

**Statement of the Honorable Steve Cohen for the Hearing on  
“Examining Sober Living Homes” Before the Subcommittee on the  
Constitution and Civil Justice**

**Friday, September 28, 2018 at 9:00 a.m.  
2141 Rayburn House Office Building**

Today’s hearing will focus on “sober living homes,” which are group homes for persons who are recovering from alcohol or substance addiction. In particular, the hearing will focus on whether the Fair Housing Act, the Americans with Disabilities Act, and potentially other federal civil rights statutes, need to be amended to allow states and localities to regulate sober homes.

I take no position on the question of whether sober homes are the best means of integrating those recovering from addiction into society, nor do I have a view as to what might constitute “best practices” regarding the operation of sober homes. Those questions are beyond the jurisdiction and expertise of this Subcommittee.

As the Subcommittee with jurisdiction over our Nation’s civil rights laws, however, we must be very wary

of attempts to create exemptions to such laws or to otherwise weaken their enforcement mechanisms.

Both the Fair Housing Act and the ADA prohibit discrimination against persons with disabilities with respect to housing, and persons recovering from alcohol or substance addiction are considered to be “disabled” and, therefore, entitled to protection under those statutes.

Congress passed these laws in order to counteract the effects of generations of stigma, negative stereotypes, and societal prejudice that kept persons with disabilities segregated and isolated from mainstream society.

As a person with a disability, I am sensitive to any attempt to weaken these protections, for these laws share the goal of ensuring that persons with disabilities are able to integrate and participate fully in an important aspect of American life – namely, the chance to live in residential areas amongst members of the broader society.

Some municipalities claim that they are too afraid to regulate sober living homes because they fear being sued for violating the Fair Housing Act and the ADA and, indeed, cities have been sued successfully for violating these laws when using zoning or land use regulation to restrict sober living homes. Therefore, they seek an exemption to these statutes with respect to the regulation of sober living homes.

The fact is, however, that sober living homes *can* be regulated without creating carveouts to the civil rights laws. Indeed, group homes that serve persons with other types of disabilities are already regulated by states and localities without any need for a special exemption from the Fair Housing Act or the ADA. There is no reason why sober living homes cannot similarly be regulated within the existing confines of these statutes.

Towards the end of the Obama Administration, the Department of Justice and the Department of Housing and Urban Development issued updated guidance answering

specific questions commonly asked by states and localities about how to apply zoning and land use laws in ways that do not violate the Fair Housing Act. This guidance, in turn, updated previous longstanding guidance issued in 1999 governing group homes and the Fair Housing Act.

Moreover, the Fair Housing Act itself allows considerable flexibility for cities to address some of the very real abuses that sometimes occur with respect to the operation of for-profit sober living homes.

For instance, it would not violate the statute to deny housing to someone who would constitute a “direct threat” to the health or safety of others or would result in substantial property damage. It also does not permit discrimination claims by those who currently use a controlled substance.

I recognize that there are legitimate concerns with the conduct of some sober living home operators. Those who

engage in fraud and abuse of residents can and should be punished, and reasonable regulations can and should be adopted.

Doing so, however, does not require exemptions to civil rights laws. Prior legislative proposals to do so dating back to the 1990's have all died in Committee, and rightly so.

I thank our witnesses for being here and welcome their testimony.

**Statement of the Honorable Jerrold Nadler, Ranking Member of  
the Committee on the Judiciary, for the Hearing on “Examining  
Sober Living Homes” Before the Subcommittee on Constitution and  
Civil Justice**

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Mr. Chairman, most group homes provide a valuable, nurturing environment for some of the most vulnerable people in our society. I recognize, however, that some sober living homes may create legitimate concerns for communities.

Without doubt, sober living homes—like any group home arrangement involving multiple adults living together—sometimes may be a source of minor public nuisances, such as reducing available street parking, or noise complaints.

And there are certainly some bad actors who take advantage of people recovering from addiction by luring them to these facilities with false promises of free airfare, rent, and other amenities.

In other words, the FHA and ADA authorize states and localities to develop and enforce standards of care, to license sober home operators and staff, and to enact zoning ordinances that apply equally to all similarly situated residences.

The FHA and the ADA also permit local law enforcement officials to crack down on fraud perpetrated by patient brokers as well as false advertisements designed to lure unsuspected persons to illegitimate sober living homes.

But, these critical laws draw the line at discrimination against disabled persons. Persons in recovery for substance abuse disorders have a psychological dependence—and in many cases a physical dependence—on drugs or alcohol. That is not a moral or character deficiency, but a disability recognized by our federal civil rights laws.

Nevertheless, some cities and localities have violated the FHA and ADA based on their discriminatory actions against sober living home operators and their residents. For example, the record in a recent Ninth Circuit case showed that residents of a city in California during the course of a series of public meetings described persons in recovery as “‘not true handicapped’, ‘criminals’, ‘gang members’, and ‘druggies’ along with other derogatory terms.”

I am concerned that doing so may result in some localities enacting laws based on harmful stereotypes and that it will restrict the location and concentration of sober living homes to certain neighborhoods or reduce the number of housing units available to disabled persons.

Such an outcome would undermine the purpose of both the FHA and ADA, which is to foster the integration of disabled persons into society and to ensure that everyone has an equal opportunity to obtain housing free from discrimination.

There is a role for Congress to play in addressing the legitimate problems presented by sober living homes. For instance, I support efforts by Representative Judy Chu, and others, to increase federal aid and technical assistance to states and localities seeking to adopt reasonable regulations of sober living homes in compliance with the FHA and the ADA.

I hope today's hearing will assist us in that regard and accordingly I look forward to hearing from my Congressional colleagues as well as the other witnesses who will testify.

I yield back the balance of my time.