

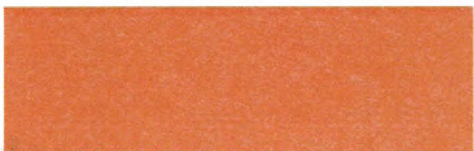
ITEM
#51

TXT-37635

TXT-37635 - TEXT AMENDMENT - PUBLIC HEARING - APPLICANT/OWNER: CITY OF LAS VEGAS - Discussion and possible action to amend Table 2 of Title 19.04 and Title 19.20 to modify use standards for Community Residences (commonly referred to as Group Homes) and similar uses, All Wards

Submitted after meeting
Date 4/26/10 Item 51

TXT-37635
PROPOSED AMENDMENTS
TO TITLE 19
REGARDING COMMUNITY
RESIDENCES



Why are Amendments Necessary?



1) Nevada Federal District Court Case entitled Nevada Fair Housing Center Inc. v. Clark County invalidated the NRS State Land Use Regulatory Process for congregate care facilities as violative of Federal Anti-Discrimination laws.

The City's current process is based upon the invalidated NRS State Land Use Regulatory Process

Why are Amendments Necessary?



2) Certain congregate care providers and national sober house advocacy groups asserted that the City's regulatory process was violative of Federal Anti-Discrimination laws, and requested changes to the City's regulatory process in light of the decision in Nevada Fair Housing Center Inc.

Why Are Amendments Necessary?



3) An internal working group of City Staff reviewed the City's Title 6 and Title 19 congregate care regulatory process, and recommended to City Management that amendments to the City's regulatory process were necessary based upon the decision on the Nevada Federal District Court and the status of Federal Anti-Discrimination Laws.

Amendments to Title 19



- 1) City Management directed the internal working group to propose amendments to Title 19 and Title 6 to reasonably comply with the District Court decision and the relevant federal laws.
- 2) Before you tonight are those revisions.

Community Outreach



Community Meetings:

- a) June 25, 2009 at the Downtown Senior Services Center—34 persons in attendance
- b) July 22, 2009 at City Council Chambers—24 people in attendance
- c) February 4, 2010 (morning) at City Council Chambers—56 people in attendance
- d) February 4, 2010 (evening) at the Las Vegas Valley Water District—4 people in attendance

Federal Law, Generally



Federal Anti-Discrimination Laws that affect the City's ability to freely regulate congregate care facilities:

- Fair Housing Amendments Act of 1988
- Americans with Disabilities Act
- Federal Rehabilitation Act

Federal Law, Generally



These Federal laws prohibit, among other things:
DISCRIMINATION AGAINST THE DISABLED

City ordinances regulating the occupancy of single family dwellings must treat the non-disabled and the disabled similarly

Federal Law, Generally



Municipalities are found to violate these anti-discrimination laws in one of three ways:

- 1) A municipal ordinance discriminates against the disabled *on its face*;
- 2) A municipal ordinance discriminates *as applied*;
or
- 3) A municipality *fails to provide a reasonable accommodation* to prevent discrimination against the disabled.

Federal Law, Generally



Who are the Disabled for purposes of Federal Law?

- Persons with Severe Depression
- Persons with Alzheimer's Disease
- Persons with Autism
- Persons that lack mobility
- Persons recovering from drug or alcohol addiction, who are not currently using drugs or alcohol

Federal Law, Generally

Who are not disabled?

ANY PERSON NOT AFFLICTED WITH A
LEGAL DISABILITY

--Ex-Felons

--Sex Offenders seeking treatment and
counseling

--Non-Disabled Foster Children

--Non-Disabled Released Juvenile Offenders

Federal Law, Generally



The State Land Use Regulatory Program was found by a Federal District Court judge to violate the FHAA *on its face*, by singling out congregate care facilities from other traditional single family residences for special land use treatment, by requiring a minimum 1500 foot spacing requirement between each facility and by requiring an official registry for congregate care facilities.

Amendments to Title 19 Required



--As the City's regulatory process is based upon the State's now invalid process, the City's regulatory process must be amended.

--Clark County was involved in the 2008 Federal Court lawsuit, and amended its code to comply with Federal Court's decision and the relevant Federal laws.

Amendments to Title 19



--Our amendments are based in large part upon the Clark County congregate care regulatory reforms adopted in December 2008.

--A summary of the amendments follow:

Amendments to Title 19



1) To clarify the confusion with multiple definitions, we propose striking from the Code:

- a) Group Residential Care Facility
- b) Individual Residential Care Facility
- c) Halfway House for Recovering Alcohol and Drug Abusers

Amendments to Title 19

2) And replacing these terms with the term:

COMMUNITY RESIDENCE

--of which there are two types:

- a) Family Community Residence; or
- b) Transitional Community Residence.

--A Community Residence is a single family dwelling housing between 5-10 disabled persons, and such residences must be treated as single-family residences for purposes of all building and fire codes, unless the proposed residents cannot adequately ambulate.

Amendments to Title 19



3) To clarify the definition of family, we propose the following amendment:

a) “Family” means with respect to the occupancy of a dwelling unit: 1) one or more individuals related by blood, marriage or guardianship; or 2) no more than four unrelated individuals living together as a single housekeeping unit.

Amendments to Title 19



- 4) Reduction of the Distance Separation from 1500ft (property line to property line) to 660 ft in the shortest pedestrian or vehicular route.

This amendment is a necessity to comply with the terms of the Nevada Federal Court decision—which appears to state that any separation requirement might be a violation of the FHAA. We believe 660 ft. by pedestrian or vehicular route meets the explicit intent of the FHAA, which is to provide a community-like environment instrumental for the recovery and well-being of the disabled by preventing the clustering of Community Residences on certain streets or cul-de-sacs.

Amendments to Title 19



5) Regarding SUPs:

Where an Special Use Permit is required for a Community Residence, the City must approve the SUP unless:

- a) the building is to be modified to make it inconsistent with the neighborhood scale and architectural character;
- b) the number of CRs on any given street would create and institutional atmosphere; or
- c) the CR does not comply with life safety requirements or the tenants are proven to be a direct threat to others (evidence of threat required; mere belief not adequate to prove threat to others)

Amendments to Title 19



6) A conditional use verification requirement is proposed for use by the Director of Planning and Development. We intend for Planning to utilize this tool for Community Residence conditional use requests.

Practical Effect



- 1) Four or fewer unrelated individuals are a permitted use in single-family dwellings (whether non-disabled or disabled);
- 2) Between five and ten unrelated disabled individuals may live in a Community Residence as a Conditional Use;
- 3) Unchanged is an SUP requirement for 11 or more unrelated disabled individuals living in a single family dwelling.

Practical Effect



We believe that adopting changes to our Code similar to the changes made by Clark County will put us into compliance with the Nevada Federal District Court decision as well as the relevant Federal Anti-Discrimination Laws.

Questions? Comments?

