

Update on City Activity Related to Group Homes  
September 11, 2012

The City of Normandy Park is continuing its efforts to address concerns related to group homes in Normandy Park. As previously reported, the City has been advised by legal counsel that persons with disabilities are protected from actions that prohibit them from living together in a family arrangement in single-family residential dwellings. This protection is found in the Federal Fair Housing Act Amendments and the Washington Housing Policy Act. In addition, several court cases have upheld these protections. [*Children's Alliance vs. City of Bellevue*, 950 F. Supp. 1491(W.D. Wash. 1997); *Sunderlund Family Treatment Services vs. City of Pasco*, 107 Wash.App. 109, 26 P.3d 955 (2001); *Edmonds v. Oxford House, Inc.*, 514 US 725, 115 S.Ct. 1776, 131 Led 2d 801 (1995).]

The City may impose the following types of restrictions under state and federal law:

1. Reasonable Occupancy Limits. Uniformly applied building code provisions which limit occupancy based on neutral factors such as square footage, exiting requirements and other basic health safety and protections are enforceable.
2. Evenly Applied Engineering and Zoning Protections. Engineering requirements such as impervious surface requirements designed to protect all persons and which are even-handedly applied or enforceable.
3. Prohibition of Active Drug and Alcohol Use. Persons who are actively abusing illegal drugs and alcohol are not subject to the protections of the Fair Housing Act Amendments. Abusers lose their protection as qualifying disabled individuals. Criminal statutes provide adequate protections for illegal drug use.
4. Direct Threat to Others or to Property. The Fair Housing Act Amendments contain an exemption for tenancy which would "constitute a direct threat to the health and safety of other individuals or whose tenancy would result in substantial physical damage to the properties of others." 42 U.S.C. §3604(t)(9).

**The City of Normandy Park has sought a "second legal opinion" and has received confirmation of the legal advice provided by the City Attorney's office.**

The Group Home Task Force, appointed by the City Manager following the May 8, 2012 City Council meeting, has met several times and created a Steering Committee that has also met several times. An interim report from the Task Force was presented to the City Council at its August 14, 2012 meeting. The interim report (available on the City of Normandy Park website) included six recommendations for action by the City:

1. Request a legislative process to investigate and determine which Washington State agency is responsible for regulating the residential treatment model used by Hanbleceya, whether by existing regulation, revised regulation or new legislation, as may be needed; and to support such a process with letters to legislators and agency officials, participation in meetings or testimony at hearings, as may be appropriate;

*This process was initiated in early June 2012 with a letter to Secretary Selecky of the Washington Department of Health and communication to State Representatives. The initial response from WA DOH was unsatisfactory and an appeal resulted in a more thorough investigation, which has not been finalized as of September 11, 2012. Communication with DOH and DSHS officials, State Legislators and other decision-makers will continue.*

*State Representative Tina Orwall is a member of the Task Force and has considerable experience in health care. Representative Orwall helped write some of the relevant Washington Administrative Code. A re-write of the particular WAC calling for state regulation is being looked at for an update as well as re-interpretation of the original WAC by the Department of Health.*

2. Initiate communication with leaders of other Washington State cities facing the same issue, and collaborate on support needed for the legislative and administrative processes described above, and to direct interest in support of legislation, if necessary, as indicated by process above, to the Suburban Cities Association, Association of Washington Cities, and other organizations that lobby on behalf of cities in Washington State and King County, with the intention of assuring that patients with severe mental illness are appropriately protected by the State of Washington;

*Discussions with legislators, agency officials and the Association of Washington Cities regarding were initiated prior to the Task Force recommendations. Contact has been made with the City of Marysville who is facing a similar issue, as well as city managers/administrators from other jurisdictions in Washington.*

3. Prioritize zoning code revisions, including a Reasonable Accommodation process, needed to bring the Municipal Code of Normandy Park to reflect current state, county and federal law, which includes directing City resources toward hiring consultants necessary to complete code revisions in a timely manner;

*A proposal and cost estimate will be presented to the City Council for consideration at the October 9, 2012 meeting of the City Council. This will involve amending Normandy Park Municipal Code language concerning single-family residential homes and the requirement to provide reasonable accommodation to persons with disabilities to prevent confusion from an out of date code and the requirements of Federal and State regulation.*

4. Authorize the City Attorney to meet with the Normandy Park Cares attorney, to identify mutual ways in which the City and NPC can cooperate in recommendations 2 and 3, in order to avoid any other actions which will potentially result in delay of resolution and/or higher legal costs;

*The City of Normandy Park has had contact with leaders of the Normandy Park Cares group to seek common legal goals. In addition, requests have been made by the City Attorney to meet with Normandy Park Cares' attorney. To date, a meeting has not been agreed to by Normandy Park Care's attorney, but the offer remains open.*

5. Develop and implement a communications strategy, directed to the residents of Normandy Park, including but not limited to information on mental illness, personal and property safety, and how to communicate mental illness and personal safety to children;

*Efforts to enhance communication between the City and residents of Normandy Park are underway and ongoing. While the City of Normandy Park can support enhanced communication with residents on the general activities of the City, expertise on mental illness and communicating about mental illness and personal safety to children is best found within the mental health care provider community. The City's role may more appropriately be to support the coordination and facilitation of this communication.*

6. Facilitate and actively participate in the creation, review and approval of a Community Agreement to be subsequently signed by the Mayor as a representative of the City of Normandy Park, along with other interested parties participating in the creation and approval of the Agreement. The Community Agreement will be developed cooperatively with Hanbleceya, the Task Force, and the City of Normandy Park City Council. Updates on process of Community Agreement will be provided at each and every City Council meeting until such time an Agreement is reached, to the satisfaction of all parties.

*A draft Community Agreement is being written and discussed with various stakeholders, including Hanbleceya. A meeting of stakeholders is scheduled for September 12<sup>th</sup> to continue discussions and work on the Community Agreement.*

*The City of Normandy Park does not intend to be unresponsive in its action for fear of entangling lawsuits, but has acted entirely with reason and responsible caution on good advice of legal counsel. The laws in this arena cause all cities to exercise caution as most of the zoning controls have been pre-empted by the Federal and State governments.*