Addressing Nuisance Independent Living Facilities

San Diego's Unsafe Facilities Taskforce

Office of the City Attorney

October 19, 2022

Presented By:
Chief Deputy City Attorney Gabriela Brannan
City Attorney Investigator Manny Gamboa
Victim Services Coordinator Wendy Villanueva

The City of SAN DIEGO

Nuisance Abatement Unit (NAU)

- **A specialized unit within the City Attorney's Office devoted to aggressively enforcing public nuisance, building and zoning, fire and environmental laws in the City of San Diego.**

- **NAU works in partnership with City departments, Council Offices, community groups, and the police to proactively preserve and enhance the quality of life in our communities.**

Preserve Neighborhoods & Safety

- Housing - Substandard dwellings and unsafe living conditions
- Building - Unsafe and dangerous structures, unpermitted construction, abandoned properties and perennial remodels
- Zoning - Unpermitted uses and illegal dwelling units
- Fish and Wildlife - Illegal hunting of fish and wildlife including ivory trafficking
- Destruction of Environmentally Sensitive Lands – Historical, archeological and illegal grading
- Environmental Contamination - Illegal Dumping, transportation, storage, and disposal of hazardous waste
- Fire Hazards

What is an Independent Living Facility (ILF)?

- Privately owned home or complex housing **INDEPENDENT ADULTS** that benefit from a shared housing environment.
  - Elderly
  - Low-income
  - Recovering addicts

What is an Independent Living Facility?

Residents need

- **NO** medication oversight
- **NO** assistance to feed themselves
- **NO** help with self-care
- **ABILITY** to manage finances
- **ABILITY** to facilitate their own transportation

Are ILFs licensed?

NO

- **Do not need a state license to operate when residents do not need care or supervision**
- **Not regulated by local zoning laws (ADA limits)**
- **Can operate in residential neighborhoods**

Typical Conditions Found at Problem ILFs

- **High Calls for Service** to the police.
  - Nuisance crimes drinking alcohol in public, drug use, noise, and fighting
- **Arrests** for nuisance activity and drug crimes
- **Substandard Housing Violations -** Cal. H&S Code §17920.3
  - Unpermitted construction
  - Roach/vermin infestation
  - Storage violations- exterior and interior junk and trash
  - Egress violations and lack of smoke detectors (Fire Hazard)
- **Elder and Dependent Abuse Concerns**

Unacceptable Conditions at Problem ILFs



Locked Refrigerator

Excessive Storage
Lack of Egress
Hoarding



Dirty Food Storage



Unacceptable Conditions at Problem ILFs



Beds in Common Areas

Lack of Smoke Detectors

Fire Hazard



Walls with Water Damage



Who may see these problem ILFs?

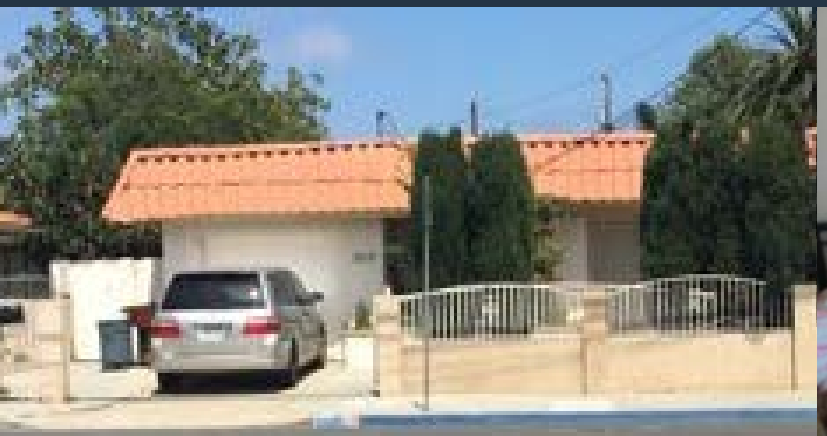
- San Diego Police Department
- San Diego Fire Department
- PERT – Psychiatric Emergency Response Team
- Adult Protective Services
- Community Care Licensing- CA State agency
- San Diego Code Enforcement
- Hospitals
- Family members/Friends
- City Attorney/District Attorney

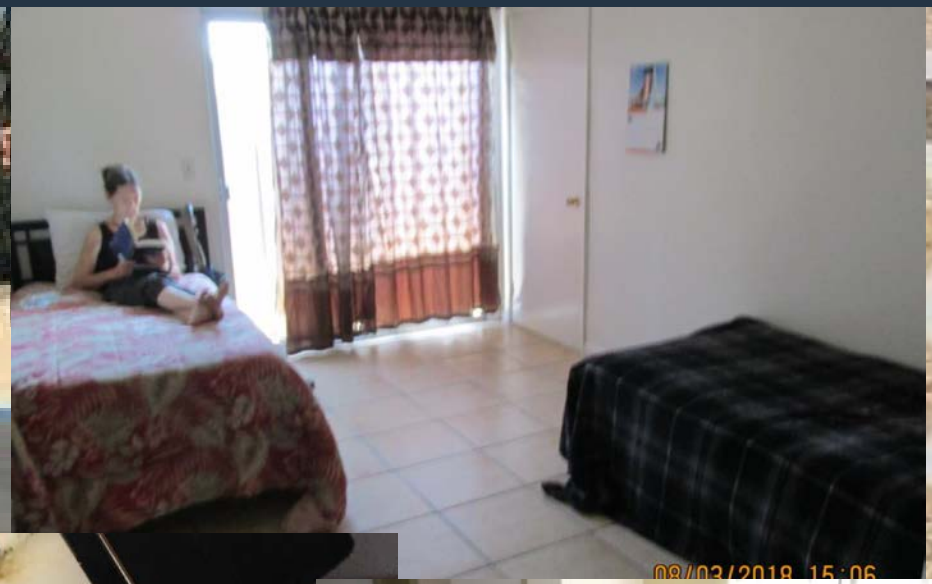
ILF Cases

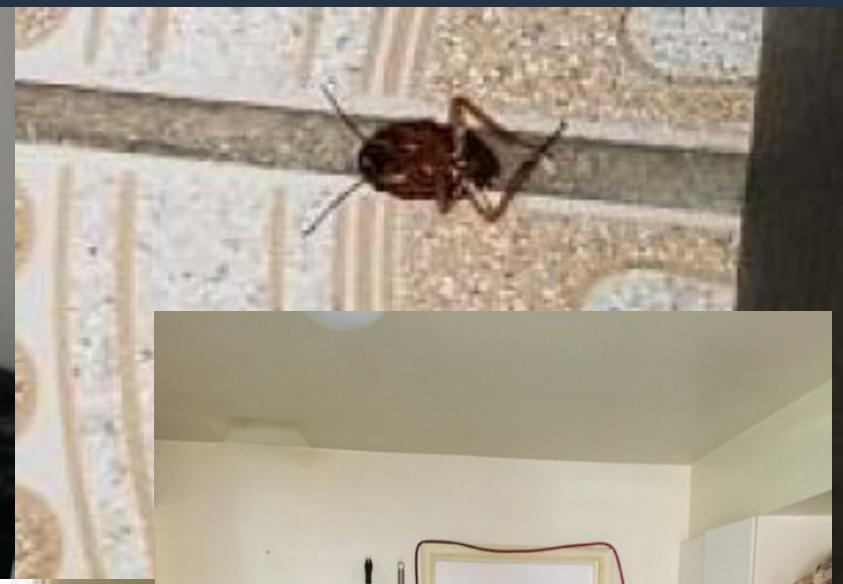
- 2-3 case referrals made a month to different city agencies
  - Fire
  - Code Compliance Division
  - Police
  - San Diego City Attorney's Office

- If City agencies do not obtain compliance, case is submitted to the Nuisance Abatement Unit for prosecution

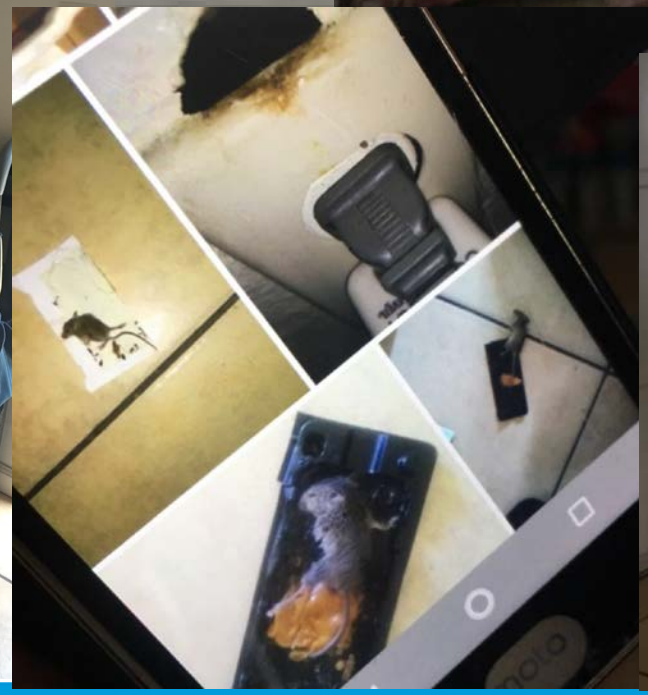
3505 Sparling Street

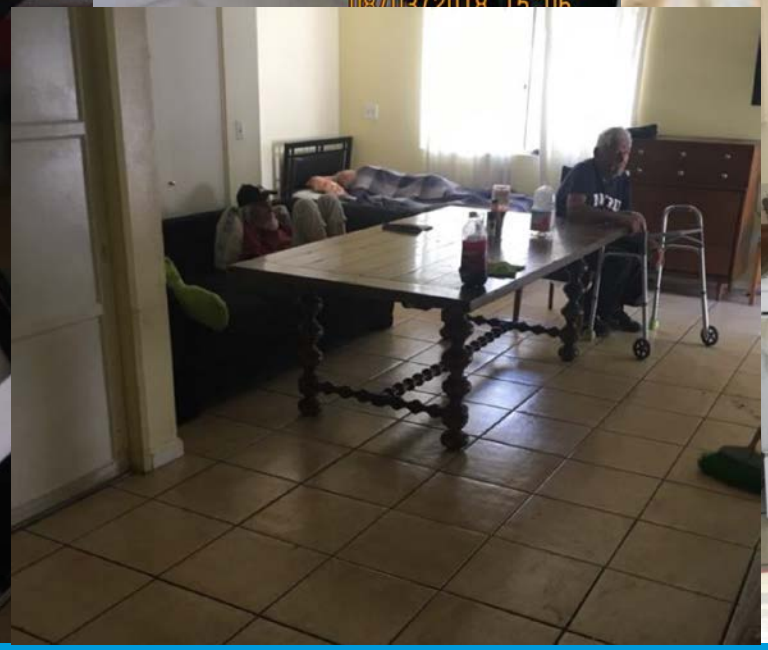














935 Kostner Street













3505 Sparling Street/935 Kostner Drive



FOR IMMEDIATE RELEASE: September 24, 2018
Contact: Chief Deputy City Attorney Mike Giorgino at
mgiorgino@sandiego.gov or (619) 533-5886

City Attorney Cracks Down on Illegal Elder Care Facilities

Elder/dependent victims get relocation benefits and medical care

San Diego City Attorney Mara W. Elliott announced today misdemeanor criminal charges against the owners and operators of two illegal care facilities where elderly and dependent residents were living in deplorable conditions. The victims range from 57 to 84 years old.

"We entrust elder care facilities with the safety and well-being of some of our community's most vulnerable residents," said City Attorney Mara W. Elliott. **"When unscrupulous landlords and operators set up substandard, unlicensed care facilities, they jeopardize the precious lives of those who depend on them and violate our most basic values of compassion and care."**

The charges against Petra Garcia Navarro and Silvina Sandoval Torres concern a six-bedroom unlicensed residential care facility at 3505 Sparling Street in Redwood Village. Petra Navarro is the operator and Torres is the owner of the facility, which operated under the name "Angel House" and "Hogar Dulce Hogar, LLC," or "Home Sweet Home." The charges against Jaquelinne Aguirre Navarro and Martha Alicia Bragg concern a substandard facility at 935 Kostner Drive in Otay Mesa West. Jaquelinne Navarro is the operator and Bragg is the owner.

In June 2018, inspectors from the City's Code Enforcement Division (CED) inspected the Sparling Street facility, where 11 elderly and dependent residents lived. CED inspectors found:

- extensive infestations of mice, scabies, and roaches,
- a lack of egress,
- no telephone on the premises for residents to report medical emergencies,
- unsafe electrical fixtures,
- unpermitted plumbing, and
- poor sanitation including feces in the community shower and the odor of urine in the house.

In addition, the victims were barred from the kitchen, depriving them of access to food and water.

Petra Navarro and Torres are charged with operating an unlicensed residential care treatment facility. Petra Navarro has been charged with willful cruelty to nine elderly residents and two dependent adults residing at Sparling. She and Silvina Torres are charged with more than a dozen other Health and Safety and City Municipal Code violations.

On August 2, the City Code Enforcement Division posted a Notice at the Sparling Street facility ordering Petra Navarro and Torres to vacate the building, pay relocation benefits to the 11 residents, and make repairs. They did not comply.

On August 7, 2018, City Attorney Investigators discovered all of the victims were gone from Sparling. Investigators found seven of the victims at a facility on Kostner Drive, the home of Petra Navarro's daughter, Jaquelinne Navarro. The elderly residents had been reportedly transported in the back of a pick-up truck. An inspection of the Kostner Drive location revealed similar Health and Safety and City Municipal Code violations to those on Sparling Street.

Jaquelinne Navarro and Bragg are charged with a host of Health and Safety and City Municipal Code violations. Petra and Jaquelinne Navarro are also charged with willful cruelty to the seven victims at Kostner Drive. One elderly victim was being housed in a garage that lacked ventilation. Another was found in a tent on the side of the house. All suffered from heat exposure. Most of them were transported to local hospitals for medical treatment and evaluation. All seven have been removed from the Kostner Drive facility.

The City Attorney's Office has secured $26,620, or $2,420 per victim, from City funds. The money can be used for relocation and residential expenses. The City Attorney's Nuisance Abatement Unit will seek to recover those costs from Petra Navarro and Silvina Torres at an administrative hearing set for November 28, 2018. For the victims' safety and privacy, the City Attorney's Office is not disclosing the victims' current locations.

The City Attorney's Office is committed to protecting elder residents. Elder abuse victims often live in silent desperation, unwilling to seek assistance because they believe their cries for help will go unanswered. Many remain silent because they fear retaliation from their abusers, are embarrassed that they have fallen victim to predators, or because they fear becoming homeless. Others fear that no one cares, that no one will believe them, and that their allegations will be attributed to old age.

In the context of residential care facilities, shady operators may make a promise or enter into an oral contract with an elder in exchange for money. They may withhold food, water, medication, access to a telephone, or general housing comforts. Alternatively, unlicensed operators may illegally provide medical care and general care without a license. In all cases, the elders are living nameless lives and are forgotten in the shadows.

Chief Deputy City Attorney Nicole Crosby, head of the Domestic Violence and Sex Crimes Unit has taken the lead on this case, working with detectives from the San Diego Police Department to investigate the criminal elder abuse charges. In coming months, the City Attorney's Office will be spearheading an Unsafe Facility Task Force, seeking a regional approach to crack down on substandard, unlicensed elder and dependent care facilities.

To report elder abuse and adult dependent care emergencies, dial 911. For non-emergencies, contact the San Diego Police Department or another local law enforcement agency. Community members may report code, health and safety, and environmental violations to the City's Code Enforcement Division at 619-236-5500, or the City Attorney's Nuisance Abatement Unit at 619-533-5655.

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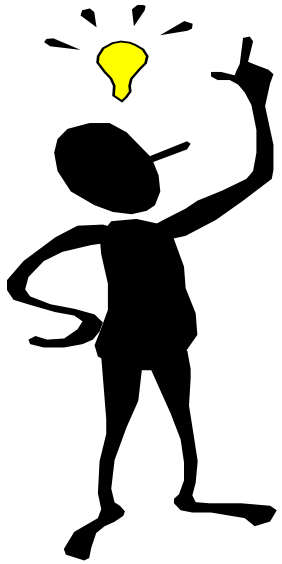
Recent City Attorney media releases can be accessed on the San Diego City Attorney's home page located on the Internet at https://www.sandiego.gov/cityattorney

1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220

Other agencies were dealing with the same ILF!



What did the City Attorney's Office Do?

In 2018, created the City of San Diego's Unsafe Facilities Taskforce to protect vulnerable victims from predators by ensuring housing is habitable and appropriate for the residents' needs.

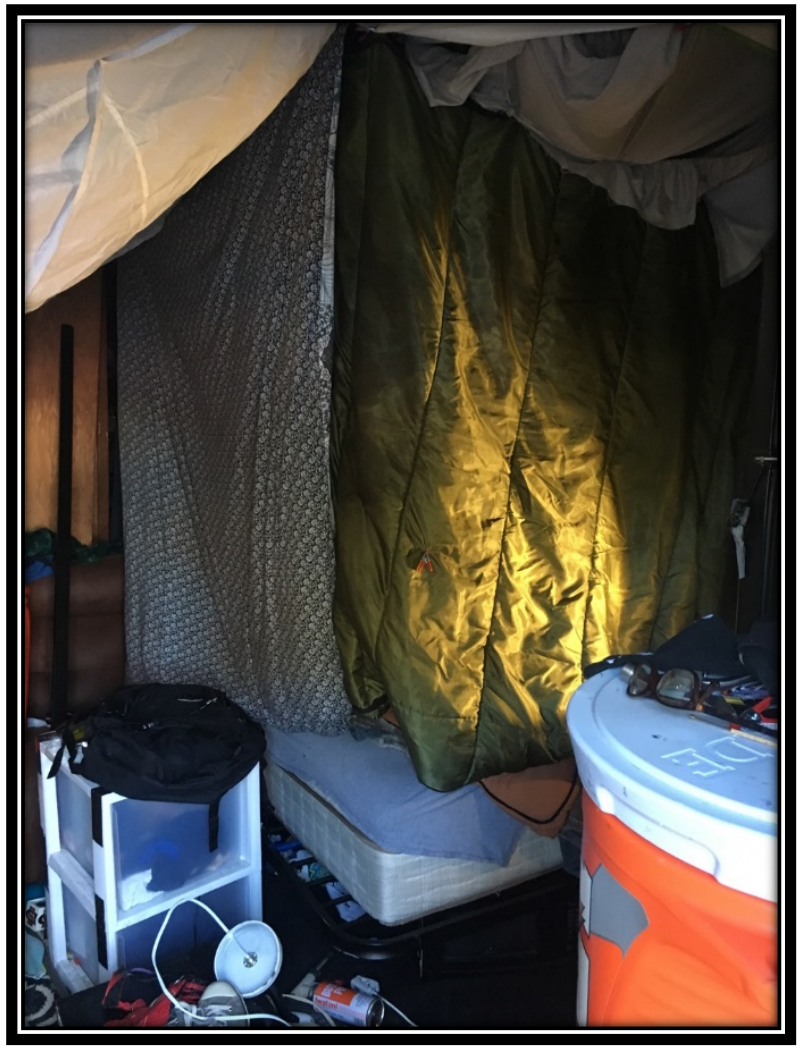
Pilot Project- Southeastern Police Division, most case referrals (SDPD, CED & NAU)

Building Partnerships - Part of the Solution

- Nuisance Abatement Unit
- Special Prosecutions Unit/Criminal Division
- San Diego Police Department
- Adult Protective Services
- City of San Diego Code Enforcement Investigators
- San Diego Fire Department
- Community Care Licensing- all complaints
- PERT – Psychiatric Emergency Response Team

Unacceptable Conditions at Problem ILFs

Unpermitted Sleeping Space



Sheds Not Built for Habitation



Unacceptable Conditions at Problem ILFs

Broken Windows



Lack of Egress



NAU Investigator Duties

- Assisting with investigations for the prosecution of criminal and civil matters that include land use, health and safety, and public nuisance violations
- Locating and interviewing witnesses using various law enforcement computer systems
- Gathering and obtaining statements, documents, photographs and other evidence
- Serving summonses and subpoenas; testifying in court
- Participating in inspections with City code enforcement investigators and San Diego police officers

ILF Investigations

- Lead investigator who coordinates multi-agency inspections to investigate local and state violations at unlicensed residential care facilities, including independent living facilities

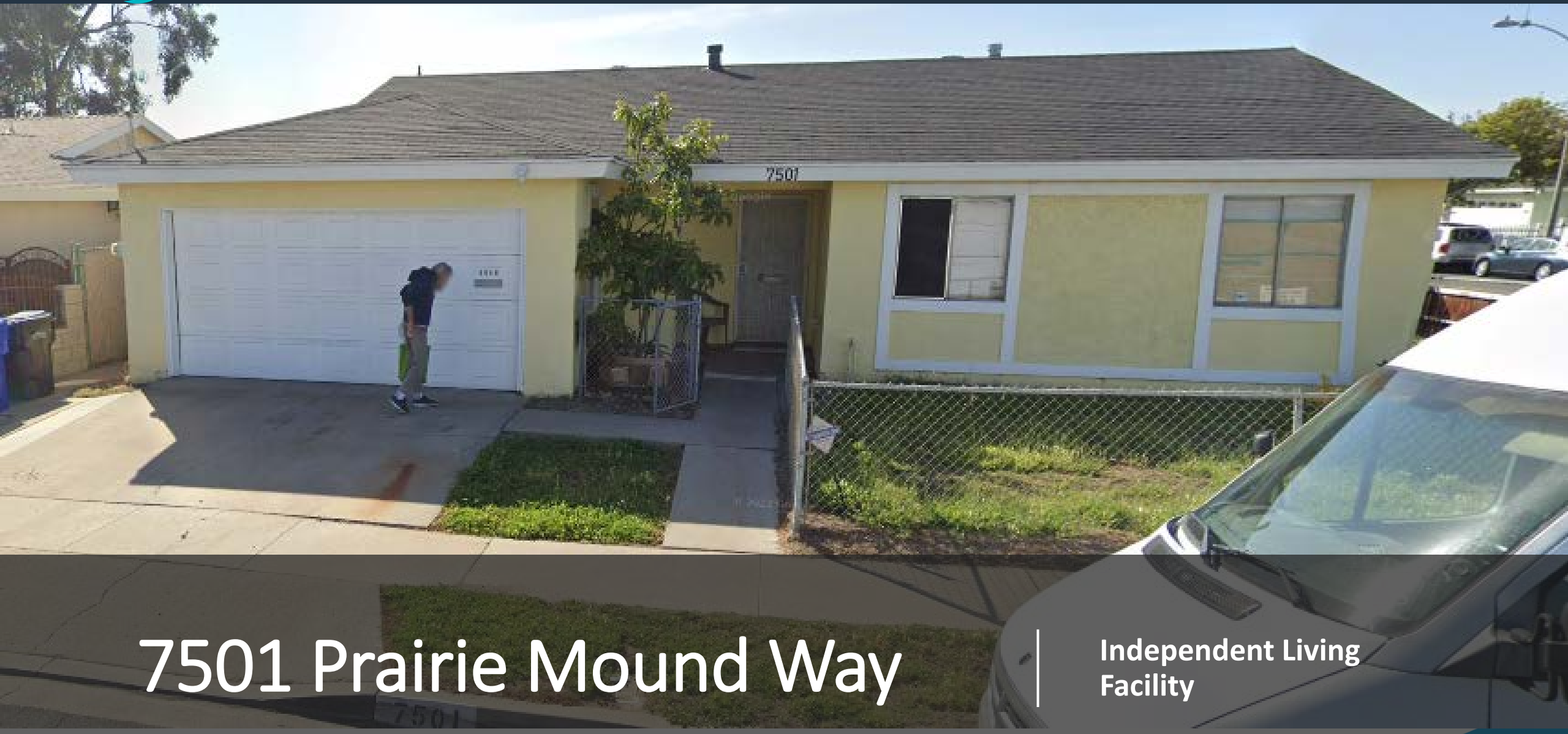
- Reviews cases with the County of San Diego, Community Care License (CCL), Adult Protective Services (APS), Development Services Department's Code Enforcement Division, San Diego Police Department, Office of the City Attorney – Criminal & Community Justice Divisions

Prepare Operations Plan (Ops Plan)

1. Research the ILF address and investigative background of all occupants, registered vehicles, any significant criminal histories, firearms, and determine if any occupant is on probation or parole
2. If there are occupants with mental health issues, consider having Psychiatric Emergency Response Team (PERT) present when conducting the inspection
3. Work with the area Police Division- the Community Relations Officer
4. Create an Inspection Operations plan and include list of participants (officers, inspectors, investigators, VSC, APS), provide contact information- cell phone numbers. List what each participant is assigned to accomplish.
5. Provide Operation Plan to all participants.
6. Include a photo of the residence and the occupants

Victim Services Coordinator

- Participates in code enforcement property inspections
- Identifies/interviews victims
- Shares tenant information, photographs and documents with Deputy City Attorney and Investigators
- Follows up with tenants for relocation assistance
- Locates habitable housing for tenants
- Assists tenants with additional social services (CalFresh, Medi-Cal, Veterans Services)
- Updates assigned Deputy City Attorney with tenant information
- Distributes relocation benefits



7501 Prairie Mound Way

Independent Living Facility

Broken Window



Expired tags White van parked Horizontal to driveway



Smoke detectors missing



Locked refrigerator no access for the residents



Infestation throughout the property



Mold underneath the sink



Refrigerator – not fully stocked



Roach infestation



Converted 3 bedrooms inside the unpermitted garage.
Water heater was installed incorrectly without permits.





Unpermitted room, inadequate exit facilities. Three bedrooms exit into the house (hallway area). Bed bugs, cockroaches, and mice infestation.





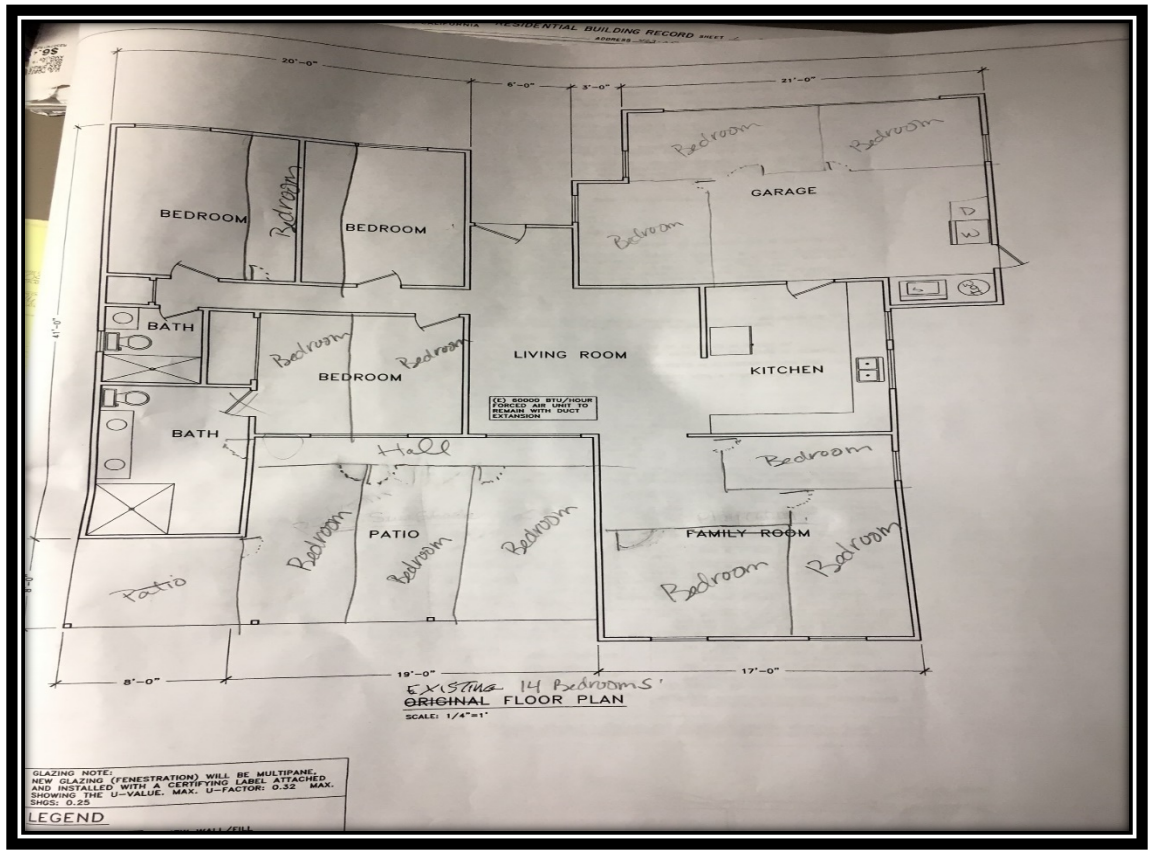
Fence in the street side yard is dilapidated.

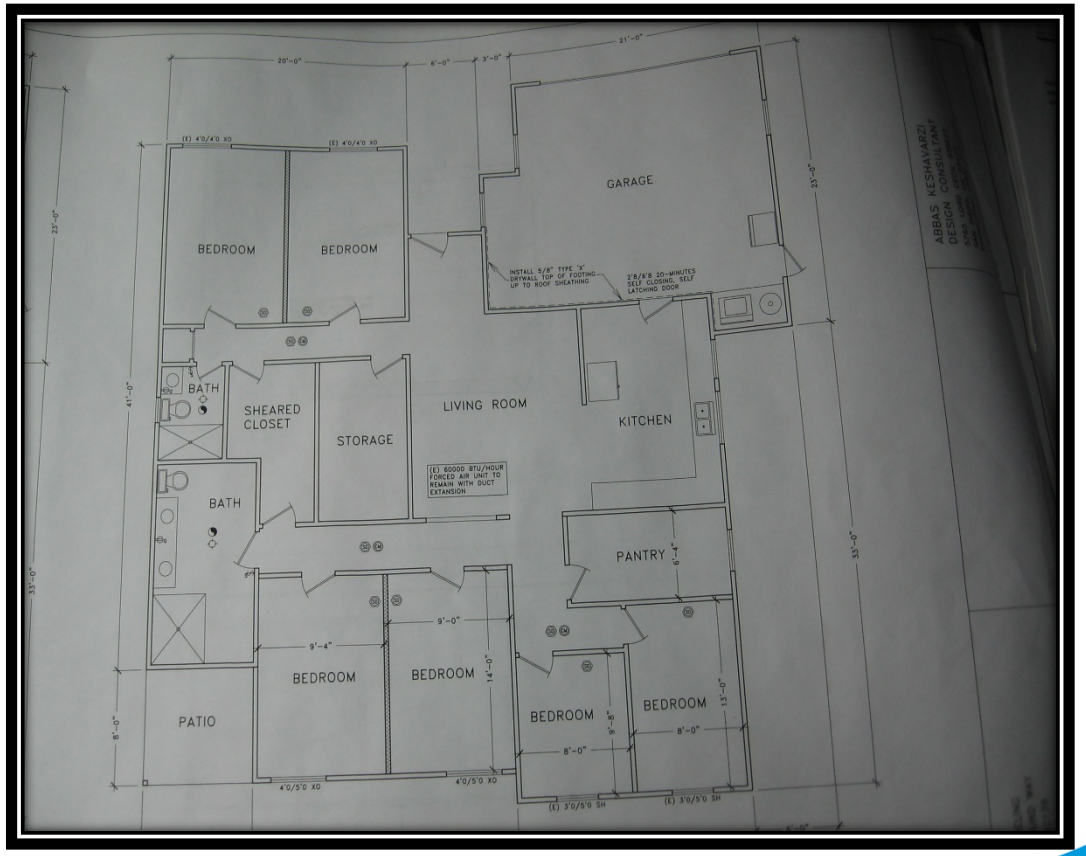


Van parked horizontal blocking required off-street parking.



11 of the 14 bedrooms are unpermitted and are not listed in the County Assessor's Records. Bedroom Regulation in RS Zone. Only 6 bedrooms are allowed on lots less than 10,000 Sq. Ft.





5128 Ewing Street



5128 Ewing

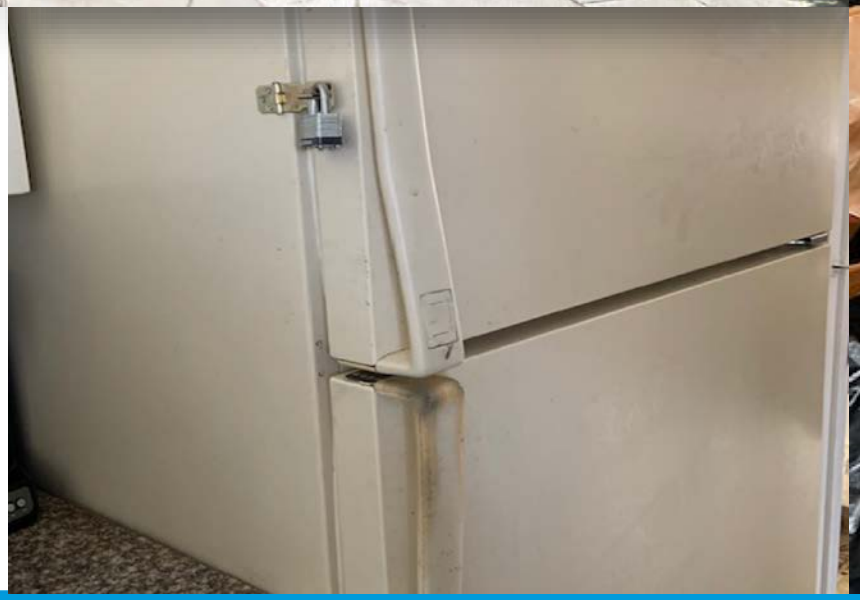
- Previous cases with Code Enforcement Division since 2010
- 2018 CED received complaint- overcrowding/unsanitary
- Calls for Service- 7 yrs, 300 CFS, 625 hours out of service
- Inspection- bed bugs, roaches/mice, water heater venting into interior, patio & shed converted to habitable space
- Notice and Order issued- relocation benefits (10 occupants, $2700 each)
- Occupants needed a higher level of care (diabetic and mental health occupants)

5128 Ewing Street



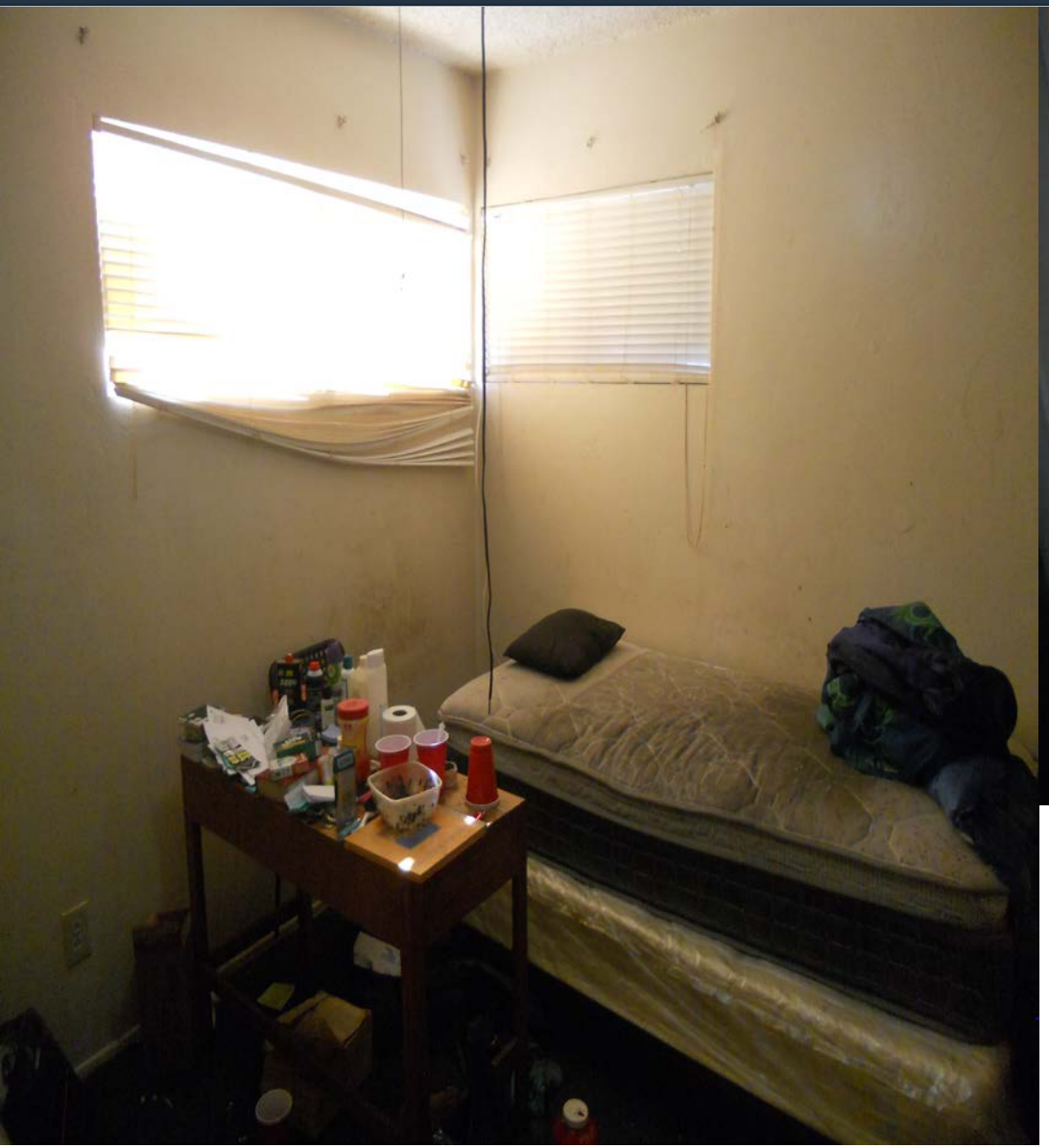








5128 Ewing Street







Creative Solutions

- **The City Attorney's Office Uses a Variety of Legal Remedies**
  - Criminal Prosecution - violations of the Land Development Code/SDMC and the Cal. Health and Safety Code are misdemeanors
  - Appointment of a Receiver
  - Civil–Injunctive Relief
  - Administrative Remedies

- **Immediate Impact Through Enforcement Tools**
  - Tenant Relocation - if conditions substandard, Cal. Health and Safety Code requires relocation of tenants
  - Victim Services Coordinator to help victims with relocation assistance
  - Referral to County's/State's Health and Human Services Agency? If unlicensed
  - APS & Other Community Service Support Referrals

5128 Ewing Street

- How was this case resolved? (see IMLA app)
  - Operator accountability – Rogers
  - Property Owner accountability – Yus
  - Property Manager accountability – Li

  - Causes of action (B&P 17200, Public Nuisance, SDMC)
  - Permanent Injunction, Civil penalties ($267k, $750k stayed, Restitution $36,000

Special Prosecutions Unit

- Criminal Division- Misdemeanors
- DCA and Investigator
- Criminal elder abuse, prosecuted vertically
- If code violations not corrected will add to complaint

Which Remedy is Appropriate?

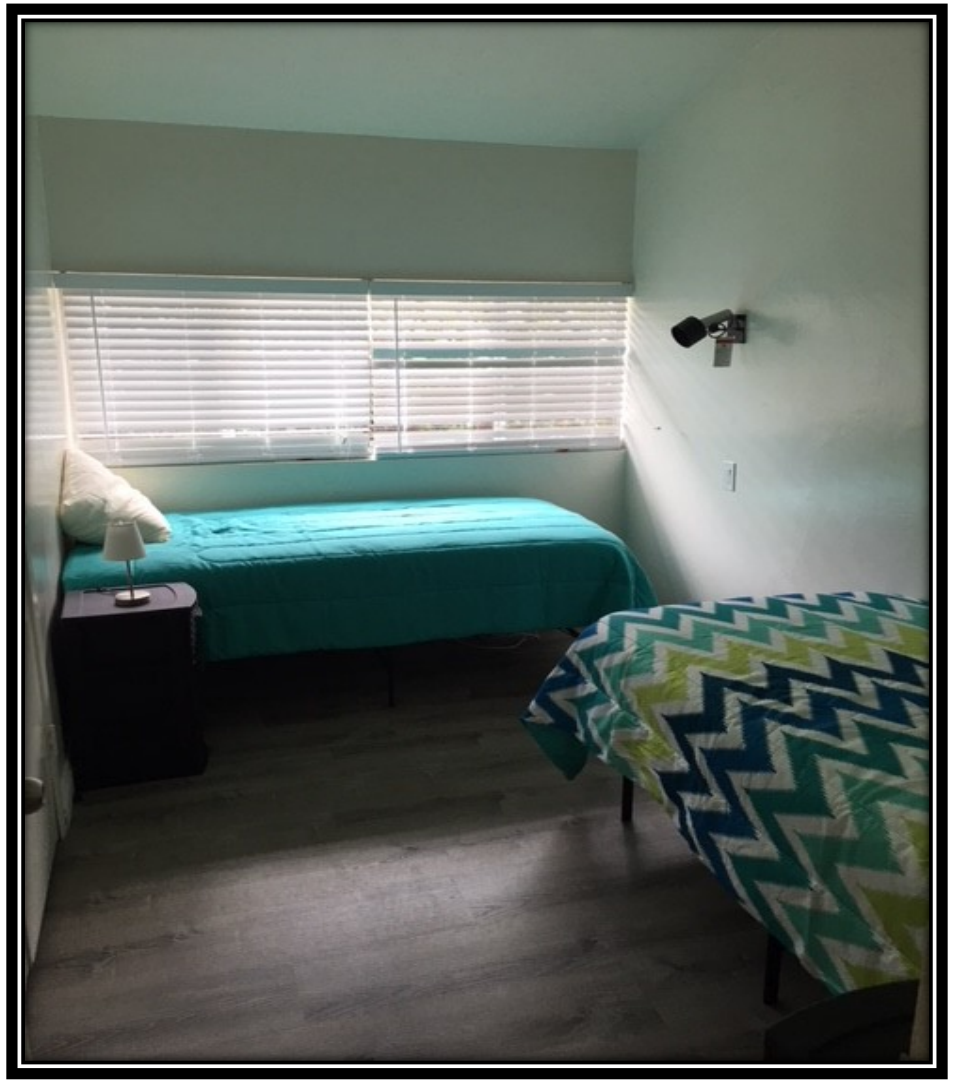
- Owner's profile?
- Operator's profile?
- Repeat offenders?
- Egregious conditions?
- What will deter future conduct?
- Accountability for illegal/dangerous conduct?
  - Fines?
  - Jail time?
  - Permanent Injunction?

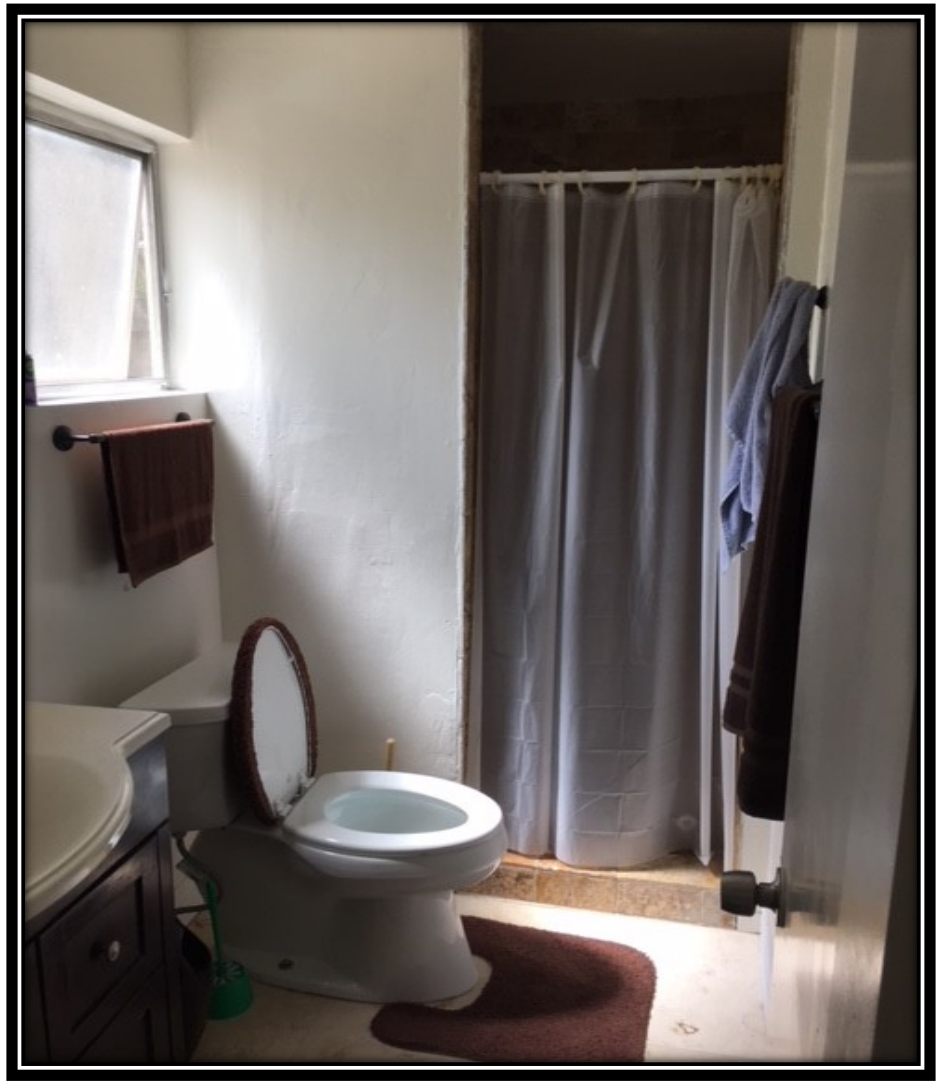
Acceptable ILF Conditions





Acceptable ILF Conditions





Proactive Engagement and Communication

- Voice for Victims living in the shadows
- Streamlined and Coordinated multi-agency investigations
- Community Pride
- Decrease in Crime
- Increased Public Safety
- Increased Property Values
- Improved Neighborhood Quality of Life

Contact Information

Nuisance Abatement Unit
Community Justice Division
Office of the San Diego City Attorney
(619) 533-5500
gbrannan@sandiego.gov
mgamboa@sandiego.gov
villanuevac@sandiego.gov

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