

Memorandum



CITY OF DALLAS

DATE April 13, 2012

TO Honorable Members of the Housing Committee:
Carolyn R. Davis (Chair), Scott Griggs (Vice Chair), Dwaine Caraway, Linda Koop, Pauline Medrano

SUBJECT Group Housing Facilities Regulation & Enforcement

On Monday, April 16, 2012 the Housing Committee will be briefed on Group Housing Facilities Regulation & Enforcement. Briefing materials are attached for your review.

If you have any questions, or require additional information, please do not hesitate to contact me.

A handwritten signature in black ink, appearing to read 'Joey Zapata'.

Joey Zapata
Assistant City Manager

cc: Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Thomas P. Perkins, Jr., City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
C. Victor Lander, Administrative Judge

A.C. Gonzalez, First Assistant City Manager
Ryan S. Evans, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest E. Turner, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Stephanie Cooper, Assistant to the City Manager

Group Housing Facilities Regulation & Enforcement

Presented to the
Housing Committee
April 16, 2012



Purpose of Briefing

- ❑ Describe the City's recent and current efforts addressing group homes
- ❑ Provide an update on identified group housing facilities in Dallas
- ❑ Discuss options and resources necessary in implementing HB216 in a new City ordinance

What is a Group Housing Facility?

- ❑ Generally, group housing facilities are interim or permanent residential dwellings that provide room/board to a group of persons who are not a family, regardless of whether operated for profit
 - The Dallas City Code defines “family” as individuals living together as a single housekeeping unit in which not more than four (4) individuals are unrelated to the head of the household by blood, marriage, or adoption
- ❑ The Dallas City Code identifies several different types of group housing facilities
 - See Use Comparison Table, page 4



City's Classification of Group Housing Facility, Use Comparison Table

Use	A. Single Family Use 51A-4.209(b)(6)	B. Handicapped Group Dwelling 51A-4.209(b)(3.1)	C. Lodging/ Boarding House 51A-4.205(2)	D. Residential Hotel 51A-4.209(b)(5.1)	E. Group Residential Facility 51A-4.209(b)(3)
Use Type	Residential	Residential	Lodging	Residential	Residential
1. No. of people/units allowed	4 persons or less not related to head of household	8 persons or less who are disabled; may include 2 supervisors	5 or less guest rooms, rented separately	6 or more guest rooms with or without kitchens, or with shared facilities	More than 4 persons who are not related to head of household
2. How facilities are negotiated	No reference	No reference	No reference	More than 50% of the rental income from occupants of 30 days or more	Not on a daily basis
3. Kitchen allowed in unit	Kitchen	Kitchen	No kitchens in rooms	May have no kitchen May have kitchen in rooms May have shared kitchen	May have kitchen, does not have to
4. Personal Care Service Provided	Maybe	Maybe	Maybe	No	Maybe
5. Zoning allowed	By right in A, SF, D, TH, CH, MF1, MF2, MH, GO, CA, MU1	By right in A, SF, D, TH, CH, MF1, MF2, MH, GO, CA, MU1 when spaced 1000'; otherwise, by SUP. In GO, limited to 5% of floor area of building	By right in MF2, MF3, MF4, RR, CS, LI, IR, and CA; by SUP in CR and IM	By right in MF2, MF3, MF4, CA, MU, when located 1 mile from other residential hotels	By right in CH, MF, CA, MU, when spaced 1000' – otherwise by SUP By SUP in UC
6. Additional provisions	No CO required	No CO required	Operator may serve meals to occupants	Subject to Chapter 27 of the Dallas City Code. Also must have guest registry.	Density regulations (beds/units per acre)

City's & State's Role and Functions

- ❑ The Dallas City Code uses different classifications for group housing facilities than the State
- ❑ The City's focus has been on premise, structural and zoning violations
- ❑ The State's focus is on operations and health conditions, and these facilities typically provide ***personal care services*** such as:
 - Administrating medications to residents
 - Assistance for daily living activities such as eating, bathing, dressing, etc.
- ❑ The State performs inspections:
 - After receiving an initial application
 - Annually for State-licensed facilities
 - In response to reported complaints/incidents received by the State
 - When notices of violation are issued by the State and follow-up is required

State's Role and Functions on Group Homes

- The State's Department of Aging and Disability Services (DADS) licenses some facilities, such as:
 - Assisted Living Facilities
 - Continuing Care Facilities
 - Convalescent & Nursing Homes
 - Home & Community Support Services (HCS) Facilities

Background

- ❑ A multi-departmental task force on group housing facilities was created in June 2007 to coordinate the City's inspection/enforcement process, report results, and make recommendations
- ❑ In response to final recommendations by the task force in 2008, the City's 2009 Legislative Agenda sought authority to regulate 6 types of state-licensed group facilities by:
 - Requiring applicants for state license be approved by a local official for compliance with municipal ordinances – **Not Adopted**
 - Requiring facilities to post state license and a sign that specifies complaint procedures –**Adopted by House Bill 216 only for facilities not licensed by the state**
 - Allowing cities to inspect group homes for compliance with state law –**Adopted by House Bill 216 only for facilities not licensed by the state**
 - Allowing cities to file suit for injunctions, damages, civil penalties, court costs, and attorneys' fees against the owner and operators of a facility in violation of state law or municipal ordinance – **Not Adopted**
 - Establishing procedures for emergency closure of facilities operating without license and creating an immediate threat to the health/safety of a resident – **Not Adopted**
 - Allowing the state agency, local district attorney, county attorney, or city attorney to request a court to appoint a trustee to operate a group facility as an alternative to closure – **Not Adopted**

Background

- HB 216, adopted in 2009, allows the City to regulate boarding home facilities not licensed by the State, but did not fully achieve the City's recommendations
 - City's 2011 legislative agenda included recommendations to strengthen or clarify HB 216, however they were not adopted
- In FY 09-10, Code Compliance assumed responsibility for coordinating multi-department inspections of group facilities

On-going City Enforcement

- ❑ For every group housing facility the City identifies, a uniform intake form is used to gather information
- ❑ Group facilities can be difficult to find and the City uses various methods to identify them:
 - Inspecting previously identified residential group facilities to verify on-going operation and compliance and field inspections
 - Information gathered from hospitals, other care agencies, and State Department of Aging & Disability Services (DADS)
 - 3-1-1 Calls – complaints and concerns reported by residents are inspected to identify residential group facilities and coordinate multi-departmental inspections as necessary
- ❑ Data is used to maintain a database of information for various city departments

On-going City Enforcement

- ❑ In FY09-10, approximately 400 properties were identified and assessed as potential group facilities
- ❑ As of March 2012, 327 properties are being tracked by City staff (see map in Appendix)
 - 231 group facilities are currently identified as operational
 - ❑ 194 Handicap Group Dwelling Facilities
 - ❑ 5 Lodging and Boarding Houses
 - ❑ 19 Residential Hotels
 - ❑ 13 Group Residential Facilities
 - An additional 96 properties had 5 or fewer unrelated residents at time of inspection, technically making them single family use
 - ❑ Staff continues monitoring for number of residents and any code violations

On-going City Enforcement

- Action by the Code Compliance and City Attorney's Office has yielded the following results on group homes since 2008
 - 6 group homes have ceased operation
 - 3 group homes have come into compliance after litigation
 - 14 group homes have voluntarily come into compliance
 - 1 group home operator with 7 group homes is currently suing the City, seeking to invalidate the 8-person limit for handicapped group dwellings in single family zoning

On-going City Enforcement

- ❑ As of March 2012, 26 of the 231 identified facilities were found to have significant violations, including:
 - Lack of State license (1 location in violation)
 - Zoning regulations (24 locations in violation)
 - ❑ 12 locations less than 1000' from another without SUP
 - ❑ 4 locations that have more than 8 residents
 - ❑ 8 locations that need a Certificate of Occupancy to operate as a Group Residential Facility
 - Code Violations (1 location with structural violations)
- ❑ Status of enforcement presently taken at the 26 facilities with violations:
 - Code Compliance issued 32 notices and 4 citations
 - Fire & Rescue issued 32 notices; 9 are still open but expected to be in compliance within the timeframe given to the owner/operator
 - City referred 1 location to DADS

On-going City Enforcement

- Apart from common code violations, other issues often include:
 - Residents who appear mentally ill or under influence of drugs or alcohol loitering in neighborhoods
 - Large numbers of unfamiliar persons living or visiting these facilities
 - Frequent calls for police and EMS
 - Behavior and visibility of group home operation does not fit into more typical families in neighborhoods

Proposed Ordinance

- HB216 allows cities to adopt ordinances to enhance their ability to regulate boarding home facilities
 - A Boarding Home Facility is an establishment that:
 - Furnishes lodging to **three or more persons** who are unrelated to the owner by blood or marriage; and
 - Does not provide ***personal care services***; however, may provide community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication
- HB216 requirements are outlined in Appendix

Proposed Ordinance

- HB216 prohibits City from applying ordinance to certain facilities:
 - Assisted living and other State-licensed and/or funded facilities
 - Retirement communities, child-care facilities, family violence shelters
 - Religious facilities and facilities providing care and treatment of the sick who depend solely on spiritual healing
- As a result, ordinance cannot regulate 100 of the 327 facilities monitored by the City

Proposed Ordinance

- Proposed HB216 ordinance imposes specific requirements on boarding home facilities, including:
 - Annual permitting and comprehensive inspections
 - Re-inspections based on complaints
 - Maintenance of certain records
 - Posting of certain signs and documents
 - Compliance with certain model housing and health standards
- HB216 requirements are outlined in the appendix

Limits of Proposed Ordinance

- HB216 relies on owners/operators to self-report on injuries, allegations of abuse, management of residents' finances, etc.
 - City usually cannot verify incidents without police or EMS reports
- City cannot determine continuous compliance with requirements
 - Violations would be observed only during scheduled, annual inspection and other inspections resulting from complaints
- Documenting violations usually requires consent for prompt access to the facility's interior
 - If denied access, City would need search warrant based on probable cause

Enforcement

- Enforcement actions
 - Give notices of violation and citations
 - Suspend or revoke permits
 - Affected residents would be evicted instead of allowing a receiver to operate the facility, as the City requested from the Legislature
 - File civil lawsuits seeking injunctions and civil penalties

Alternative Enforcement Options

- ❑ Continue to pursue legislative goals not adopted previously
 - Require applicants for state license be approved by a local official for compliance with municipal ordinances
 - Allow cities to file suit for injunctions, damages, civil penalties, court costs, and attorneys' fees against the owner and operators of a facility in violation of state law or municipal ordinance
 - Establish procedures for emergency closure of facilities operating without license and creating an immediate threat to the health or safety of one or more residents
 - Allow the state agency, local district attorney, county attorney, or city attorney to request a court to appoint a trustee to operate a group facility as an alternative to closure

Alternative Enforcement Options

- Consider ordinance creating offense by owner and operator when residents create nuisance or disrupt neighbors
 - City Attorney researching this option
- Develop incentive program to promote model facilities through referrals to hospitals and care agencies
 - Good neighbor agreement

Implementation

- Adoption of HB216 provisions would require additional resources and a multi-departmental effort for
 - Comprehensive annual inspections and permitting
 - Enforcement action in response to calls and complaints

Implementation

□ Estimated Costs

- Personnel to conduct annual and complaint-based comprehensive inspections and enforcement
 - 18 FTEs at \$1,074,720/yr
 - 1 Manager II
 - 2 Supervisor II
 - 4 Caseworkers
 - 8 Inspector III
 - 1 Office Assistant
 - 1 Assistant City Attorney II
 - 1 Legal Assistant
- Equipment, supplies, and contract services: \$242,443/yr
 - PC leasing, vehicles, supplies, etc.
- Total: \$1,317,163/yr
- Projected Revenues of \$220,549/yr
 - Based on 300 facilities at \$735 permit cost

Implementation

- Lead time required to implement an effective program
 - Development of all necessary work instructions and training for responsible staff
 - Preparation of forms and documents for applications, comprehensive inspections and posting
 - Public information, education and training for boarding home owners/operators, residents and the public
- Recommend effective date of October 1, 2012

Next Steps

- Draft proposed ordinance adding Chapter 8A to the Dallas City Code for Council consideration in May, with October 1, 2012 effective date
 - Requires update to Chapter 33 to be consistent with state law that authorizes City to enforce state laws for assisted living facilities if requested by DADS
- Provide updates to Council on implementation progress, including:
 - Development of work instructions, forms and documents for an effective program
 - Costs for necessary resources, as part of the FY12-13 budget development process
 - Implementation of public information

Appendix: HB216 Requirements

- Annual Permitting & Inspections
 - Proposed ordinance requires boarding home facilities to annually demonstrate compliance with HB216 requirements in order to receive a permit to operate
 - Application must include:
 - Applicable contact information for all owners and operators, including 24/7 emergency contacts
 - Consent for criminal history background checks
 - Evidence of payment of all amounts owed to City, including ad valorem taxes, fees, liens, fines, and other registrations
 - Application fee, to be determined
 - In addition to annual inspection necessary for issuance of a permit, facilities would also be required to provide records to prove full compliance with applicable laws through annual:
 - Fire Inspection
 - Fire Extinguisher Inspection
 - Alarm Inspection
 - Kitchen Inspection
 - Gas Pipe Pressure Test* (Every Three Years)
 - Inspection of liquefied petroleum gas systems
 - In addition to annual inspections for permitting, the City has the discretion to perform exterior/structural inspections of the property to determine if Code violations exist
 - Interior inspections of the property can be performed with consent of owner/operator
 - Search warrant is necessary without consent
 - \$50 re-inspection fee is applied after the first re-inspection for violations not abated

Appendix: HB216 Requirements

- Records & Posting Requirements
 - Boarding homes must maintain and make records available to the City upon request:
 - Property ownership
 - Compliance with required inspections
 - Service agreement with each resident
 - Documentation of injuries, incidents and accidents by residents
 - Documentation of allegations of abuse, neglect and exploitation of residents
 - Financial records for each resident for which the owner or operator is the representative payee
 - Ordinance enumerates requirements to avoid financial conflicts of interest with residents
 - Assessments and periodic monitoring of residents' capacity to self-administer medication and independently complete basic elements of personal care
 - Required training for owners, operators, employees
 - Boarding home facilities must display the following information in a public area:
 - Annual permit issued by the City and most recent inspection summary
 - City-issued sign specifying how to direct complaints to the City
 - Information on how to access inspection reports and information on the facility
 - Information for the closest public health services agency and local non-profit organizations that represent, advocate or serve the elderly or persons with disabilities
 - Owners/operators must provide 24/7 access to land line telephone service for residents

Appendix: HB216 Requirements

□ Model Housing & Health Standards

- Construction, remodeling and maintenance of facilities must comply with applicable City, State and Federal regulations
- Model housing standards are specified for doors and windows, public pathways and stairways, electrical, heating and air conditioning, and hot water
- Maintenance and repair standards require clean and sanitary dwellings
- Requirements and standards for facility space, furnishings and amenities are specified for sleeping, dining, living, bathroom, laundry and kitchen areas
 - Variances may be granted under certain conditions by the Permit License & Appeal Board
- Model health standards are specified for fire safety and emergency preparedness, water quality, pest control, hazardous materials, cleanliness and food safety
- Ordinance stipulates requirements for assistance with self-administration of medication to residents

Appendix: March 2012 Map

