

**Correspondence Between
Staff and Applicant
Approval Letter**

Board of Adjustment Decision

Zoning Administrator's Decision Appeal



Request for Appeal of Zoning Administrator's Decision

Case Numbers: 811-PA-2017 / 1-BA-2018

Project Name: CL Holdings Care Home Zoning Administrator Decision Appeal

Location: 12012 N 68th Pl

Description of Request: Request for an appeal of the Zoning Administrator's written decision, dated January 11, 2018 regarding a request for a reasonable accommodation seeking relief from the 750-foot separation requirement between adult care homes for a property located at 12012 N. 68th Place

Single-Family Residential Multi-Family Residential Commercial Industrial

Applicable Sections of the Zoning Ordinance: **Sections 5.202.A and 5.102.A.2.c**

Decision of Zoning Administrator: **Upholding previous administrative implementation of Section 5.102.A.2.c**

Applicant's Request: **Disability Accommodation**

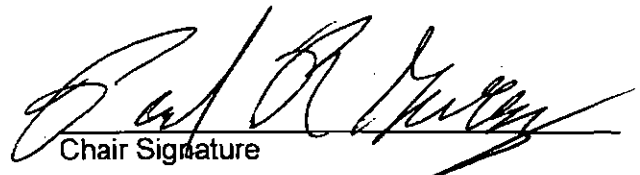
Board of Adjustment Decision

Hearing Date: 5/2/18

Uphold interpretation or decision

Reverse interpretation or decision Continued to: _____

Other: Withdrawn


Chair Signature

Planning and Development Services Department

7447 E. Indian School Road, Suite 105 Scottsdale, AZ 85251 • www.ScottsdaleAZ.gov

Moriarity, Ben

From: Heather Dukes <hdukes@lsblandlaw.com>
Sent: Tuesday, April 24, 2018 12:31 PM
To: Scott, Sherry
Cc: Carr, Brad; Moriarity, Ben; Padilla, Joe; Boomsma, Patricia
Subject: Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 - Request for Procedural Decisions by the Board of Adjustment Chairman at the May 2, 2018 Hearing

Dear Sherry,

I have had a chance to review the Board of Adjustment Rules of Procedure and to discuss the presentation of our case with Larry Lazarus. I am sending this email as a follow-up to our phone conversation on Friday.

Under Section 102 of the BOA Rules of Procedure, the Chairman of the Board is authorized to decide all points of order or procedure. Section 204 provides the typical order of case presentations and states that the "Board has the right to establish time limits for all presentations." In the interest of the Board's time and the best use of its resources, the Applicant would request that the Board Chairman establish the following procedures and time limits for these 3 cases:

1. Request that Board Hear and Decide the Reasonable Accommodation Case Nos. 1-BA-2018 and 3-BA-2018 Simultaneously.

- a. The applicant in this matter filed 2 reasonable accommodation cases due to the unique timing of the group home/care home text amendment which took effect on January 5, 2018. Case No. 1-BA-2018 is an appeal of the ZA Decision denying a reasonable accommodation request which was submitted prior to the text amendment taking effect. Case No. 3-BA-2018 is a reasonable accommodation request submitted directly to the Board of Adjustment under the new reasonable accommodation process added to the Zoning Ordinance. Case No. 3-BA-2018 also requests an accommodation of the separation requirement between care homes, which was recently increased by the text amendment from 750 feet to 1,200 feet. The facts involved in the 2 reasonable accommodation cases are identical. We believe it would be in the best interest of the Board and the parties to hear and decide these 2 reasonable accommodation cases at the same time.
- b. **Proposed Time Allotted for Applicant's Presentation:** Applicant's counsel would respectfully request 25 minutes to make its presentation to the Board on these 2 combined cases with an additional 5 minutes for rebuttal (30 minutes total). We believe this time request would be consistent with the Board's prior procedural rulings allowing applicants 15 minutes on direct and 5 minutes of rebuttal (20 minutes total) involving cases appealed from a ZA Decision. In our case, we would be combining the 2 cases so as to prevent the presentation of duplicative facts to the Board, thus, reducing the overall time from 40 minutes for 2 separate cases to 30 minutes for 2 combined cases.
- c. **Proposed Time Allotted for Witness Presentations:** Applicant would request that the Board Chairman allow each of the following witnesses be given the opportunity to speak at the hearing for a time period of at least 3 minutes each. These witnesses will also be made available to answer questions by the Board, if necessary:
 - i. **Dan Lauber** (Expert witness on care home standards and reasonable accommodations) – We would also request that Mr. Lauber be permitted to appear telephonically at the Board hearing on May 2nd. Mr. Lauber lives in Illinois and is currently experiencing physical constraints arising from a back injury which would prevent him from flying to Arizona.
 - ii. **Charles Jackson** (Expert witness on care home differences and ADHS licenses)
 - iii. **Michelle Siwek** (Representative of property owner, CL Holdings)
- d. **Public Comment:** Depending on the number of people who appear at the May 2nd hearing to provide public comment, applicant would request that each individual be given 2 or 3 minutes to speak.

2. **Request that Board Hear and Decide Variance Case No. 4-BA-2018 Separately.**

- a. The Applicant would request that the Board hear and decide the variance application as a separate matter following the Board's decisions regarding the reasonable accommodation cases. Some of the facts and all of the criteria at issue in the variance proceeding are separate and apart from those at issue in the reasonable accommodation proceedings.
- b. **Proposed Time Allotted for Applicant's Presentation:** Applicant's counsel would respectfully request 15 minutes to make a presentation to the Board on the variance application with an additional 5 minutes for rebuttal (20 minutes total).
- c. **Proposed Time Allotted for Witness Presentations:** Applicant would request that the Board Chairman allow each of the following witnesses be given the opportunity to speak at the hearing for a time period of 3 minutes each. These witnesses will also be made available to answer questions by the Board, if necessary:
 - i. **Yvonne Corrigan-Carr** (Realtor who provided letter).
 - ii. **Sherry Rampy** (Broker who provided letter).
- d. **Public Comment:** Depending on the number of people who appear at the May 2nd hearing to provide public comment, applicant would request that each individual be given 2 or 3 minutes to speak.

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

Sincerely,

Heather N. Dukes
Associate Attorney



LAW OFFICES OF

Lazarus, Silvyn & Bangs, P.C.

A PROFESSIONAL CORPORATION

Helping communities and developers grow responsibly.

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Planning & Development Services

7447 E. Indian School Rd.
Scottsdale, AZ 85251

PHONE 480-312-7000
WEB www.ScottsdaleAZ.gov

~~December 7, 2017~~ **JANUARY 11, 2018**

Michelle Siwek
Centered Living, CL Holdings 68th Pl, LLC
12012 N. 68th Place
Scottsdale, Arizona 85254

Re: Adult Care Home Separation Requirement

Ms. Siwek,

On November 27, 2017 you requested a disability accommodation from the Adult Care Home separation requirement of 750 feet per Section 5.102.2.c of the Zoning Ordinance. Included in your request is to change from a family to a care home. I have determined that an accommodation is not warranted in this case. I also determine that the living situation you describe is a "family" under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is "grandfathered" under the City's amended Ordinance under the following conditions:

1. No increase in the number of disabled residents and
2. No care is being provided at the residence

Centered Living at 12012 N. 68th Place is approximately 410 feet from a licensed adult care home to the north, 12202 N. 68th Place. The properties are separated by one single family home property and E. Cactus Road. Because the property is on the same N. 68th Place street frontage as the adult care home to the north, under the ordinance existing at the time you began the standard calls for adult care homes to be separated by 750 feet. Because it is not currently authorized as an adult care home, we assume there are fewer than 6 residents.

City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), on December 4, 2017 and it went into effect January 5, 2018. Because this request was received prior to the adoption of the new text, the authority to analyze this request belongs to the Zoning Administrator, per Section 1.202 of the Zoning Ordinance.

Although you can continue as a family with no care provided, a care home is not allowed at this location because:

1. The property is within 750' of another care home.
2. There is no justification for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68th Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from

1-BA-2018
2/12/2018

other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 1, Care home availability map)

3. I find that allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance is to promote and protect the public health, safety, and welfare of the citizens of the City of Scottsdale and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan. In addition the purpose of the Single-family residential (R1-35) zoning district is to promote and preserve residential development. The minimum lot size, although less than one (1) acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto, together with required recreational, religious and educational facilities. (Zoning Ordinance, Section 5.201)

The buffers between Adult Care Homes are in place to protect the character of neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare.

Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable and the Zoning Ordinance established separation requirement should be upheld.

At this time I do not see good cause to grant a disability accommodation. The home can continue to be used as it has been, with no increase in the number of residents or level of activity.

Sincerely,



Randy Grant
Director, Planning and Development Services

ATTACHMENTS:

1. Care home availability location map
2. Requested letter of determination

You can appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to Zoning Ordinance Section 1.202.B and any timely appeal shall be processed pursuant to Section 1.805

RECEIVED
11/21/17 *Bu*

November 27, 2017

To: Randy Grant, Zoning Administrator
7447 E. Indian School Road
Scottsdale, Arizona 85251

Subject: Letter of Determination
Request Disability Accommodation Request of 750' Setback for Group Home for the Disabled

Dear Sir,

The purpose of this letter is to respectfully request the Zoning Administrator make a determination to allow CL Holdings 68th Place, LLC (Centered Living) located at 12012 N. 68th Place, permission to operate an adult care home within 750' of another adult care home for the disabled as outlined in the Draft Care Home Ordinance (Draft Ordinance) dated September 5, 2017.

Per the Draft Ordinance, the City has outlined a disability/reasonable accommodation pathway for those protected classes with a disability. For purposes of this letter, the disabled class are those individuals in recovery from drug and alcohol abuse pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B). In addition, Disability shall be defined and construed as the term by the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325; 122 Stat. 3553).

As part of the Draft Ordinance, the City outlines the process for a disability/reasonable accommodation pathway set for vote on December 5, 2017; a critical step in allowing those in recovery from drug and alcohol abuse certain accommodations as outlined by the FFHA. This further includes the application of municipalities land use ordinances understanding that one of the purposes of a disability accommodation provision is to address individual needs and respond to individual conditions. In this regard, courts have held that municipalities are encouraged to change, waive, or make exception to their zoning rules to afford people with disabilities the same access to housing as those who are without disabilities.

I appreciate, at the direction from staff at the initial planning and zoning meeting, the opportunity to write this request for a reasonable accommodation determination. For your reference the following conditions are extracted for the Draft Ordinance (in grey) outlining the conditions for a disability/reasonable accommodation.

SECTION 1.806 – Disability Accommodation:

A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;

4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
 5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;
- B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.
- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;

The above conditions are set forth below outlining sufficient evidence to authorize a disability accommodation for Centered Living.

1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);

Centered Living is requesting a disability accommodation to the separation requirement of 750' of another adult care home pursuant to the Federal Fair Housing Act (FFHA), 42 U.S.C. §3604(f)(3)(B) on behalf of the residents and owner of Centered Living located at 12012 N. 68th Place, Scottsdale, Arizona 85254.

The residents of Centered Living are considered "handicapped" under the 1988 amendments to the FFHA, unlike other groups of unrelated, non-disabled persons. See 42 U.S.C. 3600 et seq. Recovering addicts and alcoholics are specifically included within the definition of "handicapped individual." See, 42 U.S.C. 3602(h) and 24 C.F.R. 100.201(a)(2).

"Handicap" means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This request for a disability accommodation are for those disabled individuals who are indeed recovering addicts and alcoholics.

Pursuant to A.R.S. § 41-1491 et seq.), the residents of Centered Living are considered "disabled". A "Disability" means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Disability shall be defined and construed as the term is defined and construed by the Americans with disabilities act of 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325 ; 122 Stat. 3553).

2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;

Centered Living can demonstrate that the proposed disability accommodation is reasonable, for the FFHA requires a showing that the accommodation "may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B).

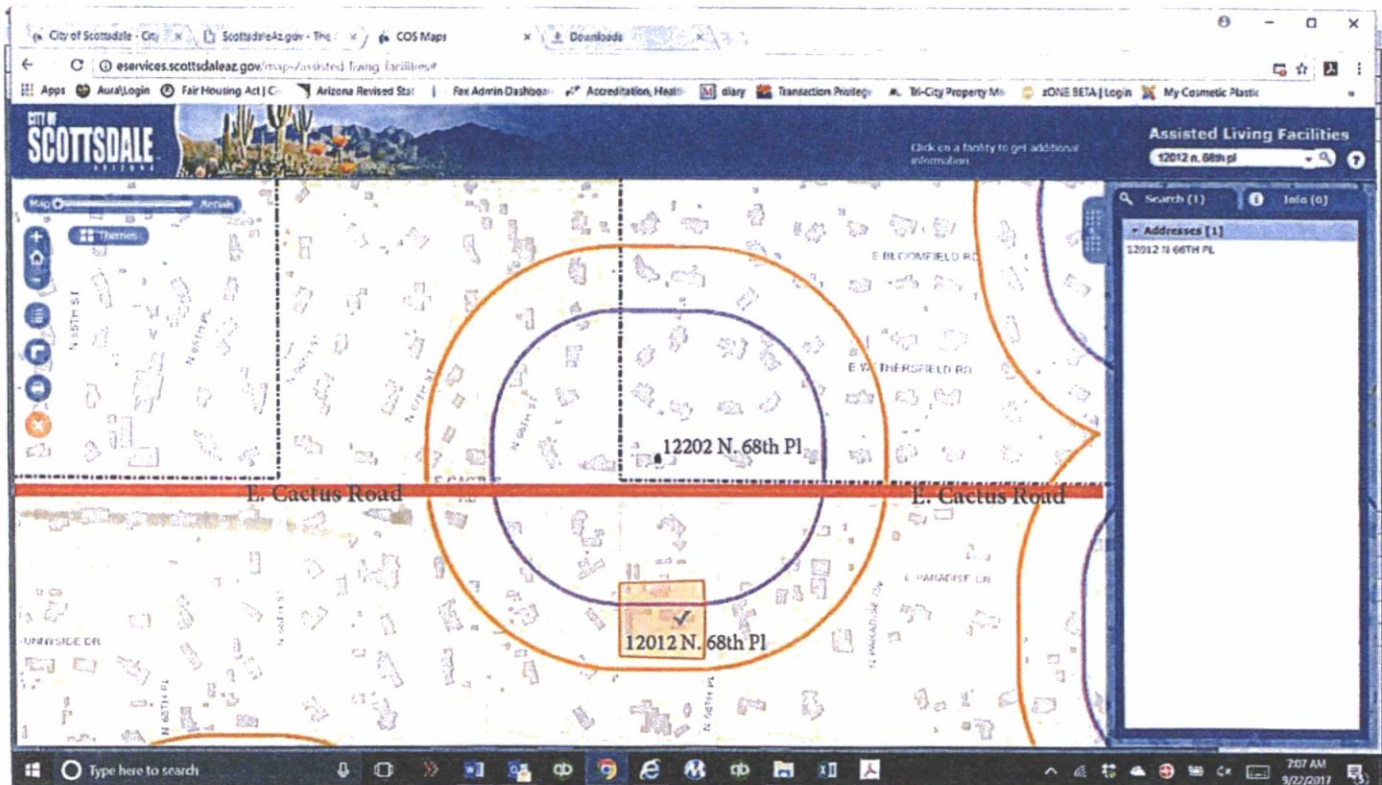
In addition, for purposes of this request, 42 U.S.C. 3604(f)(3)(B) defines discrimination to include a "refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such (handicapped) person equal opportunity to use and enjoy a dwelling." Centered Living asserts that the request is necessary for disabled individuals recovering from substance abuse and to use 12012 N. 68th Place for this equal opportunity.

3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;

The 750' setback unduly restricts this disabled class from finding adequate housing. On June 5, 2017, Governor Ducey declared a statewide health emergency in the opioid epidemic. As part of this public health emergency, the Arizona Department of Health Services has been commissioned to identify ways to expand access to treatment. Denying this reasonable accommodation will restrict a disabled class from finding adequate housing in a therapeutic environment necessary for recovery from substance abuse disorders. The national state of emergency was declared in August of 2017 again demanding more access to treatment for this disabled class. There are not currently enough available resources for those seeking treatment for substance abuse as denoted in the declaration signed by Governor Ducey and is attached for your reference.

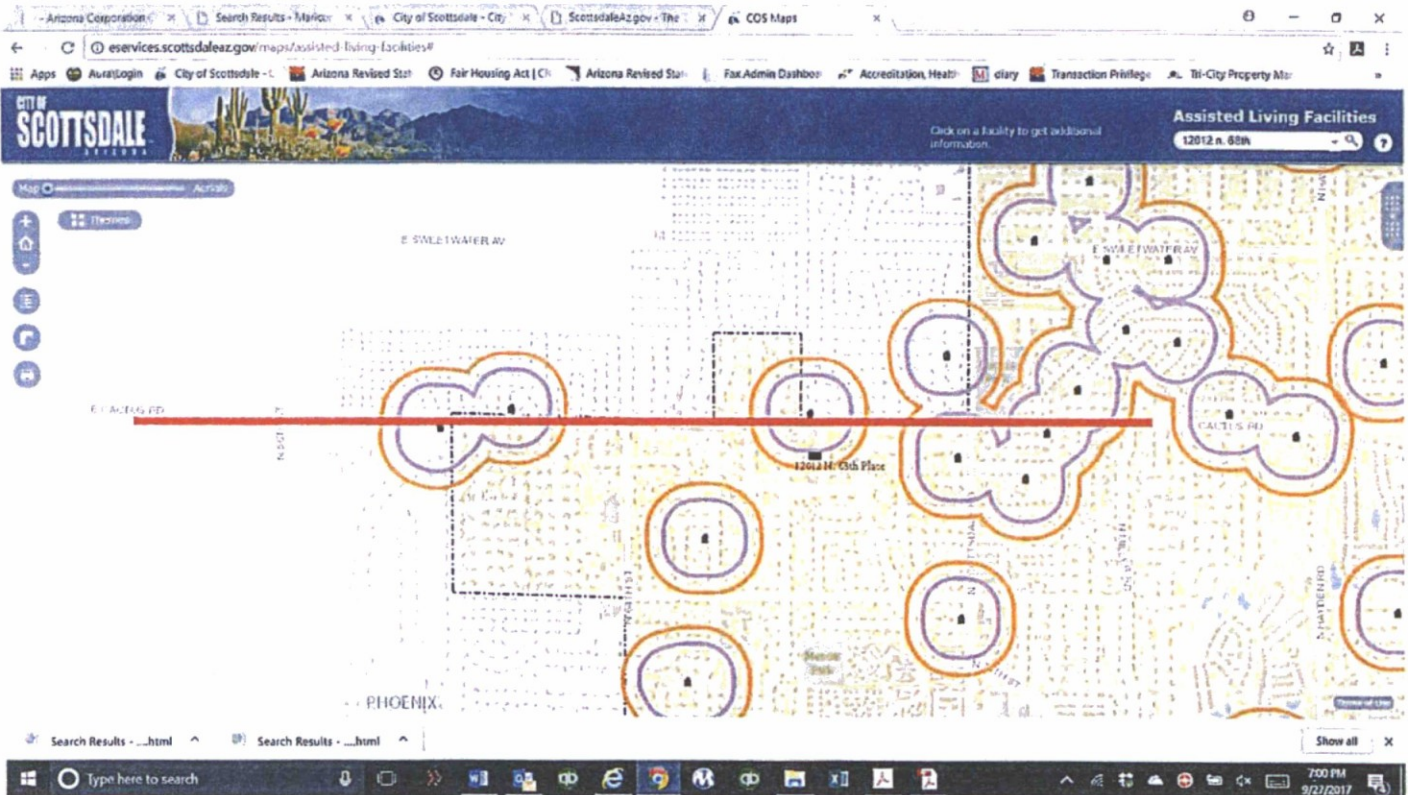
4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;

The map below depicts the two properties in question. <http://www.scottsdaleaz.gov/maps>



- a) This request does not fundamentally alter the nature and purpose of the zoning ordinance. The assisted living home located at 12202 N. 68th Pl in Scottsdale (Royal Palm) is located on the north side of Cactus Road, an arterial road or arterial thoroughfare defined as a high-capacity urban road. Cactus road is a man-made barrier providing the necessary separation and this main arterial road clearly provides the necessary separation between the two properties allowing the character of the two distinct neighborhoods to remain unchanged.
- b) Secondly, the two properties are in two different developments, Sunrise Shadows located in a Phoenix neighborhood vs. Desert Estates located in a Scottsdale neighborhood.
- c) In addition, permitting Centered Living to exist would not significantly compromise the policies reflected in any of its land use ordinances that the City would apply or enforce nor is there any significant evidence that such an accommodation would significantly compromise the City's legitimate interests in protecting the residential character of the surrounding neighborhood. In addition, there are no other care homes within 750' or 1200' (Draft Ordinance increased the separation to 1200') for recovering addicts and alcoholics in the area, therefore, Centered Living is integrated into the community and does not change the character of the neighborhood.

Access to housing for this disabled class is imperative. The map below shows a snapshot view of care homes for the disabled but the homes in the immediate area are for the elderly, very few, if any are for those recovering from substance abuse.



d) It is important to note; Centered Living has been operating as a sober living residence since 2011 and is integrated in the community and the neighborhood (Royal Palm began operation in 2015). Centered Living has not had any complaints and has operated for the benefit of those recovering from substance abuse. Per the City's zoning code permits "any number of persons living as a single housekeeping unit" are to be considered a family and operate as single housekeeping unit. The Centered Living household functions as the equivalent of a family and allows recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse. The potential recovery of people who are handicapped or disabled by reason of alcoholism or drug abuse and are in recovery are greatly enhanced by the mutual support and mutual monitoring provided by living with other recovering persons. The quality and nature of the relationship among the residents are akin to that of a family. The need of groups of unrelated recovering alcoholics and substance abusers to live in a structured, safe and therapeutic environment is necessary to the recovery process. Therefore, this request for disability accommodation is an extension of what Centered Living provides to the disabled and will be under the licensing of ADHS.

5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law.

In addition to the criteria outlined in the Draft Ordinance, per the federal guidelines, a reasonable accommodation must meet two tests: (1) Does the request proposed create a fundamental alteration in the zoning scheme and (2) Does the request impose an undue burden or expense to the local government? Allowing Centered Living to operate does not alter the zoning scheme nor or does not pose an undue burden or expense on the City.

Here, accommodating Centered Living would not cause the City any undue financial or administrative burdens nor would it undermine the purpose which the requirement seeks to achieve. Centered Living is not requesting that the City build housing, rather, it is requesting that the City remove an obstacle to housing for the disabled. The FFHA places an affirmative duty on the municipality to accommodate the needs of persons with disabilities. The FHA stresses that municipalities such as the City to make exceptions to the way its zoning ordinances are applied to afford the disabled the same opportunity to housing as those who are not disabled.

B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.

The owner of Centered Living acknowledges and understands that the profitability or financial hardship is not considered when determining a disability accommodation. None is cited here.

C. The requested accommodation must comply with all applicable building and fire codes.

Centered Living will comply with all applicable building and fire codes including fire suppression requirements, permits, drawings and fees mandated by ADHS for licensure. Centered Living is aware of such requirements and asserts compliance.

D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;

The requested disability accommodation does not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others. Failure to approve a reasonable accommodation can result in a threat to health and safety of disabled individuals; recovering addicts and alcoholics seeking treatment for substance abuse and undermines the state emergency directive. The state emergency seeks to expand access to treatment not hinder it. The state emergency seeks to expand access to treatment not hinder it. Currently, statistics from the Governor's Office of Youth, Faith and Family denote 99% of AHCCCS centers for substance abuse are 99% occupied with all available beds operating at the max and approximately 400 individuals on average are on the waitlist for treatment as of 2017.

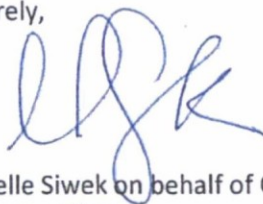
Additional Request.

If a public hearing is part of the zoning process, Centered Living kindly requests an accommodation be made to allow this process to occur administratively and/or not open to a public hearing. The current climate in Scottsdale, as evidenced in the town hall meetings, have aggressive neighbors not only targeting those individuals in recovery from substance abuse but the homes in which they live. Therefore, we request for the safety of those individuals and the homes in which they reside that this hearing is not open to the public.

In summary, we feel that the information outlined above is sufficient evidence to grant a reasonable accommodation for Centered Living to operate an adult care home within 750' of another care home for the disabled.

If you need further information, please do not hesitate to call me at 480.414.2596.

Sincerely,



Michelle Siwek on behalf of Centered Living
12012 N. 68th Place
Scottsdale, AZ 85254

**DECLARATION OF EMERGENCY
and NOTIFICATION OF ENHANCED SURVEILLANCE ADVISORY
Opioid Overdose Epidemic**

WHEREAS, the Arizona Department of Health Services has confirmed 790 deaths due to opioids in Arizona in 2016, which equates to an average of more than two Arizonans per day; and

WHEREAS, the Arizona Department of Health Services has confirmed that the number of opioid deaths has increased 74% from 2012-2016, with 2016 showing Arizona's highest number of deaths; and

WHEREAS, opioids are powerful pain killers that are highly addictive; and

WHEREAS, of the 1,497 drug overdose deaths in 2016, 52.7% noted opioids as a primary cause of death; and

WHEREAS, these deaths as a result of overdose are preventable; and

WHEREAS, the opioid overdose epidemic affects all Arizonans; and

WHEREAS, in Arizona, law enforcement and first responders have the authority to carry and administer the life saving drug Naloxone; and

WHEREAS, the Arizona Department of Health Services requires more robust and more accurate data to successfully combat the opioid overdose epidemic; and

WHEREAS, the Governor and the Director of the Arizona Department of Health Services have reasonable cause to believe that disease, illness, and health conditions, including death, are being caused by the opioid overdose epidemic; and

WHEREAS, it is necessary and appropriate to take action to ensure that the residents of Arizona remain safe and healthy; and

WHEREAS, the Governor is authorized to declare an emergency pursuant to A.R.S. § 26-303(D).

NOW, THEREFORE I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and Laws of the State, do hereby determine that the opioid overdose epidemic present in Arizona justifies a declaration of a State of Emergency and issuance of an Enhanced Surveillance Advisory, pursuant to A.R.S. §§ 26-303(D), 36-782, and 36-787, and I do hereby:

- a. Declare that a State of Emergency exists in Arizona due to the Opioid Overdose Epidemic, effective June 5, 2017; and
- b. Direct that the State of Arizona Emergency Response and Recovery Plan be used to direct and control State and other assets, and authorize the Director of the Arizona Department of Emergency and Military Affairs to coordinate State assets; and
- c. Authorize the Director of the Arizona Department of Health Services to coordinate all matters pertaining to the public health emergency response of the State in accordance with A.R.S. § 36-787(A)(2); and

d. Require the Director of the Arizona Department of Health Services to:

- 1) within seven days of this order, provide consultation to the Governor on identifying and recommending the necessary elements for an Enhanced Surveillance Advisory pursuant to A.R.S. § 36-782(B); and
- 2) initiate emergency rule making with the Arizona Attorney General's Office in order to develop rules for opioid prescribing and treatment within health care institutions pursuant to A.R.S. § 36-405; and
- 3) develop guidelines to educate healthcare providers on responsible prescribing practices; and
- 4) develop and provide training to local law enforcement agencies on proper protocols for carrying, handling, and administering Naloxone in overdose situations; and
- 5) provide a report on findings and recommendations, including additional needs and response activities, and preliminary recommendations that require legislative action to the Governor by September 5, 2017.

This Emergency Declaration will be eligible for termination upon my receipt and acceptance of the Arizona Department of Health Services' Opioid Overdose Epidemic Response Report.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.


GOVERNOR

DONE at the Capitol in Phoenix on this 5th day of June in the Year Two Thousand Seventeen and of the Independence of the United States of America the Two Hundred and Forty-first.

ATTEST:



Secretary of State





U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

**JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT AND THE DEPARTMENT OF JUSTICE**

**STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION
OF THE FAIR HOUSING ACT**

INTRODUCTION

The Department of Justice (“DOJ”) and the Department of Housing and Urban Development (“HUD”) are jointly responsible for enforcing the Federal Fair Housing Act (“the Act”),¹ which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.² The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act’s requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ’s and HUD’s Joint

¹ The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

² The Act uses the term “handicap” instead of “disability.” Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of “disability” in the Americans with Disabilities Act

Statement on Group Homes, Local Land Use, and the Fair Housing Act, issued on August 18, 1999. The first section of the Joint Statement, Questions 1–6, describes generally the Act's requirements as they pertain to land use and zoning. The second and third sections, Questions 7–25, discuss more specifically how the Act applies to land use and zoning laws affecting housing for persons with disabilities, including guidance on regulating group homes and the requirement to provide reasonable accommodations. The fourth section, Questions 26–27, addresses HUD's and DOJ's enforcement of the Act in the land use and zoning context.

This Joint Statement focuses on the Fair Housing Act, not on other federal civil rights laws that prohibit state and local governments from adopting or implementing land use and zoning practices that discriminate based on a protected characteristic, such as Title II of the Americans with Disabilities Act ("ADA"),³ Section 504 of the Rehabilitation Act of 1973 ("Section 504"),⁴ and Title VI of the Civil Rights Act of 1964.⁵ In addition, the Joint Statement does not address a state or local government's duty to affirmatively further fair housing, even though state and local governments that receive HUD assistance are subject to this duty. For additional information provided by DOJ and HUD regarding these issues, see the list of resources provided in the answer to Question 27.

Questions and Answers on the Fair Housing Act and State and Local Land Use Laws and Zoning

1. How does the Fair Housing Act apply to state and local land use and zoning?

The Fair Housing Act prohibits a broad range of housing practices that discriminate against individuals on the basis of race, color, religion, sex, disability, familial status, or national origin (commonly referred to as protected characteristics). As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

is drawn almost verbatim "from the definition of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted.

³ 42 U.S.C. § 12132.

⁴ 29 U.S.C. § 794.

⁵ 42 U.S.C. § 2000d.

2. What types of land use and zoning laws or practices violate the Fair Housing Act?

Examples of state and local land use and zoning laws or practices that may violate the Act include:

- Prohibiting or restricting the development of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status, by, for example, placing a moratorium on the development of multifamily housing because of concerns that the residents will include members of a particular protected class.
- Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.
- Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in criminal activity.
- Enforcing otherwise neutral laws or policies differently because of the residents' protected characteristics, by, for example, citing individuals who are members of a particular protected class for violating code requirements for property upkeep while not citing other residents for similar violations.
- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing, by, for example, denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.

3. When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?

Intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. A land use or zoning practice may be intentionally discriminatory even if there is no personal bias or animus on the part of individual government officials. For example, municipal zoning practices or decisions that reflect acquiescence to community bias may be intentionally discriminatory, even if the officials themselves do not personally share such bias. (See Q&A 5.) Intentional discrimination does not require that the

decision-makers were hostile toward members of a particular protected class. Decisions motivated by a purported desire to benefit a particular group can also violate the Act if they result in differential treatment because of a protected characteristic.

A land use or zoning practice may be discriminatory on its face. For example, a law that requires persons with disabilities to request permits to live in single-family zones while not requiring persons without disabilities to request such permits violates the Act because it treats persons with disabilities differently based on their disability. Even a law that is seemingly neutral will still violate the Act if enacted with discriminatory intent. In that instance, the analysis of whether there is intentional discrimination will be based on a variety of factors, all of which need not be satisfied. These factors include, but are not limited to: (1) the “impact” of the municipal practice, such as whether an ordinance disproportionately impacts minority residents compared to white residents or whether the practice perpetuates segregation in a neighborhood or particular geographic area; (2) the “historical background” of the action, such as whether there is a history of segregation or discriminatory conduct by the municipality; (3) the “specific sequence of events,” such as whether the city adopted an ordinance or took action only after significant, racially-motivated community opposition to a housing development or changed course after learning that a development would include non-white residents; (4) departures from the “normal procedural sequence,” such as whether a municipality deviated from normal application or zoning requirements; (5) “substantive departures,” such as whether the factors usually considered important suggest that a state or local government should have reached a different result; and (6) the “legislative or administrative history,” such as any statements by members of the state or local decision-making body.⁶

4. Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?

Yes. Even absent a discriminatory intent, state or local governments may be liable under the Act for any land use or zoning law or practice that has an unjustified discriminatory effect because of a protected characteristic. In 2015, the United States Supreme Court affirmed this interpretation of the Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*⁷ The Court stated that “[t]hese unlawful practices include zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification.”⁸

⁶ *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977).

⁷ ___ U.S. ___, 135 S. Ct. 2507 (2015).

⁸ *Id.* at 2521–22.

A land use or zoning practice results in a discriminatory effect if it caused or predictably will cause a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic. A state or local government still has the opportunity to show that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. These interests must be supported by evidence and may not be hypothetical or speculative. If these interests could not be served by another practice that has a less discriminatory effect, then the practice does not violate the Act. The standard for evaluating housing-related practices with a discriminatory effect are set forth in HUD's Discriminatory Effects Rule, 24 C.F.R § 100.500.

Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.

5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.

6. Can state and local governments violate the Fair Housing Act if they adopt or implement restrictions against children?

Yes. State and local governments may not impose restrictions on where families with children may reside unless the restrictions are consistent with the "housing for older persons" exemption of the Act. The most common types of housing for older persons that may qualify for this exemption are: (1) housing intended for, and solely occupied by, persons 62 years of age or older; and (2) housing in which 80% of the occupied units have at least one person who is 55 years of age or older that publishes and adheres to policies and procedures demonstrating the intent to house older persons. These types of housing must meet all requirements of the exemption, including complying with HUD regulations applicable to such housing, such as verification procedures regarding the age of the occupants. A state or local government that zones an area to exclude families with children under 18 years of age must continually ensure that housing in that zone meets all requirements of the exemption. If all of the housing in that zone does not continue to meet all such requirements, that state or local government violates the Act.

**Questions and Answers on the Fair Housing Act and
Local Land Use and Zoning Regulation of Group Homes**

7. Who qualifies as a person with a disability under the Fair Housing Act?

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.

The term "major life activity" includes activities such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working. This list of major life activities is not exhaustive.

Being regarded as having a disability means that the individual is treated as if he or she has a disability even though the individual may not have an impairment or may not have an impairment that substantially limits one or more major life activities. For example, if a landlord

refuses to rent to a person because the landlord believes the prospective tenant has a disability, then the landlord violates the Act's prohibition on discrimination on the basis of disability, even if the prospective tenant does not actually have a physical or mental impairment that substantially limits one or more major life activities.

Having a record of a disability means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

8. What is a group home within the meaning of the Fair Housing Act?

The term "group home" does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

In this Statement, the term "group home" refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit. Sometimes it is the group home operator or developer, rather than the individuals who live or are expected to live in the home, who interacts with a state or local government agency about developing or operating the group home, and sometimes there is no interaction among residents or operators and state or local governments.

In this Statement, the term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided. The Act does not require a person who resides in a home for persons in recovery to have participated in or be currently participating in a

substance abuse treatment program to be considered a person with a disability. The fact that a resident of a group home may currently be illegally using a controlled substance does not deprive the other residents of the protection of the Fair Housing Act.

9. In what ways does the Fair Housing Act apply to group homes?

The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways, including those discussed in the preceding Section of this Joint Statement. Discrimination may be intentional; for example, a locality might pass an ordinance prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities. These ordinances are facially discriminatory, in violation of the Act. In addition, as discussed more fully in Q&A 10 below, a state or local government may violate the Act by refusing to grant a reasonable accommodation to its zoning or land use ordinance when the requested accommodation may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling. For example, if a locality refuses to waive an ordinance that limits the number of unrelated persons who may live in a single-family home where such a waiver may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling, the locality violates the Act unless the locality can prove that the waiver would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme. Furthermore, a state or local government may violate the Act by enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community. Unlawful actions concerning group homes are discussed in more detail throughout this Statement.

10. What is a reasonable accommodation under the Fair Housing Act?

The Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

11. Does the Fair Housing Act protect persons with disabilities who pose a “direct threat” to others?

The Act does not allow for the exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. Nevertheless, the Act does not protect an individual whose tenancy would constitute a “direct threat” to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others unless the threat or risk to property can be eliminated or significantly reduced by reasonable accommodation. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (for example, current conduct or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat. See Q&A 10 for a general discussion of reasonable accommodations. Consequently, in evaluating an individual’s recent history of overt acts, a state or local government must take into account whether the individual has received intervening treatment or medication that has eliminated or significantly reduced the direct threat (in other words, significant risk of substantial harm). In such a situation, the state or local government may request that the individual show how the circumstances have changed so that he or she no longer poses a direct threat. Any such request must be reasonable and limited to information necessary to assess whether circumstances have changed. Additionally, in such a situation, a state or local government may obtain satisfactory and reasonable assurances that the individual will not pose a direct threat during the tenancy. The state or local government must have reliable, objective evidence that the tenancy of a person with a disability poses a direct threat before excluding him or her from housing on that basis, and, in making that assessment, the state or local government may not ignore evidence showing that the individual’s tenancy would no longer pose a direct threat. Moreover, the fact that one individual may pose a direct threat does not mean that another individual with the same disability or other individuals in a group home may be denied housing.

12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.

13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?

Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together without violating the Act as long as the restrictions are imposed on all such groups, including a group defined as a family. Thus, if the definition of a family includes up to a certain number of unrelated individuals, an ordinance would not, on its face, violate the Act if a group home for persons with disabilities with more than the permitted number for a family were not allowed to locate in a single-family-zoned neighborhood because any group of unrelated people without disabilities of that number would also be disallowed. A facially neutral ordinance, however, still may violate the Act if it is intentionally discriminatory (that is, enacted with discriminatory intent or applied in a discriminatory manner), or if it has an unjustified

discriminatory effect on persons with disabilities. For example, an ordinance that limits the number of unrelated persons who may constitute a family may violate the Act if it is enacted for the purpose of limiting the number of persons with disabilities who may live in a group home, or if it has the unjustified discriminatory effect of excluding or limiting group homes in the jurisdiction. Governments may also violate the Act if they enforce such restrictions more strictly against group homes than against groups of the same number of unrelated persons without disabilities who live together in housing. In addition, as discussed in detail below, because the Act prohibits the denial of reasonable accommodations to rules and policies for persons with disabilities, a group home that provides housing for a number of persons with disabilities that exceeds the number allowed under the family definition has the right to seek an exception or waiver. If the criteria for a reasonable accommodation are met, the permit must be given in that instance, but the ordinance would not be invalid.⁹

14. How does the Supreme Court's ruling in *Olmstead* apply to the Fair Housing Act?

In *Olmstead v. L.C.*,¹⁰ the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs. The integration mandate of the ADA and *Olmstead* can be implemented without impairing the rights protected by the Fair Housing Act. For example, state and local governments that provide or fund housing, health care, or support services must comply with the integration mandate by providing these programs, services, and activities in the most integrated setting appropriate to the needs of individuals with disabilities. State and local governments may comply with this requirement by adopting standards for the housing, health care, or support services they provide or fund that are reasonable, individualized, and specifically tailored to enable individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. Local governments should be aware that ordinances and policies that impose additional restrictions on housing or residential services for persons with disabilities that are not imposed on housing or

⁹ Laws that limit the number of occupants per unit do not violate the Act as long as they are reasonable, are applied to all occupants, and do not operate to discriminate on the basis of disability, familial status, or other characteristics protected by the Act.

¹⁰ 527 U.S. 581 (1999).

residential services for persons without disabilities are likely to violate the Act. In addition, a locality would violate the Act and the integration mandate of the ADA and *Olmstead* if it required group homes to be concentrated in certain areas of the jurisdiction by, for example, restricting them from being located in other areas.

15. Can a state or local government impose spacing requirements on the location of group homes for persons with disabilities?

A "spacing" or "dispersal" requirement generally refers to a requirement that a group home for persons with disabilities must not be located within a specific distance of another group home. Sometimes a spacing requirement is designed so it applies only to group homes and sometimes a spacing requirement is framed more generally and applies to group homes and other types of uses such as boarding houses, student housing, or even certain types of businesses. In a community where a certain number of unrelated persons are permitted by local ordinance to reside together in a home, it would violate the Act for the local ordinance to impose a spacing requirement on group homes that do not exceed that permitted number of residents because the spacing requirement would be a condition imposed on persons with disabilities that is not imposed on persons without disabilities. In situations where a group home seeks a reasonable accommodation to exceed the number of unrelated persons who are permitted by local ordinance to reside together, the Fair Housing Act does not prevent state or local governments from taking into account concerns about the over-concentration of group homes that are located in close proximity to each other. Sometimes compliance with the integration mandate of the ADA and *Olmstead* requires government agencies responsible for licensing or providing housing for persons with disabilities to consider the location of other group homes when determining what housing will best meet the needs of the persons being served. Some courts, however, have found that spacing requirements violate the Fair Housing Act because they deny persons with disabilities an equal opportunity to choose where they will live. Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis.

Where a jurisdiction has imposed a spacing requirement on the location of group homes for persons with disabilities, courts may analyze whether the requirement violates the Act under an intent, effects, or reasonable accommodation theory. In cases alleging intentional discrimination, courts look to a number of factors, including the effect of the requirement on housing for persons with disabilities; the jurisdiction's intent behind the spacing requirement; the existence, size, and location of group homes in a given area; and whether there are methods other than a spacing requirement for accomplishing the jurisdiction's stated purpose. A spacing requirement enacted with discriminatory intent, such as for the purpose of appeasing neighbors' stereotypical fears about living near persons with disabilities, violates the Act. Further, a neutral

spacing requirement that applies to all housing for groups of unrelated persons may have an unjustified discriminatory effect on persons with disabilities, thus violating the Act. Jurisdictions must also consider, in compliance with the Act, requests for reasonable accommodations to any spacing requirements.

16. Can a state or local government impose health and safety regulations on group home operators?

Operators of group homes for persons with disabilities are subject to applicable state and local regulations addressing health and safety concerns unless those regulations are inconsistent with the Fair Housing Act or other federal law. Licensing and other regulatory requirements that may apply to some group homes must also be consistent with the Fair Housing Act. Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities. State or local zoning and land use ordinances may not, consistent with the Fair Housing Act, require individuals with disabilities to receive medical, support, or other services or supervision that they do not need or want as a condition for allowing a group home to operate. State and local governments' enforcement of neutral requirements regarding safety, licensing, and other regulatory requirements governing group homes do not violate the Fair Housing Act so long as the ordinances are enforced in a neutral manner, they do not specifically target group homes, and they do not have an unjustified discriminatory effect on persons with disabilities who wish to reside in group homes.

Governments must also consider requests for reasonable accommodations to licensing and regulatory requirements and procedures, and grant them where they may be necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling, as required by the Act.

17. Can a state or local government address suspected criminal activity or fraud and abuse at group homes for persons with disabilities?

The Fair Housing Act does not prevent state and local governments from taking nondiscriminatory action in response to criminal activity, insurance fraud, Medicaid fraud, neglect or abuse of residents, or other illegal conduct occurring at group homes, including reporting complaints to the appropriate state or federal regulatory agency. States and localities must ensure that actions to enforce criminal or other laws are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities. For example, persons with disabilities residing in group homes are entitled to the same constitutional protections against unreasonable search and seizure as those without disabilities.

18. Does the Fair Housing Act permit a state or local government to implement strategies to integrate group homes for persons with disabilities in particular neighborhoods where they are not currently located?

Yes. Some strategies a state or local government could use to further the integration of group housing for persons with disabilities, consistent with the Act, include affirmative marketing or offering incentives. For example, jurisdictions may engage in affirmative marketing or offer variances to providers of housing for persons with disabilities to locate future homes in neighborhoods where group homes for persons with disabilities are not currently located. But jurisdictions may not offer incentives for a discriminatory purpose or that have an unjustified discriminatory effect because of a protected characteristic.

19. Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?

In the same way a local government would violate the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities (see Q&A 5), a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers themselves do not have biases against persons with disabilities.

Not all community opposition to requests by group homes is necessarily discriminatory. For example, when a group home seeks a reasonable accommodation to operate in an area and the area has limited on-street parking to serve existing residents, it is not a violation of the Fair Housing Act for neighbors and local government officials to raise concerns that the group home may create more demand for on-street parking than would a typical family and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the requested accommodation, if a similar dwelling that is not a group home or similarly situated use would ordinarily be denied a permit because of such parking concerns. If, however, the group home shows that the home will not create a need for more parking spaces than other dwellings or similarly-situated uses located nearby, or submits a plan to provide any needed off-street parking, then parking concerns would not support a decision to deny the home a permit.

**Questions and Answers on the Fair Housing Act and
Reasonable Accommodation Requests to Local Zoning and Land Use Laws**

20. When does a state or local government violate the Fair Housing Act by failing to grant a request for a reasonable accommodation?

A state or local government violates the Fair Housing Act by failing to grant a reasonable accommodation request if (1) the persons requesting the accommodation or, in the case of a group home, persons residing in or expected to reside in the group home are persons with a disability under the Act; (2) the state or local government knows or should reasonably be expected to know of their disabilities; (3) an accommodation in the land use or zoning ordinance or other rules, policies, practices, or services of the state or locality was requested by or on behalf of persons with disabilities; (4) the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy the dwelling; (5) the state or local government refused to grant, failed to act on, or unreasonably delayed the accommodation request; and (6) the state or local government cannot show that granting the accommodation would impose an undue financial and administrative burden on the local government or that it would fundamentally alter the local government's zoning scheme. A requested accommodation may be necessary if there is an identifiable relationship between the requested accommodation and the group home residents' disability. Further information is provided in Q&A 10 above and the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

21. Can a local government deny a group home's request for a reasonable accommodation without violating the Fair Housing Act?

Yes, a local government may deny a group home's request for a reasonable accommodation if the request was not made by or on behalf of persons with disabilities (by, for example, the group home developer or operator) or if there is no disability-related need for the requested accommodation because there is no relationship between the requested accommodation and the disabilities of the residents or proposed residents.

In addition, a group home's request for a reasonable accommodation may be denied by a local government if providing the accommodation is not reasonable—in other words, if it would impose an undue financial and administrative burden on the local government or it would fundamentally alter the local government's zoning scheme. The determination of undue financial and administrative burden must be decided on a case-by-case basis involving various factors, such as the nature and extent of the administrative burden and the cost of the requested accommodation to the local government, the financial resources of the local government, and the benefits that the accommodation would provide to the persons with disabilities who will reside in the group home.

When a local government refuses an accommodation request because it would pose an undue financial and administrative burden, the local government should discuss with the requester whether there is an alternative accommodation that would effectively address the disability-related needs of the group home's residents without imposing an undue financial and administrative burden. This discussion is called an "interactive process." If an alternative accommodation would effectively meet the disability-related needs of the residents of the group home and is reasonable (that is, it would not impose an undue financial and administrative burden or fundamentally alter the local government's zoning scheme), the local government must grant the alternative accommodation. An interactive process in which the group home and the local government discuss the disability-related need for the requested accommodation and possible alternative accommodations is both required under the Act and helpful to all concerned, because it often results in an effective accommodation for the group home that does not pose an undue financial and administrative burden or fundamental alteration for the local government.

22. What is the procedure for requesting a reasonable accommodation?

The reasonable accommodation must actually be requested by or on behalf of the individuals with disabilities who reside or are expected to reside in the group home. When the request is made, it is not necessary for the specific individuals who would be expected to live in the group home to be identified. The Act does not require that a request be made in a particular manner or at a particular time. The group home does not need to mention the Fair Housing Act or use the words "reasonable accommodation" when making a reasonable accommodation request. The group home must, however, make the request in a manner that a reasonable person would understand to be a disability-related request for an exception, change, or adjustment to a rule, policy, practice, or service. When making a request for an exception, change, or adjustment to a local land use or zoning regulation or policy, the group home should explain what type of accommodation is being requested and, if the need for the accommodation is not readily apparent or known by the local government, explain the relationship between the accommodation and the disabilities of the group home residents.

A request for a reasonable accommodation can be made either orally or in writing. It is often helpful for both the group home and the local government if the reasonable accommodation request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether or when the request was made.

Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may,

nevertheless, be made in some other way, and a local government is obligated to grant it if the requested accommodation meets the criteria discussed in Q&A 20, above.

Whether or not the local land use or zoning code contains a specific procedure for requesting a reasonable accommodation or other exception to a zoning regulation, if local government officials have previously made statements or otherwise indicated that an application for a reasonable accommodation would not receive fair consideration, or if the procedure itself is discriminatory, then persons with disabilities living in a group home, and/or its operator, have the right to file a Fair Housing Act complaint in court to request an order for a reasonable accommodation to the local zoning regulations.

23. Does the Fair Housing Act require local governments to adopt formal reasonable accommodation procedures?

The Act does not require a local government to adopt formal procedures for processing requests for reasonable accommodations to local land use or zoning codes. DOJ and HUD nevertheless strongly encourage local governments to adopt formal procedures for identifying and processing reasonable accommodation requests and provide training for government officials and staff as to application of the procedures. Procedures for reviewing and acting on reasonable accommodation requests will help state and local governments meet their obligations under the Act to respond to reasonable accommodation requests and implement reasonable accommodations promptly. Local governments are also encouraged to ensure that the procedures to request a reasonable accommodation or other exception to local zoning regulations are well known throughout the community by, for example, posting them at a readily accessible location and in a digital format accessible to persons with disabilities on the government's website. If a jurisdiction chooses to adopt formal procedures for reasonable accommodation requests, the procedures cannot be onerous or require information beyond what is necessary to show that the individual has a disability and that the requested accommodation is related to that disability. For example, in most cases, an individual's medical record or detailed information about the nature of a person's disability is not necessary for this inquiry. In addition, officials and staff must be aware that any procedures for requesting a reasonable accommodation must also be flexible to accommodate the needs of the individual making a request, including accepting and considering requests that are not made through the official procedure. The adoption of a reasonable accommodation procedure, however, will not cure a zoning ordinance that treats group homes differently than other residential housing with the same number of unrelated persons.

24. What if a local government fails to act promptly on a reasonable accommodation request?

A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.

25. Can a local government enforce its zoning code against a group home that violates the zoning code but has not requested a reasonable accommodation?

The Fair Housing Act does not prohibit a local government from enforcing its zoning code against a group home that has violated the local zoning code, as long as that code is not discriminatory or enforced in a discriminatory manner. If, however, the group home requests a reasonable accommodation when faced with enforcement by the locality, the locality still must consider the reasonable accommodation request. A request for a reasonable accommodation may be made at any time, so at that point, the local government must consider whether there is a relationship between the disabilities of the residents of the group home and the need for the requested accommodation. If so, the locality must grant the requested accommodation unless doing so would pose a fundamental alteration to the local government's zoning scheme or an undue financial and administrative burden to the local government.

**Questions and Answers on Fair Housing Act Enforcement of
Complaints Involving Land Use and Zoning**

26. How are Fair Housing Act complaints involving state and local land use laws and practices handled by HUD and DOJ?

The Act gives HUD the power to receive, investigate, and conciliate complaints of discrimination, including complaints that a state or local government has discriminated in exercising its land use and zoning powers. HUD may not issue a charge of discrimination pertaining to "the legality of any State or local zoning or other land use law or ordinance." Rather, after investigating, HUD refers matters it believes may be meritorious to DOJ, which, in its discretion, may decide to bring suit against the state or locality within 18 months after the practice at issue occurred or terminated. DOJ may also bring suit by exercising its authority to initiate litigation alleging a pattern or practice of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

If HUD determines that there is no reasonable cause to believe that there may be a violation, it will close an investigation without referring the matter to DOJ. But a HUD or DOJ

decision not to proceed with a land use or zoning matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and DOJ encourage parties to land use disputes to explore reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation or conciliation of the HUD complaint. HUD attempts to conciliate all complaints under the Act that it receives, including those involving land use or zoning laws. In addition, it is DOJ's policy to offer prospective state or local governments the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

27. How can I find more information?

For more information on reasonable accommodations and reasonable modifications under the Fair Housing Act:

- HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, available at <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or <http://www.hud.gov/offices/fheo/library/hud DOJ statement.pdf>.
- HUD/DOJ Joint Statement on Reasonable Modifications under the Fair Housing Act, available at <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf.

For more information on state and local governments' obligations under Section 504:

- HUD website at http://portal.hud.gov/hudportal/HUD?src=/program/offices/fair_housing_equal_opp/disabilities/sect504.

For more information on state and local governments' obligations under the ADA and *Olmstead*:

- U.S. Department of Justice website, www.ADA.gov, or call the ADA information line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).
- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.*, available at http://www.ada.gov/olmstead/q&a_olmstead.htm.
- Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf>.

For more information on the requirement to affirmatively further fair housing:

- Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015) (to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, and 903).
- U.S. Department of Housing and Urban Development, Version 1, Affirmatively Furthering Fair Housing Rule Guidebook (2015), *available at* <https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.
- Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Vol. 1, Fair Housing Planning Guide (1996), *available at* <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

For more information on nuisance and crime-free ordinances:

- Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (Sept. 13, 2016), *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf>.



Planning & Development Services

7447 E. Indian School Rd.
Scottsdale, AZ 85251

PHONE 480-312-7000
WEB www.ScottsdaleAZ.gov

December 7, 2017

Michelle Siwek
Centered Living, CL Holdings 68th Pl, LLC
12012 N. 68th Place
Scottsdale, Arizona 85254

Re: Adult Care Home Separation Requirement

Ms. Siwek,

On November 27, 2017 you requested a disability accommodation from the Adult Care Home separation requirement of 750 feet per Section 5.102.2.c of the Zoning Ordinance. Included in your request is to change from a family to a care home. I have determined that an accommodation is not warranted in this case. I also determine that the living situation you describe is a "family" under the ordinance existing at the time you began operating so long as no care is provided. As such, your family is "grandfathered" under the City's amended Ordinance under the following conditions:

1. No increase in the number of disabled residents and
2. No care is being provided at the residence

Centered Living at 12012 N. 68th Place is approximately 410 feet from a licensed adult care home to the north, 12202 N. 68th Place. The properties are separated by one single family home property and E. Cactus Road. Because the property is on the same N. 68th Place street frontage as the adult care home to the north, under the ordinance existing at the time you began the standard calls for adult care homes to be separated by 750 feet. Because it is not currently authorized as an adult care home, we assume there are fewer than 6 residents.

City Council approved the text amendment, Care Homes/Group Homes Text Amendment (2-TA-2017), on December 4, 2017 and it went into effect January 5, 2018. Because this request was received prior to the adoption of the new text, the authority to analyze this request belongs to the Zoning Administrator, per Section 1.202 of the Zoning Ordinance.

Although you can continue as a family with no care provided, a care home is not allowed at this location because:

1. The property is within 750' of another care home.
2. There is no justification for waiving this standard because there are alternative locations nearby. Within the City of Scottsdale there are currently 113 adult care homes. If the disabled residents at 12012 N. 68th Place need additional care that can only be achieved in a care home within a residential environment, those disabled residents have other dwellings within Scottsdale to choose from. Alternatively, Centered Living could choose to apply for an adult care home at a different property that is properly separated from

1-BA-2018
2/12/2018

other adult care homes, per City of Scottsdale requirements. There are many locations that could meet the criteria for a new care home. (See Attachment 1, Care home availability map)

3. I find that allowing a care home to operate at this location would fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale. The purpose of this ordinance is to promote and protect the public health, safety, and welfare of the citizens of the City of Scottsdale and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, as reflected in the General Plan. In addition the purpose of the Single-family residential (R1-35) zoning district is to promote and preserve residential development. The minimum lot size, although less than one (1) acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto, together with required recreational, religious and educational facilities. (Zoning Ordinance, Section 5.201)

The buffers between Adult Care Homes are in place to protect the character of neighborhoods, and to insure, as in this case, that the low density of the zoning district is maintained and to protect neighboring citizens welfare.

Because there is only one real property between the existing Adult Care Home on the north side of E Cactus Rd. and this subject property, the impact for the neighboring property would be considerable and the Zoning Ordinance established separation requirement should be upheld.

At this time I do not see good cause to grant a disability accommodation. The home can continue to be used as it has been, with no increase in the number of residents or level of activity.

Sincerely,



Randy Grant
Director, Planning and Development Services

ATTACHMENTS:

1. Care home availability location map
2. Requested letter of determination

You can appeal the Zoning Administrator's decision to the Board of Adjustment pursuant to Zoning Ordinance Section 1.202.B and any timely appeal shall be processed pursuant to Section 1.805

Moriarity, Ben

From: Moriarity, Ben
Sent: Thursday, February 15, 2018 5:19 PM
To: 'Heather Dukes'
Cc: Larry Lazarus; Michelle Siwek
Subject: RE: 1-BA-2018 CL Holdings 68th Place, LLC Board of Adjustment Matter

Heather,

Thank you, we will prepare the case for the April 4th Board of Adjustment hearing.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Heather Dukes [mailto:hdukes@lsblandlaw.com]
Sent: Thursday, February 15, 2018 4:38 PM
To: Moriarity, Ben <BMoriarity@Scottsdaleaz.gov>
Cc: Larry Lazarus <llazarus@lsblandlaw.com>; Michelle Siwek <michelle@thesiweks.com>
Subject: 1-BA-2018 CL Holdings 68th Place, LLC Board of Adjustment Matter

Ben:

I left you a voicemail this afternoon and am sending this email to confirm that we will proceed with the April 4th Board of Adjustment hearing date with regard to Case No. 1-BA-2018. Our firm has been formally hired to represent CL Holdings 68th Place, LLC in this matter. We will be submitting a letter from the client confirming that our firm is authorized to represent them in the Board of Adjustment proceedings. Thank you.

Sincerely,

Heather N. Dukes
Associate Attorney



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February 16, 2018

VIA EMAIL: BMoriarity@ScottsdaleAZ.gov

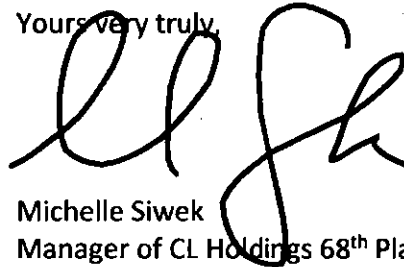
Mr. Ben Moriarity, Planner
CITY OF SCOTTSDALE
Planning and Development Services Department
3939 North Drinkwater Boulevard
Scottsdale, Arizona 85251

**RE: CL Holdings 68th Place, LLC Case No. 1-BA-2018 Regarding Property Located at
12012 North 68th Place, Scottsdale, Arizona**

Dear Mr. Moriarity:

I hereby authorize the law offices of Lazarus, Silvyn & Bangs, P.C. to represent CL Holdings 68th Place, LLC, the owner of the above-referenced Property, in all future proceedings before the City of Scottsdale Board of Adjustment with regard to Case No. 1-BA-2018. Thank you.

Yours very truly,

A handwritten signature in black ink, appearing to read 'MSiwek', is written over the typed name and title.

Michelle Siwek
Manager of CL Holdings 68th Place, LLC

CC: Brad Carr, Board of Adjustment Staff Representative (via email: bcarr@scottsdaleaz.gov)
Randy Grant, Zoning Administrator (rgrant@scottsdaleaz.gov)

Moriarity, Ben

From: Moriarity, Ben
Sent: Wednesday, February 28, 2018 1:00 PM
To: 'Heather Dukes'
Cc: Grant, Randy
Subject: RE: ZA Interpretation for Centered Living, 12012 N 68th Place - Request for List of Care Homes
Attachments: Scottsdale Care Homes.xls

Heather,

Attached is the list, that has grown since the decision letter.

Ben Moriarity
Planner
Planning & Development Department

CITY OF SCOTTSDALE
7447 E Indian School Rd.
Scottsdale, AZ. 85251
BMoriarity@ScottsdaleAZ.gov
O: 480-312-2836

From: Heather Dukes [mailto:hdukes@lsblandlaw.com]
Sent: Wednesday, February 28, 2018 12:31 PM
To: Moriarity, Ben <BMoriarity@Scottsdaleaz.gov>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>
Subject: RE: ZA Interpretation for Centered Living, 12012 N 68th Place - Request for List of Care Homes

Ben:

Thank you for the map. Is there a list of addresses or license information that staff would have used to create this map? I'm attempting to obtain a copy of that list.

Sincerely,

Heather N. Dukes
Associate Attorney



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From: Moriarity, Ben [<mailto:BMoriarity@Scottsdaleaz.gov>]
Sent: Wednesday, February 28, 2018 12:26 PM
To: Heather Dukes <hdukes@lsblandlaw.com>
Cc: Grant, Randy <RGrant@Scottsdaleaz.gov>
Subject: RE: ZA Interpretation for Centered Living, 12012 N 68th Place - Request for List of Care Homes

Heather,

Per your request, attached is the map of all the care homes on a map that was attached to the decision letter to Michelle.

Ben Moriarity
bmoriarity@scottsdaleaz.gov
480-312-2836

From: Grant, Randy
Sent: Tuesday, February 27, 2018 4:05 PM
To: Moriarity, Ben
Subject: FW: ZA Interpretation for Centered Living, 12012 N 68th Place - Request for List of Care Homes

Hi, Ben. Do you know if we have the map she references?

Randy Grant
Director, Planning and Development Services
7447 E. Indian School Road, Suite 105
City of Scottsdale, Arizona 85251

480-312-2664



From: Heather Dukes [<mailto:hdukes@lsblandlaw.com>]
Sent: Tuesday, February 27, 2018 11:58 AM
To: Grant, Randy <RGrant@Scottsdaleaz.gov>
Subject: FW: ZA Interpretation for Centered Living, 12012 N 68th Place - Request for List of Care Homes

Randy:

I wanted to follow up with you regarding the list of 113 adult care homes referenced in your interpretation. Do you have some time this week to discuss this matter either over the phone or in person? I also have some questions

regarding the timing of your interpretation vs. the effective date of the text amendment as well as potentially submitting a second interpretation request. Please let me know if you have any availability this week. Thank you in advance.

-Sincerely,

Heather N. Dukes
Associate Attorney



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From: Heather Dukes
Sent: Wednesday, February 21, 2018 10:14 AM
To: 'rgrant@scottsdaleaz.gov' <rgrant@scottsdaleaz.gov>
Subject: ZA Interpretation for Centered Living, 12012 N 68th Place - Request for List of Care Homes

Randy:

We represent CL Holdings 68th Place, LLC with regard to the Centered Living facility located at 12012 N. 68th Place. We have reviewed your interpretation letter dated December 7, 2017 (see attached). We need to obtain a list of the 113 adult care homes referenced in your interpretation, including name of the facility, address, and ADHS license number (if applicable). Please let me know if you can provide this information. We are needing to verify the locations and particular uses of these adult care homes which you have used as a basis for your decision.

If you have any questions, please do not hesitate to contact me at 602-340-0900. Thank you.

Sincerely,

Heather N. Dukes
Associate Attorney



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apn	qs num	site address	license	name	city	state
167-79-122	31-41	5937 EAST CACTUS ROAD	AL8066H	AGAVE MANOR	SCOTTSDALE	AZ
175-68-052	31-44	12202 NORTH 68TH PLACE	AL5847H	ROYAL PALM ASSISTED LIVING	SCOTTSDALE	AZ
173-47-023C	17-43	6646 EAST MONTEROSA	AL9186H	CONSTANT CARE ASSISTED LIVING OF ARCADIA	SCOTTSDALE	AZ

zip_code	phone	fax_email	capacity	case_status	cds_case	state licensing	status	Business_R	Shape_area
85254	602-373-9933	(480) 368-9777	10	APPROVED	NA	LICENSED	LEGACY APPROVED		66221.87086
85254	480-609-7006	(480) 483-4659	10	APPROVED	NA	LICENSED	LEGACY APPROVED		37289.30577
85251	602-803-5642	(602) 358-7512	10	APPROVED	6-AC-2013	LICENSED	LEGACY APPROVED		11732.61956

Shape len.

1034.067772

838.8941445

440.0272326

apn	qs_num	site address	license	name
173-02-266	20-47	8108 EAST MONTEBELLO AVENUE	AL1920H	COZY VILLA
173-27-128	19-48	5132 NORTH 86TH PLACE	AL7139H	CHAPARRAL HOME CARE LLC
173-61-121	18-47	4526 NORTH 82ND STREET	AL9643H	TRANQUILITY ASSISTED LIVING HOME
130-36-095	15-47	8331 EAST MONTEREY WAY	AL6221H	MONTEREY GERIATRIC CARE
130-40-208	15-48	8701 EAST CHEERY LYNN ROAD	AL6265H	HOME SWEET HOME ON CHEERY LYNN
177-03-046	23-47	7038 NORTH VIA DE VIDA	AL1505H	SUMMA CARE - SCOTTSDALE
177-04-465	24-48	8411 EAST VIA DE JARDIN	AL2348H	LIANN'S HOMES
175-38-021	29-43	11002 NORTH 66TH STREET	AL5705H	SUNRISE CARE HOMES-SHEA
217-47-318	29-53	10405 EAST DESERT COVE AVENUE	AL9112H	DESERT COVE ASSISTED LIVING
175-18-035	30-45	7366 EAST PARADISE DRIVE	AL9596H	ROYAL PALMS I ASSISTED LIVING
175-63-035	29-48	11030 NORTH 84TH PLACE	AL4853H	CALINI'S ASSISTED LIVING OF SCOTTSDALE
217-31-031E	28-59	10125 NORTH 131ST PLACE	AL4567H	SCOTTSDALE LIFE ASSISTED LIVING , LLC
174-22-073	23-46	7021 NORTH 79TH PLACE	AL1004H	LIANN'S HOMES
212-03-134	46-48	8434 EAST LA JUNTA	AL6295H	LOVIN MANOR TOO
175-04-039	32-45	7340 EAST SWEETWATER AVENUE	AL8013H	LAS FUENTES ASSISTED LIVING
175-09-179	31-46	7741 EAST CHARTER OAK ROAD	AL4812H	CASA BUENAVANTE
212-02-337	44-46	7878 EAST VISTA BONITA DRIVE	AL5663H	PINNACLE PEAK ASSISTED LIVING
217-50-374	32-51	9693 EAST DAVENPORT DRIVE	AL2346H	LIANN'S HOMES
217-60-073	31-50	9409 EAST BLOOMFIELD	AL6060H	BLOOMFIELD HOUSE
217-20-123	29-59	12847 EAST BECKER LANE	AL6547H	BETHANY ADULT HOME CARE
217-50-561	33-51	9742 EAST GELDING DRIVE	AL9404H	MOTHER TERESA'S SENIOR CARE HOME
212-08-369A	47-47	8038 EAST HAPPY VALLEY ROAD	AL9890H	CAREFREE ASSISTED LIVING HOME
216-69-039A	52-45	29192 NORTH 76TH STREET	AL5038H	LOVIN MANOR
216-69-049B	52-46	29750 NORTH 77TH PLACE	AL8671H	SERENITY ASSISTED LIVING
212-03-078	45-47	23402 NORTH 84TH STREET	AL6732H	CALAVAR ASSISTED LIVING HOME
175-12-212	31-48	8617 EAST SWEETWATER AVENUE	AL9059H	LAS FUENTES ASSISTED LIVING II
175-15-029	30-46	7917 EAST CACTUS ROAD	AL10089H	HAYDEN VILLA
217-26-223	30-51	9883 EAST CORTEZ STREET	AL7942H	SCOTTSDALE NORTH INC A L
217-25-314A	30-49	11444 NORTH 88TH PLACE	AL9627H	HANDS OF CARE
175-46-068	28-48	8438 EAST WELSH TRAIL	AL7399H	HARTS HOME, EXCEPTIONAL ELDER CARE
173-70-150	19-48	8632 EAST PECOS LANE	AL4977H	A R D C SCOTTSDALE HOME
129-04-019	14-44	6879 EAST VERNON AVENUE	AL5436H	A PLACE IN THE SUN
175-54-002	28-43	6819 EAST SHEA BOULEVARD	AL2868H	ASSISTED LIVING OF SCOTTSDALE
175-10-178	31-45	7512 EAST LARKSPUR DRIVE	AL8220H	A & M ASSISTED LIVING OF SCOTTSDALE, LLC
217-35-027	28-51	10571 NORTH 96TH PLACE	AL9467H	CENTRAL SCOTTSDALE ASSISTED LIVING, LLC
175-19-008	30-44	7125 EAST PARADISE DRIVE	AL7614H	SCOTTSDALE CASA DE PARADISE
216-67-248A	53-44	7191 EAST MONTGOMERY ROAD	AL7526H	LAS FUENTES ASSISTED LIVING III
175-09-228	31-45	7412 EAST WETHERSFIELD ROAD	AL7787H	SCOTTSDALE HOME CARE LLC
175-18-018	30-45	7311 EAST SUNNYSIDE DRIVE	AL8023H	SUNNYHILL ADULT CARE HOME INC, II
175-01-157	32-48	13637 NORTH 87TH STREET	AL8077H	TUSCAN PLACE ASSISTED LIVING HOME
175-30-076	29-47	8139 EAST CHOLLA STREET	AL6949H	CALLINI'S ASSISTED LIVING

city	state	zip_code	phone	fax_email
SCOTTSDALE	AZ	85250	480-483-2150	(480) 368-5531
SCOTTSDALE	AZ	85250	480-675-0281	(480) 675-7643
SCOTTSDALE	AZ	85251	650-580-7035	(480) 773-7279
SCOTTSDALE	AZ	85251	480-970-1870	(480) 970-1870
SCOTTSDALE	AZ	85251	480-675-0101	(510) 217-4036
SCOTTSDALE	AZ	85258	602-703-3706	(480) 654-4466
SCOTTSDALE	AZ	85258	480-607-9586	(480) 607-9583
SCOTTSDALE	AZ	85254	480-367-9117	(480) 922-3520
SCOTTSDALE	AZ	85259	480-451-5389	(480) 656-1294
SCOTTSDALE	AZ	85260	480-348-7967	(480) 348-7967
SCOTTSDALE	AZ	85260	480-219-9442	(480) 699-7384
SCOTTSDALE	AZ	85259	480-391-3780	(480) 391-1918
SCOTTSDALE	AZ	85258	480-905-3144	(480) 607-9583
SCOTTSDALE	AZ	85255	602-828-0232	(480) 367-7970
SCOTTSDALE	AZ	85260	602-793-9140	(480) 607-9723
SCOTTSDALE	AZ	85260	480-483-4747	(480) 483-6845
SCOTTSDALE	AZ	85255	02-326-5464	(480) 502-5527
SCOTTSDALE	AZ	85260	480-657-2856	(480) 607-9583
SCOTTSDALE	AZ	85260	480-661-0091	(480) 661-0634
SCOTTSDALE	AZ	85259	480-203-2835	(480) 203-2835
SCOTTSDALE	AZ	85260	480-614-5410	(480) 614-5410
SCOTTSDALE	AZ	85255	480-502-7959	(480) 515-1970
SCOTTSDALE	AZ	85255	480-828-0232	(480) 367-7970
SCOTTSDALE	AZ	85262	480-585-9757	(480) 585-9583
SCOTTSDALE	AZ	85255	480-563-2638	(480) 569-5170
SCOTTSDALE	AZ	85260	602-793-9140	(480) 607-9723
SCOTTSDALE	AZ	85260	480-459-8206	
SCOTTSDALE	AZ	85260	80-682-8974	(480) 459-5589
SCOTTSDALE	AZ	85260	480-264-6044	(480) 264-4785
SCOTTSDALE	AZ	85258	480-596-5700	(480) 483-8686
SCOTTSDALE	AZ	85250	480-236-7372	(480) 752-3261
SCOTTSDALE	AZ	85257	480-946-3087	(480) 947-0263
SCOTTSDALE	AZ	85254	480-998-0988	(480) 219-6494
SCOTTSDALE	AZ	85260	480-664-3999	(480) 588-5459
SCOTTSDALE	AZ	85258	480-620-0748	(480) 907-7713
SCOTTSDALE	AZ	85254	480-483-1492	(480) 951-1280
SCOTTSDALE	AZ	85255	602-793-9140	(480) 607-9723
SCOTTSDALE	AZ	85260	602-397-1900	(480) 315-9541
SCOTTSDALE	AZ	85260	480-275-2237	(480) 951-5229
SCOTTSDALE	AZ	85260	602-703-9583	(480) 471-6137
SCOTTSDALE	AZ	85260	480-656-3933	(480) 656-4989

capacity	case status	cds_case	state licensing
3	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
5	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	1-AC-2008	LICENSED
10	APPROVED	6-AC-2014	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
8	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
5	APPROVED	NA	LICENSED
10	APPROVED	7-AC-2008	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
8	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	2-AC-2008	LICENSED
5	APPROVED	NA	LICENSED
9	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
9	APPROVED	NA	LICENSED
10	APPROVED	NA	LICENSED
10	APPROVED	14-AC-2008	LICENSED
10	APPROVED	2-AC-2009	LICENSED
5	APPROVED	7-AC-2009	LICENSED
10	APPROVED	8-AC-2009	LICENSED
10	APPROVED	1-AC-2010	LICENSED
10	APPROVED	NA	LICENSED

status	Business_R	Shape_area	Shape_len
LEGACY APPROVED		7798.708443	358.6999661
LEGACY APPROVED		12561.62229	450.0632871
LEGACY APPROVED		9506.675261	395.8308097
LEGACY APPROVED		8823.676138	375.8489169
LEGACY APPROVED		7291.599676	340.8952396
LEGACY APPROVED		10805.68531	413.0806955
LEGACY APPROVED		11376.86216	428.9293427
LEGACY APPROVED		60290.77232	1086.666905
LEGACY APPROVED		19213.56408	584.2189922
LEGACY APPROVED		29658.62198	745.9165007
LEGACY APPROVED		49955.69742	892.3718358
LEGACY APPROVED		41205.08958	845.3106372
LEGACY APPROVED		10920.29716	455.3523261
LEGACY APPROVED		44162.56896	876.8665276
LEGACY APPROVED		35042.97666	751.6519448
LEGACY APPROVED		35037.63627	750.4319111
LEGACY APPROVED		26061.18929	662.8461852
LEGACY APPROVED		7699.950116	359.9989014
LEGACY APPROVED		14610.37868	478.5730588
LEGACY APPROVED		7489.06062	356.8165459
LEGACY APPROVED		7304.645872	354.7447752
LEGACY APPROVED		41290.91704	850.5402689
LEGACY APPROVED		98715.64242	1247.649488
LEGACY APPROVED		76189.76355	1093.871836
LEGACY APPROVED		43702.4425	840.3369996
LEGACY APPROVED		18211.15552	540.1702318
LEGACY APPROVED		43917.98763	843.9254559
LEGACY APPROVED		34826.89732	752.1829555
LEGACY APPROVED		15722.53036	493.2278621
LEGACY APPROVED		10373.20791	411.0372146
LEGACY APPROVED		6997.021451	344.0305924
LEGACY APPROVED		10025.8933	419.1032805
LEGACY APPROVED		34981.49116	745.1120121
LEGACY APPROVED		12740.07162	469.8577621
LEGACY APPROVED		20215.65431	631.4369748
LEGACY APPROVED		78786.51624	1116.450209
LEGACY APPROVED		80856.14419	1176.856186
LEGACY APPROVED		55392.77576	981.6399573
LEGACY APPROVED		40342.73248	874.7343869
LEGACY APPROVED		16282.76287	531.8880379
LEGACY APPROVED		43367.36807	821.9965714

217-32-012F	28-58	12650 EAST COCHISE DRIVE	AL8166H	VIP PARADISE CARE LLC
217-27-304	29-53	10521 EAST CLINTON STREET	AL8494H	TRINITY HOME ON CLINTON
217-22-076	31-53	10474 EAST CORRINE DRIVE	AL8506H	SCOTTSDALE FOOTHILLS ASSISTED LIVING
175-63-007	29-48	8611 EAST CHOLLA STREET	AL8734H	AGAPE SENIOR LIVING OF SCOTTSDALE, LLC
217-60-045	32-49	13614 NORTH 89TH STREET	AL9661H	HORIZON MANOR I
131-02-023	14-47	2524 NORTH 80TH PLACE	AL9081H	OUR PARENTS HOUSE
173-68-118	19-48	8525 EAST PASADENA AVENUE	AL9137H	HOME AWAY FROM HOME ASSISTED LIVING HOME CARE
212-31-285	42-45	7247 EAST TAILFEATHER DRIVE	AL9593H	LAS FUENTES ASSISTED LIVING IV
217-39-089	29-57	12105 EAST SHANGRI-LA ROAD	AL9330H	KAY ADULT CARE HOME
175-10-073	31-45	7515 EAST SWEETWATER AVENUE	AL9652H	SWEETWATER PINES
175-32-035	29-46	7838 EAST SHEA BOULEVARD	BH4464	A BETTER TODAY RECOVERY SERVICES
175-13-047	30-48	8425 EAST CACTUS ROAD	AL9613H	BRIDGE ROYAL HOMECARE
173-39-132	18-45	7556 EAST COOLIDGE STREET	UNK	COOLIDGE
175-04-063	32-45	7480 EAST CAMINO SANTO	AL10364H	MY HOME SWEET HOME IN SCOTTSDALE, LLC
212-08-369A	47-47	8038 EAST HAPPY VALLEY ROAD	AL9890H	CAREFREE ASSISTED LIVING HOME
174-20-001A	22-45	6838 NORTH ROCKING ROAD	BH4988	SERENITY CARE CENTER, LLC
131-47-044	11-45	808 NORTH 74TH STREET	BH4859	GRACEFUL HOMES, LLC
175-23-037	30-43	11616 NORTH 66TH STREET	UNK	CASSIDY RESIDENCE
131-33-049	14-47	8201 EAST LEWIS AVENUE	AL10377H	GUTIERREZ ASSISTED LIVING
131-50-001	12-46	7746 EAST LATHAM STREET	AL9997H	LENDING HAND SCOTTSDALE ASSISTED LIVING
131-16-100	11-45	7320 EAST TAYLOR STREET	UNK	SAFE HAVEN LIVING
217-44-010	30-57	11420 NORTH 122ND PLACE	AL10562	MATIS ADULT CARE HOME
217-31-038F	28-59	12816 EAST TURQUOISE AVENUE , 10195 NORTH 128TH ST	BH4435	SUNDANCE CENTER, THE
217-31-438	28-59	13050 E TURQUOISE AVENUE	BH4532	PROMISES SCOTTSDALE
216-69-016	51-45	7210 EAST DALE LANE	BH4531	A BETTER TODAY RECOVERY SERVICES
217-32-001C	28-57	12340 EAST MOUNTAIN VIEW ROAD	BH5033	MOUNTAINSIDE RED ROCK ADDICTION AND TREATMEN
175-11-102	31-47	8111 EAST CHARTER OAK DRIVE	AL10170	KIT'S PLACE
173-55-239	17-48	4235 NORTH 87TH PLACE	AL10145H	87TH PLACE ASSISTED LIVING
217-26-006X	30-51	9626 EAST KALIL DRIVE	UNK	9626 E KALIL
217-26-108	29-51	9660 EAST CLINTON AVENUE	AL10527H	PEAK CARE ASSISTED LIVING SCOTTSDALE LIFE II HOM
129-01-095	14-44	2801 NORTH 71ST PLACE	UNK	OLD TOWN SCOTTSDALE ASSISTED LIVING
175-10-169	31-46	12558 NORTH 76TH STREET	UNK	ADULT CARE HOME
217-27-040B	30-53	10510 EAST SUNNYSIDE DRIVE	UNK	PERMIT 227655
217-03-182	47-52	10111 EAST SADDLE HORN TRAIL	UNK	NORTH SCOTTSDALE ASSISTED LIVING
217-32-145	27-57	9221 N 123RD STREET	AL10349	LA HACIENDA
175-36-002F	29-44	7150 E GARY ROAD	AL10267	BETTER LIVING CARE HOMES SCOTTSDALE
173-69-055	19-48	8501 EAST PLAZA AVENUE	AL10529H	THE PLAZA ASSISTED LIVING
131-41-045	14-48	8608 E ROANOKE AVENUE	UNK	ROANOKE ADULT CARE HOME
217-23-003A	31-51	9970 E CHARTER OAK RD	UNK	BETTERMENT HOUSE
217-26-304	29-52	10720 N 101ST STREET	UNK	GROZAV
217-25-476	30-50	9405 EAST POINSETTIA DRIVE	UNK	POINSETTIA
131-10-036	13-46	7807 EAST CYPRESS STREET	UNK	ELIZABETH BUER ASSISTED LIVING

SCOTTSDALE	AZ	85259	602-704-4282
SCOTTSDALE	AZ	85259	480-451-0741
SCOTTSDALE	AZ	85259	480-621-8800
SCOTTSDALE	AZ	85260	480-664-1112
SCOTTSDALE	AZ	85260	480-295-6786
SCOTTSDALE	AZ	85257	480-414-7502
SCOTTSDALE	AZ	85250	480-249-4118
SCOTTSDALE	AZ	85255	480-366-4913
SCOTTSDALE	AZ	85259	480-694-5505
SCOTTSDALE	AZ	85260	602-430-5382
SCOTTSDALE	AZ	85260	480-223-2546
SCOTTSDALE	AZ	85260	480-221-5931
SCOTTSDALE	AZ	85251	480-784-7444
SCOTTSDALE	AZ	85260	480-202-4402
SCOTTSDALE	AZ	85258	480-502-7959
SCOTTSDALE	AZ	85250	480-677-1331
SCOTTSDALE	AZ	85257	617-642-1481
SCOTTSDALE	AZ	85254	480-741-1992
SCOTTSDALE	AZ	85257	480-414-1244
SCOTTSDALE	AZ	85257	480-388-7499
SCOTTSDALE	AZ	85257	480-330-3906
SCOTTSDALE	AZ	85259	623-326-2903
SCOTTSDALE	AZ	85259	480-840-2588
SCOTTSDALE	AZ	85259	623-236-4611
SCOTTSDALE	AZ	85266	480-223-2546
SCOTTSDALE	AZ	85259	561-722-8055
SCOTTSDALE	AZ	85260	602-904-0404
SCOTTSDALE	AZ	85251	480-766-2973
SCOTTSDALE	AZ	85260	602-741-1549
SCOTTSDALE	AZ	85260	800-906-1030 x101
SCOTTSDALE	AZ	85257	714-420-1793
SCOTTSDALE	AZ	85260	602-527-6400
SCOTTSDALE	AZ	85259	480-261-7385
SCOTTSDALE	AZ	85255	949-483-1808
SCOTTSDALE	AZ	85259	480-634-0059
SCOTTSDALE	AZ	85254	604-767-6383
SCOTTSDALE	AZ	85250	714-420-1793
SCOTTSDALE	AZ	85257	602-615-1527
SCOTTSDALE	AZ	85260	480-612-0296
SCOTTSDALE	AZ	85260	951-892-9328
SCOTTSDALE	AZ	85260	602-615-1527
SCOTTSDALE	AZ	85257	602-618-5695

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(480) 451-0742
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sam.southwest@gmail.com
faith@carlavista.com
bgrozav@gmail.com
sam.southwest@gmail.com
elizabeth.goodman@aps.com

10 APPROVED	2-AC-2010	LICENSED
5 APPROVED	2-AC-2011	LICENSED
10 APPROVED	3-AC-2011	LICENSED
10 APPROVED	1-AC-2012	LICENSED
10 APPROVED	NA	LICENSED
10 APPROVED	3-AC-2012	LICENSED
5 APPROVED	1-AC-2013	LICENSED
10 APPROVED	2-AC-2013	LICENSED
10 APPROVED	7-AC-2013	LICENSED
10 APPROVED	1-AC-2014	LICENSED
10 APPROVED	3-AC-2014	LICENSED
5 APPROVED	7-AC-2014	LICENSED
0 APPROVED	6-AC-2015	UNLICENSED
10 APPROVED	9-AC-2015	LICENSED
0 APPROVED	10-AC-2015	LICENSED
0 APPROVED	1-AC-2016	LICENSED
0 APPROVED	2-AC-2016	LICENSED
10 APPROVED	3-AC-2016	UNLICENSED
0 APPROVED	4-AC-2016	LICENSED
10 APPROVED	5-AC-2016	LICENSED
0 APPROVED	7-AC-2016	UNLICENSED
0 APPROVED	8-AC-2016	LICENSED
14 APPROVED	NA	LICENSED
10 APPROVED	NANA	LICENSED
10 APPROVED	NA	LICENSED
0 APPROVED	10-AC-2016	LICENSED
10 APPROVED	3-AC-2015	LICENSED
10 APPROVED	12-AC-2016	LICENSED
10 APPROVED	13-AC-2016	UNLICENSED
0 APPROVED	15-AC-2016	LICENSED
10 APPROVED	18-AC-2016	UNLICENSED
10 APPROVED	19-AC-2016	UNLICENSED
10 APPROVED	21-AC-2016	UNLICENSED
10 APPROVED	22-AC-2016	UNLICENSED
0 APPROVED	23-AC-2016	LICENSED
0 APPROVED	2-AC-2017	LICENSED
10 APPROVED	3-AC-2017	LICENSED
10 APPROVED	4-AC-2017	UNLICENSED
10 APPROVED	5-AC-2017	UNLICENSED
10 APPROVED	6-AC-2017	UNLICENSED
0 APPROVED	7-AC-2017	UNLICENSED
0 APPROVED	8-AC-2017	UNLICENSED

LEGACY APPROVED	50779.04419	945.9063149
LEGACY APPROVED	13737.84952	495.9188136
LEGACY APPROVED	35139.20184	766.4244454
LEGACY APPROVED	43585.59665	851.8561857
LEGACY APPROVED	7955.764026	360.3107553
LEGACY APPROVED	8460.934267	369.3245371
LEGACY APPROVED	7844.569509	357.1399308
LEGACY APPROVED	8400.93544	380.0196969
LEGACY APPROVED	14560.87946	485.4224275
LEGACY APPROVED	35377.0577	771.0717869
LEGACY APPROVED	41006.08516	810.0713948
LEGACY APPROVED	35432.82064	772.2689103
LEGACY PENDING LICENSE	8483.482006	361.9768223
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LEGACY APPROVED	65223.57244	1036.65152
LEGACY APPROVED	6720.464853	326.1968242
LEGACY PENDING LICENSE	35001.29495	764.3097223
LEGACY APPROVED	8306.36275	361.3455432
LEGACY APPROVED	7464.426959	351.7856578
LEGACY PENDING LICENSE	6753.656345	325.3044206
LEGACY APPROVED	54883.20635	941.0713533
LEGACY APPROVED	132643.0898	1488.65777
LEGACY APPROVED	46228.38164	940.8843113
LEGACY APPROVED	92667.70012	1221.698582
LEGACY APPROVED	90030.563	1200.204297
LEGACY APPROVED	40509.27842	815.0947031
LEGACY APPROVED	10009.25228	404.1223311
LEGACY PENDING LICENSE	50354.01958	940.3532652
LEGACY APPROVED	35250.16771	770.0019075
LEGACY PENDING LICENSE	11101.7535	426.5303325
LEGACY PENDING LICENSE	17150.26849	543.9723127
LEGACY PENDING LICENSE	66692.12896	1055.76059
LEGACY PENDING LICENSE	40834.46431	798.0523261
LEGACY APPROVED	56796.00757	1004.478521
LEGACY APPROVED	35324.22731	747.7216163
LEGACY APPROVED	11570.92988	485.6143358
LEGACY PENDING LICENSE	7360.964995	345.7869823
LEGACY PENDING LICENSE	54041.16034	964.5768935
LEGACY PENDING LICENSE	14974.33258	495.6225126
LEGACY PENDING LICENSE	7980.596327	364.0406768
LEGACY PENDING LICENSE	7085.024493	348.0597259

216-68-348	52-44	6828 EAST DUANE LANE	UNK	ASSISTED LIVING PROJECT
212-10-045	49-44	26639 NORTH 71ST PLACE	UNK	NORTH SCOTTSDALE ASSISTED LIVING HOME
217-35-160	28-51	9815 NORTH 96TH PLACE	AL10022	BLUE LAKES ASSISTED LIVING LLC
217-39-012B	29-57	12224 EAST SHANGRI LA ROAD	BH5034	SERENITY CARE CENTER, LLC
217-32-071F	28-58	12749 EAST TURQUOISE AVENUE	BH4989	SERENITY CARE CENTER LLC
131-22-474	14-46	7626 EAST SHERIDAN	BH616	SOUTHWEST BEHAVIORAL HEALTH SERVICES, INC
175-10-067	31-46	7585 EAST SWEETWATER AVENUE	UNK	GABRIEL GROZAV CARE HOME
175-39-011	29-43	6530 EAST CLINTON STREET	AL6884H	ASSISTED LIVING
131-29-062	14-45	7308 EAST VIRGINIA AVENUE	UNK	SERENE VALLEY
215-54-052	33-47	14025 NORTH 82ND PLACE	UNK	14025 N 82nd Place
131-21-051	13-45	1721 NORTH 74TH PLACE	UNK	1721 N 74th Pl - Care Home
131-10-119	13-46	7935 EAST PALM LANE	UNK	PALM LANE ASSISTED LIVING
175-66-007	32-46	7924 EAST SWEETWATER AVENUE	UNK	CARE HOME
216-66-201	53-46	29914 NORTH 78TH STREET	AL5726H	DIXILETA ADULT CARE HOME II
174-12-058	21-47	6401 NORTH 82ND STREET	AL7904H	SUNRISE HOME FACILITY I INC
174-69-008	22-48	8736 EAST JOSHUA TREE LANE	AL1529H	CALINI'S ADULT CARE HOME
217-26-323	29-52	10250 EAST BECKER LANE	AL5413H	NORTH SCOTTSDALE GARDENS ASSISTED LIVING HOMI
217-27-374	29-53	10710 EAST MESCAL STREET	AL6365H	TRINITY HOME OF SCOTTSDALE, LLC
217-41-295	32-49	13330 NORTH 88TH PLACE	AL4870H	SIERRA'S ASSISTED LIVING, THE
217-29-518	29-58	12705 EAST SAHUARO DRIVE	AL6348H	EAST SHEA ASSISTED LIVING
216-50-121A	55-44	32100 NORTH SCOTTSDALE ROAD	AL7079H	UPON THE ROCK ASSISTED LIVING
217-15-809	34-49	9043 EAST HILLERY DRIVE	AL8821H	RAINTREE ASSISTED LIVING LLC
173-61-086C	18-47	8319 EAST HAZELWOOD	AL9841H	HAZELWOOD MANOR ASSISTED LIVING HOME
217-26-230	30-51	9823 EAST JENAN DRIVE	AL8593H	ARIZONA ROYAL CARE HOME, LLC
217-26-245	29-52	10031 EAST DESERT COVE AVENUE	AL8828H	RETREAT AT DESERT COVE, THE
175-30-081	29-47	10610 NORTH 84TH STREET	AL9084H	CALINIS ALOS II
175-03-053	32-46	13452 NORTH HAYDEN ROAD	AL9203H	SUNRISE CARE HOME-HAYDEN
130-41-208	16-48	8704 EAST AMELIA AVENUE	AL9490H	SERENE VALLEY ALH
219-11-223	64-54	39022 NORTH FERNWOOD LANE	BH5061	SERENITY CARE CENTER, LLC
216-70-001J	51-47	28760 NORTH 83RD STREET	BH5353	83RD GROUP HOME
217-32-033J	28-57	10250 NORTH 124TH STREET		10250 N 124TH ST CARE HOME
217-33-034J	28-55	11345 EAST BERYL AVENUE		11345 E BERYL CARE HOME

SCOTTSDALE	AZ	85266	602-679-1456
SCOTTSDALE	AZ	85266	480-221-2948
SCOTTSDALE	AZ	85258	602-686-9619
SCOTTSDALE	AZ	85259	602-510-0295
SCOTTSDALE	AZ	85250	602-510-0295
SCOTTSDALE	AZ	85257	602-285-4318
SCOTTSDALE	AZ	85260	951-565-0172
SCOTTSDALE	AZ		480-682-8974
SCOTTSDALE	AZ		650-580-7035
SCOTTSDALE	AZ		773-350-0460
SCOTTSDALE	AZ		480-252-9122
SCOTTSDALE	AZ	85257	650-580-7035
SCOTTSDALE	AZ	85260	602-790-8100
SCOTTSDALE	AZ	85262	480-577-0174
SCOTTSDALE	AZ	85250	480-367-9117
SCOTTSDALE	AZ	85250	480-242-8742
SCOTTSDALE	AZ	85260	80-657-9385
SCOTTSDALE	AZ	85259	480-451-0741
SCOTTSDALE	AZ	85260	602-622-1667
SCOTTSDALE	AZ	85259	480-621-8423
SCOTTSDALE	AZ	85262	480-221-1140
SCOTTSDALE	AZ	85260	602-487-7951
SCOTTSDALE	AZ	85251	480-656-0614
SCOTTSDALE	AZ	85260	602-264-2668
SCOTTSDALE	AZ	85260	602-214-4005
SCOTTSDALE	AZ	85260	480-219-8554
SCOTTSDALE	AZ	85260	480-703-6644
SCOTTSDALE	AZ	85251	480-248-5548
SCOTTSDALE	AZ	85262	561-722-8055
SCOTTSDALE	AZ	85266	772-266-7682
SCOTTSDALE	AZ	85259	(623) 252-6483
SCOTTSDALE	AZ	85259	623-252-6483

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(480) 922-3520
(480) 607-7365
(480) 219-8763
(480) 451-0742
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10 APPROVED	9-AC-2017	UNLICENSED
10 APPROVED	10-AC-2017	UNLICENSED
10 APPROVED	NA	LICENSED
6 APPROVED	NA	LICENSED
6 APPROVED	NA	LICENSED
5 APPROVED	NA	LICENSED
10 APPROVED	11-AC-2017	UNLICENSED
0 APPROVED	16-AC-2017	LICENSED
10 APPROVED	17-AC-2017	UNLICENSED
10 APPROVED	14-AC-2017	UNLICENSED
5 APPROVED	15-AC-2017	UNLICENSED
10 APPROVED	18-AC-2017	UNLICENSED
10 APPROVED	19-AC-2017	UNLICENSED
8 APPROVED	NA	LICENSED
10 APPROVED	NA	LICENSED
10 APPROVED	NA	LICENSED
10 APPROVED	NA	LICENSED
8 APPROVED	NA	LICENSED
10 APPROVED	NA	LICENSED
10 APPROVED	NA	LICENSED
10 APPROVED	NA	LICENSED
6 APPROVED	2-AC-2012	LICENSED
10 APPROVED	10-AC-2008	LICENSED
10 APPROVED	5-AC-2009	LICENSED
10 APPROVED	4-AC-2010	LICENSED
5 APPROVED	3-AC-2013	LICENSED
10 APPROVED	5-AC-2013	LICENSED
10 APPROVED	4-AC-2014	LICENSED
0 APPROVED	14-AC-2016	LICENSED
0 APPROVED	13-AC-2017	LICENSED
10 APPROVED	1-AC-2018	UNLICENSED
10 APPROVED	2-AC-2018	UNLICENSED

LEGACY PENDING LICENSE		21027.83388	571.3805098
LEGACY PENDING LICENSE		48306.73439	903.2223967
LEGACY APPROVED		19275.11687	535.629612
LEGACY APPROVED		36365.69767	780.0330547
LEGACY APPROVED		51135.35392	950.0539914
LEGACY APPROVED		7228.721851	340.6300555
LEGACY PENDING LICENSE		35381.28837	771.1171688
LEGACY APPROVED		35204.04702	751.7279093
LEGACY PENDING LICENSE		10099.28896	406.1363335
LEGACY PENDING LICENSE		35371.39112	749.5961693
LEGACY PENDING LICENSE		6893.476827	336.1694755
LEGACY PENDING LICENSE		.12546.7011	461.641518
LEGACY PENDING LICENSE		45216.33021	961.7958684
LEGACY APPROVED		19819.94839	580.7015153
LEGACY APPROVED		9114.873319	385.6056031
LEGACY APPROVED		36725.4597	807.5705707
LEGACY APPROVED	0922565	16320.53795	511.8545727
LEGACY APPROVED	0938313	7456.844656	352.038327
LEGACY APPROVED	1012015	9150.86206	393.0430633
LEGACY APPROVED	0921210	16310.94119	603.8196247
LEGACY APPROVED	1055529	82988.39928	1153.962992
LEGACY APPROVED	1075034	9634.566986	395.1411914
LEGACY APPROVED	1091813	8483.743287	370.9102309
LEGACY APPROVED	1119027	33565.80199	731.8359084
LEGACY APPROVED	1094203	35074.36771	765.0015171
LEGACY APPROVED	1083847	43430.42608	835.5330355
LEGACY APPROVED	1100466	35081.93843	767.7387455
LEGACY APPROVED	1095070	7985.726842	354.399186
LEGACY APPROVED	1108891	43599.53853	829.0697538
LEGACY APPROVED	1132082	217602.1131	1978.952514
LEGACY PENDING LICENSE		87614.13885	1183.99389
NEW PENDING LICENSE		71833.02745	1079.116077

Moriarity, Ben

From: Heather Dukes <hdukes@lsblandlaw.com>
Sent: Friday, March 02, 2018 12:20 PM
To: Grant, Randy
Cc: Padilla, Joe; Larry Lazarus; Moriarity, Ben
Subject: Request for Meeting on Monday, March 12th at 1:00 pm
Attachments: ZA Decision re CL Holdings 68th Place 2017.12.07.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Randy:

We are attempting to set up a meeting with you and Attorney Joe Padilla to discuss a few procedural questions that we have regarding the attached Zoning Administrator's interpretation concerning the Centered Living property located at 12012 N. 68th Place. As of now, we would like to discuss:

1. The timing of the ZA interpretation vs. the effective date of the text amendment creating the disability accommodation process (Case No. 2-TA-2017),
2. The possibility of processing a new disability accommodation application with the BOA simultaneously with an appeal of the ZA Interpretation, and
3. Potentially submitting a second interpretation request to the Zoning Administrator.

Would you be available for a meeting on **Monday, March 12th at 1:00 pm**? I have confirmed with Joe Padilla that he would be available at that time. I also stated to Joe that we would plan to send you a meeting agenda with our questions/issues in advance so that we can all be prepared for the meeting. Please let me know if this time works for you and I will send out a meeting invite.

Sincerely,

Heather N. Dukes
Associate Attorney



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MEMORANDUM

TO: Zoning Administrator Randy Grant and Deputy City Attorney Joe Padilla
FROM: Larry Lazarus and Heather Dukes
DATE: March 8, 2018
RE: Agenda for Monday, March 12, 2018 Meeting at 1:00 pm re: Board of Adjustment Hearing regarding CL Holdings 68th Place, LLC ("CL Holdings") Disability Accommodation for Proposed Care Home at 12012 N. 68th Place zoned R1-35 District (the "Property")

DISCUSSION REGARDING POTENTIAL APPLICATIONS AVAILABLE TO CL HOLDINGS

1. **Application for disability accommodation from the R1-35 care home separation requirement to be heard and decided by Board of Adjustment ("BOA").** (See BOA Sections 1.801, 1.806 and 1.920 of the Zoning Ordinance; See also R1-35 Use Regulations, Section 5.202.A and R1-43 Use Regulations, Section 5.102.A.2.c in effect after 1/4/2018).
2. **Application for variance of R1-35 care home separation requirement to be heard and decided by BOA.** (See BOA Variance Section 1.804 and R1-43 Use Regulations Section 5.102.A.2.c of the Zoning Ordinance in effect after 1/4/2018).
3. **Application for Zoning Administrator's interpretation of the term "care" or "care services" as:** (1) used in Zoning Administrator's December 7, 2017 interpretation regarding CL Holding's grandfathered "family" use, (2) set forth in the prior Zoning Ordinance definition of "adult care home" and/or (3) set forth in the current definition of "care home". (See "Care Home" Definition in Section 3.100 of the Zoning Ordinance in effect after 1/4/2018; see also "Adult Care Home" Definition in Section 3.100 of the Zoning Ordinance in effect prior to 1/4/2018).

PROCEDURAL QUESTIONS

1. **Would the BOA be determining whether to grant a disability accommodation on appeal or as the initial body having jurisdiction to render a decision?**
 - A. The Zoning Administrator ("ZA") did not have authority under the Scottsdale Zoning Ordinance to grant or deny a disability accommodation until 1/4/2018 (ZA issued disability accommodation decision on 12/7/2017). After the group home/care home text amendment took effect on 1/4/2018, Section 1.920 of the Scottsdale Zoning Ordinance limited the ZA's authority to administratively approve a disability accommodation in those scenarios requesting "up to a ten percent (10%) modification of a development standard or disability requirements . . ." CL Holdings is requesting a modification of the separation requirement which would amount to greater than 10%. Therefore, the ZA had no authority to issue the disability accommodation decision before or after the text amendment took effect on 1/4/2018.
2. **If the ZA had no authority to issue a disability accommodation decision in this matter, the BOA would have no authority to rely upon or give deference to the Zoning Administrator's 12/7/2017 decision as it pertains to the disability accommodation request, correct?**
3. **Would the ZA be willing to issue a second letter clarifying that: (1) the 12/7/2017 ZA interpretation pertaining to CL Holdings' grandfathered status as a "family" would remain in full force and effect and (2) the disability accommodation decision in the 12/7/2017 ZA**

interpretation exceeds the authority of the Zoning Administrator and is hereby stricken from the Board of Adjustment record as being void.

4. **Would the BOA be determining whether to grant a disability accommodation from: (1) the 750-ft care home separation requirement in effect at the time CL Holdings began its operations in 2011 or at the time CL Holdings filed its initial disability accommodation request on 11/27/2017 (note that there was no disability accommodation process or criteria in the Zoning Ordinance until the text amendment took effect on 1/4/2018), or (2) the 1200-ft care home separation requirement in effect as of 1/4/2018?**
 - A. We believe the disability accommodation would need to be obtained from the current 1200-ft separation requirement. CL Holdings' proposed care home operations were not initiated in 2011. No care has been provided at the residence as of yet. Inasmuch as CL Holdings is seeking a disability accommodation for a proposed use that has not been established, the current distance separation requirement of 1200 feet would apply.
5. **Discuss timing of ZA interpretation request regarding the definition of "care" for purposes of tying down the extent and parameters of CL Holdings' grandfathered use.**
 - A. Can this interpretation be requested prior to the BOA hearing?
 - B. Should the BOA hearing be postponed until after the ZA issues a decision on the definition of "care" so that these 2 issues can proceed to the BOA simultaneously, if necessary?
6. **Discuss the possibility of filing a variance application.**
 - A. Can an applicant file a variance application of the care home distance separation requirements, despite the City Council's enactment of the new disability accommodation process/criteria under Section 1.806 of the Zoning Ordinance?
 - B. If so, can the variance be heard and decided upon at the same Board of Adjustment hearing?
 - C. Will an additional application fee be required?

Moriarity, Ben

From: Heather Dukes <hdukes@lsblandlaw.com>
Sent: Tuesday, March 13, 2018 2:49 PM
To: Moriarity, Ben
Cc: Grant, Randy; Padilla, Joe; Boomsma, Patricia; Larry Lazarus
Subject: Request for Continuance of Case No. 1-BA-2018 to May 2018 BOA Hearing

Follow Up Flag: Follow up
Flag Status: Completed

Ben:

We are requesting a one (1)-month continuance of our Board of Adjustment hearing currently scheduled for April 4, 2018 (Case No. 1-BA-2018). We are preparing to file the following applications with regard to the property:

- (1) a variance application,
- (2) a disability accommodation application under recently adopted Zoning Ordinance Sections 1-806 and 1-920 to be heard and decided upon directly by the Board of Adjustment, and
- (3) a request for a zoning interpretation regarding the legal non-conforming use of this property to be issued by the Zoning Administrator and appealed to the Board of Adjustment, if necessary.

After discussing this with Joe Padilla, Pat Boomsma and Randy Grant, it was thought that it would be more appropriate to have all of these heard at the same Board of Adjustment hearing.

I understand that the legal notice was sent to the paper yesterday, but is not being published until March 17th. Can the legal ad be pulled from the newspaper before it is published so that we can arrange for this continuance?

Sincerely,

Heather N. Dukes
Associate Attorney



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