

UT Law CLE
Land Use Conference
Thursday, April 15, 2021

GROUP HOMES



William M. McKamie

Taylor Olson Adkins Sralla & Elam LLP

www.TOASE.com

1

Group Homes

INTRO:

- The Fair Housing Act Amendments (1988) FHAA.
- Enacted expressly to extend all protections of the Fair Housing Act of 1963 to persons with disabilities.
- The application of zoning and other direct land use regulation to group homes that serve as residential placement for disabled persons are by far the most commonly challenged local regulations under the Fair Housing Act

2

The Fair Housing Act Amendments

- “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling” is prohibited by the Fair Housing Act Amendments.
- 42 U.S.C § 3604 (2006).

Protections of Handicapped Persons

“Handicap” is defined broadly –

Includes those persons with **physical or mental impairments** which substantially limit one or more of their **major life activities**. 42 U.S.C. §3602(h); 24 C.F.R. §

Protections of Handicapped Persons

“Major life activities” –

Include, but not limited to, caring for one’s self walking seeing, hearing, speaking, breathing, learning and working.

The definition includes persons who are blind, hearing impaired, physically disabled, mentally retarded, have AIDS, or similar conditions.

Importantly, persons who are **recovering** from substance abuse are considered to have a handicap under the Act. 42 U.S.C. §3602(h).

Protections of Handicapped Persons

“Major life activities” –

NOTE: Although persons who are recovering from substance abuse are considered to have a handicap under the Act, *current users* of illegal or controlled substances are not protected by the Fair Housing Act.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Group Homes

Also available as part of the eCourse

[2021 Land Use eConference](#)

First appeared as part of the conference materials for the

25th Annual Land Use Conference session

"Updates on Current Law on Group Homes"