LEGAL SAFEGUARDS

State and Federal Laws, Courts Protect Group Homes

HEALING HOMES
A Road to Recovery for New Jersey Youth

NEW JERSEY OFFICE OF THE CHILD ADVOCATE
Promoting Positive Change for Children

This advisory was created by the New Jersey Office of the Child Advocate, an independent state agency dedicated to promoting positive change for all New Jersey children, especially those with the greatest need. This document is one of a series of informational materials provided through our "Healing Homes" campaign, which is designed to debunk myths about youth group homes and expand understanding of the importance of this vital service for thousands of New Jersey children.

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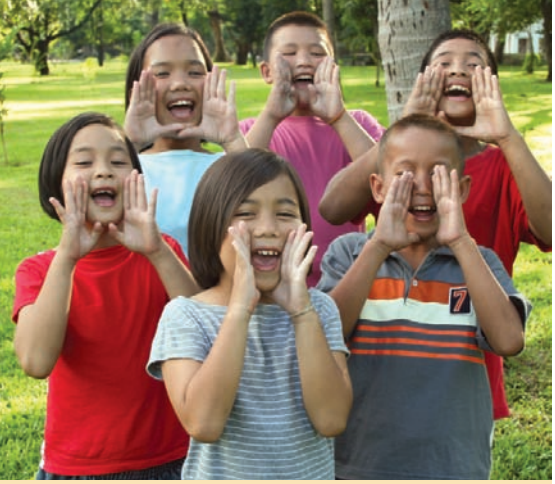


Healing Our Children

While state and federal laws, and many court cases interpreting those laws, provide strong protections for individuals with mental illness, there is a more compelling reason for communities to support these homes: some of our children need them.

It is always best when children can stay safely at home with their families. Unfortunately, this is not always possible. Some families are unable to manage the needs of a child with emotional or behavioral problems. Other children simply have no family either able or willing to care for them. And so, group homes form a critical component of a broad spectrum of treatment options for children who have suffered trauma and/or struggle with mental health needs. Without them, many more New Jersey children would be sent out of state, far from the familiar surroundings of home.

These programs are closely supervised. They must meet stringent state regulations. With low staff-to-child ratios, healing homes are required to provide close, around-the-clock supervision of the youth who reside in them. In addition, a body of research that includes 47 studies from 1973 to 1993 provides strong evidence that group homes have no affect on property values.

The Child Advocate encourages residents and local officials in towns around the state to embrace these programs, recognizing that in strengthening our children, we strengthen our towns, our communities and our state.

Healing Homes

Introduction

Group homes and the children who live in them are protected from discrimination under federal and state laws, including the federal Fair Housing Act and New Jersey's Law Against Discrimination. Those laws prohibit local officials and residents from interfering with the creation of group homes simply because they house children or people with disabilities.

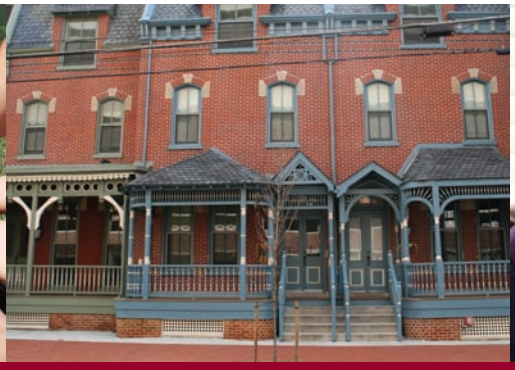
They also prohibit the state and others from requiring advance notification to neighbors or local officials when a group home is being planned. In addition, New Jersey's Municipal Land Use Law prohibits local officials from using zoning ordinances to make it difficult or impossible for a group home to operate in a town.[1]

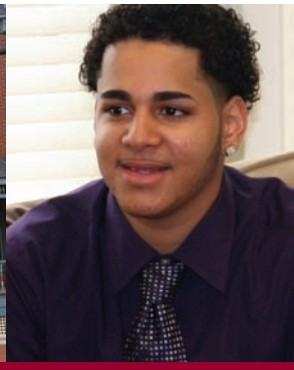
Over the years, the courts have consistently interpreted these laws to include protections that extend beyond the right to create a group home in a town. Most significantly, courts consistently find that towns cannot treat children living in group homes any differently than children living in homes with biological, adoptive or step-families.

These state and federal laws also allow prevailing parties to recoup legal fees and, in some cases monetary damages, stemming from improper attempts to interfere with the creation of group homes, which has resulted in municipalities incurring considerable expense.

The Office of the Child Advocate is an independent state agency dedicated to promoting positive change for all New Jersey children, especially those with the greatest need. Our **Healing Homes** campaign encourages local and state partnerships to support New Jersey's children and youth, providing information to debunk myths about youth homes and to expand understanding of the importance of this vital service for thousands of New Jersey children. The campaign also highlights the laws that prevent towns from discriminating against residents of these homes. This advisory describes those legal protections.

We encourage residents and local officials in towns around the state to embrace these programs and recognize that in strengthening our children, we strengthen our towns, our communities, our state and our future. More information about youth group homes in New Jersey can be found at **www.childadvocate.nj.gov**.





The Federal Fair Housing Act

The Fair Housing Act[2] (Act) provides children and people with disabilities[3] with federal protection from discrimination in housing and gives them a right to equal housing opportunities. This federal law is enforced by the U.S. Department of Housing & Urban Development (HUD). The Act prohibits discriminatory behavior based solely on race, color, national origin, religion, sex, familial status or disability, including:

- Refusing to sell or rent to or otherwise deal with an interested tenant or buyer because they have a disability or they have children;
- Applying different sale, rental or occupancy terms for different people;
- Misrepresenting the availability of housing, including telling people that a property is already taken when it is not, based on one of the protected classifications, including disability or the presence of children.[4]

The Act also makes it unlawful to:

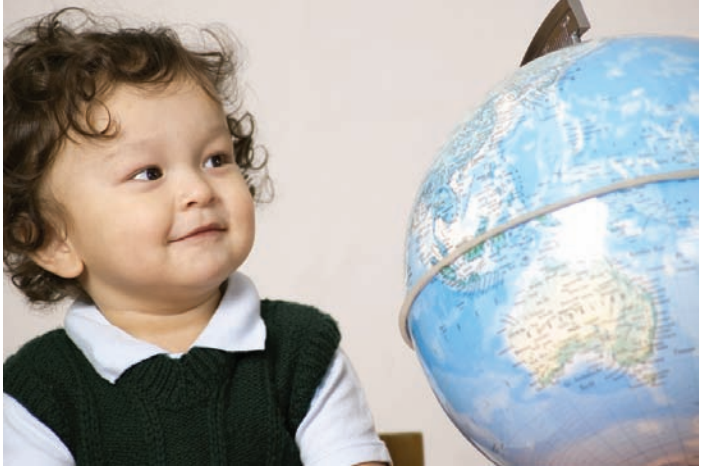
- Implement land use policies or actions that treat groups of protected people less favorably than anyone else;
- Take action against or deny a permit for a home because of the individuals who live or who would live there;
- Refuse to make reasonable accommodations in land use and zoning policies and procedures when such accommodations may be necessary to give people with disabilities an equal opportunity to use and enjoy housing.[5]

In addition, the Fair Housing Act states that is is unlawful to interfere with people's enjoyment of the rights granted to them under this law:

> It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 [42 USCS § 3603, 3604, 3605, or 3606]. [6]

For the purposes of the Act, people with disabilities are defined to include people with physical, mental or developmental disabilities, including people who are recovering from alcohol or substance abuse.[7] People with disabilities have the right to make improvements to rented homes at their own expense if the work is necessary for them to live there. Local government must also make "reasonable accommodations" to agencies seeking to build group homes, such as granting reasonable variances to zoning regulations or other such actions.[8]

The Fair Housing Act also protects households with children under 18. This protected category is called "familial status" and covers pregnant women, adoptive parents and anyone who has



legal custody of children under 18, such as foster parents or grandparents, as well as people who are in the process of gaining legal custody.[9] Group living arrangements for children thus fall under the ‚familial status°p provision of the Act. As the U.S. Department of Justice (DOJ) has explained, a local government may not enforce a zoning ordinance that treats group living arrangements for children less favorably than it treats a similar group living arrangement for unrelated adults: [10]

> [A]n ordinance that defined a group of up to six unrelated adult persons as a family, but specifically disallowed a group living arrangement for six or fewer children, would, on its face, discriminate on the basis of familial status. Likewise, a local government might violate the Act if it denied a permit to such a home because neighbors did not want to have a group facility for children next to them. [11]

A local government cannot stop a group home from opening simply because the neighbors have anxieties about persons with disabilities:

> [A] local government can violate the Fair Housing Act if it blocks a group home or denies a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities.[12]

It is permissible for a local municipality to impose reasonable and non-discriminatory requirements related to health and safety. For instance, since children require adult supervision, a municipality can reasonably require adequate supervision in group living facilities. New Jersey regulations therefore mandate that these homes have low staff-to-child ratios and around-the-clock supervision.[13]

Damages and Attorney Fees

The Fair Housing Act also allows parties that win these cases to recoup actual and punitive damages, as well as legal fees:

> if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary

> injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).
>
> (p) Attorney's fees. In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812 [42 USCS § 3612], the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs... [14]

Since Congress amended the Fair Housing Act in 1988 to add protections for people with disabilities and families with children, a significant amount of litigation has occurred over the ability of local governments to exercise control over group living arrangements, especially for people with disabilities.[15] Some of these cases are discussed later in this advisory.

New Jersey Laws

The New Jersey Law Against Discrimination (LAD), enacted in 1945, was the nation's first state civil rights statute.[16] It prohibits discrimination on the basis of race, religion, color, national origin, sex, gender identity, marital status, civil union status, ancestry, actual or perceived physical or mental disability, nationality, sexual orientation, familial status and domestic partner status.[17] In particular, the LAD prohibits municipalities, counties or other political subdivisions from discriminating in regulating land use or housing.[18] The New Jersey Law Against Discrimination also carries strong provisions under which a prevailing party can recoup a reasonable attorney fee.[19]

New Jersey's Municipal Land Use Law explicitly prohibits local officials from using zoning laws to create an environment in which group homes cannot exist. That law states, in part:

> [n]o zoning ordinance shall, by any of its provisions or by any regulation adopted in accordance therewith, discriminate between children who are members of families by reason of their relationship by blood, marriage or adoption, and resource family children placed with such families in a dwelling by the Division of Youth and Family Services in the Department of Children and Families or a duly incorporated child care agency and children placed pursuant to law in single family dwellings known as group homes.[20]

State law also specifically protects single-family dwellings to be used as homes for youth from planning or zoning ordinance that discriminate against children who live in these homes.

> No municipality shall enact a planning or zoning ordinance governing the use of land by, or for, single family dwellings which shall, by any of its terms or provisions or by any rule or regulation adopted in accordance therewith, discriminate between children who are members of such single families by reason of their relationship by blood, marriage or adoption, children placed with such families in such dwellings by the division or other entity designated by the Commissioner of Children and Families, and children placed pursuant to law with families in single family dwellings known as group homes.
>
> Any planning or zoning ordinance, heretofore or hereafter enacted by a municipality, which violates the provisions of this section, shall be invalid and inoperative.[21]

In addition to protecting group homes and the people who live in them, New Jersey's Administrative Code both protects group homes and those who live in them from discrimination, but also requires agencies that operate group homes to establish a relationship with the community.[22] Under these state regulations, a group home must:

- Develop a governing board that offers advice and counsel to the home on its policies, staff recruitment and selection, physical environment and program activities. This committee must include representatives from the civic, business or educational community.
- The governing board shall establish policies that encourage and enhance community relations, such as hosting an open house.
- The home director must ensure that community activities are held and provide updates on community involvement to the governing board on a quarterly basis.
- The governing board must meet at least quarterly.[23]

Court Rulings Strengthen Protections for Children

The following four New Jersey cases illustrate the strong protections these laws provide for children living in group homes.

A Home for Children with Disabilities in Mantoloking

The New Jersey Supreme Court in 1976 issued a decision that provides protections to children living in group home settings. The case grew out of a decision by a Mantoloking couple to gift

Group Home Opposition Carries Significant Fiscal Liability

Both state and federal anti-discrimination laws allow "prevailing parties" to recoup legal fees, actual damages and punitive damages when civil rights have been violated. As a result, municipalities in New Jersey and across the country have spent substantial taxpayer dollars in damages and legal fees after unsuccessful opposition to group home development. The following two cases illustrate the tremendous fiscal liability that municipalities face if they wrongfully oppose the development of a group home.

Illegal Ordinance Leads to Fees, Damages

In 1990, the Township of Voorhees awarded a zoning permit to OARC, a subsidiary of The ARC of New Jersey, Inc., to open a community home for eight men with developmental disabilities. When local residents learned about the issuance of the permit, they asked the Voorhees zoning board to revoke the permit, which it did. OARC challenged the revocation, and a Camden County trial court restored the permit.[61]

The residents tried again to block the organization from moving forward on the project. They urged the Voorhees Township Committee to adopt a conditional use ordinance restricting group homes from locating in Voorhees. The resulting ordinance required organizations to obtain a conditional use permit from the Committee prior to locating a residence in the community. Following several stages of litigation, Voorhees in 1995 repealed the challenged ordinance in its entirety. The case was dismissed and the court agreed to consider an application for attorneys fees and costs pursuant to a provision of the Fair Housing Act.[62]

The court first determined that the plaintiff was in fact a "prevailing party," even though the case was settled, because they had succeeded in getting Voorhees to repeal the ordinance, which required the ,defendant to do more than it was already committed to do[.]"[63]

In addressing the question of attorney fees the court determined ,reasonableness through the "lodestar" calculation – which is found by multiplying "a reasonable number of hours by a reasonable hourly rate." The court awarded attorney fees totaling $71,931.25 to be paid by Voorhees Township.[64]

Stop Work Order Results In Significant Damages

Defendants Peter Moriello and Samuel Lachs owned real estate in the City of Elizabeth and contracted to sell it to Social, Emotional, Residential and Vocational Programs of New Jersey, Inc. (SERV), which intended to convert the property into a group home for eight "emotionally disturbed teenagers."[65]

The New Jersey Department of Human Services was to fund the purchase. The City issued a building permit for the renovations, but when those renovations were nearly complete, the City issued a stop work order. The City and several interveners, which included neighbors and parents of students enrolled in a school near the site, sought to terminate the project. SERV and Moriello sued, alleging violations under the Fair Housing Act and the state's anti-discrimination law.[66]

At trial, the judge found violations under both laws and awarded declaratory and injunctive relief, as well as damages to Moriello. Lachs was not awarded damages or other relief because his name was on the deed only to secure financing for the project.[67]

The court found that Moriello had "suffered substantial financial damages" because the City refused to issue a certificate of occupancy even though 98 percent of the work was completed when the stop work order was issued. The court also found the City violated "various provisions of the Municipal Land Use Law *(N.J.S.A. 40:55D-66.1 and -66.2[,]"* and also violated Moriello's and SERV's rights under the Fair Housing Act and New Jersey's Law Against Discrimination.[68]

The trial court awarded damages to Moriello in the amount of $84,788.86 for taxes, insurance, loan interest and utilities on the property from the date the stop work order was issued to the eve of the trial (Sept. 16, 1991 to Nov. 30, 1994). Moriello was also awarded $19, 200 for the loss of the fair rental income. SERV was awarded $35,000 in attorney's fees.[69]

The trial court denied legal fees to Moriello and Lachs because it concluded that the property owners are not necessarily aggrieved parties under the Fair Housing Act and, in this case, Moriello was only considered "aggrieved" with regard to damages. The trial court also said it was unfair to levy these expenses against the City, thereby burdening taxpayers with the obligation.[70]

Moriello appealed the trial court decision with regard to damages. He argued that damages should also be awarded for the roughly two years that elapsed between the trial and the court's decision being issued. He claimed he was still owed approximately $60,000.[71]

The Appellate Court found in favor of Moriello, reversed the trial court's decision and found that the city was liable for his counsel fees and for the additional damages incurred during the delay in rendering a decision in the case.[72] All together, the town was liable for at least $259,000.

The appeals panel reasoned that: "While it may seem to be unfair to plaintiff to impose damages because of court delay, it is more unfair to penalize the damaged party for the delay. It was not the court but rather plaintiff that caused the damage in the first place. Thus, if the issue were to be resolved solely on equitable principles, the equities would favor Moriello, not plaintiff." [73]

their oceanfront house to the New Jersey Department of Institutions and Agencies (now known as the Department of Human Services) to use as a home for children in state custody. In October 1973, four neighboring families sued to stop the State from using the property as a group home. They maintained that the intended use violated Mantoloking zoning restrictions for the area, which was designated for single family dwellings.[24] The trial court sided with the state, finding that the zoning ordinance was invalid and the State enjoyed immunity from its provisions.[25]

When the case reached the New Jersey Supreme Court, it agreed with the trial court and found that under such circumstances, the children and their foster parents function as a family:

> A building intended to house a small number of children, together with their temporary foster parents, in an environment that approximates that of a more conventional family does not lose that characteristic and quality merely because the children require and receive specialized training and treatment...The children reside with and are dependent upon a unique set of parents, parents who have assumed the responsibility of providing a family environment for them. That these children are unrelated in a biological way to each other and to these parents does not negate the fact that they live and function as a family entity.[26]

The Court found that "the use of the premises as a group home for handicapped children is . . . in conformity with, rather than in derogation of, the purported neighborhood scheme of residential living."[27]

The court also found that the Legislature intended to immunize the state from local zoning laws that prohibit the establishment of a group home.[28] The court noted that the state did not act unreasonably or arbitrarily in selecting the location of the center, and "the fact that many of the residents voiced opposition to Graewill House does not, in and of itself, mean that the state acted unreasonably in proceeding with its plans."[29]

The court also found that the state is generally immune from local zoning ordinances when it is carrying out its duties to care for children and that this was consistent with Legislative intent. The State "is entrusted with the responsibility of providing care for children whose needs cannot be adequately met in their own homes."[30]

The court ordered that the house be allowed to operate as originally proposed.

Summit and the YWCA

In 1974, the Young Women's Christian Association (YWCA) of Summit planned to open a group home for 10 adolescent girls on its premises after the proposed home was approved by the Division of Youth and Family Services (DYFS). A local citizens' group asked Summit's Board of Adjustment (Board) to declare that the YWCA's proposal violated a local ordinance. In 1975, the Board adopted a resolution prohibiting the YWCA from opening the group home. The Board then directed the municipal building inspector to refuse to issue a certificate of occupancy.[31]

The YWCA asked the court to nullify the Board's action on appeal, and to declare that the proposed use of its property was permitted under the ordinance. The YWCA also asked that the Board be precluded from taking further disruptive actions and that the building inspector issue the appropriate certificate of occupancy.[32]

The court found that the Board overreached when it drew a distinction between families tied through blood, marriage or other legal means and families not so related:

> To suggest that 'families' composed of residents of group homes are to be distinguished from natural families in determining which single-family districts will be considered open to them is to confuse the power to control physical use of premises with the power to distinguish among occupants making the same physical use of them.[33]

The court also determined that a group home would qualify as a family as defined in the Summit ordinance. The Legislature had expressly included in the definition of a group home "any single family dwelling used in the placement of 12 children or less pursuant to law, recognized as a group home," without regard to blood relationship.[34] The court recognized the New Jersey Legislature's intent, and held:

> Communities may not use their planning and zoning powers to discriminate against group homes...By its 'interpretative decision,' the board of adjustment denied these children the same benefits as those of natural families just as surely as if the ordinance had

Prior Notification

In some instances, neighbors and local officials become upset when they learn a group home is opening in their town, arguing that they should have been notified in advance. However, the state and federal laws discussed in this advisory prohibit the state from requiring prior notification of the intention to open a group home in a particular location.

In 1988, after the federal Fair Housing Act was amended to include people with disabilities, it became widely recognized that requiring prior notification of the intention to open a group home would violate the spirit of the Fair Housing Act. Prior to this, New Jersey's administrative rules mandated that local officials be given advance notification. That provision was allowed to expire in light of changes to the federal law.

done so directly. Discrimination is the result, and will not be sanctioned.[35]

The court granted summary judgment to the YWCA, declared the zoning board's resolution void, found that the proposed use of the property by the YWCA was a permitted use and directed the building inspector to issue a certificate of occupancy.

A Transitional Group Home in Pemberton

In a 1981 ruling, the Appellate Division held that the protections of N.J.S.A. 40:55D-66.c. extend beyond facilities operated by the Division of Youth and Family Services.[36]

In the fall of 1978, the Department of Corrections (Department) began making plans to convert a home in the New Lisbon section of Pemberton into a group home. The property, known as the Goodman House, was to house a small group of boys between the ages of eight and 13 who had been committed to the State Training School for Boys at Skillman and who were ready to move from an institutional setting to a more "normal family environment."[37]

When a trial judge permanently prohibited the Department from using the Goodman House for that purpose, the State appealed the decision. The Appellate Division reversed the lower court and found that the group home could not be excluded from "any zoned district to which a biological family would have access," and, as in the Mantoloking case, concluded that any attempt to use a zoning ordinance to keep the group home out of a residential district could not be justified under New Jersey statutes.[38]

A Home for Teenage Girls in Freehold

John and Mary Martin owned land in Freehold Borough and wanted to lease the parcels to The Institute for Evaluation and Planning, Inc. (IEP) to operate a group home. The home was to serve teenage girls with emotional, physical and/or behavioral needs who did "not require a more restrictive facility for their own protection or that of others."[39]

The Freehold Zoning Board of Adjustment denied the couple's application to establish the home. The Board said the proposed use expanded a non-conforming use and the addition of staff members was an expansion of the residential use. The zoning board also maintained that the traffic and parking requirements would result in the residential lot being used as a parking lot.[40]

The Martins asked the Superior Court to overturn the zoning board's decision. The court found that the agency was proposing a lawful use of the home, which was in compliance with state requirements, and that when state law and municipal law conflict, state law prevails.[41]

As to the issue of parking, the court found that the number of cars that would be parked outside the home was similar to the number that would be found outside the home of a large family. "Certainly no one would contend that pursuant to the zoning ordinance a small family would be permitted to occupy the premises in this situation, but that a large family would not be allowed to occupy the premises."[42] Ultimately, the court reversed the Board's decision, as the agency's use and parking scheme were both permissible.

West Orange and Two Group Homes for People with Mental Illness

When Marlboro Psychiatric Hospital was being closed, the state contracted with Project Live to site two group homes in West Orange. The township and several residents filed a lawsuit to block the plan, claiming that it would present a danger to the community because the statutory and regulatory scheme governing such group homes was inadequate. They claimed that such group homes can house people with a wide array of mental illness, including those who present a heightened risk of violence.[43]

They also alleged that under existing laws and rules, there is no analysis of the impact that potential risks will have on the community and no opportunity for residents to receive notice, information or an opportunity to be heard regarding the siting of the group home.[44]

In its 1998 ruling, the U.S. District Court for New Jersey dismissed the plaintiffs claim.[45] The court found that there were no constitutional rights that the residents could claim were violated.[46] The court also found that the State cannot be held liable for a state-created danger because "housing for mentally ill people determined by a court and/or a treatment team not to meet the standard for civil commitment does not rise to the level of willfully disregarding [the neighbors'+ safety."[47]

"They *the State+ know that the individuals whose housing they support have some history of dangerousness to self or others that led to their involuntary commitment, but they also know that, at present, these individuals are adjudged not to meet the standard for civil commitment and are receiving at least a basic level of care."[48]

Further, the court noted that if the housing were entirely private, there would not be any grounds on which the municipality or local residents could prevent others with similar psychiatric histories from moving in.[49]

Halprin v. Prairie Single Family Homes

The protections of the Fair Housing Act extend beyond the siting of a group home. In a 2004 case from Illinois, a couple appealed to the U.S. Court of Appeals for the 7th Circuit, claiming they were harassed by the homeowners' association and other property owners in their development.[50] The harassment, they claimed, stemmed from the fact that one spouse was Jewish.

The court found that under Section § 3617 of the federal Fair Housing Act the conduct by the defendants "is a pattern of harassment, invidiously motivated, and, because backed by the homeowners' association to which the [Halprins] belong, a matter of the neighbors' ganging up on them."[51]

Essentially, the court established in this case that the Fair Housing Act not only protects against discrimination when someone is trying to buy or rent a home, but also continues those protections against discrimination and harassment once they have moved into a neighborhood.

In the Matter of the Commitment of J.W.

This 1996 Appellate Division ruling involved J.W., a patient who had been involuntarily committed since 1984 and was transferred to Ancora Psychiatric Hospital in 1995.[52] After being treated in that hospital for six months, hospital staff recommended that he be released to a "community residence or a group home."[53]

The trial court held that he could never be released to a community-based residence because state law mandates that "[t]hese residences shall not house persons who have been assigned to a State psychiatric hospital after having been found not guilty of a criminal offense by reason of insanity or unfit to be tried on a criminal charge."[54] The trial judge also relied upon a provision of municipal land use law that "excludes from the definition of 'mental (sic) ill person," a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.' "[55]

Additional Resources

For more information on the Fair Housing Act, go to **www.usdoj.gov** or to read the entire Act go to **www.usdoj.gov/crt/housing/title8.htm**

For more information on New Jersey's anti-discrimination laws, go to **www.state.nj.us/lps/dcr/index.html**

For more information on group homes in New Jersey, go to **www.childadvocate.nj.gov**

J.W. had been found not guilty by reason of insanity in 1981. There had been no finding, however, that J.W. would be potentially dangerous to himself or to others if he were conditionally released for residence in the home.

The Appellate Division reversed. The appeals panel held "that excluding a mentally ill person from an otherwise suitable community residence" without considering the unique facts of whether a person is currently dangerous would violate the Fair Housing Act.[56]

The Appellate Division reversed the order that J.W. was categorically ineligible for community residence, finding that "the legislative history of the federal Fair Housing Act strongly supports the conclusion...that before a person can be excluded from a dwelling for dangerousness, proof is required that a direct threat would be posed by that particular individual's tenancy."[57]

The court also held that the challenged statutes[58] were contrary to the federal Fair Housing Act[59] because they render mentally ill persons who have been found incompetent to stand trial or not guilty by reason of insanity categorically ineligible for residence in community homes.[60]

End Notes

1 The Municipal Land Use Law, N.J.S.A. 40:55 D-66.1 and 66.2

2 42 U.S.C. 3601, et seq.

3 The Fair Housing Act uses the term "handicap." This document uses the term "disability" which has exactly the same legal meaning.

4 42 U.S.C. 3604.

5 Id.

6 42 U.S.C. 3617

7 Joint Statement of the Department of Justice and the Department of Housing and Urban Development, Group Homes, Local Land Use, and the Fair Housing Act, Aug. 18, 1999, http://www.usdoj.gov/crt/housing/final8_1.php

8 42 U.S.C. 3604

9 42 U.S.C.S. 3602(κ)

10 Joint Statement, see EN 6, above.

11 Id.

12 Id.

13 N.J.A.C. 10:128-5.3

14 42 U.S.C. 3612

15 Id.

16 2007 New Jersey Fair Housing Report: Housing Discrimination Enforcement and Initiatives in 2007, New Jersey Division of Civil Rights, 2007.

17 What You Should Know About Housing Discrimination, NJ Division of Civil Rights, http://www.nj.gov/oag/dcr/downloads/kyrhousing02.pdf

18 N.J.S.A. 10:5-12.5 – Regulation of land use, housing, unlawful discrimination.

19 The New Jersey Law Against Discrimination also carries strong provisions under which a prevailing party can recoup a reasonable attorney fee. If, however, the prevailing party is the person or entity that allegedly committed the civil rights violation, that party is only entitled to legal fees if the "complainant brought the charge in bad faith." A municipality could be judged to be innocent of violating a party's civil rights, but would be unable to recoup legal fees unless the municipality could prove that the suit was brought in "bad faith." N.J.S.A. 10:5-1 to -42

20 N.J.S.A. 40:55D-66.c.

21 N.J.S.A. 30:4C-26

22 N.J.A.C. 10:128 – Manual of Requirements for Children's Group Homes

23 N.J.A.C. 10:128-3.4

25 Id. at 212-13.

26 Id. at 216-17

27 Id.

28 Id. at 219.

29 Id. at 220.

30 Id. at 218.

31 YWCA v. Board of Adjustment, 134 N.J. Super. 384, 386 (Law Div. 1975).

32 Id. at 387.

33 Id. at 391.

34 N.J.S.A. 30:4C-2(m)

35 YWCA v. Board of Adjustment, at 391.

36 Pemberton v. State, 178 N.J. Super. 346, 356-357. (App. Div. 1981)

37 Id. at 348.

38 Id. at 355.

39 Institute for Evaluation and Planning, Inc. v. Board of Adjustment, 270 N.J. Super. 396, 399 (Law Div. 1993)

40 Ibid.

41 Id. at 400.

42 Id. at 403.

43 Township of W. Orange v. Whitman, 8 F. Supp. 2d 408, 412-413 (U.S. Dist. Ct., Dist. N.J. 1998)

44 Id. at 412.

45 Id. at 414.

46 Ibid.

47 Id. at 420.

48 Ibid.

49 Ibid.

50 Halprin v. Prairie Single Family Homes of Dearborn Park Ass'n, 388 F.3d 327 (7th Cir. 2004)

51 Id. at 330.

52 Matter of Commitment of J.W., 288 N.J. Super. 197 (App. Div. 1996)

53 Id. at 199.

54 Id. at 200, quoting N.J.S.A. 30:11B-2.

55 Ibid., quoting N.J.S.A. 40:55D-66.2.

56 Id. at 203-204.

57 Id. at 204-205.

58 N.J.S.A. 30:11B-2 and N.J.S.A. 40:55D-66.2.

59 42 U.S.C.S. 3604

60 Id. at 208.

61 ARC of New Jersey v. Township of Voorhees, 986 F. Supp. 261 (U.S. Dist. Ct., Dist. N.J. 1997)

62 42 U.S.C.S. 3613

63 ARC v. Voorhees, 986 F. Supp. at 266.

64 Id. at 274.

65 Dunn v. State, Dept. of Human Services, 312 N.J. Super. 321 (App. Div. 1998)

66 Id. at 325.

67 Ibid.

68 Id. at 326.

69 Id. at 327.

70 Id. at 328.

71 Id. at 327-330.

72 Id. at 330-331.

73 Id. at 328.