

City Council Introduction: **Monday**, April 25, 2005
Public Hearing: **Monday**, May 2, 2005, at **1:30** p.m.

Bill No. 05-48

FACTSHEET

TITLE: MISCELLANEOUS NO. 05008, proposed text amendments to Title 1 of the Lincoln Municipal Code, requested by the Director of Planning on behalf of the Mayor's Group Homes Task Force.

STAFF RECOMMENDATION: Approval, as revised on April 7, 2005.

ASSOCIATED REQUEST: Change of Zone No. 04062 (05-47).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 04/13/05
Administrative Action: 04/13/05

RECOMMENDATION: Approval, as revised on April 7, 2005 (9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes').

FINDINGS OF FACT:

1. These proposed text amendments relate to the regulation of group homes and are based upon recommendations made by the Mayor's Group Homes Task Force and endorsed by Mayor Seng. The proposed amendments to Title 1 establish a "reasonable accommodation" procedure relating to persons with disabilities or handicaps seeking equal access to housing.
2. The staff recommendation of approval, with the revisions submitted by the City Law Department as set forth on p.010, is based upon the "Analysis" as set forth on p.3-4, concluding that the proposed changes conform to the Comprehensive Plan and the recommendations made by the Mayor's Group Homes Task Force.
3. The Minutes of the Planning Commission hearing and action are found on p.5-9. Additional information submitted by Mary O'Hare is found on p.11-15.
4. The presentation by staff is found on p.5-6, and testimony in support is found on p.6.
5. Testimony in opposition is found on p.6-8; however, the issues raised by the opposition pertained to the definition of family and the spacing and separation requirements, which are not being changed by these proposed amendments.
6. On April 13, 2005, the Planning Commission agreed with the staff recommendation, as revised, and voted 9-0 to recommend approval (See Minutes, p.8-9).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: April 18, 2005

REVIEWED BY: _____

DATE: April 18, 2005

REFERENCE NUMBER: FS\CC\2005\MISC.05008

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for April 13, 2005 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #04062 for Title 27
Miscellaneous #05008 for Title 1

Note: This is a combined staff report for related items; there is single background and analysis section for all items.

PROPOSAL: Revise LMC Title 27, to amend Title 27 of the Lincoln Municipal Code relating to Zoning by adding a new section numbered 27.03.053 to provide a definition for “alternative to imprisonment facility”; by adding a new section numbered 27.03.153 to provide a definition for “children’s home”; by adding a new section numbered 27.03.165 to provide a definition for disability or handicap; amending Section 27.03.300 to revise the definition of “group home”; by amending Section 27.03.310 to revise the definition of “health care facility”; by amending Sections 27.09.040, 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, and 27.24.040 to allow alternative to imprisonment facilities and children’s homes as permitted special uses in the AGR and R-1 through R-8 residential districts; by adding a new section numbered 27.63.750 to add alternative to imprisonment facility as a permitted special use; by adding a new section numbered 27.63.760 to add children’s homes as a permitted special use; and repealing Sections 27.03.300, 27.03.310, 27.09.040, 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, and 27.24.040 of the Lincoln Municipal Code as hitherto existing, and revise LMC Title 1 to create a new Chapter 1.28, Reasonable Accommodation.

CONCLUSION: These changes conform to the Comprehensive Plan and recommendations made by the Mayor’s Group Homes Task Force.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

HISTORY:

Mayor Coleen Seng formed the Mayor’s Group Home Task Force in May, 2004, to examine the City’s laws and regulations governing group homes and congregate housing. The report was accepted and endorsed by the Mayor in February, 2005.

The current definition for the term group home and the regulatory structure for residential facilities serving disabled persons was adopted in May, 1979.

COMPREHENSIVE PLAN SPECIFICATIONS:

Revise the congregate living facility codes and regulations in order to continue to provide housing opportunities for residents with special needs throughout the city that are compatible with residential neighborhoods. Congregate facilities should be designed and located to enhance the surrounding neighborhood. Reasonable spacing, design, and operational requirements should be created for all congregate facilities to preserve the neighborhood character

while providing for those with special needs. (F 72)

ANALYSIS:

1. This is a request to make several changes to LMC Title 27 Zoning and Title 1 General Provisions related to the regulation of group homes. These changes are based upon recommendations made by the Mayor's Group Homes Task Force and endorsed by Mayor Seng. The proposed legislation is attached.
2. The definition of group home will be changed to apply only to homes for more than 3 but less than 16 residents: either disabled persons or children residing outside their parent's home.
3. The terms disability or handicap will be defined consistent with the federal and state Fair Housing Acts. Therefore, the portions of the group home definition that identify approved purposes for therapy and counseling in a group home will be deleted. A group home for disabled persons will no longer need to identify the purpose for the therapy or counseling. Similarly, the definition for health care facility will be revised to delete specified purposes for therapy, counseling, or rehabilitation and refer to disabled persons.
4. Two new use types will be created for facilities engaged in the service of exercising 24-hour daily care, supervision, custody, or control over children, for compensation or hire in lieu of the care or supervision normally exercised by parents in their own home. Facilities with more than 3 but less than 16 children will be regulated by conditional use permit as a group home; facilities with 16 or more children will be regulated by special permit as a Children's Home. These type of facilities have not been defined in the past.
5. Facilities providing supervision to persons under a program of alternatives to imprisonment will be deleted from the definition of group home. This use will be defined as Alternative to Imprisonment Facility, and regulated by special permit.
6. New special permits will be added for alternative to imprisonment facility and children's home in the AGR and R-1 through R-8 residential districts. These permits will be granted by the Planning Commission, and do not include any specific conditions. Therefore, the Planning Commission will act pursuant to their authority to "impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare..."
7. The general regulatory strategy for group homes will remain largely unchanged. Homes for 3 or fewer residents will continue to meet the definition of family, and be allowed in any zoning district allowing residences. Homes for 4 to 15 residents will continue to be regulated through the conditional use permit process, which will still require separation from existing group homes. Homes for 16 or more residents will be regulated through the special permit process as health care facilities.
8. Also, if a group home, children's home, or alternative to imprisonment facility can qualify as a "non-profit religious, educational, and philanthropic institution," it could be allowed in any district that allows this use, including O1-O3, RT, B1-B4, H-3, and I-3 districts.

9. The proposed change to Title 1 will add a process for reasonable accommodations. This process will provide group home providers and residents an opportunity to request a modification from any of the City's regulations. The request will be heard by the city department with authority over the particular regulation. This reviewing authority will make a recommendation directly to the City Council. City Council review will be on a case-by-case basis. In the case of a zoning issue, the Planning Commission will act as the reviewing authority. Requests for accommodations from other regulations, such as the building code or fire code, will not be presented to the Planning Commission. A copy of this ordinance is also attached.

Prepared by:

Greg Czaplewski
441.7620, gczaplewski@lincoln.ne.gov

Date: March 29, 2005

Applicant: Lincoln/Lancaster County Planning Department
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CHANGE OF ZONE NO. 04062 AND MISCELLANEOUS NO. 05008

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 13, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Approval, as revised by City Attorney on April 7, 2005.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted an e-mail communication from Mary O'Hare.

Czaplewski explained that this is a change to both the zoning ordinance and a change to Title 1 creating some new definitions and a new section dealing with the city's regulation of group homes. The changes to Title 27, the zoning ordinance, include:

- The definition of Group Home as it currently exists applies to facilities where people reside while receiving care, counseling or rehabilitation for any of several enumerated purposes. The change is to eliminate all of those purposes and apply group homes to disabled or handicap persons, with new definitions for disabled and handicapped.
- Creating a definition for "alternative to imprisonment facility" and treat it as a special permitted use.
- Creating a new use called "childrens home" by special permit. This use has been regulated according to whatever might be the closest use in the zoning ordinance. This change now specifies that use. Four to 15 residents will be regulated as a conditional use similar to group homes. Facilities of over 16 residents would be regulated as a special permit.
- Currently, group homes are a conditional use requiring a permit from Building & Safety, and apply to facilities with between 4 and 15 residents. Under the revised provisions, group homes that have three residents or fewer would fall under the definition of family and can be located in any residential dwelling anywhere in the city. Group homes of 4-15 residents will require a conditional use permit from Building & Safety, be required to maintain a state license and maintain separation distance from other existing group homes. That separation varies from 400' to ½ mile depending on the zoning district.
- Larger group home facilities of 16 or more residents are currently treated as a health care facility and approved by special permit. The proposed changes do not change that regulation structure.

- The alternative to imprisonment facilities previously were conditional use permits and now would be a special permit for any size facility.
- Special permits for childrens home and alternative to imprisonment facilities would be allowed in R-1 through R-8 as well as AGR.

The changes to Title 1 include:

- Creating a “reasonable accommodation” procedure that would allow group home residents or providers to ask the city to modify any of its building or zoning regulations to allow them to go into a facility that might otherwise not be available to them. They can ask for a modification to the zoning ordinance or building code. When that request is submitted to the city, whichever city department has jurisdiction over that regulation would review that request and make a recommendation to the City Council. The City Council would have final action.
- A request to waive a zoning ordinance requirement such as the spacing requirement or to allow a larger number of residents, would come to the Planning Commission for a recommendation to the City Council. Building code issues would not come before the Planning Commission.

Carlson confirmed that these proposed changes do not make any of the existing regulations any more restrictive. A lot of the changes simply move the categories around to make the regulations more in compliance with the federal law. The only substantial change is creating flexibility depending on special circumstances. Czaplewski concurred.

Support

1. Cathy Beecham, President of Near South Neighborhood Association, testified that the Near South Board met and voted to support the recommendations of the Group Homes Task Force, and most specifically, the maintenance of the spacing requirements between group homes as well as the requirement that no more than three unrelated persons be considered a family. These are the current regulations and need to remain in place. If the idea behind community based recovery is to have someone in treatment be part of the community, then the spacing requirements do help this effort. If the spacing requirements were eliminated, it would be detrimental to someone in treatment because it is not community based if there are group homes close together.

With regard to three unrelated persons making a family, the Near South neighborhood believes that three is a good number and should be maintained. This needs to be about the treatment and the quality of treatment and not economics or profit. If there are more than three, it is important to have the additional supervision that is currently required.

Opposition

1. Scott LeFevre, 2150 Ridgeline Drive, testified in opposition. He submitted that the separation requirements are discriminatory under the Fair Housing Act. Because a person has a disability

and the economics necessitate that those individuals live in a congregate environment because they are on public assistance, means that there needs to be a certain number of individuals living together to be able to afford that housing. There is a joint statement by Housing and Urban Development and the Department of Justice that states unequivocally that spacing requirements are almost always unlawful. This requires Hispanic families to live ½ mile from each other, etc.

LeFevre stated that he takes offense to the treatment. When we talk about people with disabilities, specifically developmental, treatment connotes that people are ill. People with developmental disabilities have illnesses like everyone else and they do not require treatment, but rather rehabilitation, assistance and support in different areas of their life. Sometimes it is simply helping people to learn daily skills. They are not necessarily in treatment.

Currently, the zoning ordinance provides that one person can establish a family. If one person establishes a family, they can have individuals with disabilities residing with them under the auspices of an adult foster family. LeFevre suggested that that almost negates the idea of the group home as a provider of services to people with disabilities if we decided to do “house parent” arrangement where an individual moves into a home and declares it their primary residence and bypasses the group home process. He believes it is unfair to classify individuals and limit them to three in a family. If we are talking about health and safety issues, it should be looked at as total occupancy for a house. Today, families come in all shapes and sizes. LeFevre recommended that the Planning Commission take a serious look at some of the other issues before approving this legislation.

With regard to the spacing requirement, Pearson pointed out that this talks about unrelated people – not race or gender. LeFevre suggested that when these cases have gone to court, most of the precedence has been that because of the nature of the financial situation that people with disabilities find themselves in, they are a protected class just as are any other group of a different ethnicity, religion, etc. He is not sure what purpose it serves to prohibit a group home from locating three houses away from another group home, other than the perception that people have that they don’t want all of those people in their neighborhood.

Pearson does not believe it is just related to disabilities. But, because of the fact that people with disabilities are a protected class, LeFevre believes they should be given the opportunity for reasonable accommodation. As a protected class, there has to be some leeway given knowing those folks have to live in a congregate environment different than ordinary citizens.

2. Pat Anderson, 1500 S. 11th, testified, stating that she is not sure she is in opposition. Her main issue is spacing. She has worked in emergency services for 5 years and encountered a lot of people with mental disabilities that always lived in apartment buildings and were taken advantage of by the general public. When you differentiate spacing by zoning, she believes it puts people with disabilities at higher risk by putting them into more dense populations. It makes them more vulnerable. She suggested that the spacing be the same for single family dwellings as well as for apartments.

Anderson also acknowledged that increased training requirements and improved training quality is good, but it is difficult to get staff to stay around long enough to take advantage of the training. It is more important to improve the monitoring of performance and inspection compliance and to

respond to problems. This is her biggest issue as far as dialog or communication with the state or other agencies. They need to truly address issues of the neighbors as opposed to just giving lip service.

Taylor sought to confirm Ms. Anderson's position on density. She believes there should be some sort of spacing requirement, but it should be the same in each zoning district. People with mental disabilities are taken advantage of more frequently in the more densely populated areas. Rick Peo of the City Law Department approached the Commission and clarified that 1) the definition of family is not before the Commission today, and 2) the spacing and separation requirements are not before the Commission today. Those requirements are not being amended at this time. This is an application from the Mayor to implement the Group Homes Task Force recommendations. It is a relatively modest change to the zoning code, primarily to reflect definitional changes for clarification and inconsistencies between the prior definition of group homes and single family. There are complicated issues beyond what is before the Commission today that the task force looked at but could not fully address or did not attempt to change. If those issued need to be looked at, those individuals need to come forward with their own proposal.

Peo also advised that the City is currently in litigation over the validity of the ordinance and some of its terms, to which there should be resolution soon and a determination of other changes that may be necessary. This proposal looks at trying to provide a reasonable accommodation procedure to allow individuals to come forward and show that there is a need and necessity to require an exception. This procedure is better than what we have currently. This is an effort to simplify matters and make it more equitable.

CHANGE OF ZONE NO. 04062

ACTION BY PLANNING COMMISSION:

April 13, 2005

Carroll made a motion to approve, seconded by Taylor and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

MISCELLANEOUS NO. 05008

ACTION BY PLANNING COMMISSION:

April 13, 2005

Taylor moved approval, as revised by the City Law Department on April 7, 2005, seconded by Carroll.

Carlson indicated that he served on the task force. He believes these are good changes and he appreciates the comment that the reasonable accommodation procedure should have been created 15-16 years ago. The message that he hears over and over is that disabled citizens deserve and should be treated the same as any other person. He believes that the definition of family does exactly that. We have created an additional opportunity for those with disabilities to live in a higher number in group homes, and reasonable accommodation creates some leeway on a case-by-case basis to analyze to see if their particular needs can be met.

Motion for approval, as revised, carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

INTER-DEPARTMENT COMMUNICATION

TO Planning Commission
DEPARTMENT
ATTENTION
COPIES TO Greg Czaplewski

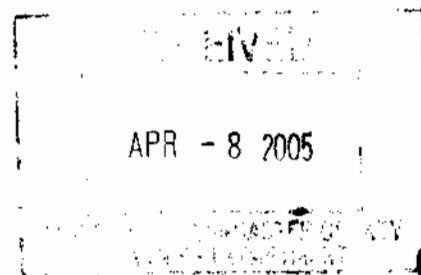
DATE April 7, 2005
FROM Rick Peo *Rick Peo*
DEPARTMENT City Law
SUBJECT ~~Change of Zone~~
~~No. 04062~~
Misc. No. 05008

This office requests that Change of Zone No. 04062 be amended as follows:

1. Amend Section 1.28.010 on page 1, line 10 by inserting the words "the City of Lincoln's" between the words "of" and "building".
2. Amend Section 1.28.020 on page 1, by adding at the end of line 17, after the phrase "application of a", the words "City of Lincoln".
3. Amend Section 1.28.020 on page 1, line 19 by inserting a new sentence after the word "opportunities" to read as follows: "The provisions of this chapter do not apply to the City's Bureau of Fire Prevention's application of any code or regulation adopted by the State Fire Marshal pursuant to its delegated authority from the State Fire Marshal."

Requested by: The Bureau of Fire Prevention

Reason for Request: To clarify that the request for reasonable accommodation only applies to actions taken under City of Lincoln codes but does not apply to the actions of the Bureau of Fire Prevention acting on behalf of the State Fire Marshal under delegated authority.





Gregory S Czaplowski
04/13/2005 11:30 AM

To: Jean L Walker/Notes@Notes
cc:
Subject: Written Testimony

----- Forwarded by Gregory S Czaplowski/Notes on 04/13/2005 11:35 AM -----



"Mary O'Hare"
<maryohare1@alltel.net>
t>
04/13/2005 11:27 AM

To: Greg Czaplowski <GCzaplowski@ci.lincoln.ne.us>
cc:
Subject: Written Testimony

Greg,
Please share this with the Planning Commission.
Thanks,
Mary O'Hare
1205 S. 25th St.
Lincoln, NE 68502
402-475-8022
email: maryohare1@alltel.net

*April 13, 2005***

* _ _ *

To: Planning Commission

From: Mary O'Hare, Lincoln Citizen & Disability Advocate

Re: Group Home Zoning Laws

* _ _ *

I would like to suggest that the Planning Commission consider the following quotes from credible national references before making decisions regarding group home zoning laws.

In addition, please note that the Lincoln Commission on Human Rights is hosting a Fair Housing conference today and tomorrow at the Embassy Suites. Pertinent sessions on Thursday include: Fair Housing Laws: A Legal Update by John Relman, Relman and Associates, Washington D. C. (8:30 am to 10:15 am) and Group Homes and Fair Housing, The Challenges we Face, Scott P. Moore, Attorney, Baird Holm Attorneys at Law.

* _ _ *

Quotes from Fair Housing Documents

The following direct quotes are taken from documents analyzing the Fair Housing Act, its application to municipalities, and various court decisions.

Dispersion Requirements

"One of the bedrock principles behind the Fair Housing Act's protections for housing for people with disabilities is that the residents should be able to live in an integrated residential setting of their choice. However, this principle often has been defeated by municipal rules that require a certain amount of space between facilities (otherwise known as

dispersion requirements)."

"Most courts, among them the federal circuit that includes Tennessee, have held that cities may not impose dispersion requirements on housing for people with disabilities. Though the stated purpose of dispersion requirements is often to aid the integration of people with disabilities into communities and to prevent "ghettoization" of housing for people with disabilities:

"Integration is not sufficient justification for maintaining permanent quotas under the FHA or the FHAA, especially where, as here, the burden of the quota falls on the disadvantaged minority... The FHAA protects the right of individuals to live in the residence of their choice in the community... If the state were allowed to impose quotas on the number of minorities who could move into a neighborhood in the name of integration this right would be vitiated." Larkin v. State of Michigan

A Place to Call Home_ pg. 9

"In Larkin v. Michigan Department of Social Services, the state of Michigan argued that its spacing restriction helped integrate people with disabilities into the community and served the goal of deinstitutionalization by preventing a cluster of group homes for people with disabilities from recreating an institutional environment in the community. The court however held that the state failed to show how the special needs of people with disabilities warranted this intervention. Specifically, the court noted the lack of any evidence suggesting that clustering would occur without government intervention. The state failed to show that its spacing restriction would actually further the possibly legitimate goal of deinstitutionalization."

Fair Housing: The Siting of Group Homes for the Disabled and Children
pg. 18

"An area of agreement between the National League of Cities and Advocates of the Coalition: "Local governments have an obligation to promote equal housing choice for people with disabilities and at-risk children. However, when extreme clustering of group homes threatens to re-create an institutional environment and to fundamentally alter a community's zoning scheme elected officials have both the power and the obligation to intervene. Localities have a range of tools to encourage the integration of group homes through the entire community, including development and financial incentives."

Fair Housing: The Siting of Group Homes for the Disabled and Children
pg. 15

* *

As a result of well-organized neighborhood opposition, group home operators have often looked for less risky locations, often in inner-city neighborhoods without political organizations and with less strict zoning laws. This, of course, led to concentration, which some believed worked against the central tenet of community-based care."

"The response in some cities was the development of spacing requirements and "fair share" guidelines which, continue to be legally contested territory. Fair share statutes in the form of dispersal requirements are a clear violation of the Fair Housing Act. To deny a group home entry into a particular neighborhood is discriminatory on its face."

"Advocates believe the assumptions behind fair share are destructive because the term itself implies that social service facilities are a burden, undesirable addition to a neighborhood-a perception based on myths. The authors of this guide believe that a far better solution to preside over concentration of housing for people with disabilities in low-income neighborhoods is a system of financial supports that enable developers of such housing to buy properties in all kinds of neighborhoods. When real estate prices are less of a factor in site selection, dispersal can occur naturally without possibly illegal government restrictions of further development of group homes in certain areas."

A Place to Call Home_ pg. 22

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Question:// "When, if ever, can a local government limit the number of group homes that can locate in a certain area?"

"Some state and local governments have tried to address this concern (fair share by enacting laws requiring that group homes are at a certain minimum distance from one another). The Department of Justice and HUD take the position, and most courts that have addressed the issue agree that density restrictions are generally inconsistent with the Fair Housing Act. We also believe, however, that if a neighborhood came to be composed largely of group homes that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community. Especially in the licensing and regulatory process, it is appropriate to be concerned about the setting for a group home. A consideration of over-concentration could be considered in this context. This objective does not, however, justify requiring separations which have the effect of foreclosing group homes from locating in entire neighborhoods."

Joint Statement of DOJ and HUD pg. 5

*Special Safety and Procedural Rules *

"/"Because of unsupported fears about community safety and concerns about resident safety, municipalities have often either barred housing for people with disabilities altogether or grudgingly allowed homes for people with disabilities and other arrangements on the condition that they comply with onerous safety and other procedures not required of other congregate living arrangements. Courts that have dealt with this issue have generally struck such requirements down as discriminatory." Bangerter v. Orem City, Utah

A Place to Call Home_ pg. 10

Property Values

"Concern about falling property values can only occur if people with disabilities are seen as a problem, a threat, as a group that will cause upheaval if "allowed into" a community. Starting from the inaccurate premise that people with disabilities are a burden on a community, most neighborhoods will fight homes for people with disabilities with a set of beliefs unsupported by evidence. In reality, homes for people with disabilities have little to no negative impact on a neighborhood's property values or on its crime rates. "Fair share" arguments rest on the assumption that people with disabilities are a burden."

A Place__ to Call Home_ pg. 15

"Daniel Lauber's influential 1986 study of Illinois found no negative effect on property values. He examined 2,261 properties in Illinois for two years before and after group homes were introduced. Lauber's findings: property values rose 79% in neighborhoods with group homes, but only 71% in the control group. Similarly a 1990 review of 25 studies conducted throughout the US found none that showed a decrease in property values or increased turnover. Studies through the US and Canada show the same effect-property values in neighborhoods with group homes increased or decreased at the same rates as those without group homes. Wolpert's study of 42 neighborhoods found, "without exception, the location of a group home or community residential facility for mentally disabled people does not adversely affect property values or destabilize a neighborhood."

A Place__ to Call Home_ pg. 16

Occupancy Limits

"Two areas in which zoning ordinances can intentionally or unintentionally discriminate against people with disabilities and children are in the definition of the term "family" in a zoning code and in the imposition of occupancy limits.... In the case of City of Edmonds v. Oxford House, Inc., the Supreme Court cited this section in ruling that capping the number of occupants in a group home in order "to prevent overcrowding in living quarters" is permissible under the FHA. In other words restrictions that apply uniformly to all people, whether or not related, cannot be subject to discrimination lawsuits." / /

"However, the Court went on to hold that a zoning ordinance may violate the FHA if it defines family units or maximum occupancy differently for related and unrelated people. The Court did not decide whether such a zoning ordinance is per se discriminatory under the FHA. One way to avoid liability, though, might be for local governments to consider removing family composition rules from their zoning ordinances and instead place occupancy limitations in state or local housing codes, which apply uniformly to all people, related or not."

Fair Housing: The Siting of Group Homes for the Disabled and Children_ pg. 6

"Of course, group homes are not permitted to house limitless numbers of residents. As discussed above, municipalities can still set a reasonable cap on the number of residents in a single-family home, can continue to impose uniform occupancy rules that limit the number of people per room, and can enforce nondiscriminatory laws designed to protect public safety and health."

Fair Housing: The Siting of Group Homes for the Disabled and Children_ pg. 10

Sample Reasonable Accommodation Guidelines

Fair Housing: The Siting of Group Homes for the Disabled and Children_ pg. 11

Sources:

A Place__ to Call Home: Addressing Opposition to Homes for People with Disabilities in __Tennessee__ Neighborhoods_. Third Edition, summer, 2003

Fair Housing: The Siting of Group Homes for the Disabled and Children.
Cameron Whitman and Susan Parnas. Copyright @ 1999 National League of
Cities Washington, D.C.

Questions and Answers on the Fair Housing Act and Zoning. Joint
Statement of the Department of Justice and the Department of Housing and
Urban Development.

Additional Websites

Bazelon Center for Mental Health Law: <http://www.bazelon.org>
<<http://www.bazelon.org/>>

Building Better Communities Network: <http://www.bettercommunities.org>
<<http://www.bettercommunities.org/>>

<http://www.habitat.org/how/propertyvalues.html>

[http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?db=pubmed&cmd=Display&dopt=pubme
d_pubmed&from_uid=4069004](http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?db=pubmed&cmd=Display&dopt=pubmed_pubmed&from_uid=4069004)

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d_pubmed&from_uid=4069004](http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?db=pubmed&cmd=Display&dopt=pubmed_pubmed&from_uid=4069004)>