TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY DECEMBER 11, 2013
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

A. CALL TO ORDER, PRAYER AND PLEDGE

B. ROLL CALL

C. ADDITIONS/DELETIONS/CHANGES

D. CONSENT AGENDA :

1. **Approval of Minutes** Planning and Zoning Meeting – 11/13/2013
   Exhibit: Agenda Report No. 1
   Recommendation: Motion to Approve

E. PRESENTATION:

F. ACTION:

G. DISCUSSION:

2. **Discussion of Sober Homes**
   Exhibit: Agenda Report No. 2
   Recommendation: Discussion

H. ADDITIONAL ITEMS FOR FUTURE MEETING

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

K. ADJOURN

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service in compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: December 11, 2013

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:
Draft minutes of P&Z Board Meeting of November 13, 2013 **(not ready yet)**

ACTION OPTIONS:
Secretary requests approval of the minutes.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: December 11, 2013

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Discussion of "Sober Homes"

I spoke to Robert at the City of Palm Bay and he stated they recently had a submittal for a "Sober Home" and it was denied using the Florida Statutes under the Community Care Home section that requires Licensing. The applicant did not obtain such licensing. In their Code they have a limit on four (4) unrelated individual per residence.

I also spoke to Alison at the City of Melbourne and they basically said this "Sober Homes" is in the legal department presently. They went on to say that "sober homes" falls under a category like "group homes. She did relate information about how these "sober home" operations are claiming protection under the Federal ADA. Her email is attached.

Today I spoke with staff at the City of Delray Beach since they were one of the cities FLC (Florida League of Cities) mentioned in their report on this issue. His information is also attached.

There is also other information attached.

ATTACHMENTS:

- Email from City of Melbourne
- Portion of FLC 2013 "Legislative Action Agenda" – Portion of Delray Beach Codes-FS CH419
- FLC 2013 & 2014 Legislative Action Agenda
- Email from Bonnie Wilbanks, Town Administrator (9/25/13)
- Portion of RTCM Minutes (9/23/313)
- Denine's email to P&Z Board in 9/6/13
- Fair Housing Act (FHA) Addresses Homes- Sober Living
- Town of Lake Clarke Shores information

ACTION OPTIONS:
Discussion

CITY OF MELBOURNE

Denine Sherear

From: Alison Dawley [adawley@melbourneflorida.org]
Sent: Wednesday, December 04, 2013 4:39 PM
To: Denine Sherear
Subject: Re: "Sober Homes"

Denine,
We do not specifically address sober homes in our code but they fall under other categories like group homes. Cheryl Dean from planning dept would be a good resource for you on that. (cdean@melbourneflorida.org). What makes sober homes so difficult to navigate is the issues under the federal law, specifically the Fair Housing Act and the Americans with Disabilities Act. To that end, HUD has a white paper on that issue. I recollect finding something on its website when I searched ADA and zoning. Also, I have a couple of law review articles, etc. I guess I would state that I have identified all kinds of issues but little practical guidance. :(I have to run to code board for tonight but am happy to talk with you about it on the telephone tomorrow and to pull out my resources. Good luck!
Alison

>>>

From: "Denine Sherear" <dsherear@townofmalabar.org>
To: <Adawley@melbourneflorida.org>
Date: 12/4/2013 3:57 PM
Subject: "Sober Homes"

Dear Alison Dawley,

I am the Board Secretary for the Planning and Zoning Board for the Town of Malabar. I am inquiring about "Sober Homes" in the City of Melbourne, we will be discussing this at our up coming meeting on December 11, 2013. Do you have anything in your Code or is there any discussion on this matter.

Whatever information you have would be great, I would love to share with my Board at the next meeting.

Thank you,
Denine

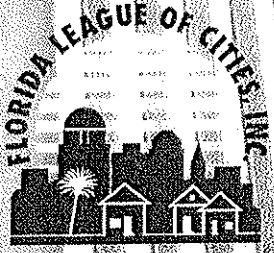
Denine M. Sherear
Admin Assist. to Building Official
Building Department- Permitting
2725 Malabar Road
Malabar , FL 32950
321-727-7764 x 14
321-727-9997 fax

Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

Portion of Florida League of Cities 2013 Legislative Action Agenda (Delray Beach)

Florida
League
of Cities

2013 Legislative Action Agenda

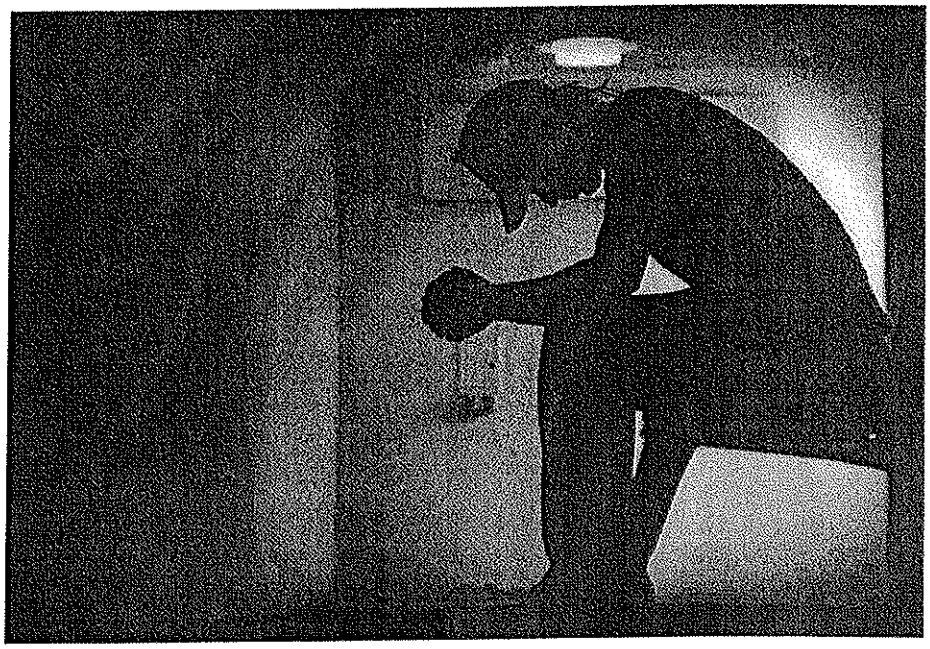


Sober Homes

LEGISLATIVE PRIORITY

The Florida League of Cities supports legislation that defines and establishes minimum regulatory standards for sober home facilities and allows for more stringent local regulations of these facilities.

Background:



A number of cities, particularly those in the southern part of the state, have been experiencing problems with sober homes in residential neighborhoods. These homes are marketed as places where recovering addicts can come to "sober up." With no regulation from government agencies, setting up a sober house is as easy as renting a house to a few residents who pledge to live in sobriety and attend support groups. At times, this has resulted in poorly run houses that provide little or no supervision for recovering addicts. Law enforcement officials have seen crime increase in neighborhoods where these sober homes have proliferated. Some cities, including Delray Beach, have adopted ordinances to restrict sober houses and transient rental homes from operating in neighborhoods or single-family homes. In May, a federal judge granted an injunction against Delray Beach, saying that the city may have "unlawfully discriminated" against people in recovery when it modified its transient housing laws. The League supports efforts to clearly define sober homes in statute and allow for the local regulation of these facilities.

PHOTO: ISTOCKPHOTO.COM/BENJAMIN GOODE

(Portion of Delray Beach FL) DISTRICTS

(I) **Community Residential Homes and Group Homes**: **[Amd. Ord. 23-01 5/1/01]**

(1) **Purpose**: The purpose of this section is to provide for the health, safety, welfare, and shelter in sound housing of residents of Community Residential Homes and Group Homes and residents of the City who are in need of such facilities while assuring compatibility of these facilities with surrounding areas. **[Amd. Ord. 23-01 5/1/01]**

(2) **Applicability**: This section shall be applicable but not limited to Community Residential Homes and Group Homes which constitute a new facility or a modification of an existing lawful facility which increases the floor area or the permitted number of residents. This section does not include foster homes; assisted living facilities; continuing care facilities; abused spouse residences; child care facilities; adult day care facilities; nursing homes; nor licensed service provider facilities. **[Amd. Ord. 16-11 5/17/11]; [Amd. Ord. 28-09 7/7/09]; [Amd. Ord. 23-01 5/1/01]**

(3) **Definitions**: **[Amd. Ord. 23-01 5/1/01]**

(a) **Resident**: The term "resident" for a community residential home or group home means any of the following pursuant to the Florida Statutes: **[Amd. Ord. 23-01 5/1/01]**

1. A frail elder as defined in Section 429.65, Fla. Stat.; **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 23-01 5/1/01]**

2. A physically disabled or handicapped person as defined in Section 760.22(7)(a), Fla. Stat.; **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 15-04 4/13/04]; [Amd. Ord. 23-01 5/1/01]**

3. A developmentally disabled person as defined in Section 393.063(12), Fla. Stat.; **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 23-01 5/1/01]**

4. A nondangerous mentally ill person as defined in Section 394.455 (18), Fla. Stat.; or, **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 23-01 5/1/01]**

5. A child as defined in Section 39.01(14), Section 984.03(9) or (12), or Section 985.03(8), Fla. Stat.. **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 23-01 5/1/01]**

(b) **Community Residential Home**: The term "Community Residential Home" means a dwelling unit licensed to serve clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice; or Department of Children and Family Services, or a dwelling unit licensed by the Agency for Health

Care Administration, which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet physical, emotional, or social needs of the residents. **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 23-01 5/1/01]**

(c) **Group Home**: The term "Group Home" means a home, and/or a building or part thereof, or group of buildings, which has either less than seven (7) residents or more than fourteen (14) residents and which is licensed to serve clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice Department of Children and Families, or the Agency for Health Care Administration. **[Amd. Ord. 28-09 7/7/09], [Amd. Ord. 23-01 5/1/01]**

(4) **Classifications**: **[Amd. Ord. 23-01 5/1/01]**

(a) **Group Home, Type 1**: A group home of not more than six (6) unrelated residents. Such homes which satisfy the provisions of this section shall be allowed as a permitted use in the zoning districts as outlined in Section 4.3.3(I)(4)(d), provided, however, that no such home shall be located within a radius of 1,000 feet of another Type 1 group home or a community residential home. **[Amd. Ord. 82-06 1/2/07]**; **[Amd. Ord. 23-01 5/1/01]**

(b) **Community Residential Home**: Such homes which satisfy the provisions of this section shall be allowed as a permitted or conditional use in the zoning districts as outlined in Section 4.3.3(I)(4)(d), provided that such homes shall not be located within a radius of 1,000 feet of a community residential home or within a radius of 500 feet of a single family residential zoning district. **[Amd. Ord. 23-01 5/1/01]**

(c) **Group Home, Type 2**: A group home which provides lodging or related services for fifteen (15) or more unrelated residents. Such homes which satisfy the provisions of this section shall be allowed as a permitted or conditional use in the zoning districts as outlined in Section 4.3.3(I)(4)(d), provided however that such homes shall not be located within a radius of 1,000 feet of a community residential home or group home, within a radius of 500 feet of a single family residential zoning district, or within a radius of 1,000 feet of a public or private elementary, middle or secondary school. **[Amd. Ord. 23-01 5/1/01]**

(d) Community Residential Homes and Group Homes shall be allowed as a permitted or conditional use in the following zoning districts: **[Amd. Ord. 02/10 1/19/10]; [Amd. Ord. 23-01 5/1/01]**

	ZONING DISTRICTS								
TYPE OF RESIDENCE	A, RR, R-1	RL	RM	PRD	RO, OSSHAD	CBD, CF	GC	PC	CBD-RC
Group Home, Type 1	Permitted	Permitted	Permitted	Permitted	Permitted	Not Permitted	Permitted	Permitted	Not Permitted
Community Residential Home	Not Permitted	Conditional Use	Permitted	Not Permitted	Conditional Use	Conditional Use	Conditional Use	Conditional Use	Conditional Use
Group Home, Type 2	Not Permitted	Conditional Use	Permitted	Not Permitted	Conditional Use	Conditional Use	Conditional Use	Conditional Use	Conditional Use

(5) **Noticing and Licensing Requirements**: **[Amd. Ord. 23-01 5/1/01]**

(a) An applicant for a community residential home must notify the City in writing the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. The City may review the notice submitted for compliance with the underlying zoning district and respond pursuant to Chapter 419.001(3)(a) of the Florida Statutes. **[Amd. Ord. 23-01 5/1/01]**

(b) Group Homes shall at the time of application for City business tax receipt provide evidence that appropriate approvals or licenses from county, state, or federal regulatory agencies have been applied for or obtained, if any is required and they must show that no other community residential home or group home is within a radius of 1,000 feet of the proposed site. The business tax receipt must be renewed annually and may only be received upon provision of proof that the facility continues to be licensed by the State, if required, and upon passing of City inspections. **[Amd. Ord. 82-06 1/2/07]**; **[Amd. Ord. 23-01 5/1/01]**

(6) **Development Standards**: **[Amd. Ord. 23-01 5/1/01]**

(a) **Minimum Floor Areas**: **[Amd. Ord. 23-01 5/1/01]**

1. Community Residential Homes and Group Homes of 4 to 14 residents require no minimum floor area except as required by the underlying zoning district requirements and as required by State agencies. **[Amd. Ord. 23-01 5/1/01]**

2. Type 2 Group Homes require a minimum floor area for bedrooms of 80 square feet for the first permitted resident in a bedroom with an additional 60 square feet for each additional permitted resident in a bedroom. There shall be a minimum of one bathroom equipped with sink, commode, and shower or tub per each four permitted residents. **[Amd. Ord. 23-01 5/1/01]**

(b) **Outdoor Recreational Space**: Type 2 Group Homes located in nonresidential zone districts shall provide usable outdoor passive recreation area of 35 square feet per resident in addition to any required open space, landscaping, and setback areas. **[Amd. Ord. 23-01 5/1/01]**

(c) **Special Regulations**: **[Amd. Ord. 23-01 5/1/01]**

1. Signage shall be pursuant to LDR Section 4.6.7. **[Amd. Ord. 23-01 5/1/01]**

2. Parking requirements shall be pursuant to LDR Section 4.6.9(C). **[Amd. Ord. 23-01 5/1/01]**

(7) **Findings of Reviewing Authority**: The Planning and Zoning Board shall not recommend approval of a Conditional Use for a Community Residential Home or Group Home unless it is demonstrated that the home has met all of the requirements of Section 4.3.3(I), including those requirements in the specific zoning district in which the proposed home is to be located, and has received applicable preliminary State agency approval or current State agency license when a license is required. A recommendation of approval shall be based upon consideration of the following factors: **[Amd. Ord. 23-01 5/1/01]**

(a) Homes located within residential districts shall have building elevations, which are residential in character and similar in appearance to the surrounding neighborhood. They shall not be institutional in appearance as determined by the Site Plan Review and Appearance Board or the Historic Preservation Board. **[Amd. Ord. 23-01 5/1/01]**

(b) Homes located in a nonresidential area shall be maintained in the general character of the surrounding area. This standard applies to design, lot size, landscaping, and other factors affecting the character of the area. **[Amd. Ord. 23-01 5/1/01]**

(c) The proposed facility shall be in conformance with the Future Land Use Map, and Objectives and Policies of the City's Comprehensive Plan. **[Amd. Ord. 23-01 5/1/01]**

(8) **Distance Requirements**: All distance requirements in this section shall be measured from the nearest point of the existing home, school or area of single-family zoning to the nearest point of the proposed Community Residential or Group Home. **[Amd. Ord. 23-01 5/1/01]**

Select Year: 2013 Go

The 2013 Florida Statutes

Title XXX
SOCIAL WELFARE

Chapter 419
COMMUNITY RESIDENTIAL HOMES

View Entire Chapter

CHAPTER 419
COMMUNITY RESIDENTIAL HOMES

419.001 Site selection of community residential homes.

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term:

(a) "Community residential home" means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(b) "Licensing entity" or "licensing entities" means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents.

(c) "Local government" means a county as set forth in chapter 7 or a municipality incorporated under the provisions of chapter 165.

(d) "Planned residential community" means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. 393.063 but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents' freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(e) "Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a handicap as defined in s. 760.22(7)(a); a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

(f) "Sponsoring agency" means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes shall not be located within a radius of 1,000 feet of another existing such home with six or fewer residents. Such homes with six or fewer residents shall not be required to comply with the notification provisions of this section; provided that, prior to licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that no other community residential home is within a radius of 1,000 feet of the proposed home with six or fewer residents. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity.

(3)(a) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The sponsoring agency shall also provide to the local government the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.

(b) Pursuant to such review, the local government may:

1. Determine that the siting of the community residential home is in accordance with local zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.

2. Fail to respond within 60 days. If the local government fails to respond within such time, the sponsoring agency may establish the home at the site selected.

3. Deny the siting of the home.

(c) The local government shall not deny the siting of a community residential home unless the local government establishes that the siting of the home at the site selected:

1. Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.

2. Does not meet applicable licensing criteria established and determined by the licensing entity, including requirements that the home be located to assure the safe care and supervision of all clients in the home.

3. Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of

the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.

(4) Community residential homes, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential community are not subject to the proximity requirements of this section and may be contiguous to each other. A planned residential community must comply with the applicable local government's land development code and other local ordinances. A local government may not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.

(5) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

(6) If agreed to by both the local government and the sponsoring agency, a conflict may be resolved through informal mediation. The local government shall arrange for the services of an independent mediator or may utilize the dispute resolution process established by a regional planning council pursuant to s. 186.509. Mediation shall be concluded within 45 days of a request therefor. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

(7) The licensing entity shall not issue a license to a sponsoring agency for operation of a community residential home if the sponsoring agency does not notify the local government of its intention to establish a program, as required by subsection (3). A license issued without compliance with the provisions of this section shall be considered null and void, and continued operation of the home may be enjoined.

(8) A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.

(9) Nothing in this section shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate.

(10) Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(11) The siting of community residential homes in areas zoned for single family shall be governed by local zoning ordinances. Nothing in this section prohibits a local government from authorizing the development of community residential homes in areas zoned for single family.

(12) Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.

History.—s. 1, ch. 89-372; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 36, ch. 93-206; s. 6, ch. 95-152; s. 42, ch. 96-169; s. 222, ch. 97-101; s. 46, ch. 98-280; s. 14, ch. 98-338; s. 53, ch. 99-193; s. 23, ch. 99-284; s. 7, ch. 2000-135; s. 93, ch. 2004-267; s. 34, ch. 2006-86; s. 110, ch. 2006-120; s. 1, ch. 2006-177; s. 99, ch. 2007-5; s. 30, ch. 2008-245; s. 3, ch. 2010-193.

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Florida League of Cities

2013 & 2014 Legislative Action Agenda's

Sober Homes

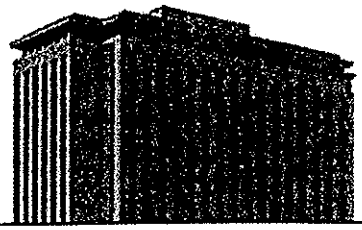
Proposed Policy:
The Florida League of Cities SUPPORTS legislation that defines and establishes statewide minimum regulatory standards for properties used for "sober home" purposes and allows for more stringent local regulation of such properties.

Background:
"Sober Homes" or "Halfway Houses" for individuals with drug and alcohol problems have been around for decades and provide needed transitional housing opportunities for people who are progressing through treatment for substance abuse problems. Several cities throughout the state have been experiencing increasing problems with sober homes. These homes are marketed as places where recovering addicts can come to "sober up" and be slowly phased back into society while getting treatment for their addiction. Lately however, cities have seen a proliferation of self-proclaimed "sober homes" that are run by unscrupulous landlords who are exploiting patients in order to make a profit. The *Tampa Bay Times* recently wrote a series of articles describing some of the problems these unregulated facilities are causing for both patients and non-patients alike in cities across the state.

The investigation into Sober Homes by *Tampa Bay Times* senior correspondent, Susan Taylor Martin, uncovered a multitude of problems. Without licensing requirements, state regulations or oversight setting minimum operating standards, many sober homes operate in the shadows and are often "fly-by-night" type facilities. The *Times* article reported that "....in some homes, residents are housed two to three to a room. This is a lucrative business if each person pays $500 per month, meaning a three-bedroom house with two residents per bedroom can bring in $3,000 per month. But residents don't get what they pay for."

With no regulation from government agencies, setting up a sober home is as easy as renting a house to a few residents who pledge to live in sobriety and attend support groups. The operators of these illegitimate sober homes often advertise on the Internet as offering treatment on-site or providing transportation to off-site treatment facilities. Once residents arrive, they find that no treatment is offered and there is very little oversight by the owners of the sober home. Instead, residents are free to do whatever they choose, which for many means to hit the streets to find drugs or alcohol (and in one Delray Beach home attached to a bar, they don't have to go too far). Law enforcement officials have seen increases in crime and homelessness in neighborhoods where these sober homes have located. Residents of these neighborhoods have reported an increase in burglaries, panhandling and even some instances where the sober home operators are openly using or selling drugs out of the sober home.

As a result of the lack of uniform state standards or regulations for "sober homes," there are some houses that are nothing more than a group of individuals living together abiding by self-imposed rules of sobriety, while other houses are operating just shy of administering treatment on-site and flying



Vacation Rentals

Proposed Policy:
The Florida League of Cities SUPPORTS legislation that repeals the state preemption of the regulation of vacation rental properties in order to allow local governments to regulate such properties to protect the health and welfare of their residents, visitors, and businesses.

Background:
In 2011, the Florida Legislature passed HB 883, which preempted local governments from regulating vacation rentals. Proponents of the bill claimed that city ordinances regulating vacation rentals were too restrictive, eroded private property rights and discouraged investment in the housing market. Cities throughout Florida had seen developers encroaching on residential neighborhoods with commercial development, replacing existing houses with very large houses meant only for renters. These large vacation rentals were essentially operating as hotels in residential neighborhoods. As a result of these buildings operating as hotels, cities across the state rightfully attempted to regulate them as such. They began regular inspections and imposing other regulations, such as parking or fire code standards. Hotels pay bed taxes and are zoned as commercial properties; vacation rentals are not. Cities mentioned that too little oversight could expose guests to dangerous situations, create unfair competition in the tourism industry, and rob the state and local governments of tax dollars.

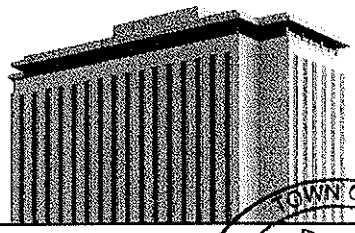
Late in the 2011 session, provisions were added to HB 883 that allowed cities with vacation rental ordinances in place by June 1, 2011 to retain those ordinances. While this "grandfather" provision helped, new problems have emerged with vacation rentals and many cities are reluctant to amend their ordinance out of fear of voiding their existing ordinance.

Current Status:
The Florida League of Cities testified in opposition to the preemption bill during the 2011 legislative session and argued that the legislation would make it impossible for cities to craft solutions to local problems associated with these properties. There have not been any bills filed to-date dealing with vacation rentals, but Senator John Thrasher and Representative Travis Hutson were recently quoted in a *Daytona Beach News Journal* article saying that they will be filing bills this year to remove the preemption from state law.

Contact: Casey Cook, ccook@flcities.com

Revised: 11/21/13

2013 LEGISLATIVE ACTION AGENDA



TOWN OF MALABAR
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FLORIDA

SOBER HOMES

Proposed Policy:

The Florida League of Cities **SUPPORTS** legislation that defines and establishes statewide minimum regulatory standards for properties used for "sober home" purposes and allows for more stringent local regulation of such properties.

Background:
"Sober Homes" or "Halfway Houses" for individuals with drug and alcohol problems have been around for decades and provide needed transitional housing opportunities for people who are progressing through treatment for substance abuse problems. Several cities throughout the state have been experiencing increasing problems with sober homes. These homes are marketed as places where recovering addicts can come to "sober up" and be slowly phased back into society while getting treatment for their addiction. Lately however, cities have seen a proliferation of self-proclaimed "sober homes" that are run by unscrupulous landlords who are exploiting patients in order to make a profit. The Tampa Bay Times recently wrote a series of articles describing some of the problems these unregulated facilities are causing for both patients and non-patients alike in cities across the state.

The investigation into Sober Houses by Tampa Bay Times senior correspondent, Susan Taylor Martin, uncovered a morass of problems. Without licensing requirements, state regulations, or oversight setting minimum operating standards, many sober houses operate in the shadows and are often "fly-by-night" type facilities. The Times article reported that " ....in some homes, residents are housed two to three to a room. This is a lucrative business if each person pays $500 per month, meaning a three-bedroom house with two residents per bedroom can bring in $3,000 per month. But residents don't get what they pay for."

With no regulation from government agencies, setting up a sober house is as easy as renting a house to a few residents who pledge to live in sobriety and attend support groups. The operators of these illegitimate sober houses often advertise on the internet as offering treatment on-site or providing transportation to off-site treatment facilities. Once residents arrive, they find that no treatment is offered and that there is very little oversight by the owners of the sober home. Instead, residents are free to do whatever they choose, which for many means to hit the streets to find drugs or alcohol (and in one Delray Beach home attached to a bar, they don't have to go too far). Law enforcement officials have seen increases in crime and homelessness in neighborhoods where these sober homes have located. Residents of these neighborhoods have reported an

increase in burglaries, panhandling, and even some instances where the sober house operators are openly using or selling drugs out of the sober house.

As a result of the lack of uniform state standards or regulations for "sober homes", there are some houses that are nothing more than a group of individuals living together abiding by self-imposed rules of sobriety while other houses are operating just shy of administering treatment on-site and flying under the radar of the Department of Children and Families (DCF) because they are not "formally affiliated with" a "Licensed Service Provider". (Those houses that are affiliated with a Licensed Service Provider are currently required to be licensed by DCF while homes not affiliated with a Licensed Service Provider are not required to be licensed by DCF). Therefore, the League will be supporting efforts to clearly define sober homes in statute and allow for the regulation of these facilities. Sober houses will continue to be a problem for cities and law enforcement in Florida until the Legislature decides to act and place minimum operating standards for these places into statute.

SB 738 (Clemens) and HB 1089 (Grant) were filed to address the sober home issue in 2013, but both bills died in committee. There was language inserted into SB 1500, the General Appropriations Act, requiring the Department of Children and Families (DCF) to study the possible licensure of sober homes in Florida. DCF held three public hearings over the summer and submitted a report to the President of the Senate, the Speaker of the House, and the Governor on October 1, 2013. The report listed what other states are doing in regards to sober home regulation or the lack thereof, but ultimately concluded that prior to making recommendations, further study of the issue was needed.

Status:
There have not been any bills filed to date dealing with sober homes, but League staff expects legislation to be filed on the issue in the coming months.

Contact: Casey Cook, ccook@flcities.com

Revised: 11/1/2013

Denine Sherear

From: Bonilyn Wilbanks
Sent: Wednesday, September 25, 2013 1:28 PM
To: Pat Reilly
Cc: Denine Sherear
Subject: Tonight's Meeting

Pat,
I had requested to come an speak with your Board regarding the Sober Homes and the need to have our verbiage in place controlling these types of homes. However, as I briefed Council under my report Leeanne and Dick came to the podium and spoke about it stating that the board is very aware of it. So not to waste your Board's time, I will not speak to it tonight. I am sitting on the League of Cities Policy Committee Urbanization Committee and as I receive updates on this matter I will forward it on to you. Thanks for considering my brief report.

Have a great day!

Bonilyn Wilbanks

Bonilyn Wilbanks
Town Administrator
Town of Malabar
2725 Malabar Road
Malabar, FL 32950
321.727.7764 ext. 13
www.townofmalabar.org

Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

Portion of RTCM Minutes 9/23/13

MISCELLANEOUS:

12. Dump Truck Purchase **(Added at beginning of meeting)**
Exhibit: Agenda Report No. 9
Recommendation: Request Approval

Tom had prior commitment since it is not a regular meeting night. TA thanked CM Abare and explained he gave website info to Tom and this vehicle has low mileage and will have a new bed. Question is to pay now with reserves and pay back Oct 1. We would be reducing the amount of budgeted money from the payment #2 of utility sale by this amount. Would not need a budget amendment, only an adjustment.

Consensus of Council to buy it in the fiscal year we budgeted it for. Wayne said do it on Oct 1.

J. **PRESENTATIONS:** Certificate of Completion to CM Abare Wayne sent a memo

K. **PROCLAMATIONS:**

L. **STAFF REPORTS:**

ADMINISTRATOR:

Wanted Council to know about complaint in case they get calls. Re: horses being abandoned at 3250 Weber Road. One died and wasn't buried at least 6 x 6 x 6. She passed it to Lt Cockreil of BCSO. This is a bogus complaint. Vet was just out there on Sept 6. Nothing wrong with horses.

She was assigned to Urban Dev Committee for the FLC Legislative Committee. Met on Friday in Jacksonville and goal in her group was to narrow down issues to two by end of day. Will be talking to P&Z about these sober homes. If you do not having something in your zoning. Something was sent out to members. She talked to Chair and will be on next agenda.

Marisa, would also like council to follow this. TA will keep them posted. Abare asked about who was funding. Federal funds but licensed through the State.

Dick Korn and Leeanne Saylors. This has come to P&Z. Couple of ladies wanted this on Waring Lane. She was told they are working on wording. PZ is working on this with the ALF. They are allowed up to 2 people and don't need license. We have to let them have up to two.

Marisa said they do this with elderly. This is a really slippery slope. Rental property is commercial operation. Wayne asked how to police it. Chair said it is up to P&Z to make recommendation. Marisa would also like Attorney's input on this. Attorney was not familiar with this sober house issue.

CLERK: Apologized for the delay in the council packet delivery. Came in Sat to paint new doors and checked email and noticed that emailed packets had been returned. Hopefully we won't have too many back to back meetings. Sept mtgs are always difficult because of the holiday and the public hearing requirements.

New doors installed in front. Casings were falling apart and could no longer lock the doors securely. Instead of putting in same doors, we had 36" doors so we don't have to take doors out to move furniture. Also the Dutch door was given to the Town. Cost for this was about $600.00 and was in budget under repair and maintenance.

Attended the FLC Policy Committee mtg on Taxation & Finance on Friday and goal is for each of the four committees to form two priorities to support in the next Legislative session. Our committee started with over 15 very worthy issues and narrowed it down to five. Next meeting set for Oct 18 in Orlando to reduce to 2. On top of the list is the CST and BTR and they remain #1. Also on the top five is the opposition to the proposal to have every agency change their finance reporting so our

Denine's Email to P&Z Board on 9/6/2013

Denine Sherear

From: Denine Sherear
Sent: Friday, September 06, 2013 4:42 PM
To: Bud Ryan; Dick Korn; Don Krieger; Grant Ball; Leeanne Saylors; Liz Ritter; Patrick Reilly- Vice Chair
Subject: FW:
Attachments: Appendix%201.pdf; Sober Home Draft Plan- DCF.docx

Dear Board Members,
I am forwarding you this email that Debby received, for your review if you want to address anything concerning this issue about " Sober Homes", as we discuss about the ALF's.

Thank you,
Denine

Denine M. Sherear
Admin Assist. to Building Official
Building Department- Permitting
2725 Malabar Road
Malabar , FL 32950
321-727-7764 x 14
321-727-9997 fax

Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

From: Town Clerk / Treasurer
Sent: Thursday, September 05, 2013 11:15 AM
To: Denine Sherear
Subject: FW:

Did you bring this issue up to your P&Z Board? The pdf contains survey responses from 97 fla cities and counties re: sober homes. The vast majority of them think there should be some level of licensing and/or registration of these facilities. They have become quite prolific in south fla. P&Z may want to address them while they discuss ALF regs.

From: FLC E-News Blast [mailto:subscriptions@flcities.com]
Sent: Thursday, September 05, 2013 10:13 AM
To: Town Clerk / Treasurer
Subject:

Good morning,

Several cities in Florida have seen an explosion of sober homes in their communities and as a result have seen both crime and homelessness increase. Following the 2013 legislative session, the Department of Children and Families (DCF) was charged with studying the possible licensure of these facilities and must offer recommendations to the Governor, the Speaker of the House, and the Senate President by October 1st, 2013.

Recovery Residence Report
Fiscal Year 2013-2014 General Appropriations Act

The Office of Substance Abuse and Mental Health

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Appendix 1. Public Comments

I. SUMMARY

II. INTRODUCTION

The 2013-2014 General Appropriations Act (GAA) directed the Department of Children and Families (Department) to develop a plan to determine whether sober homes should be licensed or registered:

> From the funds in Specific Appropriations 370 through 380, the department shall develop a plan to determine whether to establish a licensure/registration process relating to residential facilities that provide managed and peer-supported, alcohol-free and drug-free living environments for persons recovering from drug and alcohol addiction, commonly referred to as sober homes. This plan shall identify the number of sober homes operating in Florida, identified benefits and concerns in connection with the operation of sober homes, and the impact of sober homes on effective treatment of alcoholism and on sober house residents and surrounding neighborhoods. The department shall also examine the feasibility, cost, and consequences of licensing, regulating, registering, or certifying sober homes and their operators. The department shall consult with interested parties, including, but not limited to, the Florida Alcohol and Drug Abuse Association, local governments, stakeholders in the chemical abuse treatment community, and operators of sober houses. The plan shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2013.[1]

[1]Ch. 2013-040, L.O.F.

III. METHODOLOGY

Sober homes are also known as sober living homes, recovery residences, or alcohol and drug free housing. These terms are considered synonymous and used interchangeably.[2] For the purposes of this report, the Department has used the term recovery residence.

The Department held both public meetings to receive commentary, and established an online survey to collect public feedback. The Department also consulted with interested parties, including but not limited to, the Florida Alcohol and Drug Abuse Association (FADAA), Florida Association of Recovery Residences (FARR), the Florida League of Cities (FLC), the Florida Association of Counties (FAC), substance abuse treatment providers, local governments, owners and operators of recovery residences, and concerned citizens.

The Department posted the following questions on its website:[3]

- Should recovery residences be regulated?
- How many recovery residences operate in Florida? What is your methodology for arriving at this number?
- What would be the feasibility, cost and consequence of licensing, regulating, registering, or certifying recovery residences and their operators?
- If there were to be a regulating body, what is the appropriate level of government for it to operate at?
- What should be included in any regulatory framework for a recovery residence?
- Are there any other issues that need to be addressed?

Public comment is included in this report, both in summary and raw form. To protect the anonymity of the public, the Department recorded respondent's names by initials.[4]

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[2] When citing other sources, an attempt is made to use the terminology used by the original authors.

[3] *See,* www.myfloridafamilies.com

[4] However, in compliance with the Sunshine Law, the Department has the full name of people who provided it. This information will be made available as a result of a public records request.

IV. What is a Recovery Residence?

Researchers have proposed the following essential characteristics of a recovery residence:

- An alcohol and drug-free living environment for individuals attempting to establish or maintain abstinence.
- No treatment services offered on site, but attendance at self-help groups such as Alcoholics Anonymous and Narcotics Anonymous may be either mandated or strongly encouraged.
- Compliance with house rules.[5]
- Residents are responsible for paying rent and other costs.
- No limitations on length of stay as long as residents comply with house rules.[6]

These characteristics help distinguish recovery residences from other housing options. For example, unlike most halfway houses, which receive government funding and limit the length of stays, recovery residences are financially self-sustaining through rent and fees paid by residents and there is no limit on length of stay for those who abide by the rules.[7] Furthermore, unlike "wet housing" where residents are allowed to consume alcohol or other drugs and "damp housing" that discourages but does not exclude individuals for consuming, recovery residences are abstinence-based environments where consumption of alcohol or other drugs results in eviction.[8]

The Alcohol and Drug Abuse Division of Hawaii's Department of Health recommended the following definition in a recent Task Force report:

> [A] "Clean and sober home" means a dwelling that is designed to provide a stable, independent environment of alcohol and drug free living conditions to sustain recovery and that is shared by unrelated adult persons who are attempting to maintain a life of sobriety.[9]

The Massachusetts Department of Public Health's Bureau of Substance Abuse Services considered Alcohol and Drug Free Housing as a form of group housing that offers an alcohol and drug free living environment for individuals recovering from alcohol or substance use disorders and where, as a condition of occupancy, residents agree not to use alcohol or other substances.[10] More specifically, Alcohol and Drug Free Housing (ADF) refers to:

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[5] Such as maintaining abstinence, paying rent and other fees on time, participating in house chores and meetings.

[6] Polcin, D. L., Korcha, R. A., Bond, J., & Galloway, G. (2010). Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcomes. *Journal of Substance Abuse Treatment, 38*, 356-365; Polcin, D.L., Korcha, R.A., Bond, J., Galloway, G.P., & Lapp, W. (2010). Recovery from Addiction in Two Types of Sober Living Houses: 12-Month Outcomes. *Addiction Research and Theory, 18*(4), 442-455.

[7] Polcin, D.L., Korcha, R.A., Bond, J., Galloway, G.P., & Lapp, W. (2010). Recovery from Addiction in Two Types of Sober Living Houses: 12-Month Outcomes. *Addiction Research and Theory, 18*(4), 442-455; Polcin, D. L., Korcha, R., Bond, J., & Galloway, G. (2010). Eighteen-Month Outcomes for Clients Receiving Combined Outpatient Treatment and Sober Living Houses. *Journal of Substance Use, 15*(5), 352-366.

[8] Jason, L. A., Mericle, A. A., Polcin, D. L., & White, W. L. (in press, 2013). The Role of Recovery Residences in Promoting Long-term Addiction Recovery. *American Journal of Community Psychology*; National Association of Recovery Residences. (2012). A Primer on Recovery Residences: FAQs from the National Association of Recovery Residences. Retrieved from www.narronline.com/NARR_formation_website/Recovery%20Residence%20Primer%20-%20Long.pdf.

[9] State of Hawaii, Department of Health, Alcohol and Drug Abuse Division. (2012). *Relating to the Clean and Sober Homes and Halfway Houses Task Force*. Report to the Twenty-Seventh Legislature, State of Hawaii, 2013. Provided via email from Mardelle Gustilo, Hawaii State Department of Health, on June 24, 2013.

[10] Massachusetts Department of Public Health, Bureau of Substance Abuse Services. *Study Regarding Sober (Alcohol and Drug Free) Housing In Response to Chapter 283, Section 10, of the Acts of 2010*. Retrieved from www.mass.gov/eohhs/docs/dph/substance-abuse/adf-housing-study.rtf.

...the variety of group housing arrangements, however designated or legally structured, that provide an alcohol and drug free living environment for people in recovery from substance use disorders. ADF Housing is also referred to as sober housing, alcohol and substance free housing, clean-and-sober housing, alcohol-free or sober-living environments, three-quarter way houses, re-entry homes and other similar names. ADF Housing includes both transitional and permanent housing models which may be operated by a variety of entities, including state and federal government agencies, licensed mental health and addiction treatment agencies, for-profit and non-profit organizations, the occupants themselves, or private landlords.[11]

[11] *See*, www.mass.gov/eohhs/docs/dph/substance-abuse/adf-housing-study.rtf, site accessed August 18, 2013.

V. Number of Recovery Residences Operating in Florida

This inquiry was made through a variety of media, as an attempt to triangulate an estimate of the number of residences in Florida. Regional Department substance abuse and mental health staff, FARR, FLC, and the FAC were asked to identify the number of recovery residences operating in their respective areas. However, despite the requests made to external organizations, there has been no response that assists the Department identify the number of recovery residences at the time of writing.

Historically, to estimate the impact on the Department of proposed legislation, the following methodology has been deployed to provide an estimated range for the number of recovery residences operating in Florida. In 2011, it was estimated that there were around 400-500 such residences in Palm Beach County. This then applied to as a percentage of the population was then projected statewide, resulting in a range of 5,704 to 7,130 recovery residences.

VI. Survey of Legal Authority

To understand the array of legal authority, this section of the report will address the legal authority related to recovery residences by outlining federal and state authority, and reviewing the major trends in case law.

Federal Authority

There are two federal statutes that are particularly relevant to this discussion. The Fair Housing Act (FHA),[12] and the Americans with Disabilities Act (ADA).[13] Both of these statutes provide the federal government with enforcement mechanisms to challenge an action in relation to housing. In a private action, the plaintiff may bring suit for actual damages,[14] which include special damages,[15] and general damages for emotional pain and suffering attributable to the discriminatory practice.[16] Punitive damages may also be awarded.[17] Equitable remedies may also apply.[18] In addition to this, the court also has the discretion to award fees and costs.[19]

Specifically, the FHA prohibits discrimination on the basis of disability. In terms of the FHA, disability is defined to include people in recovery from substance use disorders.[20] Such protection does not extend to either a person who continues to abuse substances, or has been convicted of manufacture or distribution of a controlled substance. [21]

The most significant affirmative obligation of the FHA requires that a reasonable accommodation be made, when necessary to allow a person with a qualifying disability, equal opportunity to use and enjoy a dwelling.[22] There is an exception, for the health, safety and property of others, however, this does not override the reasonable accommodation obligation.[23]

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[12] The Fair Housing Act (FHA) was enacted by the Civil Rights Act of 1968, Pub. L. 90-284 (1968), amended by the Fair Housing Amendments Act of 1988, Pub. L. 100-430 (1988), codified at 42 U.S.C. s. 3601, *et. seq.*

[13] Title II of The Americans with Disabilities Act (ADA) prohibits the discrimination by public entities as it relates to housing on the basis of disability. The ADA was enacted by the Americans with Disabilities Act of 1990, Pub. L. 101-336 (1990), amended by the ADA Amendments Act of 2008, Pub. L. 110-325 (2008), codified at 42 U.S.C. s.12101, *et. seq.*

[14] 42 U.S.C. s. 3613(c).

[15] *See e.g., Douglas v. Metro Rental Services, Inc.,* 827 F. 2d 252 (7th Cir. 1987) (Court allowed recovery of expenses to find alternate residence); *Philips v. Hunter Trails Community Ass'n.*, 685 F. 2d 184, (7th Cir. 1982)(Court allowed recovery of moving expenses); *Moore v. Townsend,* 577 F. 2d 424, (7th Cir. 1978)(Court allowed recovery of temporary lodgings); *Steele v. Title Realty Co.*, 478 F. 2d 380 (10th Cir. 1973) (Court allowed recovery of telephone charges).

[16] *See e.g., Steele,* 478 F. 2d 380.

[17] *Supra,* note 14.

[18] *Id.*

[19] *Id.*

[20] The ADA defines disability as:

> (A) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
> (B) A record of such impairment; or
> (C) Being regarded as having such an impairment. *See,* 42 U.S.C. s. 3602(h).

The FHA defines disability in the same manner. *See,* 42 U.S.C. s. 12102(1). Federal courts have required a case by case inquiry as to disability. *See, Albertson's Inc. v. Kirkingburg,* 527 U.S. 555, (1999).

[21] Note, 28 C.F.R. s. 35.131, limits the extension of non-discriminatory practice to a person who may continue to use illicit substances. This does not include alcohol. A public entity is also permitted to test to verify this.

[22] 42 U.S.C. s. 3604(f)(3)(B). *See, Oxford House Inc., v. Township of Cherry Hill,* 799 F. Supp. 450, (D.N.J. 1992)(Court held that a reasonable accommodation means changing some rule that is generally applicable to everyone so as to make it less burdensome for a protected class).

[23] 42 U.S.C. s. 3604(f)(9).

The FHA provides a very broad basis for standing to bring suit if a person may be injured by a discriminatory housing practice.[24] Further, a third party may bring suit on behalf of a potential resident in a situation where said resident may be discriminated against.[25] It should be noted that the FHA does not require the exhaustion of alternative remedies prior to filing suit in federal court.[26] In addition to judicial action, an administrative complaint may be filed simultaneously with the United States Department of Housing and Urban Development (HUD).[27] HUD may refer cases to the United States Department of Justice(DOJ) to file suit in federal court.[28] The United States Attorney General may also bring an action in situations where a "pattern of discriminatory practice" may exist, and a private party whose interests have, or may be harmed, may petition to intervene.[29]

A violation of the FHA may also constitute a simultaneous violation of the ADA,[30] and the Rehabilitation Act.[31] The ADA also prohibits discrimination on the basis of a substantially limiting impairment.[32] Recovery from a substance use disorder has been considered such an impairment.[33]

Florida Authority

The Florida Fair Housing Act,[34] provides protection against discrimination on the basis of "handicap." However, the definition of handicap does not include recovery from a substance use disorder.

Authority from other States in the Union

At the time of writing, the Department identified Idaho, Illinois, Massachusetts, Oregon, and Tennessee as providing some sort of legal basis for the operation of a recovery residence, or an equivalent.[35] There

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[24] 42 U.S.C. s. 3602(i).

[25] *See e.g., Brandt v. Vill. of Chebanse, Ill.*, 82 F.3d 172, (7th Cir.1996); *Smith & Lee Assocs., Inc. v. City of Taylor, Mich.*, 102 F.3d 781 (6th Cir.1996). *But see, Kessler Institute for Rehabilitation, Inc. v. Mayor and Council of Borough of Essex Fells,* 876 F. Supp. 641, (D N.J. 1995)(Court held that a non-profit advocacy organization lacked standing to intervene).

[26] *See, e.g., Pulcinella v. Ridley Tp.*, 822 F. Supp. 204, (E.D. Pa. 1993); *Oxford House, Inc. v. City of Virginia Beach, Va.*, 825 F. Supp. 1251, (E.D. Va. 1993); *Oak Ridge Care Center, Inc. v. Racine County, Wis.*, 896 F. Supp. 867, (E.D. Wis. 1995); *Oliver v. Foster,* 524 F. Supp. 927 (S.D. Tex. 1981); *Concerned Tenants Ass'n of Indian Trails Apartments v. Indian Trails Apartments,* 496 F. Supp. 522 (N.D. Ill. 1980).

[27] 42 U.S.C. s. 3610.

[28] This may occur when HUD refers administrative actions to federal court, 42 U.S.C. s. 3612(a), (o); or in cases that involve challenges to zoning or land use regulations, 42 U.S.C. s. 3610(g).

[29] 42 U.S.C. s. 3614.

[30] In matters of housing discrimination, federal district courts often analyze an alleged violation of the ADA and the FHA as one. *Caron Foundation of Florida, Inc., v. City of Delray Beach*, 879 F. Supp. 2d 1353, (S.D. Fla. 2012) appeal dismissed, (11th Circ. Aug. 16, 2012).

[31] The Rehabilitation Act of 1973 was enacted by the U.S. Rehabilitation Act of 1973, Pub. L. 93-112 (1973), codified at 29 U.S.C. s. 701 *et. seq.*

[32] S. 933 (1990) provides the title of the ADA: " To establish a clear and comprehensive prohibition of discrimination on the basis of disability."

[33] *See*, 28 C.F.R. s.35.104(4)(1)(B)(ii).

[34] *See, ss.* 760.20-760.37, F.S.

[35] *See*, Idaho, IDAHO CODE ANN. 39-302 (11), (2013); Illinois, 20 ILL. COMP. STAT. 301/15-10(f) (2013); Massachusetts, MASS. GEN. LAWS ch. 111B, s. 6A, (2013); Oregon, OR. REV. STAT. s. 430.306(7), (2013); Tennessee, TENN. CODE ANN. S. 33-2-402(2), (2013).

have been a variety of legislative proposals across the Union to address the state involvement in relation to the operation of a recovery residence.[36]

An alternative vehicle used in Hawaii, Kansas and Oklahoma, is an explicit statutory prohibition on a local government implementing ordinances or zoning schemes that discriminate against community based housing for people in recovery.[37] Although varying in construction between each state, the general theme has been to define what a recovery residence is, and to statutorily include such as a residence as a single family dwelling.

Case Law

A cursory review of the website for the Civil Rights Division Housing and Civil Enforcement Section at DOJ demonstrates that the FHA and ADA are extensively litigated.[38] Not only does DOJ bring suit in federal court, it also provides amicus briefs in private suits.

For a housing rule, policy or practice to be challenged pursuant to the FHA,[39] federal courts have not required that it be facially discriminatory, but have allowed challenge on the basis of discriminatory intent, or that it has a disparate impact on people with disabilities.[40] Once a plaintiff has established a prima facie case of housing discrimination, federal courts shift the burden to the defendant to demonstrate a legitimate, nondiscriminatory reason, or that the action furthered a legitimate governmental interest, with no alternative.[41] The courts have, however, held that disability does not require a heighted level of scrutiny for governmental action, in the context of the FHA.[42]

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[36] *See e.g.,* State Rep. Hennessey and State Sen. Zeldin of New York proposed A06791 and S04697 in the 2013 Legislative Session, a measure which established regulations pertaining to sober living homes.

[37] *See,* Hawaii, HAW. REV. STAT. s. 46-4, (2013); Kansas, KAN. STAT. ANN. s. 12-736, (2013); Oklahoma, OKLA. STAT. tit. 43A-3, s. 417.1, (2013).

[38] *See,* http://www.justice.gov/crt/about/hce/caselist.php, site accessed August 17, 2013.

[39] Specifically, 42 U.S.C. s. 3604(f).

[40] *See e.g.,* in *Bangerter v. Orem City Corp.,* 46 F.3d 1491, (10th Cir. 1995) (Plaintiff need not prove malice or discriminatory animus of defendant to make a case of intentional discrimination where the defendant expressly treats someone protected by the statute in a different manner than others); *Thornton v. City of Allegan,* 863 F. Supp. 504, (W.D. Mich. 1993), (Not required that the plaintiff prove discriminatory intent, it is sufficient if the plaintiff proves only that the defendant's action had a discriminatory impact or effect); *Potomac Group Home Corp. v. Montgomery County, Md.,* 823 F. Supp. 1285, (D. Md. 1993) (Court held plaintiff may prevail by showing discriminatory intent or by showing discriminatory impact, and that to prove discriminatory intent, the plaintiff need only show that the handicap of a member of a protected group was in some part the basis of the policy being challenged). *But see, Jeffrey O. v. City of Boca Raton,* 511 F. Supp. 1339, 1352, (S.D. Fla. 2007)(Court held that the 11th Circuit had not adopted a standard to determine disparate impact, and did not find the city meet the justifications of *Bangerter,* 46 F.3d 1491).

[41] *See e.g., Tsombandis v. West Haven Fire Dept.,* 180 F. Supp. 2d 262 (D. Conn. 2001), order aff'd in part, rev'd in part on other grounds, 352 F.3d 565, (2d Cir. 2003)(Court held that governmental entity engages in discriminatory practice by refusing to make reasonable accommodations to action); *U.S. v. City of Taylor, MI.,* 13 F.3d 920, (6th Cir. 1993), reh'g and suggestion for reh'g en banc denied, (Mar. 11, 1994) and on remand to, 872 F. Supp. 423, (E.D. Mich. 1995), aff'd in part on other grounds, rev'd in part on other grounds, 102 F.3d 781, (6th Cir. 1996)(Court held it is not necessary for plaintiff to prove discriminatory intent motivated by animus); *Human Resource Research and Management Group, Inc. v. County of Suffolk,* 687 F. Supp. 2d 237 (E.D. N.Y. 2010) (Plaintiff can establish discrimination in the form of: (1) disparate treatment or intentional discrimination; (2) disparate impact of a law, practice, or policy on a covered group; or (3) by demonstrating that the defendant failed to make reasonable accommodation to afford people with disabilities an equal opportunity to live in a dwelling).

[42] *See e.g., Familystyle of St. Paul, Inc. v. City of St. Paul, Minn.,* 923 F.2d 91 (8th Cir. 1991), reh'g denied, (Feb. 15, 1991)(Court held that the relevant question is whether legislation is rationally related to legitimate government purpose); *Pulcinella,* 822 F. Supp. 204, (Court held that violation of FHAA would not amount to a Constitutional violation, because disability does not give rise to constitutionally protected class under the Equal Protection or Due Process clause of the Fourteenth Amendment). *But*

The FHA provides justifications for housing restrictions that federal courts have narrowly construed. A governmental entity may act on the basis of protecting the public health and safety of other individuals.[43] However, courts have observed that this justification may not be used as a guise to impose additional restrictions on protected classes under the FHA.[44] Additionally, a threat to the public health and safety, or another's property requires objective evidence that is sufficiently recent to be credible and not unsubstantiated inferences.[45] The action of a governmental entity may also be justified if the restriction is found to be beneficial or benign.[46]

Federal courts have held that the FHA was intended by Congress to have a broad reach for liability. This includes not only the actors directly involved in a real estate transaction, but also actors that affect the availability of housing.[47] It should also be noted that federal courts have held governmental officials personally liable for decisions that violate the FHA.[48]

In relation to housing for residents in recovery from substance abuse, or mental illness, federal courts have found that halfway houses, group homes, sober houses or other community housing arrangements

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see, Bangerter, 46 F. 3d 1491, (Court held that the inability to assert a right under the Fourteenth Amendment is not of concern, because the FHA provided a basis to determine the justification of a restriction on housing for the disabled).

[43] 42 U.S.C. s. 3604(f)(9).

[44] *See e.g., Bangerter,* 46 F.3d 1491. (Any requirements placed on housing for a protected class based on the protection of the class must be tailored to needs or abilities associated with particular kinds of disabilities, and must have a necessary correlation to the actual abilities of the persons upon whom they are imposed); *Association for Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth,* 876 F. Supp. 614, (D.N.J. 1994), (Court held state and local governments have the authority to protect safety and health, but that authority may be used to restrict the ability of protected classes to live in the community); *Pulcinella,* 822 F. Supp. 204 (Special conditions may not be imposed under the pretext of health and safety concerns).

[45] *Cason v. Rochester Housing Authority,* 748 F. Supp. 1002, (W.D.N.Y. 1990). *See, Oxford House-Evergreen v. City of Plainfield,* 769 F. Supp. 1329 (D.N.J. 1991)(Generalized assumptions, subjective fears and speculation are insufficient to prove direct threat to others). *But see, Roe v. Housing Authority of City of Boulder,* 909 F. Supp. 814, (D. Colo. 1995)(Court held that no reasonable accommodation could be made to house individual with mental illness, and eviction was justified); *Foster v. Tinnea,* 705 So. 2d 782 (La. Ct. App. 1st Cir. 1997) (Court upheld an eviction, on the basis of evidence showing that tenants' son posed a threat to others).

[46] *See e.g.,* Smith & Lee Associates, Inc. v. City of Taylor, Mich., 102 F.3d 781, (6th Cir. 1996), (Court held that unlawful discrimination often takes the form of special rules that are allegedly designed to benefit handicapped persons); *Horizon House Developmental Services, Inc. v. Township of Upper Southampton,* 804 F. Supp. 683 (E.D. Pa. 1992), judgment aff'd without discussion, 995 F.2d 217 (3d Cir. 1993)(Court held that the motives of the drafters of an ordinance which is facially discriminatory, whether benign or evil, are irrelevant to a determination of the lawfulness of the ordinance); *Familystyle of St. Paul, Inc,* 923 F.2d 91, (The court noted that spacing requirement served a valid and legitimate goal of the state and the city by addressing the need to provide services for the mentally disabled in mainstream community settings and by guaranteeing that facilities are located in the community); *Valley Housing LP v. City of Derby,* 802 F. Supp. 2d 359 (D. Conn. 2011) (Court held that claim of non-discriminatory zoning enforcement was a pretext for discrimination); *U.S. v. Borough of Audubon, N.J.,* 797 F. Supp. 353 (D.N.J. 1991), judgment aff'd without discussion, 968 F.2d 14(3d Cir. 1992), (Court held that a municipality applying restrictive zoning classification to preclude the establishment of a group home for recovering alcoholics and drug users cannot avoid a violation by arguing that its actions were merely a response to community sentiment). *But see, Oxford House-C v. City of St Louis,* 843 F. Supp. 1556, (E.D. Mo. 1994), judgment rev'd on other grounds, 77 F. 3d 249, (8th Cir. 1996), cert. denied, 117 S. Ct. 65, (U.S. 1996)(Court upheld legitimate government interest in decreasing congestion, traffic and noise in residential areas).

[47] *See e.g. Michigan Protection and Advocacy Service, Inc. v. Babin,* 18 F.3d 337, (6th Cir. 1994), *City of Peeskill v. Rehabilitation Support Services, Inc.,* 806 F. Supp. 1147, (S.D.N.Y. 1992)(Court held that city seeking to prevent the acquisition of a building to be used as transitional living violated FHA and state law).

[48] *See e.g. Samaritan Inns. V. District of Columbia,* 114 F. 3d. 1227, (D.C. Cir. 1997)(Court held that officials reversing decision based on public pressure were not entitled to qualified immunity). *But see, O'Neal by Boyd v. Alabama Dept. of Public Health,* 926 F. Supp. 1368, (M.D. Ala. 1993)(Court held that state officials are entitled to immunity when conduct does not violate established statutory or constitutional rights that a reasonable person would have known).

used as residences were dwellings, and as such protected by the FHA.[49] As a protected class, federal courts have held that conditions placed on housing for people in recovery from either state or sub-state entities, such as licenses or conditional use permits, may in application be overbroad and result in violations of the FHA and ADA.[50] Further to this, federal courts have enjoined state action that is predicated on discriminatory local government decisions.[51]

In Florida, the most recognized case is that of *Jeffrey O. v. City of Boca Raton.*[52] An ordinance promulgated by the City of Boca Raton, was held to be discriminatory to people in recovery for substance use disorders.[53] The court, found that the city had not demonstrated that there was no less discriminatory alternative means to further a legitimate government interest.[54]

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[49] *See, Connecticut Hosp. v. City of New London,* 129 F. Supp. 2d 123, (D. Conn. 2001).

[50] *See e.g., Oxford House-C,* 843 F. Supp. 1556, (Court held that city singled out plaintiffs for zoning enforcement and inspections, on the basis of disability, plaintiff demonstrated city was ignoring zoning violations from people without disabilities); *Marbrunak v. City of Stow, OH.,* 947 F. 2d 43, (6th Cir. 1992)(Court held conditional use permit requiring health and safety protections was an onerous burden); *U.S. v. City of Baltimore, MD,* 845 F. Supp. 2d. 640 (D. Md. 2012)(Court held that conditional ordinance was overbroad and discriminatory); *Children's Alliance v. City of Bellevue,* 950 F. Supp. 1491, (W.D. Wash. 1997)(Court held zoning scheme establishing classes of facilities was overbroad, and created an undue burden on a protected class); *Oxford House-Evergreen,* 769 F. Supp. 1329, (Court held that refusal to issue permit was based on opposition of neighbors, not on protection of health and safety as claimed); *Potomac Group Home, Inc.,* 823 F. Supp. 1285, (Court held that county requirement for evaluation of program offered at facility at public board. At review board, decisions were based on non-programmatic factors, such as neighbor concerns. Further to this, the court held that the requirement to notify neighboring property and enumerated civic organizations violated the FHA). *But see, U.S. v. Village of Palatine, Ill,* 37 F. 3d 1230, (7th Cir. 1994)(Court held village did not fail to make reasonable accommodation because plaintiff never applied for a special use permit); *Association for* Advancement, 876 F. Supp. 614, (Court dismissed argument that dispersal requirement protected governmental interest in preserving residential character of neighborhood); *Oxford House, Inc. v. City of Virginia Beach, Va.,* 825 F. Supp. 1251, (E.D. Va. 1993)(Court held that public appeal process to denial of permit was reasonable accommodation), *City of St. Joseph v. Preferred Family Healthcare, Inc.,* 859 S.W.2d 723, 2 A.D.D. 1335 (Mo. Ct. App. W.D. 1993), reh'g or transfer denied, (July 27, 1993) and transfer denied, (Sept. 28, 1993)(Court upheld ordinance limiting the number of unrelated people living together, emphasizing ordinance applied equally to all).

[51] *See e.g., Larkin v. State of Mich.* 883 F. Supp. 172, (E.D. Mich. 1994), judgment aff'd 89 F. 3 d 285, (6th Cir. 1996)(Court held there was no rational basis for denial of license on the basis of dispersal requirement, and local government's refusal to permit. The court did find, however, that the city was not a party to the law suit because the state statute did not mandate a variance); *Arc of New Jersey, Inc., v. State of N.J.* 950 F. Supp. 637, D.N.J. 1996)(Court held that municipal land use law, including conditional use, spacing and ceiling quotas violated FHA). *But see, Charter Tp. of Plymouth v. Department of Social Services,* 503 N.W. 2d 449 (Mich. 1993)(Court held statute did not violate FHA because it did not prohibit protected class from obtaining housing); *Familystyle of St. Paul, Inc.* 923 F. 2d 91, (Court upheld state and local action on the basis of deinstitutionalizing protected class). *But see, North Shore-Chicago Rehabilitation Inc. v. Village of Skokie,* 827 F. Supp. 497, (N.D. Ill. 1993)(Court held that municipalities could not rely on the absence of a state licensing scheme to deny an occupancy permit); *Easter Seal Soc. of New Jersey, Inc. v. Township of North Bergen,* 798 F. Supp. 228 (D.N.J. 1992)(Court held that city denial of permit on the basis of failure to obtain state license was due to the city's discriminatory enforcement of zoning enforcement); *Ardmore, Inc. v. City of Akron,* Ohio, 1990 WL 385236 (N.D. Ohio 1990)(Court held granted a preliminary injunction against the enforcement of an ordinance requiring conditional use permit, even though it was applied to everyone, because Congress intended to protect the rights of disabled individuals to obtain housing).

[52] 511 F. Supp. 3d 1339.

[53] Specifically the court found that the language singled out recovering individuals who would be residing in a substance abuse treatment facility. *Id* at 1349.

[54] The court held that the city had a legitimate interest in preservation of residential character, however, did not demonstrate that there was a less discriminatory definition of family. *Id* at 1353.

VII. Benefits and Concerns with Operation

To identify the benefits and concerns in connection with the operation of recovery residences, this section presents a research review and a summary of concerns and issues identified by members of the public.

Research Review

Researchers studied 132 men from 11 recovery residences in Illinois. Initial interviews were conducted with individuals who had been a resident for at least two weeks, but no more than six weeks. Only 48 participants provided data at a second follow-up interview six months later. These 48 individuals were asked to report on positive and negative experiences. The following results were obtained with regard to negative experiences:

- 31.3% experienced "personality conflicts."
- 22.9% experienced "lack of cooperation among members."
- 12.5% experienced a "cramped living space."
- 12.5% experienced "personal financial troubles."
- 10.4% experienced an "overly structured/authoritarian setting."
- 8.3% experienced an "unstructured and poorly governed setting."[55]

Researchers interviewed 64 individuals from randomly selected houses in northern Illinois that were in proximity to a recovery residence. Thirty-two of these individuals lived directly next to one, and 32 lived one block away.[56] They found that residents in 69% of houses next to recovery residence knew of the existence of it, versus only 9% of residents in houses that were a block away. Qualitative data was collected from the 25 residents who knew of its existence. When asked if they had any concerns about its location in their neighborhood, the following responses were obtained:

- 21 said no.[57]
- 4 said yes.[58]

When these 25 residents were asked if they could see any benefits to having the residence in their neighborhood, they provided the following responses:

- 17 responded yes.[59]
- 8 did not know of any benefits.[60]

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[55] Jason, L. A., Ferrari, J. R., Smith, B., Marsh, P., Dvorchak, P. A., Groessl, E. J., Pechota, M.E., Curtin, M., Bishop, P. D., Kot, E., & Bowdin, B. S. (1997). Explanatory Study of Male Recovering Substance Abusers Living in a Self-Help, Self-Governed Setting. *Journal of Mental Health Administration, 24*(3), 332–339.

[56] I.E., not on the immediate block.

[57] Neighbours commented, for example: "Guys are friendly."; "They just proved to be good neighbors."; "No trouble from them." Jason, L. A., Roberts, K., & Olson, B. D. (2005). Attitudes Toward Recovery Homes and Residents: Does Proximity Make a Difference? *Journal of Community Psychology, 33*(5), 529-535.

[58] Neighbours commented, for example: "Sometimes cars block my driveway, only when first opened, no problems now."; "Sometimes a lot of new faces."; "Louder, more people on street." *Id.*

[59] Neighbours commented, for example: "Good lookouts, watch everything."; "Upkeep of outside is good."; "No drugs, no parties going on."; "Take care of property well outside"; "My son plays basketball with guys out in their yard, keeps them out of trouble."; "Glad to see it's being done to rehabilitate women, especially who have children."; "They keep up the yard better than last owner." *Id.*

[60] *Id.*

Researchers physically inspected 11 recovery residences for women and 44 for men in 2002 in Virginia, Illinois, and Hawaii. An intoxicated or imparied person present was identified near[61] only 1.9% of houses and a drug dealer present was identified near only 3.8% of houses. The physical location of bars or pubs nearby occurred in about 30% of houses.[62]

In 2008, researchers contacted 90 recovery residence landlords and solicited their participation in a voluntary and anonymous survey.[63] Responses were received from 30 landlords, including 18 who rented solely to recovery residences and 12 who rented to both, and other tenants. All 30 indicated that residents paid rent on time and kept the property in good physical condition and that recovery residences appeared to be better maintained compared to others on their blocks.

Furthermore, 27 indicated that residents built positive relationships with neighbors and 29 reported that recovery residences had suitable furnishings and window coverings. Additionally, according to landlords who were renting to both recovery residences and other renters, excessive noise, rent payment, landlord-tenant communication, and pet problems were less of a problem with them compared to other renters.

Finally, 16 of the 30 participants responded to the following open-ended question - "do you have any other comments about renting to Oxford House residents?"

- 10 out of the 16 responses contained mostly positive comments;
- 4 were mostly negative comments; and
- 2 were neutral comments.

The most common negative themes mentioned wear and tear on the property and potential problems with the neighbours.[64]

According to the Massachusetts Department of Public Health's Bureau of Substance Abuse Services (BSAS):

> [The Bureau] is aware of the numerous complaints received regarding ADF Housing operators. These complaints have been lodged by residents of ADF Housing, neighbors and municipal officials. The nature of complaints range from nuisance complaints (noise) to more serious complaints regarding substandard housing conditions, alcohol and drug use on the property, and fatal and non-fatal overdoses of residents. Although BSAS has received frequent complaints about ADF Housing, the majority of complaints are in reference to only a few ADF homes relative to the number of homes that exist in the Commonwealth. In other words, there are many complaints about a few homes and no complaints about the vast majority of others.[65]

According to the American Planning Association:

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[61] Near was defined as within half a mile. *Id.*

[62] Ferrari, J. R., Jason, L. A., Blake, R., Davis, M. I., & Olson, B. D. (2006). "This is My Neighborhood": Comparing United States and Australian Oxford House Neighborhoods. *Journal of Prevention & Intervention in the Community, 31*(1/2), 41-49.

[63] Ferrari, J. R., Aase, D. M., Mueller, D. G., & Jason, L. A. (2009). Landlords of Self-Governed Recovery Homes: An Initial Exploration of Attitudes, Opinions, and Motivation to Serve Others. *Journal of Psychoactive Drugs, 41*(4), 349-354.

[64] Ferrari, J. R., Aase, D. M., Mueller, D. G., & Jason, L. A. (2009). Landlords of Self-Governed Recovery Homes: An Initial Exploration of Attitudes, Opinions, and Motivation to Serve Others. *Journal of Psychoactive Drugs, 41*(4), 349-354.

[65] *Supra*, note 11.

> Community residences have no effect on neighborhood safety. A handful of studies have also looked at whether community residences compromise neighborhood safety. The most thorough study, conducted for the State of Illinois, concluded that the residents of group homes are much less likely to commit a crime of any sort than the average resident of Illinois. Community residences do not generate adverse impacts on the surrounding community. Other studies have found that group homes and halfway houses for persons with disabilities do not generate undue amounts of traffic, noise, parking demand, or any other adverse impacts." [66]
>
> Community residences have no effect on the value of neighboring properties. More than 50 studies have examined their impact on property values probably more than for any other small land use. Although they use a variety of methodologies, all researchers have discovered that group homes and halfway houses do *not* affect property values of even the house next door. They have no effect on how long it takes to sell neighboring property, including the house next door. They have learned that community residences are often the best maintained properties on the block. And they have ascertained that community residences function so much like a conventional family that most neighbors within one to two blocks of the home don't even know there is a group home or halfway house nearby.[67]

Florida Public Comment

At public meetings, participants raised the following concerns:

- Residents being evicted with little or no notice.
- Drug testing might be a necessary part of compliance monitoring.
- Unscrupulous landlords, including an alleged sexual offender who was running a woman's program, and a recovery residence owned by a bar owner and attached to the bar.
- Residents dying in recovery residences.
- Lack of regulation and harm to neighborhoods
- Whether state agencies have the resources to enforce regulations and adequately regulate these homes.
- Land use problems, and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking.
- Mismanagement of resident moneys or medication.
- Treatment providers that will refer people to any recovery residence.
- Lack of security at recovery residences and abuse of residents.
- The need for background checks.
- The number of residents living in some recovery residences and the living conditions in these recovery residences.
- Activities going on in recovery residences that require adherence to medical standards and that treatment services may be provided to clients in recovery residences. This included acupuncture and urine tests.
- Houses being advertised as treatment facilities and marketed as the entry point for treatment rather than as a supportive service for individuals who are exiting treatment.
- The allegation that medical providers capable of ordering medical tests, and billing insurance companies were doing so unlawfully.

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[66] *See,* www.planning.org/policy/guides/pdf/communityresidences.pdf, site accessed August 18, 2013.
[67] *Id.*

- Alleged patient brokering, in violation of Florida Statute.[68]

Several concerns were also raised in written responses to the Department. According to stakeholders representing the city of Port St. Lucie, regulation or certification is needed to "ensure that operators of the facilities have the adequate training and experience to provide the services which are needed to assist in the recovery process." They also indicated that without regulation or certification "some of them will be nothing more than a boarding house facility."[69]

Similarly, according to stakeholders representing the city of Delray Beach, "we have seen far too many of these residents evicted at all hours, subjected to abusive behavior and worse." They indicate that recovery residences should be required to demonstrate "compliance with life safety standards for the residences and have background check requirements for the operators." They also raised the following concerns:

> The lack of state oversight and regulation has made sober house tenants the target of unscrupulous landlords who prey on tenants/residents by 'flipping' the same bed, insisting on several months' rent up front, and then evicting someone for rules violations, and re-renting the same room/bed. Some owners put "rule-breakers" out on the curb, with no alternative housing, which often leads to an increase in homelessness and crime. Even worse is that there have been situations where the operator is a newly recovered individual who begins using drugs/alcohol again and the whole house ends up in disarray. Further, some operators have criminal backgrounds as sexual offenders...In Delray Beach, we had a problem with women being sexually assaulted by the operator of the house that is supposed to be a safe haven. We also have a sober house attached, owned, and operated by the same owner as the adjacent bar...[I]n Delray Beach we have had people die in sober houses due to lack of state oversight or regulation...There seems to be a lot of insurance fraud occurring within these homes whereby they are charging obscene amounts of money for simple procedures such as urine tests. This is simply another way that the operators abuse their tenants/patients and use this vulnerable population to maximize profits.[70]

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[68] *See,* www.dcf.state.fl.us/programs/samh/docs/RRPublicMeetings2013/20130710RecoveryResidencePublicMeetingMinReco.pdf; www.dcf.state.fl.us/programs/samh/docs/RRPublicMeetings2013/20130626RecoveryResidencePublicMeetingMinutes.pdf; http://www.myflfamilies.com/service-programs/substance-abuse/recovery-response-2013, site accessed August 18, 2013.

[69] *See,* www.dcf.state.fl.us/programs/samh/docs/RRPublicMeetings2013/20130625PortStLucieResponse.pdf, site accessed August 18, 2013.

[70] *See,* www.dcf.state.fl.us/programs/samh/docs/RRPublicMeetings2013/20130621DelrayBeachResponse.pdf, site accessed August 18, 2013.

VIII. Impact of Recovery Residences

This section outlines the impact of recovery residences to the treatment of substance use disorders, and neighbourhoods.

Treatment

Several studies report alcohol consumption or the severity of alcohol addiction[71] as a separate outcome. Key findings are presented below and all of these studies are also discussed under a later section that identifies the beneficial impacts of recovery residences on house residents.

Jason, Davis, and Ferrari collected baseline data on 897 people from 169 Oxford Houses.[72] They also collected three subsequent waves of data at 4-month intervals. Only 607 participants from the initial measurement wave remained in the study at wave 4. Of this group, only 13.5% reported having used either drugs or alcohol at the final assessment. The average number of days they used alcohol was 3.7 and the number of days they used other drugs was 5.6. Self-efficacy for remaining abstinent from alcohol and other drugs and the percent of participants' social network members who were abstinent or in recovery increased significantly. Additional models controlling for a variety of factors found that length of residency in Oxford House was a significant predictor of abstinence and abstinence self-efficacy. Abstinence self-efficacy was a significant predictor of abstinence. Only 32.6% of the sample remained in an Oxford House throughout the entire study. The remainder left by waves 2, 3, or 4. Compared to participants who stayed in Oxford House across all four waves, individuals who left had higher rates of any substance use over the last 90 days at wave 4 (18.5% versus 3.1%, respectively). This means that 81.5% of those who left the house and were interviewed at the final wave remained consistently abstinent.[73]

Outcomes Across Wave 1 Through 4				
	Wave 1	Wave 2	Wave 3	Wave 4
% who used alcohol or other drugs	15.7	10.5	9.7	13.5
% who used alcohol	10.1	5.0	7.7	10.3
% who used other drugs	13.3	9.0	7.0	9.8
Days consumed alcohol	2.2	1.4	1.8	3.7**
Days used other drugs	5.5	3.7	2.3	5.6**
Days paid for work	42.0	49.8	50.5	48.4**
Employment income	794.0			941.9**
Total monthly income	981.8			1133.7**
Alcohol abstinence self-efficacy	80.7	80.4	79.3	84.6**
Drug abstinence self-efficacy	80.4	80.8	81.1	84.6**
% of social network abstinent/in recovery for	75.0	79.0	79.0	77.0**

[71] Note, the direction of proviso was to examine the impact of sober homes on alcoholism.
[72] Jason, L. A., Davis, M. I., & Ferrari, J. R. (2007). The Need for Substance Abuse Aftercare: Longitudinal Analysis of Oxford House. *Addictive Behaviors, 32*(4), 803-818.
[73] *Id.*

alcohol use				
% of social network abstinent/in recovery for drug use	90.%	94.0%	94.0%	93.0%**

** $p \leq 0.01$, two-tailed, based on repeated measures analyses

In an Illinois study, researchers noted:

> ...those in the Oxford Houses... had significantly lower substance use (31.3% vs 64.8%), significantly higher monthly income ($989.40 vs $440.00), and significantly lower incarceration rates (3% vs 9%). Oxford House participants, by month 24, earned roughly $550 more per month than participants in the usual-care group. In a single year, the income difference for the entire Oxford House sample corresponds to approximately $494,000 in additional production. In 2002, the state of Illinois spent an average of $23,812 per year to incarcerate each drug offender. The lower rate of incarceration among Oxford House versus usual-care participants at 24 months (3% vs 9%) corresponds to an annual saving of roughly $119,000 for Illinois. Together, the productivity and incarceration benefits yield an estimated $613,000 in savings per year, or an average of $8,173 per Oxford House member.[74]

Borkman, Kaskutas, Room, Bryan, and Barrows presented findings from two outcome studies that specifically included social model programs.[75] Both of these studies were published as government reports. One report examined 18-month follow-up data on 198 social model program clients in San Diego and found that clients who used only the recovery home were the most likely to be abstaining at follow-up. The other study looked at outcomes among 1,826 clients at social model and nonsocial model residential programs in California. At the 15-month post-treatment follow-up, program graduates from both models reduced the number and frequency of substances used. There was also a relationship between length of stay in social model programs and reductions in substance abuse. For social model program stays of less than 30 days, there was a 36% reduction in substance abuse. For longer stays, there was a 52% reduction in post-treatment substance abuse.[76]

A longitudinal analysis conducted with a national sample of recovering substance abusers living in Oxford Houses found that persons with psychiatric comorbid substance use disorders, compared to those who do not have co-occurring mental illnesses, are not at higher risk for relapse when they reside in self-help residential settings like Oxford House. Furthermore, residents with high psychiatric severity reported decreased psychiatric outpatient treatment utilization over the course of the study.[77]

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[74] Jason, L. A., Olson, B. D., Ferrari, J. R., & Lo Sasso, A. T. (2006). Communal Housing Settings Enhance Substance Abuse Recovery. *American Journal of Public Health, 96*(10), 1727-1729.

[75] Borkman, T. J., Kaskutas, L. A., Room, J., Bryan, K., & Barrows, D. (1998). An Historical and Developmental Analysis of Social Model Programs. *Journal of Substance Abuse Treatment, 15*(1), 7-17.

[76] *Id.*

[77] Majer, J. M., Jason, L. A., North, C. S., Ferrari, J. R., Porter, N. S., Olson, B., Davis, M., Aase, D., & Molloy, J. P. (2008). A Longitudinal Analysis of Psychiatric Severity upon Outcomes Among Substance Abusers Residing in Self-Help Settings. *American Journal of Community Psychology, 42*, 145-153.

Kaskutas, Ammon, and Weisner conducted a naturalistic, longitudinal comparison of outcomes for individuals in social model programs and clinical programs.[78] Researchers obtained 12-month follow-up data with 164 social model clients from two public detoxification programs and two public residential recovery homes and 558 clinical model clients from a mix of inpatient and outpatient programs. After controlling for demographics and baseline problem severity, social model program clients were less likely than clinical model clients to report alcohol and other drug problems at the 1-year follow-up. More specifically, 57% of social model clients reported no alcohol problems, compared to 49% of clinical model clients, and 59% of social model clients reported having no drug problems, compared to 51% of clinical model clients.[79]

Data from a randomized controlled study was used to conduct a cost–benefit analysis. Economic cost measures were derived from length of stay at an Oxford House residence, and derived from self-reported measures of inpatient and outpatient treatment utilization. Economic benefit measures were derived from self-reported information on monthly income, days participating in illegal activities, alcohol and drug use, and incarceration.[80]

> While treatment costs were roughly $3000 higher for the OH group, benefits differed substantially between groups. Relative to usual care, OH enrollees exhibited a mean net benefit of $29,022 per person. The result suggests that the additional costs associated with OH treatment, roughly $3000, are returned nearly tenfold in the form of reduced criminal activity, incarceration, and drug and alcohol use as well as increases in earning from employment... even under the most conservative assumption, we find a statistically significant and economically meaningful net benefit to Oxford House of $17,800 per enrollee over two years.[81]

California Studies

Polcin, Korcha, Bond, and Galloway have undertaken comprehensive studies in California, focusing on Sacramento and Berkley.

Berkley

Polcin et. al., reviewed 55 individuals entering four different sober living homes in Berkeley, California, operated by a specific provider.[82] These houses were different from free-standing sober living houses because all clients are required to attend outpatient treatment in order to be admitted. However, residents can remain at these houses after they complete treatment for as long as they want as long as they follow the house rules. All participants were interviewed during their first week of entering the houses between January 2004 and July 2006. They were interviewed again 6-months, 12-months, and 18-months, with follow-up rates of 86%, 76%, and 71%, respectively.

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[78] Kaskutas, L. A., Ammon, L., & Weisner, C. (2003-2004). A Naturalistic Comparison of Outcomes at Social and Clinical Model Substance Abuse Treatment Programs. *International Journal of Self Help and Self Care, 2*(2), 111-133.
[79] *Id.*
[80] Lo Sasso, A. T., Byro, E., Jason, L. A., Ferrari, J. R., & Olson, B. (2012). Benefits and Costs Associated with Mutual-Help Community-Based Recovery Homes: The Oxford House Model. *Evaluation and Program Planning, 35*(1), 47-53.
[81] *Id.*
[82] Polcin, D. L., Korcha, R., Bond, J., & Galloway, G. (2010). Eighteen-Month Outcomes for Clients Receiving Combined Outpatient Treatment and Sober Living Houses. *Journal of Substance Use, 15*(5), 352-366.

Polcin et. al., used generalized estimating equations models in order to include all participants in their analyses even if they missed follow-up interviews. In the year before entering the program, the most common substances residents were dependent on were cocaine, alcohol, cannabis, heroin, and amphetamines. Residents entered the homes with relatively low average Alcohol Severity Index[83] scores that were generally maintained at follow-up time points.[84] According to the researchers, it is important to note that residents were able to retain their improvements even after leaving the residence. Among the residents contacted for follow up interviews 71% had left the residence at 12 months and 86% had left at 18 months.[85]

Specifically, Polcin et. al., found:

- Residents at 6 months were 16.4 times more likely to report being abstinent.
- Residents at 12 months were 15.0 times more likely to report being abstinent.
- Residents at 18 months were 6.5 times more likely to report being abstinent.[86]

Sacramento County

Polcin, et. al., also studied 245 individuals entering 16 sober living homes in Sacramento County, California, operated by a specific provider.[87] Participants were recruited and interviewed during their first week of entering the houses between January 2004 and July 2006.[88]. Among the total sample of 245, 89% participated in at least one follow-up interview. Polcin et. al., used the same methodology as with the prior Berkley study. In the year before entering the program, the most common substances residents were dependent on were methamphetamine and alcohol. Residents entered the homes with low average ASI alcohol scores that showed significant improvement at 6 months and then were generally maintained at subsequent follow-up time points.[89]

There was a statistically significant decrease in the number of months they used drugs or alcohol, from about 3 out of the 6 months before entering the sober living houses to about 1.5 months on average. Even among the 78 individuals who relapsed, there was a significant reduction in the intensity of substance use. The number of days of substance use during the month of heaviest use decreased from an average of 23 days at baseline to 16 days at the 6-month follow up. Furthermore, there were significance improvements in the number of days worked, the percent arrested, and the severity of psychiatric symptoms.[90]

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[83] The Addiction Severity Index Lite (ASI) is a standardized, structured interview that assesses problem severity in six areas: medical, employment/ support, drug/alcohol, legal, family/social, and psychological. The ASI measures a 30-day period and provides composite scores between 0 and 1 for each problem area. *Id.*

[84] 0.07 (baseline), 0.06 (6 months), 0.5 (12 months), and 0.11 (18 months). The same pattern was observed for drug severity: 0.05 (baseline), 0.03 (6 months), 0.05 (12 months), and 0.11 (18 months). *Id.*

[85] *Id.*

[86] *Id.*

[87] Polcin, D. L., Korcha, R. A., Bond, J., & Galloway, G. (2010). Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcomes. *Journal of Substance Abuse Treatment, 38*, 356-365.

[88] They were interviewed again at 6-months, 12-months, and 18-months, with follow-up rates of 72%, 71%, and 73%, respectively. *Id.*

[89] 0.16 (baseline), 0.10 (6 months), 0.10 (12 months), and 0.10 (18 months). The same pattern was observed for drug severity: 0.08 (baseline), 0.05 (6 months), 0.06 (12 months), and 0.06 (18 months). *Id.*

[90] Polcin, D. L., & Hendersen, D. (2008). A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses. *Journal of Psychoactive Drugs, 40*(2), 153–159.

Surrounding Neighborhoods

The American Planning Association's Policy Guide on Community Residences reviewed more than 50 studies and concluded that community residences such as group homes and halfway houses do not have an effect on the value of neighboring properties. Reviews also note that community residences are often the best maintained homes on their block and that many neighbors were not even aware there was such a residence in the neighborhood. Other reviews have found no negative effects on neighborhood safety and that residents of group homes are much less likely to commit a crime of any sort than the average resident.[91]

Researchers reported that, knowledge of the existence of an Oxford House led to improved attitudes toward those in substance abuse recovery and self-run substance abuse recovery homes. They summarized the major findings as follows:

> The study's major finding was that residents who lived next to an Oxford House versus those who lived a block away had significantly more positive attitudes concerning the need to provide a supportive environment to those in recovery, the importance of allowing those in substance abuse recovery to live in residential neighborhoods, the need for recovery homes, and the willingness to have a self-run recovery home on their own block...Another important finding was that there were no significant perceived differences in housing prices for those next to and those a block away from the Oxford Houses. In addition, among those interviewees who knew of the existence of the self-run recovery home, the values of their houses had actually increased over a mean of 3 years. These findings suggest that the presence of the Oxford Houses did not lead to reduced values for houses in these communities.[92]

In 2005, researchers surveyed ndividuals at an annual Oxford House World Convention. About 84% of participants indicated that they thought living in the Oxford House increased their likelihood of involvement in their neighborhood. Respondents reported participating in the community about 10.6 hours per month on the following activities:

- 39% reported involvement in informing or advising agencies or local leaders
- 32% reported involvement in community anti-drug campaigns
- 32% reported working with youth
- 30% reported fundraising
- 30% reported attending community meetings
- 23% reported volunteering time with community organizations
- 21% reported attending public hearings and forums
- 16% reported speaking at political events [93]

In a mixed-methods study of Oxford House residents, Jason et al., found that the overwhelming majority of current and alumni members agreed that residents provide support and companionship for each other and that Oxford Houses provide motivation and increase member's sense of responsibility.[94]

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[91] *See,* www.narronline.com/NARR_formation_website/Recovery%20Residence%20Primer%20-%20Long.pdf site accessed August 18, 2013.

[92] Jason, L. A., Roberts, K., & Olson, B. D. (2005). Attitudes Toward Recovery Homes and Residents: Does Proximity Make a Difference? *Journal of Community Psychology, 33*(5), 529-535.

[93] Jason, L. A., Schober, D., & Olson, B. D. (2008). Community Involvement Among Residents of Second-Order Change Recovery Homes. *The Australian Community Psychologist, 20*(1), 73-83.

[94] *Supra,* note 61.

> Both alumni and current residents also reported a variety of formal and informal helping activities in their community outside of Oxford House. Both groups were also similarly likely to respond that they were involved in formal volunteer work in the community and also engaged in informal neighborhood helping such as cleanups... In the current study, alumni and current residents both tended to spend considerable time each week in neighborhood-helping activities, suggesting that these habits may form earlier in recovery and continue once residents move on to another location. Results from the current study also suggest that alumni and current residents are engaging in processes of change, such as helping relationships (via mutual-help involvement) and social liberation (via ongoing advocacy and community involvement) that are outlined in the transtheoretical model of change for addictive behaviors.[95]

Researchers compared crime rates, from 2005, within a 2-block radius of 42 Oxford Houses and 42 control houses within the city limits of Portland, Oregon. There were no significant differences between Oxford Houses and control houses with regard to the amount of any of the tested crimes - including assault, arson, burglary, larceny, robbery, homicide, and vehicle theft.[96]

Researchers conducted in-depth qualitative interviews with neighbors living near one of the Clean and Sober Transitional Living houses in Fair Oaks, California.[97] They found that:

> Many of the neighbors also had a limited understanding of SLHs. In some cases, they had no idea a SLH existed in the neighborhood; it seemed to them like any other house. For those who were aware that there was a SLH in their neighborhood, there was often a fairly vague notion of the population served and how the program operated. Without information, some neighbors expressed fears that the residents were mostly parolees or that they included sex offenders. They did not seem to be aware that a minority (about 25%) of residents was referred from the criminal justice system (i.e., jail or prison) and does not accept individuals convicted of sex offenses.[98]

Neighbors who expressed concerns lived in the vicinity of 6 houses that were densely located along a two-block area in one complex. Some complaints related to noise and parking. Furthermore, a few neighbors expressed fears about safety, the potential for an increase in crime, and declining values of houses in the neighborhood. However, when pressed by the interviewer, they had difficulty providing examples of these issues.[99]

Concerns about houses appeared to center mostly on issues such as the size and higher density of these houses in one area, as well as related concerns about noise and traffic. Only a few mentioned issues related to resident behavior, such as offensive language and leaving cigarette butts in the area. [100]

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[95] Jason, L. A., Aase, D. M., Mueller, D. G., & Ferrari, J. R. (2009). Current and Previous Residents of Self-Governed Recovery Homes: Characteristics of Long-Term Recovery. *Alcoholism Treatment Quarterly, 27*(4), 442-452.

[96] Deaner, J., Jason, L. A., Aase, D. M., & Mueller, D. G. (2009). The Relationship Between Neighborhood Criminal Behavior and Oxford Houses. *Therapeutic Communities, 30*(1), 89-94.

[97] From the criminal justice system, local government, housing services, and drug and alcohol treatment.

[98] Polcin, D.L., Henderson, D., Trocki, K., Evans, K., & Wittman, F. (2012) Community Context of Sober Living Houses. *Addiction Research &Theory, 20*(6), 490-491.

[99] *Id.*

[100] *Id.*

IX. What is the Appropriate Action?

This section discusses the feasibility, and consequence of action.

Feasibility of Action

Recommendations from Other States

Connecticut

A 2009 Connecticut Office of Legal Research Report found that:

> Sober houses do not provide treatment, just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation. And, because people with substance abuse disorders are covered by the Americans with Disabilities Act and the federal Fair Housing Act, state and local zoning and other requirements meant to regulate them are subject to challenge.[101]

Hawaii

A 2012 Hawaii Task Force report recommended "establishing a voluntary registry of homes."[102]

Massachusetts

A 2010 Task Force report found that:

> The FHAA limits the Commonwealth's and BSAS' authority to implement mandatory licensure, regulation, registration or certification requirements directed specifically at ADF Housing providers and residents. Federal courts have repeatedly rejected state and local efforts to regulate ADF Housing.[103]
>
> Based on these surveys it did not appear that the ADF Housing operators involved were providing any treatment services that required licensure by BSAS.[104]
>
> In sum, the FHAA imposes a significant complication to local or state governments seeking to impose licensure, regulatory, registration or certification requirements on ADF Housing. The Commonwealth and BSAS would need to prove with reliable evidence or studies that any proposed mandatory licensure, certification or registration requirement (1) benefits the residents of ADF Housing, or responds to legitimate safety concerns in the community, (2) is narrowly tailored, and (3) that a nondiscriminatory alternative means of achieving those goals is not available.[105]

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[101] *See,* http://www.cga.ct.gov/2009/rpt/2009-R-0316.htm, site accessed August 18, 2013.
[102] Email on file with Office of Substance Abuse and Mental Health Staff, June 24, 2013.
[103] *Supra*, note 11.
[104] *Id.*.
[105] *Id.*

Public Comments

- Stakeholders representing the city of Port St. Lucie stated that, "The Department of Children and Family Services (*sic*) is an appropriate agency to regulate and operate the licensure of recovery residences in the State of Florida. There are processes and procedures in place for the regulation of other similar uses of homes in residential neighborhoods and similar types of services being provided in the home setting environment. The fees for licensure and registrations could also be similar to fees currently being charged to residential homes."[106]
- Stakeholders representing the city of Delray Beach, stated that, "We agree that the State of Florida cannot regulate a relationship between individuals who have a common interest in being sober and therefore agreeing to live together and sharing rent. We also agree that people cannot and should not be discriminated against for doing so." They also stated that, "The cost of the license/registration fee should cover the cost of licensing/registering by DCF."[107]
- LL., expressed concern about whether state agencies have the resources to enforce regulations.
- JL., an owner and operator of a recovery home in Delray Beach, also expressed concern over the Department lacking the funds needed to adequately regulate these homes.[108]
- GJ., Director of Sober Living in Delray Beach and a member of the Florida Association of Recovery Residences (FARR), indicated that "big government isn't the answer; FARR is the answer," and that private industries can work together to solve problems as has been done in California.
- AB., an operator, stated that, "the government doesn't have the resources to regulate" and "the reality is that the Department of Children and Families gets their funding cut every year."
- RC., an operator aked "how the state is going to regulated with two people in the Department of Children and Families' regional Substance Abuse and Mental Health office."[109]

What are the Consequences?

In relation to the cost of action, FARR has observed:

> Most recovery residences (particularly levels 1 & 2) are self-funded through resident contribution, but recovery residences with higher levels of support, such as a range of clinical services, often receive other forms of federal, state, and private support. RRs are historically self-funded, eventually become self-sustainable, and utilize community of volunteers. Start-up costs are typically covered by the housing provider, an Angel Investor, or a nonprofit. As a part of their recovery process, residents are expected to work, pay rent, and support the house. In some cases, residents may not be able to fully cover operational costs, so housing providers offer short-term scholarship beds and utilize other financial resources in the community. No RR could financially survive without the use of volunteer staff and peer's cultivating the culture of recovery in homes. Start-up costs of RRs vary across the 4 Levels of Support. Lower Levels of Support, RR 1s and 2s, typically rent residential houses—a practice that avoids the capital cost of

[106] *Supra*, note 39.
[107] *Supra*, note 40.
[108] *Supra*, note 38.
[109] *Id.*

> purchasing a property. The cost of capital improvements and fully furnishing a household to accommodate on average 10 residents is the largest start-up cost. Marketing, maintenance, and utilities are the largest operational expenses for the lower Levels of Support, RR 1s and 2s. Higher Levels of Support, RR 3s and 4s, have higher staffing and administrative expenses as well as higher initial capital outlays. In general, RRs are NOT very profitable. By the time someone is ready to embrace recovery, they have often lost the financial means to afford to live in an RR at any price. Plus, occupancy rates can be inconsistent, and operational costs can be high. It may take several years for an RR to recoup start-up costs and achieve a positive cash flow. As a result, a single financial challenge, like defining housing rights, can easily cause an RR to close.[110]

In the Massachusetts study, with regard to the consequences of no action:

> It appears that complaints and concerns will continue to be handled through existing resources. BSAS has determined that all complaints about ADF homes fall into specific categories and have existing avenues for resolution. For example:
>
> - All nuisance complaints (such as noise), disruptive behavior of residents, and drug use complaints are typically handled by the local police;
> - Complaints regarding occupancy and substandard living conditions are typically handled by municipal Building and Fire Departments;
> - Complaints regarding unlicensed substance treatment programs are typically handled by the DPH, specifically BSAS;
> - Complaints regarding unfair housing practices, including eviction practices, are typically handled in housing court; and
> - Complaints regarding unscrupulous ADF Housing operators are typically handled through the Attorney General's Consumer Protection Division within the Consumer Protection and Advocacy Bureau.[111]

[110] *Supra,* note 61.
[111] *Supra,* note 73.

Fair Housing Act

"Sober Living Homes"

Fair Housing for Sober Living: How the Fair Housing Act Addresses Recovery Homes for Drug and Alcohol Addiction

Matthew M. Gorman,*
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MUNICIPALITIES AND COUNTIES across the country are familiar with the Fair Housing Act ("FHA") which, generally speaking, forbids discrimination in housing based upon disabilities. Because "disability" has been interpreted as including individuals recovering from drug or alcohol addiction, discriminatory housing practices involving recovering addicts is forbidden. "Sober living homes" function under the belief that housing addicts in an environment that fosters recovery, such as low crime, drug free, single family neighborhoods, is essential to the success of any addict's treatment. When community members and neighborhood residents object, raising public safety concerns, municipalities and counties must address how the FHA affects local government's authority to regulate alcohol and drug recovery facilities in residential neighborhoods. This article summarizes the legal characteristics of sober living homes and their relation with the FHA. In particular, this article illustrates how the FHA can be used by owners of sober living homes to lawfully operate a facility, by neighbors and concerned residents to control the growth of sober living homes, and by local governments to balance the interests of both groups.

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I. What is a Sober Living Home?

The facilities and operators of individual sober living homes vary greatly, but it is often argued that the location of the home in a single-family neighborhood is critical to fostering addiction recovery by avoiding the temptations other environments can create.[1] The organizational design of sober living facilities also differs, ranging from the private landlord renting his home to recovering addicts, to corporations operating several full-time treatment centers across the country and employing professional staff.[2]

Because of the vast diversity in location and structure, the sober living model can be easily abused by landlords seeking to maximize rents. Because nearly any single family home can become a "sober living home" by adopting that label, some single family homes house upwards of twenty or thirty individuals under the guise of "sober living"; in reality, they provide little in the way of actual treatment. This makes regulation of sober living homes by public agencies difficult, as they are forced to differentiate between legitimate homes and those abusing the system. Additionally, public agencies are forced to deal with public outrage often inspired by homes located in their communities. Complications are compounded by various state licensing provisions that regulate facilities providing care for the disabled or for those recovering from addiction.

II. How Does the FHA Apply to Sober Living Homes?

As amended in 1988, the FHA prohibits housing discrimination on the basis of "handicap," which is defined as: "(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."[3]

1. Oxford House v. Twp. of Cherry Hill, 799 F. Supp. 450, 453, 456 (D.N.J. 1992) (quoting testimony of Mr. Regan, Executive Director of the Governor's Council on Alcoholism and Drug Abuse for the State of New Jersey).

2. *See* Oxfordhouse.org, Self-Help for Sobriety Without Relapse, http://www.oxfordhouse.org/userfiles/file/oxford_house_history.php (last visited July 16, 2010) (among the most prevalent sober living homes is the Oxford House network. Each Oxford House facility is an independent organization, but the umbrella organization serves as a network connecting approximately 1,200 self-sustaining homes and serving 9,500 people at any one time).

3. 42 U.S.C. § 3602(h) (2009).

Congress enacted the Rehabilitation Act a few years prior to the FHA and clearly included "Individuals who have a record of drug use or addiction" in their definition of "disabled" under the Act.[4] Because Congress incorporated many terms of the Rehabilitation Act into the FHA, courts have included drug and alcohol addiction in their definition of "physical or mental impairment" under the FHA. For example, the Ninth Circuit has held that "[i]t is well established that individuals recovering from drug or alcohol addiction are handicapped under the [FHA] Act."[5]

A. *Establishing Alcohol or Drug Addiction As a Disability Under the FHA*

Demonstrating a disability under the FHA requires a plaintiff to "show: (1) a physical or mental impairment that substantially limits one or more major life activities; (2) a record of having such an impairment; or (3) that the plaintiffs are regarded as having such an impairment."[6] To be substantially limited, the impairment must prevent or severely restrict the person from activities that are centrally important to most people's lives, and it must be long term.[7] Current drug and alcohol use, judged at the time the alleged discrimination occurred, are specifically excluded from protection under the FHA.

B. *Nexus Between the Addiction Disability and Housing Need*

To qualify for FHA protection, in addition to establishing a disability, a *nexus* linking the treatment of the disability with the need for housing must be shown. In the context of sober living homes, this nexus exists when living at a particular location, for example in a single-family neighborhood, is a means of treating the alcohol or drug disability. Specifically, proponents of sober living homes allege that such environments foster sobriety and encourage trust and camaraderie between home residents. Courts have routinely agreed with this theory.[8] This broad application of the FHA opens the door to any a number of living arrangements. Essentially, FHA protections might extend anywhere a

4. *See Oxford House*, 799 F. Supp. at 459.
5. Corp. of the Episcopal Church in Utah v. W. Valley City, 119 F. Supp. 2d 1215, 1219 (D. Utah 2000).
6. Reg'l Econ. Cmty. Action Program v. City of Middletown, 294 F.3d 35, 46 (2d Cir. 2001).
7. *See id.* at 47.
8. *Id.*

sober environment is provided or where support for addiction recovery is encouraged.

C. *What Locations May Qualify as Sober Living Homes Protected by the FHA?*

Despite the broad application of FHA protections, there are some limitations to the Act. First, the FHA only applies to "dwellings," which includes "any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families."[9] This definition is important because while "dwellings" are protected, "shelters" and other temporary housing are not. Thus, because of the short-term care provided at sober living facilities and the high turnover rate at the facilities, facilities resembling "shelters" rather than "dwellings" are not protected.

There are two factors for determining whether a facility constitutes a "dwelling": (1) whether the facility is intended or designed for occupants intending to remain for a significant period; and (2) whether the occupants of the facility view it as a place to return.[10] Courts typically define a "significant period of time" as longer than a typical hotel stay, but it can possibly be as short as two weeks.[11] Courts also analyze the extent to which the occupants treat the facility as their home, and whether they perform tasks such as cooking, cleaning, and laundry at the site. Accordingly, while boarding homes, halfway houses, flop houses, and similar locations have been found to be "dwellings" under the FHA,[12] homeless shelters and other similar locations are not protected.[13]

III. How Does the FHA apply to a Sober Living Home?

FHA violations are established either (1) by showing *disparate impact* based upon a practice or policy; or (2) by "showing that the defendant failed to make *reasonable accommodation* in rules, policies, or practices so as to afford people with disabilities an equal opportunity to live in a dwelling."[14]

9. 42 U.S.C. § 3602(b) (2009).
10. *See* Lakeside Resort Enters., LP v. Bd. of Supervisors, 455 F.3d 154, 158 (3d Cir. 2006).
11. *See id.* at 159.
12. *See* Schwarz v. City of Treasure Island, 544 F.3d 1201, 1214 (11th Cir. 2008).
13. *See* Johnson v. Dixon, 786 F. Supp. 1, 4 (D.D.C. 1991).
14. Corp. of the Episcopal Church in Utah v. W. Valley City, 119 F. Supp. 2d 1215, 1219 (D. Utah 2000) (emphasis added).

A. *Disparate Impact*

To establish a disparate impact a plaintiff must demonstrate that the challenged practice or policy actually or predictably resulted in discrimination.[15] If this is established, the burden shifts to the defendant (the municipality denying a permit for a sober living home) to prove its actions further a legitimate government interest with no alternative, less discriminatory means to serve that purpose.[16] Additionally, a more substantial government justification is required to deny plaintiffs requesting mere removal of an obstacle to housing, as opposed to some affirmative action.[17] Sober living homes often have difficulty proving a disparate impact in areas zoned to exclude other group living arrangements such as fraternity or sorority houses.[18] To prevail, the sober living home would have to prove the exclusion disparately impacts substance abusers more so than those living under different group arrangements.[19]

Regardless of this barrier, evidence of discriminatory intent makes proving a disparate impact substantially easier. Records of council meetings containing discriminatory statements against alcoholics have been found to be sufficient evidence of intent to discriminate.[20] In such situations, courts are quick to find in favor of sober living homes asserting disparate impact claims.[21]

B. *Reasonable Accommodation*

The FHA also requires "reasonable accommodation in rules, policies, practices, or services, when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling."[22] An accommodation is reasonable if it does not cause undue hardship, fiscal, or administrative burdens on the municipality, or does not undermine the basic purpose a zoning ordinance seeks to achieve.[23] A three-part test is applied to determine whether a reasonable accommodation is necessary: (1) the accommodation must be

15. Oxford House, Inc. v. Town of Babylon, 819 F. Supp. 1179, 1182 (E.D.N.Y. 1993).
16. *Id.*
17. *Id.* at 1185.
18. *See id.*
19. *Corp. of the Episcopal Church in Utah*, 119 F. Supp. 2d at 1215, 1220.
20. *Town of Babylon*, 819 F. Supp. at 1179, 1181.
21. *Id.*
22. *Id.* at 1185 (citing 42 U.S.C. § 3604(f)(3)(B)).
23. Oxford House, Inc. v. Twp. of Cherry Hill, 799 F. Supp. 450, 463-66 (D.N.J. 1992).

reasonable and (2) necessary, and must, (3) allow a substance abuser equal opportunity to use and enjoy a particular dwelling.[24] Courts also consider the governmental purposes of the existing ordinance or action, and the benefits or accommodation to the handicapped individual.[25] Under this scheme, municipalities must change, waive, or make exceptions in their zoning rules to afford people with disabilities the same access to housing as those who are without disabilities.[26] However, fundamental or substantial modifications to municipal or zoning codes are not required.[27]

C. *Standing and Exhaustion of Remedies*

The first hurdle plaintiffs must establish when challenging an ordinance or decision by a government body is whether the plaintiff has *standing*. Any "aggrieved person"—one who has been injured by a discriminatory housing practice—may bring suit to seek relief for a discriminatory housing practice.[28] An organization can also bring a suit under the FHA when its purpose is frustrated and when it expends resources because of a discriminatory action.[29] For example, if a discriminatory practice has injured an organization's outreach program, the organization would have standing to sue on its own behalf.[30] Additionally, traditional organization standing exists to allow suits on behalf of organization members.[31]

In addition, there is another barrier to asserting claims under the FHA. "Plaintiffs must first provide the governmental entity an opportunity to accommodate them through the entity's established procedures used to adjust the neutral policy in question."[32] However, a plaintiff is not required to appeal a decision through the local body appellate processes, and may bring suit when accommodation is first denied.[33]

24. *Corporation of Episcopal Church in Utah*, 119 F. Supp. 2d at 1221.
25. *Id.*
26. *Town of Babylon*, 819 F. Supp. at 1186; Horizon House Developmental Serv. Inc., v. Twp. of Upper Southampton, 804 F. Supp. 683, 699 (E.D. Pa. 1992).
27. Sanghvi v. City of Claremont, 328 F.3d 532 (9th Cir. 2003) (ruling that the plaintiffs presented no evidence from which the jury could conclude that the requested accommodation was required for Alzheimer's patients); *see also* City of Edmonds v. Wash. State Bldg. Code Council, 18 F.3d 802, 806 (9th Cir. 1994).
28. CAL. GOV'T. CODE § 12989.1 (West 2010).
29. Fair Hous. of Marin v. Combs, 285 F.3d 899, 903 (9th Cir. 2002).
30. *Id.* at 905.
31. Smith v. Pacific Props. & Dev. Corp., 358 F.3d 1097, 1101 (9th Cir. 2004).
32. Tsombanidis v. W. Haven Fire Dept., 352 F.3d 565, 578 (2d Cir. 2003).
33. Bryant Woods Inn v. Howard County, 124 F.3d 597, 601-02 (4th Cir. 1997).

IV. Pitfalls and Possibilities in Regulating Sober Living Sites

The interests of individuals recovering from addiction and the interests of community residents seeking to preserve the "family-friendly" character of their neighborhoods are pitted against each other in any FHA case. Faced with these competing interests, local jurisdictions must use discretion in making decisions to regulate sober living homes so as not to violate FHA restrictions. The first challenge facing local agencies seeking to regulate sober living homes is the lack of a standard land use definition for such facilities. Local agencies must categorize the facilities within existing land use definitions such as "boarding houses," "rooming houses," or other types of "group living facilities." These land uses often require conditional use permits or other discretionary approval from the city or county. However, zoning restrictions of this type are subject to limitations.[34] Municipalities faced with a problematic sober living home may, depending upon the zoning restriction in place, classify the facility as an unpermitted zoning house, assert the facility is an unlawful multi-family use, or claim the facility operates a "business" akin to a hotel or hostel that is prohibited in residential zones. Another option is to attempt to use local or state building and housing codes, or other codes associated with land use laws and regulations to restrict the facility's operation.

In response to such local government action, sober living facilities may assert disparate impact or reasonable accommodation claims, or both, under the FHA.[35] The success of these claims, however, may be affected by specific exemptions contained in the FHA. For example, local, state, and federal restrictions regarding the maximum number of occupants permitted in a dwelling are specifically exempted under the FHA.[36] The occupancy limits considered reasonable are often determined by building inspectors or health and safety inspectors.[37] An additional exemption in the FHA allows housing developments for older persons ("HOP") and discrimination based upon family status.[38] If the

34. Turning Point, Inc., v. City of Caldwell, 74 F.3d 941 (9th Cir. 1996).

35. Oxford House, Inc. v. Twp. of Cherry Hill, 799 F. Supp. 450, 450 (D.N.J. 1992).

36. 42 U.S.C. § 3607(b)(1) (2009).

37. *Turning Point, Inc.*, 74 F.3d at 941.

38. Gibson v. County of Riverside, 181 F. Supp. 2d 1057, 1072 (C.D. Cal. 2002) (holding county did not qualify for 55-or-over HOP exception and therefore its actions in enacting ordinance imposing age restrictions on persons occupying dwelling units in certain areas violated the FHA prohibition on familial-status based discrimination).

housing development meets the qualifications of an HOP established by Congress, ordinances discriminating based upon age are valid.[39]

Exemptions under the FHA do allow cities some leeway in enforcing zoning and planning schemes. However, because exemptions are exceptions to the general rule prohibiting discrimination, the exceptions are construed narrowly.[40]

V. Unanswered Questions

While cases have done much to flesh out the application of the FHA in the context of sober living regulation, much remains unanswered. For example, while cities and counties may seek to strictly apply the FHA in order to limit the establishment of sober living facilities, courts have not addressed whether doing so violates those agencies' housing requirements, including obligations to maintain adequate affordable housing and to meet regional housing needs allocations.[41]

Perhaps more importantly, no cases have addressed whether the FHA applies to "specialized" residential sites, such as locations which exclusively house parolees or probationers, locations which house sex offenders, or locations commonly known as "reentry facilities," which serve as transitional housing for those recently released from prison who are seeking to transition into "normal" life. Such facilities have increased over the past several years, and may increase dramatically in the near future, given the government plans to reduce prison overcrowding[42] and federal court-ordered reductions in prison populations. Additionally, the downturn in the economy may also cause a dramatic increase in the number of facilities. Because sober living homes provide a "safe haven" for such individuals, a rise in sober living facilities can be expected.

39. *Id.* at 1075-76.

40. City of Edmonds v. Oxford House, Inc., 514 U.S. 725, 731 (1995) (exception to "a general statement of policy" is sensibly read "narrowly in order to preserve the primary operation of the [policy]").

41. CAL. GOV'T. CODE §§ 65580, 65913 (West 2010).

42. *See, e.g.*, American Legislative Exchange Council, A Plan to Reduce Prison Overcrowding and Violent Crime (July 2007), http://www.alec.org/am/pdf/ALEC-state-factor-bail.pdf.

Town of Lake Clarke Shores Information On "Sober Homes"

AddThis

More on "Sober Houses"

There has been a lot of discussion recently about sober houses and, a reluctance to have them part of our community.

As I have mentioned in prior Council meetings, every one of us, is entitled to equal protection under the law as it applies to all of our rights as afforded to us by the United States and our Florida Constitution

If you recall, there was a concern as to how many sober houses were in a particular municipality. The Florida League of Cities sent an inquiry to the municipalities wanting to know how many sober houses were located within their city. One of the most poignant response came from one municipal leader in suggesting "" How are we supposed to know,? It is against the law to ask !.""

Attached below are some Q&A's as it applies to sober houses. It has been compiled by TERRILL PYBURN..esq.....

I found this to be an excellent source of information and education.

Should any of you have any questions comments or suggestions with regard to this issue I'm always available to discuss these issues and any other issues you may have.

I am a firm believer that we must possess as much information as we possibly can so that we can make an informed decision

Respectfully; Vice Mayor Robert M W Shalhoub

FAQS
Sober Houses/Recovery Residences

I What is a "Sober House"?

A Sober House is a group home for persons in recovery from drug/alcohol abuse. It is intended to be the last step in the continuum of substance abuse/addiction treatment. No treatment should take place at the house

II Can a "Sober House" be located in a Residential Neighborhood/Zoning District?

Yes. Pursuant to Federal law, a "Sober House" can be located in a Residential Neighborhood/Residential Zoning District (including Single Family) as per below.

A Federal Laws.

1 Fair Housing Amendments Act (FHAA)

Under the Fair Housing Amendments Act, the term "handicap" means, with respect to a person, a "physical or mental impairment which substantially limits one or more of such person's major life activities, a record of such an impairment, or being regarded as having such an impairment." 42 U S C Section 3602(h). The term "physical or mental impairment" includes "alcoholism" and "drug addiction" (other than addiction caused by current, illegal use of a controlled substance). 24 C F R. Section 100.201.

Under the Fair Housing Amendments Act, it is unlawful to discriminate against or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of that buyer, renter, or person residing in or intending to reside in that dwelling after it is sold, rented, or made available. 42 U S C Section 3604(f)(1).

Recent Blog Posts

Semi-Annual Crime Report STATS Released

Posted by Chief Wes Smith III on Nov 21, 2013

2. Americans with Disabilities Amendments Act (ADAA)

Under the Americans with Disabilities Amendments Act, the term "disability" means, a physical or mental impairment which substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment. See 42 U.S.C. § 12102(2); 29 U.S.C. § 705(20).

An individual is considered disabled if he/she: 1) suffers from a physical or mental impairment that 2) affects a major life activity, and 3) the effect is "substantial". See Bragdon v. Abbot, 524 U.S. 624, 631, 118 S.Ct. 2196, 141 L.Ed. 2d 540 (1998)

Alcoholism and drug addiction are considered "impairments" under the definitions of a disability set forth in the ADA. See, Buckley v. Consol. Edison Co., 155 F.3d 150, 154 (2d Cir. 1998) (en banc) (recovering drug addicts may be considered to have a "disability" under the ADA).

The Americans with Disabilities Amendments Act requires that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination of any such entity. 42 U.S.C. Section 12132.

The federal regulations implementing the Americans with Disabilities Amendments Act prohibits a public entity from discriminating against a qualified individual with a disability in administering a licensing program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees that subject qualified individuals with disabilities to discrimination on the basis of disability. 35 C.F.R. 35.130(6).

The federal regulations also make it unlawful for a public entity to determine site or location of a facility in a manner that has the purpose or effect of excluding individuals with disabilities or denying them the benefit of public services or otherwise subjecting them to discrimination. 35 C.F.R. 35.130(4)(i)

B. Florida State Laws

Sober Houses are not required to be licensed under state law, however, the Florida Administrative Code Provisions define the "Community Housing" component of Day or Night Treatment with Community Housing as well as the "Residential Treatment" component of Licensed Service Providers in a way that is very similar to what we refer to as Sober Houses. See. Rules 65D-30.004, 65D-30.007, and 65D-30.0091 F.A.C. and these entities are required to be licensed. § 397.311(18)(a)(3) and (9) and § 397.403, Fla. Stat.

C. Case Law

In the case of Jeffrey O. v. City of Boca Raton, 511 F.Supp.2d 1339 (S.D. Fla. 2007), the United States District Court for the Southern District of Florida found for the Plaintiff, Jeffrey O. et al., a group of recovering alcoholics and drug addicts and stated as follows: "the City did not present sufficient evidence to justify the Ordinance based on legitimate public safety concerns or to demonstrate that the restriction imposed benefited the recovering individuals." Further, the Court held that the City of Boca Raton's Ordinances were discriminatory because they did not allow handicapped individuals (in recovery from drug and alcohol abuse) the opportunity to live in residential districts, thereby treating them differently than everyone else and they provided no procedure for them to request an accommodation from the maximum number of unrelated individuals allowed to live in a residential dwelling, thereby resulting in a disparate impact for a group of handicapped individuals for which, according to the Court, "evidence has shown that recovering individuals need a group living, substance free environment in order for their treatment to be effective". Ultimately, Boca Raton only had to pay $1 in damages, but they were responsible for attorneys' fees in the amount of over $1,000,000.

III. Can people have group meetings at a "Sober House"?

Access Via the C-51 Canal is a Priority for the New Year!

Posted by Valantin Rodriguez, Jr. on Nov 15, 2013

Yes. Group meetings such as Alcoholics Anonymous/Narcotics Anonymous can be held at a "Sober House" the same way that you can have a Book Club/Bible Study/Cub Scout meeting at your house

IV. What regulations can local government impose on "Sober Houses"?

None. That being said, local governments can still apply occupancy limitations such as dwelling unit size limitations/number of unrelated people limitations and local landlord permit requirements, provided that these regulations are in place already and apply to all residences/rentals across the board, regardless of the status of the occupants.

V. Can we limit turnover of occupancy in residential zoning districts? Yes and No

a. If your local government had a regulation on the books prior to June 1, 2011, you can continue to enforce it to limit the turnover of occupancy, provided it is applied equally to all, regardless of the status of the occupants.

b. If your local government did not have such a regulation on the books prior to June 1, 2011, then you may be preempted from creating one now due to a change in the Transient Public Lodging Establishment statute that occurred at that time and pre-empted regulation of short term rentals to the state. § 509.013, Fla. Stat.

IV. Do folks who operate/own a "Sober House" have to have any training or certifications? No

VII. Do folks who operate/own a "Sober House" have to have background checks? No.

VIII. Do folks who operate/own a "Sober House" have any licensing/registration requirements? No.

IX. Are folks who operate/own a "Sober House" accountable to any regulatory agency? No

X. What can local government do to address citizen complaints about "Sober Houses?"

Talk to their legislators at the state and federal level (unless there is current, illegal drug use/sales/possession occurring on site, in which case, please contact local police).

XI. I have heard that the "Sober Houses" in my jurisdiction are committing insurance fraud by submitting residents for drug testing and the labs are charging upwards of $2,000+. what can I do?

Report it to the Department of Financial Services, Insurance Fraud Division, #850-413-3115. This is illegal per § 817.234, Fla. Stat.

XII. I have heard that the "Sober Houses" in my jurisdiction are committing patient brokering by dealing with treatment providers and accepting health insurance as payment for rent/getting their tenants high and then shipping them back to treatment so the "Sober House" operator can collect a kickback from the patient referral. What can I do?

Report it to your local law enforcement agency (Police Department, Sheriff's Office, Criminal Justice Commission). This is illegal per § 817.505, Fla. Stat. "Patient Brokering Prohibited".

XIII. What is the proposed legislation proposing to do?

A. Define "Sober Houses". Currently there is no definition in the statutes (state or federal).

B. Provide for registration of each "Sober House" with the Department of Children & Families (DCF currently regulates all other Substance Abuse Treatment Components).

C. Provide a requirement for background checks of owners/operators of "Sober Houses"

D. Provide penalties for failure to register.

E. Provide that advertisements for "Sober Houses" must include the registration number in order to help with enforcement of the registration requirement.

Manager's Report for the November 12, 2013 Council Meeting

Posted by Daniel Clark on Nov 8, 2013

F. Provide that inspections may take place by DCF

Q's: Why are we asking the state to regulate "Sober Houses"?

A. To provide for a consistent standard of operation to be applied consistently throughout the state

B. To help end abuses that are occurring in some of the homes (i.e. Houses for Women operated by a registered sexual offender, multi family residence owned and operated by same person as owner of bar (it is attached to, insurance fraud, patient brokering, etc.)

C. To provide for accountability for the owners/operators of these homes

D. Because the Department of Housing and Urban Development (HUD) and the Department of Justice (DOJ) provided a Joint Statement in 1999 that encouraged the states to commit the resources needed to make these systems (group homes for persons with disabilities including persons recovering from alcohol/drug abuse) responsive to resident and community needs and concerns." See, Joint Statement of DOJ and HUD, "Group Homes, Local Land Use, and the Fair Housing Act"http://www.justice.gov/crt/about/hce/final8_1.phpat 4 (August 18, 1999)

By: Terrill Pyburn, Esq

Related Terms: League of Cities

More on "Sober Houses"

Posted by Robert M. W. Shallbetter on Oct 22, 2013

Manager's Report for the October 15, 2013 Council Meeting

Posted by Daniel Clark on Oct 11, 2013

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