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Work Session I:
Sober Homes and the Opioid Epidemic

Frequently Asked Questions (FAQS)
Sober Homes/Recovery Residences

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FREQUENTLY ASKED QUESTIONS (FAQS)
SOBER HOMES/RECOVERY RESIDENCES

I. What is a "Sober Home"?

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

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

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

A. Federal Laws.

1. Fair Housing Amendments Act (FHA)

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." *See*, 42 U.S.C. §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). *See*, 24 C.F.R. §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. *See*, 42 U.S.C. §3604(f)(1).

2. Americans with Disabilities Act Amendments Act (ADA)

Under the Americans with Disabilities Act 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".[1]

[1] *Bragdon v. Abbot*, 524 U.S. 624, 630, 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.[2]

A City is a "public entity" within the meaning of Title II of the Americans with Disabilities Act, which prohibits public entities from denying disabled persons the benefits of its services, programs, or activities. *See*, 42 U.S.C. § 12131.[3]

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

Yes. Group meetings such as Alcoholics Anonymous/Narcotics Anonymous can be held at a "Sober Home" the same way that you can have a Book Club/Cub Scout meeting/ Super Bowl Party at your Home.

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

1. Local governments can impose regulations that are beneficial to, rather than discriminatory against, the handicapped.[4]

2. Local governments can apply occupancy limitations such as dwelling unit size limitations/number of unrelated people limitations, and/or local landlord permit requirements provided that these regulations apply to all residences/rentals across the board, regardless of the status of the occupants. Further, in accordance with the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, (November 10, 2016), local governments may take into account concerns about overconcentration and proximity of group homes (including "Sober Homes") one to another if they can prove actual overconcentration (typically through a detailed study).[5]

V. Are persons who operate/own a "Sober Home" required to have any training or certifications?

In Florida, by July 1, 2018, yes. In Indiana, Maryland and Massachusetts those residences that receive state funding must be certified through their state's National Alliance Recovery Residences (NARR) affiliate and therefore the operator must be certified (which requires proof of training). For most other states, no.

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[2] *Buckley v. Consolidated Edison Co. of New York, Inc.*, 155 F.3d 150, 154 (2d Cir. 1998) (*en banc*) (recovering drug addicts may be considered to have a "disability" under the ADA).
[3] *See also, Willits v. City of Los Angeles*, 925 F.Supp. 2d 1089 (C.D. Cal. 2013).
[4] *Bangerter v. Orem City Corp.*, 46 F.3d 1491, 1504 (10th Cir. 1995).
[5] Joint Statement of the Department of Housing and Urban Development and the Department of Justice, State and Local Land Use Laws and Practices and the Application of the Fair Housing Act at 12 (November 10, 2016).

VII. Are persons who operate/own a "Sober Home" required to have background checks?

In Florida, by July 1, 2018, yes. It appears that for all other states, no.

VIII. Are persons who operate/own a "Sober Home" required any licensing/registration requirements?

In Florida, by July 1, 2018, yes. In Indiana, Maryland and Massachusetts those residences that receive state funding must be certified through their state's National Alliance Recovery Residences (NARR) affiliate and therefore the operator must be certified. For most other states, no.

IX. Are persons who operate/own a "Sober Home" accountable to any regulatory agency?

In Florida, by July 1, 2018, yes. In Indiana, Maryland and Massachusetts those residences that receive state funding must be certified through their state's National Alliance Recovery Residences (NARR) affiliate and therefore they are accountable to the state through that affiliate organization. For most other states, no.

X. What can local governments do to address citizen complaints about "Sober Homes?"

Educate residents as to the federal law (unless there is current, illegal drug use/sales/possession occurring on site, in which case, please contact local police/ sheriff's office).

XI. I have heard that the "Sober Homes" 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, Division of Insurance Fraud or similar agency depending on your state.

XII. I have heard that the "Sober Homes" in my jurisdiction are committing patient brokering by accepting health insurance as payment for rent/getting tenants high and then shipping them back to the same treatment provider they came from so the "Sober Home" operator can collect a kickback from the patient referral. What can I do?

Report it to your local law enforcement agency. (Police Department/ Sherriff's Office).