



Scenic Pacifica
Incorporated Nov. 22, 1957

CITY OF PACIFICA

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October 8, 2018

Honorable V. Raymond Swope
Judge of the Superior Court
c/o Charlene Kresevich
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655.

RESPONSE TO GRAND JURY REPORT: "SMOKE-FREE MULTIFAMILY HOUSING: NO IFBS, ANDS OR BUTTS"

Honorable Judge Swope:

Thank you for the opportunity to review and comment on the above referenced Grand Jury Report filed on July 26, 2018. The City of Pacifica's response to both the findings and recommendations are listed below.

FINDINGS

F1: Since 1967, exposure to secondhand smoke has killed approximately 2.5 million nonsmokers of all ages in the United States.

Response to F1: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F2: Enforcement officers report that their primary focus when responding to MUH smoking violation complaints is to educate alleged smokers regarding the requirements of the smoking ordinances, and that most alleged smokers report being unfamiliar with the requirements of the ordinance.

Response to F2: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F3: The Belmont, Brisbane, Daly City, Redwood City, San Bruno, and the County of San Mateo MUH smoking ordinances expressly prohibit retaliation against individuals who report a violation;

however, the MUH smoking ordinances for Burlingame, Foster City, the City of San Mateo, and South San Francisco do not.

Response to F3: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F4: Searches for "smoking" or "smoke" using the website search tool for Burlingame and Daly City do not yield any information regarding their MUH smoking ordinances, whereas the search tools for each of the other jurisdictions with MUH smoking ordinances do.

Response to F4: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F5: The websites for Burlingame, Daly City, Redwood City, the County of San Mateo, and South San Francisco do not contain summaries of their MUH smoking ordinances. The websites for each of the other jurisdictions with MUH smoking ordinances do.

Response to F5: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F6: The websites for Belmont, Burlingame, Daly City, Redwood City, the City of San Mateo, and South San Francisco do not provide specific information on how to make complaints regarding MUH smoking violations. The websites for each of the other jurisdictions with MUH smoking ordinances do.

Response to F6: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F7: The websites for the cities of Belmont, Brisbane, Foster City, Redwood City, San Bruno, San Mateo, and South San Francisco, as well as the County's Health System website (for unincorporated San Mateo County) have links on their home pages that lead to information on how to report specific types of nuisances such as barking dogs, loud parties, abandoned mattresses, and shopping carts. However, these links do not provide information on how to report MUH smoking violations. Burlingame's website links to Code Compliance from its home.

Response to F7: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F8: The websites for Brisbane, San Bruno, and the County of San Mateo (on the County Health System website) provide information about the TPP or TEC or how to contact them regarding an MUH smoking issue. The websites for the other MUH jurisdictions do not.

Response to F8: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F9: In all MUH jurisdictions, the issuance of citations for violations of MUH smoking ordinances is limited by the need to (1) observe the violation in progress, (2) see other compelling evidence that a violation had occurred, or (3) have the alleged violator admit to law or code enforcement that he or she had been smoking in violation of the MUH smoking ordinance.

Response to F9: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F10: The towns/cities of Colma, East Palo Alto, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, and San Carlos do not have smoking ordinances that restrict smoking in their multiunit residences, except in some common areas. Atherton, Hillsborough, and Woodside have no multiunit housing.

Response to F10: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F11: The MUH smoking ordinances for the cities of Brisbane, Burlingame, Daly City, and the County of San Mateo for its unincorporated areas do not prohibit smoking medical marijuana in multiunit housing.

Response to F11: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F12. The TPP web pages do not include the following information: (a) a summary of residents' rights and obligations under the MUH smoking ordinances in their jurisdictions, (b) links to each jurisdiction's MUH smoking ordinance, and (c) information on how residents of multiunit housing can report violations of MUH smoking ordinances in their specific jurisdictions.

Response to F12: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F13: TPP reported limited success in obtaining MUH smoking complaints data from jurisdictions, making it difficult to assess the efficacy of MUH ordinances and develop trend information.

Response to F13: The City agrees with this finding, relying on the Grand Jury's representations in their report.

F14: The funding allocation from the California Department of Public Health's Tobacco Control Program for TPP increased from \$150,000 in FY 2016-2017 to \$784,000 in FY-2017-2018.

Response to F14: The City agrees with this finding, relying on the Grand Jury's representations in their report.

RECOMMENDATIONS

R1: Each jurisdiction with an MUH smoking ordinance (Belmont, Brisbane, Burlingame, Daly City, Foster City, Redwood City, San Bruno, City of San Mateo, South San Francisco and the County of San Mateo for its unincorporated areas) should improve their educational outreach to residents regarding such ordinances, including at a minimum each of the following, by no later than March 31, 2019:

- **Publishing summaries of residents' rights and obligations under their MUH smoking ordinances, including on their websites**
- **Publishing information on how to report violations of MUH smoking ordinances, including on their websites**
- **Informing residents that they can report violations of MUH smoking ordinances anonymously**
- **Informing residents, including on their websites, that it is unlawful for any landlord or other person to take any retaliatory action against them for having reported a violation of an MUH smoking ordinance**
- **Ensuring that information about reporting MUH smoking ordinance violations is just as readily accessible on their websites as information about other forms of nuisance**
- **Ensuring that, upon typing the word "smoking," or the like in the search features of their websites, users are directed to all information about the jurisdiction's MUH smoking ordinance and related complaints process**

Response to R1: This recommendation does not apply to the City.

R2: The cities of Burlingame, Foster City, San Mateo, and South San Francisco should amend their MUH smoking ordinances, by no later than December 31, 2018, to prohibit retaliation against individuals who report violations of the MUH smoking ordinances.

Response to R2: This recommendation does not apply to the City.

R3: The cities of Brisbane, Burlingame, Daly City, and the County of San Mateo for its unincorporated areas should amend their MUH smoking ordinances, by no later than December 31, 2018, to prohibit smoking medical marijuana in multiunit housing.

Response to R3: This recommendation does not apply to the City.

R4: Each jurisdiction with an MUH smoking ordinance (Belmont, Brisbane, Burlingame, Daly City, Foster City, Redwood City, San Bruno, City of San Mateo, South San Francisco, and the County of San Mateo for its unincorporated areas) should, by June 30, 2019, evaluate ways to improve its collection and retrieval of complaints of MUH smoking violations so that:

- **Information regarding each complaint of an MUH smoking ordinance violation,**

and the response to it (complaints data) is recorded in a searchable electronic database

- **The jurisdiction can evaluate trends in the complaints data and the efficacy of the MUH smoking ordinance**

Response to R4: This recommendation does not apply to the City.

R5: Each jurisdiction with an MUH smoking ordinance should, by December 31, 2018, make their complaints data (with names of alleged violators deleted) available to the TPP and TEC on at least an annual basis.

Response to R5: This recommendation does not apply to the City.

R6: Each jurisdiction with an MUH smoking ordinance should, by December 31, 2018, conduct a review of current methods used by the public to report MUH smoking violations and possible improvements (including online reporting on their websites and use of mobile phone apps) to ensure ease of reporting.

Response to R6: This recommendation does not apply to the City.

R7: The towns/cities of Colma, East Palo Alto, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, and San Carlos should, by December 31, 2018, hold public hearings to evaluate issues and hear residents' views on restricting smoking in multiunit housing in their jurisdictions.

Response to R7: The City agrees to hold a public hearing to evaluate the issues and hear residents' views on restricting smoking in multiunit housing in the City of Pacifica. Due to current City Council priorities and agenda items, the City will not hold this hearing prior to the December 31, 2018 recommended date. The City agrees to hold the hearing no later than March 31, 2019.

R8: TPP and TEC should update their web pages by March 31, 2019, to include the following:

- **Links to MUH jurisdictions' smoking ordinances and their summaries/FAQs**
- **Information on how to report violations of MUH smoking ordinances in each applicable jurisdiction**

Response to R8: This recommendation does not apply to the City.

Sincerely,

KEVIN WOODHOUSE
City Manager

cc: Pacifica City Council