



POLICY ALERT: THE LEGAL PATH TO PROMOTING QUALITY RECOVERY HOUSING

Texas legislative efforts to address recovery housing must comply with federal and state fair housing laws and the Americans With Disabilities Act (ADA). This Policy Alert highlights why the Texas Boarding Home Facilities Act cannot be used to regulate recovery housing. To legally and effectively address its substance use disorder public health crisis, Texas must redirect the discussion and enact an incentivized certification for recovery housing that will standardize operational requirements statewide, preserve quality affordable housing opportunities and prevent over-regulation.

Texas Recovery Housing Is Protected by Federal and State Fair Housing Laws

- ❖ Recovery housing, also known as recovery homes and recovery residences, are shared family-like living arrangements that provide an important source of affordable housing and recovery support for individuals in recovery for substance use. These residences, which provide a supportive living arrangement, are protected by the federal Fair Housing Amendments Act of 1988, the Texas Fair Housing Act and the ADA, Title II.
- ❖ The Texas State Analysis of Impediments to Fair Housing (AI) identifies recovery housing as a viable affordable housing option for individuals in recovery and the AI reports that community opposition has impeded this housing, raising potential fair housing and ADA violations.

Recovery Housing Is Not Subject to The Boarding Home Facilities Act

- ❖ The Texas Boarding Home Facilities Act violates federal and state fair housing laws because it captures shared family-like households for individuals currently in recovery for substance use and regulates them differently than households of non-disabled individuals.
- ❖ Federal law is supreme to state law and state law takes precedence over local law. The Texas Boarding Home Facilities Act definition of “disability” does not comply with the federal Fair Housing Act, the ADA and Texas’ own fair housing laws.
- ❖ Recovery housing is neither a “boarding home” nor licensed “facility,” yet the Boarding Home Facilities Act erroneously creates a new category of housing which deviates from both Federal and Texas’ own fair housing laws.
- ❖ Over-regulation of recovery housing through local governments’ adoption of the Texas Boarding Home Model Standards violates the fair housing protections afforded shared family-like recovery housing and will not eliminate or remedy problem recovery homes.

- ❖ Local governments that enforce the Boarding Home Facilities Act against protected recovery housing are at great risk of violating Federal and State fair housing laws and the ADA, Title II.

Incentivized Certification: The Legal Approach To Quality Recovery Housing

- ❖ Voluntary certification of Texas recovery housing will lead to high quality, safe and affordable housing that the State needs to address its substance use crisis and to weed out bad providers.
- ❖ Clear and consistent operational standards, without over-regulation of shared family-like households, will protect residents, housing providers and the community.
- ❖ Texas currently recognizes and uses, for certain funded projects, two operational measures for quality recovery housing: the National Alliance for Recovery Residences (NARR) certification and the Oxford House charter. The NARR certification standards are comprehensive, addressing: organizational/administrative operations; fiscal management; property compliance with all local codes and safety requirements; grievance procedures for both providers and residents; and; good neighbor responsibilities.
- ❖ A NARR certification process is much more comprehensive than the Boarding Home Facilities Act, mistakenly relied upon by some local governments. The NARR certification process requires forming a legal business entity, adopting a written code of ethics, carrying liability insurance and much more, to ensure that recovery housing provides a home of quality with safe and ethical operating standards.
- ❖ The only clear-cut and effective path to standardizing and protecting quality homes and ridding bad actors who are harming the recovery community is through statewide use of the voluntary NARR certification and Oxford House charter. This two-option approach will successfully capture all recovery housing within Texas.
- ❖ Incentivizing providers will lead to voluntary certification and quality recovery housing. These incentives are cost-effective when weighed against the financial and societal damage of the public health crisis of substance use. Possible incentives for certified recovery housing include: low-interest loans; direct referrals; referrals for those with housing vouchers or other rental assistance and; inclusion in a State directory of certified recovery housing, promoting these homes over others.