

Fair Housing Law and Group Homes

A federal court in Maryland has ruled that group homes for persons with disabilities may not be subjected to licensing or hearing requirements different from those imposed on similar dwelling units for non-disabled persons. (Potomac Group Home Corp. v. Montgomery County, Civil No. H-92-1192 [D. Md. June 14, 1993]) A county ordinance required written notice to neighboring property owners and civic organizations. Potomac Group Homes, a provider of group homes for elderly persons with disabilities, challenged this requirement and a companion one that provided for hearings before a "program review board" that came into play when community opposition had been voiced.

The court found that "such notices have consistently provoked negative reactions from neighbors of the proposed group homes" and ruled that "no rational basis of legitimate governmental interest supports the neighbor notification requirement." In respect to the hearing requirement and the practice of holding hearings only after opposition had formed, the court ruled, "This particular procedural step, which is based on illegal prejudices of the community, causes great harm to plaintiffs because of resulting delays and burdensome costs."

The Attorney General of Maryland, in a formal opinion, has reversed an earlier opinion and advised state officials that similar licensing and hearing procedures in the state's Developmental Disabilities Law are in violation of the Fair Housing Amendments Act, since they impose requirements that are not imposed on other residential homes.

Another opinion of the Maryland Attorney General states that "the Fair Housing Amendments Act prohibits enforcement of fire safety code requirements in a small group home for the mentally ill if the requirements are neither imposed on single family dwellings nor tailored to the unique and specific needs of the home's residents."

The Attorney General relies on another federal court ruling that a small private group home may not be required to meet safety requirements other than those required of single family dwellings unless justified by individual needs and attributes of the residents of the home. (Marbrunak, Inc. v. City of Stow, Ohio, 974 F.2nd 43 16th Cir. 19921)

These decisions are in line with the intent of Congress that the Fair Housing Law and Amendments be interpreted broadly to achieve their purpose of eliminating discrimination. The Attorney General opinions give welcome evidence that the task of clearing away unnecessary and prejudicial barriers to group homes in local and state statutes is, at least in Maryland, well under way. Bazelon Center for Mental Health Law.

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