90064
939 710 16	GAGE S L CORPORATION	3101	W COAST HWY #312	NEWPORT BEACH	CA	92663
939 710 27	214 30TH STREET LLC	161	FASHION LN #110	TUSTIN	CA	92780
939 710 28	JEROME JOSEPH REISS JR.	214 1/2	30TH ST	NEWPORT BEACH	CA	92663

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124 30TH St (PA2009-012) - Occupant

APN	RESIDENT/OWNER	ADDRESS	STREET/SUITE	CITY	STATE	ZIP
047 071 02	RESIDENT	3014	BALBOA BLVD	NEWPORT BEACH	CA	92663
047 071 03	RESIDENT	3012	BALBOA BLVD	NEWPORT BEACH	CA	92663
047 071 04	RESIDENT	3010	BALBOA BLVD	NEWPORT BEACH	CA	92663
047 071 08	RESIDENT	207	30TH ST B	NEWPORT BEACH	CA	92663
047 071 08	RESIDENT	207	30TH ST A	NEWPORT BEACH	CA	92663
047 071 09	RESIDENT	209	30TH ST	NEWPORT BEACH	CA	92663
047 071 12	RESIDENT	213	30TH ST	NEWPORT BEACH	CA	92663
047 071 13	RESIDENT	215	30TH ST	NEWPORT BEACH	CA	92663
047 072 04	RESIDENT	212	30TH ST	NEWPORT BEACH	CA	92663
047 072 05	RESIDENT	210	30TH ST B	NEWPORT BEACH	CA	92663
047 072 05	RESIDENT	210	30TH ST A	NEWPORT BEACH	CA	92663
047 072 05	RESIDENT	210	30TH ST C	NEWPORT BEACH	CA	92663
047 072 06	RESIDENT	208	30TH ST	NEWPORT BEACH	CA	92663
047 072 09	RESIDENT	201	29TH ST	NEWPORT BEACH	CA	92663
047 072 09	RESIDENT	201	29TH ST 1/2	NEWPORT BEACH	CA	92663
047 072 10	RESIDENT	203	29TH ST	NEWPORT BEACH	CA	92663
047 072 11	RESIDENT	205	29TH ST	NEWPORT BEACH	CA	92663
047 072 12	RESIDENT	207	29TH ST	NEWPORT BEACH	CA	92663
047 072 13	RESIDENT	209	29TH ST	NEWPORT BEACH	CA	92663
047 072 14	RESIDENT	211	29TH ST	NEWPORT BEACH	CA	92663
047 072 15	RESIDENT	213	29TH ST	NEWPORT BEACH	CA	92663
047 072 16	RESIDENT	215	29TH ST	NEWPORT BEACH	CA	92663
047 072 21	RESIDENT	206	30TH ST	NEWPORT BEACH	CA	92663
047 072 22	RESIDENT	204	30TH ST B	NEWPORT BEACH	CA	92663
047 072 22	RESIDENT	204	30TH ST A	NEWPORT BEACH	CA	92663
047 072 23	RESIDENT	200	30TH ST	NEWPORT BEACH	CA	92663
047 072 24	RESIDENT	202	30TH ST	NEWPORT BEACH	CA	92663
047 082 01	RESIDENT	126	31ST ST	NEWPORT BEACH	CA	92663
047 082 02	RESIDENT	124	31ST ST	NEWPORT BEACH	CA	92663
047 082 03	RESIDENT	122	31ST ST	NEWPORT BEACH	CA	92663
047 082 05	RESIDENT	116	31ST ST	NEWPORT BEACH	CA	92663
047 082 06	RESIDENT	114	31ST ST B	NEWPORT BEACH	CA	92663
047 082 06	RESIDENT	114	31ST ST A	NEWPORT BEACH	CA	92663
047 082 07	RESIDENT	112	31ST ST A	NEWPORT BEACH	CA	92663
047 082 07	RESIDENT	112	31ST ST B	NEWPORT BEACH	CA	92663
047 082 08	RESIDENT	110	31ST ST	NEWPORT BEACH	CA	92663
047 082 09	RESIDENT	108	31ST ST	NEWPORT BEACH	CA	92663
047 082 10	RESIDENT	106	31ST ST	NEWPORT BEACH	CA	92663
047 082 14	RESIDENT	3006	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 082 15	RESIDENT	3004	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 082 16	RESIDENT	3000	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 082 17	RESIDENT	105	30TH ST	NEWPORT BEACH	CA	92663
047 082 18	RESIDENT	107	30TH ST	NEWPORT BEACH	CA	92663

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124 30TH St (PA2009-012) - Occupant

047 082 19	RESIDENT	109	30TH ST	NEWPORT BEACH	CA	92663
047 082 22	RESIDENT	113	30TH ST	NEWPORT BEACH	CA	92663
047 082 23	RESIDENT	115	30TH ST	NEWPORT BEACH	CA	92663
047 082 25	RESIDENT	121	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 082 25	RESIDENT	121	30TH ST	NEWPORT BEACH	CA	92663
047 082 26	RESIDENT	123	30TH ST	NEWPORT BEACH	CA	92663
047 082 26	RESIDENT	123	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 082 28	RESIDENT	111	30TH ST	NEWPORT BEACH	CA	92663
047 082 31	RESIDENT	127	30TH ST	NEWPORT BEACH	CA	92663
047 082 33	RESIDENT	3010	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 082 34	RESIDENT	3008	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 082 35	RESIDENT	117	30TH ST	NEWPORT BEACH	CA	92663
047 082 36	RESIDENT	119	30TH ST	NEWPORT BEACH	CA	92663
047 082 39	RESIDENT	118	31ST ST A	NEWPORT BEACH	CA	92663
047 082 39	RESIDENT	118	31ST ST B	NEWPORT BEACH	CA	92663
047 082 40	RESIDENT	120	31ST ST	NEWPORT BEACH	CA	92663
047 083 02	RESIDENT	122	30TH ST	NEWPORT BEACH	CA	92663
047 083 02	RESIDENT	122	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 083 06	RESIDENT	112	30TH ST	NEWPORT BEACH	CA	92663
047 083 07	RESIDENT	110	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 083 07	RESIDENT	110	30TH ST	NEWPORT BEACH	CA	92663
047 083 08	RESIDENT	108	30TH ST	NEWPORT BEACH	CA	92663
047 083 09	RESIDENT	106	30TH ST	NEWPORT BEACH	CA	92663
047 083 12	RESIDENT	2906	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 083 13	RESIDENT	2904	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 083 14	RESIDENT	2900	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 083 15	RESIDENT	107	29TH ST	NEWPORT BEACH	CA	92663
047 083 16	RESIDENT	109	29TH ST B	NEWPORT BEACH	CA	92663
047 083 16	RESIDENT	109	29TH ST A	NEWPORT BEACH	CA	92663
047 083 17	RESIDENT	111	29TH ST	NEWPORT BEACH	CA	92663
047 083 18	RESIDENT	113	29TH ST	NEWPORT BEACH	CA	92663
047 083 19	RESIDENT	115	29TH ST	NEWPORT BEACH	CA	92663
047 083 20	RESIDENT	117	29TH ST	NEWPORT BEACH	CA	92663
047 083 21	RESIDENT	119	29TH ST	NEWPORT BEACH	CA	92663
047 083 24	RESIDENT	2910	OCEAN FRONT W A	NEWPORT BEACH	CA	92663
047 083 24	RESIDENT	2910	OCEAN FRONT W B	NEWPORT BEACH	CA	92663
047 083 25	RESIDENT	2908	OCEAN FRONT W B	NEWPORT BEACH	CA	92663
047 083 25	RESIDENT	2908	OCEAN FRONT W A	NEWPORT BEACH	CA	92663
047 083 26	RESIDENT	2912	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 083 27	RESIDENT	2914	OCEAN FRONT W B	NEWPORT BEACH	CA	92663

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124 30TH St (PA2009-012) - Occupant

047 083 27	RESIDENT	2914	OCEAN FRONT W A	NEWPORT BEACH	CA	92663
047 083 28	RESIDENT	125	29TH ST	NEWPORT BEACH	CA	92663
047 083 29	RESIDENT	127	29TH ST	NEWPORT BEACH	CA	92663
047 083 30	RESIDENT	126	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 083 30	RESIDENT	126	30TH ST	NEWPORT BEACH	CA	92663
047 083 31	RESIDENT	124	30TH ST	NEWPORT BEACH	CA	92663
047 083 31	RESIDENT	124	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 083 32	RESIDENT	118	30TH ST	NEWPORT BEACH	CA	92663
047 083 33	RESIDENT	120	30TH ST	NEWPORT BEACH	CA	92663
047 083 33	RESIDENT	120	30TH ST 1/2	NEWPORT BEACH	CA	92663
047 091 01	RESIDENT	128	29TH ST	NEWPORT BEACH	CA	92663
047 091 02	RESIDENT	126	29TH ST A	NEWPORT BEACH	CA	92663
047 091 02	RESIDENT	126	29TH ST B	NEWPORT BEACH	CA	92663
047 091 03	RESIDENT	124	29TH ST	NEWPORT BEACH	CA	92663
047 091 04	RESIDENT	122	29TH ST	NEWPORT BEACH	CA	92663
047 091 05	RESIDENT	120	29TH ST	NEWPORT BEACH	CA	92663
047 091 06	RESIDENT	118	29TH ST	NEWPORT BEACH	CA	92663
047 091 07	RESIDENT	116	29TH ST	NEWPORT BEACH	CA	92663
047 091 07	RESIDENT	116	29TH ST 1/2	NEWPORT BEACH	CA	92663
047 091 08	RESIDENT	114	29TH ST	NEWPORT BEACH	CA	92663
047 091 10	RESIDENT	106	29TH ST	NEWPORT BEACH	CA	92663
047 091 11	RESIDENT	2814	OCEAN FRONT W B	NEWPORT BEACH	CA	92663
047 091 11	RESIDENT	2814	OCEAN FRONT W A	NEWPORT BEACH	CA	92663
047 091 11	RESIDENT	2814	OCEAN FRONT W C	NEWPORT BEACH	CA	92663
047 091 12	RESIDENT	2812	OCEAN FRONT W	NEWPORT BEACH	CA	92663
047 091 22	RESIDENT	115	28TH ST	NEWPORT BEACH	CA	92663
047 091 23	RESIDENT	117	28TH ST	NEWPORT BEACH	CA	92663
047 091 24	RESIDENT	119	28TH ST	NEWPORT BEACH	CA	92663
047 091 25	RESIDENT	121	28TH ST	NEWPORT BEACH	CA	92663
047 091 26	RESIDENT	123	28TH ST	NEWPORT BEACH	CA	92663
047 091 31	RESIDENT	2805	BALBOA BLVD	NEWPORT BEACH	CA	92663
047 091 33	RESIDENT	108	29TH ST	NEWPORT BEACH	CA	92663
047 091 33	RESIDENT	110	29TH ST	NEWPORT BEACH	CA	92663
047 091 34	RESIDENT	113	28TH ST	NEWPORT BEACH	CA	92663
047 091 34	RESIDENT	113	28TH ST 1/2	NEWPORT BEACH	CA	92663
047 101 05	RESIDENT	210	29TH ST	NEWPORT BEACH	CA	92663
047 101 06	RESIDENT	208	29TH ST	NEWPORT BEACH	CA	92663
047 101 07	RESIDENT	206	29TH ST	NEWPORT BEACH	CA	92663
047 101 07	RESIDENT	206	29TH ST 1/2	NEWPORT BEACH	CA	92663
047 101 08	RESIDENT	204	29TH ST	NEWPORT BEACH	CA	92663
047 101 08	RESIDENT	204	29TH ST 1/2	NEWPORT BEACH	CA	92663

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124 30TH St (PA2009-012) - Occupant

047 101 10	RESIDENT	201	28TH ST	NEWPORT BEACH	CA	92663
047 101 18	RESIDENT	202	29TH ST	NEWPORT BEACH	CA	92663
047 101 19	RESIDENT	200	29TH ST	NEWPORT BEACH	CA	92663
932 840 21	RESIDENT	116	30TH ST	NEWPORT BEACH	CA	92663
932 840 22	RESIDENT	116	30TH ST 1/2	NEWPORT BEACH	CA	92663
932 840 70	RESIDENT	123	29TH ST	NEWPORT BEACH	CA	92663
932 840 71	RESIDENT	123	29TH ST 1/2	NEWPORT BEACH	CA	92663
932 840 72	RESIDENT	121	29TH ST	NEWPORT BEACH	CA	92663
932 840 73	RESIDENT	121	29TH ST 1/2	NEWPORT BEACH	CA	92663
932 840 80	RESIDENT	125	30TH ST A	NEWPORT BEACH	CA	92663
932 840 81	RESIDENT	125	30TH ST B	NEWPORT BEACH	CA	92663
939 710 01	RESIDENT	201	30TH ST A	NEWPORT BEACH	CA	92663
939 710 02	RESIDENT	201	30TH ST B	NEWPORT BEACH	CA	92663
939 710 03	RESIDENT	203	30TH ST A	NEWPORT BEACH	CA	92663
939 710 04	RESIDENT	203	30TH ST B	NEWPORT BEACH	CA	92663
939 710 05	RESIDENT	205	30TH ST A	NEWPORT BEACH	CA	92663
939 710 06	RESIDENT	205	30TH ST B	NEWPORT BEACH	CA	92663
939 710 15	RESIDENT	3008	BALBOA BLVD	NEWPORT BEACH	CA	92663
939 710 16	RESIDENT	3008	BALBOA BLVD 1/2	NEWPORT BEACH	CA	92663
939 710 27	RESIDENT	214	30TH ST	NEWPORT BEACH	CA	92663
939 710 28	RESIDENT	214	30TH ST 1/2	NEWPORT BEACH	CA	92663



PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA 92663

PHONE: 949/644-3200

FAX: 949/644-3229

Please see the attached radius map and mailing labels created for properties within a 300-foot radius of the subject parcel located at 124 30th Street in the City of Newport Beach, County of Orange. The property information was acquired through the Newport Beach GIS Web Mapping system. Further, the information is based upon the most up-to-date records of the county tax assessor and is deemed reliable, but is not guaranteed.



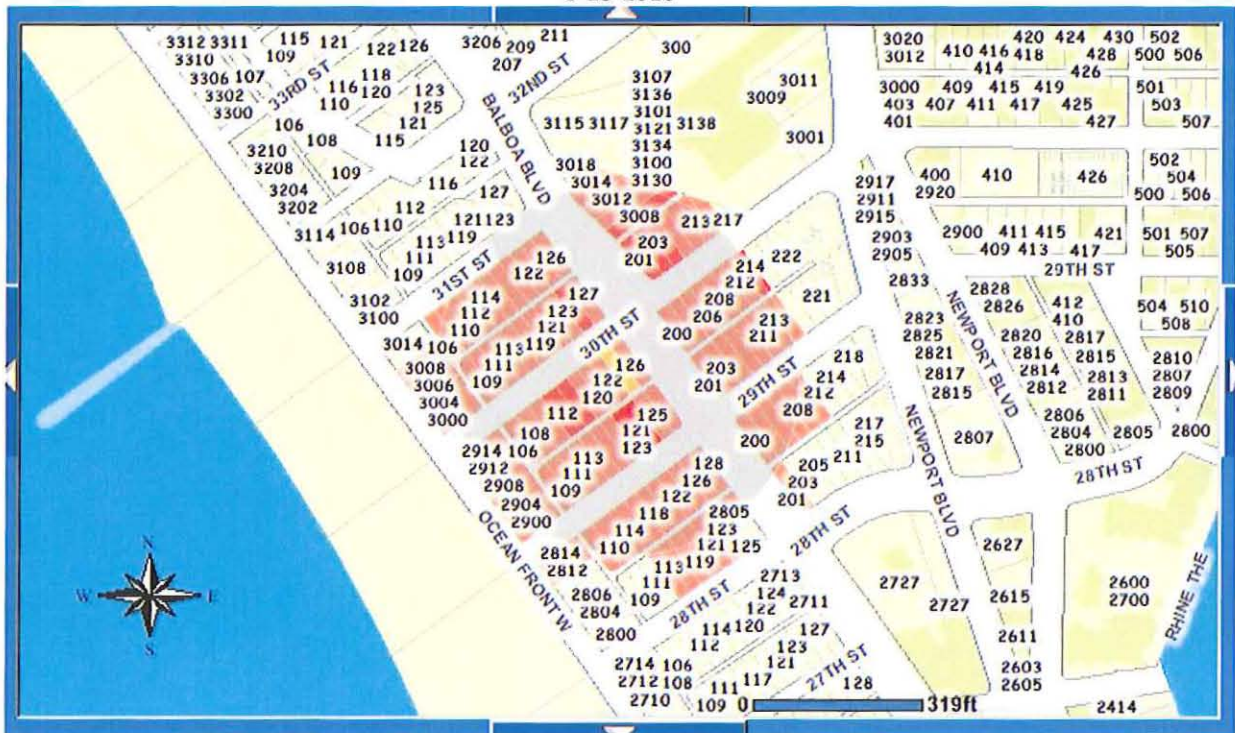
Signature of Preparer

5/25/2010

Date Prepared

300 Foot Radius

5-25-2010



PA2009-012 for RA2009-002

124 30th Street

SCANNED

FILE COPY