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COUNCIL TRANSMITTAL: REPORT BACK FROM THE LOS ANGELES HOUSING DEPARTMENT AND CHIEF LEGISLATIVE ANALYST REGARDING THE EXPANSION AND RETENTION OF BOARD AND CARE FACILITIES THROUGHOUT THE CITY.

SUMMARY

In 2020, the City Council adopted a Motion (C.F. No. 20-1203) directing the Los Angeles Housing Department (LAHD) and the City Administrative Officer (CAO) to work with the County of Los Angeles and any other appropriate entities, and report with recommendations to retain and preserve board and care facilities in the City; and that the Chief Legislative Analyst (CLA) recommend any legislative or administrative actions that the City could take to secure resources, including Mental Health Services Act funding, to preserve these facilities.

LAHD responded to this Council request in February 2022 with four recommendations describing ways in which the City could expand and retain board and care facilities. On March 23, 2022, Council adopted all recommendations stated in the report. Through this transmittal, LAHD, CAO and the CLA respond jointly to recommendations A, B, and D. Additionally, in response to recommendation C, LAHD has identified a staff member to serve as the Board and Care Liaison in order to complete this report as well as outline resources needed for on-going staffing dedicated to the City's Board and Care portfolio.

BACKGROUND

In 2021, LAHD commissioned a survey of licensed board and care facilities, more specifically, Adult Residential Facilities (ARFs) and Residential Care Facilities for the Elderly (RCFEs), moving forward this report will refer to them as ARFs and RCFEs or Qualified Facilities, that serve low-income seniors, people with disabilities, and individuals with mental illness that are recipients of SSI/SSP or Medi-Cal in the City of Los Angeles. While the

board and care industry is large and includes privately funded facilities, this survey focused on only facilities serving these low-income populations. Licensed ARF and RCFE placements offer 24-hour care and supervision that vary in the degree of assistance they provide. Support includes, but is not limited to, assistance with daily activities, meals, assistance with taking medication, housekeeping, laundry service, and assistance with transportation to medical appointments.

The landscape scan identified the licensed ARF and RCFE facilities that serve recipients of SSI/SSP/MediCal in the City, as detailed in Attachment “A” of the February 2022 transmittal. This scan also produced an extensive list of recommendations on ways the City of Los Angeles can support and expand this service, provided in Attachment “B” of the February 2022 transmittal. It is important to note that this report only applies to licensed facilities regulated by the Community Care Licensing Division, a sub agency of the California Department of Social Services.

In addition to the landscape scan provided in the original report that outlines rationale for retaining and expanding these facilities, it is also important to note the role that board and care facilities play in serving PEH (people experiencing homelessness). At present, the LAHSA System Analysis does not include the number of individuals that would be better served with a higher level of care option like an ARF or RCFE inasmuch as the housing resources needed by this population are provided by the healthcare system under the County of Los Angeles, Department of Health Services. These services include: resources for the aging population, disabled individuals, people managing substance use disorders (SUD), and individuals with serious mental illness or physical conditions.

In the 2022 PIT count, LAHSA reported that 43% (18,182 people) of the total homeless population in Los Angeles are people who are chronically homeless. While not every chronically homeless person requires a higher level of care or placement in an ARF/RCFE, people who are chronically homeless are more likely to require higher levels of care given their length of time homeless. There is an unmet need in our housing stock for higher needs people that require more than traditional PSH. To that end, further research needs to be conducted on the number of people experiencing homelessness with high acuity that require more service than what is currently provided. It is recommended that processes are coordinated to improve the ongoing needs assessment for higher levels of care beds, namely within RCFE’s and ARFs.

The first set of recommendations are those suggested by the Housing Department based on research, engagement with other departments and the original recommendations outlined in the transmittal corresponding to C.F. No. 20-1203. The second set of recommendation responses speaks to all of the recommendations outlined in C.F. No. 20-1203 and describes their feasibility.

RECOMMENDATIONS

FY 23-24

1. Direct the Department of City Planning to update its policies and procedures to ensure that smaller scale state licensed Board and Care facilities may be considered as residential uses permitted in all residential zones.
2. Direct the Department of City Planning to prepare zoning code amendments, in consultation with the City Attorney and LAHD, to remove additional zoning barriers (e.g. parking, multiple small cottages, mix of uses, etc) to establish state licensed Board and Care facilities and other housing for seniors and persons with disabilities as part of the Housing Element Rezoning Program (see Program 48 and 121 in the Housing Element).
3. Direct the City Attorney, the Office of Finance with assistance from LAHD, the Department of City Planning, and the Chief Legislative Analyst (CLA) to create an ordinance to amend the tax code in order to incorporate a legal definition for activities occurring within State-Licensed ARFs and RCFEs.
4. Direct the Los Angeles Department of Building and Safety (LADBS), in partnership with LAHD and the CLA, to establish a program that expedites the building permit process for State-Licensed ARFs and RCFEs.
5. Direct LAHD in partnership with the CLA to initiate a working group with selected Board and Care facility owner/operators, representatives from the Los Angeles County Department of Mental Health and Department of Health Services, as well as other relevant City Departments, to educate and encourage existing and new Board and Care facility owners to participate in improved City processes.
6. Direct LAHD to return to the Council in twelve months with a progress report and work plan for additional changes as approved by the Council.

FY24-25

7. Direct the LADOT and LAHD to report back with resources needed to conduct outreach with neighborhood councils where State-Licensed Board and Care Facilities are located to solicit support for LADOT to align parking permit processes for State Board and Care facilities with the existing frameworks for LAUSD schools.
8. Direct the CAO to provide a financial analysis related to waiving fire permit fees for State-Licensed Board and Care Facilities and increasing the number of LAFD inspectors to provide expedited review of these facilities.
9. Direct CAO to provide a financial analysis evaluating the LADBS budget as it relates to exempting State-Licensed Board and Care Facilities from violation fees.

10. Direct CLA and LAHD to work with the Department of Water and Power, the Mayor's Office and any other departments to address the feasibility of the remaining recommendations listed in Attachment B of the February 2022 LAHD transmittal.

RECOMMENDATION A

The Community Care Expansion Program

In January 2022, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) launched two new one-time funding sources to expand the infrastructure for board and care facilities and address historic gaps in the behavioral health and long-term care continuum for the elderly and individuals with disabilities and/or behavioral health needs:

1. the Behavioral Health Continuum Infrastructure Program (BHCIP) and
2. the Community Care Expansion (CCE) Program.

BHCIP allocates \$2.2 billion in State funding to construct, acquire, and expand behavioral health facilities, and invest in mobile crisis infrastructure related to behavioral health. DHCS administers and will release these funds through grants targeting various gaps in the State's behavioral health facility infrastructure. The CCE program provides \$805 million in funding for acquisition, construction, and rehabilitation to preserve and expand board and care facilities that serve SSI applicants and recipients, including those who are homeless or at risk of homelessness, and people with behavioral health conditions. Together, BHCIP and CCE represent the largest one-time influx of resources for behavioral health and social services infrastructure in the State's history. BHCIP and CCE funding is available to counties, cities, tribal entities, nonprofits, and for-profit organizations to meet the growing demand for services and support in facilities providing community care.

LA County and Community Care Expansion (CCE) Support

As noted, the CCE program provides \$805 million statewide over three years (July 2021 to June 2024) to preserve and expand board and care facilities that serve recipients and applicants of SSI/SSP and applicants of the Cash Assistance Program for Immigrants (CAPI). Approximately 75 percent of funds (\$570 million) will be made available for capital expansion projects, including acquisition, construction, and rehabilitation of residential care settings. Funds are made available as grants to counties, cities, tribal entities, nonprofits, and for-profit organizations through a Request for Applications on a project-by-project and rolling basis until funds are exhausted. LA County's CCE grant allocation is \$138 million.

The remaining 25 percent of the CCE funds will be directly allocated to counties and tribes and will be made available for the rehabilitation and preservation of current adult and senior care facilities within the existing system of care. A CCE Preservation Program Notice of Funding Availability was released in June 2022, and DMH responded to accept the funding on behalf of Los Angeles County. This program consists of two components: Operating Subsidy Payments (OSP) and Capital Projects (CP). OSP funds are intended to provide operating

subsidies to existing licensed residential facilities to cover potential or projected operating deficits and help avoid closure. CP funds will be used to preserve facilities in need of repairs or required upgrades. Facilities accepting OSP funds will be deed restricted to provide licensed adult and senior residential care for at least the length of time that the County will be providing OSP funds. Los Angeles County has been allotted \$19,654,821 in OSP funds and \$53,497,135 in CP funds. There is potential for additional funding to be disbursed from counties that chose not to accept CCE Preservation Program funding.

As a requirement of acceptance of the CCE Preservation Program funds, DMH must create an Implementation Plan (IP), the initial draft of which is due to the State by January 2023. A County CCE Workgroup is currently working to create the IP, which must outline the County's plan to design an application process and/or allocation methodology for OSP and CP funds; monitor the use of funds and outcomes; and incorporate the prioritization criteria into fund distribution. Facilities at the highest risk of closure that could be prevented through OSP or CP funds and facilities with the highest percentage of qualified residents are to be prioritized. Prior to submission of this IP, LAHD should consult with DMH to determine how funds might be used to rehabilitate, improve, and preserve existing board and care facilities within the City and how the City can further support these efforts. A subsequent update to this report may be made in January after the County has submitted their IP to the State.

In addition to an IP, CCE Preservation Program funds also require a 10 percent match. DMH and DHS currently have \$16.2 million in funding, including an \$11.2 million allocation from DMH and \$5 million in aligned funding from Cedars-Sinai to establish a Capital Improvements Program for board and care facilities. Given the shared goals of the Capital Improvements Program and CCE Preservation Program, the CCE Workgroup is considering using the \$11.2 million as the match for CCE funding.

Since the CCE is one-time only, the County has indicated that they will not apply for any of the 75 percent of CCE grant funding. This decision was made partly due to concerns that after 2025, there is no ongoing funding for operations of the facilities, yet there will be a high ongoing operational cost. Instead, the County is offering Partnership Agreements to agencies and operators of facilities that agree to accept County referrals in return for technical assistance and a reduced match requirement. The State reported that as of July 1, 2022, they had received 24 applications for projects in the Los Angeles region which accounted for \$245,347,045 of requests for capital grant funding through the CCE.

LA City and CCE Support

Given the number of projects funded through CCE both at the State level and the County level that will potentially be in the City, the City could have the opportunity to support these efforts as mentioned in the following considerations:

LA City and AB 2377 Support

On January 1, 2022, AB 2377 went into effect, requiring ARF and RCFE operators to give cities and counties the first opportunity to purchase their facilities within 60 days of notifying the California Community Care Licensing Division (CCLD) that they intend to close or sell. AB 2377 authorizes the city or county to either take over operation of the facility, or enter into a long-term lease with a nonprofit or for-profit entity to continue its operation as an ARF/RCFE.

Currently, the City does not receive formal notice when board and care facilities close, but can obtain this information from the County. The City should establish a formal notification process with the County to monitor ARF and RCFE closures. This could allow the City to explore whether it would want to support the acquisition of these sites for other types of housing, including permanent supportive, affordable, or interim. Unless and until additional operating funds can be identified from the state's health budgets to make ARFs and RCFEs more financially stable, the best roles for the City are to (1) monitor the inventory of ARF and RCFE properties and beds; (2) advocate for additional operating funding as the supply continues to diminish; and (3) take actions within the City's powers to reduce operating and capital costs for ARF and RCFE owners and operators. These actions are summarized below.

RECOMMENDATION B

Background

LAHD worked in collaboration with the CLA and several other departments to respond to the recommendations outlined in Attachment B of the Los Angeles Housing Department Transmittal. The results from engagement with other departments on the feasibility of recommendations listed in the attachment are as follows, divided by Department. Departments that participated included: the Department of Finance, the Fire Department, the Department of Building and Safety, the Planning Department, the Department of Transportation and the Recreation and Parks department. Included in each section is a brief background on the original recommendation, as originally written in the report.

Department of Finance

Recommendations 2A: Exempt ARFs and RCFEs From Local Business Taxes

Recommendation 2A sought to exempt RCFEs and ARFs from the local business tax and to extend business tax exemptions to RCFEs and ARFs that serve less than 6 clients. Exempting specific business activities from paying the business tax is possible as long as a legal definition for the activity to be exempted is agreed upon. In order to do this, Council would need to pass an ordinance amending the tax code. This would require a clear legal definition of the business activities to be exempted, as well as a logical justification for the exemption.

Council may also consider creating a sunset clause after which this change could be reevaluated and a permanent change considered. The state definition for both facilities (ARFs and RCFEs) utilized by the Fire Department (LAFD) during inspections is likely sufficient, as the City could replicate the state language and put

it into the tax code. Once a workable legal definition is adopted and the collective databases are researched, cross referencing between Department of Finance and LAFD to figure out which facilities fall under the definition, and an estimate of the fiscal impact of this recommendation could be made.

Only 33 of the 180 facilities identified in Attachment A to the LAHD transmittal have accounts in LATAX (the department's internal database) that match the names and addresses provided in the report. Therefore, the department could not determine whether the other facilities do not have business tax accounts, which ones qualify under existing statewide exemptions from business tax requirements, and which ones may be using a different name or address in LATAX. In order to determine the impact of this recommendation, the department will need a workable legal definition of the businesses to be exempted. The process to obtain that is outlined in the aforementioned paragraph.

Recommendations 2B: Exempt ARFs and RCFEs From Business-Related Fees

Recommendation 2B suggests that the City should exempt RCFEs and ARFs from business registration fees and make them exempt from obtaining a business tax registration certificate. However, these facilities are not currently subject to business registration fees.

Los Angeles Fire Department (LAFD)

Recommendations 2C, E: ARFs and RCFEs Facilities From Fire Permit Fees

In evaluating whether or not the City can exempt ARFs and RCFEs from paying for a yearly Department of Finance fire permit, LAFD reports that while it is feasible, there are financial considerations. Since the funds generated from the fire permit support the staff who conduct annual inspections of these qualified facilities, waiving this fee could affect the operational needs of LAFD. Residential permits are billed and collected by the Office of Finance and are deposited into Revenue Source Code (RSC) 4111. These permit fees are not individually tracked, therefore revenues for ARF and RCFE permits cannot be exactly determined. Overall, RSC 4111 is budgeted as \$5.2 Million for FY 2022-2023. The amount of fees generated has already been budgeted for FY 22-23. Any reduction would result in an impact to the General Fund.

Recommendation 2F: Waive Fire Alarm Testing

The transmittal asked the Fire Department to report on the potential opportunity to waive fire alarm testing fees, however, all fire alarm testing is a state requirement and the implementation of testing is outsourced by private entities. Therefore, discounted rates for fire alarm testing cannot be provided by LAFD. At this time, the LAFD Budget does not have specific funding for subsidized fire alarm testing resources.

Recommendation 4D: Waive Fire Codes

Recommendation 4D is part of a set of recommendations that focus on capital improvements and other alleviations to such facilities. According to CCR Title 19 Chapter 1 Article 1§1.07, no local ordinance, rule or regulation shall be applicable to community care facilities. Further, LAFD is barred from waiving any fire codes

that are required by the State. Since the State co-regulates ARFs and RCFEs, all facilities are required to comply with state fire codes.

Recommendation 4E: Reduce Brush Clearance Fines

4E seeks to provide a pathway to a reduced cost for brush clearance, another cost often incurred by the operators and owners of the ARFs and RCFEs. No programs currently exist to assist with brush clearance within the City. It is the property owner's responsibility to maintain brush annually or to hire private entities to do so. At one point, prior to 2003, the City partnered with a non-profit organization that assisted elderly individuals with their brush clearance compliance. However, this program has been absent from the City for the last twenty or more years. Furthermore, LAFD does not currently have a fund for brush clearance, but there are programs at the state level that can assist with brush clearance costs.

Recommendation 6B: Expedite Permitting

Recommendation 6B is in part a set of recommendations that encourages quicker and easier building of new ARF and RCFE inventory. This one, in particular, asks LAFD to look for ways to expedite their permitting process. According to LAFD, the plan check process is usually a two-week turnaround and the inspection typically occurs within 72 hours, without expedited services. LAFD reports that additional resources and staff are not required for the R2.1 projects (these are projects related to ARF and RCFE inspections). The department provided that they can manage inspections for ARFs and RCFEs with current staffing levels but could not accommodate a fast-tracked pathway for qualified facilities without additional resources.

Currently, Fire Development Services provides expedited plan check services at a cost of a three-hour minimum or \$1,011, or 0.111% of the project valuation (whichever is higher) in addition to \$480 for the expedited service. For example, a small R2.1 occupancy will spend \$1,491 for an expedited plan check. Expedited services are normally completed in approximately 10 working days. Similarly, they offer off-hour inspections that can be scheduled for the next day and/or after business hours. The cost for this service is \$1,154 for 2 hours of inspection.

Los Angeles Department of Building and Safety (LADBS)

Recommendation 2D: Fine Exemptions

Recommendation 2D suggests that the City should exempt ARFs and RCFEs from existing fines related to non-compliance with LADBS requirements, to identify funds for making repairs at qualified facilities to avoid future fines and to grant additional time to comply. LADBS Code Enforcement Bureau would perform an inspection at a Qualified Facility (ARF or RCFE) if a complaint were submitted to the Department for a concern related to a violation of the Los Angeles Building or Zoning Code. If the inspection confirmed a code violation associated with that complaint, an Order to Comply (OTC) would be issued requiring that the code violation be brought into compliance by a certain compliance date and a cost recovery Code Violation Inspection Fee (CVIF) of \$356.16 would be assessed pursuant to LAMC Sec. 98.0421.

If the violation is not brought into compliance within 15 days of the compliance date stated on the OTC, or any extension period granted by LADBS, LADBS may assess a second cost recovery fee of \$660.00, known as a Non-Compliance Fee (NCF), authorized pursuant to LAMC Sec. 98.0411.

The CVIF and NCF are the primary fees assessed by the LADBS Code Enforcement Bureau and are essential to support code enforcement services in the City of Los Angeles. Each year, LADBS provides Council with an estimate of the CVIF and NCF fees that will be collected during the fiscal year and those estimates are then used for budget allocation purposes. LADBS maintains a firm commitment to assess the fees and will only deviate from this policy with concurrence of City Council. No fines are assessed by LADBS during the typical code enforcement process.

Under Council File 20-0381, Ordinance 186638 temporarily extended the CVIF and NCF payment deadlines from 30 days to 90 days from the effective date of the order for all orders issued up to and including September 24, 2020. Owners may apply for an extension on a case-by-case basis pursuant to LAMC 98.0403.1 if they cannot correct the violation within the compliance period and need additional time.

If a building permit is required to authorize construction work associated with the violation on the OTC, a permit fee is imposed pursuant to LAMC 91.107.2 and an Investigation Fee (IF) is imposed pursuant to LAMC 98.0402. If the unapproved work requires submission of plans for review, a plan check fee is imposed pursuant to LAMC 91.107.3.1. California Government Code Section 66014 states that a Building and Safety Building Permit fee may not exceed the estimated reasonable cost of providing the service for which the fee is charged. To ensure that plan and permit fees collected are only used for activities related to plan and permit fees and not for other activities, LADBS set up the Enterprise Fund on July 1, 2005 under Ordinance no. 176604. Waiving Building and Safety fees would be a violation of Government Code Section 66014, because the cost of providing those services would have to be paid with money paid by other Building and Safety customers. If the validity or the amount of the fee is challenged, the City must demonstrate that it collects no more than the cost of the service from each payer, and that none of the payments collected from others are used to subsidize the waived fees. Waiving fees can only be done if the General Fund appropriates the necessary funding for the amount of the fees waived to the Enterprise Fund.

Recommendation 4C: Loosen Retrofit Compliance

Recommendation 4C states that the City should extend the timeframe for retrofit compliance for qualified facilities. The goal of the Mandatory Soft-Story Retrofit and Non-Ductile Concrete Retrofit Programs is to reduce the risk of injury or loss of life that may result from the effects of earthquakes in vulnerable buildings. The time limits to comply for the Soft-Story Retrofit Program are as follows, from the service date on the Order to Comply:

- 2 years- Submit proof of previous retrofit, plans to retrofit or plans to demolish
- 3.5 years- Obtain permit to start construction or demolition
- 7 years- Complete construction
- The time limits to comply for the Non-Ductile Concrete Retrofit Program are as follows, from the service date on the Order to Comply:
 - 3 years- Submit completed non-ductile concrete building checklist
 - 10 years- Submit proof of previous retrofit, plans to retrofit or plans to demolish
 - 25 years- Complete construction

Owners may apply for an extension on a case-by-case basis pursuant to LAMC 98.0403.1 if they need additional time to comply with the ordinance. The authority for LADBS to grant modifications/extensions is predicated upon satisfactory evidence that the timelines could not be met with the applicant's unusual circumstances.

Recommendation 4D, 4F: Waive LADBS Codes

This recommendation response was seen in the LAFD section. This response provides similar information with a bit more LADBS related context. Similar to LAFD, the Los Angeles Building Code is adopted from the California Building Code. State law allows jurisdictions to apply for more restrictive local amendments to the California Building Code that are reasonably necessary because of local climatic, geological, or topographic conditions. It does not allow jurisdictions to adopt less restrictive local amendments, so any proposed changes that are less restrictive would need to be made at the State level. This information would apply both to fire life safety codes, which include sprinkler regulations.

In individual cases, LAMC 98.0403.1(a) authorizes LADBS to act upon slight modifications to the building code regulations provided that the slight modification is reasonably equivalent to the requirement involved, that a special individual reason makes the strict letter of the code impractical, and that the slight modification is in conformity with the spirit and purpose of the code.

Recommendation 6B: Expedite Permits

This recommendation suggests that the Council look at expediting LADBS permits for qualified facilities. Mayor Eric Garcetti's Executive Directives 13 and 30 direct LADBS to reduce initial permit processing times for qualified affordable housing developments by 25%. A similar prioritization for qualified facilities would require direction by the Mayor or City Council. Alternatively, LAMC 98.0422 allows an expedited review process when an amount of a fee equal to one-half of the review fee, in addition to the normal review fee, is paid. This option is available to all permit applications and can be used by qualified facilities.

Los Angeles Planning Department

Recommendation 3B: Planning and Zoning Reviews for Smaller Facilities

Recommendation 3B seeks to expand exemptions from planning entitlements for state-licensed Board and Care facilities to allow them by-right. Specifically, the report recommended allowing facilities serving 13 or fewer residents the same clear exemption from discretionary approval currently granted to facilities of six or fewer residents according to state law (the Community Care Facilities Act, as amended).

This recommendation primarily affects Adult Residential Facilities (ARFs), which can sometimes be smaller facilities contained within one or two dwelling units on a lot. State-licensed Residential Care Facilities for the Elderly (RCFEs), which are defined as Assisted Living Care Facilities in the zoning code, are usually larger apartment-style complexes and are not permitted in zones more restrictive than R3. As such, RCFEs do not typically have less than 13 residents, so will be discussed under Recommendation 3C, which deals with larger facilities.

ARFs are not defined in the Zoning Code but are a type of (state licensed) Community Care Facility, which is included in the Department's list of the uses permitted within any given zone (called the Use List). The Use List indicates that further consultation with City Planning may be required for facilities serving seven or more people that are not exempt from local review by state law. Applicants are asked to provide information about their proposed facility by completing a Community Care Facilities special instructions form from ([CF 2056](#)). The form is used to learn more about the type of facility being proposed, as there are a wide variety of Community Care Facility types. The Department considers the information on the form to determine whether the proposed use may be allowed in the zone it is being proposed, or whether a Zoning Variance or Conditional Use Permit (CUP) may be required.

Some recent applications for ARFs have resulted in a CUP for *hospitals or sanitariums*, as this was determined to be the closest match to the proposed use in the Zoning Code (see LAMC 12.24 U.12). In other cases, the Department may determine that a particular facility is intended as a one family residence, meaning the occupants constitute a *family* as defined in the Zoning Code. A *family* is defined as "one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit." If occupants have private cooking/eating/living areas, then the facility may be considered to be a multiple family dwelling or have multiple guest rooms, which would continue to require a discretionary planning entitlement in lower density zones that do not permit multiple family dwellings or permit fewer units or guest rooms than proposed.

The Department has completed a thorough evaluation of current practice and has concluded that revisions to the Department's Community Care Facilities policies and procedures for smaller facilities is warranted, particularly given the City Council direction. The Department's special instructions form should be revised to

ensure that an accurate determination on the use can be made based on the unique operation of the residential facility.

A change in administrative forms and intake procedures is anticipated to allow most Board and Care facilities to be located in all residential neighborhoods, depending on their particular use, and subject to meeting Building Codes. This is because, with the proper information documented, most facilities are likely to be found more similar to a *Family/Dwelling Unit* use than a *Hospital and Sanitarium* use. Residents of ARF buildings typically carry out activities of daily living together and share common living, cooking and eating space, in line with the *family* definition. In addition, Board and Care facilities are not permitted to offer medical care, which is a key component of *hospitals and a sanitarium*. Facilities that operate more like a boarding or rooming house by having multiple, separate household units in multiple guest rooms outside of a dwelling unit would continue to not be allowed in single-family homes. In addition to the change in administrative form and intake procedures, a Zoning Administrator Interpretation (ZAI) or similar memorandum stating that an Adult Residential Facility serving seven or more people may be allowed in a Single Family Dwelling would be necessary in order for a building permit to be issued to recognize the ARF use and corresponding building code occupancy group.

If a zoning exception or modification is needed due the living arrangement of persons with a disability, a Reasonable Accommodation request can also be considered. While evaluations are made on a case by case basis, an applicant may request a Reasonable Accommodate to deviate from the portion of the definition of *Family* that requires household members have joint access to a common living or kitchen space, if a disability would prevent a person from accessing these common spaces due mobility impairment or other impairments.

The approach recommended by the consultant report (in recommendations 3B and 3C) would be to differentiate between smaller and larger Board and Care facilities in the Zoning Code, with a suggested delineation at 13 residents. This approach would not rely on the individual characteristics of a facility and instead utilize a maximum number of residents as the basis for permitting their use in residential zones. Department staff spoke to the consultant who recommended this threshold of 13 residents and they were unable to cite a particular reason for setting this specific numerical threshold. It is important to note that these facilities are subject to existing occupancy limits. Current State licensing regulations include an occupancy limit of two persons per bedroom, in addition to many other requirements pertaining to life-safety, such as a required Fire Department inspection. Congregate living arrangements of sixteen persons or more may also be subject to additional Building Code requirements. Given that larger board and care facilities are generally more cost effective, the imposition of any one-size zoning limitations on the number of residents permitted in an ARF beyond the multiple current requirements should have an overriding policy basis. Restrictions would also need to be consistent with the Fair Housing Act (FHA) and Americans with Disabilities Act (ADA), which prohibit government entities from discriminating against the disabled through land use and/or zoning regulations. Nonetheless, if, as an alternative to staff's recommended approach, the City Council would like to move

forward with the preparation of a code amendment to define the use and create occupancy limits of 13 persons (or another number), this issue can be further analyzed and considered with public input.

A third alternative would not rely on the number of residents and could instead create an administrative review process for facilities that meet a set of new development standards. This approach is generally in line with prior recommendations proposed by a prior Planning Department [report](#) released in February 2020 (in response to CF-19-0401 regarding all licensed Community Care Facilities). The report mentioned potentially adding parking requirements, loading restrictions, as well as more subjective standards around unreasonable disruption and maintaining a residential character. It is not clear that adding these types of requirements align with the City Council direction or consultant recommendation or add significant value. LADBS and LAHD have also expressed concern that several of the types of previously proposed subjective regulations may be very difficult to enforce.

Both of the alternatives to the recommendation would require Zoning Code amendments, which require time and staff resources to develop. The recommended approach regarding updates to forms and procedures (see Recommendation 1) is likely to achieve the same goals identified in the consultant recommendations and original City Council motion, on a more expedient timeline that would not require significant new staffing resources. The Planning Department can monitor the implementation of the recommended approach and provide a report back to the City Council if, based on implementation, Zoning Code amendments are still needed to address the City Council direction for smaller Board and Care facilities.

Recommendation 3C: Planning and Zoning Reviews for Larger Facilities

Recommendation 3C addresses the desire to more easily establish larger Board and Care facilities in residential neighborhoods.

Board and Care facilities are currently permitted in residential zones; however, state-licensed RCFEs (defined as Assisted Living Care Facilities in the Zoning Code) are not permitted by-right in residential zones more restrictive than the R3 zone, and may require a discretionary action such as a Zoning Administrator or Conditional Use Permit. When RCFEs are combined with other types of senior or disabled housing (such as Alzheimer's/ Dementia Care Housing, Senior Independent Housing and Skilled Nursing Care Housing), they are considered an Elder Care Facility and processed pursuant to LAMC Section 14.3.1, which requires action by the Zoning Administrator. The Zoning Administrator, through a discretionary entitlement process, may permit an Elder Care Facility to be located on a lot or lots in any residential zone, or when an Eldercare Facility does not meet the use, area, or height provisions of the respective zone. While these current Zoning Code provisions create a single process for approvals and facilitate the processing of applications of Eldercare Facilities, there is likely more that can be done to streamline and expand the types of Board and Care facilities discussed in this report.

If the intent is to allow RCFEs in additional lower density residential zones through a by-right process, a Zoning Code amendment will be needed (see Recommendation 2). This amendment could also incorporate suggestions in Recommendation 6C and 6D discussed below. These recommendations are in line with the policies and programs of the recently adopted Housing Element of the General Plan. Programs 48 and 121 in the Housing Element discuss creating additional incentives for senior housing and housing for persons with disabilities. Such incentives are anticipated to be included in the Housing Element's citywide rezoning program that is required to be adopted by November 2024. The process is anticipated to allow senior and disabled housing a greater number of dwelling units and/or guest rooms in a wider variety of zones without requiring a discretionary action.

Recommendation 6C: Waive Parking Requirements

Recommendation 6C suggests reducing parking requirements for all new or expanded Board and Care facilities. Reduced on-site parking for Board and Care Homes is currently available through various existing Zoning Code provisions, though there are opportunities for improvements. Existing parking requirements are based on the number of habitable rooms in each dwelling unit or guest room. RCFEs (classified as Assisted Living Care Housing in the Zoning Code) and ARFs, along with any housing occupied by persons with disabilities, may decrease required parking by up to 25% through a Conditional Use Permit (CUP) pursuant to LAMC Section 12.24 W.38. Additional parking reductions may be granted as part of mixed income or affordable housing projects serving persons with special needs under the City's affordable housing incentive programs (e.g., Density Bonus, Transit Oriented Communities, or Permanent Supportive Housing). In addition, the Governor recently signed AB 2097, which removes parking requirements for all residential uses located within ½ mile of a major transit stop. Given that many residents of board and care facilities are either unable to drive or do not have access to private vehicles, and the barriers excess parking can pose to this important use, more flexibility along with a more streamlined process is warranted. This recommendation is also in line with the policies and programs of the recently adopted Housing Element of the General Plan (see Program 48 and 121 in the Housing Element). Ongoing efforts to update parking requirements and affordable housing incentive programs, including the Housing Element rezoning program, may be able to include updates to parking requirements for board and care facilities, as directed by City Council.

Recommendation 6D: Exceed Building Limit per Parcel

This recommendation seeks to emulate what other jurisdictions have done to place small, cottage-like Board and Care facilities on a single parcel, thereby maximizing land capacity and opportunities for privacy. The ability to construct several small cottages on a property, as suggested by the recommendation, is now more possible due to Senate Bill 9 (SB 9), which went into effect in January 2022 and builds upon existing Accessory Dwelling Unit (ADU) law. Combined, these laws permit up to four or five dwelling units to be constructed on a single-family zoned lot. They also allow units to be placed more closely together than normally permitted by the zoning, and waive or relax common code barriers to cottage cluster development, including parking requirements, setbacks, and open space.

On multiple family zoned lots, RD and less restrictive, the City permits small lot subdivisions, which are also intended to promote detached bungalow or cottage development. As part of the Housing Element Rezoning Program, City Planning is also looking for ways to further allow for the new construction of lower density "missing middle" housing typologies such as cottage and bungalow courtyards. The program also seeks to incentivize more affordable housing and housing for persons with special needs including seniors and persons with disabilities. The Planning Department acknowledges that multiple dwellings or buildings on a single lot may constitute a unified Community Care Facility under state law; however, only one facility may operate per lot.

Los Angeles Department of Transportation

Recommendation 5D: Waive Parking Permits

This recommendation sought to waive parking permits for residents/employees for licensed Board and Care facilities. In order to waive such permit needs, the current overnight and preferential parking district rules would need to be revised and adopted by the City Council to accommodate this request. Per current Council adopted rules, LADOT does not issue parking permits to anyone for free. Any parking permit LADOT issues would need to be within an established parking district. Should the City Council adopt revised rules, the rules should be consistent with how schools are handled, meaning that qualified facility staff would be limited to paid visitor permits and parking would be limited to the frontage of the facility.

Recreation and Parks

Recommendation 5F: Offer Free City Services to ARF & RCFE Residents

This recommendation hoped to provide free city services to residents in qualified facilities. The City of Los Angeles, Recreation and Parks Department, Aquatics Division offers families and community members many healthy, affordable and safe aquatic activities at their public pools, lakes and beaches. The Aquatics Division operates 39 seasonal swimming pools, 16 year-round swimming pools, 3 camp pools, and 3 LAUSD pools. For registered patrons participating in this program and with proper ID, RAP will grant free admission to their pools during normal operating hours. Persons requiring assistance or those who do not know how to swim and need help should bring their own assistant. Those who accompany persons with disabilities in this program will also be admitted free of charge.

RECOMMENDATION D

In order to secure future funding for continued operations of board and care facilities, the City would depend on the support of the County, as well as an increase to the current Supplemental Security Income (SSI) and State Supplementary Payment (SSP) rates by the State.

LA City & LA County Relations

Partnership with LA County entities such as the Department of Health Services and Department of Mental Health is crucial to identify and secure additional funding and resources for board and care preservation in the City, as the County not only works directly with some of these facilities to place their clients, but also receives direct reporting from CCLD and funding from State agencies, as is the case for the CCE.

The City can provide, however, a few critical elements to support the County in gaining on-going funding and resources for these facilities:

1. Lead workshops to educate members of the County's Licensed Adult Residential Care Association (LARCA), and other board and care operators and owners on the new changes to various City systems as described in the Recommendation B section of this report;
2. Support the acquisition of facilities to keep them open to increase capacity for the County to fund more beds and services; and
3. Engage in joint advocacy efforts in Sacramento for an increased SSI/SSP rate.

State Legislation

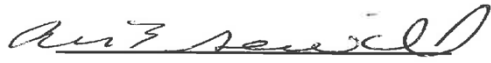
Past City legislative programs (C.F.s 22-0002-S107, 21-0002-S12, 19-0002-S184, 19-1516) have supported an increase to the State's daily reimbursement rates for services and overall protections for licensed board and care facilities. The CLA will continue to monitor related legislation and efforts.

RECOMMENDATION C

Should Council choose to move forward with the recommendations provided in this report, in response to the feasibility analysis provided by many departments, additional staffing resources would be needed and an official Board and Care Liaison would need to be appointed. In the case that Council adopts all or any portion of the recommendations stated below, LAHD will include a detailed staffing request through their FY 2023-2024 budget submission.

The CLA will continue to monitor State legislative actions and efforts to augment board and care funding in the FY 2022-23 budget.

Approved By:

A handwritten signature in black ink, appearing to read "Ann Sewill". The signature is fluid and cursive, with a distinct loop at the end.

ANN SEWILL

General Manager

Los Angeles Housing Department

ATTACHMENT:

Board and Care Facilities Expansion Report_FINAL

Ann Sewill, General Manager
Tricia Keane, Executive Officer

Daniel Huynh, Assistant General Manager
Anna E. Ortega, Assistant General Manager
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City of Los Angeles



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Karen Bass, Mayor

December 1, 2022

Council File: 20-1203
Council Districts: Citywide
Contact Persons: Hannah Levien, (213)- 458- 6068
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Honorable Members of the City Council
City of Los Angeles
c/o City Clerk, City Hall
200 N. Spring Street
Los Angeles, CA 90012

COUNCIL TRANSMITTAL: REPORT BACK FROM THE LOS ANGELES HOUSING DEPARTMENT AND CHIEF LEGISLATIVE ANALYST REGARDING THE EXPANSION AND RETENTION OF BOARD AND CARE FACILITIES THROUGHOUT THE CITY.

SUMMARY

In 2020, the City Council adopted a Motion (C.F. No. 20-1203) directing the Los Angeles Housing Department (LAHD) and the City Administrative Officer (CAO) to work with the County of Los Angeles and any other appropriate entities, and report with recommendations to retain and preserve board and care facilities in the City; and that the Chief Legislative Analyst (CLA) recommend any legislative or administrative actions that the City could take to secure resources, including Mental Health Services Act funding, to preserve these facilities.

LAHD responded to this Council request in February 2022 with four recommendations describing ways in which the City could expand and retain board and care facilities. On March 23, 2022, Council adopted all recommendations stated in the report. Through this transmittal, LAHD, CAO and the CLA respond jointly to recommendations A, B, and D. Additionally, in response to recommendation C, LAHD has identified a staff member to serve as the Board and Care Liaison in order to complete this report as well as outline resources needed for on-going staffing dedicated to the City's Board and Care portfolio.

BACKGROUND

In 2021, LAHD commissioned a survey of licensed board and care facilities, more specifically, Adult Residential Facilities (ARFs) and Residential Care Facilities for the Elderly (RCFEs), moving forward this report will refer to them as ARFs and RCFEs or Qualified Facilities, that serve low-income seniors, people with disabilities, and individuals with mental illness that are recipients of SSI/SSP or Medi-Cal in the City of Los Angeles. While the board and care industry is large and includes privately funded facilities, this survey focused on only facilities

serving these low-income populations. Licensed ARF and RCFE placements offer 24-hour care and supervision that vary in the degree of assistance they provide. Support includes, but is not limited to, assistance with daily activities, meals, assistance with taking medication, housekeeping, laundry service, and assistance with transportation to medical appointments.

The landscape scan identified the licensed ARF and RCFE facilities that serve recipients of SSI/SSP/MediCal in the City, as detailed in Attachment “A” of the February 2022 transmittal. This scan also produced an extensive list of recommendations on ways the City of Los Angeles can support and expand this service, provided in Attachment “B” of the February 2022 transmittal. It is important to note that this report only applies to licensed facilities regulated by the Community Care Licensing Division, a sub agency of the California Department of Social Services.

In addition to the landscape scan provided in the original report that outlines rationale for retaining and expanding these facilities, it is also important to note the role that board and care facilities play in serving PEH (people experiencing homelessness). At present, the LAHSA System Analysis does not include the number of individuals that would be better served with a higher level of care option like an ARF or RCFE inasmuch as the housing resources needed by this population are provided by the healthcare system under the County of Los Angeles, Department of Health Services. These services include: resources for the aging population, disabled individuals, people managing substance use disorders (SUD), and individuals with serious mental illness or physical conditions.

In the 2022 PIT count, LAHSA reported that 43% (18,182 people) of the total homeless population in Los Angeles are people who are chronically homeless. While not every chronically homeless person requires a higher level of care or placement in an ARF/RCFE, people who are chronically homeless are more likely to require higher levels of care given their length of time homeless. There is an unmet need in our housing stock for higher needs people that require more than traditional PSH. To that end, further research needs to be conducted on the number of people experiencing homelessness with high acuity that require more service than what is currently provided. It is recommended that processes are coordinated to improve the ongoing needs assessment for higher levels of care beds, namely within RCFE’s and ARFs.

RECOMMENDATION A

The Community Care Expansion Program

In January 2022, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) launched two new one-time funding sources to expand the infrastructure for board and care facilities and address historic gaps in the behavioral health and long-term care continuum for the elderly and individuals with disabilities and/or behavioral health needs:

1. the Behavioral Health Continuum Infrastructure Program (BHCIP) and
2. the Community Care Expansion (CCE) Program.

BHCIP allocates \$2.2 billion in State funding to construct, acquire, and expand behavioral health facilities, and invest in mobile crisis infrastructure related to behavioral health. DHCS administers and will release these funds through grants targeting various gaps in the State’s behavioral health facility infrastructure. The CCE program provides \$805 million in funding for acquisition, construction, and rehabilitation to preserve and expand board

and care facilities that serve SSI applicants and recipients, including those who are homeless or at risk of homelessness, and people with behavioral health conditions. Together, BHCIP and CCE represent the largest one-time influx of resources for behavioral health and social services infrastructure in the State's history. BHCIP and CCE funding is available to counties, cities, tribal entities, nonprofits, and for-profit organizations to meet the growing demand for services and support in facilities providing community care.

LA County and Community Care Expansion (CCE) Support

As noted, the CCE program provides \$805 million statewide over three years (July 2021 to June 2024) to preserve and expand board and care facilities that serve recipients and applicants of SSI/SSP and applicants of the Cash Assistance Program for Immigrants (CAPI). Approximately 75 percent of funds (\$570 million) will be made available for capital expansion projects, including acquisition, construction, and rehabilitation of residential care settings. Funds are made available as grants to counties, cities, tribal entities, nonprofits, and for-profit organizations through a Request for Applications on a project-by-project and rolling basis until funds are exhausted. LA County's CCE grant allocation is \$138 million.

The remaining 25 percent of the CCE funds will be directly allocated to counties and tribes and will be made available for the rehabilitation and preservation of current adult and senior care facilities within the existing system of care. A CCE Preservation Program Notice of Funding Availability was released in June 2022, and DMH responded to accept the funding on behalf of Los Angeles County. This program consists of two components: Operating Subsidy Payments (OSP) and Capital Projects (CP). OSP funds are intended to provide operating subsidies to existing licensed residential facilities to cover potential or projected operating deficits and help avoid closure. CP funds will be used to preserve facilities in need of repairs or required upgrades. Facilities accepting OSP funds will be deed restricted to provide licensed adult and senior residential care for at least the length of time that the County will be providing OSP funds. Los Angeles County has been allotted \$19,654,821 in OSP funds and \$53,497,135 in CP funds. There is potential for additional funding to be disbursed from counties that chose not to accept CCE Preservation Program funding.

As a requirement of acceptance of the CCE Preservation Program funds, DMH must create an Implementation Plan (IP), the initial draft of which is due to the State by January 2023. A County CCE Workgroup is currently working to create the IP, which must outline the County's plan to design an application process and/or allocation methodology for OSP and CP funds; monitor the use of funds and outcomes; and incorporate the prioritization criteria into fund distribution. Facilities at the highest risk of closure that could be prevented through OSP or CP funds and facilities with the highest percentage of qualified residents are to be prioritized. Prior to submission of this IP, LAHD should consult with DMH to determine how funds might be used to rehabilitate, improve, and preserve existing board and care facilities within the City and how the City can further support these efforts. A subsequent update to this report may be made in January after the County has submitted their IP to the State.

In addition to an IP, CCE Preservation Program funds also require a 10 percent match. DMH and DHS currently have \$16.2 million in funding, including an \$11.2 million allocation from DMH and \$5 million in aligned funding from Cedars-Sinai to establish a Capital Improvements Program for board and care facilities. Given the shared goals of the Capital Improvements Program and CCE Preservation Program, the CCE Workgroup is considering using the \$11.2 million as the match for CCE funding.

Since the CCE is one-time only, the County has indicated that they will not apply for any of the 75 percent of CCE grant funding. This decision was made partly due to concerns that after 2025, there is no ongoing funding for operations of the facilities, yet there will be a high ongoing operational cost. Instead, the County is offering Partnership Agreements to agencies and operators of facilities that agree to accept County referrals in return for technical assistance and a reduced match requirement. The State reported that as of July 1, 2022, they had received 24 applications for projects in the Los Angeles region which accounted for \$245,347,045 of requests for capital grant funding through the CCE.

LA City and CCE Support

Given the number of projects funded through CCE both at the State level and the County level that will potentially be in the City, the City could have the opportunity to support these efforts as mentioned in the following considerations:

LA City and AB 2377 Support

On January 1, 2022, AB 2377 went into effect, requiring ARF and RCFE operators to give cities and counties the first opportunity to purchase their facilities within 60 days of notifying the California Community Care Licensing Division (CCLD) that they intend to close or sell. AB 2377 authorizes the city or county to either take over operation of the facility, or enter into a long-term lease with a nonprofit or for-profit entity to continue its operation as an ARF/RCFE.

Currently, the City does not receive formal notice when board and care facilities close, but can obtain this information from the County. The City should establish a formal notification process with the County to monitor ARF and RCFE closures. This could allow the City to explore whether it would want to support the acquisition of these sites for other types of housing, including permanent supportive, affordable, or interim. Unless and until additional operating funds can be identified from the state's health budgets to make ARFs and RCFEs more financially stable, the best roles for the City are to (1) monitor the inventory of ARF and RCFE properties and beds; (2) advocate for additional operating funding as the supply continues to diminish; and (3) take actions within the City's powers to reduce operating and capital costs for ARF and RCFE owners and operators. These actions are summarized below.

RECOMMENDATION B

Background

LAHD worked in collaboration with the CLA and several other departments to respond to the recommendations outlined in Attachment B of the Los Angeles Housing Department Transmittal. The results from engagement with other departments on the feasibility of recommendations listed in the attachment are as follows, divided by Department. Departments that participated included: The Department of Finance, the Fire Department, the Department of Building and Safety, the Planning Department, the Department of Transportation and the Recreation and Parks department. Included in each section is a brief background on the original recommendation, as originally written in the report.

Department of Finance

Recommendations 2A: Exempt ARFs and RCFEs from Local Business Taxes

Recommendation 2A sought to exempt RCFEs and ARFs from the local business tax and to extend business tax exemptions to RCFEs and ARFs that serve less than 6 clients. Exempting specific business activities from paying

the business tax is possible as long as a legal definition for the activity to be exempted is agreed upon. In order to do this, Council would need to pass an ordinance amending the tax code. This would require a clear legal definition of the business activities to be exempted, as well as a logical justification for the exemption.

Council may also consider creating a sunset clause after which this change could be reevaluated and a permanent change considered. The state definition for both facilities (ARFs and RCFEs) utilized by the Fire Department (LAFD) during inspections is likely sufficient, as the City could replicate the state language and put it into the tax code. Once a workable legal definition is adopted and the collective databases are researched, cross referencing between Department of Finance and LAFD to figure out which facilities fall under the definition, and an estimate of the fiscal impact of this recommendation could be made.

Only 33 of the 180 facilities identified in Attachment A to the LAHD transmittal have accounts in LATAX (the department's internal database) that match the names and addresses provided in the report. Therefore, the department could not determine whether the other facilities do not have business tax accounts, which ones qualify under existing statewide exemptions from business tax requirements, and which ones may be using a different name or address in LATAX. In order to determine the impact of this recommendation, the department will need a workable legal definition of the businesses to be exempted. The process to obtain that is outlined in the aforementioned paragraph.

Recommendations 2B: Exempt ARFs and RCFEs from Business-Related Fees

Recommendation 2B suggests that the City should exempt RCFEs and ARFs from business registration fees and make them exempt from obtaining a business tax registration certificate. However, these facilities are not currently subject to business registration fees.

Los Angeles Fire Department (LAFD)

Recommendations 2C, E: ARFs and RCFEs Facilities from Fire Permit Fees

In evaluating whether or not the City can exempt ARFs and RCFEs from paying for a yearly Department of Finance fire permit, LAFD reports that while it is feasible, there are financial considerations. Since the funds generated from the fire permit support the staff who conduct annual inspections of these qualified facilities, waiving this fee could affect the operational needs of LAFD. Residential permits are billed and collected by the Office of Finance and are deposited into Revenue Source Code (RSC) 4111. These permit fees are not individually tracked, therefore revenues for ARF and RCFE permits cannot be exactly determined. Overall, RSC 4111 is budgeted as \$5.2 Million for FY 2022-2023. The amount of fees generated has already been budgeted for FY 22-23. Any reduction would result in an impact to the General Fund.

Recommendation 2F: Waive Fire Alarm Testing

The transmittal asked the Fire Department to report on the potential opportunity to waive fire alarm testing fees, however, all fire alarm testing is a state requirement and the implementation of testing is outsourced by private entities. Therefore, discounted rates for fire alarm testing cannot be provided by LAFD. At this time, the LAFD Budget does not have specific funding for subsidized fire alarm testing resources.

Recommendation 4D: Waive Fire Codes

Recommendation 4D is part of a set of recommendations that focus on capital improvements and other alleviations to such facilities. According to CCR Title 19 Chapter 1 Article 1§1.07, no local ordinance, rule or

regulation shall be applicable to community care facilities. Further, LAFD is barred from waiving any fire codes that are required by the State. Since the State co-regulates ARFs and RCFEs, all facilities are required to comply with state fire codes.

Recommendation 4E: Reduce Brush Clearance Fines

4E seeks to provide a pathway to a reduced cost for brush clearance, another cost often incurred by the operators and owners of the ARFs and RCFEs. No programs currently exist to assist with brush clearance within the City. It is the property owner's responsibility to maintain brush annually or to hire private entities to do so. At one point, prior to 2003, the City partnered with a non-profit organization that assisted elderly individuals with their brush clearance compliance. However, this program has been absent from the City for the last twenty or more years. Furthermore, LAFD does not currently have a fund for brush clearance, but there are programs at the state level that can assist with brush clearance costs.

Recommendation 6B: Expedite Permitting

Recommendation 6B is in part a set of recommendations that encourages quicker and easier building of new ARF and RCFE inventory. This one, in particular, asks LAFD to look for ways to expedite their permitting process. According to LAFD, the plan check process is usually a two-week turnaround and the inspection typically occurs within 72 hours, without expedited services. LAFD reports that additional resources and staff are not required for the R2.1 projects (these are projects related to ARF and RCFE inspections). The department provided that they can manage inspections for ARFs and RCFEs with current staffing levels but could not accommodate a fast-tracked pathway for qualified facilities without additional resources.

Currently, Fire Development Services provides expedited plan check services at a cost of a three-hour minimum or \$1,011, or 0.111% of the project valuation (whichever is higher) in addition to \$480 for the expedited service. For example, a small R2.1 occupancy will spend \$1,491 for an expedited plan check. Expedited services are normally completed in approximately 10 working days. Similarly, they offer off-hour inspections that can be scheduled for the next day and/or after business hours. The cost for this service is \$1,154 for 2 hours of inspection.

Los Angeles Department of Building and Safety (LADBS)

Recommendation 2D: Fine Exemptions

Recommendation 2D suggests that the City should exempt ARFs and RCFEs from existing fines related to non-compliance with LADBS requirements, to identify funds for making repairs at qualified facilities to avoid future fines and to grant additional time to comply. LADBS Code Enforcement Bureau would perform an inspection at a Qualified Facility (ARF or RCFE) if a complaint were submitted to the Department for a concern related to a violation of the Los Angeles Building or Zoning Code. If the inspection confirmed a code violation associated with that complaint, an Order to Comply (OTC) would be issued requiring that the code violation be brought into compliance by a certain compliance date and a cost recovery Code Violation Inspection Fee (CVIF) of \$356.16 would be assessed pursuant to LAMC Sec. 98.0421.

If the violation is not brought into compliance within 15 days of the compliance date stated on the OTC, or any extension period granted by LADBS, LADBS may assess a second cost recovery fee of \$660.00, known as a Non-Compliance Fee (NCF), authorized pursuant to LAMC Sec. 98.0411.

The CVIF and NCF are the primary fees assessed by the LADBS Code Enforcement Bureau and are essential to support code enforcement services in the City of Los Angeles. Each year, LADBS provides Council with an estimate of the CVIF and NCF fees that will be collected during the fiscal year and those estimates are then used for budget allocation purposes. LADBS maintains a firm commitment to assess the fees and will only deviate from this policy with concurrence of City Council. No fines are assessed by LADBS during the typical code enforcement process.

Under Council File 20-0381, Ordinance 186638 temporarily extended the CVIF and NCF payment deadlines from 30 days to 90 days from the effective date of the order for all orders issued up to and including September 24, 2020. Owners may apply for an extension on a case-by-case basis pursuant to LAMC 98.0403.1 if they cannot correct the violation within the compliance period and need additional time.

If a building permit is required to authorize construction work associated with the violation on the OTC, a permit fee is imposed pursuant to LAMC 91.107.2 and an Investigation Fee (IF) is imposed pursuant to LAMC 98.0402. If the unapproved work requires submission of plans for review, a plan check fee is imposed pursuant to LAMC 91.107.3.1. California Government Code Section 66014 states that a Building and Safety Building Permit fee may not exceed the estimated reasonable cost of providing the service for which the fee is charged. To ensure that plan and permit fees collected are only used for activities related to plan and permit fees and not for other activities, LADBS set up the Enterprise Fund on July 1, 2005 under Ordinance no. 176604. Waiving Building and Safety fees would be a violation of Government Code Section 66014, because the cost of providing those services would have to be paid with money paid by other Building and Safety customers. If the validity or the amount of the fee is challenged, the City must demonstrate that it collects no more than the cost of the service from each payer, and that none of the payments collected from others are used to subsidize the waived fees. Waiving fees can only be done if the General Fund appropriates the necessary funding for the amount of the fees waived to the Enterprise Fund.

Recommendation 4C: Loosen Retrofit Compliance

Recommendation 4C states that the City should extend the timeframe for retrofit compliance for qualified facilities. The goal of the Mandatory Soft-Story Retrofit and Non-Ductile Concrete Retrofit Programs is to reduce the risk of injury or loss of life that may result from the effects of earthquakes in vulnerable buildings. The time limits to comply for the Soft-Story Retrofit Program are as follows, from the service date on the Order to Comply:

- 2 years- Submit proof of previous retrofit, plans to retrofit or plans to demolish
- 3.5 years- Obtain permit to start construction or demolition
- 7 years- Complete construction
- The time limits to comply for the Non-Ductile Concrete Retrofit Program are as follows, from the service date on the Order to Comply:
 - 3 years- Submit completed non-ductile concrete building checklist
 - 10 years- Submit proof of previous retrofit, plans to retrofit or plans to demolish
 - 25 years- Complete construction

Owners may apply for an extension on a case-by-case basis pursuant to LAMC 98.0403.1 if they need additional time to comply with the ordinance. The authority for LADBS to grant modifications/extensions is predicated upon satisfactory evidence that the timelines could not be met with the applicant's unusual circumstances.

Recommendation 4D, 4F: Waive LADBS Codes

This recommendation response was seen in the LAFD section. This response provides similar information with a bit more LADBS related context. Similar to LAFD, the Los Angeles Building Code is adopted from the California Building Code. State law allows jurisdictions to apply for more restrictive local amendments to the California Building Code that are reasonably necessary because of local climatic, geological, or topographic conditions. It does not allow jurisdictions to adopt less restrictive local amendments, so any proposed changes that are less restrictive would need to be made at the State level. This information would apply both to fire life safety codes, which include sprinkler regulations.

In individual cases, LAMC 98.0403.1(a) authorizes LADBS to act upon slight modifications to the building code regulations provided that the slight modification is reasonably equivalent to the requirement involved, that a special individual reason makes the strict letter of the code impractical, and that the slight modification is in conformity with the spirit and purpose of the code.

Recommendation 6B: Expedite Permits

This recommendation suggests that the Council look at expediting LADBS permits for qualified facilities. Mayor Eric Garcetti's Executive Directives 13 and 30 direct LADBS to reduce initial permit processing times for qualified affordable housing developments by 25%. A similar prioritization for qualified facilities would require direction by the Mayor or City Council. Alternatively, LAMC 98.0422 allows an expedited review process when an amount of a fee equal to one-half of the review fee, in addition to the normal review fee, is paid. This option is available to all permit applications and can be used by qualified facilities.

Los Angeles Planning Department

Recommendation 3B: Planning and Zoning Reviews for Smaller Facilities

Recommendation 3B seeks to expand exemptions from planning entitlements for state-licensed Board and Care facilities to allow them by-right. Specifically, the report recommended allowing facilities serving 13 or fewer residents the same clear exemption from discretionary approval currently granted to facilities of six or fewer residents according to state law (the Community Care Facilities Act, as amended).

This recommendation primarily affects Adult Residential Facilities (ARFs), which can sometimes be smaller facilities contained within one or two dwelling units on a lot. State-licensed Residential Care Facilities for the Elderly (RCFEs), which are defined as Assisted Living Care Facilities in the zoning code, are usually larger apartment-style complexes and are not permitted in zones more restrictive than R3. As such, RCFEs do not typically have less than 13 residents, so will be discussed under Recommendation 3C, which deals with larger facilities.

ARFs are not defined in the Zoning Code but are a type of (state licensed) Community Care Facility, which is included in the Department's list of the uses permitted within any given zone (called the Use List). The Use List indicates that further consultation with City Planning may be required for facilities serving seven or more people that are not exempt from local review by state law. Applicants are asked to provide information about their proposed facility by completing a Community Care Facilities special instructions from ([CF 2056](#)). The form is used to learn more about the type of facility being proposed, as there are a wide variety of Community Care Facility types. The Department considers the information on the form to determine whether the proposed use may be

allowed in the zone it is being proposed, or whether a Zoning Variance or Conditional Use Permit (CUP) may be required.

Some recent applications for ARFs have resulted in a CUP for *hospitals or sanitariums*, as this was determined to be the closest match to the proposed use in the Zoning Code (see LAMC 12.24 U.12). In other cases, the Department may determine that a particular facility is intended as a one family residence, meaning the occupants constitute a *family* as defined in the Zoning Code. A *family* is defined as “one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.” If occupants have private cooking/eating/living areas, then the facility may be considered to be a multiple family dwelling or have multiple guest rooms, which would continue to require a discretionary planning entitlement in lower density zones that do not permit multiple family dwellings or permit fewer units or guest rooms than proposed.

The Department has completed a thorough evaluation of current practice and has concluded that revisions to the Department’s Community Care Facilities policies and procedures for smaller facilities is warranted, particularly given the City Council direction. The Department’s special instructions form should be revised to ensure that an accurate determination on the use can be made based on the unique operation of the residential facility.

A change in administrative forms and intake procedures is anticipated to allow most Board and Care facilities to be located in all residential neighborhoods, depending on their particular use, and subject to meeting Building Codes. This is because, with the proper information documented, most facilities are likely to be found more similar to a *Family/Dwelling Unit* use than a *Hospital and Sanitarium* use. Residents of ARF buildings typically carry out activities of daily living together and share common living, cooking and eating space, in line with the *family* definition. In addition, Board and Care facilities are not permitted to offer medical care, which is a key component of *hospitals and a sanitarium*. Facilities that operate more like a boarding or rooming house by having multiple, separate household units in multiple guest rooms outside of a dwelling unit would continue to not be allowed in single-family homes. In addition to the change in administrative form and intake procedures, a Zoning Administrator Interpretation (ZAI) or similar memorandum stating that an Adult Residential Facility serving seven or more people may be allowed in a Single Family Dwelling would be necessary in order for a building permit to be issued to recognize the ARF use and corresponding building code occupancy group.

If a zoning exception or modification is needed due the living arrangement of persons with a disability, a Reasonable Accommodation request can also be considered. While evaluations are made on a case by case basis, an applicant may request a Reasonable Accommodate to deviate from the portion of the definition of *Family* that requires household members have joint access to a common living or kitchen space, if a disability would prevent a person from accessing these common spaces due mobility impairment or other impairments.

The approach recommended by the consultant report (in recommendations 3B and 3C) would be to differentiate between smaller and larger Board and Care facilities in the Zoning Code, with a suggested delineation at 13 residents. This approach would not rely on the individual characteristics of a facility and instead utilize a maximum number of residents as the basis for permitting their use in residential zones. Department staff spoke to the consultant who recommended this threshold of 13 residents and they were unable to cite a particular reason for setting this specific numerical threshold. It is important to note that these facilities are subject to

existing occupancy limits. Current State licensing regulations include an occupancy limit of two persons per bedroom, in addition to many other requirements pertaining to life-safety, such as a required Fire Department inspection. Congregate living arrangements of sixteen persons or more may also be subject to additional Building Code requirements. Given that larger board and care facilities are generally more cost effective, the imposition of any one-size zoning limitations on the number of residents permitted in an ARF beyond the multiple current requirements should have an overriding policy basis. Restrictions would also need to be consistent with the Fair Housing Act (FHA) and Americans with Disabilities Act (ADA), which prohibit government entities from discriminating against the disabled through land use and/or zoning regulations. Nonetheless, if, as an alternative to staff's recommended approach, the City Council would like to move forward with the preparation of a code amendment to define the use and create occupancy limits of 13 persons (or another number), this issue can be further analyzed and considered with public input.

A third alternative would not rely on the number of residents and could instead create an administrative review process for facilities that meet a set of new development standards. This approach is generally in line with prior recommendations proposed by a prior Planning Department [report](#) released in February 2020 (in response to CF-19-0401 regarding all licensed Community Care Facilities). The report mentioned potentially adding parking requirements, loading restrictions, as well as more subjective standards around unreasonable disruption and maintaining a residential character. It is not clear that adding these types of requirements align with the City Council direction or consultant recommendation or add significant value. LADBS and LAHD have also expressed concern that several of the types of previously proposed subjective regulations may be very difficult to enforce.

Both of the alternatives to the recommendation would require Zoning Code amendments, which require time and staff resources to develop. The recommended approach regarding updates to forms and procedures (see Recommendation 1) is likely to achieve the same goals identified in the consultant recommendations and original City Council motion, on a more expedient timeline that would not require significant new staffing resources. The Planning Department can monitor the implementation of the recommended approach and provide a report back to the City Council if, based on implementation, Zoning Code amendments are still needed to address the City Council direction for smaller Board and Care facilities.

Recommendation 3C: Planning and Zoning Reviews for Larger Facilities

Recommendation 3C addresses the desire to more easily establish larger Board and Care facilities in residential neighborhoods.

Board and Care facilities are currently permitted in residential zones; however, state-licensed RCFEs (defined as Assisted Living Care Facilities in the Zoning Code) are not permitted by-right in residential zones more restrictive than the R3 zone, and may require a discretionary action such as a Zoning Administrator or Conditional Use Permit. When RCFEs are combined with other types of senior or disabled housing (such as Alzheimer's/ Dementia Care Housing, Senior Independent Housing and Skilled Nursing Care Housing), they are considered an Elder Care Facility and processed pursuant to LAMC Section 14.3.1, which requires action by the Zoning Administrator. The Zoning Administrator, through a discretionary entitlement process, may permit an Elder Care Facility to be located on a lot or lots in any residential zone, or when an Eldercare Facility does not meet the use, area, or height provisions of the respective zone. While these current Zoning Code provisions create a single process for approvals and facilitate the processing of applications of Eldercare Facilities, there is likely more that can be done to streamline and expand the types of Board and Care facilities discussed in this report.

If the intent is to allow RCFEs in additional lower density residential zones through a by-right process, a Zoning Code amendment will be needed (see Recommendation 2). This amendment could also incorporate suggestions in Recommendation 6C and 6D discussed below. These recommendations are in line with the policies and programs of the recently adopted Housing Element of the General Plan. Programs 48 and 121 in the Housing Element discuss creating additional incentives for senior housing and housing for persons with disabilities. Such incentives are anticipated to be included in the Housing Element's citywide rezoning program that is required to be adopted by November 2024. The process is anticipated to allow senior and disabled housing a greater number of dwelling units and/or guest rooms in a wider variety of zones without requiring a discretionary action.

Recommendation 6C: Waive Parking Requirements

Recommendation 6C suggests reducing parking requirements for all new or expanded Board and Care facilities. Reduced on-site parking for Board and Care Homes is currently available through various existing Zoning Code provisions, though there are opportunities for improvements. Existing parking requirements are based on the number of habitable rooms in each dwelling unit or guest room. RCFEs (classified as Assisted Living Care Housing in the Zoning Code) and ARFs, along with any housing occupied by persons with disabilities, may decrease required parking by up to 25% through a Conditional Use Permit (CUP) pursuant to LAMC Section 12.24 W.38. Additional parking reductions may be granted as part of mixed income or affordable housing projects serving persons with special needs under the City's affordable housing incentive programs (e.g., Density Bonus, Transit Oriented Communities, or Permanent Supportive Housing). In addition, the Governor recently signed AB 2097, which removes parking requirements for all residential uses located within ½ mile of a major transit stop. Given that many residents of board and care facilities are either unable to drive or do not have access to private vehicles, and the barriers excess parking can pose to this important use, more flexibility along with a more streamlined process is warranted. This recommendation is also in line with the policies and programs of the recently adopted Housing Element of the General Plan (see Program 48 and 121 in the Housing Element). Ongoing efforts to update parking requirements and affordable housing incentive programs, including the Housing Element rezoning program, may be able to include updates to parking requirements for board and care facilities, as directed by City Council.

Recommendation 6D: Exceed Building Limit per Parcel

This recommendation seeks to emulate what other jurisdictions have done to place small, cottage-like Board and Care facilities on a single parcel, thereby maximizing land capacity and opportunities for privacy. The ability to construct several small cottages on a property, as suggested by the recommendation, is now more possible due to Senate Bill 9 (SB 9), which went into effect in January 2022 and builds upon existing Accessory Dwelling Unit (ADU) law. Combined, these laws permit up to four or five dwelling units to be constructed on a single-family zoned lot. They also allow units to be placed more closely together than normally permitted by the zoning, and waive or relax common code barriers to cottage cluster development, including parking requirements, setbacks, and open space.

On multiple family zoned lots, RD and less restrictive, the City permits small lot subdivisions, which are also intended to promote detached bungalow or cottage development. As part of the Housing Element Rezoning Program, City Planning is also looking for ways to further allow for the new construction of lower density "missing middle" housing typologies such as cottage and bungalow courtyards. The program also seeks to incentivize more affordable housing and housing for persons with special needs including seniors and persons with disabilities.

The Planning Department acknowledges that multiple dwellings or buildings on a single lot may constitute a unified Community Care Facility under state law; however, only one facility may operate per lot.

Los Angeles Department of Transportation

Recommendation 5D: Waive Parking Permits

This recommendation sought to waive parking permits for residents/employees for licensed Board and Care facilities. In order to waive such permit needs, the current overnight and preferential parking district rules would need to be revised and adopted by the City Council to accommodate this request. Per current Council adopted rules, LADOT does not issue parking permits to anyone for free. Any parking permit LADOT issues would need to be within an established parking district. Should the City Council adopt revised rules, the rules should be consistent with how schools are handled, meaning that qualified facility staff would be limited to paid visitor permits and parking would be limited to the frontage of the facility.

Recreation and Parks

Recommendation 5F: Offer Free City Services to ARF & RCFE Residents

This recommendation hoped to provide free city services to residents in qualified facilities. The City of Los Angeles, Recreation and Parks Department, Aquatics Division offers families and community members many healthy, affordable and safe aquatic activities at their public pools, lakes and beaches. The Aquatics Division operates 39 seasonal swimming pools, 16 year-round swimming pools, 3 camp pools, and 3 LAUSD pools. For registered patrons participating in this program and with proper ID, RAP will grant free admission to their pools during normal operating hours. Persons requiring assistance or those who do not know how to swim and need help should bring their own assistant. Those who accompany persons with disabilities in this program will also be admitted free of charge.

RECOMMENDATION D

In order to secure future funding for continued operations of board and care facilities, the City would depend on the support of the County, as well as an increase to the current Supplemental Security Income (SSI) and State Supplementary Payment (SSP) rates by the State.

LA City & LA County Relations

Partnership with LA County entities such as the Department of Health Services and Department of Mental Health is crucial to identify and secure additional funding and resources for board and care preservation in the City, as the County not only works directly with some of these facilities to place their clients, but also receives direct reporting from CCLD and funding from State agencies, as is the case for the CCE.

The City can provide, however, a few critical elements to support the County in gaining on-going funding and resources for these facilities:

- 1) Lead workshops to educate members of the County's Licensed Adult Residential Care Association (LARCA), and other board and care operators and owners on the new changes to various City systems as described in the Recommendation B section of this report;
- 2) Support the acquisition of facilities to keep them open to increase capacity for the County to fund more beds and services; and

3) Engage in joint advocacy efforts in Sacramento for an increased SSI/SSP rate.

State Legislation

Past City legislative programs (C.F.s 22-0002-S107, 21-0002-S12, 19-0002-S184, 19-1516) have supported an increase to the State's daily reimbursement rates for services and overall protections for licensed board and care facilities. The CLA will continue to monitor related legislation and efforts.

RECOMMENDATION C

Should Council choose to move forward with the recommendations provided in this report, in response to the feasibility analysis provided by many departments, additional staffing resources would be needed and an official Board and Care Liaison would need to be appointed. In the case that Council adopts all or any portion of the recommendations stated below, LAHD will include a detailed staffing request through their FY 2023-2024 budget submission.

The CLA will continue to monitor State legislative actions and efforts to augment board and care funding in the FY 2022-23 budget.

RECOMMENDATIONS

FY 23-24

1. Direct the Department of City Planning to update its policies and procedures to ensure that smaller scale state licensed Board and Care facilities may be considered as residential uses permitted in all residential zones.
2. Direct the Department of City Planning to prepare zoning code amendments, in consultation with the City Attorney and LAHD, to remove additional zoning barriers (e.g. parking, multiple small cottages, mix of uses, etc) to establish state licensed Board and Care facilities and other housing for seniors and persons with disabilities as part of the Housing Element Rezoning Program (see Program 48 and 121 in the Housing Element).
3. Direct the City Attorney, the Office of Finance with assistance from LAHD, the Department of City Planning, and the Chief Legislative Analyst (CLA) to create an ordinance to amend the tax code in order to incorporate a legal definition for activities occurring within State-Licensed ARFs and RCFEs.
4. Direct the Los Angeles Department of Building and Safety (LADBS), in partnership with LAHD and the CLA, to establish a program that expedites the building permit process for State-Licensed ARFs and RCFEs.
5. Direct LAHD in partnership with the CLA to initiate a working group with selected Board and Care facility owner/operators, representatives from the Los Angeles County Department of Mental Health and

Department of Health Services, as well as other relevant City Departments, to educate and encourage existing and new Board and Care facility owners to participate in improved City processes.

FY24-25

6. Direct the LADOT and LAHD to report back with resources needed to conduct outreach with neighborhood councils where State-Licensed Board and Care Facilities are located to solicit support for LADOT to align parking permit processes for State Board and Care facilities with the existing frameworks for LAUSD schools.

7. Direct the CAO to provide a financial analysis related to waiving fire permit fees for State-Licensed Board and Care Facilities and increasing the number of LAFD inspectors to provide expedited review of these facilities.

8. Direct CAO to provide a financial analysis evaluating the LADBS budget as it relates to exempting State-Licensed Board and Care Facilities from violation fees.

9. Direct CLA and LAHD to work with the Department of Water and Power, the Mayor's Office and any other departments to address the feasibility of the remaining recommendations listed in Attachment B of the February 2022 LAHD transmittal.