

Sober Living Homes May Challenge Zoning Regulations in Court

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Sober living homes alleging discrimination due to zoning requirements can prove they are entitled to protection under state and federal laws by showing that they serve or intend to serve individuals with disabilities, or that the local government perceives the residents as disabled.

In *SoCal Recovery LLC v. City of Costa Mesa*, sober living home operators (“operators”) filed discrimination lawsuits against the City based on new permit requirements and zoning rules, including a 650-foot separation standard. To succeed in a lawsuit under anti-discrimination laws, plaintiffs must establish that they or their clients have a “disability” or “handicap,” which generally includes persons recovering from alcoholism or drug addiction. The federal district court concluded that the operators at issue failed to show either that their residents had an “actual disability” (because the operators did not provide individualized assessments of each resident’s disability) or that the City regarded the residents as disabled.

Reversing, the Ninth Circuit ruled that to proceed with a discrimination claim operators need only demonstrate that they serve or intend to serve individuals with disabilities. This can be done by providing admissions criteria, house rules, or testimony from employees or residents. Alternatively, operators can show that the local government regarded residents as “disabled” by providing evidence of public fears and stereotypes. Operators also can provide evidence of the content of ordinances, resolutions, permit denial letters, and enforcement documents that acknowledge the disability status of the residents.

Importantly, the Ninth Circuit did not decide whether Costa Mesa’s sober living home regulations are valid. That issue remains pending before the court.

If you have any questions about this decision, or sober living home regulations and zoning ordinances, please contact **Diana Varat** or **Taylor Foland**.