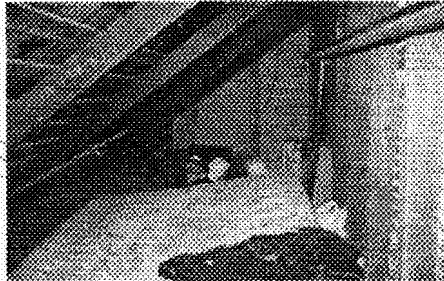


Transitional Housing/Group Home Complaint Investigation



Our Goals

- ✓ Elimination of dangerous and/or unsafe or substandard rental housing conditions.
- ✓ Elimination of nuisance and/or criminal activity attendant to these rental properties.
- ✓ Achieve compliance with Conditional Use Permit requirements where applicable (e.g., parolee housing ordinance).
- ✓ Ensure properties are brought into compliance with the Riverside Municipal Code by correcting all code violations; to the extent such enforcement is not otherwise pre-empted by state or federal law.

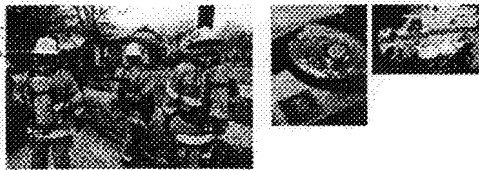
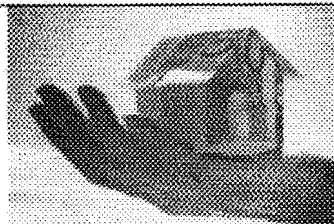
Our Goals – cont.

- ✓ Ensure that the applicable state licensing agency (e.g., Community Care Licensing Division of the Department of Social Services, Department of Alcohol & Drug Programs, etc.) maintains proper oversight and ensures compliance with the terms of the license for the facility.
- ✓ Ensure that the Division of Adult Parole Operations of CDCR places its paroled sex offenders in compliance with Penal Code sections 3003 and 3003.5.

Our Goals – cont.

- ✓ Ensure that we distinguish legitimate “sober living homes” from “boarding houses” masquerading as sober living homes.
- ✓ Ensure proper and appropriate regulation of the use and occupancy of single-family rental properties throughout the city in order to preserve the residential character of the neighborhood.

The Spin





Overview:
The “typical” complaint

WAY TOO many people in that house - Gotta
be **ILLEGAL** Dopers **Molesters**

DO SOMETHING !!!

- The owner is **RENTING single ROOMS** and does not live on the property.

- The renters are **extra SLEAZY** looking.....

The Initial Complaint

- Frequently triggered by a perception that there are too many residents so the residency must be illegal.
- Often salted with emotional buzz words like "six-pack," "halfway house," "drug house," "paradise home," and phrases such as "they're having meetings," and "they come and go at all hours."
- Usually long on conclusions and short on facts.
- Police calls-for-service may be minimal.



Sober-living home evicts tenants, closes

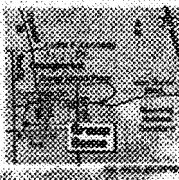
Labels are misleading, often self-serving, and usually wrong.

Municipal actions and investigations must be conducted and documented carefully and thoroughly.

CHANDLER After a toddler was hurt last fall, inspectors said too many people lived there.

BY CHRIS HARRISON

CHANDLER — An Chandler sober-living center where a 20-month-old girl was badly injured last September has been closed after the city ordered the center to enter state of the emergency.



The Typical Scam

- Single-family residence rented out by an owner who does not live in the City, let alone the County.
- Owner believes they are leasing the house to a single family when in fact the lessee then rents to 10 – 20 individual persons and charges each person \$400 – 500/month.
- Alternatively, the owner purchases one or more homes as "owner-occupied" and then stuffs each home with 10 – 20 individual renters.


The Typical Scam – cont.

- Frequently, there are substandard living conditions and/or illegal construction/room conversions.
- None of the individual renters are recovering from alcoholism or drug abuse.
- Owner or "straw lessee" calls it a "sober living home" to evade local regulation!

Investigation Focus

- Actual ownership of the property
- Actual possession/control of the property
- WHO lives there and WHY
- Licenses? CUP?
- Maximum legal occupancy count/range
- Whether a state license is required
- Nature & scope of criminal activity
- Nature & scope of code violations

Why?



- You "can't tell the **PLAYERS** without a program."

The investigation focus cuts through the chaos of the complaint and frames the particular "group home" problem into organized "elements" for investigation that will lead to a definitive analysis and accurate identification of the property's use which, in turn, will lead to an effective enforcement solution.

The "group home" players typically fall within one of three distinct categories:

- ✓1. Homes subject to state licensing
- ✓2. Legitimate sober living homes
- ✓3. Homes **not** subject to state licensing and whose occupants are **not** within a protected class (i.e., disabled). These are the problem homes and *they are subject to local regulation.*

Homes Subject to State Licensing

- Abuse Recovery/Treatment facility (Health & Saf. Code section 11834.20--11834.25)
- Residential care facilities (Health & Saf. Code section 1566.3)
- Adult recovery maintenance facilities (SB 992)

These homes are not subject to local regulations relating to zoning (i.e., CUPs), business taxation, or licensing if serving six or fewer residents

- These homes are subject to local regulation that applies to residential use of property in the same zone.

AB 2184

- Amends Health & Saf. Code section 1566.3(d)-- This section shall not be construed to *prohibit* the application to a residential care facility of any local ordinance *that* deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. *Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.*

AB 2184

- Effective January 1, 2007
- Clarifies existing law—as long as the local ordinance does not treat the residents of a state-licensed group home or the use of that property any differently from the Joneses next door or the Smiths across the street, the ordinance is fully enforceable.
- A common perception held by the public, some local governments, and some courts is that the mere residency of six or fewer, unrelated persons or the operation of a licensed home for six or fewer persons somehow confers a "King's X" status and makes the property off-limits to local regulation. That perception is **wrong**.

Legitimate Sober Living Home

- Not** subject to local zoning, business taxation or licensing regulations.
- Gov. Code section 12955 (FEHA) — "It shall be unlawful... (i) to discriminate through public or private land use practices, decisions, and authorizations because of ... **disability** Discrimination includes, ... zoning laws, denial of use permits, ... that make housing opportunities unavailable.

Legitimate Sober Living Home – cont.

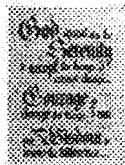
- 42 U.S.C. §3601, et seq. (Fair Housing Amendments Act – FHAA)
- 41 U.S.C. §12101, et seq. (Americans with Disabilities Act – ADA)
- 29 U.S.C. §§504 and 706(8)(C)(iii) (Rehabilitation Act)

What is a Legitimate "Sober Living Home"?

- There is no definition under state or federal law.
- At this point, the local agencies are left to develop their own definition compliant with state and federal disability discrimination laws.

Sober Living Homes

- Typically, the use of a single family residence by a group of recovering addicts and/or alcoholics choosing to live in a cooperative living arrangement and in an alcohol/drug free environment to maintain sobriety and stay clean.



Characteristics of Legitimate Sober Living Homes

- Democratic, self-governing or house manager
- Zero tolerance of alcohol/drug use by residents
- Each resident is in recovery and participating in NA or AA program
- AA or NA meetings on-site are permissible
- Residents legally deemed "disabled"
- Not subject to state licensing
- No "Title 9" services permitted on-site
- Regular, random drug testing

AB 724 (Benoit)

- Sponsored by the City of Riverside
- Introduced February 22, 2007
- Two-year bill
- Passed Assembly 73-1, pending in Senate Health Committee

Assembly Bill 724

- The purpose of this section is to provide a definition of a "sober living home" so as to give both those purporting to operate these facilities and local code and law enforcement agencies the ability to determine whether residences housing former drug and alcohol abusers are exempt from local regulation or exercise of local police powers.
- "Sober living home" means a residential property that is operated as a cooperative living arrangement to provide an alcohol and drug-free environment for persons recovering from alcoholism or drug abuse, or both, who seek a living environment in which to remain clean and sober, and that satisfies all of the following requirements:

AB 724 – cont.

- Residents of the facility, including live-in managers, operators, or owners, are living a sober lifestyle.
- Residents actively participate in legitimate programs, including, but not limited to, Alcoholics Anonymous or Narcotics Anonymous programs, and maintain current records of meeting attendance.
- Owners, managers, operators, and residents observe and promote a zero tolerance policy regarding the consumption or possession of alcohol or controlled substances, except for prescription medications obtained and used under direct medical supervision. The observation and promotion of this policy may take into account demonstrable efforts made by residents to respond to, and prevent additional violations of, the policy.

AB 724 – cont.

- Owners, managers, operators, and residents do not provide onsite any of the following services, as they are defined in paragraph (6) of subdivision (a) of Section 10501 of Title 9 of the California Code of Regulations:
 - (A) Detoxification.
 - (B) Educational counseling.
 - (C) Individual or group counseling sessions.
 - (D) Treatment or recovery planning.

AB 724 – cont.

- The number of residents who are subject to the sex offender registration requirements of Section 260 of the Penal Code does not exceed the limit set forth in Section 3003.5 of the Penal Code and does not violate the distance provisions set forth in Section 3003 of the Penal Code.
- Residents do not require nonmedical care or supervision, as those terms are defined in Health & Saf. Code section 1503.5 and in Title 22 of the California Code of Regulations.

AB 724 – cont.

- Owners, managers, operators, and residents ensure that the property and its use comply with applicable state and local law.
- A residence housing those purporting to be recovering from drug and alcohol abuse shall be presumed to be a sober living home if the residence has been certified, registered, or approved by a recognized nonprofit organization that provides a credible quality assurance service for applicants or members.

AB 724 – cont.

- A sober living home shall be exempt from licensure under Chapter 7.5 (commencing with Health & Saf. Code section 11834.01).
- Nothing in this section shall be construed to prohibit minor children who are dependents of a resident of the facility from also residing in the facility.

Flophouse/Boarding House

- IF the operation of a single family residence as a "group home" is:
 - NOT licensed by the state; or
 - NOT subject to licensing by the state, AND NOT protected under FEHA, FHAA, ADA or equivalent; and
 - NOT a traditional family or legal substitute for family
- THEN the operation is a boarding or rooming type house (i.e., a "flophouse") that is subject to local regulation including zoning laws and treatment as a business operation.

86 Ops.Cal.Atty.Gen. 30 (2003)

"A city may prohibit, limit or regulate the operation of a boarding house or rooming house business in a single family home located in a low density residential (R-1) zone, where boarding house or rooming house is defined as a residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence, in order to preserve the residential character of the neighborhood."

The investigation, if **complete**, will determine whether the subject "group home" is a facility subject to state licensing; an exempt, legal substitute for "family;" or a **flaphouse** that can be regulated by ordinance. If you don't know, the investigation is incomplete.

CUTTING THROUGH THE

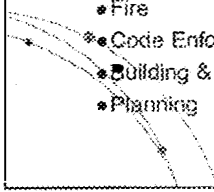
CHAOS OF THE COMPLAINT REQUIRES:

- ASSEMBLING AN INVESTIGATION TEAM.
- UNDERSTANDING THE DIFFERENT TYPES OF OCCUPANCIES - STATE-LICENSED GROUP HOME, SOBER LIVING HOME, PAROLEE HOME OR BOARDING HOUSE AND THE LAWS/REGULATIONS APPLICABLE TO EACH ONE.
- DEVELOPING A COMPLAINT INVESTIGATION AND ENFORCEMENT PROCESS AND PROTOCOL.

The Investigation Team

- Success requires a focused, collaborative approach of municipal departments:

- City Attorney
- Police
- Fire
- Code Enforcement
- Building & Safety
- Planning



Investigation Overview

- Gather background information
- Parole/Probation compliance check
- Joint inspection of the "group home" property
- Follow-up interviews
- Re-inspection for compliance with municipal code (refer state law violations to state agencies)
- Prepare occupancy inspection reports





Investigation Tips



Look for these conditions (Is the claim of a SLH legitimate?)

- Whether the residents are "welcoming" or "going over the fence" upon your arrival
- Overcrowding (UHC §503.2 Floor Area)
- All residents are recovering from alcoholism or drug abuse
- "House rules"—particularly for alcohol and drug testing
- Use of pre-admission screening questionnaires ("why are you here?" focus)
- Resident manager or peer control

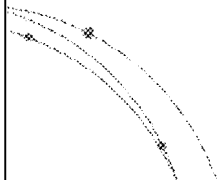
Conditions Cont'd

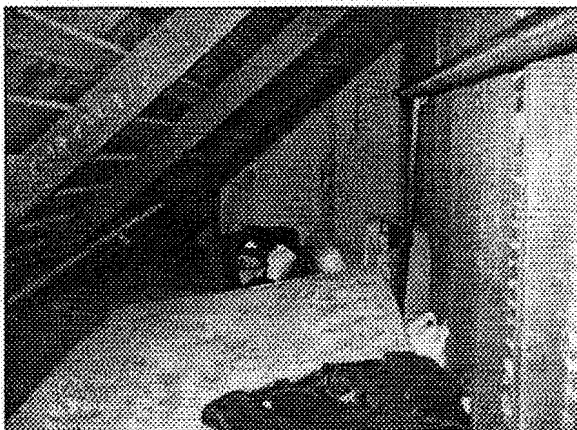
- Membership in recognized sober living organizations
- Living arrangement agreements or rental contracts
- Presence of alcohol, drugs, paraphernalia (be alert to trash)
- Traffic flow in and out of the residence—particularly Friday and Saturday nights (most frequent occurrence of relapse)
- Nighttime hours—when does house shut down for the night?

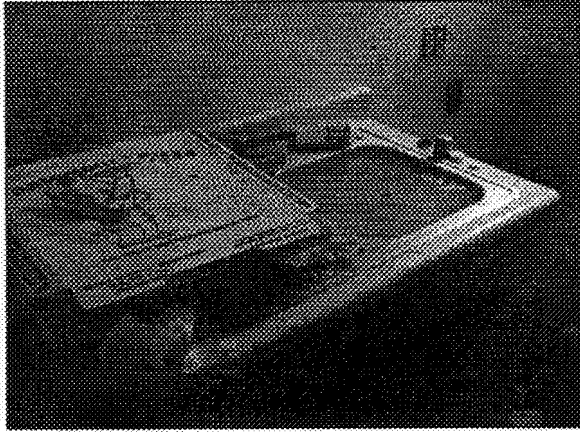
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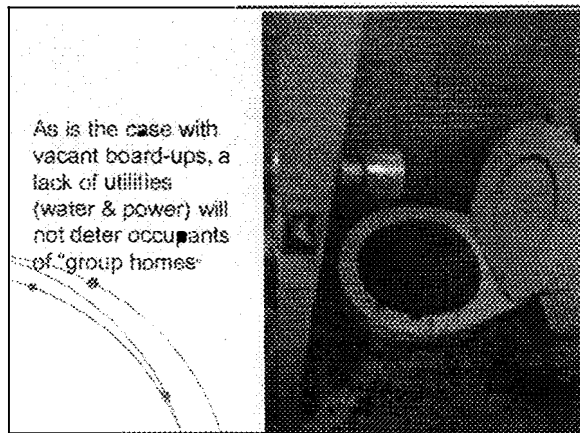
- Drug testing kits (i.e., "First Step 5-panel"), alcohol test kits (saliva)
- Drug test records (if not self test, where are tests sent for results?)
- Police calls for service
- Code enforcement history

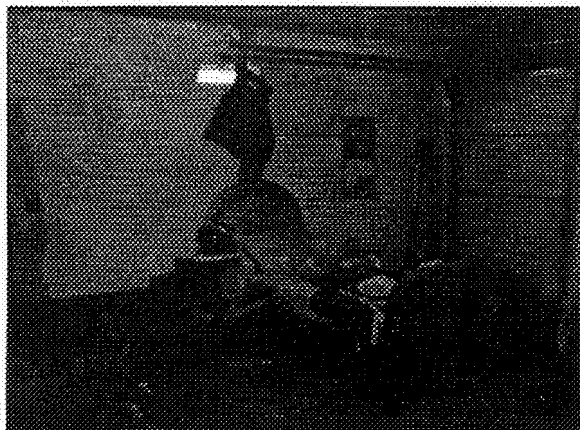
Representative Substandard Conditions

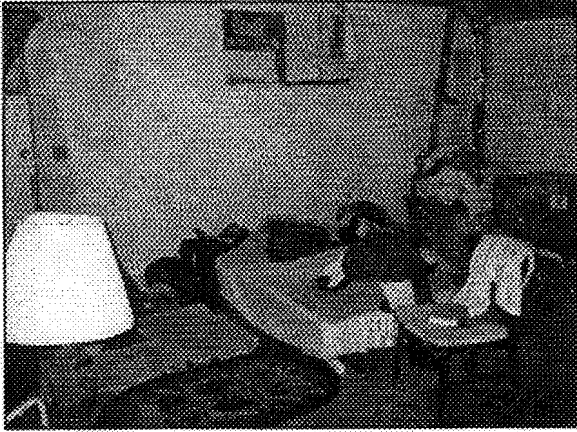




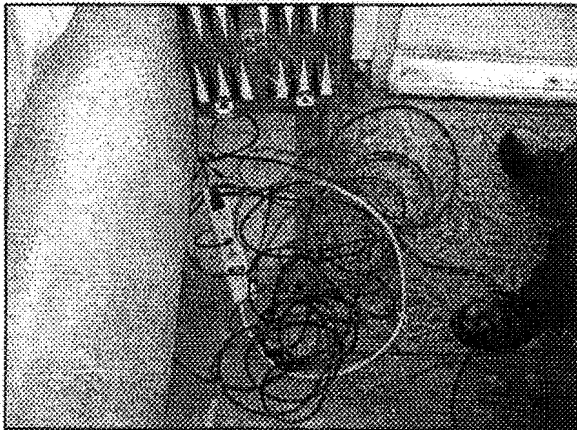




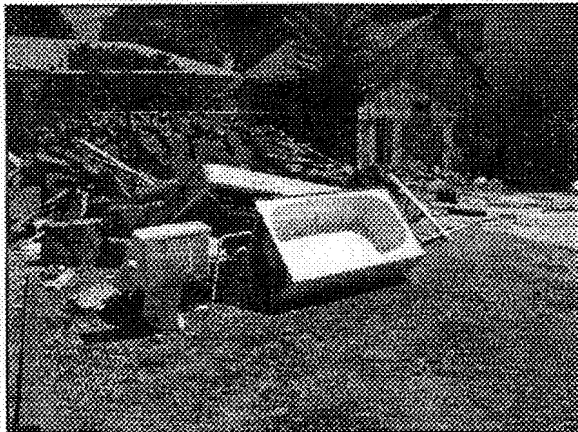




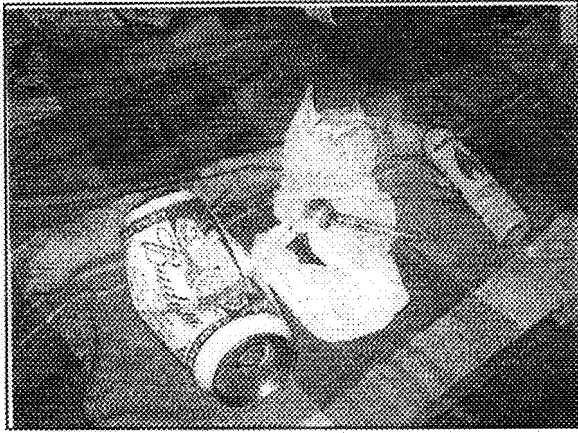


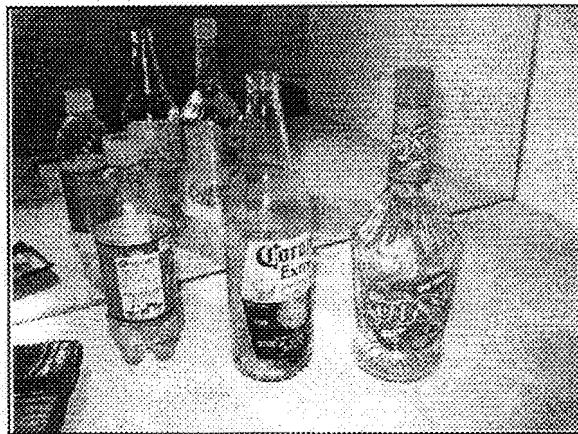


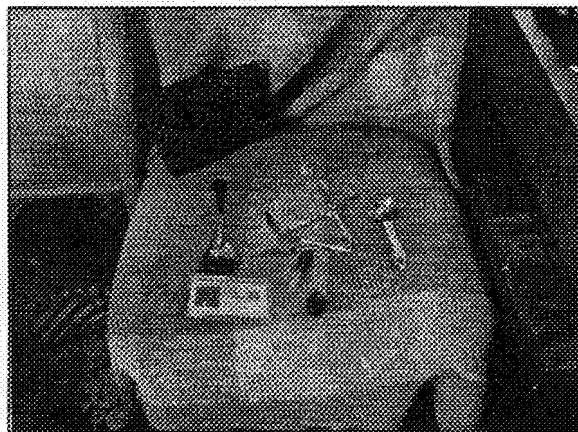
**Be alert to other
code violations**

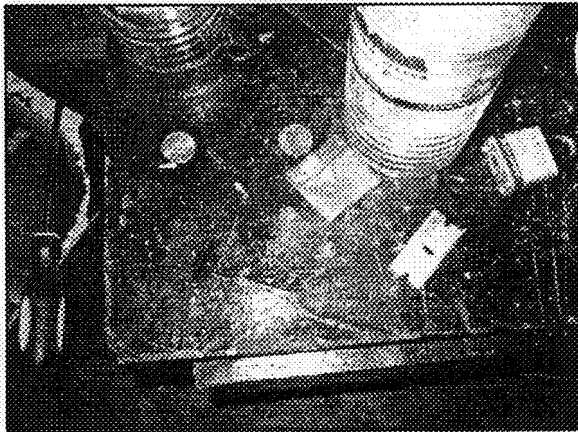


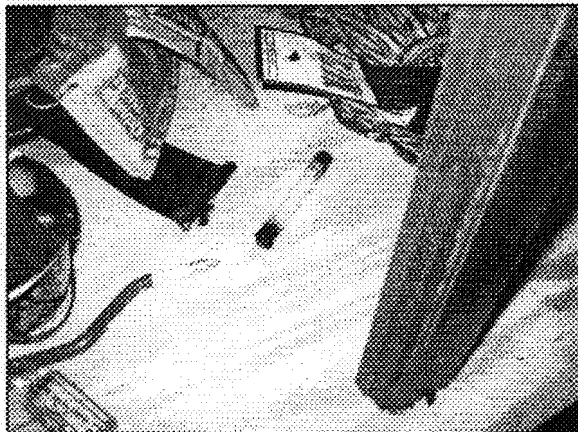
Until your investigation
proves otherwise, the term
"Sober Living Home"
is just a self-serving label.

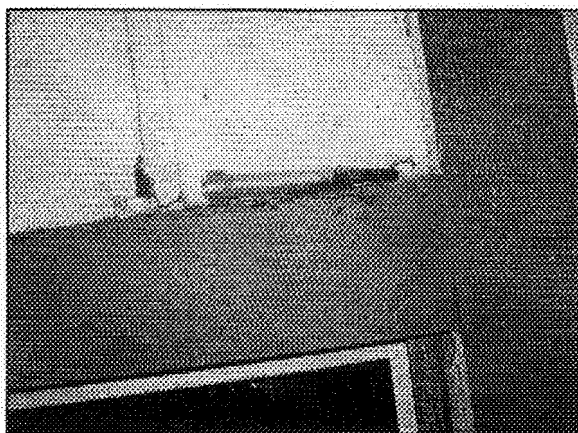












PC 3003.5

- A parolee who is a PC 290 registrant cannot reside with another PC 290 registrant in ANY SINGLE FAMILY RESIDENCE, unless they are related or married, or the residence is a state-licensed group home serving six or less residents. [PC 3003.5; 89 Ops.Cal.Atty.Gen. 199 (2006)]

Enforcement Overview

- Prepare and serve Administrative Civil Penalties (ACP) Notice & Order*
- Prepare Hearing packet
- Conduct pre-hearing witness review
- Present case at ACP hearing
- Prepare for judicial review (i.e., appeal pursuant to CCP §1094.6)

* or other appropriate notice or pleading depending upon the requirements of the administrative or legal remedy sought.

Recommendations

- Investigate "group home" complaints thoroughly.
- Determine actual nature of the use and occupancy of the property investigated as a "group home."
- Nature of the property's use determines the legality of the use and identifies enforcement options.
- Update your zoning code to define a legitimate "sober living home."
- Update your zoning code's regulation of boarding houses to conform to the Attorney General's recent opinion.

Recommendations – cont.

- Adopt/enforce an ordinance which regulates parolee homes (e.g., MCUP required for 2 or more parolees up to 6, full CUP required for 7 or more parolees).
- Tour legitimate sober living homes and engage the regional sober living coalitions to assist you in the identification of legitimate homes.
- Consider issuance of legislative subpoenas (Gov. Code §37104, et seq.) for relevant documents re: ownership and occupancy from owner, lessee, lender, et al.

Recommendations – cont.

- Partner with your District Attorney to investigate and prosecute lending fraud associated with the acquisition of some of these homes.
- Partner with your U.S. Attorney and/or District Attorney to investigate and prosecute tax fraud associated with the operation of some of these homes.
- Take the time to educate your community on the limits of a city's ability to regulate state-licensed group homes of six or less as well as legitimate sober living homes.
- Engage your regional and local parole administrators regarding their placement and housing of parolees in general and sex offenders in particular.

Recommendations – cont.

- Partner with Parole to establish a Police and Corrections (P.A.C.) Team in your community to reduce crime, reduce the rate of recidivism and provide intervention/re-entry services to parolees and probationers.
- Partner with Parole to establish a city or regional Parole Multi-Service Center.
- Start thinking regionally as to how we reintegrate parolees back into our communities, reduce the recidivism rate and reduce the victimization of our residents.

Something to Consider. . . .

- 97% of inmates in California's prisons will be eligible for parole.
- Currently, 60,000 California inmates are serving the final 0-3 years of their sentences.
- % of those inmates being released have a substance abuse problem.
- There are presently 170,000 parolees in California.
- 70% are re-arrested within 3 years of release; the highest recidivism rate in the country.
- These offenders are coming back to our cities and towns whether they are rehabilitated or not.
- We have to be prepared to protect our citizens and assist in their successful re-entry to our communities.

ATTACHMENTS

- A. Summary of Residential Occupancy Regulations
- B. Legislative Counsel Opinion re: Sober Living Homes (6/18/97)
- C. AB 724 (amended 5/15/07)
- D. Excerpts from City of Riverside's New Zoning Code

