



CT FAIR HOUSING CENTER

TESTIMONY OF GREG KIRSCHNER OF THE CONNECTICUT FAIR HOUSING CENTER BEFORE THE HUMAN SERVICES COMMITTEE MARCH 2, 2010

My name is Greg Kirschner. I am the Legal Director for the Connecticut Fair Housing Center. I am here this morning to testify in opposition to H.B. 5243, An Act Concerning Sober Homes.

H.B. 5243 AN ACT CONCERNING SOBER HOMES

Under the federal Fair Housing Act, (42 U.S.C. §3601 *et seq.*) recovering alcoholics and drug addicts are considered disabled. *See RECAP, Inc. v. City of Middletown*, 294 F.3d 35 (2d Cir. 2002); *see also* 24 C.F.R. §100.201(a) (“Physical or mental impairment includes ... drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism). The Fair Housing Act prohibits discrimination based on disability. 42 U.S.C. §3604(f). This includes imposing different requirements on people with disabilities compared to people without disabilities. *Id.* H.B. 5243 seeks to impose a requirement on people in recovery that it does not impose on non-disabled people by requiring them to designate a house manager and disclose their living arrangements to the State of Connecticut. This is impermissible under the Fair Housing Act.

Just two weeks ago, the Federal District Court for the Eastern District of New York struck down an ordinance that required substance abuse homes to have a site manager. *Human Resource Research and Management Group, Inc. v. County of Suffolk*, ___ F.Supp.2d ___, 2010

WL 547606 (E.D.N.Y. 2010).¹ The Court found that this requirement was “facially invalid under, and therefore preempted by, the FHA.” *Id.* at *1. As the Court explained such a statute is invalid because it “imposes restrictions and limitations solely upon a class of disabled individuals-people who are seeking treatment to recover from drug and alcohol addiction-that are not generally imposed on others.”² *Id.* at *12.

H.B. 5243 would impose a similar restriction on people in recovery and would likewise violate the Fair Housing Act.

¹ While this case arose in New York State, the ruling is consistent with Second Circuit ruling applicable to Connecticut. *See e.g. Tsombonidis v. West Haven Fire Dept.*, 353 F.3d 565 (2d Cir. 2003); *RECAP*, 294 F.3d 35.

² “Congress intended the FHA to protect the right of handicapped persons to live in the residence of their choice in the community.” *City of Edmonds v. Wash. State Bldg. Code Council*, 18 F.3d 802, 806 (8th Cir.1994), *aff’d*, 514 U.S. 725 (1995). The Fair Housing Act also seeks to promote independent living. *See Laflamme v. New Horizons, Inc.*, 605 F.Supp. 2d 378, 390 (D.Conn. 2009). The proposed house manager and reporting requirement would reduce opportunities for individuals in recovery to live in housing of their choice and “achieve an independent and normal living setting.” *Resource Research*, 2010 WL 547606 *18.