

(Health & Safety Code Section 1566.3 for Community Care facilities and Section 11834.22 for licensed alcohol and drug facilities) These sections of the Health & Safety Code only apply to licensed facilities and never apply to residences that are not required to be state licensed.

Unfortunately, many local governments erroneously apply the “six and under” provision to sober living and other independent living residences, inappropriately citing them for code violations requiring that the residence must have six or fewer residents, or have a conditional use permit (CUP) or other type of administrative use permit, or must become state licensed, none of which apply.

Furthermore, local governments cannot require zoning or land use permits or restrictions for a residence that is not required to be licensed that is not imposed on all residences in the jurisdiction.

For a thumbnail description of which laws apply to which types of group homes for persons with disabilities in California go to <http://futuresassociates.org/publications/20090205Distinction.pdf>

3. How fair housing laws apply to zoning and land use for housing for persons with disabilities

Federal and state fair housing laws provide protections from housing discrimination for persons with disabilities. Disability, according to fair housing laws, includes but is not limited to the mentally ill and those addicted to alcohol and other drugs. Housing includes licensed residential treatment programs as well as sober living and other independent living homes where individuals with disabilities reside as a family for an extended period as opposed to an overnight or “hotel” situation.

Following are a couple of examples of situations in which local governments are at risk for violating fair housing laws:

- ◆ When restrictive policies and regulations are based on conjecture, not evidence. For instance, a local government may state that “these homes create neighborhood impairment ,” but offer no evidence to support that supposition, such as jurisdiction-wide law enforcement statistics that indicate that these homes stand out as threats to community health and safety.
- ◆ When regulations or enforcement specifically target sober living or other independent living homes for persons with disabilities—when it is more about “who” is living in homes rather than “what” types of homes they are.



“ . . . many local governments erroneously apply the ‘six and under’ provision to sober living and other independent living residences . . . ”

To further understand how fair housing law applies to sober living and other independent living for persons with disabilities as well as licensed residential treatment, please review the FAQ referenced below. Even though this FAQ addresses alcohol and drug providers it also pertains equally to other group homes and residential treatment for persons with disabilities.

http://futuresassociates.org/publications/FAQ_Update_2008Aug_FINAL.pdf



Both housing providers and local governments are encouraged to consult with fair housing professionals regarding compliance with state and federal fair housing laws regarding local zoning and land use policy implementation and enforcement.

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