

Newport will pay group homes \$5.25 million settlement

BY HANNAH FRY

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The seven-year lawsuit between three group homes and Newport Beach over the city's ordinance regulating recovery homes has ended in a multi-million-dollar settlement, City Attorney Aaron Harp announced Tuesday night.

The City Council voted unanimously in closed session to approve the agreement, which requires the city to pay Pacific Shores Properties, Newport Coast Recovery and Yellowstone Women's First Step House \$5.25 million, Harp said.

The settlement does not require any changes to the city's ordinance, which the City Council adopted in January 2008, Harp said.

"We have a number of quality operators that have prospered here within the boundaries of our ordinance," Mayor Ed Selich wrote in a prepared statement. "We are committed to keeping a balance between the rights of persons in recovery and the rights of others to the quiet enjoyment of their property."

Prior to the ordinance's approval in 2008, the homes had been operating freely in residential areas, which led to complaints from Newport Beach residents about traffic issues, cigarette smoke, loitering and noise.

The law effectively prohibited new group homes housing seven or more residents from opening in most residential areas and required existing group homes to complete the same permitting process required of new ones, including an extensive public review process, according to documents filed with the Orange County Superior Court.

The group home operators have said that the motivation behind the ordinance was to make it nearly impossible to provide housing for recovering addicts, since many of the homes were forced out because they could not qualify for permits under the new rules.

Pacific Shores Properties, Newport Coast Recovery and Yellowstone Women's First Step House sued Newport in 2009, contending that the ordinance discriminated against recovering addicts and alcoholics, who are protected by the federal Fair Housing Amendments Act of 1988.

The act prevents discrimination against people who are in a "protected class," which courts have found includes recovering addicts, who are considered protected by the Americans with Disabilities Act.

A U.S. District Court judge first ruled in 2010 that the nature of Newport's ordinance was not discriminatory. The case was appealed by the group homes to the 9th Circuit Court of Appeals. In 2013, the appeals court ruled that the ordinance may have illegally discriminated against group homes for people in recovery based on disability.

However, one of the 9th Circuit judges on the three-person panel dissented from the majority opinion arguing that the ordinance was a neutral law that was fairly enforced and the panel's decision inappropriately allowed it to be challenged based on an accusation of ill intent.

The city agreed with the dissenting judge and appealed to the Supreme Court, who refused to hear the case in late 2014.

"We are glad that this litigation is concluded and look forward to continued good relationships with our well-run recovery home operators," Selich wrote.

Harp estimated in 2014 that the city had spent about \$4 million defending lawsuits from group-home operators since it implemented the law. An updated legal cost was not available Wednesday.