PZ 2023-024

February 22, 2023

Al Thurman, Mayor
Henry Lust, Mayor Pro Tem
Esteemed Council Members

Cordial greetings to you!

My name is Tyler Howey and I am the owner of Amended Recovery House. I have been in the process of establishing a stable home in Powder Springs for individuals in recovery from substance abuse. I have worked in the substance abuse field for over six years, utilizing a collaborative approach to address substance abuse. I have two properties in Hollywood, Florida, each with the capacity to house ten men. Amended Recovery has been in operation since 2020 and we have helped over 100 men achieve long-term sobriety and become stable, productive members of society. We have had many amazing success stories - I have included some of the testimonies in this letter.

I would like to briefly share a few excerpts from information I have gathered regarding why our program is needed in Powder Springs, and the challenges I have encountered along the way. My intention is to establish a sober living environment for ten men at 3240 Dogwood Drive, Powder Springs, Georgia.

These are some facts reported by local news resources in Powder Springs, Cobb County and surrounding areas:

- Cobb County is one of the largest diverse Counties in Georgia and home to more than 750,000 residents among seven municipalities. Sadly, in 2017 Cobb County led the state as having the highest number of reported overdose deaths.
- In Cobb County, opioid overdose deaths reached an all-time high of 123 deaths in 2021.[1]
- Deadly synthetic opiate fentanyl spiked in Cobb County, particularly in zip code 30127, which includes Powder Springs, the southern portion of west Cobb, and part of southeast Paulding County.
- The Cobb County District Attorney has been trying to fight the problem. They've established an Opioid Fatality Review panel to help find out what resources are needed in the community.
- Cobb has remained one of the top counties for opioid overdose deaths.

"It's a massive issue and it's been exacerbated by the pandemic," said Dr. Kevin Baldwin, who has been researching the crisis.

"Where was the gap? Where were the missed opportunities?" said Sonjetta Tiller, who speaks with family members of someone who has died from an overdose.[2]

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[1] "Fentanyl overdoses jump in two metro counties" – WSB-TV Channel 2 - Atlanta. Accessed 1/26/23. https://www.wsbtv.com/news/local/cobb-county/fentanyl-overdoses-jump-two-metro-counties/2GHMJAU3VRBJNEXH6JGGBDAFAY/

[2] Dillon, Denise. "Cobb County DA holds opioid symposium discussing alarming spike in overdose deaths". 9 Sept 2022. Accessed 1/26/23. https://www.fox5atlanta.com/news/opioid-symposium-discussing-alarming-spike-in-overdose-deaths

In early January 2023, I opened an Amended Recovery house on property which my wife and I own located at 3240 Dogwood Drive, Powder Springs. On February 1, 2023 I received a citation for occupancy, business license, zoning, etc. I had previously gone to the Powder Springs Community Development office and inquired about zoning and occupancy, and requested a business license from Shawn Myers. However, I was told this is a prohibited business for my zoning district, so a business license would not be granted. I then reached out to community development via email, inquiring about a variance or special use permit and I was then told by Tina Garver that there are "no options in this office" and I would need to follow up with Doug Shiplett. This led us to a court hearing on February 15, 2023, with Judge Luke Mayes presiding. After presenting proper documentation, Mr. Shiplett found that we were compliant and the prosecutor dropped the charges. Judge Mayes indicated that we would be a valuable asset for the community if we can become team members with the city. So I come today pleading for an solution which will allow me to house ten men in a drug free environment, working with police and local community resources to combat the issue of alcohol and substance use in our community. There is a therapeutic value of having these guys live in the group and recover together in a family style environment. They provide each other with stability and accountability.

The issue is that the city of Powder Springs zoning doesn't currently allow for this type of home in the R-15 zoning district, although Cobb County does list this as a permitted use on their website.[3] Obviously the need exists, as Cobb County leads the state in drug overdose, specifically in zip code 30127.[4]

Furthermore, it seems to me that Powder Springs currently has some dated zoning practices. The Fair Amendments Act of 1988 of the Federal Fair Housing Act make it unlawful for ***any jurisdiction*** to discriminate against congregate living for the disabled. Recovering alcoholics and drug addicts are within the scope of the term "disabled."

> The Act defines discrimination to include not only traditional discriminatory practices, but also "refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such a person equal opportunity to use and enjoy a dwelling." 42 U.S.C. 3604(f)(3)(B). While localities need not do everything humanly possible to accommodate a disabled person, the "reasonable accommodation" requirement imposes affirmative duties to modify local requirements when they discriminate against the handicapped.[5]

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[3] ARTICLE IV. - DISTRICT REGULATIONS | Code of Ordinances | Cobb County, GA | Municode Library. https://library.municode.com/ga/cobb_county/codes/code_of_ordinances?nodeId=PTIOFCOCOCOGE_CH134ZO_ARTIVDIRE_S134-192SUUS Accessed 2/2/23

[4] Johnson, Larry Felton. "Fentanyl overdoses spike in west Cobb, southeast Paulding counties". Cobb County Courier, August 14 2022. Accessed 1/26/23. https://cobbcountycourier.com/2022/08/fentanyl-overdoses-spike-in-west-cobb-southeast-paulding-counties/

[5] Foote, John H. "The Fair Amendments Act of 1988 and Group Homes for the Handicapped". Hazel & Thomas, P.C., Manassas, Virginia. *Reprinted from the Journal of the Section on Local Government Law of the Virginia State Bar, Vol. III, No, 1, September 1997.*

An example of these cases is Oxford House v. Township of Cherry Hill, 799 F. Supp. 450 (D. N.J. 1991), the federal court rejected a state court ruling that residents of a group home for recovering alcoholics were not a single family under the Township's ordinance, and that they were not handicapped. The court noted that those handicapped by alcoholism or drug abuse are persons more likely than others to need a living arrangement in which sufficiently large groups of unrelated people live together in residential neighborhoods for mutual support during the recovery process.[6]

I'm proud to say I personally have a track record of success as a person with almost 7 years drug and alcohol free. I have made it my personal mission to help others change their lives and find stability and independence. If we can open a line of communication I would be happy to address any concerns. I hope to work together to provide a proven effective opportunity for this community.

Please contact me for further discussion and potential solutions we can work together to achieve. I would be happy to tour any council member or appropriate person through the home any time.

Sincerely,

Ty Howey
[redacted]

Amended Recovery, LLC
www.amendedrecovery.com

[6] Ibid.

According to the federal fair housing act and Americans with disabilities act, reasonable accommodations should be made for individuals in recovery from substance abuse who live in recovery residences because:

- Individuals in recovery from substance abuse are considered to have a **disability** under the Fair Housing Act and Americans with Disabilities Act, which means they are entitled to equal opportunity and protection from discrimination in housing[45].
- Reasonable accommodations are changes or exceptions to rules, policies, practices, or services that may be necessary for individuals with disabilities to have equal access and enjoyment of housing[4].
- Reasonable accommodations are required by law unless they would cause an **undue hardship** or a **fundamental alteration** of the housing program or service[4].

Cities and municipalities have an obligation to provide reasonable accommodations in zoning practices for such communal housing. This means providing flexibility in restrictive regulations or waiving certain requirements when necessary to achieve equal access to housing for individuals with disabilities. This is important because it ensures that individuals in recovery have the same rights and opportunities as everyone else when it comes to housing, which is a crucial aspect of their recovery journey.

Source:
(1) Fair Housing Legal Protections For Recovery Housing.
https://recoverypeople.org/wp-content/uploads/2020/07/Fair-Housing-Legal-Protections-For-Recovery-Housing-Savage-2018-.pdf.
(2) TENANTS' RIGHTS UNDER THE FEDERAL FAIR HOUSING LAWS LIVE WHERE YOU CHOOSE.
https://www.disabilityrightspa.org/wp-content/uploads/2018/11/Tenant-Rights-110918H-5.pdf.
(3) Disability Overview | HUD.gov / U.S. Department of Housing and Urban ....
https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_overview.
(4) Fair Housing for Individuals with Mental Health, Intellectual, or ....
https://www.hud.gov/sites/dfiles/FHEO/images/MD%20Fact%20Sheet%20-%20HP.pdf.
(5) The Americans With Disabilities Act, Addiction, and Recovery for State ....
https://adata.org/factsheet/ada-addiction-and-recovery-and-government.

3. Here is an overview of outcomes on city, state, and federal court cases that involve sober livings, or recovery residences:

- Oxford House is a national nonprofit organization that operates sober living homes for people recovering from substance use disorders. Oxford House has been involved in many lawsuits challenging local zoning ordinances that restrict the number of unrelated persons who can live together in a single-family dwelling, or that require special permits or licenses for group homes. Oxford House has generally prevailed in these cases, arguing that such ordinances violate the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA), which prohibit

discrimination on the basis of disability and require reasonable accommodations for people with disabilities. Some examples of these cases are:

- Oxford House Inc v. Township of North Bergen, No. 22-2336 (3d Cir. 2023)[4]: The U.S. Court of Appeals for the Third Circuit affirmed a district court's decision that a township ordinance that required group homes to obtain a conditional use permit and to comply with various standards, such as minimum lot size, parking, and distance from other group homes, violated the FHA and the ADA. The court found that the ordinance discriminated against people with disabilities by imposing more burdensome requirements on group homes than on other residential uses, and that the township failed to show that its ordinance was justified by a compelling governmental interest or that it was narrowly tailored to achieve that interest.

- St. Paul Sober Living v. Board of County Commissioners of Garfield County, No. 11-cv-03076 (D. Colo. 2014)[9]: The U.S. District Court for the District of Colorado granted summary judgment in favor of a sober living home that operated in a gated community zoned for single-family residences. The court held that the county's enforcement of its zoning code against the home violated the FHA and the ADA, as well as the Colorado Anti-Discrimination Act. The court found that the home's residents were disabled within the meaning of the laws, that the home provided them with a therapeutic environment conducive to their recovery, and that the county's actions constituted a refusal to make reasonable accommodations for their disability.

- Women's Elevated Sober Living LLC et al v. City of Plano, Texas, No. 4:2019cv00412 (E.D. Tex. 2021)[6]: The U.S. District Court for the Eastern District of Texas issued a memorandum opinion and order after a bench trial in favor of two sober living homes for women that operated in a city zoned for single-family residences. The court held that the city violated the FHA and the ADA by enforcing its zoning code against the homes based on their occupancy by more than four unrelated persons, by denying their requests for reasonable accommodations to allow them to operate as group homes for disabled persons, and by subjecting them to selective enforcement and harassment. The court awarded the plaintiffs compensatory damages, punitive damages, attorneys' fees and costs, and injunctive relief.

- RAW Recovery LLC v. City of Costa Mesa, No. 20-55870 (9th Cir.)[5]: The U.S. Court of Appeals for the Ninth Circuit is currently reviewing an appeal from a district court's decision that dismissed a lawsuit filed by a sober living home against a city that enacted two ordinances regulating sober living homes in residential zones. The ordinances required sober living homes to obtain special permits and licenses, to comply with various operational standards and restrictions, and to be located at least 650 feet away from other group homes or sober living homes. The district court held that the sober living home failed to state a claim under the FHA and the ADA because it did not allege facts showing that its residents had disabilities within the meaning of the laws, or that they were denied housing opportunities because of their disabilities. The U.S. Department of Justice filed an amicus brief in support of the sober living home, arguing that the district court applied the wrong legal standards and ignored factual allegations that supported the home's claims.

Source:
(1) City of Edmonds v. Oxford House, Inc., 514 U.S. 725 (1995)..
https://www.law.cornell.edu/supct/html/94-23.ZO.html.

PZ 2023-024

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M E M O R A N DUM

To: Missouri Recovery Residence Providers and Interested Entities

From: Law Office of Kim Savage

Re: Fair Housing Law Protections for Recovery Residences and Local Land Use & Zoning Regulations

Date: 10/18/21

Introduction – Overview of Fair Housing Laws

The purpose of this memorandum is to explain how the federal Fair Housing Amendments Act of 1988 applies to local land use and zoning regulations impacting recovery residences. More specifically, this memorandum explains: (1) the legal basis for treating households of unrelated individuals with disabilities in recovery for substance abuse as other single-family households of related individuals and (2) the authority for regulating recovery homes as residential uses, not commercial uses, subject only to the requirements of other single-family dwelling households.

Fair housing laws have a national dual purpose as to individuals with disabilities: prohibit discrimination in housing and housing-related activities against individuals with disabilities AND affirmatively further housing opportunities for members of this protected class. 42 U.S.C. §§ 3601 et seq. The fundamental purpose of the Act is to prohibit practices that "restrict the choices" of people with disabilities to live where they wish or "that discourage or obstruct choices in a community, neighborhood or development." 24 C.F.R. § 100.70(a) (1994).

The Act protects an individual with a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having any such impairment; or anyone who has a record of having such an impairment. 42 U.S.C.§ 3602(h); 24 C.F.R.§ 100.201. Individuals in recovery from drug or alcohol abuse are also covered under the law. 24 C.F.R. § 100.201; United States v. Southern Management Corp., 955 F. 2d 914 (4th Cir. 1992); Oxford House v. Town of Babylon, 819 F. Supp. 1179 (E.D.N.Y. 1993). The protections afforded by the Act also extend to those who are associated with them; providers and developers of housing for people with disabilities have "standing" to file a court action alleging a violation under the Act or seek administrative relief from a federal or state agency that enforces fair housing laws. Judy B. v. Borough of Tioga, 889 F. Supp. 792 (M.D. Pa 1995) and Epicenter of Steubenville v. City of Steubenville, 924 F. Supp. 845 (S.D. Ohio 1996).

The federal Act prohibits both intentional discrimination and zoning rules and regulations that have the effect of discriminating against housing for people with disabilities. This two-prong basis is particularly important in land use and zoning because, in many instances, zoning regulations, practices and procedures are facially neutral and do not single out individuals with disabilities, but the rules or practices have an adverse or discriminatory impact which results in the denial of housing opportunities.

To prove discriminatory intent, an individual need only show that disability was one of the factors considered by the city or county in making a land use or zoning decision. Oxford House-C v. City of St. Louis, 843 F.Supp. 1556 (E.D. Mo. 1994); Potomac Group Home Corp. v. Montgomery County, 823 F. Supp. 1285 (D. Md. 1993).

Discrimination may also be established by proving that a particular practice has a discriminatory impact on people with disabilities. Under the standards established by the Eighth Circuit, to prevail on a discriminatory impact theory, plaintiff must first make a prima facie showing that the challenged ordinance has a discriminatory effect. "If the law has such an effect, the burden shifts to the governmental defendant to demonstrate that its conduct was necessary to promote a governmental interest commensurate with the level of scrutiny afforded the class of people affected by the law under the equal protection clause." Oxford House-C v. City of St. Louis, 843 F. Supp. 1556 (E.D. Mo. 1994); Familystyle of St. Paul, Inc. v. City of St. Paul, 923 F.2d 91, 94 (8th Cir.1991); United States v. City of Black Jack, 508 F.2d 1179 (8th Cir. 1974) *cert. denied*, 422 U.S. 1042, 95 S. Ct. 2656, 45 L. Ed. 2d 694 (1975).

In addition to not discriminating against people with disabilities, cities and counties have an affirmative duty to provide reasonable accommodations in land use and zoning rules, policies, practices and procedures where it may be necessary to provide individuals with disabilities equal opportunity in housing. 42 U.S.C. § 3604(f)(3)(B). While the Act intends that all people have equal access to housing, the law also recognizes that people with disabilities may need extra tools to achieve equality. In the land use and zoning context, reasonable accommodation means providing individuals with disabilities, or developers of housing for people with disabilities, flexibility in land use and zoning regulations and procedures, or waiver of certain requirements when it is necessary to achieve equal access to housing. Oxford House-C v City of St. Louis, 843 F. Supp. 1556 (E.D. Mo. 1994) ("Clearly the Fair Housing Act and its Amendments apply to the zoning enforcement decision at issue here.")

Land use and zoning regulations that restrict or prohibit housing opportunities for individuals with disabilities violate fair housing laws unless there is a legitimate governmental interest. As set forth below, there is no legal justification to single out and regulate differently recovery residences that function like a family and in doing so comply with neutral occupancy standards. Further, there is no legal justification for imposing heightened health and safety requirements on recovery residences that operate similarly to a family. Land use and zoning impediments that make it infeasible to operate housing for individuals with disabilities effectively deny opportunities to a protected class.

The Federal Fair Housing Act Recognizes That Individuals With Disabilities In A Group Setting Constitute A Family For Purposes of Zoning Regulation.

Fair housing laws protect the right of individuals with disabilities to reside together in group living arrangements and be classified as a "family" under local zoning and land use laws. While local governments have significant authority to regulate zoning, local planning and land use regulations and decision-making must comply with the federal Fair Housing Amendments Act of 1988. Numerous jurisdictions throughout the nation recognize that a group of unrelated individuals with disabilities that reside in single-family dwellings are the functional equivalent of a family. These are households that live together in a cohesive manner and, each with full access to the dwelling, are a "family" for purposes of a zoning use classification. This single-family dwelling remains a residential use and cannot be subject to additional requirements otherwise imposed on households of related individuals. Children's Alliance v City of Bellevue, 950 F. Supp. 1491 (1997) ("The distinction the Ordinance draws between Families and Group Facilities rises to a statutory violation because of the burdens placed on the latter but not on the former. . . [t]hus the Ordinance facially discriminates on the basis of familial status and handicap through its imposition of these requirements.")

The courts have held that restrictive definitions of family illegally limit the development and siting of group homes for individuals with disabilities and not families similarly sized and situated and effectively deny housing opportunities to those who because of their disability live in a group home setting. Oxford House Inc. v. Babylon, 819 F.Supp. 1179 (E.D. N.Y. 1993); Oxford House v. Township of Cherry Hill, 799 F. Supp. 450 (D.N.J. 1992); United States v. Schuykill Township, 1991 WL 117394 (E.D. Pa. 1990), reconsideration denied (E.D. Pa. 1991). Group homes are distinguishable from licensed facilities which provide an institutional or clinical setting with a duty of care and supervision and treatment, more akin to a hospital or nursing home. In addition to the foregoing distinctions, residents of licensed facilities do not have full access to the entire premises.

Recovery Homes Are Residential Uses And Providing Incidental Disability Related Services Does Not Constitute A Change Of Use to A Commercial Classification.

Some jurisdictions have a misperception that housing for individuals with disabilities is a commercial use and this interpretation has the effect of denying housing opportunities in violation of fair housing laws. First, some local governments assume that if any management functions take place at a dwelling, it is a business and subject to commercial zoning restrictions. There is an all too common view that, because residents with disabilities in a group living arrangement pay money to live at a home, the dwelling is a commercial use, subject to commercial siting restrictions and, often, a business license. Courts have found that simply because the operation of a dwelling may entail some management functions, such activities do not change the essential character of a single family or multi-family dwelling from a residence to a "business" or commercial use.

> [M]aintaining records, filing accounting reports, managing, supervising, and providing care for individuals in exchange for monetary compensation are collateral to the prime purpose and function of a family housekeeping unit. Hence, these activities do not, in and of themselves, change the character of a residence from private to commercial.

See, Rhodes v. Palmetto Pathway Homes, Inc., 400 S.E. 2d 484 (S.C. 1991) citing Gregory v. State Dept. of Mental Health Retardation and Hospitals, 495 A.2d 997 (R.I. 1985) and JT Hobby & Sons v. Family Homes, 274 S.E.2d 174 (1981).

A practice or regulation that treats housing for individuals with disabilities as a commercial use when the same determination is not applied to similarly situated and functioning families singles out individuals with disabilities in a discriminatory manner. A single family engages in comparable management functions when it employs and pays a housekeeper or gardener and there is an exchange of money. Or, parents may charge rent to an adult child living at home. These activities do not change the residential use of the home, nor do comparable activities that assist with the sound functioning of a home for individuals with disabilities.

Second, some jurisdictions also take the position that where housing for individuals provides some on-site support for its residents, the home loses its residential character and is subject to commercial land use and zoning regulations. Housing for individuals with disabilities where supportive services are provided on site or, there is a peer resident house manager, is increasingly common as these attributes effectuate a nurturing and caring community of likeminded individuals in recovery for substance abuse. It is anticipated that the demand for housing with a range of supportive services will continue to increase as a result of the landmark U.S. Supreme Court ruling that Title II of the Americans With Disabilities Act (ADA) requires that individuals with disabilities be served in the least restrictive setting. The integration mandate requires that individuals who are able to reside in a community setting with supportive services, as opposed to an institution, are required to be provided housing opportunities within the community. Olmstead v. L.C., 527 U.S. 581 (1999).

A jurisdiction that regulates a dwelling based on the provision of supportive services to individuals with disabilities or, the presence of a peer resident house manager, is imposing restrictions based on the residents' personal characteristics in violation of fair housing laws. This type of regulation is discriminatory because it treats housing for individuals with disabilities with supportive services differently from similarly situated families. There is no basis under fair housing laws for distinguishing between the activities and services at a traditional family home and a group living arrangement for individuals with disabilities that provides support for its residents.

Mischaracterization of Housing for Individuals with Disabilities as a "Boarding or Rooming House" or Other Group Living Arrangement Illegally Restricts Housing Opportunities.

Many cities and counties have a practice of treating housing for individuals with disabilities as a boarding or rooming house use that is permitted by right only in high density multi-family residential zones or commercial zones. Local governments have also classified housing for individuals with disabilities in recovery as "Bed and Breakfast" uses or fraternity houses. These use classifications mischaracterize the use of the dwelling and results in

siting restrictions that have the effect of denying housing opportunities for individuals with disabilities in violation of fair housing laws. Tsombanidis v. City of W. Haven, 180 F.Supp. 2d 262 (Conn. 2001).

Generally, boarding and rooming houses provide a temporary housing option for individuals and, in most jurisdictions, this type of use is restricted to high density multi-family residential or commercial zones. This use, albeit residential, is distinguishable from housing for individuals with disabilities which purposefully offers a family like environment on a long term or permanent basis. Further, individuals who reside in boarding or rooming houses do not have full access to the dwelling but are typically limited to their room which has a key-locking door. In contrast, recovery home residents have full access to the home in which they reside and bedroom doors do not have locking mechanisms. "Bed and Breakfast" accommodations are not residential uses but commercial ventures which operate as small-scale hotels for vacation guests who have restricted access to the premises. These are not long-term housing opportunities whereas recovery residences offer a home for lengthy periods of time, often without any occupancy time restrictions. Recovery residences are not analogous to college fraternity houses; there is little, if any, structure to the household, the household is transient and the residents are not members a protected class under the federal Fair Housing Act. When a city or county applies boarding and rooming house, "Bed and Breakfast" or fraternity siting restrictions to congregate living arrangements for people with disabilities, it denies housing opportunities to those protected by fair housing laws and negates its obligation to affirmatively further fair housing.

Cities and counties in their zoning policies, practices and procedures risk violating the federal Fair Housing Act when they erroneously classify congregate living arrangements for people with disabilities as any other use. The consequence of local governments misclassifying the use of housing for individuals with disabilities is that members of the protected class are denied or restricted in their housing opportunities.

Local Government May Not Impose Heightened Health & Safety Requirements On Recovery Residences That Operate As A Family And Are Not Otherwise Imposed On Other Families.

The federal Fair Housing Amendments Act of 1988 recognizes that local health and safety restrictions may have an adverse impact on group living arrangements for individuals with disabilities. These group living arrangements in single-family dwellings provide an important opportunity for individuals with disabilities to reside together in a supportive and affordable home. These living arrangements purposely create a cohesive, family-like environment: the household members share responsibilities for maintaining the home, eat meals together as other families do and, develop strong social bonds as they address substance abuse, mental health concerns or co-occurring health conditions.

> These new subsections [§ 3604(f)] would also apply to state or local land use and health and safety laws, regulations, practices and decisions which discriminate against individuals with handicaps. While state and local governments have authority to protect safety and health, and to regulate use of land, that authority has sometimes been used to restrict the ability of individuals with handicaps to live in communities. This has been accomplished by such means as the enactment or imposition of health, safety or land-use requirements on congregate living arrangements among non-related persons with disabilities. Since these requirements are not imposed on families and groups of similar size of other unrelated people, these requirements have the effect of discriminating against persons with disabilities.
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> H.R.Rep. No. 100-711, 100th Cong., 2d Sess. 24, *reprinted in* 1988 U.S. Code Cong. & Admin. News at 2173, 2185 (emphasis added).

Historically and even today, local governments continue to require heightened health and safety requirements, including fire installations, based on a broad presumption that all individuals with disabilities require more protections.

> Another method of making housing unavailable to people with disabilities has been the application of enforcement of otherwise neutral rules and regulations on health, safety and land-use in a manner which discriminates against people with disabilities. Such discrimination often results from false or over-protective assumptions about the needs of handicapped people, as well as

Oxford House, Inc. V. Browning, 266 F. Supp. 3d 896, 916 (M.D. La. 2017)(emphasis added).

A local government may be enjoined from enforcing a sprinkler requirement against a group home for individuals with disabilities where a request for a fair housing reasonable accommodation requests waiver of the requirement. While a local government may offer sufficient proof of the rational basis for heightened fire safety at a home for individuals with intellectual and developmental disabilities, the Court must examine the motive for imposing the regulation for its discriminatory impact. New Horizons Rehab., Inc. v. Indiana, 400 F. Supp. 3d 751(S.D. Ind. 2019). "On this record, the Court finds that Indiana's facially neutral zoning scheme is being used as a proxy to evade prohibition of intentional discrimination, as proscribed by the Seventh Circuit." Further, the Court considers the appropriateness of a sprinkler requirement based on the residents' capabilities to respond to an emergency. "It [plaintiff nonprofit] asks DHS to waive the requirement of a sprinkler system because people who are capable of living on their own are not subject to that requirement, which results in *de facto* discrimination against people with intellectual and developmental disabilities." Finally, while local government and some neighbors may oppose a group home in a particular single-family residential zone, the response is a reminder of the intent and purpose of the federal Fair Housing Act: "The Court does not agree with the suggestion that it would be easy for these people to find housing, or that they have many options to choose from."

Fair Housing Summary Restatement: Housing For Individuals With Disabilities In Recovery for Substance Abuse Constitute A Family For Purposes of Land Use and Zoning Regulation and Health & Safety Requirements.

The federal Fair Housing Amendments Act protects unrelated individuals with disabilities in recovery for substance abuse who choose to reside together in a single-family dwelling. Local governments are prohibited in their land use and zoning regulations from singling out households of individuals with disabilities that operate in a family-like way and treating them differently than households of related individuals. Further, local government must recognize that recovery residences are residential uses, not commercial uses, and impose only those health and safety restrictions that are imposed on other single-family households. Fair housing compliance requires both the elimination of discriminatory regulations and barriers to housing for individuals with disabilities as well as affirmatively furthering housing opportunities.