



CITY OF PALO ALTO
Office of the City Clerk
**APPEAL FROM THE DECISION OF DIRECTOR OF
PLANNING & DEVELOPMENT SERVICES***

For appeals of final decisions on Architectural Review Board and Home Improvement Exception applications (rendered after public hearing), this appeal form shall be completed and submitted by appellant within fourteen days from date of the Director's decision. Appeals of final decisions on Individual Review applications (rendered after public hearing) must be submitted within ten days of the Director's decision. Complete form, the current fee and a letter stating reasons for the appeal shall be submitted to front desk staff of the Planning Division, 5th floor, City Hall, 250 Hamilton Avenue, *except* for 9/80 Fridays when City Hall is closed, when these items shall be submitted to Planning staff at the Development Center, 285 Hamilton Avenue (glass storefront across from City Hall on the corner of Bryant and Hamilton).

* Director of Planning includes his designees, which are Planning Managers or the Chief Planning Official

Appeal Application No. _____ Receipt No. _____
Name of Appellant Todor Ganev Phone () 650-815-5685
Address 940 Embarcadero Road Palo Alto 94303
Street City ZIP

LOCATION OF PROPERTY SUBJECT TO APPEAL:

Street Address 1985 Louis Road
Name of Property Owner (if other than appellant) First Congregational Church of Palo Alto
Property Owner's Address 1985 Louis Road Palo Alto 94303
Street City ZIP

The decision of the Director of Planning & Development Services dated July 6, 2022

whereby the application 22PLN-00159 by The Rev. Dr. Eileen Altman
(file number) (original project applicant)

was approved, is hereby appealed for the reasons stated in the attached letter (in duplicate)
(approved/denied)

Date: 7-19-2022 Signature of Appellant Todor Ganev

PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL (TO BE FILLED OUT BY STAFF):

Date _____ Approved _____ Denied _____

Remarks and/or Conditions:

CITY COUNCIL DECISION (TO BE FILLED OUT BY STAFF):

Date _____ Approved _____ Denied _____

Remarks and/or Conditions:

SUBMITTAL REQUIREMENTS SATISFIED:

1. Letter stating reasons for appeal _____ Received by: _____
2. Fee (currently \$595.00) _____ Received by: _____

Todor Ganev
940 Embarcadero Rd
Palo Alto, CA 94303

City of Palo Alto Planning Department:
250 Hamilton Avenue - Fifth Floor
Palo Alto, CA 94301

July 20, 2022

Dear City of Palo Alto Planning Department:

I represent a group of neighbors residing in the vicinity of First Congregational Church of Palo Alto (FCCPA) at 1985 Louis Road.

I am writing to formally appeal the decision to approve the Safe Parking Program sponsored by Move Mountain View (MMV) at FCCPA. The application in question (22PLN-00159) was conditionally approved on July 6, 2022.

As a preamble, allow me to clarify that we have nothing against helping the unhoused and those less fortunate. In fact, many of us regularly volunteer and donate to such causes.

However, we are forced to resort to this appeal, because we have serious concerns about this particular program and especially about the way it is being implemented by FCCPA and MMV. We have tried, in good faith, to discuss mutually acceptable solutions with FCCPA, but, unfortunately, they have not been receptive to the neighbors' suggestions, despite declaring the opposite.

In the interest of clarity, we can categorize the concerns in two main groups:

- A. The impact on the immediate Church neighbors' health, safety, and welfare.
- B. The broader impact on the safety and welfare of the entire neighborhood.

Our concerns are as follows:

A. Impact on the immediate Church neighbors' health, safety, and welfare.

Palo Alto Municipal Code: 18.42.160 (d)(1)(ii) states. "The proposed safe parking use at the location requested will not adversely affect the health, safety, or welfare of persons residing or working in the surrounding area".

The safe parking spots chosen by FCCPA clearly violate this Municipal Code requirement. Namely:

The parking spaces and facilities for this program are closer to neighbors' houses and properties than any other church sites currently operating Safe Parking in Palo Alto.

Since the vehicle dwellers will be allowed to idle their cars as an exemption to the City environmental regulations, this will put the immediate neighbors at risk. There are at least 5 children living in the residences that share fences with the Church, one of whom suffers from asthma. (Documentation, including a Doctor's note confirming that the elevated pollution can adversely affect the child are available, but not included here, in order to protect the minor child's identifying information)

FCCPA are asserting that that since the vehicles will be allowed to idle only when temperatures are below 40 degrees or above 85 degrees Fahrenheit, such idling will be rare. This is not a real excuse, because even rare idling is a hazard to the neighbors. However, it is highly doubtful that these will be rare occasions. Even a perfunctory perusal of historical hourly nighttime data for Palo Alto (c.f. <https://www.timeanddate.com/weather/usa/palo-alto>) reveals that in January and February 2022 temperatures fell below 40 degrees for multiple nights in a row. (Please refer to the charts enclosed at the very end of this letter) In addition, this regulation may be well-intentioned, but appears practically unenforceable.

As a solution to the health and welfare concerns of the immediate neighbors, we have requested FCCPA, on multiple occasions, to move the safe parking spots to the Louis Road side of the Church. Looking at the geometry and other considerations, that parking lot is a much better choice as it:

- Is further away from any residential structures
- Has more space to spread clients out for privacy.
- Has Church security cameras which monitor the parking lot.
- Has better lighting than the Embarcadero lot.
- Louis Road has less automobile traffic than Embarcadero Road.

FCCPA has refused to move the parking spots further away from the impacted neighbors and has offered no valid reasons why they are not willing to accept this very reasonable compromise.

To wit: FCCPA have stated (most recently at a community meeting on 7/12/22) that placing the parking spots on the Louis side will interfere with the preschool that rents rooms at FCCPA. But, in contradiction, pastor Rev Altman herself has publicly stated (see, for example, PaloAltoOnline.com article of 7-15-22) that the Church has set the hours for the safe parking program at 7 p.m. to 7 a.m. so that the vehicle dwellers will not be there when the preschool is in session and children are present. Similar statement was made also at the 7/12/22 community meeting. Therefore, this is not a valid reason.

Another unconvincing argument from FCCPA has been that the Louis Road lot is the primary lot that most of the Church and community members use for evening events. They are claiming that it would be more disruptive for the vehicle dwellers to park there amongst the frequent comings and goings in the evening. It is not even entirely clear what FCCPA means by this statement, but any way one looks at it, this is also unpersuasive. The safe parking spots will be reserved, plus why would the vehicle dwellers be inconvenienced by the benevolent Church attendees? Further, some minor inconvenience (if any at all)

during occasional events cannot even begin to compare with long-term risks to the neighbors' health and welfare.

In short, per this section, we respectfully request that the City of Palo Alto Planning Department rescind the temporary permit granted to approve the Safe Parking Program sponsored by Move Mountain View (MMV) at First Congregational Church of Palo Alto (FCCPA.) until FCCPA moves the safe parking spots to the Louis Road side, so as not to put the health and welfare of the immediate neighbors at risk.

B. Broader impact on the safety and welfare of the entire neighborhood

Here are some of the issues that will predictably impact the entire neighborhood and are of major concern to many of us.

1. SAFETY.

Our community members are entitled to a proactive approach to safety, with criminal background screening provided before problems occur. However, this is not what this program entails.

The screening process for potential clients of this program is not publicly known. The responses to questions about the screening process have been vague and, at times, contradictory. Move Mountain View has stated that it will not check to see if applicants are convicted sex offenders or have recently committed a violent felony. There is conflicting information about whether this is legally prohibited by California Housing First laws.

In short, Move Mountain View are essentially gathering a group of unscreened individuals, placing them in proximity to each other (and to residential homes/schools), and not safeguarding the community by running criminal background checks of these vehicle dwellers.

Failure to screen for sex offenders or recent violent felons is inconsistent with the best practices set by other cities. See examples from other SPP programs across Santa Clara County and the State:

1. Cupertino (guidelines suggest screening by experienced service provider, including Megan's law check)¹;
2. Culver City (the only people eligible for the program are "[i]ndividuals who are 18 years and older, [drive] an operational vehicle, and [complete and pass] a background check")²;
3. Fullerton ("[a]ll participants will be required to pass a background check to be eligible to enter the program. Registered sex offenders, a history of criminal arrests, or a conviction for a violent crime are disqualifiers for the program... Each participant will be vetted by the City of Fullerton and Fullerton PD")³;
4. Los Angeles (the Safe Parking LA website states that "[a]ll adults are also screened in the National Sex Offender database")⁴;
5. Monterey (participants must be alcohol and drug free, free of police warrants, and the program will not accept applicants with severe mental illness)⁵;

6. Morgan Hill (applicants are vetted through the Morgan Hill PD and must pass a background check)⁶;
7. Redwood City/San Jose (Life Moves excludes violent felons and sex offenders)⁷;
8. San Diego ("[a]ll adults are run through the Megan's Law database and the National Sex Offender Registry. They are also asked if they have been convicted of a violent crime which disqualifies them for enrollment." Also, "[the operator's] case managers will work with the Sheriff's Department...")⁸;
9. San Luis Obispo (background check required)⁹;
10. Santa Barbara (City of Lompoc) (resolution of the City Council requires that "participants shall submit to a criminal history background check")¹⁰;
11. Santa Cruz (the Safe Spaces Parking Program will "[d]etermine criminal background to exclude those that have a record for sexual predation, violent crime or criminal behavior associated with substance abuse.")¹¹; and
12. Walnut Creek (background checks for violent crimes, sexual assaults or open warrants by the police).¹²

In fact, the Homeless Policy Research Institute released a study of safe parking programs and noted that "[m]ost programs... screen out sex offenders and recent violent felons using a background check system" (emphasis added).¹³ Much like landlords presently conduct background checks for their prospective tenants, these other programs recognize the importance of screening.

The new FEHA law just prohibits providers from issuing blanket bans for criminal records and limits allowable denial to crimes that could have a direct impact on the community, such as violent crimes, sexual offenses, etc. I have attached an FAQ regarding this law for reference.

Such a requirement would not be onerous. In order to participate in the SPP program, the Guests must have a valid license, car insurance and registration. Thus, applicants to the program should already have the documentation required in order to apply.

Additionally, the ultimate goal of the program is to transition participants to stable housing and find a job. A quote from a 2018 Mercury News article about Move MV/Lots of Love states that "[t]he goal is not to merely give them a safe space, but to get them out of their vehicles and into permanent homes. Everyone who participates will have to sign up for housing and demonstrate they are serious about the task."¹⁴ Participants also need to show willingness to work with case workers to find permanent housing. Accordingly, the Palo Alto SPP program should be finding participants who are willing to provide the information for a background check, as it demonstrates "seriousness about the task" and is an indicator of greater likelihood of their success in the program. This is especially true since background checks will often be required by landlords and employers as participants work to transition to more permanent housing (see, e.g., a survey by HR.com shows 96% of employers require background checks).¹⁵

Further, as FCCPA is in close proximity to a number of homes with young children, local elementary and middle schools (e.g., Greene Middle School, Duveneck Elementary School, Stratford school) the failure to check for sex offenders is of particular concern and may adversely affect the health and safety of the surrounding area.

This presents an obvious conflict with the Safe Biking to School and similar initiatives of the City and the Palo Alto Unified School District.

2. LACK OF INCIDENT TRACKING.

There is no public visibility into incidents that happen at these sites. Unlike public police logs, there is no way for citizens-at-large to know about fights, loud music, public drunkenness, and other public nuisances, unless the Palo Alto Police are called **and** file an incident report.

In fact, at recent meetings FCCPA and MMV made efforts to deflect and suppress all questions about past incidents at other Safe Parking locations.

3. LACK OF SUPERVISION.

Move Mountain View has indicated that they only have resources for someone to drive by a couple of times a day. This does not provide any real security. It is in stark contrast with other SPP locations across California which provide for overnight supervision.

Alameda County Safe Parking Program - [the safe parking program] includes “evening security”.¹⁶

Cupertino (Winter Faith) - shelter manual suggests an overnight supervisor¹⁷

Fullerton (Pathways of Hope) - Security guards will be on site during all program hours. The program location will be surveilled by the Fullerton PD as part of [its] patrol route. Vehicles will be searched by security upon arrival to the lot each night.¹⁸

Livermore - "City will provide an overnight attendant at the Parking Lot during the hours the lot is available for the Safe Parking Program. The overnight attendant will be responsible for checking in parking guests, enforcing program rules, ensuring parking guests have left the premises by the designated time, and reporting incidents and program status to the City."¹⁹

Long Beach - provides “overnight security”. Also “security staff will be on site one-half hour prior to, during and one-half hour post the operational hours of the program”. Finally, “[v]ehicles will not be allowed to park within a three-block radius of the lot to minimize impacts to the local community. The provider will monitor for this and violators of this rule will be warned; repeat violators will be exited from the program. There will be zero tolerance for substance use or acts of aggression at the site.” (emphasis added).²⁰

Los Angeles - “All program locations include access to a restroom facility and the security of a guard.”²¹

Morgan Hill (FOCUS program/Morgan Hill Bible Church) - Lots are protected by “hired security detail” and also have volunteers for the first and last two hours blocks of the program.²²

Palmdale - “The program is staffed by nighttime parking lot monitors and operates 7 days a week from 7:00 p.m. to 7:00 a.m.”²³

Redwood City - lot located across the street from Police station

Sacramento - the site is "staffed around the clock"²⁴

San Diego (Jewish Family Safe Parking Program) - onsite security guard for all hours of the program²⁵

San Luis Obispo (40 Prado Safe Parking Program) - someone is on site providing supervision and "cameras monitor the parking lot 24/7"²⁶

Santa Barbara (City of Lompoc) - Resolution of City Council states that "monitoring and oversight shall be provided during safe parking hours."²⁷

Union City - "The City of Union City Community and Recreation Services Department will be providing an attendant to be present throughout the night at all of the locations."²⁸

Walnut Creek (Trinity Safe Parking Program) - Guardian Security will provide one staff person per shift to perform security services for the program from 9:15 pm to 6:15 am, seven days a week.²⁹

Further, the vehicle dwellers are supposed to leave the church every morning and park at least 0.5 miles away, but there is no clear provision for how this rule will be enforced and verified. And 0.5 miles still means that they will remain in our neighborhood, without control in proximity to the schools and on school biking routes.

4. PROCEDURAL.

Many of the neighbors feel that they were not properly informed about FCCPA's plans and they have either not been allowed to participate in discussions with FCCPA or their feedback has been minimized or even entirely ignored.

For example, many of the nearby neighbors on Morton Way were not informed, and, as one disturbing example, even the residents of the house on 22 Morton Way, which shares a fence with the Church and is quite close to the chosen parking spots, (bounds seen on FCCPA application map) only learned about the plans late, and only by chance, from word of mouth.

Neighborhood feedback has been either editorialized or outright ignored by both Move Mountain View and Church representatives. A meeting was held on 7/12/22 (Recording of the meeting available at <https://www.cityofpal Alto.org/News-Articles/Planning-and-Development-Services/1985-Louis-22PLN-00159>) and it was advertised as a community meeting, but it did not include a true discussion. The meeting involved only one-sided extolling of the program and silencing any inconvenient questions or rebuttals submitted by online chat. Some neighbors even complained that their written questions were being edited in real time during the meeting.

We need a real discussion, with the neighbors' concerns being heard and addressed properly and in good faith, not only in words or symbolic gestures.

Conclusion

Once again, let me reiterate, that we have nothing against helping the unhoused and those less fortunate. However, we are forced to submit this appeal, because the proposed program implementation at the First Congregational Church contains fundamental flaws and risks to neighborhood health, safety, and welfare, which the program sponsors have been unwilling to address.

Please revoke the temporary Safe Parking Program permit granted to the First Congregational Church of Palo Alto and Move Mountain View and deny any further permits until the issues with the program flaws have been resolved in a fair and satisfactory manner.

Sincerely,



Todor Ganey

P.S. As I mentioned, I represent other neighbors who reside in the area, have concerns and find it necessary to submit this appeal. I have included their names and addresses here by their own request and with their permission:

Maria Sanchez, 22 Morton Way, Palo Alto CA 94303

Pedro Rodillo, 22 Morton Way, Palo Alto CA 94303

Rita Chuang , 22 Morton Way, Palo Alto CA 94303

Susy Fan, 2181 Louis Rd, Palo Alto 94303

Robin Love, 2096 Louis Rd, Palo Alto, CA 94303

Jessica Fan, 2093 Louis Rd, Palo Alto, CA 94303.

Stephanie Yu, 2093 Louis Rd, Palo Alto, CA 94303

Purvi Kapadia, 2126 Louis Rd, Palo Alto CA 94303

Kalpesh Kapadia, 2126 Louis Rd, Palo Alto CA 94303

Maria Jiao, 1982 Louis Road, Palo Alto 94303

Laura Oliveira, 2146 Louis Rd Palo Alto CA 94303
Rafael Oliveira, 2146 Louis Rd Palo Alto CA 94303
Shalini Advani, 2142 Bellview Drive, Palo Alto, CA 94303
Stephanie Jun, 40 Primrose way. Palo Alto, CA 94303
Justin Chueh, 1992 Barbara Dr, Palo Alto, CA 94303
Kathryn Jordan, 114 Walter Hays, Palo Alto, CA 94303
Grace Chang, 165 Heather Ln, Palo Alto, CA 94303
Karen Latchford, 171 Heather Ln, Palo Alto, CA 94303
Ian Latchford, 171 Heather Ln, Palo Alto, CA 94303
Nishita Kothary, 1071 Embarcadero Rd, Palo Alto 94303
Niraj Shah, 1071 Embarcadero Rd, Palo Alto 94303
Angela Dayton, 1595 Channing Avenue, Palo Alto, CA 94303
Katie Kostal, 190 Walter Hays Dr, Palo Alto, CA, 94303
Randy Stoltenberg, 874 Garland Dr, Palo Alto, CA 94303
Ekta Kapur, 2368 Saint Francis Dr, Palo Alto, CA 94303
Manoj Batra, 2368 Saint Francis Dr, Palo Alto, CA 94303
Angie Ball, 1425 Edgewood Drive, Palo Alto, CA 94301

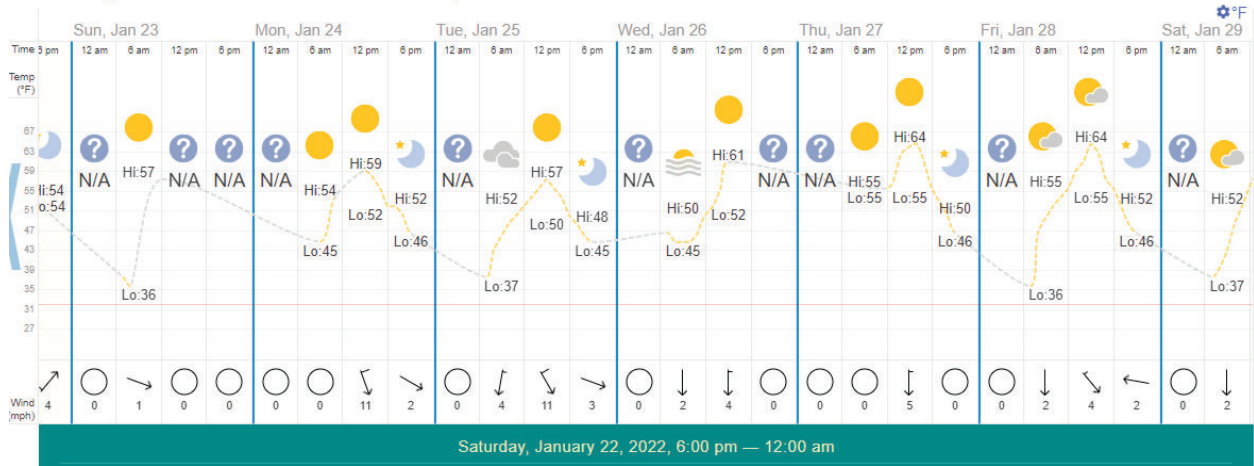
References

1. Safe Parking Guidelines provided by the Winter Faith program.
2. <https://www.culvercity.org/Services/Housing-Health-Human-Services/Safe-Park-Program>
3. <https://www.cityoffullerton.com/documents/Safe%20Parking%20FAQ.pdf>
4. <https://www.safeparkingla.org>
5. <http://www.onestarfishsafeparking.org/program-requirements.html>
6. FOCUS Program: [http://ca-morganhill.civicplus.com/DocumentCenter/View/23469/Focus-Safe-Parking- Program_PDNewsletter_Fall2017](http://ca-morganhill.civicplus.com/DocumentCenter/View/23469/Focus-Safe-Parking-Program_PDNewsletter_Fall2017)
7. <https://www.211ca.org/detail/?idServiceAtLocation=211santacl-70563584&location=santa%20cruz%20county%20ca&user=>
8. <https://www.jfssd.org/our-services/adults-families/safe-parking-program/safe-parking-north-county/>
9. This is required by ordinance. <https://www.slocity.org/home/showdocument?id=2540>

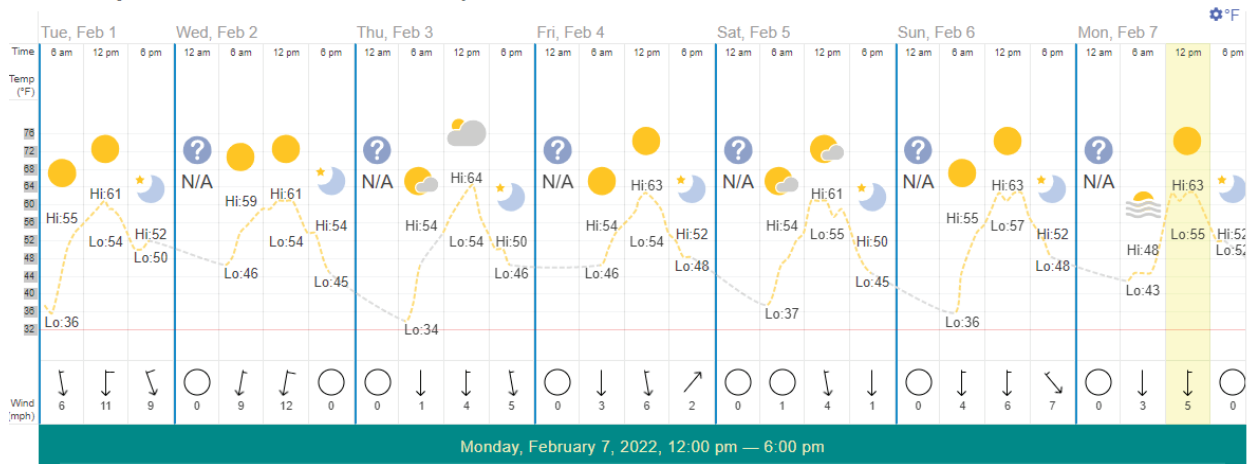
10. <https://www.cityoflompoc.com/home/showpublisheddocument?id=27025> (Section I.D(2)).
11. <https://www.afcsantacruz.org/safespaces-program.html> (under procedures link)
12. <https://trinitycenterwc.org/wp-content/uploads/2019/08/Safe-Parking-Program-Description.pdf>. This program appears to currently be on pause, possibly due to funding, but was operational for nine months.
13. <https://socialinnovation.usc.edu/wp-content/uploads/2018/12/Safe-Parking-Literature-Review.pdf>
14. <https://www.mercurynews.com/2018/06/12/mountain-view-nonprofit-kicking-off-2-year-trial-to-get-car-dwellers-off-streets>
15. https://www.hr.com/en/resources/free_research_white_papers/hrcom-background-screening-june-2019-research_jwvmqi89.html
16. https://alcosafeparking.org/?page_id=88
17. His Overnight Shelter manual is offered as an example on the Winter Faith website. https://drive.google.com/file/d/0B51fV-mxPo3_QkkzbU5kYndzZEK/view
18. <https://www.cityoffullerton.com/documents/Safe%20Parking%20FAQ.pdf>
19. <https://www.tvapc.org/partner-news/livermore-safe-parking-program/>
<https://evogov.s3.us-west-2.amazonaws.com/meetings/134/attachments/7066.pdf>
20. <http://www.longbeach.gov/everyone-home-long-beach/news/long-beach-safe-parking-program/>
21. <https://www.safeparkingla.org/>
22. http://ca-morganhill.civicplus.com/DocumentCenter/View/23469/Focus-Safe-Parking-Program_PDNewsletter_Fall2017 and <https://www.mhbible.org/safeparking>
23. <https://www.hopeofthevalley.org/our-programs/safe-parking-program/>
24. <https://sacramentocityexpress.com/2021/04/09/city-launches-additional-safe-parking-site-on-south-front-street-to-serve-people-staying-in-vehicles/#:~:text=The%20City%20of%20Sacramento%20has,vehicles%2C%20depending%20on%20their%20sizes.>
25. <https://www.jfssd.org/our-services/adults-families/safe-parking-program/safe-parking-north-county/>
26. <https://friendsof40prado.org/safe-parking-program-expanded/>
27. <https://www.cityoflompoc.com/home/showpublisheddocument?id=27025> (Section I, D (12)).
28. <https://www.unioncity.org/DocumentCenter/View/3779/Careavan-Brochure-11-13-2019>
29. <https://trinitycenterwc.org/wp-content/uploads/2019/08/Safe-Parking-Program-Description.pdf>.

Examples of Temperatures falling close to or below 40 Degrees Fahrenheit at Night in 2022

January 2022 Weather in Palo Alto — Graph



February 2022 Weather in Palo Alto — Graph



Fair Housing And Criminal History



FAQ

The Fair Employment and Housing Act prohibits discrimination against tenants or homeowners based on various protected characteristics, such as race, national origin, ancestry, disability, sexual orientation, marital status, and gender identity

Housing providers sometimes check whether a person has a criminal history when making a housing decision, such as whether to rent to an individual. While providers have legitimate interests in screening potential tenants to determine if they can fulfill their obligations as tenants, individuals with criminal histories face barriers to housing even when their history bears no relationship to their ability to be responsible tenants.

New regulations from the Department of Fair Employment and Housing (DFEH) address when and how housing providers may lawfully consider criminal histories, in order to protect against unlawful discrimination. DFEH is providing this guidance concerning the use of criminal history by providers or operators of housing.

1 | Which California laws apply to the use of criminal history by housing providers?

California's Fair Employment and Housing Act (FEHA) protects people from [housing discrimination](#) based on protected characteristics including race, color, national origin, religion, disability, gender, gender identity, familial status, veteran/military status, sexual orientation, and source of income. Most housing providers are also covered by the Unruh Act, which prohibits discrimination on the basis of immigration status, citizenship, and primary language, among others. Having a criminal history is not in itself a protected characteristic under FEHA or the Unruh Act. However, regulations that went into effect on January 1, 2020 implement FEHA with respect to the use of criminal history in housing (California Code of Regulations, Title 2, Sections 12264-12271).

2 | When does a housing provider violate California law if they consider someone's criminal history?

A housing provider's policy or practice regarding criminal history will violate California law when it has an unjustified discriminatory effect on members of a protected class, even when the provider had no intent to discriminate. In California as in the rest of the nation, African Americans, Hispanics (or Latinos), and certain other groups face higher rates of arrest, conviction, and incarceration than the general population. The use of criminal history information in housing decisions can therefore have a disproportionate negative affect on these protected groups.

In addition, a housing provider's policy or practice regarding criminal history will violate California law if it constitutes intentional discrimination on the basis of a protected characteristic. For example, it is unlawful for housing providers to: use criminal history screenings to intentionally exclude individuals because of their race, only run criminal history screenings on certain racial groups, or treat individuals in different racial groups differently based on comparable criminal history information.

Additional information relevant to this question are provided in the FAQs below and the regulations.

■ Fair Housing And Criminal History

3 | Who must comply with California's fair housing laws?

- Landlords
- Property management companies
- Homeowners associations
- Public housing authorities
- Real estate agents
- Home sellers
- Property insurers
- Builders
- Mortgage lenders
- Tenant screening companies
- Consumer reporting agencies
- Others

4 | Can a housing provider advertise or indicate a blanket ban against applicants with criminal records?

No. Housing providers cannot make any statement indicating a blanket ban on renting to anyone with a criminal record. The law prohibits advertisements, screening policies (oral or written), or statements with blanket bans such as “No Felons” or “We Don’t Allow Criminals Here.” However, it is not unlawful for a housing provider to advertise or state that it will run a lawful criminal history check.

5 | May a housing provider lawfully check an applicant's criminal history?

Yes. Generally, a housing provider may check the criminal history of an applicant, although there are some types of criminal history information that providers may not seek or consider (see FAQ 6 below). If a housing provider intends to deny someone housing (or otherwise take an adverse action against someone) it must be based on a past criminal conviction. And, the law requires the provider to follow certain guidelines, which are set forth in the regulations (see FAQ 7 below). Most importantly, the conviction the provider is concerned about must be a “directly-related conviction.” This means a criminal conviction that has a direct and specific negative bearing on a substantial, legitimate, and nondiscriminatory interest or purpose of the housing provider, such as the safety of other residents, the housing provider’s employees, or the property.

In determining whether a criminal conviction is directly-related, a housing provider should consider the nature and severity of the crime and the amount of time that has passed since the criminal conduct occurred. For example, a ten-year-old misdemeanor conviction for a driving offense would not likely be directly-related to fulfilling financial obligations because there is no rational relationship between the violation and the identified business interest. In contrast, a recent criminal conviction for residential arson could be directly-related to the risk that an individual may injure other residents or property because there is a rational relationship between recently committing residential arson and injuring residents or property.

■ Fair Housing And Criminal History

6 | **What types of criminal history information are a housing provider prohibited from considering?**

It is unlawful for a housing provider to seek or consider the following:

- Arrests that did not lead to a conviction;
- Information indicating that an individual has been questioned, apprehended, taken into custody, detained, or held for investigation by law enforcement;
- Infractions;
- Referral to or participation in a pre-trial or post-trial diversion program or a deferred entry of judgment program, unless the applicant offered this information as mitigating information (see FAQ 8 below);
- Criminal convictions that have been sealed, dismissed, expunged, or otherwise rendered legally inoperative, unless the applicant offered this information as mitigating information (see FAQ 8 below); or
- Adjudications or matters processed in the juvenile justice system, unless pursuant to an applicable court order or unless the applicant offered this information as mitigating information (see FAQ 8 below).

7 | **If a housing provider would like to consider criminal history information (aside from the prohibited information detailed in FAQ 6 above), what should the provider's policy or practice look like?**

A housing provider may consider certain criminal history, but the provider's policy or practice should:

- Be narrowly tailored and focus on whether any criminal conviction is “directly-related” (see FAQ 5 above);
- Provide an opportunity for applicants to present individualized, mitigating information either in writing or in person if the housing provider is concerned about an applicant's past conviction;
- Provide written notice of the opportunity to all applicants to present mitigating information if a housing provider is concerned about a past conviction;
- Consider the factual accuracy of the criminal history information of the applicant, meaning the background report does not contain outdated, incorrect, or falsified information or information that is erroneously attributed to the individual being considered;
- Delay seeking, considering, or using a third-party report of criminal history information until after an individual's financial and other qualifications are verified;
- Provide a copy or description of the criminal history background check policy to an applicant upon request; and
- Consider mitigating information in determining whether to rent to an applicant with a past criminal conviction.

■ Fair Housing And Criminal History

8 | What is mitigating information?

Housing providers should consider mitigating information when considering an applicant's criminal history. Mitigating information means credible information about the applicant that suggests that the applicant is not likely to pose a demonstrable risk to the health and safety of others, the property, or other substantial, legitimate, and non-discriminatory interest or purpose of the housing provider. Mitigating information must be credible information that a reasonable person would believe is true based on the source and content of the information.

Mitigation information includes but is not limited to:

- The age of the individual when the criminal conduct occurred;
- The amount of time that has passed since the date of conviction;
- Whether the conduct arose as a result of a disability;
- Whether the conduct arose from status as a survivor of domestic violence;
- Whether the individual has maintained a good tenant history before and/or after the conviction;
- Whether there is evidence of rehabilitation efforts, including satisfactory compliance with all terms and conditions of parole and/or probation; successful completion of parole, probation, mandatory supervision, or post release community supervision; and
- Other conduct demonstrating rehabilitation, such as maintenance of steady employment.

9 | May a housing provider rely on third parties to perform criminal history checks?

Yes. However, it is not a defense for a housing provider to have relied on a third party's criminal history report if the use of the criminal history violates fair housing laws, and such third parties are also subject to California's fair housing laws. Housing providers that rely on criminal histories prepared by third parties, such as consumer reporting agencies, may wish to seek from the third party details on any criminal records discovered so that the housing provider can make a lawful, individualized assessment. Furthermore, other laws limit the extent to which consumer reporting agencies can report such information.

It is unlawful for these agencies to report records of an applicant's arrest, indictment, information, misdemeanor complaint, or conviction of a crime that, from the date of disposition, release, or parole, are more than seven years old (California Civil Code section 1785.13).

■ Where can I obtain more information?

Please see our website at www.dfeh.ca.gov for more information and resources.

Randy Stoltenberg
874 Garland Dr.
Palo Alto, CA 94303

July 17, 2022

Jodie Gerhardt
Manager of Current Planning
City of Palo Alto
250 Hamilton Ave
Palo Alto, CA 94301

Dear Ms. Gerhardt-

I'm writing to support the appeal of approved Safe Parking Program permit application 22PLN-00159 by the First Congregational Church of Palo Alto located at 1985 Louis Rd, Palo Alto 94303.

We have lived at our current address for 14 years, and while it is not within 600 feet of the church, our neighborhood is within a half mile and could be impacted by this program. Our main concern is for the safety of our children and neighbors. The program as administered by Move Mountain View does not adequately vet the participants. They claim federal and local regulations do not allow proper background checks. If so, then the program should be reevaluated as lack of proper vetting will unnecessarily endanger our neighborhoods. My family has been the victim of assault by the homeless in Palo Alto. The individual in question entered our place of worship during our Sunday services and verbally assaulted many members of our congregation. He had to be physically removed by the stronger men in attendance, but that put them in unnecessary danger. He later showed up at First Congregational Church when my wife was there with our newborn for a preschool parents meeting. You can imagine her alarm at seeing him again knowing his propensity for erratic behavior. One of the teachers took a picture of him as previously requested by the police. He then began to yell profane language threatening her if she did not delete the picture. We understand this episode does not define all homeless in our community, but it does display the risk taken by advocating policies that attract the homeless population.

We also have friends in Palo Alto that have suffered much more serious, almost fatal, offenses at the hands of homeless people who should not have been allowed in public due to outstanding arrest warrants. The safety of my children is of utmost importance to me. I oppose any effort that would attract a permanent flow of homeless individuals into our neighborhood. I recognize that the majority of those experiencing homelessness are great people who need a hand. But it only takes one bad experience to impact a child, a family, or a neighbor for a lifetime.

In our congregation, we have cared for many displaced individuals and families over the years. Each of these cases has been handled individually with the resources of the congregation. While I applaud the efforts of the First Congregational Church to reach out to those experiencing homelessness, they are not entitled to assume risk for the entire neighborhood. None of the presenters from the church had small children which I think is a major factor for many of those in opposition to this permit. And even if they did, their desire to participate in this program should not supersede the safety concerns of their neighbors.

Also, I know from canvassing the neighborhood that many individuals were not properly notified by the church or the city of this application. While not malicious, the failure to properly inform should at least invalidate the original application. It is not within the spirit of this process to exclude neighbors from the decision to host a Safe Parking Program site.

Thank you for your attention to this matter. I repeat my request that the current application approval be revoked and the matter be brought before the City Council so the affected neighbors can have their concerns properly addressed in a public forum.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Stoltenberg". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Randy Stoltenberg