



Office of the City Manager

MEMORANDUM

DATE: May 16, 2022
TO: Mayor and City Council
FROM: Doug Thornley, City Manager Approved Electronically
SUBJECT: Residential Treatment Facilities for Disabled Persons

The city approved a building permit (BLD22-05609E) for a considerable addition to the single-family residence at 2840 Sandestin Drive. The stated purpose for the addition is to facilitate operation of an up-to 10 bed residential facility for treatment of children suffering from certain mental health disorders. That approval sparked public comment and opposition to the facility and the city's administration of the zoning code at the May 11 City Council meeting and subsequent writings in local media. For your convenience, a summary of the legal boundaries of the city's authority on this topic is below. Anti-discrimination laws prohibit the city from manipulating its laws to prevent development of residential care facilities for persons with disabilities.

The Fair Housing Act, as amended in 1988 ("FHA") prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. A person is disabled under the FHA if that person (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) is regarded as having such an impairment; or (3) has a record of such an impairment. "Major life activities" include caring for yourself, performing manual tasks, walking, seeing, hearing, speaking, breathing, and working.

The United States Departments of Justice and Housing and Urban Development have long explained that the FHA precludes land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled persons – for example, an ordinance prohibiting housing for persons with disabilities or a specific type of disability, like mental illness, from living in a particular area, while allowing other groups of unrelated individuals to live together in that same area.

Joint Statement of the Department of Justice and the Department of Housing and Urban Development (April 18, 1999) available at: https://www.justice.gov/crt/joint-statement-department-justice-and-department-housing-and-urban-development#N_1_; see also, Nevada Fair Housing Center, Inc. v. Clark County, 565 F. Supp.2d 1178 (D.Nev. 2008) (holding the FHA preempted Nevada's statutory spacing and registration requirements for group homes). Similarly, it is unlawful to deny a building permit for a home because it is intended to provide housing for persons experiencing mental illness.

In Nevada, the definition of "single-family residence" includes residential facilities in which 11 or fewer unrelated persons with disabilities reside. NRS 278.02377. Accordingly, on any parcel where a single-family residence could be constructed or maintained, whether in Reno, Sparks, unincorporated Washoe County, Las Vegas, Henderson, or otherwise, a residential facility serving fewer than 11 disabled persons is allowed as a matter of federal and state law.