



www.jsonline.com | [Return to regular view](#)

Original Story URL:

<http://www.jsonline.com/story/index.aspx?id=479243>

Group homes lawsuit settled

City eases site rules for people with disabilities

By GINA BARTON

gbarton@journalsentinel.com

Posted: Aug. 1, 2006

The war has raged through the courts for decades. On one side, entrepreneurs and advocates fight to house people with disabilities in residential areas. On the other side, city officials and their constituents fear that too many group homes clustered together could be detrimental to neighborhoods.

Advertisement In Milwaukee at least, the battle appears to be over.

The city has agreed to settle a federal civil rights suit brought by operators of group homes for \$194,000. As part of the settlement, the city has repealed an ordinance that forbids homes for people with disabilities from locating within 2,500 feet of each other. Under the now-invalid ordinance, homes could open within that distance only if the city's Board of Zoning Appeals granted a special use permit - which required a public meeting and a fee. The city didn't always grant the permits, and they were subject to review every year.

Now, group living facilities for up to eight people may open in areas zoned as single-family residential. Facilities for up to 16 people can open in areas zoned as multifamily residential.

Group homes for people addicted to drugs or alcohol and for criminals remain subject to city regulation.

"Only if there are problems in the future will we be returning to court against the City of Milwaukee," said Robert Theine Pledl, who represents the plaintiffs in the case, Options for Community Growth Inc., Humboldt House LLC, Larry Butler and REM Wisconsin II Inc.

But attorneys for both sides say the war will continue at the state level.

Although the city agreed to a settlement, several state officials and the Department of Health and Family Services, named as co-defendants, have not. A state law says that no community living facility may be located within 2,500 feet of another, unless the city allows a lesser distance. Pledl and his co-counsel on the case, Mark A. Peterson, say the state law - like the one recently thrown out by the city - violates the federal Fair Housing Act and the Americans with Disabilities Act.

According to court records, the state's position is that the Wisconsin statute has to be interpreted in a way that is consistent with federal law. Therefore, a city must allow homes to be closer together if federal anti-discrimination laws

require it.

"To have the state statute thrown out is the ultimate goal," Peterson said.

In the meantime, advocates have been working to eliminate the distance rules one city at a time. Madison earlier threw out its 2,500-foot rule, according to court records. Other cities simply don't contest requests for shorter distances.

On the flip side, city officials may work with the League of Wisconsin Municipalities to amend the state law in order to prevent clustering of group homes within a small area, said Assistant City Attorney Jan A. Smokowicz.

"There comes a point, in our viewpoint, where if you don't enforce some kind of regulation, you risk a neighborhood changing character," Smokowicz said. "The point we could not agree on is where the balance is tipped."

From the Aug. 2, 2006 editions of the Milwaukee Journal Sentinel
Have an opinion on this story? [Write a letter to the editor](#) or start an [online forum](#).

Subscribe today and receive 4 weeks free! [Sign up now](#).

© 2006, Journal Sentinel Inc. All rights reserved. | Produced by [Journal Interactive](#) | [Privacy Policy](#)
Journal Sentinel Inc. is a subsidiary of [Journal Communications](#).