



LEGAL ALERT

JUNE 3, 2026

SUBJECT: Compliance with State Housing Laws re Group Homes

TO: All California Cities, Counties, and other interested parties

The California Housing and Community Development Department (HCD), Civil Rights Department (CRD), and Attorney General's Office (Attorney General) issue this legal alert to notify local California jurisdictions that the State's guidance about California fair housing and land use laws' prohibitions on localities discriminating against group homes remains in effect after the Ninth Circuit's decision in *The Ohio House, LLC v. City of Costa Mesa* (9th Cir. 2025) 135 F.4th 645 (*Ohio House*).

In *Ohio House*, the Ninth Circuit rejected claims brought under the federal Fair Housing Act (FHA)¹ and California's Fair Housing and Employment Act (FEHA)² that the City of Costa Mesa's group home regulations³ discriminated against persons with disabilities.⁴ The decision is of limited applicability as to California law for two reasons: First, a federal court's analysis of state law (in this case, FEHA) does not bind California state courts—which are the final arbiters of how to interpret California law—and federal law does not limit the State from providing greater protections for group homes. Second, the Ninth Circuit only addressed plaintiff's FEHA claim (and only some aspects even of that claim) on the merits; the decision does not address California's other fair housing, planning, and zoning laws which prohibit discrimination against group homes, nor the merits of plaintiff's reasonable accommodation claim under FEHA.

Accordingly, relying on the *Ohio House* decision to implement similar restrictions on group homes could expose localities to liability under California's robust planning,

¹ 42 U.S.C. §§ 3601-3619.

² Gov. Code, §§ 12900-12999. All further statutory citations are to the Government Code unless otherwise noted. Importantly, the court only addressed the merits of some aspects of plaintiff's FEHA claims, as discussed below.

³ City of Costa Mesa Ordinance No. 2025-11-18, tit. 13, chs. 15-16, §§ 13-310 to 13-313, 13-320 to 13-325; Costa Mesa Mun. Code, tit. 9, art. 23, ch. 2, §§ 9-370 to 9-378; available at: <https://www.costamesaca.gov/government/departments-and-divisions/economic-and-development-services/community-improvement-division/group-homes-sober-living-information>.

⁴ *Ohio House*, *supra*, 135 F.4th at pp. 659-660, 680.

zoning, and fair housing laws (state or California housing laws), including FEHA,⁵ the Anti-Discrimination in Land Use (ALU) Law,⁶ the Housing Element Law,⁷ and the Affirmatively Furthering Fair Housing (AFFH) Law,⁸ as well as violate the California Constitution's right to privacy.⁹ Localities could also put at risk their ability to obtain or maintain compliance certifications for their housing elements under Housing Element Law or Prohousing designations under the Prohousing Designation Program.¹⁰

For these reasons, in this legal alert, the State recommends that localities continue to follow its long-standing guidance in documents such as HCD's Group Home Technical Advisory (Group Home TA),¹¹ to ensure that local land use policies regarding group homes comply with California law.

I. Background

Different laws use the term "group homes" to refer to different types of housing for different populations covered by different regulatory schemes. For the purposes of the Group Home TA, the term "group homes" refers to housing shared by unrelated persons with disabilities that provide peer and other support for their residents' disability-related needs—in which residents may share cooking, dining, and living areas and participate in other communal living activities—but that do not provide services requiring licenses under state law. Group homes help their residents live in deinstitutionalized settings and integrate into local communities. For this reason, among others, state housing laws not only prohibit discrimination against group homes, but also require localities to affirmatively support them locating in their communities.¹²

In amending California housing laws to protect housing for persons with disabilities, the Legislature has considered the history of local land use ordinances being used to exclude group homes.¹³ In more recent years, some cities in the State have considered or adopted ordinances that regulate or restrict group homes.

In the Group Home TA, HCD explained that many of these regulations and restrictions conflict with state housing laws.¹⁴

⁵ §§ 12900-12999.

⁶ § 65008.

⁷ §§ 65580-65589.11.

⁸ §§ 8899.50, 65583.

⁹ Cal. Const., art. I, § 1.

¹⁰ § 65589.9; Cal. Code Regs, tit. 25, §§ 6600-6608.

¹¹ Available at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

¹² See, e.g., §§ 8899.50; 65583, subds. (a)(5), (c)(3), (5), (10).

¹³ See, e.g., *Broadmoor San Clemente Homeowners Ass'n v. Nelson* (1994) 25 Cal.App.4th 1, 6, citing and quoting Stats.1993, ch. 1277, § 18; 12 West Cal.Legis.Services, p. 6038.

¹⁴ See, e.g., Group Home TA at pp. 1-5.

II. Relevant California Laws

A. FEHA

FEHA and its implementing regulations prohibit housing discrimination, including discriminating in public or private land use practices.¹⁵ Persons with disabilities are protected from discrimination under FEHA, including discrimination based on “a perception that the person has [a disability] or that the person is associated with a person who has, or is perceived to have, [a disability].”¹⁶ Individuals recovering from addiction are recognized as people with disabilities,¹⁷ and “dwellings intended for occupancy by persons recovering from alcoholism and drug addiction are protected from illegal discrimination against the disabled.”¹⁸ FEHA also requires making “reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.”¹⁹

B. ALU Law

The ALU Law incorporates FEHA’s and other California civil rights laws’ protections against local land use practices that discriminate against persons with disabilities, among other characteristics, or housing intended to be occupied by them.²⁰ The ALU Law clarifies that unlawful discrimination includes land use practices that impose “different requirements on . . . residential developments” because they are intended to be occupied by persons with disabilities or other protected characteristics “than those imposed on developments generally”²¹ It also includes prohibitions not specified in FEHA, such as prohibitions against local land use practices that discriminate against housing for “persons and families of very low, low, moderate or middle income.”²²

C. Housing Element Law

Housing Element Law requires localities to prepare a housing element that, among other things, plans for and accommodates adequate housing opportunities for persons with disabilities.²³ This includes thoroughly analyzing fair housing issues related to

¹⁵ See, e.g., § 12955, subd. (l) (“Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law . . . that make housing opportunities unavailable.”); Cal. Code Regs., tit. 2, § 12005(bb) (defining land use practices to include, among other things, adoption of ordinances, permitting and zoning, actions under Housing Element Law [part of the California Planning and Zoning Law, cited in the regulation] and “practices that could affect the availability, feasibility, use, or enjoyment of housing opportunities”); *id.* at §§ 12161-12162 (providing examples of discriminatory land use practices).

¹⁶ Gov. Code, § 12955, subd. (m).

¹⁷ § 12926, subd. (j).

¹⁸ *SoCal Recovery, LLC v. City of Costa Mesa* (9th Cir. 2023) 56 F.4th 802, 814.

¹⁹ § 12927, subd. (c)(1).

²⁰ See, e.g., § 65008, subds. (a)(1)(A), (b)(1)(B)(i); (d)(2)(A).

²¹ § 65008, subd. (d)(2)(A).

²² § 65008, subds. (a)(3), (b)(1)(C), (d)(2)(A).

²³ § 65582, subd. (j), § 65583.

housing for persons with disabilities and developing and implementing programs that promote, remove constraints on, and provide reasonable accommodations for, housing intended for occupancy by persons with disabilities.²⁴ Failure to comply with California housing laws may impede a locality from obtaining or maintaining certification that its housing element is substantially compliant with Housing Element Law.²⁵

D. AFFH Law

Government Code section 8899.50 requires all public agencies involved with housing and community development to affirmatively further fair housing, which the statute defines as “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics,” including disabilities.²⁶ Government Code section 65583 includes more specific AFFH obligations for localities. Through their housing elements, localities must plan for and implement programs that meaningfully, quantifiably, and affirmatively further fair housing.²⁷ Among other things, a housing element must include a fair housing assessment with specific goals, implementation strategies, and “metrics and milestones” for evaluating results.²⁸ To satisfy these obligations, cities are required to produce and apply data, analysis, and quantitative objectives.²⁹ These requirements for data- and metric-driven analysis, goals, and actions apply to localities’ obligations under Housing Element Law to promote, remove constraints on, and provide reasonable accommodations for housing intended for occupancy by persons with disabilities, such as group homes.³⁰

E. State Constitutional Right to Privacy

In *City of Santa Barbara v. Adamson*, the California Supreme Court held that a city ordinance that prevented more than five persons unrelated by blood or marriage from occupying a house where the owner was renting out rooms for a group of unrelated adults to live together in a communal setting violated the right to privacy under Article I, Section 1 of the California Constitution.³¹ Applying *Adamson*, a state appellate court in *City of Chula Vista v. Pagard* invalidated a city’s permitting requirement and the regulations (e.g., occupancy limits, parking, spacing, periodic inspections) that the city had added for several communal homes in single-family zones that were run by the same operator.³² These protections for communal homes under the state Constitution apply to group homes, which are a form of communal homes intended for occupancy by persons with disabilities. This more generally applicable constitutional doctrine informs

²⁴ See, e.g., § 65583, subds. (c)(3), (5), (10).

²⁵ *Ibid.*; § 65585, subds. (h), (i), (j); § 65589.3.

²⁶ § 8899.50, subd. (a)(1).

²⁷ See, e.g., § 65583, subds. (a)(5), (a)(7), (b)(1), (c)(3), (c)(5), (c)(10)(A).

²⁸ § 65583, subd. (c)(10)(A)(iv).

²⁹ See, e.g., § 65583, subds. (a)(5), (a)(7), (b)(1), (c)(10)(A)(ii).

³⁰ § 65583, subds. (c)(3), (5), (10).

³¹ (1980) 27 Cal.3d 123, 127-128, 130, 134-135; see also *City of Santa Barbara v. Adamson* (1979) 90 Cal.App.3d 606, 153 Cal.Rptr. 507, 509 (confirming that *Adamson* was charging rent to other occupants of her home).

³² (1981) 115 Cal.App.3d 785, 791, 793-800.

and reinforces the specific protections for group homes under FEHA, ALU Law, AFFH Law, and Housing Element Law.

F. Prohousing Designation Program

The Prohousing Designation Program creates incentives in certain state funding programs for localities that have met the criteria to be designated as “Prohousing” by having compliant housing elements and enacting local policies that accelerate housing production.³³ Because housing element certification requires compliance with AFFH duties, compliance with these duties is also a requirement for obtaining or maintaining a Prohousing designation.³⁴

III. Ninth Circuit *Ohio House* Decision

Ohio House, a group home operator in Costa Mesa, sued the city in federal court, bringing claims that the city violated the FHA, FEHA, and the ALU by, among other things, imposing regulations on group homes that were more restrictive than those generally imposed on housing in the same zoning districts.³⁵ After the city prevailed in district court, Ohio House filed an appeal with the Ninth Circuit.³⁶ In June 2023, the Attorney General filed an amicus brief (Amicus Brief) on behalf of HCD and CRD supporting Ohio House’s appeal and explaining how the district court’s rulings and verdicts conflicted with California law, including FEHA, the Housing Element Law, AFFH laws, and the California Constitution’s right to privacy.³⁷

In April 2025, without addressing the analysis of California law in the Group Home TA or the Amicus Brief, the Ninth Circuit denied Ohio House’s appeal and ruled that Costa Mesa’s group home regulations, including special permitting and spacing requirements, complied with the FHA and some aspects of FEHA.³⁸ The Ninth Circuit based this decision, in part, on Costa Mesa’s arguments that (1) its regulations benefited group homes by treating them more favorably than boarding houses and preventing an “overconcentration” of group homes that the city argued would create “institutionalized” living conditions; (2) its regulations were necessary to preserve neighborhoods’ “residential character”; (3) Ohio House had waived its claims under the ALU Law and not presented data-based evidence of discriminatory effects; and (4) Ohio House’s reasonable accommodation requests for modifications of the group home regulations would have fundamentally altered Costa Mesa’s zoning code under the FHA.³⁹ Ohio

³³ § 65589.9, subd. (a); Cal. Code Regs., tit. 25, §§ 6600-6608.

³⁴ Cal. Code Regs., tit. 25, §§ 6601, subds. (a)(1), (3), (28); 6605, subd. (a)(3); 6607, subd. (a)(1)(D).

³⁵ *Ohio House*, *supra*, 135 F.4th at pp. 659-660.

³⁶ *Ibid.*

³⁷ *Id.* at Docket Entry 24, available at: <https://oag.ca.gov/system/files/media/amicus-brief-25-2.pdf>.

³⁸ *Ohio House*, *supra*, 135 F.4th at pp. 660-680; as noted below, the court did not rule on the merits of all of Ohio House’s state-law arguments, characterizing some as “time-barred” or “forfeited.”

³⁹ *Ibid.* Note that the court did not address the merits of plaintiff’s reasonable accommodation claim under FEHA.

House also asserted an ALU claim, but the Ninth Circuit held that claim had been waived based on statute of limitations grounds and did not reach the merits.⁴⁰ Other relevant state housing laws, including the Housing Element Law, AFFH laws, and the California Constitution’s right to privacy, were not raised by plaintiffs nor addressed by the court.⁴¹

IV. To Avoid Conflicts with State Housing Laws, Localities Should Continue to Follow the State’s Group Homes Guidance

Localities should be cautious about relying on the analysis of FEHA in *Ohio House*, where other state housing laws were not discussed on the merits. For at least four reasons, this could expose localities to liability under California law.

First, California state courts are not bound by a federal court’s interpretation of state law and may exercise their independent authority to assess how California housing laws apply to local group home regulations.⁴² California state courts may look to a federal court’s decision for guidance on state fair housing laws to the extent the federal court’s analysis is “sound” or “practical and appropriate.”⁴³ But California state courts are the final arbiter of how California law should be interpreted, and in applying California law, they will consider and may give deference to California agencies’ guidance about the laws that they enforce.⁴⁴

Second, federal law does not limit the State from providing more protections for group homes. The United States Supreme Court has confirmed that federal civil rights laws set floors under, not ceilings over, state civil rights laws.⁴⁵ And the Legislature has specified that California’s fair housing laws may be interpreted broadly to provide “greater rights and remedies,”⁴⁶ emphasizing that the State’s protections of disability

⁴⁰ *Id.* at pp. 679-680.

⁴¹ *Id.* at p. 656.

⁴² *Martinez v. City of Clovis (Martinez)* (2023) 90 Cal.App.5th 193, 277 & fn. 32, review denied (July 19, 2023) (explaining that “a federal court decision on an issue of California law is not binding precedent but it may be instructive to the extent its analysis is sound”); Cal. Code Regs, tit. 2, § 11001, subd. (b) (stating that federal interpretations of state fair housing statutes and regulations “are not determinative” and should be considered only to the extent they are “practical and appropriate”); Group Home TA at pp. 22-23.

⁴³ *Martinez*, 90 Cal.App.5th at p. 277 & fn. 32; Cal. Code Regs, tit. 2, § 11001, subd. (b).

⁴⁴ See, e.g., *Martinez*, 90 Cal.App.5th at pp. 243, 250-51 (“courts generally will not depart from an HCD determination on a Housing Element Law compliance issue unless ‘it is clearly erroneous or unauthorized’”); see also § 65589.3, subd. (a) (rebuttable presumption of validity for HCD’s determinations of whether a housing element substantially complies with Housing Element Law).

⁴⁵ *California Federal Sav. and Loan Ass’n v. Guerra* (1987) 479 U.S. 272, 285.

⁴⁶ § 12955.6; *Auburn Woods I Homeowners Ass’n v. Fair Emp’t & Hous. Comm’n* (2004) 121 Cal.App.4th 1578, 1591; Group Home TA at pp. 22-23; *Martinez*, *supra*, 90 Cal.App.5th at pp. 240-252, 269-291 (separately analyzing claims brought under FEHA, the ALU Law, AFFH Law, and Housing Element Law from claims brought under the FHA).

rights predate the passage of federal disability rights laws and have always “afforded additional protections” beyond those in federal law.⁴⁷

Third, the Ninth Circuit did not address the analysis that HCD, CRD, and the Attorney General provided in the Amicus Brief. The Ninth Circuit did not address, among other things, how the State’s ALU Law, AFFH Law, Housing Element Law, and *Adamson* line of cases apply to local land use regulations of group homes, and declined to address FEHA’s and its implementing regulations’ reasonable accommodation requirements.⁴⁸ Nor did the Ninth Circuit consider that California’s housing laws require local governments to focus on objective standards when drafting land use laws and to subject their land use policies to rigorous, data-based analysis, especially when the policies restrict housing for persons with disabilities.⁴⁹ And it did not consider that in the ALU Law, the Legislature specifically prohibited local governments from imposing requirements on housing for persons with protected characteristics, including disabilities, beyond those generally imposed on other housing.⁵⁰

In addition, the Ninth Circuit’s analysis of state law was limited by the evidence and arguments in the appellate record of the *Ohio House* case.⁵¹ In contrast, when providing guidance about group homes, HCD, CRD, and the Attorney General have considered, among other things, decades of California statutes, legislative history, and case law; analysis and records in cases regarding group homes from federal and state courts throughout the country; other government agencies’ research and guidance documents; academic papers; and demographic and statistical studies and records.⁵²

Fourth, decades of precedents continue to support the analysis and guidance in HCD’s Group Home TA. For example, in contrast to the *Ohio House* decision, the California Supreme Court and appellate courts have rejected arguments that local

⁴⁷ § 12926.1, subd. (a); see also § 8899.50, subd. (c) (specifying that interpretations of state AFFH law shall not be impacted by any subsequent changes in federal law after the date that federal AFFH regulations were published in 2015).

⁴⁸ *Ohio House, supra*, 135 F.4th at pp. 660-680; see also Cal. Code. Regs, tit. 2, §§ 12176-12181 (FEHA reasonable accommodation regulations).

⁴⁹ See, e.g., Gov. Code, § 65583, subds. (a)-(c).

⁵⁰ § 65008, subd. (d)(2)(A).

⁵¹ See, e.g., *Ohio House, supra*, 135 F.4th at pp. 667-668, 673, 679-680 (ruling that (1) Ohio House’s ALU Law claim was “time-barred,” (2) it had “forfeited” its reasonable accommodation claim under FEHA on appeal, and (3) it had not produced data-based evidence to support its discriminatory effects claim); *Insight Psychology and Addiction, Inc. v. City of Costa Mesa* (C.D. Cal. 2025) 801 F.Supp.3d 942, 973-974, 980-981 (holding that Ninth Circuit’s *Ohio House* decision did not preclude further reasonable accommodation claims against *Costa Mesa* because each claim “will turn on the facts of each case”); *Insight Psychology and Addiction, Inc. v. City of Costa Mesa* (Aug. 11 2025) 2025 WL 3190819 at p. *3, fn.1 (“The Ninth Circuit determined that Ohio House forfeited reliance on the FEHA on appeal and proceeded to analyze the reasonable accommodation claim under the FHA only.”).

⁵² See, e.g., Group Home TA at pp. 6-8, 13, 16, 25, 29, 36-37; Amicus Brief at pp. 15, 17, 25-29.

policies restricting boarding houses—in which homeowners rent rooms to boarders who live independently of each other—can be used to restrict homes in which the occupants are living together communally like group homes.⁵³ Similarly, for decades, courts have held that separation requirements for group homes unlawfully discriminate against persons with disabilities and rejected justifications for restrictions on group homes that were based on comparisons to restrictions on boarding houses.⁵⁴

V. Conclusion

Relying on the analysis of state housing laws in *Ohio House* could expose localities to liability under California housing law and the California Constitution’s right to privacy, along with jeopardizing localities’ housing element certifications or Prohousing designations. Localities’ best practice is to continue to rely on the State’s guidance on California housing laws in, for example:

- The Group Home TA;⁵⁵
- The Amicus Brief;⁵⁶
- HCD’s guidance regarding AFFH;⁵⁷ and
- Letters of Technical Assistance.⁵⁸

⁵³ See *Colony Hill v. Ghamaty* (2006) 143 Cal.App.4th 1156, 1168-1169, citing *Adamson, supra*, 27 Cal.3d at pp.123, 127-128, 130, 134-135, and *Pagard, supra*, 115 Cal.App.3d at pp. 791, 793-800.

⁵⁴ See, e.g., *Oconomowoc Residential Programs, Inc. v. City of Milwaukee* (7th Cir. 2002) 300 F.3d 775, 787; *Larkin v. State of Mich. Dept. of Social Services* (6th Cir. 1996) 89 F.3d 285, 290-294; *Linn Cty. v. City of Hiawatha* (Iowa 1981) 311 N.W.2d 95, 99-100 (rejecting a city’s attempt to justify its restrictions on group homes by comparing them to boarding houses and citing decisions by courts in other states finding that group homes should be treated like single-family dwellings).

⁵⁵ Available at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

⁵⁶ *Ohio House, supra*, 135 F.4th at Docket Entry 24, available at: <https://oag.ca.gov/system/files/media/amicus-brief-25-2.pdf>.

⁵⁷ See, e.g., Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements (April 2021 Update), available at: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf.

⁵⁸ See, e.g., HCD Letter of Technical Assistance to City of Costa Mesa, Group Home Ordinances (Nov. 29, 2023), available at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/costa-mesa-group-home-ta-112923.pdf>. Other related letters, including the September 26, 2025 letter to the City of San Jose, May 3, 2021 and November 13, 2021 letters to the City of Anaheim, and March 25, 2021 letter to the City of Encinitas, are available at <https://www.hcd.ca.gov/hau/enforcement-letters>.