
**CITY OF COSTA MESA
CITY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Mr. and Mrs. Eric Kreis

FROM: Kimberly Hall Barlow, City Attorney

DATE: July 22, 2005

SUBJECT: 1782 Iowa Street Complaints

This memorandum is in response to your request to the City Council that the City address over-crowding issues at 1782 Iowa Street. Unfortunately, the City's ability to address overcrowding and related issues raised by various persons concerning this property on Iowa street is limited. There is little the City can do to reasonably limit the occupancy of residential properties under existing statutes and case law. The City may not enact occupancy standards which differ from state standards since it cannot make the required statutory showing to alter state law. Under existing state law, and based upon review of available records and inspections of the property in question, at least 26 people can legally reside in the home.

The City may not require those who live in a single-family residence to be related to one another. In addition, the City is restricted in the ways it can inquire into the nature of the relationship of people living together, given the state constitutional right to privacy and fourth amendment constraints. As stated by our Supreme Court, "the right to privacy includes the right to be left alone *in our homes*, and this right should be abridged only when there is a compelling public need." Based on the information presently available to the City, as well as the inspections which have taken place, we do not believe we can demonstrate a compelling public need to a court that would allow the City to inquire further into the relationship of the persons living in the home.

While the City recognizes that there may be legitimate concerns regarding the children living in the home and activities occurring at various hours of the day and night. However, some of the complaints/ observations are simply not code enforcement issues, and the City has no jurisdiction to address them. These include issues of children playing in front of the home without supervision, late night entry and exit without evidence of criminal activity, and the representations

made in obtaining financing for the home. Any and all reports made to appropriate agencies will be investigated. Code enforcement staff has investigated complaints that rooms were illegally being constructed, of people living in the garage, of trash, debris, and excessive noise, and the property has been brought into compliance. Reinspections have revealed that there is no evidence that the property is being used as a boarding house, drug house, group home, or that any illegal activity (apart from the corrected code violations) is occurring. Staff appears to have taken all reasonable and legal steps regarding this property at this time.

The City will continue to monitor the situation at this property and take appropriate legal steps if violations are ascertained; you should consult your own legal counsel to determine if you have any rights to independently pursue these issues. Please let me know if you have any questions.

cc: City Council
City Manager