In another victory, Ninth Circuit affirms Costa Mesa's sober living home ordinances

The City of Costa Mesa won another victory for its group home ordinances as the U.S. Court of Appeals for the Ninth Circuit affirmed the federal court decision in SoCal Recovery, LLC v. City of Costa Mesa.

"It is a good day for Costa Mesa when one of the highest courts in the land agrees that our efforts to create reasonable public safety rules to maintain quality of life for our neighborhoods is lawful and correct," Mayor Katrina Foley said. "Another victory for all Costa Mesa residents, including those exploited by unscrupulous sober living home operators."

In the trial court, an unlicensed sober living home operator and one of its residents asked the court to stop the City from enforcing its ordinances against unlicensed sober living homes in single- and multi- family residential zones within the City, claiming that the City's actions violated the Fair Housing Act. The trial court denied the injunction request.

Plaintiffs appealed to the Ninth Circuit. On appeal, plaintiffs argued that one of their unlicensed sober living homes should have been excused from the separation requirement in City Ordinance 14-13, which requires sober living homes to be located 650 feet away from other sober living homes and licensed drug or alcohol abuse treatment facilities.

A unanimous panel of judges rejected that argument and concluded that the trial court appropriately denied the plaintiffs' request for an injunction. The panel agreed with the district court that the plaintiffs had not shown two of the four required factors for obtaining an injunction.

First, they had not established that the balance of public interest factors weighed in their favor; that is, the plaintiffs' interests did not outweigh "the interests of the City in enforcing its ordinances and of the residents of sober living homes and the public at large in preserving the benefits the City ordinances conferred."

The Ninth Circuit also concluded that the plaintiffs had failed to show a likelihood of success on the merits in their reasonable accommodation claim because they failed to follow the City's established procedures for requesting a reasonable accommodation.

Since the City obtained the jury verdict in the Yellowstone matter in December of 2018, the City prevailed against sober living home operators by obtaining summary judgment in four of seven additional cases.

In addition, the Court has tentatively granted summary judgment to the City and is preparing its final order in a fifth case. The City is attempting to recover fees and expenses in these actions through motions currently pending with the Court.

Plaintiffs have appealed the jury verdict, two of the summary judgments, and one denial of Plaintiffs' motion for preliminary injunction.

The other three appeals are still pending before the Ninth Circuit Court of Appeals.