

PREFACE

This training manual is part of the Disability and Land Use Project of Housing Rights, Inc. The Project was funded by the U. S. Department of Housing and Urban Development (HUD) under a Fair Housing Initiatives Program (FHIP) grant (FH700G96034). Our partners for the Project were Mental Health Advocacy Services and Protection and Advocacy, Inc.

This manual describes work that was performed by a dedicated and somewhat optimistic group of people. That is, we believe that someday, with a lot of work, prayer to higher powers, and time, people with disabilities will be treated equally in all aspects of housing.

Many of our “friends” (affordable housing developers, service providers, etc.) continue to believe that some if not many of the restrictions placed upon housing for people with disabilities is necessary. They cite a variety of reasons. None of which satisfied our group of die-hard advocates.

Other of our “friends” (disability advocates) questioned what we did from a totally different place. They felt that no housing that is ‘labeled’ as housing for people with disabilities should be developed let alone fought for because, by labeling, it is ‘different’ than housing for people who do not have disabilities. Our position is that people with disabilities deserve a variety of housing options (just like everyone else) and housing that is developed specifically with their needs in mind is one of those options. (Just like housing built next to golf courses or for seniors!)

Whatever the position you take on whether or not a ‘community’ has a right to regulate housing for people with disabilities, we hope that there will be something of use for you here.

The primary author for this handbook was Ann Fathy. She worked on the grant as a tester and auditor and worked with us and other agencies throughout the state on developing this material. Ann also provided an update for this Manual. The update can be found on page 42. Many thanks to Ann.

To get started, use the checklist that follows the Table of Contents!

Wanda Remmers-Meyers
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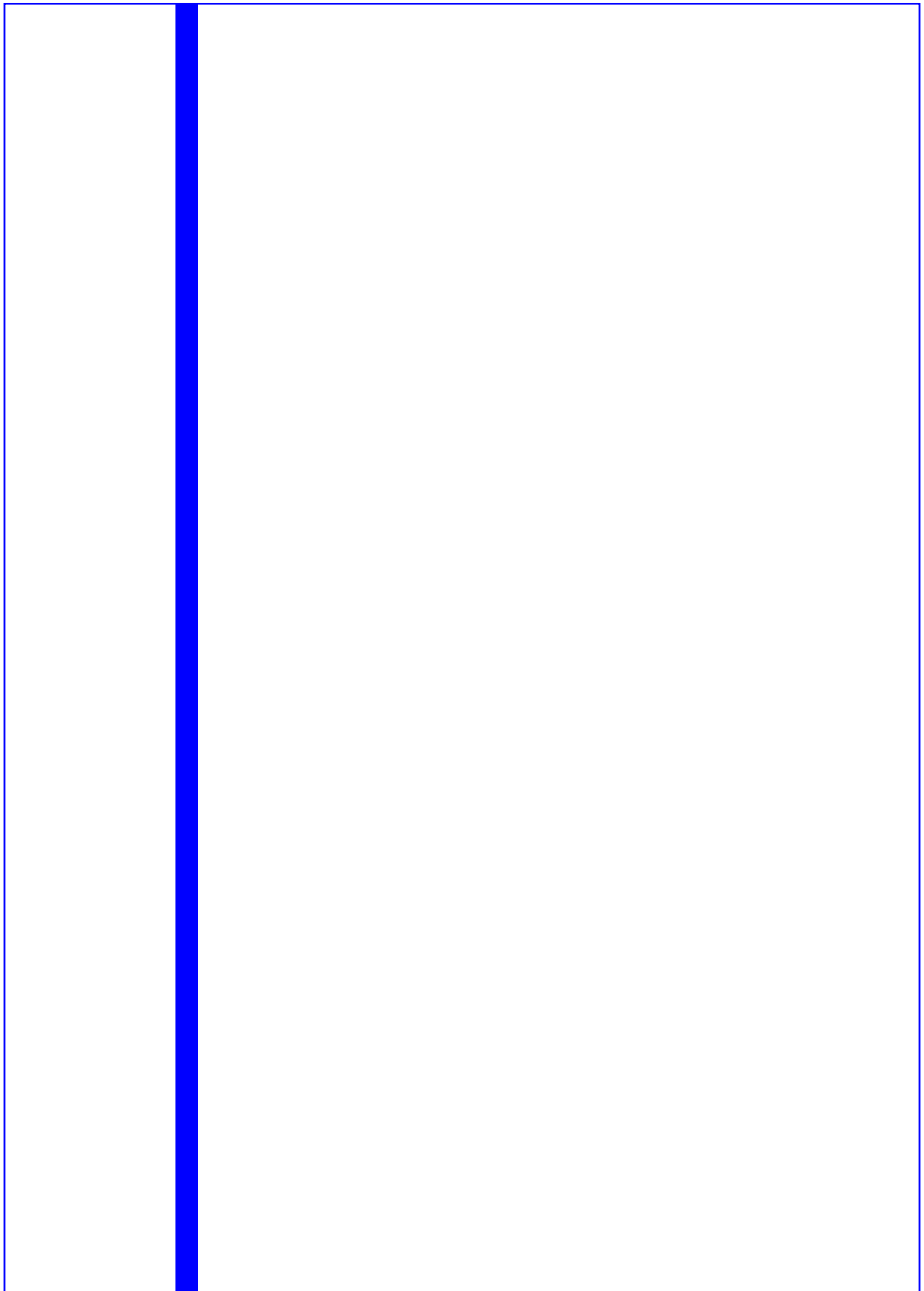


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Checklist for Reviewing City and County Zoning Ordinances For Compliance with Fair Housing Laws That Protect Congregate Living Arrangements for People with Disabilities.

This checklist is intended to assist cities and counties in identifying discriminatory provisions in their ordinances and formulating revisions which further fair housing goals by providing equal opportunity in the development, siting, and use of congregate living arrangements for people with disabilities.

☐ **1. Does the zoning ordinance impose any rules or procedural requirements on congregate living arrangements based on the personal characteristics of the residents, that they are people with disabilities?**

In answering this question, a jurisdiction should determine whether its zoning ordinance imposes restrictions or additional requirements on the development, siting or use of congregate living arrangements for people with disabilities, including both regulations and procedures, that are not imposed on other similarly sized and situated housing.

If the answer to the inquiry is “yes,” then the discriminatory provisions must be eliminated, and the ordinance revised to conform to fair housing laws. A zoning provision that is discriminatory on its face is not remedied by an offer of reasonable accommodation to persons with disabilities.

☐ **2. Does the zoning ordinance impose special restrictions on disability related services provided at congregate living arrangements?**

This inquiry also asks about rules, regulations and procedures that are intentionally discriminatory because they are based on the personal characteristics of the residents, that they are individuals with disabilities. Fair housing laws prohibit the imposition of special fees or restrictions on congregate living arrangements that provide on-site supportive services for residents with disabilities.

☐ **3. Does the zoning ordinance treat congregate living arrangements for people with disabilities as a business or residence?**

Cities and counties may not treat congregate living arrangements for people with disabilities as a non-residential use and require payment of a business license or other special fees when the same is not imposed on other similarly sized and situated residences. Business license or other special fees should be eliminated for congregate living arrangements for people with disabilities.

☐ **4. Does the zoning ordinance characterize and regulate congregate living arrangements for people with disabilities as boarding houses, room and boards, nursing homes or some other use that is contrary to fair housing laws?**

Fair housing laws provide specific protections for housing for people with disabilities in order to promote integration into the community and equal access to housing opportunities. A jurisdiction that characterizes and restricts congregate

housing for people with disabilities as some other type of use must eliminate such erroneous categorizing to ensure that its zoning ordinance complies with fair housing laws.

q **5. Do any of the zoning ordinance rules or procedures have the effect of discriminating against the development, siting and use of congregate living arrangements for people with disabilities?**

Zoning ordinances that have the effect of discriminating against congregate living arrangements for people with disabilities, although not intentionally discriminatory, violate fair housing laws. A city or county must not enforce a provision that has a discriminatory effect on the development, siting or use of housing for people with disabilities.

q **6. Does the jurisdiction have a reasonable accommodation procedure within the zoning ordinance as relief from a rule or regulation that has a discriminatory effect on the development, siting and use of group homes for people with disabilities?**

All cities and counties should have a fair housing reasonable accommodation procedure in their zoning ordinance whereby an individual can request flexibility in the application of a zoning provision or waiver of a particular requirement.



