Group Homes and the Fair Housing Act

The Fair Housing Act

The Civil Rights Act of 1968, better known as the Fair Housing Act 1 (FHA), was enacted to protect people from being treated differently in housing situations. An amendment was passed in 1989 which expanded the scope of the original piece of legislation.

(42 U.S.C. § 3601 et al. See also the Utah Fair Housing Act at Utah Code Ann. § 57-21-1 et al. The federal protected classes are race, color, sex, national origin, familial status, religion, and disability. Utah law also prohibits discrimination based on sexual orientation, gender identity, and source of income.)

The FHA prohibits:

• discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disabilities.
• government entities from making zoning or land-use decisions that discriminate against people with disabilities.

Group Homes

Although the term “group home” is not specifically defined by the FHA, it generally refers to a structured housing program occupied by unrelated people with disabilities in a community. Most group homes are subject to state regulations and licensing provisions.
Not In My Backyard (NIMBY)

Local opposition to community housing for people with disabilities is sometimes called “NIMBY-ism,” which stands for “not in my backyard.” This reflects an attitude where community members do not want a group home located in their neighborhood. NIMBY attitudes are a major barrier to housing for many people with disabilities. Under the FHA, it is illegal for a government entity to make policies or decisions that treat a group of people with disabilities differently than a group of people without disabilities. It is also unlawful to deny a land use permit for a group home based on the types of disabilities of the people who live, or will live, at the group home. This protection also applies to covenants.

Reasonable Accommodations

The FHA requires that government entities make reasonable accommodations in land use and zoning policies/procedures if the accommodation is necessary to give people with disabilities an equal opportunity to use and enjoy their housing. Therefore, even though a zoning ordinance imposes the same restrictions on group
homes as it imposes on other groups of unrelated people, the government entity may be required to grant a reasonable accommodation to a group home for people with disabilities. Not all accommodations are considered reasonable. “Reasonableness” is determined on a case-by-case basis. However, if a requested accommodation imposes an undue financial or administrative burden on a government entity, or if the accommodation creates a fundamental alteration in the land use and zoning scheme, it may not be considered reasonable. These exclusions are rarely upheld.
The Disability Law Center (DLC) is a private, non-profit organization, designated by the governor as Utah's Protection and Advocacy agency. The DLC believes in a society where abilities, rather than disabilities, are recognized; all people have an equal opportunity to participate; and where all people are treated with equity, dignity, and respect. We work toward our vision by enforcing and advancing the legal rights, choices, and opportunities of Utahns with disabilities. DLC services are available free of charge statewide, regardless of income, legal status, language, or place of residence.

If you have further questions, please contact us. Even though our focus is on cases that can help as many people as possible - because time and resources are limited - we at least offer information and/or referral options to everyone who contacts us. Materials are also available in alternative formats such as audio, large-print, Braille and Spanish. Call (800) 662-9080 or apply for help online, and our staff will contact you within 1-3 business days.

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