

# Tips to Promote Supportive Housing for People with Mental Health Disabilities

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## Introduction

In September, 2014, Disability Rights California published a policy paper, *Everyone's Neighborhood: Addressing "Not in My Backyard" Opposition to Supportive Housing for People with Mental Health Disabilities*, under a contract by California Mental Health Services Authority, as part of the Prevention and Early Intervention (PEI) Statewide projects funded by counties through the Mental Health Services Act/Prop 63.<sup>1</sup> This paper offers advocacy tools and resources for supportive housing developers and advocates, as well as policy recommendations at the federal, state and local levels. This Tip Sheet provides an overview of some of the policy paper's suggested advocacy tools. Please consult the paper itself for detailed discussions of each issue, suggested resources and policy recommendations.

## Build Community Support

Supportive housing is universally recognized as an evidence-based best practice that allows people with mental health disabilities to live successfully in their

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<sup>1</sup> Publication No. CM53.01, available at <http://www.disabilityrightsca.org/pubs/CM5301.pdf>.

communities.<sup>2</sup> The Corporation for Supportive Housing (CSH)<sup>3</sup> and other organizations publish resources on the importance and effectiveness of supportive housing. These resources can help build community support and dispel misconceptions about supportive housing and its residents.

One of the resources that CSH offers is *Six Steps to Building Community Support*.<sup>4</sup> This publication offers the following six steps to develop and implement a proactive and collaborative strategy to obtain any necessary government approvals, build community support, and address any opposition to a proposed supportive housing project:

- Step #1:** Plan at least two meetings to research, assess and plan strategies in key areas.
- Step #2:** Prepare a political strategy.
- Step #3:** Prepare a strategy to build public support.
- Step #4:** Prepare a strategy to work through community issues.
- Step #5:** Prepare a legal strategy.
- Step #6:** Prepare a public relations/media strategy.

## Make Land Use and Zoning Laws Work for You

Land use and planning laws at the local, state and federal levels can be important tools for supportive housing developers facing potential neighborhood opposition. Housing elements at the state level, and consolidated plans at the federal level, are important planning documents that require each jurisdiction to identify and address the needs of people with disabilities in their zoning codes. Here are some ways to make land use and planning laws work for you:

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<sup>2</sup> U.S. Department of Housing and Urban Development (2013); U.S. Department of Justice (2011); U.S. Surgeon General (1999); U.S. Substance Abuse and Mental Health Services Administration (2006); National Council on Disability, (2008); National Association of State Mental Health Program Directors (2011); National Governor's Association (2007)

<sup>3</sup> [www.csh.org](http://www.csh.org). Other publications on building community support include, California Department of Housing and Community Development, From NIMBY to YIMBY: Strategies and Techniques to Garner Community Support for Affordable Housing Development, [http://www.hcd.ca.gov/hpd/nimby\\_yimby0507.pdf](http://www.hcd.ca.gov/hpd/nimby_yimby0507.pdf)

<sup>4</sup> Corporation for Supportive Housing (March, 2006), available at: <http://www.csh.org/wp-content/uploads/2012/07/SixStepspdf.pdf>

- Since the enactment of Senate Bill No. 2 (SB 2) in 2008,<sup>5</sup> zoning codes must treat transitional and supportive housing as a residential use of property, and can subject them only to those restrictions that apply to other residential dwellings of the same type in the same zone. Know where supportive housing may be sited as a residential use in your jurisdiction.
- *When possible, site supportive housing in zones that allow residential uses by right.*
- If you face neighborhood opposition on the basis of zoning restrictions:
  - Make sure that opponents are accurately interpreting the requirements of the local zoning code.
  - Make sure that the zoning code accurately reflects local land use plans, including housing elements and consolidated plans.
  - Use the California Department of Housing and Community Development (HCD) as a resource by contacting the HCD staff member who reviewed the housing element to discuss SB 2 compliance.
  - Make sure that local housing elements and consolidated plans comply with legal requirements relating to supportive housing. These include needs assessments, constraints analyses, action plans, reasonable accommodations provisions, and language allowing supportive housing as a residential use pursuant to SB 2.

For more information on housing element requirements that apply to supportive housing, see Disability Rights California's *Housing Elements Checklist for Supportive Housing*, DRC Pub. #CM58.01 available at: <http://www.disabilityrightsca.org/pubs/CM5801.pdf>.

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<sup>5</sup> Government Code § 65583(a)(5). The definition of the target population for supportive housing under SB 2 was amended in 2013 by Government Code § 65582(g) (“persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act ... and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.”)

- Participate in processes for developing and updating local housing elements and consolidated plans.

## Consider Legal Remedies

It is always best to resolve NIMBY issues informally, using the tools that are discussed above. However, administrative complaints and litigation are also available to address persistent legal violations.

Where and how a complaint is filed will depend on the issues that are raised and the legal violations that are alleged. And administrative complaints and litigation carry strict deadlines, which can be as short as 90 days from the date of the violation. If an administrative complaint or litigation is contemplated, it is important to consult with an attorney at the earliest possible stage of the process.

Below is a summary of the federal and state laws that protect supportive housing developers from discriminatory land use decisions and other forms of neighborhood or local government opposition.

### Federal Laws:

- The 14th Amendment to the U.S. Constitution prohibits zoning ordinances that treat people with disabilities differently than other groups, unless the ordinances are rationally related to a legitimate governmental purpose.
- The Fair Housing Amendments Act of 1988 (42 U.S.C § 3601 *et seq.*) makes it unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter on the basis of disability.
- Title II of the Americans with Disabilities Act of 1990 (42 U.S.C § 12101 *et seq.*) provides that no qualified individual with a disability shall be subject to disability discrimination by a public entity, or be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity because of a disability.
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C § 794) provides that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

## State Laws:

- **Article I of the California Constitution** grants all people “inalienable rights,” including enjoying life and liberty, possessing property, and pursuing and obtaining happiness and privacy. The state Supreme Court has interpreted this to prohibit a city ordinance regulating the number of unrelated people who can live together in one home. (*Santa Barbara v. Adamson* (1980) 27 Cal.3d 123.)
- The **Housing Accountability Act** (Government Code § 65583) prohibits jurisdictions from disapproving a proposed housing development, or imposing conditions on approval that make the development infeasible, unless it makes one of five specific written findings based on substantial evidence in the record.
- The **Fair Employment and Housing Act** (Government Code § 12900 *et seq.*) prohibits disability-based discrimination in land use and planning activities, and is construed to provide no less protection than the federal Fair Housing Amendments Act.
- **Government Code § 11135** prohibits disability-based discrimination by the state government and by entities receiving state funding.
- **Government Code § 65008** provides that any planning and zoning action taken by a city is void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use on the basis of a number of factors. These factors include the source of the housing development’s financing, the income level of the intended tenants, and characteristics of tenants that are protected under the Fair Employment and Housing Act, including disability.
- Private parties can bring a writ of mandate under **Code of Civil Procedure § 1085** to challenge the adequacy of a housing element, or to enforce the program actions set forth in the element. See **Government Code § 65583(h)**.

## For More Information:

For more information on strategies to address neighborhood opposition to supportive housing for people with mental health disabilities in California, contact:

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We want to hear from you! After reading this fact sheet please take this short survey and give us your feedback.

English version: <http://fs12.formsite.com/disabilityrightsca/form54/index.html>  
Spanish version: <http://fs12.formsite.com/disabilityrightsca/form55/index.html>  
*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*

***The California Mental Health Services Authority (CaMHSA) is an organization of county governments working to improve mental health outcomes for individuals, families and communities. Prevention and Early Intervention programs implemented by CaMHSA are funded by counties through the voter-approved Mental Health Services Act (Prop 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California's diverse communities.***



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