Board of Adjustment

Public Hearing Meeting Minutes

Mesa City Council Chambers - Lower Level, 57 East 1st Street
Date: July 29, 2025 Time: 5:00 p.m.

MEMBERS PRESENT:
Chair Alexis Wagner
Boardmember Troy Glover
Boardmember Todd Trendler
Boardmember Janice Paul

MEMBERS ABSENT:
Vice Chair Shelly Allen
Boardmember Heath Reed
Boardmember Gerson Barrera

(*Boardmembers and staff participated in the meeting through the use of audio conference equipment)

STAFF PRESENT:
Kelly Whittemore
Sarah Steadman
Kirstin Dvorchak
Mary Kopaskie-Brown
Rachel Phillips
Evan Balmer
Jennifer Merrill
Vanessa Felix

OTHERS PRESENT:
Jon Paladini

Board members received informational binders from the City Attorney's Office and correspondence from the public.

1 Call meeting to order.

Chair Wagner excused Vice Chair Allen, Boardmember Reed and Boardmember Barrera and declared quorum present; the Public Hearing was called to order at 5:00 p.m. Chair Wagner provided an opening statement, including the process for the public hearing and noting the Board may vote to go into executive session for legal advice as stated on the meeting agenda and allowed by the Arizona Open Meeting law.

2 Take action on the following cases:

***2-a BOA25-00384 "Appeal of Interpretation,"** Consider an appeal of the Zoning Administrator's April 15, 2025 interpretation that the proposed community residence at 2338 East Minton Street is a "Transitional Community Residence" and not a "Family Community Residence," as defined in the City of Mesa Zoning Ordinance. **(District 1)**

Recommendation: Denial

Summary:

Staff members Mary Kopaskie-Brown, Kirstin Dvorchak and Rachel Phillips presented case BOA25-00384 to the Board.
See attached presentation.

No questions from the Boardmembers.

Staff to hold all 10 minutes for rebuttal.

Appellant [which includes Legacy Recovery Center], was represented by Heather Dukes who presented Appellant's presentation for case BOA25-00384 to the Board.

See attached presentation.

Boardmember Trendler asked the average length of stay.

Appellant Heather Dukes answered some residents have left after 30 days, while others have remained for over 60 days. Length of stay is determined by each person's individual needs. Since opening in early April, residents have stayed well beyond 60 days. While stays are always at least a month or more in practice, there is no set minimum or maximum duration.

Chair Wagner wanted more clarification on the length of stay for the residents, in relation to the Legacy Recovery Center property in Chandler.

Appellant Heather Dukes explained that the typical length of stay is month to month, with the longest stay at the Legacy Recovery Center in Chandler being seven and a half months. She noted that Maricopa County's zoning ordinance does not define length of stay. Legacy Recovery Center intentionally places residents with longer treatment plans or who are able to stay longer at the Mesa location. She went on to explain that although Legacy Recovery Center owns two locations, it strives to assign residents who wish to stay longer and have less severe psychiatric or behavioral health conditions to the Mesa residence.

Chair Wagner asked what the length of stay marketed and what is outlined in the application.

Appellant Heather Dukes answered that Legacy Recovery Center does not market a specific length of stay, but its treatment programs are generally structured around 30- to 45-day cycles. These treatment timelines were included in the materials submitted to the Arizona Department of Health Services (ADHS). It was noted that while the documentation, including Exhibit 4, references 45-day treatment plans, it does not explicitly define or limit the length of stay for residents.

Chair Wagner asked for clarification on the application process related to the length of stay. What is the process after the initial end date and how residents may extend their stay if they choose to do so.

Appellant Heather Dukes answered that when the first treatment plan ends and patients decide if they want to stay longer, the patient would fill out a new financial agreement, but they wouldn't have to reapply. It's all based on the clinical recommendations of the staff and the doctors that are helping them.

Appellant to hold all 10 minutes for rebuttal.

Staff member Mary Kopaskie-Brown and Kirstin Dvorchak presented the City's Rebuttal.

Staff member Kirstin Dvorchak pointed out that the Appellant explained that tenancy is directly linked to treatment at the facility and that the Appellant Dukes suggested residents can stay indefinitely; documentation, including an April 1st letter to the City, shows that housing is governed by financial agreements tied to treatment duration. These agreements outline a set number of days, and a new agreement is required if a resident stays longer. This structure, along with the 30-day treatment and reevaluation cycle, shows that residency is not open-ended and is based on ongoing treatment.

Staff member Kirstin Dvorchak added that the Board has the authority to approve Special Use Permits (SUPs) as reasonable accommodations, but it does not have the power to decide whether the Fair Housing Act (FHA) has been violated. She stated that, in 2021, the City of Mesa updated its zoning code based on a study by housing expert Dan Lauber, who found that transitional community residences are more like multifamily housing, which isn't allowed in single-family zones. However, the City allows such facilities through SUPs to comply with the Fair Housing Act (FHA).

Finally, Staff member Kirstin Dvorchak also stated that a 2022 court ruling by the 11th Circuit upheld this same legal structure in Fort Lauderdale, showing that this approach has already been supported, and pointed out that the Appellant's expert, Steven Poland, was involved in that case,.

Staff member Kelly Whittemore added Appellants were advised that they needed to complete the appeal process first, and then proceed with applying for the SUP.

Staff member Mary Kopaskie-Brown explained that the process for approving a family residence differs from that for a transitional residence. The key distinction is the tenancy and the expected length of stay of the residents, which the City considered when making its determination.

She emphasized that although the Appellant referenced month to month stays, which are reevaluated regularly, this does not necessarily mean residents are staying long term. It was noted that this residence differs from others, such as assisted living facilities, where residents typically stay for longer periods.

Staff member Mary Kopaskie-Brown stated that while reviewing the average length of stay for residents at the facility, it became evident that this was a key point of consideration. The City clarified that its decision to classify the facility as a transitional community residence, not a family residence was based solely on the information provided by the Appellant.

Heather Dukes presented Appellant's Rebuttal.

Appellant Heather Dukes emphasized that the definition of "operations" is a key factor in this case. Following the issuance of the Certificate of Occupancy on February 6, 2025, the license application was immediately submitted to the State. In order to comply with State requirements, certain environmental and safety standards had to be met, such as installing a pool fence and other safety features throughout the home. These improvements did not require City of Mesa permits but did involve significant expenses.

She noted that assisted living homes, which do not have limits or definitions around length of stay, are permitted in all residential zoning districts. Daycares, which are transitional in nature and serve individuals who do not reside in the home are also permitted as of right in single family residential areas.

Appellant Heather Dukes stated that there are two Airbnb properties operating in the same neighborhood, including one on the same street. Under state law, cities and towns are prohibited from regulating short term rentals, making them permitted by right in residential zones. One example she cited involved a nearby property with 22 beds rented on a week-to-week basis. Heather Dukes added that because those tenants are not considered disabled, their use of the property is allowed without any restrictions.

Appellant Heather Dukes went on to mention that residents of Legacy Recovery Center are living as a family unit, often staying on a month-to-month basis, and should be entitled to the same zoning rights. She stated that denying this type of use amounts to discrimination under the Fair Housing Act.

Appellant Heather Dukes requested that the Board recognize the facility as meeting the standards for a family community residence, noting that there is no set limitation on the length of stay and that each resident's circumstances are unique. The request was stated to be for equal treatment under residential zoning laws, consistent with how other similar uses, such as assisted living and short term rentals are handled.

The following citizens offered comments in support of the appeal for BOA25-00384:

- Hillary Falgiano, 1113 East Meadowbrook
- Annabella Olivier, 11207 North 109th Place
- Richard Miller, 4666 East Redfield Rd

Chair Wagner asked what the treatment plan consisted of in the 30 days.

CEO of Legacy Recovery Center, Richard Miller answered that before admission, all patients undergo a comprehensive phone screening using clinical and medical diagnostic criteria. Legacy gathers information on mental health history, substance use, and potential risks, which is then reviewed by medical and therapeutic team to determine program suitability.

He went on to say that, upon admission, patients meet with a psychiatrist and licensed clinicians to receive and develop an individualized treatment plan tailored to their specific needs. During their stay, patients participate in an intensive therapeutic program, including 40 hours of combined group and individual therapy each week. They have weekly psychiatric visits, and medications are prescribed and managed as needed by our medical team. A nurse is also on-site for support.

Richard Miller stated that patients also have access to a gym, work with a personal trainer, and can use the pool under supervision. On weekends, staff organize off-site activities like hiking, movies, or bowling to promote balance and recovery.

The following citizens offered comments in opposition to the appeal for BOA25-00384:

- Alex Johnson, 2264 East Minton Street
- Brad Arnett, 2355 East Minton Street

- Amy Johnson, 2264 East Minton Street
- Michael Stephen, 2626 North Chestnut Circle

Staff member Kirstin Dvorchak stated public comments the Board heard tonight or received earlier with submission packets or were presented to the City at any time, if any of those were based off of unfair prejudice stereotype or unsubstantiated assumptions about the current or prospective residents at Legacy, at this location on Minton, those comments should not impact the Board's decision; those comments can be construed as discriminatory under the Fair Housing Act.

Staff member Mary Kopaskie-Brown responded to Public Comment.

Appellant Heather Dukes responded to Public Comment.

The Boardmembers voted to enter into executive session as agendized.

Vote: 4-0
AYES – Wagner – Glover – Trendler – Paul
NAYS – None
ABSENT – Allen – Reed – Barrera
ABSTAINED – None

The Boardmembers returned from executive session.

Boardmember Glover asked if the Certificate of Occupancy granted status of a Family Community Residence at that point.

Chair Wagner answered the status was provisionary.

Boardmember Glover asked if he could ask the City for clarification regarding the status of the C of O.

Staff member Kelly Whittemore answered the Board was welcome to ask City staff for more clarification.

Staff member Mary Kopaskie-Brown confirmed it was provisional approval. Within 120 days, the applicant must provide the city with its State license and several other documents to receive a license. The State license was not received within 120 days.

Boardmember Glover asked if the status never changed from a provisional state.

Staff member Kirstin Dvorchak clarified by referencing the binders presented from the City, stating that the Code provisions are in there, and that spells out the provisional approval process and how to obtain final registration. It was noted that the registration in question refers to actions taken by the City on February 5th and April 1st. In addition, the Appellants submitted supporting materials, including a financial agreement, and also emailed a copy of the State issued license they received. She pointed out that there's directions on the City website on how to obtain final registration, and that directs people to upload request items into DIMES.

Boardmember Trendler asked if the applicant was notified that the approval was provisional.

Staff member Mary Kopaskie-Brown stated the Appellant was informed of the conditions outlined in their permit. It was noted that the registration in question refers to actions taken by the City on

February 5th and April 1st. The Appellant submitted supporting materials, including a financial agreement and a copy of the state issued license via email. One of the City's exhibits includes this license application, which is marked as provisionally approved.

The Board discussed the merits of the case.

A motion to deny case **BOA25-00384**, with the effect of upholding the Zoning Administrator's interpretation, was made by Boardmember Paul and seconded by Boardmember Glover.

Chair Wagner asked for clarification on how the motion should be worded and how votes should be interpreted. Specifically, whether an "Aye" or "Nay" vote would be appropriate if a member is in favor of upholding the previous denial.

Counsel for the Board, John Paladini, answered that an "Aye" vote is to support the motion, which would be to uphold the Zoning Administrators Interpretation.

Vote: 4-0
Upon tabulation of vote, it showed:
AYES – None
NAYS –Wagner – Glover – Trendler – Paul
ABSENT – Allen – Reed – Barrera
ABSTAINED – None

Counsel for the Board, John Paladini, clarified on the record that the Appellant gave six grounds for appeal in this denial. This case is strictly based on ground three, which is the Zoning Administrator's Interpretation. On the other matters, grounds for appeal, one through two, four, five and six, are not cited by the Board at this point in time.

3 Adjournment.

Boardmember Trendler motioned to adjourn the Public Hearing. The motion was seconded by Boardmember Paul.

Vote: 4-0
Upon tabulation of vote, it showed:
AYES – Wagner – Glover – Trendler – Paul
NAYS – None
ABSENT – Allen – Reed – Barrera
ABSTAINED – None

The public hearing was adjourned at 7:44 p.m.

Respectfully submitted,

Chair Alexis Wagner

mesa·az
PLANNING

Board of Adjustment

mesa·az
PLANNING

BOA25-00384

Appeal - Zoning Administrator's Interpretation

Mary Kopaskie-Brown, Planning Director
Kirstin Dvorchak, Assistant City Attorney

July 29, 2025

mesa·az
PLANNING

Introduction

mesa·az
PLANNING

Request

- Appeal of the Zoning Administrator's Interpretation (Determination)
- Proposed Community Residence at 2338 East Minton Street (the "Property") is a "Transitional Community Residence" - not a "Family Community Residence"
- (The "Appellants"): Legacy Recovery Center, LLC, Dr. Roland Segal, and Dr. Ehab S. Abdallah

BOA Consideration & Effect

- Is Legacy Recovery Center a ***Family Community Residence*** or ***Transitional Community Residence***?
  - Fundamental Question: How long do individuals reside at the Property?
  - The length of tenancy determines whether a Community Residence is classified as a "Family Community Residence" or a "Transitional Community Residence" and directly impacts zoning compliance.
- If the BOA uphold the Zoning Administrator's (ZA) determination, the Appellants would be required to obtain a Special Use Permit (SUP) to register and operate the Community Residence at the property.

mesa·az
PLANNING

Background Summary

Background

- December 16, 2024
  - The Appellants applied to the City to register the Property as a Family Community Residence
- February 5, 2025
  - City staff provided provisional registration approval for the proposed Family Community Residence based on the information provided in the application
- February 6, 2025
  - Based upon the provisional registration approval, the City issued a certificate of occupancy for the Property for R-4 Occupancy (Residential Care/Assisted Living)

Background

- March 2025
  - City received numerous complaints that the Property was not a Family Community Residence and rather a Transitional Community Residence and was approved without approval of a SUP from the BOA.
  - City requested additional information (by April 1, 2025) from the Appellants related to typical length of tenancy to support claim that the Property was a Family Community Residence.

Background

- April 1, 2025
  - The Appellants emailed the City the following documents:
    - Response letter
    - Business organization information
    - Operating agreement
    - Residential program description
    - Residential lease agreement
    - Financial agreement
    - Arizona Department of Health (AZDHS) application, correspondence, and license
    - City of Mesa certificate of occupancy
    - Third-party fire inspection

Background

- April 15, 2025
  - The ZA sent certified copy and email of a letter, informing the Appellants the proposed Community Residence is considered a Transitional Community Residence based on the supplemental information provided
    - Determination voided the provisional registration approval - Transitional Community Residences in Single Residence zoning districts require approval of an SUP
    - Appellants informed that all operations must cease until the SUP was heard and acted upon by the BOA
    - Appellants invited to submit application through City's online DIMES portal
- April 30, 2025:
  - The Appellants submitted an appeal to the ZA's determination

mesa·az
PLANNING

Mesa Zoning Ordinance Requirements

mesa·az
PLANNING

Ch. 86 - Community Residence Definitions

Community Residence: A community residence is a residential living arrangement for five to ten individuals with disabilities, excluding staff, living as a family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services related to the residents' disabilities. A community residence seeks to emulate a biological family to foster normalization of its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment. Medical treatment is incidental as in any home. Supportive interrelationships between residents are an essential component. Community residence includes sober living homes and assisted living homes but does not include any other group living arrangement for unrelated individuals who are not disabled nor any shelter, rooming house, boarding house or transient occupancy.

Family Community Residence: A community residence is a **relatively permanent living arrangement with no limit on the length of tenancy** as determined in practice or by the rules, charter, or other governing documents of the community residence. **The minimum length of tenancy is typically a year or longer.**

Transitional Community Residence: A community residence that provides a **relatively temporary living arrangement with a limit on length of tenancy less than a year that is measured in weeks or months**, as determined either in practice or by the rules, charter, or other governing document of the community residence.

Ch. 5 – Residential Districts Land Use Regulations

Table 11-5-2: Residential Districts				
Proposed Use	**RS**	**RSL**	**RM**	**Additional Use Regulations**
Residential Use Classifications				
…				
Community Residence				
Family Community Residence	P (13, 14)	P (13, 14)	P (12, 13, 14)	Section 11-31-14, Community Residences
Transitional Community Residence	SUP (13, 14)	SUP (13, 14)	P (12, 13, 14)	

Section 11-31-14: Community Residences

- Contains specific development standards and operational requirements for Community Residences including:
  - Spacing requirements
  - Occupancy limits
  - Licensing and certification requirements
  - Application requirements and findings for Community Residences that require a Conditional Use Permit (e.g. SUP or CUP)
  - Registration, renewal, and revocation requirements and standards
  - Reasonable Accommodation process and criteria

mesa·az
PLANNING

Appeal Grounds and City Response

mesa·az
PLANNING

Ground 3: The Legacy Recovery Center behavioral health residential facility use at the Property constitutes a Family Community Residence under the Zoning Ordinance

- Appellants assert that the Community Residence is a Family Community Residence - provides a family environment for its residents
- Meets the general definition of Community Residence – distinguishing characteristic is length of tenancy
- Length of tenancy is determined either in practice or by the rules, charter, or other governing document of the Community Residence
- Supplemental documents demonstrate that the proposed Community Residence is a Transitional Community Residence - average stay is between 30-45 days

mesa·az
PLANNING

Ground 4: The City's Family Community Residence approval issued to Legacy Recovery Center was consistent with other Family Community Residence approvals issued by the City to similar uses with behavioral health residential facility licenses prior to February 2025

- Provisional Approval – based on information by Appellant – indicated Family Residence
- Citizen complaints – City requested additional information – standard practice to review
- City Requested Additional information – process the same as other projects
- Supplemental Documents from Appellant demonstrated tenancy was 30-45 days
- Transitional Community Residence – SUP Required

Note – Over the last year, City has been undertaking process improvements related to Community Residences

mesa·az
PLANNING

On-Going Process Improvements

- Over the last year, the City the City has undertaken several process improvements related to Community Residences to:
  - Enhance efficiency of the Registration Process;
  - Improve compliance; and
  - Provide information to residents in the City
- Improvements include:
  - Updating the process and procedures guide on the website
  - Updating the "Community Residence, Assisted Living Facility, and Nursing and Convalescent Homes Registration" Application Form
    - Mailing annual registration renewal letters
    - 3 rounds of letters sent
  - Facilities that did not respond are marked as no longer registered with the City
  - Creating a specific Community Residences FAQ website for residents
  - Automating Renewal Through DIMES

Ground 6: The ZA Interpretation was initiated and issued as a result of discriminatory correspondence and actions of Mesa residents and therefore violates the Fair Housing Act

- Citizen Complaint – prompted City to seek additional information from Appellants
- City focused on Length of Tenancy only – based on complaints
- ZA Determination – Solely Based on Appellants' documents
  - Grounded in documents and statements provided by Appellants – described short-term, temporary housing arrangement
  - Relied on the most specific, detailed, and internally consistent documentation: the financial agreement, description of treatment plans and periods
- Impacts only the approval process – not the types of residents

Ground 1: The Legacy Recovery Center Family Community Residence and Certificate of Occupancy approvals issued by the City of Mesa in February 2025 are vested

- Keep in mind – there is no final registration for a "Family Community Residence" that can be vested. Legacy received only provisional approval, with a C of O contingent on compliance with the Zoning Ordinance

- The Board should consider three things:
  - Whether there is a valid, final government authorization
  - If there has been reliance on the government authorization
  - Whether the reliance has been substantial

mesa·az
PLANNING

Ground 1: Vested Rights – Valid, Final Government Authorization

Valid:

- Must be "legitimately issued"
- Authorizations based upon plans or applications submitted containing erroneous or incorrect information are not "legitimately issued"
    - *Rivera v. City of Phoenix*, 186 Ariz. 600 (Ariz. App. Ct. 1996)
    - Legacy's application identified it as a Family Community Residence
    - Its narrative states, "There is no maximum or minimum time period that residents may live at the home. Some residents may live there for 3-6 months while others may choose to live there for longer than a year."
    - Days later, Legacy described its average tenancy to the Arizona Department of Health Services as 45 days (Exhibit 13):

	setting. The length of services is dependent on the medical necessity of each resident; this averages 45 days.

    - Legacy's internal documents support an average stay of 30-45 days

Ground 1: Vested Rights – Valid, Final Government Authorization

Final:

- There is no final registration – must upload state license to DIMES (Exhibit 22)
- If there is a condition or future event that needs to occur, a right is not vested (sometimes called "contingent" or "expectant" rights)
  - Provisional registration approval on February 5, 2025, is explicitly not a final act
  - Application form notifies applicants that errors found after processing may result in loss of registration

- Certificate of Occupancy is conditioned on compliance with Zoning Ordinance

Ground 1: Vested Rights – Reliance on Authorization

- Reliance must be based on the City's action
- Must be determined at the time, not upon subsequent hope or expectation
  - Prior actions are insufficient
- No evidence of any reliance let alone base upon City action
  - Purchase of property and corporate documents done prior to Feb 5
  - No evidence of construction needs or actual construction
  - Legacy was aware at all times that its registration was provisional and not guaranteed
  - Legacy had no reason to believe it could operate until it obtained a state on March 27 – well after the City began to question the application
- Claimed $500,000
  - If true, all expenditures undertaken with full knowledge that (1) their registration was only provisional, (2) their state license had not yet been granted, and (3) their operations were still under review due to questions about zoning compliance
  - If there were expenditures, requiring an SUP does not negate or increase those expenditures

Ground 1: Vested Rights – Substantial or Considerable Expense

- There must be **substantial** change of position, expenditures, or incurrence of obligations based upon the government's action
- No evidence of any expenditures at request of the City or following or based upon February 5 provisional registration approval
  - Legacy did not submit for any building permits for construction
  - Fire sprinklers installed 2003-2006
  - Certified it was ADA and building code compliant in application form
  - Licensing fees required by the state – unrelated to City approval
  - Operational documents dated prior to February 5
- If there were expenditures, requiring an SUP does not negate or increase those expenditures

Ground 1: Vested Rights – Substantial or Considerable Expense

Important timing questions:

- Were these expenditures made before provisional registration approval and the certificate of occupancy were granted on February 5 and 6, respectively?
  - If so, Appellants invested their resources and expenses without any indication from the City that Appellants could operate, even provisionally
- Were these expenditures made after February 5 and 6, but before Appellants obtained the state license on March 27?
  - If so, Appellants were aware that their registration with the City was provisional only, and they had no certainty that they would be issued a state license and could not reasonably rely on any action of the City to make the claimed improvements and expenditures
- Were these expenditures made after March 20, 2025?
  - If so, Appellants had already been contacted by the City and notified that there were questions about the length of tenancy and were aware that the City was reviewing the proposed Community Residence's use.

Ground 2: The City of Mesa is equitably estopped from rescinding, suspending or revoking the Family Community Residence and Certificate of Occupancy approvals issued to Legacy Recovery Center

- BOA does not have jurisdiction over an equitable estoppel claim
- If the BOA hears the equitable estoppel claim, three things to consider:
  - Whether the City committed acts inconsistent with a position it later adopted
  - Whether Legacy relied on those acts
  - And whether Legacy was injured by the City's change in position
- Legacy must show that applying estoppel neither unduly damages the public interest nor substantially and adversely affect the exercise of governmental powers
- Legacy must also show that the City's alleged inconsistent act are affirmative and formal
- Mere inaction, delay, or administrative oversight does not give rise to estoppel

Ground 2: Estoppel – Inconsistent Acts

- City did not act inconsistently - provisionally approved the registration, but on the condition that submitting erroneous information, or errors found after processing, may result in a denial of an application or loss of registration
  - February provisional registration – expressly conditioned on compliance with the Zoning Ordinance and submission of a valid state license
  - February certificate of occupancy issued solely on the assumption that the proposed use qualified as a Family Community Residence
- Further investigation revealed Legacy is not a Family Community Residence. Review of new information and application of the Code as written is not an inconsistent act
  - Legacy was later found to be a Transitional Community Residence, voiding the provisional registration, which is consistent with the provisional nature

Ground 2: Estoppel – Reliance

- Fails for the same reasons as vested rights
- Provisional registration was approved with the explicit warning that if incorrect information was submitted, the registration could be denied or revoked
- To submit incorrect information, or omit material information, and then claim reliance when the registration is provisionally approved on that basis, is unreasonable
- There is no evidence of any reliance

Ground 2: Estoppel – Injury or Detrimental Reliance

- Fails for the same reasons as vested rights
- There is no evidence of any reliance:
  - undertook no building improvements requiring permits
  - did not trigger inspections
  - did not receive their state license until March 27
  - have not uploaded license to DIMES

Ground 2: Estoppel – Injury or Detrimental Reliance

Important timing questions:

- Were these expenditures made before provisional registration approval and the certificate of occupancy were granted on February 5 and 6, respectively?
  - If so, Appellants invested their resources and expenses without any indication from the City that Appellants could operate, even provisionally
- Were these expenditures made after February 5 and 6, but before Appellants obtained the state license on March 27?
  - If so, Appellants were aware that their registration with the City was provisional only, and they had no certainty that they would be issued a state license and could not reasonably rely on any action of the City to make the claimed improvements and expenditures
- Were these expenditures made after March 20, 2025?
  - If so, Appellants had already been contacted by the City and notified that there were questions about the length of tenancy and were aware that the City was reviewing the proposed Community Residence's use.

Ground 5: The Legacy Recovery Center use is protected by the Fair Housing Act as a family environment for disabled individuals who may live in communities of their choice, regardless of the length of stay.

- The BOA does not have jurisdiction
- If the BOA hears the Fair Housing Act claim:
  - The central issue is not whether Legacy serves individuals with disabilities, it is whether the use fits the definition of a Family Community Residence or Transitional Community Residence under the MZO – both uses are for individuals with disabilities
- The MZO and requirement for an SUP for Transitional Community Residences in RS Districts fully incorporates the Fair Housing Act's requirement to make reasonable accommodations, while still preserving the integrity of low-density residential neighborhoods

Ground 5: Fair Housing Act

- Mesa's Community Residence requirements based upon study performed by national legal and planning expert – Daniel Lauber
  - Study showed Transitional Community Residences are more akin to multifamily use (called "Multiple Residence" in MZO), with more frequent turnover than a typical single-family home
  - Multiple Residence uses are not permitted in Single Residence zones in Mesa
- Fair Housing Act requires reasonable accommodations be provided
  - Disabled individuals are provided a reasonable accommodation to operate a use akin to multifamily in Single Residence zones - with an SUP

mesa·az
PLANNING

Recommendation

Based on the Application received, the supplemental documentation provided, and the staff's analysis of this documentation

Staff recommends that the Board of Adjustment deny the appeal and uphold the Zoning Administration's Determination

mesa·az
PLANNING

Board of Adjustment

Ground 5: Fair Housing Act

- In 2022, a nearly identical ordinance was upheld as FHA compliant by the 11th Circuit Court of Appeals - *Sailboat Bend Sober Living, LLC v. City of Fort Lauderdale*
  - Fort Lauderdale hired same expert as Mesa – Daniel Lauber
  - Ordinance included the same distinction between Family and Transitional Community Residence based upon length of tenancy
  - Court found that unrelated disabled persons were treated better than unrelated, non-disabled persons and no FHA violation

Ground 5: Fair Housing Act

- Legacy's expert here – Stephen Polin – was the attorney for Sailboat Bend in the 11th Circuit case
- Mr. Polin did not address this case in his declaration provided to the Board despite knowing the outcome
  - Instead, Mr. Polin refers to decades-old cases
- None of the cases Mr. Polin cites to are similar to the case before the Board

LEGACY
RECOVERY CENTER

APPEAL OF INTERPRETATION

CASE NO. BOA25-00385
CITY OF MESA
BOARD OF ADJUSTMENT
JULY 29, 2025

LEGACY RECOVERY CENTER TEAM

Dr. Ehab S. Abdallah, Member

Dr. Roland Segal, Member

Richard Miller, Member

About Us

Dr. Roland Segal / Founding Member

Dr. Segal completed his medical school education at the University of Arizona, College of Medicine, in Tucson, Arizona. He continued training in a general psychiatry residency at Banner Good Samaritan Medical Center in Phoenix, Arizona. Then Dr. Segal completed a forensic psychiatry fellowship at the University of Southern California, Keck School of Medicine, in Los Angeles. Dr. Segal is double board certified in General and Forensic Psychiatry. Dr. Segal is the former Chief Medical Officer at the Valley Hospital in Phoenix, Arizona.

Dr. Ehab Abdallah / Founding Member

Dr. Abdallah obtained his medical degree from Alexandria University in Alexandria, Egypt. He completed his residency training in psychiatry at West Virginia University. Dr. Abdallah is a triple board-certified in General Psychiatry, Consultation-Liaison (Psychosomatic) Psychiatry, and Addiction Psychiatry. Dr. Abdallah is experienced in treating psychiatric illness in people with complex medical/mental conditions and is an expert in addiction medicine. He is passionate about quality care.

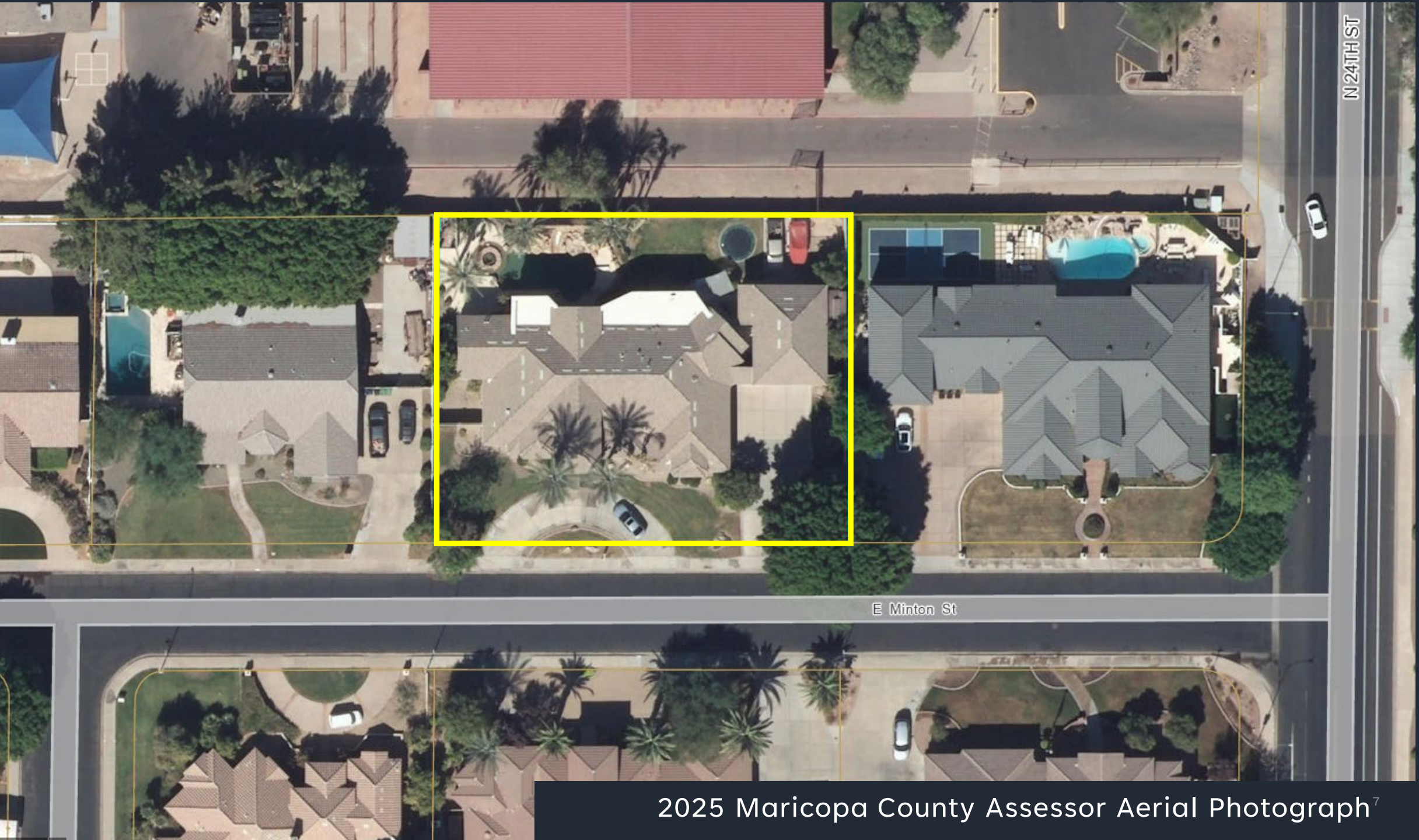
Richard Miller / Chief Executive Officer/ Founding Member and Administrator

Richard has an extensive background in Admissions, Facility Operations, and Clinical outreach. He has developed robust networks of relationship with therapists, hospitals, physicians, treatment centers, and other community resources to provide them with access to behavioral healthcare. Richard has also operated as the CEO of several different treatment facilities over the course of his career.

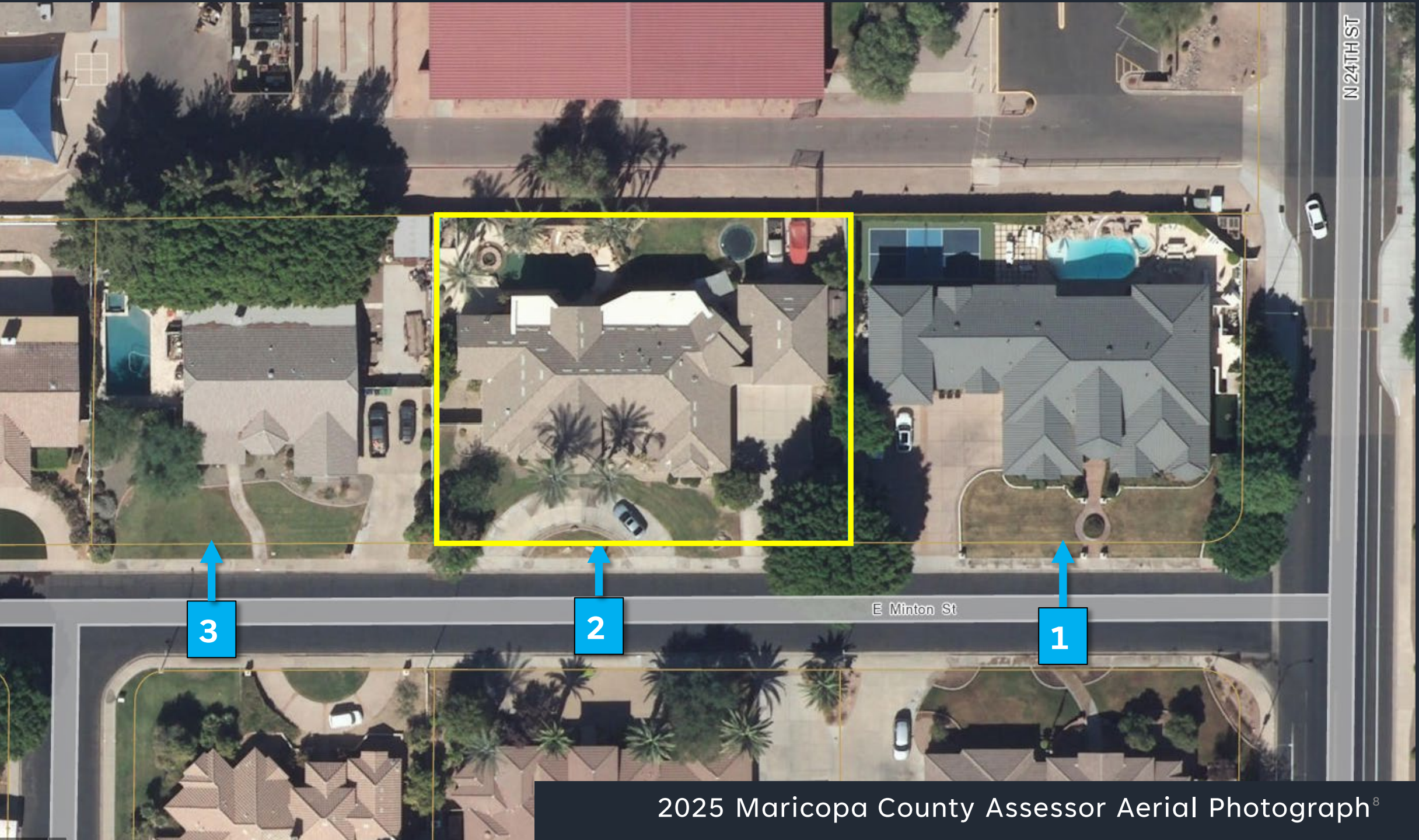
Richard is passionate about ensuring the client finds the best fit for their treatment needs. His focus is on maintaining relationships with quality providers across the country, so that he can help whoever he comes across get the help they truly need. Equally, Richard focuses on ensuring the treatment provided at Legacy Recovery Center is of the highest quality, and that the team is doing all they can to serve those who come to Legacy Recovery Center for care.

Richard finds his work extremely rewarding, but his biggest joy is his family and helping his wife raise their child.

2025 Maricopa County Assessor Aerial Photograph



2025 Maricopa County Assessor Aerial Photograph



2025 Maricopa County Assessor Aerial Photograph[8]

1 Looking North at 2354 E. Minton St (Adjoining Legacy to the East)

July 27, 2025

2

Looking North at 2338 E. Minton St. (Legacy Home)

July 27, 2025

3

Looking North at 2322 E. Minton St. (Adjoining Legacy to the West)

July 27, 2025

Main Entrance

Exterior

Welcoming Entryway

Pool With Waterfall

Outdoor Lounging

Serene Landscape

Luxurious Bathrooms

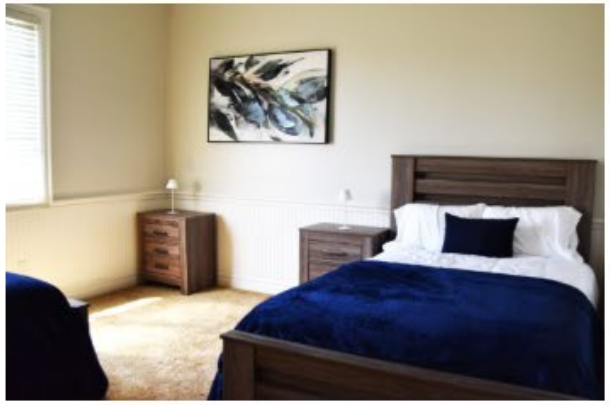
Large Showers

Beautiful Decor

Comfortable Living Room

Shared Room

Shared Room 2



Shared Room 3

Large Laundry Room

Cozy Movie Room

Beautiful Kitchen

Group Room With A View

Luxury Amenities

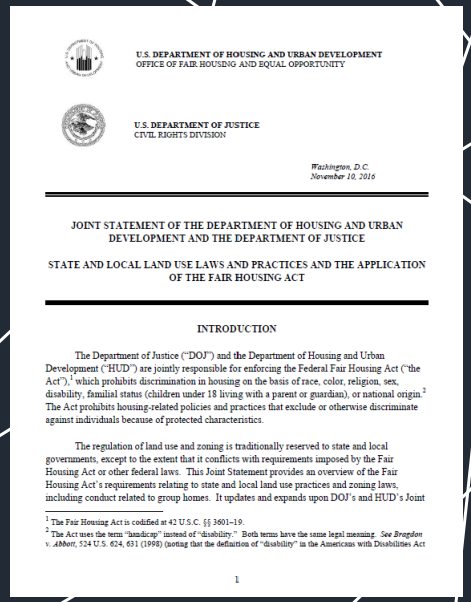
Comfortable Therapy Offices

Dining Room

Kitchen Dining Area

BOA JURISDICTION: FAIR HOUSING ACT

LEGACY
RECOVERY CENTER



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION OF THE FAIR HOUSING ACT

INTRODUCTION

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the Federal Fair Housing Act ("the Act"),[1] which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.[2] The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act's requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ's and HUD's Joint

[1] The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.
[2] The Act uses the term "handicap" instead of "disability." Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of "disability" in the Americans with Disabilities Act

1

10. What is a reasonable accommodation under the Fair Housing Act?

The Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

11-31-14: - COMMUNITY RESIDENCES

D. **Reasonable Accommodation.** A community residence that does not meet the spacing, occupancy or licensure requirements may request a reasonable accommodation through the special use permit process. The accommodation being sought must be reasonable and necessary to afford individual(s) with disabilities an equal opportunity to use and enjoy housing that is the subject of the request. The process to apply for a special use permit are provided in Chapter 67, Common Procedures, except a citizen participation plan and report is not required.

CHAPTER 70 - CONDITIONAL USE PERMITS

11-70-1: - PURPOSE

11-70-2: - BURDEN OF PROOF

11-70-3: - ADMINISTRATIVE USE PERMIT

11-70-4: - TEMPORARY USE PERMIT

11-70-5: - SPECIAL USE PERMIT

11-70-6: - COUNCIL USE PERMITS

11-70-7: - APPEALS; EXPIRATION AND EXTENSION; MODIFICATION

11-70-5: - SPECIAL USE PERMIT

A. **Special Use Permit (SUP).** A SUP is a discretionary permit issued by the Zoning Administrator or Board of Adjustment.

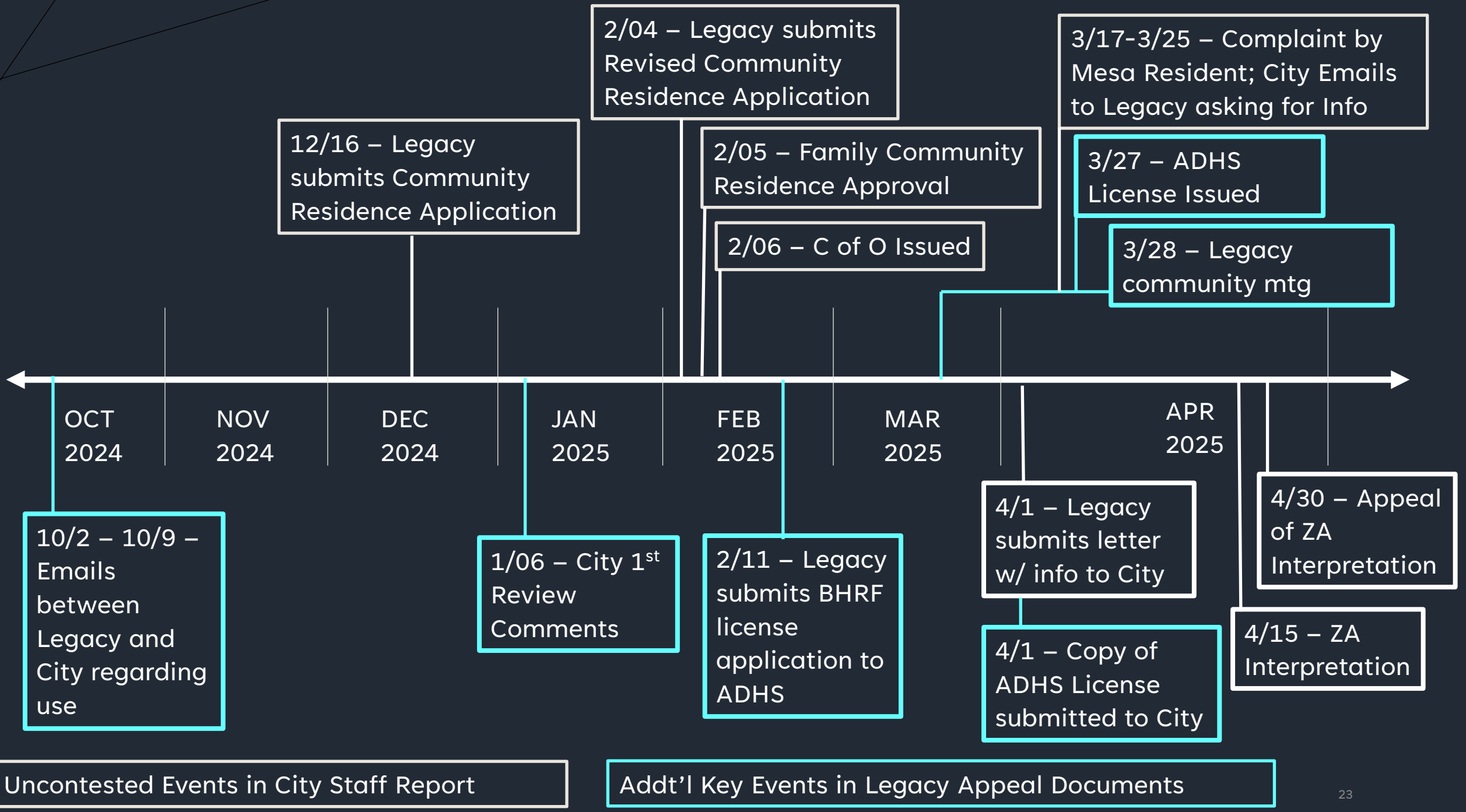
B. **Uses Subject to Special Use Permits.** Uses requiring a SUP are established in the use tables in Chapters 4 through 11.

C. **Permit Requirements.** Permit requirements for some uses requiring a SUP are provided in Chapter 31, Standards for Specific Uses and Activities.

D. **Permit Application and Procedures.** The procedures for review and consideration of a SUP are as provided in the Chapter 67, Common Procedures, except a citizen participation plan and report is not required.

TIMELINE OF EVENTS

LEGACY
RECOVERY CENTER


2/04 – Legacy submits Revised Community Residence Application
3/17-3/25 – Complaint by Mesa Resident; City Emails to Legacy asking for Info
12/16 – Legacy submits Community Residence Application
2/05 – Family Community Residence Approval
3/27 – ADHS License Issued
2/06 – C of O Issued
3/28 – Legacy community mtg
OCT 2024
NOV 2024
DEC 2024
JAN 2025
FEB 2025
MAR 2025
APR 2025
10/2 – 10/9 – Emails between Legacy and City regarding use
1/06 – City 1st Review Comments
2/11 – Legacy submits BHRF license application to ADHS
4/1 – Legacy submits letter w/ info to City
4/30 – Appeal of ZA Interpretation
4/15 – ZA Interpretation
4/1 – Copy of ADHS License submitted to City
Uncontested Events in City Staff Report
Addt'l Key Events in Legacy Appeal Documents

ZONING ORDINANCE

LEGACY EXHIBIT 12

LEGACY
RECOVERY CENTER

Table 11-5-2: Residential Districts				
Proposed Use	**RS**	**RSL**	**RM**	**Additional Use Regulations**
Residential Use Classifications				
		…		
Community Residence				
Family Community Residence	P (13, 14)	P (13, 14)	P (12, 13, 14)	Section 11-31-14, Community Residences
Transitional Community Residence	SUP (13, 14)	SUP (13, 14)	P (12, 13, 14)	
		…		

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

Community Residence. A community residence is a residential living arrangement for five to ten individuals with disabilities, excluding staff, living as a family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services related to the residents' disabilities. A community residence seeks to emulate a biological family to foster normalization of its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment. Medical treatment is incidental as in any home. Supportive interrelationships between residents are an essential component. Community residence includes sober living homes and assisted living homes but does not include any other group living arrangement for unrelated individuals who are not disabled nor any shelter, rooming house, boarding house or transient occupancy.

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

Family Community Residence. A community residence is a relatively permanent living arrangement with no limit on the length of tenancy as determined in practice or by the rules, charter, or other governing documents of the community residence. The minimum length of tenancy is typically a year or longer.

Transitional Community Residence. A community residence that provides a relatively temporary living arrangement with a limit on length of tenancy less than a year that is measured in weeks or months, as determined either in practice or by the rules, charter, or other governing document of the community residence.

= Legacy Residence is consistent with this part of the definition

= Legacy Residence is not consistent with this part of the definition

11-31-14: - COMMUNITY RESIDENCES

A community residence (family and transitional) shall be located, developed and operated in compliance with the land use regulations in Article 2 and the following standards:

A. **General Requirements.**

1. ***Spacing Requirements.*** A minimum distance of 1,200 feet from the closest existing community residence, assisted living home, or assisted living center, as measured under Section 11-2-3(D), unless separated by a significant intervening natural or manmade feature such as, but not limited to, a canal, municipal open space of at least ten (10) acres (e.g., park, golf course, etc.), a railroad, or a highway, that is approved by the Zoning Administrator.

2. ***Occupancy.*** **Five (5) up to a maximum of ten (10) individuals (not including staff).**

3. ***Licensure and Certification.*** A community residence must obtain one (1) or more of the following:

   (a) License or certification from the State of Arizona required to operate the proposed community residence; or

   (b) Certification by the Arizona Recovery Housing Association if not required to be licensed by the State of Arizona; or

   (c) A "Permanent" Oxford House Charter.

Note: No separation requirement from schools.

Separation requirements are intended to prevent clustering of community residences so that disabled residents do not feel institutionalized

11-31-14: - COMMUNITY RESIDENCES

C. **Registration, Renewal, and Revocation.** A community residence must register with the City and renew its registration as set forth below:

1. ***Registration Process for Community Residences That Do Not Require a Conditional Use Permit.*** An applicant for a community residence that does not require a conditional use permit to operate and is not requesting a reasonable accommodation under Section 11-31-14(D), must register with the City by submitting the City's registration application according to Chapter 67, Common Procedures. If the use complies with all City requirements, the applicant will receive provisional registration approval from the planning division. To obtain final registration, the applicant must provide evidence of the required license or certification within 120 days from the date the provisional registration was approved.

11-31-14: - COMMUNITY RESIDENCES

C. **Registration, Renewal, and Revocation.** A community residence must register with the City and renew its registration as set forth below:

2. ***Registration Process For a Community Residence That Requires a Conditional Use Permit or is Requesting a Reasonable Accommodation.*** A community residence that requires a conditional use permit to operate or that requests a reasonable accommodation to the standards in Section 11-31-14(a), must register with the city by submitting the City's application for a conditional use permit according to Chapter 67, Common Procedures, and by providing evidence of compliance with all City requirements. The request will be reviewed by the applicable governing body. approval of the conditional use permit grants the applicant provisional registration. To obtain final registration, the applicant must provide evidence of the required license or certification within 120 days from the date the provisional registration was approved; except registration for a community residence that is granted a reasonable accommodation to the license and certification requirement is considered final and no other action is required.

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

Family Community Residence. A community residence is a relatively permanent living arrangement with no limit on the length of tenancy as determined in practice or by the rules, charter, or other governing documents of the community residence. The minimum length of tenancy is typically a year or longer.

Transitional Community Residence. A community residence that provides a relatively temporary living arrangement with a limit on length of tenancy less than a year that is measured in weeks or months, as determined either in practice or by the rules, charter, or other governing document of the community residence.

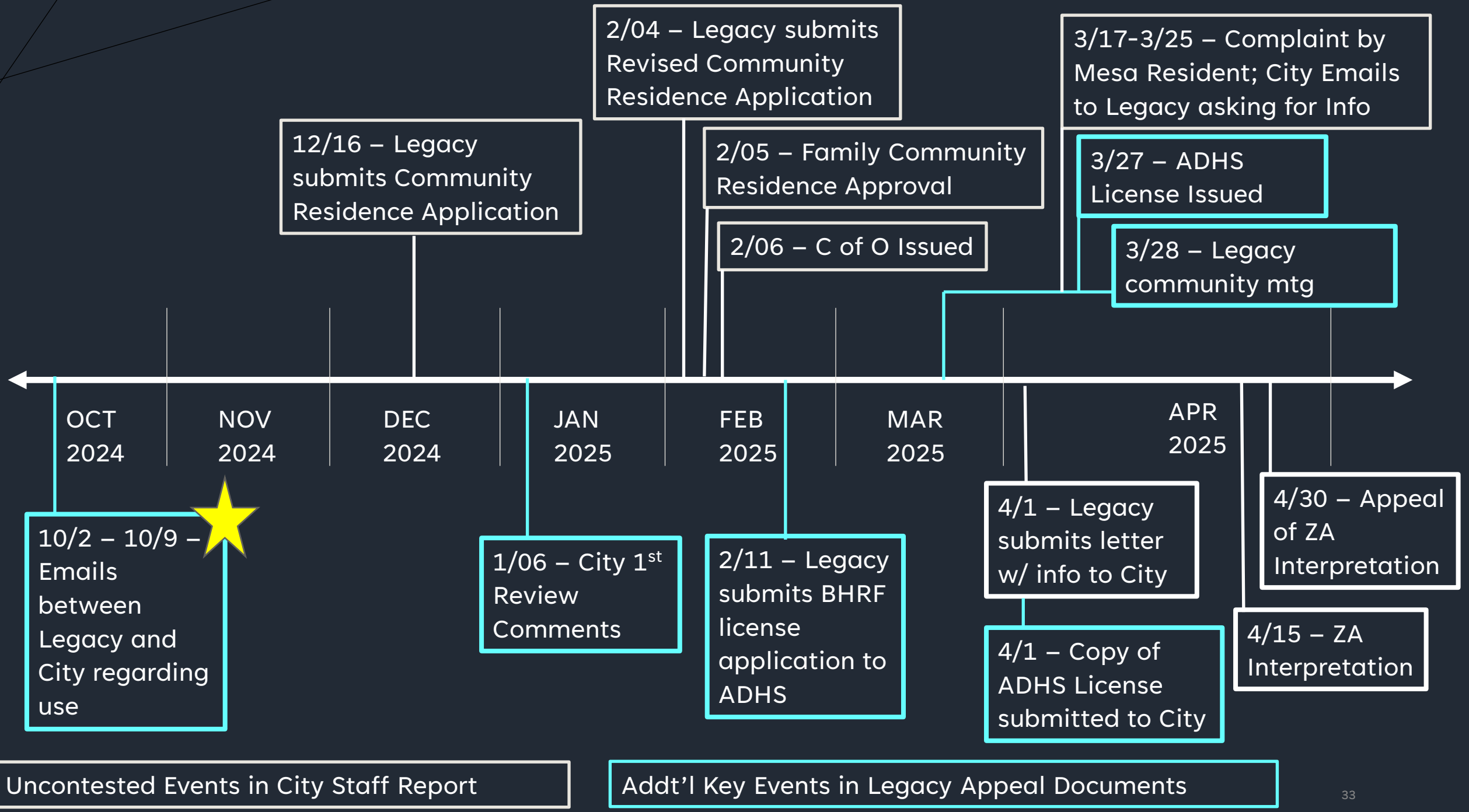
= Legacy Residence is consistent with this part of the definition

= Legacy Residence is not consistent with this part of the definition

OCTOBER 2024 COMMUNICATIONS WITH THE CITY

LEGACY EXHIBIT 5

LEGACY
RECOVERY CENTER


2/04 – Legacy submits Revised Community Residence Application
3/17-3/25 – Complaint by Mesa Resident; City Emails to Legacy asking for Info
12/16 – Legacy submits Community Residence Application
2/05 – Family Community Residence Approval
3/27 – ADHS License Issued
2/06 – C of O Issued
3/28 – Legacy community mtg
OCT 2024
NOV 2024
DEC 2024
JAN 2025
FEB 2025
MAR 2025
APR 2025
10/2 – 10/9 – Emails between Legacy and City regarding use
1/06 – City 1st Review Comments
2/11 – Legacy submits BHRF license application to ADHS
4/1 – Legacy submits letter w/ info to City
4/30 – Appeal of ZA Interpretation
4/15 – ZA Interpretation
4/1 – Copy of ADHS License submitted to City
Uncontested Events in City Staff Report
Addt'l Key Events in Legacy Appeal Documents

LEGACY EXHIBIT 5 – OCTOBER 2, 2024 EMAIL

From: Kwasi Abebrese <Kwasi.Abebrese@mesaaz.gov>
Sent: Wednesday, October 2, 2024 7:21 AM
To: Heather Dukes <hdukes@dukeslawaz.com>
Subject: Community Residence Registration - 2338 East Minton Street

Hello,

The property at 2338 East Minton Street is in the Single Residence 15 (RS-15) zoning district and meets the 1,200 feet separation requirement to be a registered Community Residence with 5-10 individuals.

LEGACY EXHIBIT 5 – OCTOBER 2, 2024 EMAIL (CONT'D)

Please be advised: the eligibility of the subject property to be a registered Community Residence with 5-10 individual is not guaranteed, since other properties in the area are also eligible to be a registered Community Residence with 5-10 individuals.

To secure the ability of the subject property to be a Community Residence with 5-10 individuals, please submit a Community Residence registration application per the instructions below as soon as possible.

To register this address as a Community Residence with 5-10 individuals, please prepare and submit the Community Residence registration information per the following instructions.

1. Provide completed and signed Community Residence registration form
2. Provide completed and signed Occupancy Conformation Worksheet
3. Provide a signed Property Owner Authorization form
4. Please provide a typed narrative with the following information about the Community Residence:
   - The name of the facility
   - The name, telephone number, email address and mailing address of the person responsible for the facility
   - The type of Community Residence
   - The number of residents
   - The age range of the res
   - What Arizona State agen Recovery Housing Asso licensed by the State of
   - Indicate whether or not a situations without assist
   - Does the residence have
   - Are the fire sprinklers m site monitoring.
   - Explain what services ar
   - Explain how the residen
5. Provide a site plan of the label the major street na
6. Provide a floor plan of the facility

Attached is a copy of the Community Residence registration form, property owner authorization form and Occupancy Confirmation Worksheet. Please complete the registration and worksheet forms. The property owner authorization form is required to be signed by the property owner if the Community Residence applicant is not the property owner. Also, if the property owner or proposed Community Residence is owned/operated by a LLC, then provide documentation that authorizes the property owner signatory or Community Residence applicant to "act" on behalf of the LLC.

Once these documents are gathered, completed and signed, then, scan all the documents, including the narrative, and create one pdf containing all the scanned documents. Next, follow the instructions below to create a building permit (DIMES program) to begin the review/approval process for a new Community Residence Registration/Certificate of Occupancy.

To secure the ability of the subject property to be a Community Residence with 5-10 individuals, please submit a Community Residence registration application per the instructions below as soon as possible.

Note: No distinction between Family or Transitional Community Residence process.

LEGACY EXHIBIT 5 – OCTOBER 2, 2024 EMAIL (CONT'D)

Please be advised: the eligibility of the subject property to be a registered Community Residence with 5-10 individual is not guaranteed, since other properties in the area are also eligible to be a registered Community Residence with 5-10 individuals.

To secure the ability of the subject property to be a Community Residence with 5-10 individuals, please submit a Community Residence registration application per the instructions below as soon as possible.

To register this address as a Community Residence with 5-10 individuals, please prepare and submit the Community Residence registration information per the following instructions.

1. Provide completed and signed Community Residence registration form
2. Provide completed and signed Occupancy Conformation Worksheet
3. Provide a signed Property Owner Authorization form
4. Please provide a typed narrative with the following information about the Community Residence:
   - The name of the facility
   - The name, telephone number, email address and mailing address of the person responsible for the facility
   - The type of Community Residence
   - The number of residents
   - The age range of the residents
   - What Arizona State agency will be licensing this facility? Or, provide certification by the Arizona Recovery Housing Association or a "Permanent" Oxford House Charter if not required to be licensed by the State of Arizona.
   - Indicate whether or not all residents are capable of recognizing and responding to emergency situations without assistance from staff.
   - Does the residence have fire sprinklers?
   - Are the fire sprinklers monitored by an off-site agency? If yes, please provide verification of off-site monitoring.
   - Explain what services are provided at the facility.
   - Explain how the residents are supervised at the facility.
5. Provide a site plan of the property. Please include the address of the property on the site plan, label the major street names and provide a compass orienting the map.
6. Provide a floor plan of the facility

Attached is a copy of the Community Residence registration form, property owner authorization form and Occupancy Confirmation Worksheet. Please complete the registration and worksheet forms. The property owner authorization form is required to be signed by the property owner if the Community Residence applicant is not the property owner. Also, if the property owner or proposed Community Residence is owned/operated by a LLC, then provide documentation that authorizes the property owner signatory or Community Residence applicant to "act" on behalf of the LLC.

Once these documents are gathered, completed and signed, then, scan all the documents, including the narrative, and create one pdf containing all the scanned documents. Next, follow the instructions below to create a building permit (DIMES program) to begin the review/approval process for a new Community Residence Registration/Certificate of Occupancy.

1. Provide completed and signed Community Residence registration form
2. Provide completed and signed Occupancy Conformation Worksheet
3. Provide a signed Property Owner Authorization form
4. Please provide a typed narrative with the following information about the Community Residence:
   - The name of the facility
   - The name, telephone number, email address and mailing address of the person responsible for the facility
   - The type of Community Residence
   - The number of residents
   - The age range of the residents
   - What Arizona State agency will be licensing this facility? Or, provide certification by the Arizona Recovery Housing Association or a "Permanent" Oxford House Charter if not required to be licensed by the State of Arizona.
   - Indicate whether or not all residents are capable of recognizing and responding to emergency situations without assistance from staff.
   - Does the residence have fire sprinklers?
   - Are the fire sprinklers monitored by an off-site agency? If yes, please provide verification of off-site monitoring.
   - Explain what services are provided at the facility.
   - Explain how the residents are supervised at the facility.
5. Provide a site plan of the property. Please include the address of the property on the site plan, label the major street names and provide a compass orienting the map.
6. Provide a floor plan of the facility

Note: No questions about length of stay

LEGACY EXHIBIT 5 – OCTOBER 7, 2024 EMAIL

From: Heather Dukes <hdukes@dukeslawaz.com>
Sent: Monday, October 7, 2024 2:11 PM
To: Kwasi Abebrese <Kwasi.Abebrese@mesaaz.gov>
Subject: Re: Community Residence Registration - 2338 East Minton Street

Kwasi,

Thank you for this information. As I mentioned on the phone, my client needs confirmation that their use would be considered a family community residence before proceeding. The Mesa Zoning Ordinance permits a family community residence within the RS-15 zoning ordinance without an SUP requirement. A "community residence" and the subcategory "family community residence" are defined as:

Community Residence: A community residence is a **residential** living arrangement for **five to ten individuals with disabilities, excluding staff,** living as a family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabi
residence seeks to emulate a
integrate them into the surrou
family-like environment. Medi
interrelationships between res

Family Community Residen
arrangement with no limit on t
charter, or other governing do
tenancy is typically a year or l

To assist with this determinati

- **The name of the facilit**
  - Legacy Recovery
- **The type of Communit**
  - Family Community
- **The number of residen**
  - Up to 10 residents
- **The age range of the r**
  - Adults

From: Heather Dukes <hdukes@dukeslawaz.com>
Sent: Monday, October 7, 2024 2:11 PM
To: Kwasi Abebrese <Kwasi.Abebrese@mesaaz.gov>
Subject: Re: Community Residence Registration - 2338 East Minton Street

Kwasi,

Thank you for this information. As I mentioned on the phone, my client needs confirmation that their use would be considered a family community residence before proceeding. The Mesa Zoning Ordinance permits a family community residence within the RS-15 zoning ordinance without an SUP requirement. A "community residence" and the subcategory "family community residence" are defined as:

LEGACY EXHIBIT 5 – OCTOBER 7, 2024 EMAIL

From: Heather Dukes <hdukes@dukeslawaz.com>
Sent: Monday, October 7, 2024 2:11 PM
To: Kwasi Abebrese <Kwasi.Abebrese@mesaaz.gov>
Subject: Re: Community Residence Registration - 2338 East Minton Street

Kwasi,

Thank you for this information. As I mentioned on the phone, my client needs confirmation that their use would be considered a family community residence before proceeding. The Mesa Zoning Ordinance permits a family community residence within the RS-15 zoning ordinance without an SUP requirement. A "community residence" and the subcategory "family community residence" are defined as:

Community Residence: A community residence is a **residential** living arrangement for **five to ten individuals with disabilities, excluding staff,** living as a family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabi
residence seeks to emulate a
integrate them into the surrou
family-like environment. Medi
interrelationships between res

Family Community Residen
arrangement with no limit on t
charter, or other governing do
tenancy is typically a year or l

To assist with this determinati

- **The name of the facilit**
  - Legacy Recovery
- **The type of Communit**
  - Family Community
- **The number of residen**
  - Up to 10 residents
- **The age range of the r**
  - Adults

From: Heather Dukes <hdukes@dukeslawaz.com>
Sent: Monday, October 7, 2024 2:11 PM
To: Kwasi Abebrese <Kwasi.Abebrese@mesaaz.gov>
Subject: Re: Community Residence Registration - 2338 East Minton Street

Kwasi,

Thank you for this information. As I mentioned on the phone, my client needs confirmation that their use would be considered a family community residence before proceeding. The Mesa Zoning Ordinance permits a family community residence within the RS-15 zoning ordinance without an SUP requirement. A "community residence" and the subcategory "family community residence" are defined as:

- **Length of Residency**
  - There is no maximum or minimum time period that residents may live at the home. Some residents may live there for 3-6 months while others may choose to live there for longer than a year.
- **Vehicles**
  - Residents living in the community residence do not have their own vehicles on-site. Legacy staff will provide transportation to residents with a company vehicle
- **Visitors**
  - Visitors at the location will be allowed in the evenings from 4 to 8 pm during the week, and weekends from 4 to 9 pm. Legacy allows up to 2 adult visitors per resident, with one-hour time slots. The visitors are staggered so that only 2 to 3 residents have visitors on-site at any given time.

Based on this information, please confirm that my client's community residence use would constitute a "family community residence." If you can respond before Wednesday, October 9th, I would greatly appreciate. Please do not hesitate to contact me if you need additional information or have any questions.

Sincerely,

Heather N. Dukes, Esq.
DUKES LAW, PLLC
5527 N. 25th Street
Phoenix, AZ 85016
Mobile: (602)320-8866
Email: hdukes@dukeslawaz.com

LEGACY EXHIBIT 5 – OCTOBER 7, 2024 EMAIL (CONT'D)

From Kwasi Abebrese <kwasi.abebrese@mesaaz.gov>
Date Wed 10/9/2024 3:21 PM
To Heather Dukes <hdukes@dukeslawaz.com>

Hello Heather,

Sorry for the late response to your message. Per Chapter 86 of the Mesa Zoning Ordinance (MZO), a Family Community Residence is defined as a community residence with a relatively permanent living arrangement with no limit on the length of tenancy as determined in practice or by the rules, charter, or other governing document of the community residence. The minimum length of tenancy is typically a year or longer. If the proposed use falls under this category, then it is considered as a Family Community Residence.

Please let me know if you have any further questions.

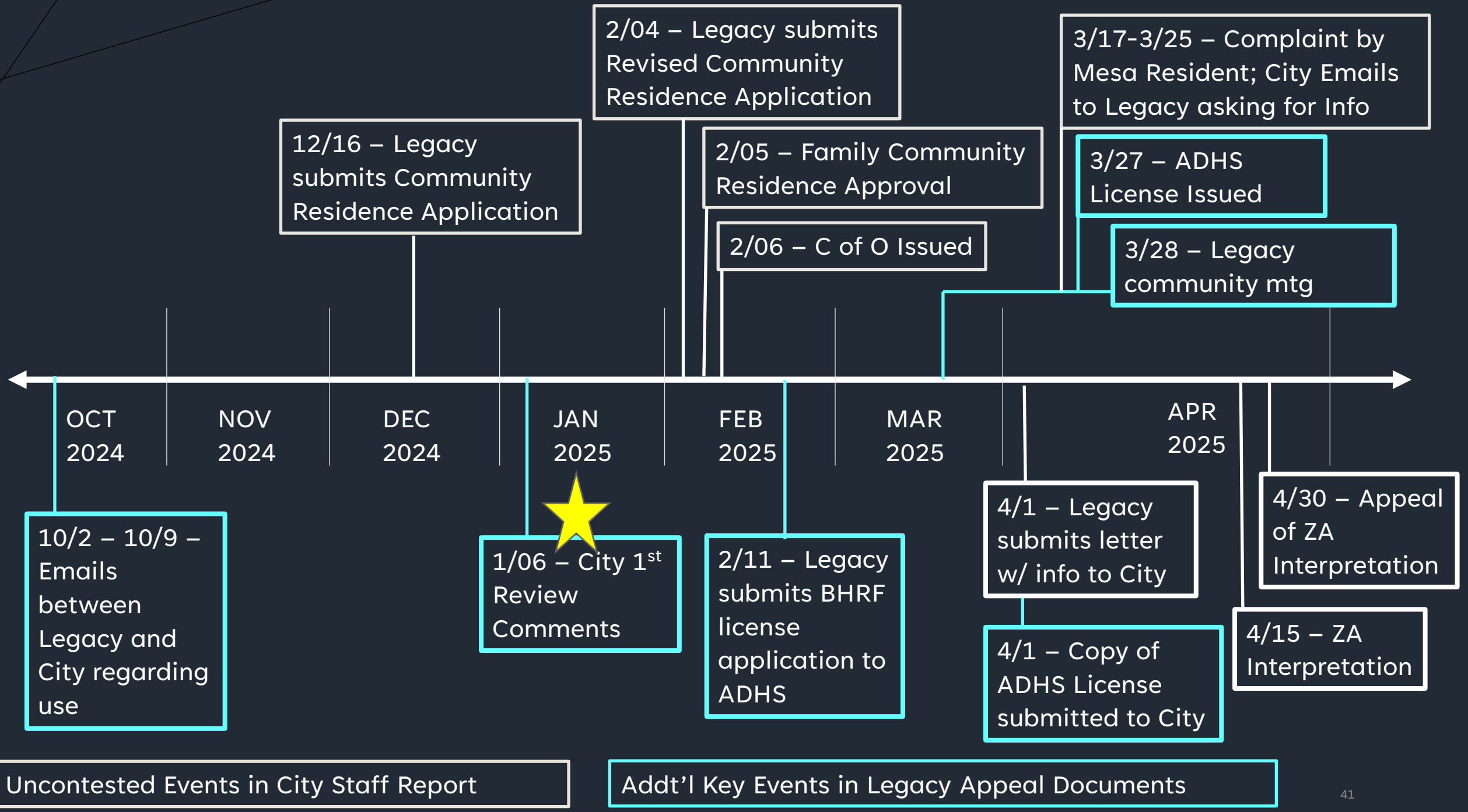
Best,

Kwasi Abebrese
Planner II
City of Mesa
55 N Center St
P. O. Box 1466
Mesa, AZ 85211-1466
Phone: 480.644.2764
Email: Kwasi.Abebrese@mesaaz.gov

Standard business hours are 7:00 AM – 6:00 PM Monday through Thursday. City Hall is closed on Fridays.

mesa·az

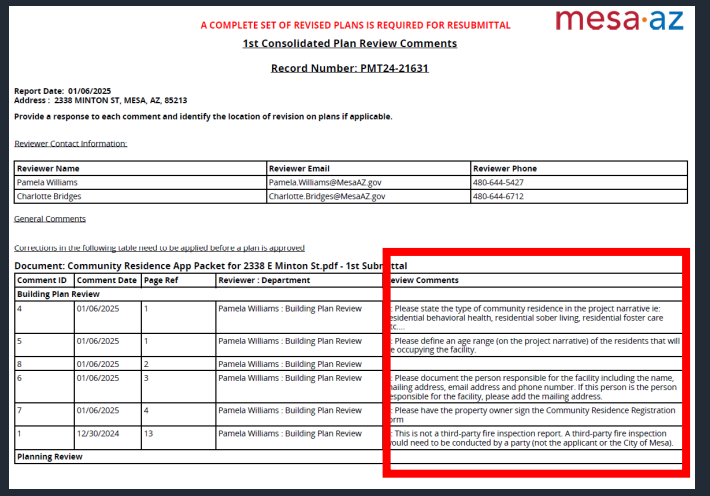
LEGACY EXHIBIT 5 – OCTOBER 9, 2024 EMAIL


2/04 – Legacy submits Revised Community Residence Application
3/17-3/25 – Complaint by Mesa Resident; City Emails to Legacy asking for Info
12/16 – Legacy submits Community Residence Application
2/05 – Family Community Residence Approval
3/27 – ADHS License Issued
2/06 – C of O Issued
3/28 – Legacy community mtg
OCT 2024
NOV 2024
DEC 2024
JAN 2025
FEB 2025
MAR 2025
APR 2025
10/2 – 10/9 – Emails between Legacy and City regarding use
1/06 – City 1st Review Comments
2/11 – Legacy submits BHRF license application to ADHS
4/1 – Legacy submits letter w/ info to City
4/30 – Appeal of ZA Interpretation
4/15 – ZA Interpretation
4/1 – Copy of ADHS License submitted to City
Uncontested Events in City Staff Report
Addt'l Key Events in Legacy Appeal Documents

LEGACY EXHIBIT 4 – MESA 1ST REVIEW COMMENTS

bmittal

	Review Comments
	B: Please state the type of community residence in the project narrative ie: residential behavioral health, residential sober living, residential foster care etc....
	B: Please define an age range (on the project narrative) of the residents that will be occupying the facility.
	B: Please document the person responsible for the facility including the name, mailing address, email address and phone number. If this person is the person responsible for the facility, please add the mailing address.
	B: Please have the property owner sign the Community Residence Registration form
	B: This is not a third-party fire inspection report. A third-party fire inspection would need to be conducted by a party (not the applicant or the City of Mesa).



A COMPLETE SET OF REVISED PLANS IS REQUIRED FOR RESUBMITTAL

mesa·az

1st Consolidated Plan Review Comments

Record Number: PMT24-21631

Report Date: 01/06/2025
Address : 2338 MINTON ST, MESA, AZ, 85213

Provide a response to each comment and identify the location of revision on plans if applicable.

Reviewer Contact Information:

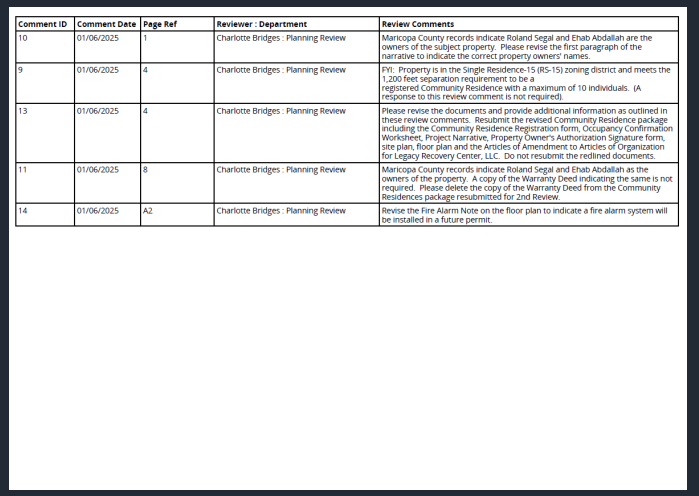
Reviewer Name	Reviewer Email	Reviewer Phone
Pamela Williams	Pamela.Williams@MesaAZ.gov	480-644-5427
Charlotte Bridges	Charlotte.Bridges@MesaAZ.gov	480-644-6712

General Comments

Corrections in the following table need to be applied before a plan is approved

Document: Community Residence App Packet for 2338 E Minton St.pdf - 1st Subm ttal

Comment ID	Comment Date	Page Ref	Reviewer : Department	eview Comments
Building Plan Review				
4	01/06/2025	1	Pamela Williams : Building Plan Review	: Please state the type of community residence in the project narrative ie: esidential behavioral health, residential sober living, residential foster care c....
5	01/06/2025	1	Pamela Williams : Building Plan Review	: Please define an age range (on the project narrative) of the residents that will e occupying the facility.
8	01/06/2025	2	Pamela Williams : Building Plan Review	
6	01/06/2025	3	Pamela Williams : Building Plan Review	: Please document the person responsible for the facility including the name, ailing address, email address and phone number. If this person is the person esponsible for the facility, please add the mailing address.
7	01/06/2025	4	Pamela Williams : Building Plan Review	: Please have the property owner sign the Community Residence Registration rm
1	12/30/2024	13	Pamela Williams : Building Plan Review	: This is not a third-party fire inspection report. A third-party fire inspection ould need to be conducted by a party (not the applicant or the City of Mesa).
Planning Review				



Comment ID	Comment Date	Page Ref	Reviewer : Department	Review Comments
10	01/06/2025	1	Charlotte Bridges : Planning Review	Maricopa County records indicate Roland Segal and Ehab Abdallah are the owners of the subject property. Please revise the first paragraph of the narrative to indicate the correct property owners' names.
9	01/06/2025	4	Charlotte Bridges : Planning Review	FYI: Property is in the Single Residence-15 (RS-15) zoning district and meets the 1,200 feet separation requirement to be a registered Community Residence with a maximum of 10 individuals. (A response to this review comment is not required).
13	01/06/2025	4	Charlotte Bridges : Planning Review	Please revise the documents and provide additional information as outlined in these review comments. Resubmit the revised Community Residence package including the Community Residence Registration form, Occupancy Confirmation Worksheet, Project Narrative, Property Owner's Authorization Signature form, site plan, floor plan and the Articles of Amendment to Articles of Organization for Legacy Recovery Center, LLC. Do not resubmit the redlined documents.
11	01/06/2025	8	Charlotte Bridges : Planning Review	Maricopa County records indicate Roland Segal and Ehab Abdallah as the owners of the property. A copy of the Warranty Deed indicating the same is not required. Please delete the copy of the Warranty Deed from the Community Residences package resubmitted for 2nd Review.
14	01/06/2025	A2	Charlotte Bridges : Planning Review	Revise the Fire Alarm Note on the floor plan to indicate a fire alarm system will be installed in a future permit.

LEGACY EXHIBIT 4 – MESA 1ST REVIEW COMMENTS (CONT'D)

Review Comments
Maricopa County records indicate Roland Segal and Ehab Abdallah are the owners of the subject property. Please revise the first paragraph of the narrative to indicate the correct property owners' names.
FYI: Property is in the Single Residence-15 (RS-15) zoning district and meets the 1,200 feet separation requirement to be a registered Community Residence with a maximum of 10 individuals. (A response to this review comment is not required).
Please revise the documents and provide additional information as outlined in these review comments. Resubmit the revised Community Residence package including the Community Residence Registration form, Occupancy Confirmation Worksheet, Project Narrative, Property Owner's Authorization Signature form, site plan, floor plan and the Articles of Amendment to Articles of Organization for Legacy Recovery Center, LLC. Do not resubmit the redlined documents.
Maricopa County records indicate Roland Segal and Ehab Abdallah as the owners of the property. A copy of the Warranty Deed indicating the same is not required. Please delete the copy of the Warranty Deed from the Community Residences package resubmitted for 2nd Review.
Revise the Fire Alarm Note on the floor plan to indicate a fire alarm system will be installed in a future permit.

A COMPLETE SET OF REVISED PLANS IS REQUIRED FOR RESUBMITTAL

mesa·az

1st Consolidated Plan Review Comments

Record Number: PMT24-21631

Report Date: 01/06/2025
Address : 2338 MINTON ST, MESA, AZ, 85213

Provide a response to each comment and identify the location of revision on plans if applicable.

Reviewer Contact Information:

Reviewer Name	Reviewer Email	Reviewer Phone
Pamela Williams	Pamela.Williams@MesaAZ.gov	480-644-5427
Charlotte Bridges	Charlotte.Bridges@MesaAZ.gov	480-644-6712

General Comments

Corrections in the following table need to be applied before a plan is approved

Document: Community Residence App Packet for 2338 E Minton St.pdf - 1st Submittal

Comment ID	Comment Date	Page Ref	Reviewer : Department	Review Comments
Building Plan Review				
4	01/06/2025	1	Pamela Williams : Building Plan Review	B: Please state the type of community residence in the project narrative ie: residential behavioral health, residential sober living, residential foster care etc...
5	01/06/2025	1	Pamela Williams : Building Plan Review	B: Please define an age range (on the project narrative) of the residents that will be occupying the facility.
8	01/06/2025	2	Pamela Williams : Building Plan Review	
6	01/06/2025	3	Pamela Williams : Building Plan Review	B: Please document the person responsible for the facility including the name, mailing address, email address and phone number. If this person is the person responsible for the facility, please add the mailing address.
7	01/06/2025	4	Pamela Williams : Building Plan Review	B: Please have the property owner sign the Community Residence Registration form
1	12/30/2024	13	Pamela Williams : Building Plan Review	B: This is not a third-party fire inspection report. A third-party fire inspection would need to be conducted by a party (not the applicant or the City of Mesa).
Planning Review				

Comment ID	Comment Date	Page Ref	Reviewer : Department	iew Comments
10	01/06/2025	1	Charlotte Bridges : Planning Review	ricopa County records indicate Roland Segal and Ehab Abdallah are the ners of the subject property. Please revise the first paragraph of the rrative to indicate the correct property owners' names.
9	01/06/2025	4	Charlotte Bridges : Planning Review	. Property is in the Single Residence-15 (RS-15) zoning district and meets the 200 feet separation requirement to be a gistered Community Residence with a maximum of 10 individuals. (A sponse to this review comment is not required).
13	01/06/2025	4	Charlotte Bridges : Planning Review	ase revise the documents and provide additional information as outlined in se review comments. Resubmit the revised Community Residence package luding the Community Residence Registration form, Occupancy Confirmation rksheet, Project Narrative, Property Owner's Authorization Signature form, e plan, floor plan and the Articles of Amendment to Articles of Organization r Legacy Recovery Center, LLC. Do not resubmit the redlined documents.
11	01/06/2025	8	Charlotte Bridges : Planning Review	aricopa County records indicate Roland Segal and Ehab Abdallah as the ners of the property. A copy of the Warranty Deed indicating the same is not quired. Please delete the copy of the Warranty Deed from the Community sidences package resubmitted for 2nd Review.
14	01/06/2025	A2	Charlotte Bridges : Planning Review	vise the Fire Alarm Note on the floor plan to indicate a fire alarm system will installed in a future permit.

LEGACY EXHIBIT 2D – MESA COMMUNITY RESIDENCE APPROVAL

REVIEWED

By PW at 02/04/2025 15:15:30

APPROVED

By CB at 02/05/2025 13:57:35

PMT24-21631

mesa·az

Community Residence, Assisted Living, and Nursing and Convalescent Home Registration Application

Facility Name: Legacy Recovery Center

Number of Residents: 10 Fire Sprinklers Installed? ■ Yes ☐ No

Facility's Address: 2338 E. Minton Street

City: Mesa State: AZ Zip Code: 85213

Facility's Mailing Address, if different: _____

City: _____ State: _____ Zip Code: _____

Facility's Phone Number: (936) 615-0981 Facility's E-Mail: richard@legacyrecoverycenter.com

Facility's Operator: Richard Miller, CEO of Legacy Recovery Center, LLC

Operator's Phone Number: (936) 615-0981 Operator's E-Mail: richard@legacyrecoverycenter.com

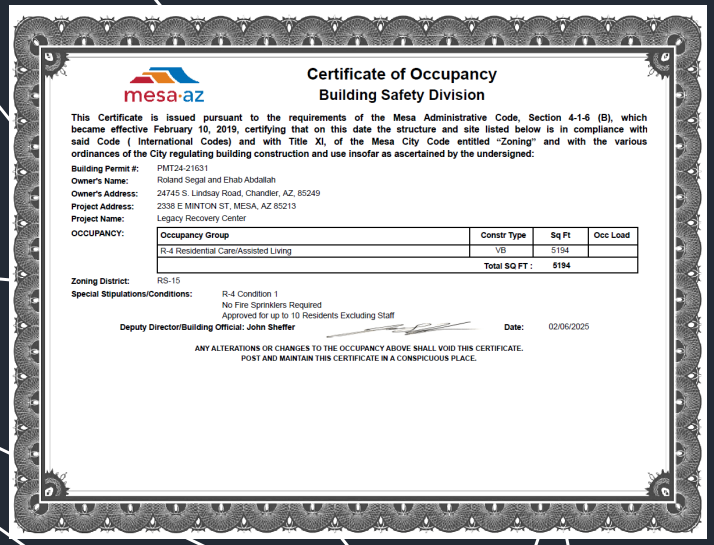
Property Owner (Print): Roland Segal

Property Owner's Address: 24745 S. Lindsay Road

City: Chandler State: AZ Zip Code: 85249

Property Owner's Phone Number: (936) 615-0981 Property Owner's E-Mail: drsegal@azforensicpsychiatry.com

Property Owner's Signature: R Segal MS *(owner authorization is required)*



mesa·az

Certificate of Occupancy
Building Safety Division

This Certificate is issued pursuant to the requirements of the Mesa Administrative Code, Section 4-1-6 (B), which became effective February 10, 2019, certifying that on this date the structure and site listed below is in compliance with said Code (International Codes) and with Title XI, of the Mesa City Code entitled "Zoning" and with the various ordinances of the City regulating building construction and use insofar as ascertained by the undersigned:

Building Permit #: PMT24-21631
Owner's Name: Roland Segal and Ehab Abdallah
Owner's Address: 24745 S. Lindsay Road, Chandler, AZ, 85249
Project Address: 2338 E MINTON ST, MESA, AZ 85213
Project Name: Legacy Recovery Center

OCCUPANCY:

Occupancy Group	Constr Type	Sq Ft	Occ Load
R-4 Residential Care/Assisted Living	VB	5194	
	Total SQ FT :	5194	

Zoning District: RS-15
Special Stipulations/Conditions: R-4 Condition 1
No Fire Sprinklers Required
Approved for up to 10 Residents Excluding Staff
Deputy Director/Building Official: John Sheffer Date: 02/06/2025

ANY ALTERATIONS OR CHANGES TO THE OCCUPANCY ABOVE SHALL VOID THIS CERTIFICATE.
POST AND MAINTAIN THIS CERTIFICATE IN A CONSPICUOUS PLACE.

LEGACY EXHIBIT 4C – CERTIFICATE OF OCCUPANCY

Building Permit #: PMT24-21631
Owner's Name: Roland Segal and Ehab Abdallah
Owner's Address: 24745 S. Lindsay Road, Chandler, AZ, 85249
Project Address: 2338 E MINTON ST, MESA, AZ 85213
Project Name: Legacy Recovery Center

OCCUPANCY:

Occupancy Group	Constr Type	Sq Ft	Occ Load
R-4 Residential Care/Assisted Living	VB	5194	
	Total SQ FT :	**5194**	

Zoning District: RS-15
Special Stipulations/Conditions: R-4 Condition 1
No Fire Sprinklers Required
Approved for up to 10 Residents Excluding Staff

Deputy Director/Building Official: John Sheffer **Date:** 02/06/2025

ANY ALTERATIONS OR CHANGES TO THE OCCUPANCY ABOVE SHALL VOID THIS CERTIFICATE.
POST AND MAINTAIN THIS CERTIFICATE IN A CONSPICUOUS PLACE.

LEGACY EXHIBIT 4D – ADHS LICENSE (SUBMITTED TO CITY ON 4/1/2025)

ARIZONA DEPARTMENT
OF HEALTH SERVICES

LEGACY RECOVERY CENTER, LLC
Legacy Recovery Center
2338 East Minton Street
Mesa, AZ 85213

The facility above is licensed to operate as a(n) Behavioral Health Residential Facility. This license has been issued under the authority of Title 36, Chapter 4, Arizona Revised Statutes and pursuant to Department of Health Services' Rules, is not transferable and is valid only for the location identified above.

THIS CERTIFICATE IS NOT TRANSFERABLE

License Number: BHRF20001
Effective Date: March 27, 2025
Expiration Date: March 26, 2026
Total Capacity: 10

HEALTH AND WELLNESS FOR ALL ARIZONANS

PURSUANT TO A.R.S. §41-1092.11 (A), UPON SUBMITTAL OF A TIMELY AND SUFFICIENT APPLICATION
THIS LICENSE WILL REMAIN IN EFFECT UNTIL REISSUED OR REVOKED
TO BE FRAMED AND DISPLAYED IN A CONSPICUOUS PLACE

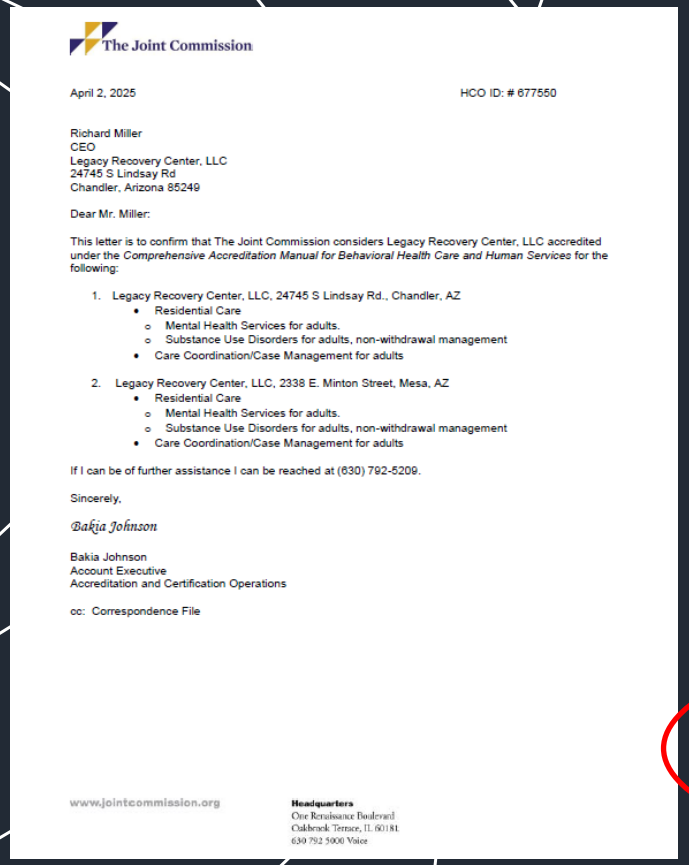
Recommended By: Tiffany Slater, Bureau Chief

Issued By: Tom Salow, Assistant Director

THIS CERTIFICATE IS NOT TRANSFERABLE

License Number: BHRF20001
Effective Date: March 27, 2025
Expiration Date: March 26, 2026
Total Capacity: 10

LEGACY EXHIBIT 2G – JOINT COMMISSION APPROVAL



The Joint Commission

April 2, 2025 HCO ID: # 677550

Richard Miller
CEO
Legacy Recovery Center, LLC
24745 S Lindsay Rd
Chandler, Arizona 85249

Dear Mr. Miller:

This letter is to confirm that The Joint Commission considers Legacy Recovery Center, LLC accredited under the *Comprehensive Accreditation Manual for Behavioral Health Care and Human Services* for the following:

1. Legacy Recovery Center, LLC, 24745 S Lindsay Rd., Chandler, AZ
   - Residential Care
     - Mental Health Services for adults.
     - Substance Use Disorders for adults, non-withdrawal management
   - Care Coordination/Case Management for adults
2. Legacy Recovery Center, LLC, 2338 E. Minton Street, Mesa, AZ
   - Residential Care
     - Mental Health Services for adults.
     - Substance Use Disorders for adults, non-withdrawal management
   - Care Coordination/Case Management for adults

If I can be of further assistance I can be reached at (630) 792-5209.

Sincerely,

Bakia Johnson

Bakia Johnson
Account Executive
Accreditation and Certification Operations

cc: Correspondence File

www.jointcommission.org

Headquarters
One Renaissance Boulevard
Oakbrook Terrace, IL 60181
630 792 5000 Voice

April 2, 2025 HCO ID: # 677550

Richard Miller
CEO
Legacy Recovery Center, LLC
24745 S Lindsay Rd
Chandler, Arizona 85249

Dear Mr. Miller:

This letter is to confirm that The Joint Commission considers Legacy Recovery Center, LLC accredited under the *Comprehensive Accreditation Manual for Behavioral Health Care and Human Services* for the following:

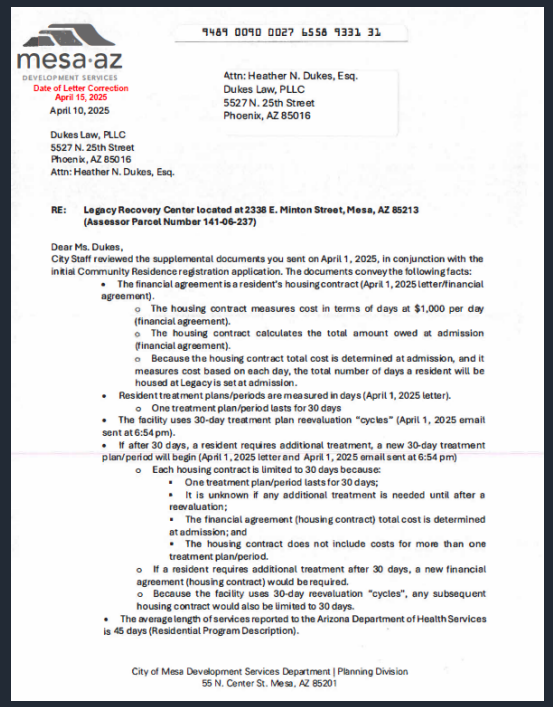
1. Legacy Recovery Center, LLC, 24745 S Lindsay Rd., Chandler, AZ
   - Residential Care
     - Mental Health Services for adults.
     - Substance Use Disorders for adults, non-withdrawal management
   - Care Coordination/Case Management for adults
2. Legacy Recovery Center, LLC, 2338 E. Minton Street, Mesa, AZ
   - Residential Care
     - Mental Health Services for adults.
     - Substance Use Disorders for adults, non-withdrawal management
   - Care Coordination/Case Management for adults

Dear Ms. Dukes,

City Staff reviewed the supplemental documents you sent on April 1, 2025, in conjunction with the initial Community Residence registration application. The documents convey the following facts:

- The financial agreement is a resident's housing contract (April 1, 2025 letter/financial agreement).
  - The housing contract measures cost in terms of days at $1,000 per day (financial agreement).
  - The housing contract calculates the total amount owed at admission (financial agreement).
  - Because the housing contract total cost is determined at admission, and it measures cost based on each day, the total number of days a resident will be housed at Legacy is set at admission.
- Resident treatment plans/periods are measured in days (April 1, 2025 letter).
  - One treatment plan/period lasts for 30 days
- The facility uses 30-day treatment plan reevaluation "cycles" (April 1, 2025 email sent at 6:54 pm).
- If after 30 days, a resident requires additional treatment, a new 30-day treatment plan/period will begin (April 1, 2025 letter and April 1, 2025 email sent at 6:54 pm)
  - Each housing contract is limited to 30 days because:
    - One treatment plan/period lasts for 30 days;
    - It is unknown if any additional treatment is needed until after a reevaluation;
    - The financial agreement (housing contract) total cost is determined at admission; and
    - The housing contract does not include costs for more than one treatment plan/period.
  - If a resident requires additional treatment after 30 days, a new financial agreement (housing contract) would be required.
  - Because the facility uses 30-day reevaluation "cycles", any subsequent housing contract would also be limited to 30 days.
- The average length of services reported to the Arizona Department of Health Services is 45 days (Residential Program Description).

LEGACY EXHIBIT 13
APRIL 15, 2025 ZA DECISION



mesa·az
DEVELOPMENT SERVICES
Date of Letter Correction
April 15, 2025
April 10, 2025

9489 0090 0027 6558 9331 31

Attn: Heather N. Dukes, Esq.
Dukes Law, PLLC
5527 N. 25th Street
Phoenix, AZ 85016

Dukes Law, PLLC
5527 N. 25th Street
Phoenix, AZ 85016
Attn: Heather N. Dukes, Esq.

RE: **Legacy Recovery Center located at 2338 E. Minton Street, Mesa, AZ 85213 (Assessor Parcel Number 141-06-237)**

Dear Ms. Dukes,
City Staff reviewed the supplemental documents you sent on April 1, 2025, in conjunction with the initial Community Residence registration application. The documents convey the following facts:

- The financial agreement is a resident's housing contract (April 1, 2025 letter/financial agreement).
  - The housing contract measures cost in terms of days at $1,000 per day (financial agreement).
  - The housing contract calculates the total amount owed at admission (financial agreement).
  - Because the housing contract total cost is determined at admission, and it measures cost based on each day, the total number of days a resident will be housed at Legacy is set at admission.
- Resident treatment plans/periods are measured in days (April 1, 2025 letter).
  - One treatment plan/period lasts for 30 days
- The facility uses 30-day treatment plan reevaluation "cycles" (April 1, 2025 email sent at 6:54 pm).
- If after 30 days, a resident requires additional treatment, a new 30-day treatment plan/period will begin (April 1, 2025 letter and April 1, 2025 email sent at 6:54 pm)
  - Each housing contract is limited to 30 days because:
    - One treatment plan/period lasts for 30 days;
    - It is unknown if any additional treatment is needed until after a reevaluation;
    - The financial agreement (housing contract) total cost is determined at admission; and
    - The housing contract does not include costs for more than one treatment plan/period.
  - If a resident requires additional treatment after 30 days, a new financial agreement (housing contract) would be required.
  - Because the facility uses 30-day reevaluation "cycles", any subsequent housing contract would also be limited to 30 days.
- The average length of services reported to the Arizona Department of Health Services is 45 days (Residential Program Description).

City of Mesa Development Services Department | Planning Division
55 N. Center St. Mesa, AZ 85201

- The supplemental documents refer to residents' treatment/housing in terms of days with one exception in your April 1, 2025 letter, which uses weeks (request for 4-to-6-week initial commitment).
- The supplemental documents do not measure treatment/housing in terms months or years.
- The only use of the words "month" or "year" to describe length of tenancy is in the original narrative submitted to the City with the registration application.

The facts show the Community Residence is a relatively temporary living arrangement that is measured in terms of days (both 30 days and 45 days are reported). Tenancy, through practice and contracts, is limited to less than one year. This meets the definition of a Transitional Community Residence in the Mesa City Code.

As you are aware, the City was contacted by several residents who provided information about the length of stay of residents at Legacy: including an audio recording, several sworn statements, and screenshots of the Chandler facility's website. Because the City could not verify the accuracy of the third party information, it was not considered in reaching the conclusion that the facility is a Transitional Community Residence. However, the information received by third parties corresponds to the supplemental documents you provided on behalf of your client and further supports the City's determination.

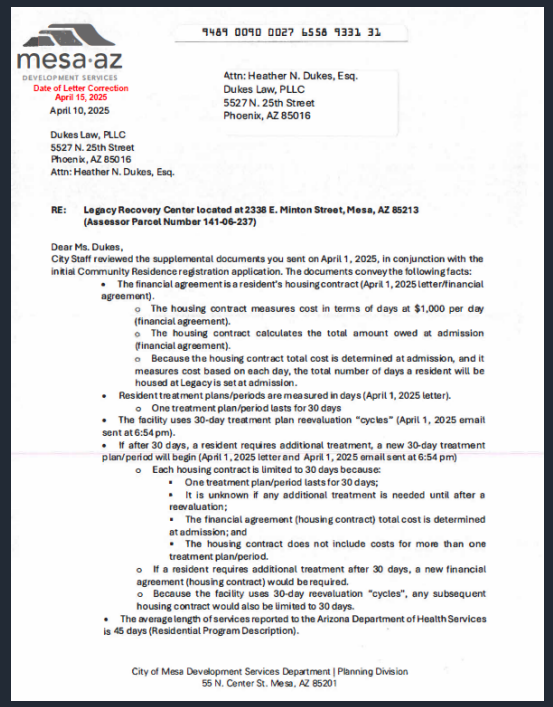
The supplemental documents you provided are inconsistent with the registration application submitted to the City, which suggested a much longer, more permanent, typical tenancy. In the registration application, the length of residency is described in terms of months or more than a year. However, that description is not supported by any of the supplemental documents. As noted on the application form, the submission of erroneous information or errors found after processing the application may result in the denial of an application or loss of registration, respectively.

The provisional approval for the Family Community Residence at 2338 E. Minton Street was based upon erroneous information. As such, the provisional approval is void and the property is not registered with the City as a Community Residence.

Because the facility is a Transitional Community Residence, approval of a Special Use Permit is required to operate at 2338 E. Minton Street. Please submit your application through the City's online portal (Mesa E-Permit Online Portal).

In the interim, all operations must cease until the Special Use Permit is heard and acted upon by the Board of Adjustment.

LEGACY EXHIBIT 13
APRIL 15, 2025 ZA DECISION



9489 0090 0027 6558 9331 31

mesa·az
DEVELOPMENT SERVICES
Date of Letter Correction
April 15, 2025
April 10, 2025

Attn: Heather N. Dukes, Esq.
Dukes Law, PLLC
5527 N. 25th Street
Phoenix, AZ 85016

Dukes Law, PLLC
5527 N. 25th Street
Phoenix, AZ 85016
Attn: Heather N. Dukes, Esq.

RE: Legacy Recovery Center located at 2338 E. Minton Street, Mesa, AZ 85213 (Assessor Parcel Number 141-06-237)

Dear Ms. Dukes,
City Staff reviewed the supplemental documents you sent on April 1, 2025, in conjunction with the initial Community Residence registration application. The documents convey the following facts:

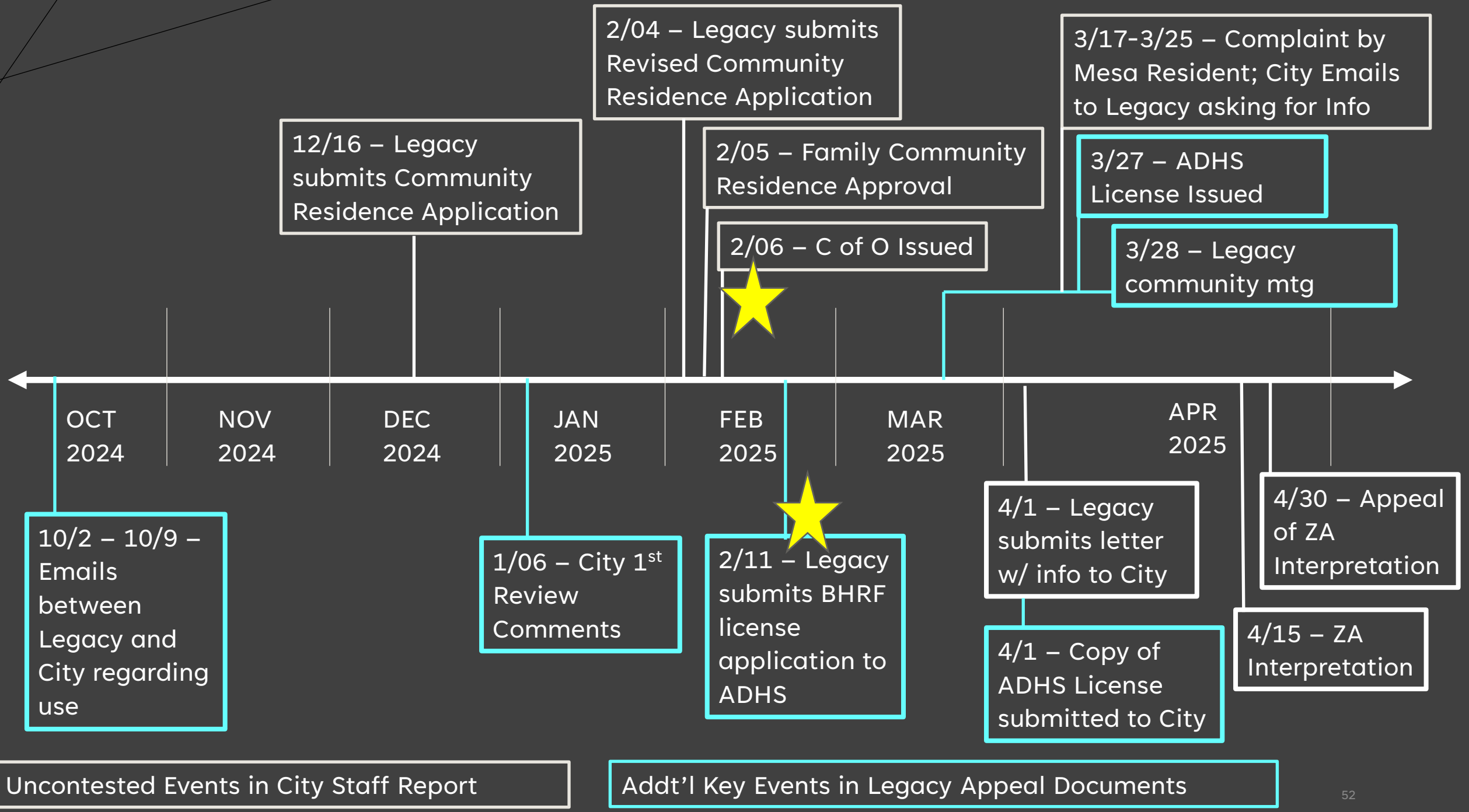
- The financial agreement is a resident's housing contract (April 1, 2025 letter/financial agreement).
  - The housing contract measures cost in terms of days at $1,000 per day (financial agreement).
  - The housing contract calculates the total amount owed at admission (financial agreement).
  - Because the housing contract total cost is determined at admission, and it measures cost based on each day, the total number of days a resident will be housed at Legacy is set at admission.
- Resident treatment plans/periods are measured in days (April 1, 2025 letter).
  - One treatment plan/period lasts for 30 days
- The facility uses 30-day treatment plan reevaluation "cycles" (April 1, 2025 email sent at 6:54 pm).
- If after 30 days, a resident requires additional treatment, a new 30-day treatment plan/period will begin (April 1, 2025 letter and April 1, 2025 email sent at 6:54 pm)
  - Each housing contract is limited to 30 days because:
    - One treatment plan/period lasts for 30 days;
    - It is unknown if any additional treatment is needed until after a reevaluation;
    - The financial agreement (housing contract) total cost is determined at admission; and
    - The housing contract does not include costs for more than one treatment plan/period.
  - If a resident requires additional treatment after 30 days, a new financial agreement (housing contract) would be required.
  - Because the facility uses 30-day reevaluation "cycles", any subsequent housing contract would also be limited to 30 days.
- The average length of services reported to the Arizona Department of Health Services is 45 days (Residential Program Description).

City of Mesa Development Services Department | Planning Division
55 N. Center St. Mesa, AZ 85201

VESTED RIGHTS

LEGACY
RECOVERY CENTER

Due process under the United States and Arizona Constitutions requires that when a building or approval is legitimately issued and the landowner, in reliance on the permit, incurs considerable expenses, the right to continue construction or operations becomes a vested property right which a local government cannot revoke. *Town of Paradise Valley v. Gulf Leisure Corp.,* 27 Ariz.App. 600, 557 P.2d 532 (App.Div.1 1976). To acquire a vested right, the landowner must incur expenses in good faith. *Phoenix City Council v. Canyon Ford, Inc.,* 12. Ariz.App. 595, 473 P.2d 797 (1970).


2/04 – Legacy submits Revised Community Residence Application
3/17-3/25 – Complaint by Mesa Resident; City Emails to Legacy asking for Info
12/16 – Legacy submits Community Residence Application
2/05 – Family Community Residence Approval
3/27 – ADHS License Issued
2/06 – C of O Issued
3/28 – Legacy community mtg
OCT 2024
NOV 2024
DEC 2024
JAN 2025
FEB 2025
MAR 2025
APR 2025
10/2 – 10/9 – Emails between Legacy and City regarding use
1/06 – City 1st Review Comments
2/11 – Legacy submits BHRF license application to ADHS
4/1 – Legacy submits letter w/ info to City
4/30 – Appeal of ZA Interpretation
4/15 – ZA Interpretation
4/1 – Copy of ADHS License submitted to City
Uncontested Events in City Staff Report
Addt'l Key Events in Legacy Appeal Documents

18. On or about February 5, 2025, the Property was approved by the City of Mesa as a family community residence. *See* **Exhibit D** attached hereto and incorporated herein.

19. On February 6, 2025, Legacy received from the City of Mesa an updated Certificate of Occupancy for the Property for R-4 Residential Care for up to 10 residents excluding staff. *See* **Exhibit E** attached hereto and incorporated herein.

20. In early-to-mid March 2025, Legacy began hiring the necessary staff for a behavioral health residential facility at the Property.

21. On March 27, 2025, Legacy received a behavioral health residential facility (BHRF) license approval from the Arizona Department of Health Services for the Property. The BHRF license allows up to 10 residents excluding staff. *See* **Exhibit F** attached hereto and incorporated herein.

LEGACY EXHIBIT 2 DECLARATION OF RICHARD MILLER

22. On or about March 27, 2025, Legacy began accepting residents to live at the Property.

23. On or about April 2, 2025, Legacy received Joint Commission accreditation approval for the Property. *See* **Exhibit G** attached hereto and incorporated herein.

24. At all relevant times, I have disclosed to the City of Mesa that there is no maximum or minimum length of stay for residents living at the Property. I also provided an example to the City demonstrating that lengths of stay vary and are particular to the resident: I stated that some residents could choose to live at the Property for 3 to 6 months, while others may choose to live there for longer than a year. This is also an accurate example.

25. Legacy expended approximately $500,000.00 in consultant fees, licensing, permits, contractor fees, and improvements to the Property in reliance on the City of Mesa community residence approval issued on or about February 5, 2025.

LEGACY EXHIBIT 2 DECLARATION OF RICHARD MILLER

EQUITABLE ESTOPPEL

LEGACY
RECOVERY CENTER

Board of Adjustment has jurisdiction to hear equitable estoppel claims:

”The doctrine of estoppel underpins the claim of vested right.” *Town of Paradise Valley v. Gulf Leisure Corp.*, 27 Ariz.App. 600, 608, 557 P.2d 532, 540 (1976).

“The court of appeals held, and we agree, that the Board had jurisdiction and authority to hear and determine an issue concerning vested rights had one been made. *See* A.R.S. § 9–462.06(G). . . . By failing to assert a vested rights issue in his notice of appeal or otherwise, Neal has waived that issue.... We vacate those portions of the court of appeals' opinion dealing with the issues of vested rights and equitable estoppel because, in our view, those issues should not have been considered by the trial court or on appeal.” *See Neal v. City of Kingman*, 169 Ariz. 133, 136-37, 817 P.2d 937, 940-41 (1991).

In Arizona, there are three elements of equitable estoppel:

(1) the party to be estopped commits acts inconsistent with a position it later adopts;

(2) reliance by the other party; and

(3) injury to the latter resulting from the former's repudiation of its prior conduct.

Pingitore v. Town of Cave Creek, 194 Ariz. 261, 265, 981 P.2d 129, 133 (App.Div.1 1998).

Equitable estoppel can only apply against the government if there is some affirmative, authorized, formal act. *See Valencia Energy Co.*, 191 Ariz. 565, ¶ 36, 959 P.2d at 1268 (1998).

A written permit issued by an authorized public official can satisfy that requirement. *Cf. Pingitore v. Town of Cave Creek*, 194 Ariz. 261, ¶ 25, 981 P.2d 129, 133 (App.1998) (finding sufficiently formal act based on town's issuance of "a variety of permits and variances," zoning clearance, and written response to building permit application).

LEGACY'S USE IS A FAMILY COMMUNITY RESIDENCE

LEGACY
RECOVERY CENTER

10. The disabled residents who live at the Property emulate a conventional family setting.

11. The residents are responsible for daily tasks such as cleaning, personal hygiene, budgeting, and cooking.

12. The household functions as the equivalent of a family and allows the recovering persons to provide one another with continual mutual support as well as mutual monitoring to prevent relapse.

13. The potential recovery of people who are handicapped or disabled by reason of alcoholism, drug abuse, or co-occurring mental health disorders is greatly enhanced by the mutual support and monitoring provided by living with other recovering persons.

14. The quality and nature of the relationship among the residents is akin to that of a family. The emotional and peer support and bonding experienced by each resident enhances and

LEGACY EXHIBIT 2 DECLARATION OF RICHARD MILLER

promotes recovery from drug addiction and alcoholism and is the equivalent of the type of love and support received in a traditional family.

15. Residents at the property are allowed to engage in the process of recovery at their own pace, and the effects of their disabilities and diseases are greatly ameliorated as a result.

16. The residents live at the Property by choice. The choice is usually motivated by the individual's desire not to relapse into drug and/or alcohol use and/or their desire for improved mental health. It is also motivated by the desire to change their lifestyle and the manner in which they conduct their affairs. There is also a desire to become a responsible, productive member of society.

24. At all relevant times, I have disclosed to the City of Mesa that there is no maximum or minimum length of stay for residents living at the Property. I also provided an example to the City demonstrating that lengths of stay vary and are particular to the resident: I stated that some residents could choose to live at the Property for 3 to 6 months, while others may choose to live there for longer than a year. This is also an accurate example.

LEGACY EXHIBIT 2 DECLARATION OF RICHARD MILLER (CONT'D)

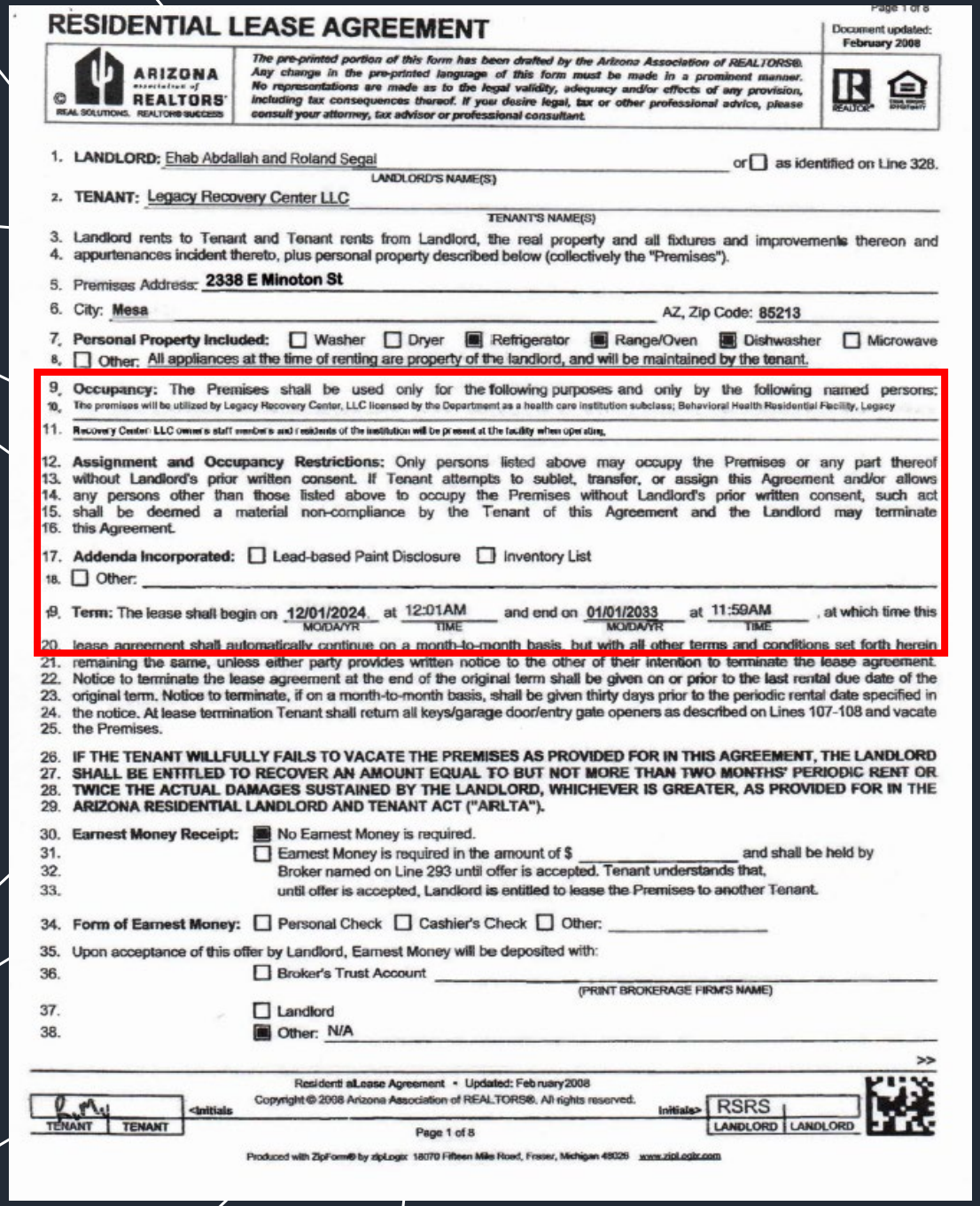
by our qualified and experienced staff. Each staff member at Legacy Recovery Center is committed to assisting each client in building useful and applicable life skills that can be used upon discharge to ensure a successful transition.

We are dedicated to supporting individuals on their journey to recovery by offering a comprehensive and structured environment that promotes healing and personal growth. We believe in addressing the unique needs of each individual through a combination of evidence-based practices, compassionate care, and a supportive community. Our program focuses on empowering individuals to develop the skills and confidence necessary to lead a fulfilling and independent life.

Legacy Recovery Center maintains a 5-1 resident to clinical staff ratio. Residents are supervised 24/7 by awake, on-site staff. We provide transportation to-and-from all appointments for services required by the resident that are not offered by our organization. We have a Registered Nurse that is on-call 24/7, daytime on-site nursing, and a food menu designed by a registered dietician, which is posted in advance and meets the preferences and nutritional needs of residents. Staff and residents prepare meals in a family-style manner with staff supervising all cooking related activities, including food shopping. Snacks and beverages are available to individuals at all hours.

Residents have a weekly schedule which includes therapy and counseling, life skills, exercise, case management, support services, peer activities, and family counseling and visits. We assist residents in furthering their treatment objectives while providing them a safe place to reside, where their daily activities can be supported, monitored while they can acquire essential life skills, and intensive therapeutic activities coordinated by qualified clinical staff.

LEGACY EXHIBIT 4E – PROGRAM DESCRIPTION FILED WITH ADHS



RESIDENTIAL LEASE AGREEMENT

Document updated: February 2008

ARIZONA association of REALTORS® REAL SOLUTIONS. REALTOR® SUCCESS

The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.

1. **LANDLORD:** Ehab Abdallah and Roland Segal (LANDLORD'S NAME(S)) or ☐ as identified on Line 328.
2. **TENANT:** Legacy Recovery Center LLC (TENANT'S NAME(S))
3. Landlord rents to Tenant and Tenant rents from Landlord, the real property and all fixtures and improvements thereon and
4. appurtenances incident thereto, plus personal property described below (collectively the "Premises").
5. Premises Address: **2338 E Minoton St**
6. City: **Mesa** AZ, Zip Code: **85213**
7. **Personal Property Included:** ☐ Washer ☐ Dryer ■ Refrigerator ■ Range/Oven ■ Dishwasher ☐ Microwave
8. ☐ Other: All appliances at the time of renting are property of the landlord, and will be maintained by the tenant.
9. **Occupancy:** The Premises shall be used only for the following purposes and only by the following named persons:
10. The premises will be utilized by Legacy Recovery Center, LLC licensed by the Department as a health care institution subclass; Behavioral Health Residential Facility, Legacy
11. Recovery Center LLC owner's staff members and residents of the institution will be present at the facility when operating.
12. **Assignment and Occupancy Restrictions:** Only persons listed above may occupy the Premises or any part thereof
13. without Landlord's prior written consent. If Tenant attempts to sublet, transfer, or assign this Agreement and/or allows
14. any persons other than those listed above to occupy the Premises without Landlord's prior written consent, such act
15. shall be deemed a material non-compliance by the Tenant of this Agreement and the Landlord may terminate
16. this Agreement.
17. **Addenda Incorporated:** ☐ Lead-based Paint Disclosure ☐ Inventory List
18. ☐ Other:
19. **Term:** The lease shall begin on 12/01/2024 (MO/DA/YR) at 12:01AM (TIME) and end on 01/01/2033 (MO/DA/YR) at 11:59AM (TIME), at which time this
20. lease agreement shall automatically continue on a month-to-month basis, but with all other terms and conditions set forth herein
21. remaining the same, unless either party provides written notice to the other of their intention to terminate the lease agreement.
22. Notice to terminate the lease agreement at the end of the original term shall be given on or prior to the last rental due date of the
23. original term. Notice to terminate, if on a month-to-month basis, shall be given thirty days prior to the periodic rental date specified in
24. the notice. At lease termination Tenant shall return all keys/garage door/entry gate openers as described on Lines 107-108 and vacate
25. the Premises.
26. **IF THE TENANT WILLFULLY FAILS TO VACATE THE PREMISES AS PROVIDED FOR IN THIS AGREEMENT, THE LANDLORD**
27. **SHALL BE ENTITLED TO RECOVER AN AMOUNT EQUAL TO BUT NOT MORE THAN TWO MONTHS' PERIODIC RENT OR**
28. **TWICE THE ACTUAL DAMAGES SUSTAINED BY THE LANDLORD, WHICHEVER IS GREATER, AS PROVIDED FOR IN THE**
29. **ARIZONA RESIDENTIAL LANDLORD AND TENANT ACT ("ARLTA").**
30. **Earnest Money Receipt:** ■ No Earnest Money is required.
31. ☐ Earnest Money is required in the amount of $ _____ and shall be held by
32. Broker named on Line 293 until offer is accepted. Tenant understands that,
33. until offer is accepted, Landlord is entitled to lease the Premises to another Tenant.
34. **Form of Earnest Money:** ☐ Personal Check ☐ Cashier's Check ☐ Other: _____
35. Upon acceptance of this offer by Landlord, Earnest Money will be deposited with:
36. ☐ Broker's Trust Account _____ (PRINT BROKERAGE FIRM'S NAME)
37. ☐ Landlord
38. ■ Other: N/A

>>

Residential Lease Agreement • Updated: February 2008

<Initials> TENANT TENANT

Initials> RSRS LANDLORD LANDLORD

LEGACY EXHIBIT 4E
RESIDENTIAL LEASE AGREEMENT

Occupancy: "The premises will be utilized by Legacy Recovery Center, LLC licensed by the Department as a health care institution subclass – Behavioral Health Residential Facility"

Term: Lease shall begin on 12/1/2024 and end on 1/1/2033.

Rent: Tenant shall pay monthly installments of $11,000 plus sales tax

LEGACY EXHIBIT 4F FINANCIAL AGREEMENT

LEGACY
RECOVERY CENTER

FINANCIAL AGREEMENT

CLIENT-NAME: _____ **DOB:** _____

ADDRESS: _____

PHONE: _____ **ADMIT DATE:** _____ **PROGRAM:** RTC

INSURANCE CO.: _____ **ID#:** _____ **GRP#:** _____

POLICY HOLDER: _____ **DOB:** _____

RELATIONSHIP TO CLIENT: _____

Legacy Recovery Center, LLC. (also referred to as "Legacy Recovery Center" or "Legacy") refers to any affiliated treatment centers under the parent company **Legacy Recovery Center**. This is a legally binding contract between Legacy Recovery Center., the person receiving treatment, the policy holder and / or the fiduciary. The words I, me, my, you, and your all refer to the client and/or responsible party.

As discussed, you would like to pay by use of your insurance policy. We will bill your insurance on your behalf. If you cannot pay your applicable out of pocket costs, you may qualify for a financial hardship. It is your responsibility to understand your benefit plan. Many health plans send claim checks and corresponding documents directly to the member. If received, please immediately provide all documents to Legacy Recovery Center. Insurance checks for treatment rendered by Legacy Recovery Center and need to be endorsed and made payable to the corresponding facility.

ACKNOWLEDGMENTS / FINANCIAL AGREEMENTS

_____ I understand my deductible, copays, coinsurance, and out of pocket max are my responsibility per my insurance contract.

INITIAL

LEGACY EXHIBIT 4F
FINANCIAL AGREEMENT

ESTIMATED OUT OF POCKET COSTS BASED ON YOUR INSURANCE POLICY

YEARLY DEDUCTIBLE:		**AMOUNT REMAINING:**	
OUT-OF-POCKET-MAX:		**AMOUNT REMAINING:**	

Deductible included in Out of Pocket (OOP) max: ☐ Yes ☐ No

AMOUNT COLLECTED:

Continued on following page…

LEGACY
RECOVERY CENTER

SUMMARY OF FINANCIAL RESPONSIBILITY

TOTAL COLLECTED AT TIME OF ADMISSION:

REMAINING BALANCE:

PAYMENT PLAN AGREEMENT

PAYMENT AMOUNT: START DATE: END DATE:

FREQUENCY: TOTAL AMOUNT OWED:

RELATIONSHIP TO CLIENT: PHONE:

Client has attended previous treatment? ☐ Yes ☐ No

SPECIAL PAYMENT INSTRUCTIONS:

DEDUCTIBLE RESET AGREEMENT (IF APPLICABLE)

☐ Not Applicable

YEARLY DEDUCTIBLE RESET DATE: AMOUNT:

REVISED FINANCIAL AGREEMENT AMOUNT DUE:

REFUND POLICY

- My insurance will be billed for only the dates of service incurred.
- After all insurance claims have processed and final payment has been received, Legacy Recovery Center billing staff will review the account to determine if a refund or additional payment is due.
- If a refund is due, it will be issued within sixty (60) days from the date it is calculated, made out to the person, people, company, or other organization that overpaid Legacy Recovery Center.
- Legacy Recovery Center is unable to legally issue refunds for deductible payments, therefore refunds are not applicable to deductible payments.

LEGACY
RECOVERY CENTER

TERMS

I have read the preceding information, and my signature below serves as acknowledgement of a clear understanding of my financial responsibility. I, or my fiduciary, agree to pay the Client Responsibility amount listed above. I understand this financial agreement was based on my personal ability to pay. I understand the terms of this agreement are strictly confidential and are to remain between Legacy Recovery Center staff and myself. I will not discuss the details of my agreement with other clients or outside parties as this may result in revocation of my offered financial agreement.

By signing this Financial Agreement, I, the Client/Guarantor agree to pay the ***total client responsibility*** listed in this agreement. If I do not make a payment upon the due date, I understand that I will be in default of this agreement. In such case, Legacy Recovery Center, LLC and /or its legal representative may take legal action against me for the full cost of treatment. In the event of default, I also agree to pay Legacy Recovery Center, LLC its reasonable attorney fees for any action taken to collect the unpaid balance. I further agree to accept the exclusive jurisdiction of any competent court in the State of Arizona with regard to any collection action commenced against me by Legacy Recovery Center, LLC or its legal representative.

I understand that this financial agreement was based on my personal ability to pay. The terms of this agreement are strictly confidential and are to remain between Legacy Recovery Center, LLC staff and I, the Client / Guarantor. I will not discuss the details of my agreement with other clients or outside parties as this may result in revocation of my scholarship or discount offered in this financial agreement.

NOTE: *Federal and state law does not require balance billing, therefore Legacy Recovery Center, LLC will not balance bill. This means that you will never receive a bill from Legacy Recovery Center that is outside the scope of this financial agreement. Unless the policy does not cover the daily cost of treatment then a after all claims have processed and paid you may receive a bill to cover the daily cost.*

PERSON RECEIVING TREATMENT:

Printed name	*Signature*	*Date*

PHONE:

EMAIL:

PRIVATE PAY FINANCIAL AGREEMENT

CLIENT NAME: _____ **DATE:** _____

Legacy Recovery Center, LLC has an obligation to inform you of its Refund Policy. Outlined below is the current Legacy Recovery Center, LLC. fee structure and Refund Policy.

The cost for treatment at Legacy Recovery Center is $1,000.00 per day. Incidentals are not included in the cost of treatment. Those requiring medications will be assisted in establishing an account at the pharmacy currently utilized by Legacy Recovery Center, or at a pharmacy of your choice. Legacy Recovery Center ***does not*** pay for any outside medical services. Payment for treatment is due upon admission.

REFUND POLICY

Legacy Recovery Center's refund policy is as follows: $10,000.00 is non-refundable. Past the initial non-refundable fee, Legacy Recovery Center will offer a pro-rated daily refund based on Legacy Recovery Center's cost of $1,000.00 per day. The patient will be permitted to return to treatment and the remaining balance will apply to the parents stay. While Legacy Recovery Center does issue refunds in many instances, Legacy Recovery Center reserves the right to not issue refunds based on its sole discretion.

PAYMENT PLAN AGREEMENT

AMOUNT PAID UPON ADMISSION: _____ **TOTAL AMOUNT OWED:** _____

PAYMENT AMOUNT: _____ **START DATE:** _____ **END DATE:** _____

FREQUENCY: _____

PAYEE FULL NAME: _____ **DOB:** _____

RELATIONSHIP TO CLIENT: _____ **PHONE:** _____

SPECIAL PAYMENT INSTRUCTIONS: _____

- Exhibit 7.A – PMT24-07579
- Exhibit 7.B – PMT23-20077
- Exhibit 7.C – PMT23-19379
- Exhibit 7.D – PMT23-18394
- Exhibit 7.E – PMT23-17166
- Exhibit 7.F – PMT23-09243
- Exhibit 7.G – PMT23-08413
- Exhibit 7.H – PMT23-03490
- Exhibit 7.I – PMT23-03049
- Exhibit 7.J – PMT22-11036
- Exhibit 7.K- PMT21-20102
- Exhibit 7.L – PMT21-19970
- Exhibit 7.M – PMT21-11901
- Exhibit 7.N – PMT21-09897

LEGACY EXHIBITS 6 AND 7 PUBLIC RECORDS REQUESTS

In July 2021, the City of Mesa adopted a zoning ordinance text amendment to establish Community Residence definitions and zoning requirements.

Between July 2021 and April 15, 2025, the City determined that all community residence applications were family community residences.

Several of these were licensed behavioral health residential facilities – the same use as Legacy's use.

LEGACY EXHIBIT 1
DECLARATION OF STEVEN POLIN

21. Furthermore, a city or town that consistently interprets a certain housing type for persons with disabilities to be a family community residence over the course of four (4) years, but then attempts to revoke one such approval after receiving discriminatory neighborhood complaints, would be acting in violation of the FHAA. This would be especially true if the city or town made no attempt to revoke the prior family community residence approvals issued to other operators or residents with similar housing types.

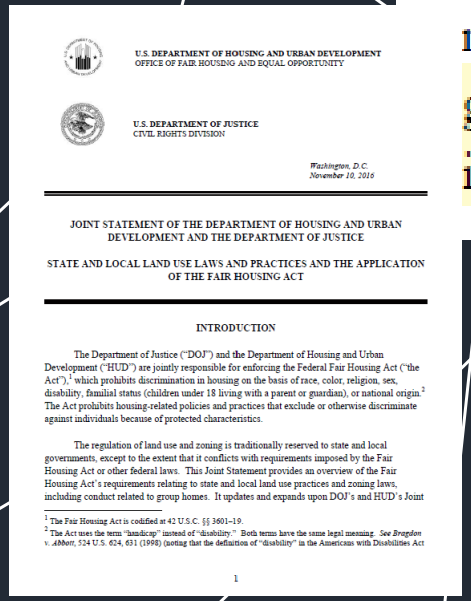
FAIR HOUSING ACT PROTECTS AGAINST DISCRIMINATORY TREATMENT AND EFFECT BASED ON LENGTH OF TENANCY

LEGACY
RECOVERY CENTER

LEGACY EXHIBIT 15
JOINT STATEMENT BY HUD AND DOJ

12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION OF THE FAIR HOUSING ACT

INTRODUCTION

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the Federal Fair Housing Act ("the Act"),[1] which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.[2] The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act's requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ's and HUD's Joint

[1] The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.
[2] The Act uses the term "handicap" instead of "disability." Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of "disability" in the Americans with Disabilities Act

1

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

Community Residence. A community residence is a residential living arrangement for five to ten individuals with disabilities, excluding staff, living as a family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services related to the residents' disabilities. A community residence seeks to emulate a biological family to foster normalization of its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment. Medical treatment is incidental as in any home. Supportive interrelationships between residents are an essential component. Community residence includes sober living homes and assisted living homes but does not include any other group living arrangement for unrelated individuals who are not disabled nor any shelter, rooming house, boarding house or transient occupancy.

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

Family Community Residence. A community residence is a relatively permanent living arrangement with no limit on the length of tenancy as determined in practice or by the rules, charter, or other governing documents of the community residence. The minimum length of tenancy is typically a year or longer.

Transitional Community Residence. A community residence that provides a relatively temporary living arrangement with a limit on length of tenancy less than a year that is measured in weeks or months, as determined either in practice or by the rules, charter, or other governing document of the community residence.

= Community residences are not consistent with this definition

Table 11-5-2: Residential Districts				
Proposed Use	**RS**	**RSL**	**RM**	**Additional Use Regulations**
Residential Use Classifications				
...				
Community Residence				
Family Community Residence	P (13, 14)	P (13, 14)	P (12, 13, 14)	Section 11-31-14, Community Residences
Transitional Community Residence	SUP (13, 14)	SUP (13, 14)	P (12, 13, 14)	

By defining Family Community Residence with a "minimum length of tenancy as typically a year or longer," the City has created a requirement that forces all community residences to be defined as a Transitional Community Residence. If all disabled persons living in a community residence are required to obtain an SUP in single-family residential zoning districts when other disabled classes or short-term residences are permitted as of right, this is discriminatory treatment.

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

11-86-2: - RESIDENTIAL USE CLASSIFICATIONS

Assisted Living Center: An assisted living facility that provides resident rooms or dwelling units to 11 or more residents.

Assisted Living Facility: A residential care institution, including adult foster care, that is licensed by the State of Arizona to provide supervisory care services, personal care services or directed care services on a continuing basis.

Assisted Living Home: An assisted living facility that provides resident rooms for five (5) to ten (10) residents.

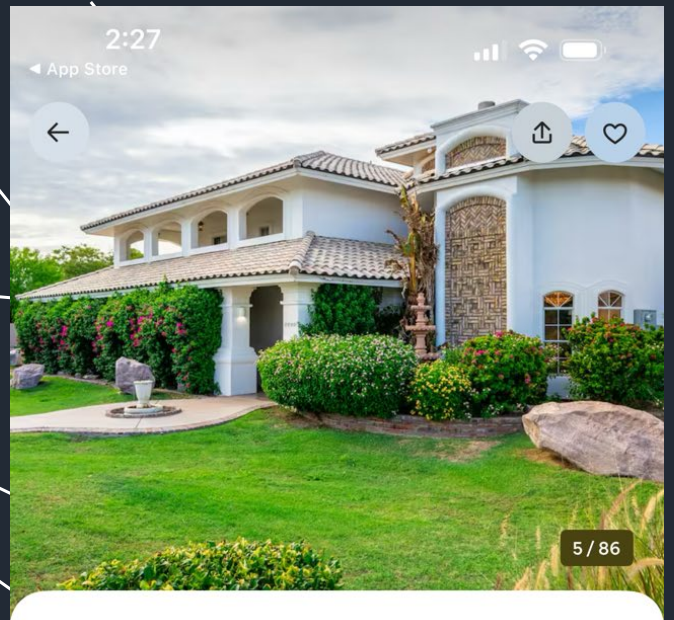
NOTE: The definition of Assisted Living Home contains no length of stay language.

Table 11-5-2: Residential Districts				
Proposed Use	**RS**	**RSL**	**RM**	**Additional Use Regulations**
Assisted Living Facility				
Assisted Living Home (5 to 10 residents)	P (13, 14)	P (13, 14)	P (12, 13, 14)	Section 11-31-14, Community Residences
Day Care Group Home				
Small Day Care Group Home (up to 4)	P (13, 14)	P (13, 14)	P (13, 14)	
Large Day Care Group Home (5 to 10)	P (13, 14)	P (13, 14)	P (13, 14)	Section 11-31-13, Large Day Care Group Homes

Note: There are no special zoning requirements for short term rentals in Mesa (and throughout Arizona).

Short-term rentals are permitted in all residential zoning districts as of right.

2025 Maricopa County Assessor Aerial Photograph



The Gatsby - Sleeps 22 in beds!

Entire villa in Mesa, Arizona
16+ guests · 8 bedrooms · 14 beds · 4 baths

★4.71 · 55 reviews

Hosted by Rebekah
Superhost · 8 years hosting

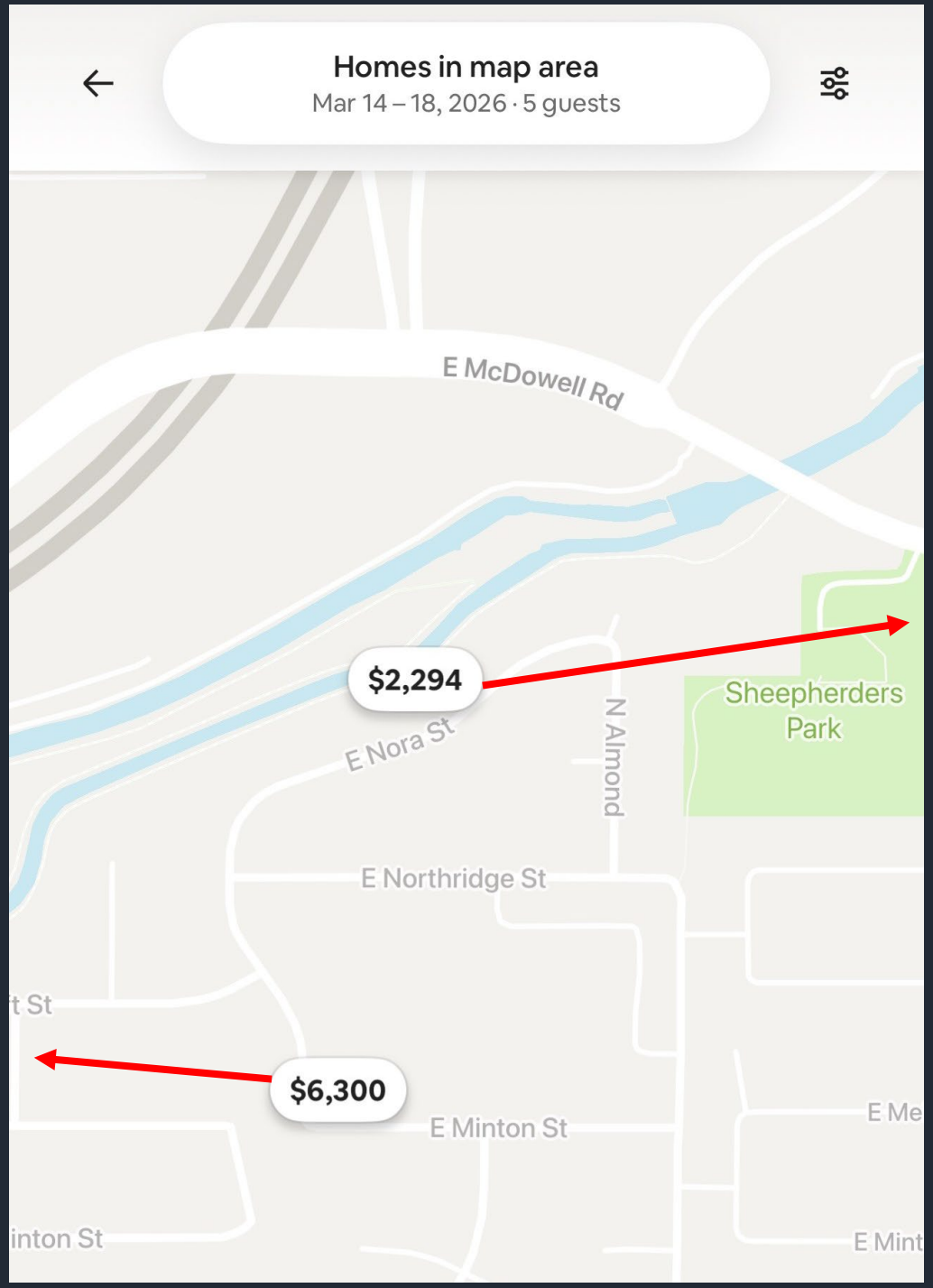
Perfect ratings from families
100% of families who stayed here in the past year rated it 5 stars overall.

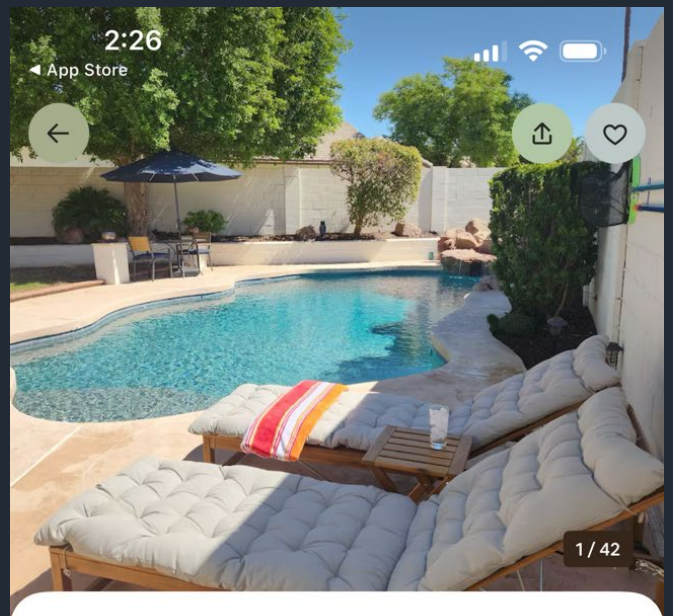
Fun and games for kids
The lif help keep kids e

Prices include all fees

$6,300
For 4 nights · Mar 14 – 18
Free cancellation

Reserve





New! Quiet Family Oasis - Heated Pool

Entire home in Mesa, Arizona
14 guests · 4 bedrooms · 10 beds · 2 baths

5.0 ★★★★★ | Guest favorite | 8 Reviews

Hosted by Valerie
Superhost · 9 months hosting

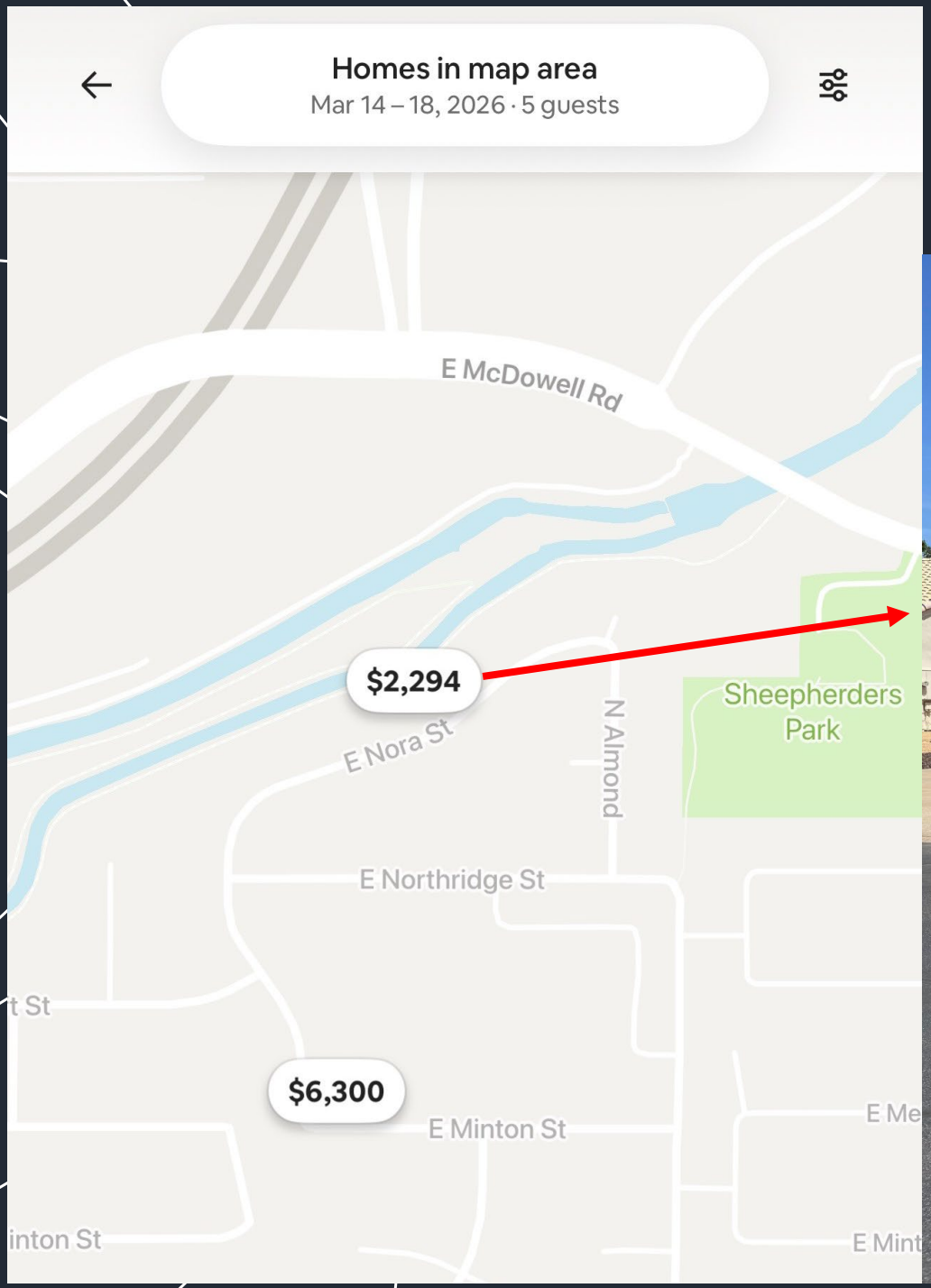
Perfect ratings from families
100% rated the past year

Prices include all fees

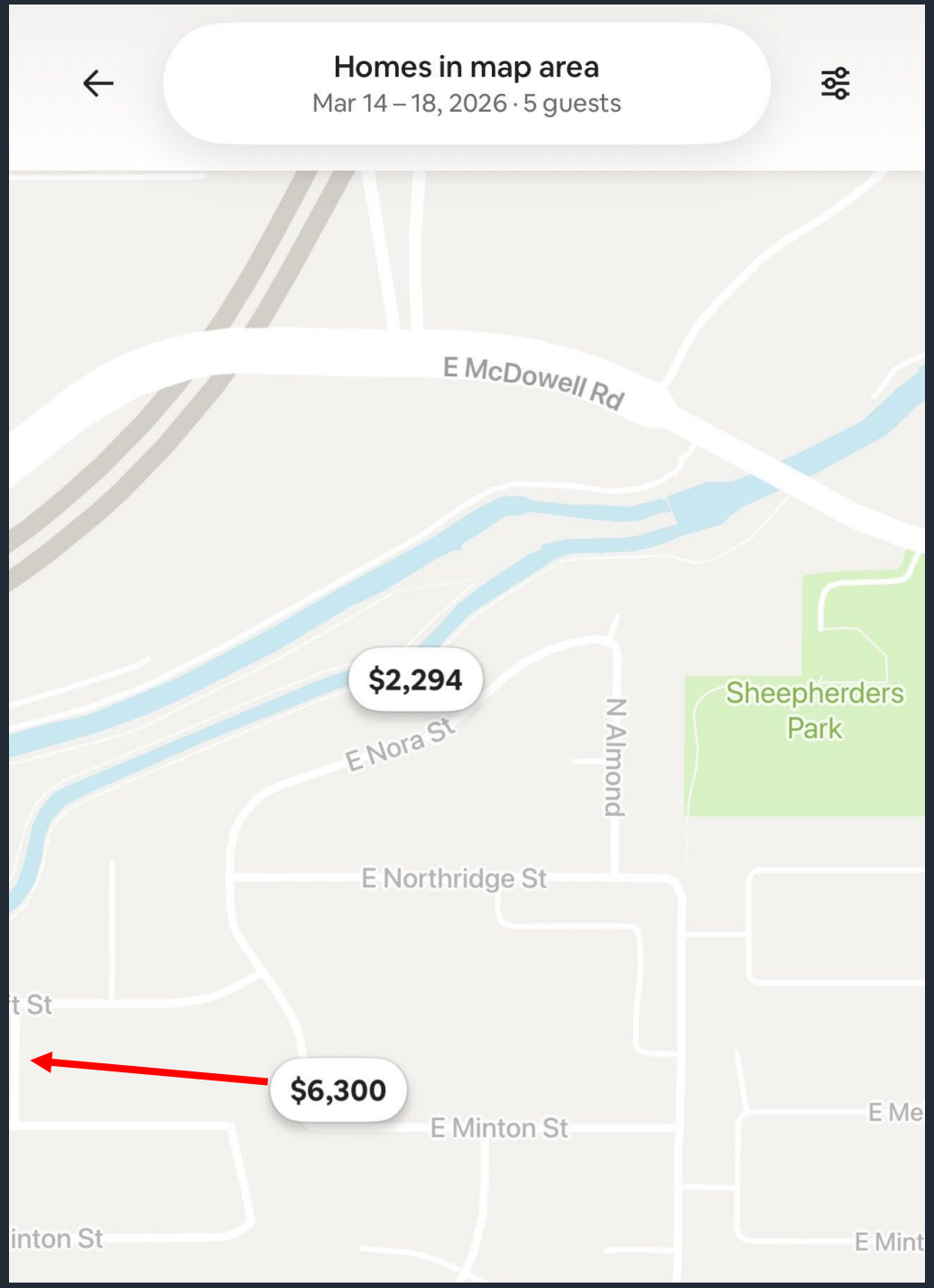
$2,294
For 4 nights · Mar 14 – 18
Free cancellation

Reserve

Airbnb - 2313 E. Nora St.



Airbnb - 2240 E. Minton St.



WHERE CAN DISABLED RESIDENTS LIVE?

***Cannady v. Prescott Canyon Estates Homeowners Ass'n*, 204 Ariz. at 94, 60 P.3d at 234:**

> "Equal opportunity gives handicapped individuals the right to choose to live in neighborhoods of their choice because that right serves to end their exclusion from mainstream society . . ."

Steven Polin, Attorney and Fair Housing Expert of 30+ years:

"The FHAA had the effect of guaranteeing the rights of disabled individuals to live in the residence of their choice within the community."

"The FHAA does not afford lesser protections to persons with certain disabilities or persons who may live in a residence for 2 months as opposed to one (1) year. The FHAA protects the rights of individuals to live in housing of their choice regardless of length of stay. The protections work two ways, one is to the housing provider, and the other is to the individual residents. It is acknowledged that in providing recovery housing, a small minority of residents will relapse or will leave the program for personal reasons. The turnover of residents does not affect the services provided by the housing provider."

LEGACY EXHIBIT 1
DECLARATION OF STEVEN POLIN

16. The City of Mesa Zoning Ordinance discriminates against persons with disabilities who typically live in community residences for less than a year. Transiency cannot be used to deny housing to a housing provider, or even deny it protections under the Fair Housing Act. See *Oxford House, Inc. v. Babylon,* 819 F. Supp. 1179, 1183 (E.D.N.Y. 1993). The Court in *Oxford House, Inc. v. Babylon* stated:

> Applying § 213-1 of the Town Code to evict plaintiffs would discriminate against them because of their handicap. Recovering alcoholics or drug addicts require a group living arrangement in a residential neighborhood for psychological and emotional support during the recovery process. As a result, residents of an Oxford House are more likely than those without handicaps to live with unrelated individuals. Moreover, because residents of an Oxford House may leave at any time due to relapse or any other reason, they cannot predict the length of their stay. Therefore, a finding of a violation of the Town Code leading to the town's eviction of plaintiffs from a dwelling due to the size or transient nature of plaintiffs' group living arrangement actually or predictably results in discrimination.

LEGACY EXHIBIT 1
DECLARATION OF STEVEN POLIN

18. In *Tsombanidis v. W. Haven Fire Dep't*, 352 F.3d 565, 580 (2d Cir. 2003) the court rejected the notion that transiency could be used to deny a protected class from residing in a single-family zone:

> We also affirm the district court's finding that plaintiffs requested a reasonable accommodation and the City failed to grant it. The City is not required to grant an exception for a group of people to live as a single family, but it cannot deny the variance request based solely on plaintiffs' handicap where the requested accommodation is reasonable. The district court found that these plaintiffs operated much like a family. Additionally, there is evidence that these particular plaintiffs needed to live in group homes located in single-family areas. *See Tsombanidis II*, 180 F. Supp. 2d at 293. The City concedes that, from a municipal services standpoint, it would bear minimal financial cost from the proposed accommodation. While legitimate concerns of residential zoning laws include the integrity of the City's housing scheme and problems associated with large numbers of unrelated transient persons living together, such as traffic congestion and noise, see *Vill. of Belle Terre v. Boraas*, 416 U.S. 1, 9, 39 L. Ed. 2d 797, 94 S. Ct. 1536 (1974); *Oxford House-C*, 77 F.3d at 252, the City points to no evidence that those concerns were present here.

19. The Tsombanidis rationale was adopted by the United States Court of Appeals for the 11th Circuit in *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1224 (11th Cir. Fla. 2008).

LEGACY EXHIBIT 1
DECLARATION OF STEVEN POLIN

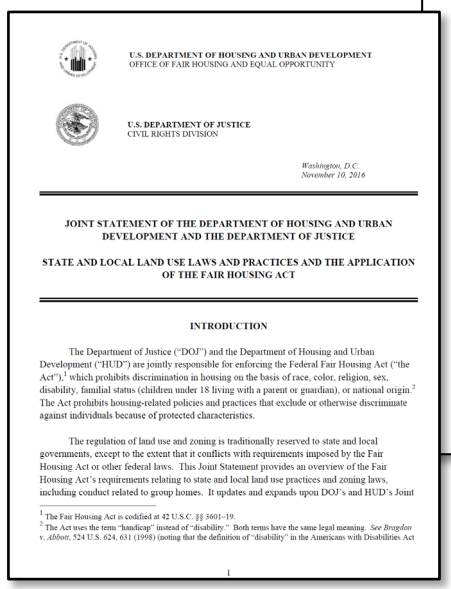
20. The following cases also reject the transient argument: *Sharpvisions, Inc. v. Borough of Plum*, 475 F. Supp. 2d 514 (W.D. Pa. 2007); *Cmty. Servs. v. Heidelberg Twp.*, 439 F. Supp. 2d 380, 397 (M.D. Pa. 2006); and *Lakeside Resort Enters., LP v. Bd. of Supervisors*, 455 F.3d 154, 157-158 (3d Cir.2006).

DISCRIMINATORY CORRESPONDENCE FROM NEIGHBORHOOD

LEGACY
RECOVERY CENTER

5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION OF THE FAIR HOUSING ACT

INTRODUCTION

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the Federal Fair Housing Act ("the Act"),[1] which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.[2] The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act's requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ's and HUD's Joint

[1] The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.
[2] The Act uses the term "handicap" instead of "disability." Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of "disability" in the Americans with Disabilities Act

LEGACY REQUEST FOR BOARD DECISION

LEGACY
RECOVERY CENTER

A.R.S. § 9-462.06 – BOARD OF ADJUSTMENT

G. A board of adjustment shall:

1.Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the zoning administrator in the enforcement of a zoning ordinance adopted pursuant to this article.

2. Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.

3. **Reverse or affirm, in whole or in part, or modify the order, requirement or decision of the zoning administrator appealed from, and make the order, requirement, decision or determination as necessary**.

APPELLANT'S REQUEST FOR BOARD DECISION

A. Motion to grant Legacy's appeal and reverse the April 15, 2025 Zoning Administrator's Decision based on any of the following reasons:

1. The February 2025 decisions approving the family community residence registration and the certificate of occupancy approval were vested.
2. The City is equitably estopped from rescinding or revoking the family community residence and certificate of occupancy approvals.
3. The Legacy use is deemed a family community residence because the residents live together in a family environment with no limitation on the length of stay.
4. The Legacy use is consistent with other family community residence uses approved by the City between July 2021 and February 2025.
5. The Legacy use is protected by the Fair Housing Act, which allows disabled residents to live in communities of their choice, regardless of the length of stay.

OR

B. Motion to grant Legacy's appeal with instructions for Legacy and the City to reevaluate which community residence application would need to be filed at the time of registration renewal on or before February 5, 2026.

APPELLANT'S REQUEST FOR BOARD DECISION

If the Board decides to deny Legacy's appeal and affirms the April 15th Zoning Administrator's Decision:

Legacy requests that the Board issue a ruling that allows Legacy to file an SUP application for a transitional community residence and obtain a decision on the SUP before the City commences enforcement proceedings for cessation of the community residence use.

THANK YOU

Heather Dukes

602.320.8866

hdukes@dukeslawaz.com

RE: Legacy Recovery Center Appeal and SUP Applications to BOA

KW

Kelly Whittemore<kelly.whittemore@mesaaz.gov>

Reply | Reply all | Forward

To: Heather Dukes; Jennifer Merrill <Jennifer.Merrill@MesaAZ.gov>

Thu 4/24/2025 12:59 PM

Cc: Sarah Steadman <Sarah.Steadman@mesaaz.gov>

You replied on Thu 4/24/2025 1:17 PM

Heather – Below are answers to your questions in blue. Let me know if you need additional information.

Good afternoon, Kelly and Jennifer,

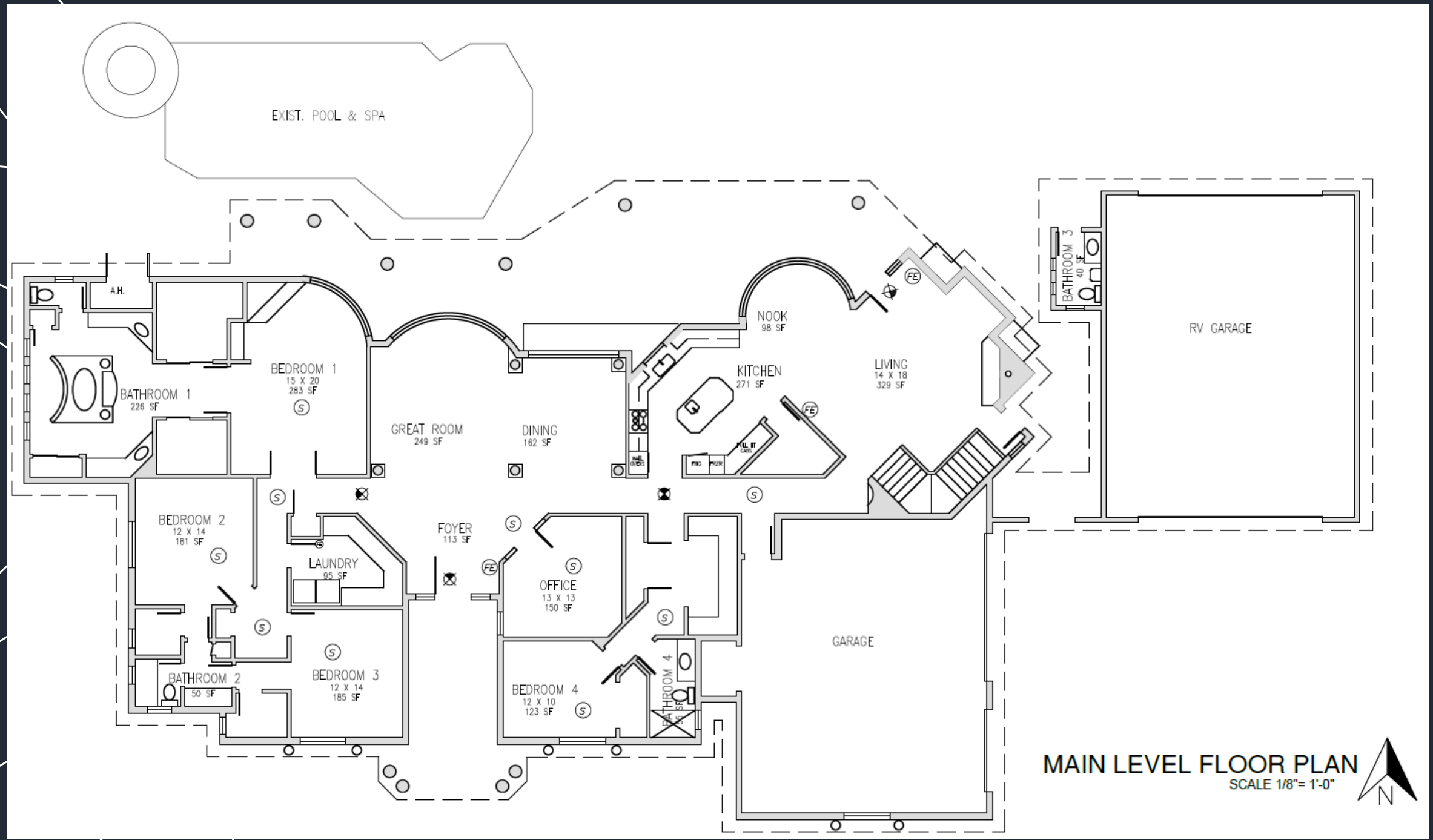
I represent Legacy Recovery Center which operates a community residence with a behavioral health residential facility license from ADHS at a single-family residential property located at 2338 E. Minton Street.

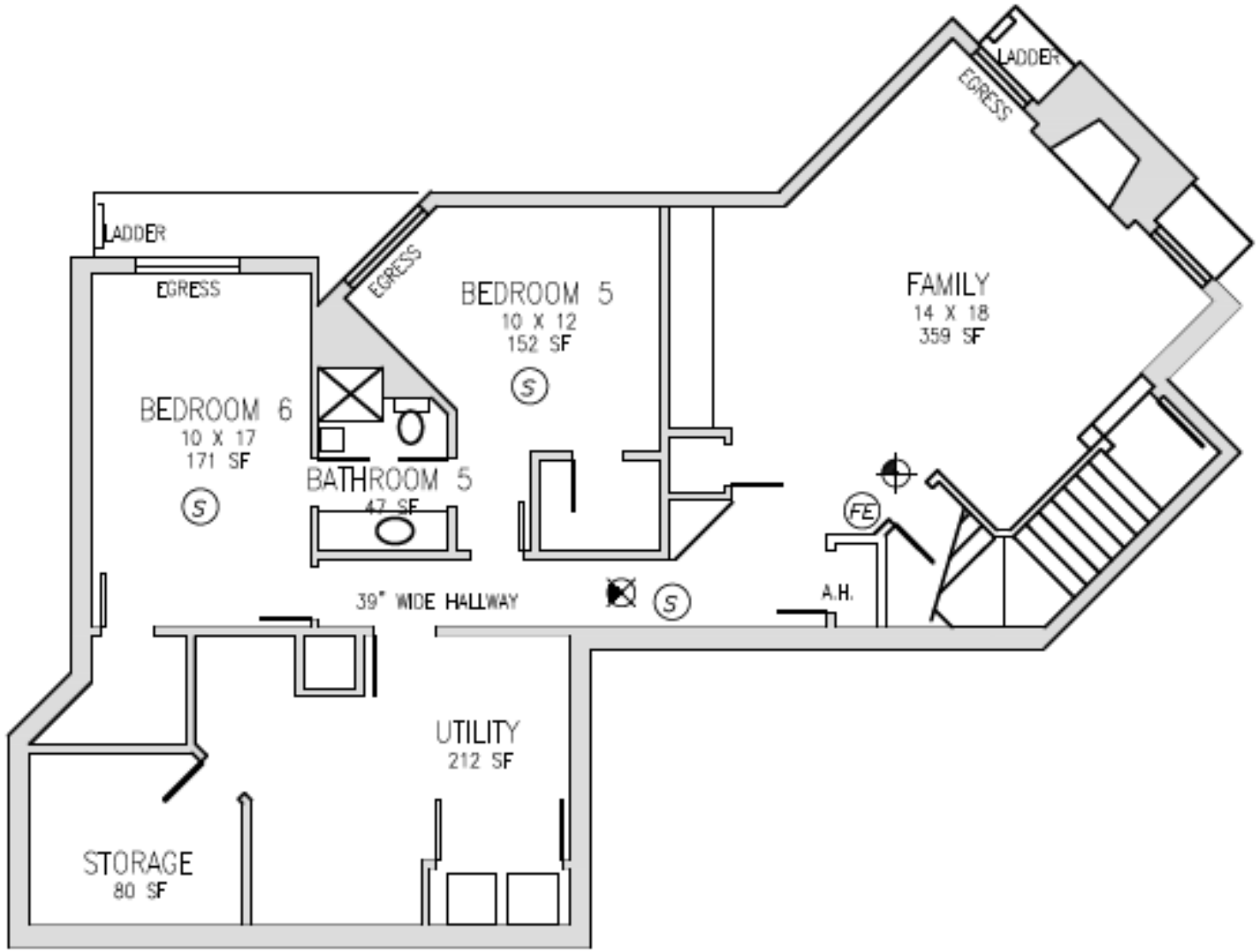
Recently, we received a ZA Interpretation dated 4/15/25 which deemed our use to be a transitional community residence as opposed to a family community residence. We previously received zoning approval and a C of O as a family community residence.

I spoke briefly with Mary Kopaskie-Brown regarding our plan to file 3 applications with the Board of Adjustment:

1. an appeal of the ZA Interpretation dated 4/15/2025, asking the Board of Adjustment to find that we are a family community residence and have vested rights to operate as such,
2. an SUP application for a reasonable accommodation under the FHA, asking the Board of Adjustment to find that we are a family community residence despite the Zoning Ordinance definition which states that residents typically stay a year or longer, and
3. an SUP application seeking Board of Adjustment approval for a transitional community residence.

Can we ensure that all 3 applications are scheduled for the same Board of Adjustment meeting? I'm sure it would be beneficial for all parties involved from a time and cost standpoint to schedule all 3 at the same hearing. As the necessity for an SUP is predicated on the ZA determination in the 4/15/25 letter being upheld, the issue of an SUP would be presented to the Board of Adjustment on a separate meeting date after the appeal is heard by the Board. If an appeal is filed in accordance with MCC 11-77-4 requirements by the deadline, the appeal would be heard first and the SUP(s), once the applications are filed and complete, would be heard at a later meeting. You are welcome to apply for the SUP(s) in the interim, there is more information provided below about the process, but I would like the chance to talk with you about the SUP on the reasonable accommodation before you file to get some clarification.


EXIST. POOL & SPA
A.H.
BATHROOM 1
226 SF
BEDROOM 1
15 X 20
283 SF
GREAT ROOM
249 SF
DINING
162 SF
NOOK
98 SF
KITCHEN
271 SF
LIVING
14 X 18
329 SF
BATHROOM 3
40 SF
RV GARAGE
BEDROOM 2
12 X 14
181 SF
LAUNDRY
95 SF
FOYER
113 SF
OFFICE
13 X 13
150 SF
GARAGE
BATHROOM 2
50 SF
BEDROOM 3
12 X 14
185 SF
BEDROOM 4
12 X 10
123 SF
BATHROOM 4
MAIN LEVEL FLOOR PLAN
SCALE 1/8"= 1'-0"
N

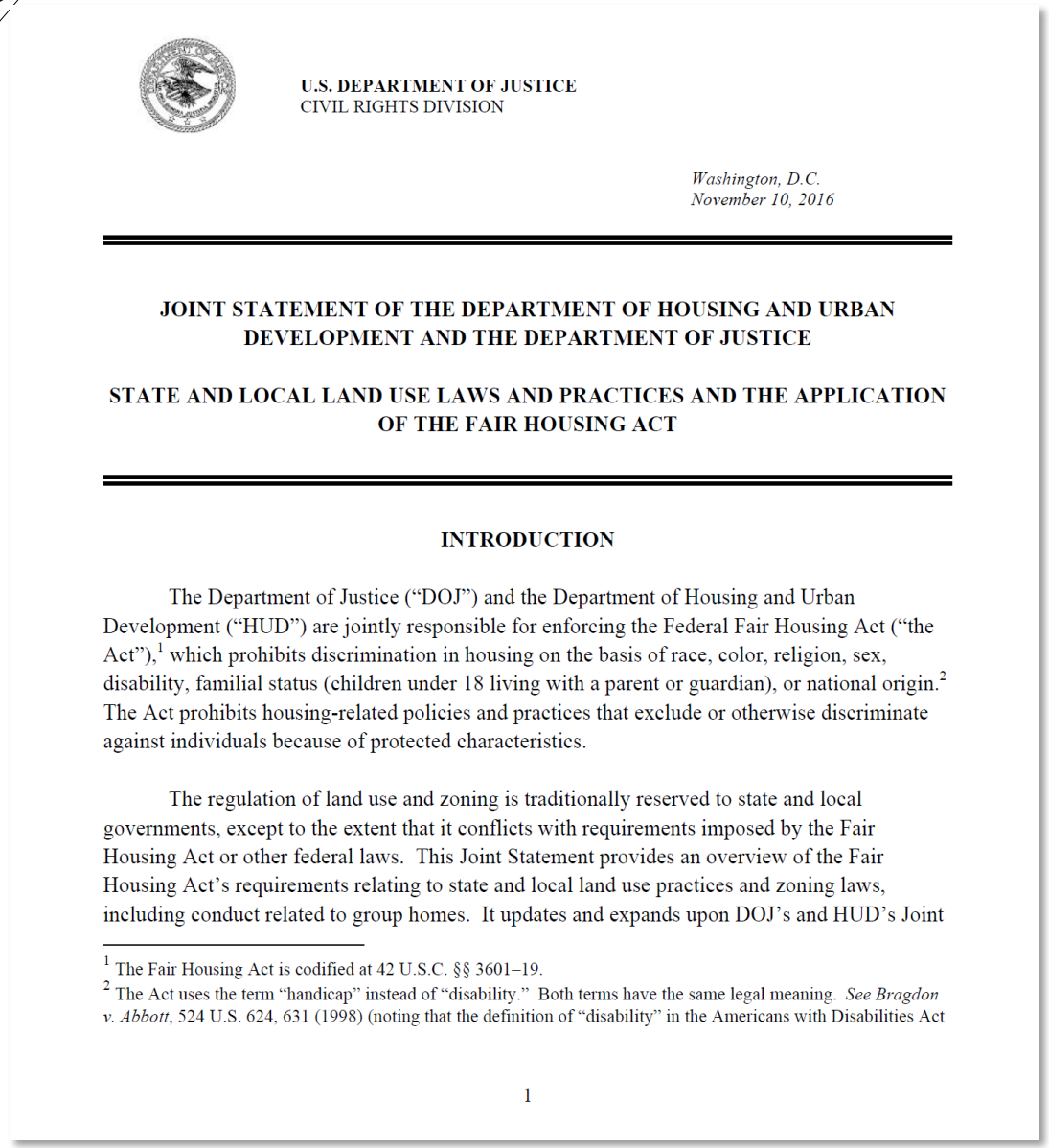


BASEMENT FLOOR PLAN

SCALE 1/8"= 1'-0"

N

THE FAIR HOUSING ACT



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION OF THE FAIR HOUSING ACT

INTRODUCTION

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the Federal Fair Housing Act ("the Act"),[1] which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.[2] The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act's requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ's and HUD's Joint

[1] The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.
[2] The Act uses the term "handicap" instead of "disability." Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of "disability" in the Americans with Disabilities Act

1

"The Department of Justice (DOJ) and the Department of Housing and Urban Development (HUD) are jointly responsible for enforcing the Fair Housing Act, which prohibits discrimination in housing on the basis of race, color, religion, sex, **disability**, familial status or national origin."

WHO IS CONSIDERED TO BE DISABLED OR HANDICAPPED?

- **This Application is submitted on behalf of disabled residents living at Legacy Recovery Center who are recovering from substance use and alcohol addiction with co-occurring mental health disorders.**
- **The residents are handicapped under the FHA**:
  - "Handicap" means, with respect to a person, (1) **a physical or mental impairment which substantially limits one or more of such person's major life activities**, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of the Controlled Substances Act (21 U.S.C. 802)). *See* 42 U.S.C. 3602(h).
- **Joint Statement issued by the Department of Housing and Urban Development (HUD) and the Department of Justice dated November 10, 2016:** Clarifies the types of impairments included within the term "physical and mental impairment."
  - "includes, but is not limited to, diseases and conditions such as . . . drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism."
  - The residents residing at the Property are not permitted to use controlled substances or alcohol. The residents are sober. Therefore, they are considered to be persons with disabilities.

THE OPIOID EPIDEMIC

LEGACY
RECOVERY CENTER

A STATEWIDE PUBLIC HEALTH EMERGENCY

Housing is necessary due to the increasing number of individuals recovering from opioid and drug addiction. The state is experiencing an ongoing demand and need for behavioral health residential options

2019	2020	2021	2022	2023
3,882 Verified Non-Fatal Opioid Overdose Events	4,263 Verified Non-Fatal Opioid Overdose Events	3,778 Verified Non-Fatal Opioid Overdose Events	3,428 Verified Non-Fatal Opioid Overdose Events	4,078 Verified Non-Fatal Opioid Overdose Events
1,294 Confirmed Opioid Deaths	1,886 Confirmed Opioid Deaths	2,015 Confirmed Opioid Deaths	1,915 Confirmed Opioid Deaths	1,928 Confirmed Opioid Deaths
N/A Emergency and Inpatient Visits Involving Suspected Opioid Overdose	9,192 Emergency and Inpatient Visits Involving Suspected Opioid Overdose	9,000 Emergency and Inpatient Visits Involving Suspected Opioid Overdose	7,698 Emergency and Inpatient Visits Involving Suspected Opioid Overdose	8,275 Emergency and Inpatient Visits Involving Suspected Opioid Overdose
86% Percent of EMS/Law Enforcement Responses for Suspected Opioid Overdoses with Naloxone Administered	86% Percent of EMS/Law Enforcement Responses for Suspected Opioid Overdoses with Naloxone Administered	85% Percent of EMS/Law Enforcement Responses for Suspected Opioid Overdoses with Naloxone Administered	80% Percent of EMS/Law Enforcement Responses for Suspected Opioid Overdoses with Naloxone Administered	76% Percent of EMS/Law Enforcement Responses for Suspected Opioid Overdoses with Naloxone Administered

A STATEWIDE PUBLIC HEALTH EMERGENCY

In July 2019, Governor Doug Ducey issued the “Arizona Opioid Action Plan Version 2.0” with one of the goals in the plan being directly related to the supportive environments that sober living homes and behavioral health residential facilities provide:

> *“Isolation is harmful to one’s health; lack of social connection is a risk factor for adverse outcomes, including substance use . . . The previous Surgeon General has a platform that discussed the Loneliness Epidemic, as it has been shown that isolation is harmful to one’s health and social connection and relationships are beneficial.”*