



**Policy Statement
by Oregon Council on Developmental
Disabilities
2005**

Siting of Community Residential Programs

Summary of the Issue:

The Fair Housing Amendments Act (FHAA) was enacted in 1988 to extend the protections of the 1968 Fair Housing Act to people with disabilities. In passing the FHAA, Congress recognized that "the right to be free of housing discrimination is essential to the goal of independent living." For years concerns have been expressed about the appropriateness of people with developmental disabilities living in the community. Both values and practice make it clear that people with developmental and other disabilities belong in the community. There continues to be opposition to the siting of group homes and residential programs in neighborhoods and communities throughout Oregon. The discussion and activity that occurs in some areas of the state has a chilling effect on the successful integration of people with disabilities in the community.

The siting homes for people with developmental disabilities is a part of a larger discussion that includes the community placement of treatment facilities and residential programs for many other human service and correction populations.

Council Position:

The Oregon Developmental Disabilities Council promotes the right of all individuals with developmental disabilities to live with whomever they choose in the residence and community of their choice.

The Oregon Developmental Disabilities Council believes the Fair Housing Amendments Act of 1988 and Oregon statutes must be strictly enforced to ensure that people with disabilities have equal rights to live in the communities of their choice. This means there should be no contract requirements, rules, regulations, ordinances or laws requiring notification, dispersal, or burdensome licensing, zoning, or other requirements that limit the options of people with developmental disabilities to live in the residence of their choice in the community.

Plans for true community integration should be developed at every site and good community relations should be encouraged. Strategies for what will best help achieve community integration and good community relations must be based on each individual circumstance. This may include talking to neighbors in advance in some instances. These strategies should be developed in collaboration with local partners.

Dispersal of specialized homes throughout the community should be encouraged through public subsidy to obtain sites in a wide variety of neighborhoods.

Background:

The issues around the siting of homes for people with developmental disabilities have become a part of the larger controversy around the placement of residential facilities and treatment programs (drug & alcohol, mental health, juvenile offenders, parole, etc.) in communities and neighborhoods throughout Oregon. In fact, the issue is being raised in many states and there have been efforts in recent years to reevaluate the protections in the federal Fair Housing Act.

The concerns expressed by neighborhood associations include community safety, concentration of programs in certain neighborhoods, decline in property values, and sometimes may reflect lack of information or prejudice. The opposition to siting has taken a number of forms. The more overt activity has included construction site sabotage or neighborhood associations taking public positions in opposition to any siting or demanding neighborhood prior approval for siting. In some areas the opposition is subtler and can be seen in unusual delays in granting of building permits and intense scrutiny by city and county officials.

Among other things, the FHAA prohibits the application of special requirements through land-use regulations, restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of people with disabilities to live in the residence of their choice in a community. The FHAA prohibits intentional discrimination, actions that may not be intentional but have a discriminatory effect and the failure of municipal officials to reasonably accommodate the needs of people with disabilities.

The courts have struck down the following for violating the FHAA:

- A one-year moratorium on new adult care facilities.
- A zoning ordinance requiring that group homes be separated by at least 1,000 feet.
- A zoning ordinance that excluded group homes from single-family residential districts.
- A statute allowing permits for group homes to be conditioned on 24-supervision and establishment of a community advisory committee to hear neighbor's complaints.
- A zoning ordinance that required notice to neighbors of a group home's existence.
- A requirement that group homes be subject to evaluation by a "program review board" prior to issuance of a group home license.
- A requirement that residents be "permanent."
- A "public safety" restriction that is not individualized or that is based on stereotypes.

Oregon law is clear that any residence that has five or fewer unrelated individuals must be considered a family residence, and therefore no additional requirements may be imposed

While both the federal Fair Housing Act and Oregon law and regulation forbid discriminatory action based on disability, these debates continue to affect the access to community services to people with developmental disabilities.

Possible Future Activity:

Legislative / Administrative:

- Monitor the issue of siting at the federal, state and county government level. Work with other advocates and partners concerned about this issue to oppose actions designed delay, obstruct and limit housing options.
- Monitor and oppose any legislation that appears to limit housing options. Collaborate with other partners on this issue.

Education:

- Work with providers, counties, and the State to identify best practices, materials and strategies to encourage true community inclusion and "good neighbor" relations and encourage their use throughout the process of siting, development, and occupancy.
- With other partners identify (or develop as needed) education materials to be shared with communities that clearly explain the Fair Housing Act and Oregon law.
- Continue through all activities of the Council to promote the philosophy and practice of self determination for individuals with developmental disabilities including home ownership, location of home, and selection of roommates.