

July 1, 2013
**NOTICE OF HEARING FOR
REQUEST FOR REASONABLE
ACCOMMODATION
FOR BELLE HOUSE, LLC**
NOTICE IS HEREBY GIVEN that
the City Council of the City of
North Mankato, Minnesota, will
meet in the Council Chambers of
the Municipal Building, 1001
Belgrade Avenue, North Mankato,
Minnesota, at 5 p.m. on the 15th
day of July 2013, to hold a hearing
to consider the request for reason-
able accommodation for Belle
House, LLC under the authority of
the Americans with Disabilities
Act and the Fair Housing Act.
Anyone who wishes to appear at
the hearing must give written
notice to the City Clerk of North
Mankato no later than 4:30 p.m. on
July 9, 2013.
Dated this 1st day of July 2013.
Nancy Gehrke, CMC
City Clerk
City of North
Mankato, Minnesota

AFFIDAVIT OF PUBLICATION

**State of Minnesota, ss.
County of Blue Earth**

James P. Santori, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as The Free Press and The Land, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a legal newspaper, as provided by Minnesota Statute 331.02, 331.06, and other applicable laws, as amended.

(B) The printed _____ Notice _____

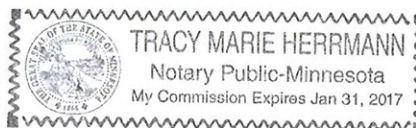
_____ which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive weeks; it was first published on Monday, the 1 day of July, 2013, and was thereafter printed and published on every Monday to and including Monday, the 1 day of July, 2013; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

By: *James P. Santori*
Publisher

Subscribed and sworn to before me on this 1 day of July, 2013.

Tracy Marie Herrmann
Notary Public



NOTICE OF HEARING FOR REQUEST FOR
REASONABLE ACCOMMODATION
FOR BELLE HOUSE, LLC

NOTICE IS HEREBY GIVEN that the City Council of the City of North Mankato, Minnesota, will meet in the Council Chambers of the Municipal Building, 1001 Belgrade Avenue, North Mankato, Minnesota, at 5 p.m. on the 15th day of July 2013, to hold a hearing to consider the request for reasonable accommodation for Belle House, LLC under the authority of the Americans with Disabilities Act and the Fair Housing Act.

Anyone who wishes to appear at the hearing must give written notice to the City Clerk of North Mankato no later than 4:30 p.m. on July 9, 2013.

Dated this 1st day of July 2013.

Nancy Gehrke, CMC
City Clerk
City of North Mankato, Minnesota

Grabitske
Law Firm, PLC

403 South Broad Street, Suite 20 ♦ Mankato MN 56001
(507) 779-7012 ♦ www.grabitskelaw.com

May 21, 2013

Mr. Mike Fischer
City Planner
City of North Mankato
1001 Belgrade Avenue
P.O. Box 2055
North Mankato, MN 56002-2055

Re: Application for Reasonable Accommodation

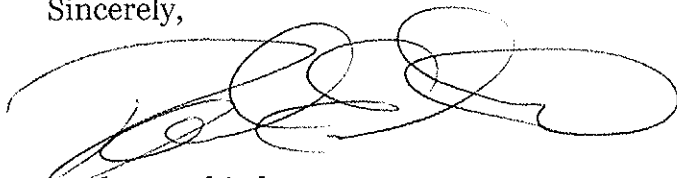
Dear Mr. Fischer,

Belle House, LLC as attorney-in-fact for Jane Doe #1, #2, #3, #4, #5, and #6, hereby requests that the City of North Mankato grant a reasonable accommodation to allow up to eight (8) unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, MN 56003. This application is made under the authority of the Americans with Disabilities Act and the Fair Housing Act. Jane #1, #2, #3, #4, #5, and #6 are each disabled individuals as defined by law.

You had previously asked Darcy Wennes if something had changed since the last submission. We believe at the hearing we will cure the standing issue as it relates to a potential appeal. We also believe there will be additional evidence relating to lack of costs on the City of North Mankato and that opponents of the requested accommodation will not be able to demonstrate undue hardship. The law provides and requires that once facial reasonableness is established; those in opposition to the reasonable accommodation bear the burden of proving that the accommodation is in fact unreasonable.

Please inform me as to when you would anticipate having a hearing. Thank you.

Sincerely,



Paul E. Grabitske
paul@grabitskelaw.com

cc: Belle House, LLC

SEAN + KATE WEBB

2108 NORTHRIDGE DR

N. MANKATO, MN 56003

BOTH WISH TO SPEAK

15 JULY 13

CITY COUNSEL MEETING

SAINT PAUL SOBER HOUSE ZONING STUDY

Planning Commission Public Hearing Draft

City Council Request

City Council Resolution 05-462, adopted on May 25, 2005, directed PED to do a study of “sober houses”, after the Council was informed that the number of sober houses locating in the City was on the rise. A sober house has been commonly referred to as a private residence for individuals in recovery from chemical dependency. People recovering from chemical dependency are considered “disabled” by the Federal Fair Housing Act, a federal law that prohibits discrimination against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability.¹ The Supreme Court has ruled that individuals in recovery from chemical dependency living in congregate facilities cannot be excluded from zoning districts under family composition rules, which limit the number of unrelated persons living together in a single family dwelling.

The City’s Zoning Code currently lacks a definition of a sober house, and does not contain clear regulations that apply to them. The City Council resolution directed PED to identify the current law regarding sober house regulations, determine the limitations of municipal regulations of sober houses, and update the Zoning Code to comply with federal law. In addition, the resolution directed PED to determine if neighborhood notification about sober houses could be implemented, and to explore the feasibility of adopting other city regulations. The City Zoning Code’s definition of “family,” provision about “reasonable accommodation,” and the appropriateness of the sober house land use within single family zones are all relevant issues that merit study.

Authority for the Study

Amendments to the Zoning Code follow the procedures in §64.400 of the Code and Minnesota Statutes §462.357. Either the City Council or the Planning Commission can initiate citywide amendments. Public hearings with required notice are held at both the Planning Commission and the City Council.

¹ 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, http://www.usdoj.gov/crt/housing/final8_1.htm. "Handicap" has the same legal meaning as the term "disability" which is used in other federal civil rights laws.

Existing Regulations

The Federal Fair Housing Act (FFHA)

As discussed above, the FFHA defines chemically dependent individuals as members of a protected class of people (“disabled”), prohibiting discrimination against them. The fundamental local implication of the FFHA is that it prohibits discrimination “against any person . . . because of a handicap” in the sale or rental of housing. 42 U.S.C. 3604(f)(2).

As applied to municipalities, the FFHA prohibits a municipality from refusing “to make reasonable accommodations in rules, policies, practices or services” when those are necessary to permit handicapped persons “to use and enjoy a dwelling.” 42 U.S.C. 3604(f)(3)(B). An example might be an accommodation that would allow a higher number of unrelated residents to live in a single family house than normally allowed by the municipal definition of “family” or the single family zoning.

Apart from of the FFHA, municipalities still have the authority to protect safety and health, as long as the applicable regulations do not restrict the ability of disabled individuals to live in communities. This is true as long as the building/fire codes (safety and health regulations) are required, applied, and enforced *in the same way* on families and groups of similar size of other unrelated people, not just those individuals residing within sober houses.²

State of Minnesota statute

State statute §462.357 governs municipal zoning ordinances within Minnesota. Subd. 7 and 8 discuss when a licensed residential facility shall be considered equivalent to a permitted single family use, or a permitted multifamily use.³

Subd. 7. Permitted single family use.

A state licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons . . . shall be considered a permitted single family residential use of property for the purposes of zoning....”

Subd. 8. Permitted multifamily use.

Except as otherwise provided in subdivision 7 or in any town, municipal or county zoning regulation as authorized by this subdivision, **a state licensed residential facility serving from 7 through 16 persons ... shall be considered a permitted multifamily residential use of property for purposes of zoning.** A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the facility which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the

² Leamon, Elizabeth A.L. “The Zoning of Group Homes for the Disabled... Zeroing in on a Reasonable Accommodation.” University of Connecticut Law Journal, p. 10.

³ “Handicapped,” under the state statute, includes adults who are chemically dependent or abuse chemicals.

residential facility. Nothing herein shall be construed to exclude or prohibit residential or day care facilities from single family zones if otherwise permitted by a local zoning regulation.

The State statutes clearly define any state-licensed community residential facility (CRF) as a single family use if it serves six or fewer residents. The City Zoning Code has different occupant thresholds for different congregate living facilities and group homes. The statute does not explicitly define the equivalent of a permitted single family or multifamily use for a group home that is not licensed by the state (including a typical sober house in the City of Saint Paul).

Municipal Code

Building Code and Inspection, Leg. Ch. 33, and Uniform Fire Code, Leg. Ch. 55

The Municipal Building Code is based on the State Building Code, and is enforced by City building inspectors in the Department of Safety and Inspections (DSI). The Municipal Fire Code is based on the State Fire Code, and is enforced by City fire inspectors, also in DSI. The Municipal Building Code applies to new buildings that are constructed, whereas the Municipal Fire Code is applied to existing buildings that are already constructed. These two codes are considered “companion codes”, and are therefore consistent.

The Departments of Justice (DOJ) and Housing and Urban Development (HUD) assert that group homes for persons with disabilities are “subject to state regulations intended to protect the health and safety of their residents”, and find such regulations to be “necessary and appropriate.”⁴ This suggests that is necessary and appropriate to apply the Fire and Building codes to sober houses, just as they are applied to other similar residential uses. On the other hand, the DOJ and HUD do caution that it would be inappropriate to apply health and safety measures that go beyond those normally imposed on similar congregate residential uses.

Zoning Code, Leg. Ch 60-69

While there is no explicit definition of a sober house use in the City Zoning Code, the use shares some characteristics with community residential facilities (CRFs), transitional housing, and roominghouses. They are like CRFs in terms of being occupied by people in recovery from chemical dependency. They are like transitional housing in that they serve residents for a temporary period of time in between living in a more formalized residential institution and living independently. They are like some roominghouses that function as a single room occupancy, which includes bedrooms with internal locks on the doors, accompanied by common living areas. Here are the three definitions discussed above (with bold text emphasizing similarities to sober housing):

§65.153. Community residential facility, licensed human service.

One (1) main building, or portion thereof, on one (1) zoning lot where one (1) or more children or **persons with** mental retardation or related conditions, mental illness,

⁴ 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, http://www.usdoj.gov/crt/housing/final8_1.htm.

July 9th, 2013

Dear members of the North Mankato City Council,

We, Dale and Lori Plemmons, residents of 2112 North Ridge Drive (since 1999) are submitting this document prior to the scheduled July 15th, 2013 hearing for the reasonable accommodation request for increased occupancy from the Belle House, LLC, located at 2107 North Ridge Drive

It was our intent to attend this hearing but prior commitments on July 15th will not allow that to occur. Please consider the following information:

- 1) The City of North Mankato has denied a previous accommodation request from the Belle House, LLC, through Findings of Fact and Seven Conclusions of Law from the September 24th, 2012 hearing. (attached)
- 2) The State of Minnesota Statute 2011 462.357, OFFICIAL CONTROLS: ZONING ORDINANCE, remains unchanged - State statute §462.357 governs municipal zoning ordinances within Minnesota. Subd. 7 describes when a licensed group residential facility (Belle House, LLC) shall be considered equivalent to a permitted single family use:

Subd. 7. Permitted single family use.

A state licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons . . . shall be considered a permitted single family residential use of property for the purposes of zoning.

The State statutes clearly define any state-licensed group residential facility (GRF) as a single family use if it serves six or fewer residents in R1 zoning.

- 3) The fact remains that statute 462.357 prevents more than 6 residents in state licensed group residential housing, to be present in R1 zoning. Looking at other sober house establishments in Minnesota:
 - a. Sunshine Sober House for Men, in Chaska, Minnesota, 6 Residents
 - b. Liberty Sober House For Women , 6 Residents
 - c. Jefferson Sober House For Men in Shakopee, Minnesota, 6 Residents
 - d. Faber House for Men , 6 residents and the list goes on.

Obviously the cities of Shakopee and Chaska, and the sober house companies operating within them, don't have a problem upholding the state statutes of Minnesota put in place by our elected officials.

- 4) The Belle House requested, and was denied, to be rezoned to multi-family housing when they presented their case to the City of North Mankato Planning and Zoning Committee.
- 5) The Belle House is a for-profit business and requesting to increase occupancy and income by 33% is not a reasonable accommodation request.
- 6) Mr. Wennes has publicly posted at least three times on his Belle House Company Facebook website, and lashed out against anyone who may oppose him. His most recent post of June 24th, 2013, states that anyone in opposition to his business expansion is "ignorant" to "misunderstand" his mission to increase occupancy. Does this public slander apply to the neighborhood? the Planning and Zoning Committee? the City Council? the State of Minnesota? What a great way for Mr. Wennes to weave his for-profit business into the fabric of the community with this type of negative public rhetoric.
- 7) Finally, we have been residents at 2112 North Ridge Drive since 1999 and 2107 North Ridge Drive was never a licensed rental unit or multi-family housing. We moved to North Ridge Drive because we wanted the quality of life provided by single family housing. Should the State of Minnesota Statute 2011 462.357 not be upheld and the Belle House found to exist illegally, we will have no other choice but to consider submitting an operational injunction and explore other legal avenues to uphold the laws of the State of Minnesota.

Thank you for your time.

Sincerely,



Lori L. & Dale R. Plemmons, 2112 North Ridge Drive

In Re:

The Application of Belle House, LLC

After due notice a hearing was held on the 24th day of September, 2012 before the members of the North Mankato City Council appointed to act as a hearing body to determine whether to grant the request for Reasonable Accommodation brought by Applicant. The City Council makes the following

Findings of Fact:

1. Darcy Wennes owns Belle House, LLC.
2. Belle House, LLC serves clients who are recovering female alcoholics.
3. The City of North Mankato stipulated that Darcy Wennes and Belle House, LLC have standing to make the request for Reasonable Accommodation as surrogates for persons who are defined as disabled persons by the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act.
4. Belle House, LLC, by and through its owner, Darcy Wennes, requested the City of North Mankato provide Reasonable Accommodation by allowing up to eight unrelated female residents to live at 2107 Northridge Drive, North Mankato, Minnesota in a board and care facility for alcoholic women.
5. The property at 2107 Northridge Drive in within an area zoned R-1 (Single family residences) by the City of North Mankato.
6. The property at 2107 Northridge Drive has never been licensed as a rental facility by the City of North Mankato.
7. On August 13, 2012 pursuant to Minnesota Statute 15.99 sub. 3(f) the City of North Mankato extended an additional sixty (60) days the time to consider the initial application of Belle House, LLC. This extended the time for determination from September 2, 2012 to November 1, 2012.

8. Testimony was presented at the hearing of several other similar residential facilities existing in similar size communities serving a maximum of six (6) residents at a time.

9. Testimony was presented at the hearing that no more than two (2) unrelated persons are allowed to reside in a single residence in an area zoned R-1 in North Mankato.

10. Minnesota Statute 462.357 Sub. 7 states a state licensed residential facility or a housing with services establishment registered under Chapter 144D serving six (6) or fewer persons shall be considered a permitted single family residential use of property for the purposes of zoning.

11. Testimony was presented at the hearing that exceeding the number of persons allowed under Minnesota Statute 462.357 Sub. 7 would impose an undue financial or administrative burden on the City of North Mankato.

12. Testimony was presented at the hearing that exceeding the number of persons allowed under Minnesota Statute 462.357 Sub. 7 would create a fundamental alteration of North Mankato's land use and zoning scheme, and it is not a reasonable accommodation.

Conclusions of Law

1. Minnesota Statute 462.357 Sub. 7 establishing six (6) unrelated persons as the maximum allowed in a residential facility where the property is zoned R-1 (Residential) is reasonable and is not discriminatory.

2. Allowing six (6) unrelated persons to reside in a residential facility zoned R-1 exceeds substantially the number of unrelated persons allowed in any residence not covered by the Fair Housing Act or the Americans with Disabilities Act.

3. The accommodation requested by Belle House, LLC is not reasonable in that the current limit of six (6) unrelated persons is already triple what would be allowed any other owner/occupant of land in a R-1 zone in North Mankato.

4. The accommodation requested by Belle House, LLC is not necessary in that other similar homes have been shown to operate with six (6) or fewer occupants.

5. The accommodation requested by Belle House, LLC is not required to afford handicapped persons equal opportunity to use and enjoy housing as the six (6) person capacity already exceeds the opportunity enjoyed by those not protected by the Fair Housing Act or the Americans with Disabilities Act.


6. The accommodation requested by Belle House, LLC imposes an undue financial or administrative burden on the City of North Mankato.


7. The accommodation requested by Belle House, LLC creates a fundamental alteration to North Mankato's land use and zoning scheme and is not a reasonable accommodation.

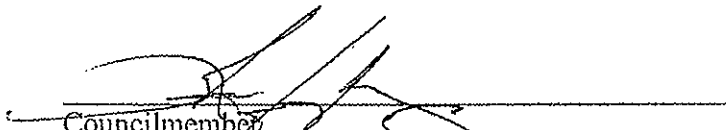
ORDER

1. Belle House, LLC's request for reasonable accommodation to allow up to eight unrelated females to cohabitate at 2107 Northridge Drive, North Mankato, Minnesota is DENIED.

I agree to the above Findings of Fact, Conclusions of Law and vote to DENY the request of Belle House, LLC for a reasonable accommodation to allow up to eight unrelated females to cohabitate at 2107 Northridge Drive, North Mankato, Minnesota.


Councilmember


Councilmember


Councilmember



403 South Broad Street, Suite 20 ◊ Mankato MN 56001
(507) 779-7012 ◊ www.grabitskelaw.com

June 27, 2013

Mr. Michael Kennedy
Kennedy & Kennedy Law Office
99 Navaho Avenue, Suite 104
PO Box 3223
Mankato, MN 56002-3223

Re: Belle House, LLC, on behalf of Jane Does #1 through #6
Request for Reasonable accommodation

Dear Mr. Kennedy,

During the last meeting of the North Mankato City Council there were statements that prompted some concern. To make sure I heard correctly, I ordered a copy of the DVD from the hearing. McGowan Reporting, LLC, provided a transcript, a copy of which is enclosed.

The Due Process clause of the United States and Minnesota Constitutions entitles a person to an impartial and disinterested tribunal. Minnesota's history of ethical conduct by elected officials makes caselaw on the issue sparse in this jurisdiction.

Cases across the nation reflect that when a city council carries out a quasi-judicial function, such as making a decision on an application for a reasonable accommodation, it has an obligation of impartiality on par with that of judges. Minnesota's Code of Judicial Conduct provides that a "judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned." Minn. Code Jud. Conduct, 2.11(A). Impartiality requires the "maintenance of an open mind in considering issues that may come before a judge." Minn. Code Jud. Conduct, Terminology; *See Also Hansen v. St. Paul City Ry. Co.*, 231 Minn. 354, 43 N.W.2d 260 (1950)(those adjudicating cases must maintain impartiality and refrain from making remarks that show bias or favoritism of one side).

Here the transcript reads in pertinent part as follows:

MR. STEINER: Well, my opinion is that we have done this before, and we did grant them three times the allotted number of individuals that -- in that type of R-1 district, and I would -- I think that we made the decision at that time, and I would stand by what we -- what we decided at that time.

Mr. Steiner appears to have made up his mind without hearing any evidence on the new request.

Under the Fair Housing Act and the Americans with Disabilities Act, each and every disabled person has an absolute right to ask for their own reasonable accommodation. Due process requires a fair hearing before an impartial tribunal. The new residents request for reasonable accommodations are not precluded by the doctrines of claim preclusion or collateral estoppel; they were not the party seeking the accommodation. Furthermore, Mr. Steiners remarks to the City of North Mankato granting “three times the allotted number of individuals”, an apparent reference to Minn. Stat. §462.357, Subd. 7, errs in that the occupancy by a minimum of six unrelated individuals is a right guaranteed by state statute; not a use that requires any blessing from the North Mankato City Council.

Enclosed is a copy of *Living Word Bible Cam v. County of Itasca*, Appellate Court File No. A12-0281 (Minn. App. Filed September 17, 2012). That case affirms the District Court’s ruling that the partiality of a County Commissioner affected the decision-making process. A case cited with approval within that decision, *Prin v. Council of Municipality of Monroeville*, 645 A.2d 450 (Pa. Cmwlth. 1994) holds that a city councilmember who spoke in opposition to a zoning request that had yet to come before the City Council was evidence of bias that should have precluded him from participating in the City Council’s action on that petition.

We have also made a Data Practices request. If there are any other documents that are produced subject to that request that may reflect on the impartiality of any of the City Council, I will forward them to you. As you noted at the City Council meeting, the desire is to get a decision on the merits.

The applicants for a reasonable accommodation request that Councilmember Steiner recuse himself. If he chooses not to do so, the applicants request that the City Council determine under its statutory authority to determine the qualifications of its members and regulate its’ own proceedings, to disqualify Councilmember Steiner from participating in the decision on the application for a reasonable accommodation.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul E. Grabitske', with a large, sweeping flourish extending to the left.

Paul E. Grabitske
paul@grabitskelaw.com

enc.

cc: Belle House, LLC

Living Word Bible Camp, Respondent,
v.
County of Itasca, Respondent,
Pamela J. Brown, et al., intervenors, Appellants.
A12-0281
STATE OF MINNESOTA IN COURT OF APPEALS
Filed September 17, 2012

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2010).

Affirmed in part, reversed in part, and remanded; motion denied. Stoneburner, Judge
Itasca County District Court File No. 31-CV-10-885

G. Craig Howse, Jeffrey C. Thompson, Jacob R. Grassel, Howse & Thompson, P.A., Plymouth, Minnesota (for respondent Living Word Bible Camp)

Michael J. Ford, Cally R. Kjellberg, Quinlivan & Hughes, P.A., St. Cloud, Minnesota (for respondent Itasca County)

James P. Peters, Law Offices of James P. Peters, PLLC, Glenwood, Minnesota (for appellants)

Considered and decided by Stoneburner, Presiding Judge; Ross, Judge; and Connolly, Judge.

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UNPUBLISHED OPINION

STONEBURNER, Judge

Appellants, owners of land adjacent to a planned development on a lake, sought to intervene in a declaratory-judgment action brought by respondent developer to challenge the decision of respondent county requiring an environmental-impact statement (EIS) for respondent's planned lakeshore development. The district court denied the motion to intervene, reversed the county's EIS determination, remanded the matter for the preparation of a new environmental-assessment worksheet (EAW), and sua sponte enjoined the participation of one commissioner in further proceedings on the project. Appellants challenge the district court's

orders, arguing that, as affected neighboring landowners, they have a right to intervene and have standing in this appeal to challenge the district court's ruling on the merits. Because we conclude that appellants have a right to intervene, we reverse the denial of the intervention motion and recognize appellants' standing to challenge the district court's rulings on the merits. Because we conclude that the district court did not err in concluding that a commissioner's bias made the county's decision on the EIS arbitrary and capricious, we affirm the district court's reversal of the EIS decision and remand for a new EAW process in which the biased commissioner shall not participate.

FACTS

This is the fourth time that this court has addressed disputes related to respondent Itasca County's handling of a proposal by respondent Living Word Bible Camp (LWBC) to build a camp on the shores of Deer Lake. Most recently, we reversed the decision of

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county board of commissioners (board) granting a conditional-use permit (CUP) and planned-unit-development permit (PUD) for the project based on the board's decision, in its capacity as the responsible governmental unit (RGU), that an EAW was not necessary. We remanded to the board for completion of an EAW. Applications of LWBC, 2008 WL 2245708, at *1 (Minn. App. June 3, 2008).

The EAW

On remand from this court, the board retained the consulting firm of Widseth, Smith, Nolting & Associates, Inc. (WSN) to assist with preparation of the EAW. WSN assigned

environmental scientist Brian Ross to work on the EAW. The board forwarded all of the comments it had received in relation to its prior EAW determination to Ross. LWBC submitted data in the form of a draft EAW to Ross, and Ross prepared and submitted a draft EAW to the county.

Commissioner Catherine McLynn, who represents a district encompassing LWBC's land, believed that the draft EAW submitted by Ross was incomplete and in some respects inaccurate. McLynn discussed her beliefs with staff and sent emails summarizing her views to staff, fellow commissioner Karen Burthwick, and Ross. McLynn made several suggestions for changes to the draft EAW and criticized Ross's failure to include or respond to letters and statements previously submitted to the county by parties opposed to the LWBC project. McLynn objected to including conclusory statements in the EAW.

Ross responded to McLynn's concerns, editing the EAW in many respects, but also advising her that some of her proposals were not supported by the record and noting

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that the EAW form calls for conclusory statements in some respects by asking for an opinion about effects and impacts.

McLynn submitted a request for board action (RBA) to return the draft EAW to Ross for revisions. The board met and passed McLynn's RBA. The board also scheduled a hearing for December 7, 2009, to approve the EAW for distribution.

Four days before the scheduled hearing, Ross sent a new draft of the EAW to McLynn, advising her that he had made "small revisions" based on comments received from LWBC's attorney. McLynn responded by email, asserting that there were "significant revisions so it will be impossible for the board to approve on Mon[day] a document that has been revised significantly from the copy we were given." She also wrote that she was "very disappointed in the revised draft." She asserted that,

[a]ccording to the EQB Guidelines and state law, this document is THE COUNTY'S assessment of the project, not the proposer's. You are working for us in preparing the document. You were directed by the board to revise the document after reviewing specifically identified documents ON FILE with the county. And yet, the drafts you sent us are full of conclusory [sic] statements that are NOT appropriate in the EAW and are in substantial conflict with what the county already has on file as far as knowledge of the project and impact on the environment. Please delete or revise ALL conclusory statements and stick to known facts. Did you review and would you please refer and include as appendices the limnology and fish and wildlife reports on file . . . ?

(Emphasis in original.) McLynn further stated that "[t]he EAW is full of references to promises, indications, expectations and proposed conditions NONE of which are in force as mitigation measures YET." (Emphasis in original.)

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Before the December 7 meeting, McLynn sent a memorandum to the board titled, "Accuracy and completeness of EAW for LWBC." The memo contained three pages of McLynn's recommendations for amendments, including the addition, as appendices, of the materials received by the county from individuals opposed to the project, some of which were not supported by the data. She also proposed deleting from the draft EAW numerous statements concluding that the project will not impact or significantly impact certain resources and, in some cases, replacing those statements with statements that the project will or may impact certain resources.

At the December 7 meeting, Ross spoke to the board addressing and objecting to several of McLynn's proposals and stating that the conclusions in the draft EAW reflected his professional opinions based on the reports that had been commissioned from a limnologist and an engineer.

McLynn asserted during the meeting that her proposed changes were her attempt to make the EAW more neutral. But Ross pointed out that some of McLynn's proposed language was itself conclusory. Ross and McLynn explained their respective positions and McLynn moved to approve the EAW with the amendments contained in her memo, with certain corrections. Four of the five county commissioners were present at the December 7 meeting. Two commissioners expressed an interest in accepting Ross's draft EAW as written. But a third commissioner supported McLynn, and the commissioners were deadlocked 2-2. Ross then proposed to make all but one of McLynn's amendments to the draft EAW, and McLynn agreed to drop that amendment and not to add anything to the appendices. McLynn moved for approval of that compromise. After that motion

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failed, Ross reviewed and discussed with the commissioners specific changes that concerned him. Ross eventually agreed to remove much of the conclusory language. The board passed a motion, over McLynn's "no" vote, to exclude the language that Ross agreed to remove and to exclude the amendment and additional appendices that McLynn had previously agreed to. The board then approved the EAW for distribution, again over McLynn's "no" vote.

The EAW was submitted to the Environmental Quality Board (EQB) and published in the EQB Monitor, which started a 30-day public-comment period. The county received approximately 50 written comments and/or data submittals during the public-comment period, from supporters and opponents of the project, and from state agencies and other experts who advocated further study of the environmental impacts of the project. The

Minnesota Department of Natural Resources (DNR) submitted a 12-page letter, identifying shortcomings of the EAW and concluding that "[t]here is a need to further describe various environmental effects from the project and identify specific mitigation measures that could be included as requirements of project permitting to minimize negative environmental effects."

The EIS vote

On February 23, 2010, the board met and voted to issue a positive declaration requiring an EIS for the project. In contrast to the lengthy discussion about the EAW, the record discussion on the EIS determination is brief. As part of his contractual duties, Ross prepared and presented to the board a resolution for a positive declaration with supporting findings. McLynn and two other commissioners proposed edits to the draft

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findings. Some of McLynn's edits were to correct misstatements. But, as with the EAW, McLynn also proposed to delete a number of "no-impact" and "mitigation" statements in Ross's draft findings. McLynn also asked for her own findings to be appended to those drafted by Ross. After additional discussion, the chairperson called for any other comments regarding the findings and positive declaration, and hearing none, stated that she was most persuaded by the 12-page letter from the DNR, stating that there is potential for significant environmental impact. No other commissioner expressed a specific reason for voting for the positive declaration, but, as the district court later noted, "Commissioner Burthwick proposed significant substantive findings of fact in support of her vote and her findings are supported by substantial evidence in the record." The board voted three-to-one to require an EIS and to adopt the draft findings with the amendments proposed by McLynn, Burthwick, and the chairperson.

District court proceedings

LWBC brought a declaratory-judgment action in district court, seeking a declaration that the county's decision to require an EIS was arbitrary and capricious. LWBC moved for summary judgment, submitting affidavits and an extensive expert report by Westwood Professional Services (the Westwood report) critiquing the EAW process and, particularly, McLynn's role in that process. The Westwood report had not been presented to the board. Appellants noticed their intent to intervene in the declaratory-judgment action as a matter of right.

After a hearing on the motions, the district court issued an order on July 25, 2010, denying, in relevant part, appellants' motion to intervene, holding that as a matter of law

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McLynn's actions reflected partiality and were improper such that her vote should be excluded, and ordering an evidentiary hearing to determine whether McLynn's "partiality and improper actions" rendered the board's resulting two-to-one positive declaration for an EIS arbitrary and capricious.

The district court based its decision on McLynn's conduct in the course of the EAW and EIS proceedings, explaining that "all of the changes McLynn sought and had made to the EAW, other than typographical changes (affect v. effect, for example) changed statements that were more favorable to LWBC's position into statements that were either facially neutral or more favorable to those opposed to LWBC's position." The district court also identified facts outside of the EAW and EIS proceedings supporting its determination that McLynn had acted partially. The district court, noting that because the record before it could support either a positive or negative declaration for an EIS, stated "it is impossible to speculate as to what the result would have been absent Commissioner McLynn's partiality and improper conduct."

Both LWBC and the county moved for amended findings, and appellants sought reconsideration of the denial of their notice to intervene. On December 15, 2010, the district

court issued conclusions of law, concluding that, even without reference to matters outside of the record, the record supported the district court's finding that Commissioner McLynn acted arbitrarily and capriciously by voting for a positive declaration for an EIS and that her vote should not count. The district court also concluded that it had erred by upholding the positive declaration based on only two votes because it now understood that the board cannot pass any resolution unless a majority of

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the five board members vote in favor of the resolution. The district court again concluded that the record could support either a positive or negative declaration for an EIS and that "[b]ecause Commissioner McLynn's actions and involvement may have affected the whole EAW process and the extent of her improper influence cannot be determined, it is necessary that the EAW process be completed anew." The district court, in relevant part, cancelled the previously ordered evidentiary hearing on whether McLynn's actions made the board's EIS decision arbitrary and capricious and remanded the matter to the county to conduct a new EAW process with a recommendation that the matter be referred to a different RGU if possible. Sua sponte, the district court enjoined McLynn's participation in further proceedings involving LWBC's proposal. The district court denied appellants' motion for reconsideration of the motion to intervene, stating that the county had appropriately represented their interests and that they could participate in the further proceedings before the board.

This appeal

The county did not appeal the district court's order and subsequently requested that the EQB appoint a different RGU.¹ Appellants filed this appeal, challenging the district court's denial of their notice to intervene and the district court's reversal of the county's positive EIS declaration. LWBC moved to dismiss the appeal, arguing that the appeal is untimely and that appellants do not have standing to appeal. A special-term panel of this court denied the

motion, reasoning that the appeal is timely; that appellants

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have standing to challenge the intervention denial; and that the panel assigned to address the merits of the appeal would be in a better position to determine whether appellants have standing to challenge the merits of the district court's decision. LWBC has moved to strike three statements in appellants' brief on appeal.

DECISION

Motion to strike denied

LWBC's motion to strike three statements from appellants' brief on appeal asserts that the objected-to statements would mislead this court to believe that consultant Ross was hired by LWBC rather than the county. But the record is clear that Ross was hired by the county. The record reflects that LWBC also used consultants in connection with the EAW/EIS proceedings, and the use of consultants by LWBC has no bearing on our decision. The motion to strike is denied as unnecessary.

Intervention

Appellants assert that the district court erred by denying their motion for intervention as a matter of right under Minn. R. Civ. P. 24.01. This court reviews de novo an order denying intervention as a matter of right. *Star Tribune v. Minn. Twins P'ship*, 659 N.W.2d 287, 299 (Minn. App. 2003).

We have articulated four criteria that, when satisfied, compel a court to grant intervention: (1) a timely application by (2) someone with an interest in the property or transaction underlying the action; (3) circumstances under which the disposition of the action will impair or impede the applicant's ability to protect that interest; and (4) a lack of adequate representation by those who are already parties to the action. *Star Tribune*,

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659 N.W.2d at 299. "Minnesota courts are to follow a policy of encouraging all legitimate interventions." *Jerome Faribo Farms, Inc. v. Cnty. of Dodge*, 464 N.W.2d 568, 570 (Minn. App. 1990), review denied (Minn. Mar. 15, 1991).

Both LWBC and the district court acknowledge that appellants have interests that will be impacted by this litigation. Their implicated interests include both preserving the value of their properties and protecting the environment. See *id.*, at 571 (recognizing neighboring landowners' interest in protecting value of their real property). But LWBC asserts that this court should affirm the district court's denial of intervention, arguing that appellants did not timely intervene, and that, contrary to the county's assertion that it does not adequately represent all of appellants' interests, the county adequately represents appellants' interests.

"The determination of whether intervention is timely must be considered on a case-by-case basis." *State Fund Mut. Ins. Co. v. Mead*, 691 N.W.2d 495, 501 (Minn. App. 2005). "Timeliness of an application depends on factors such as how far the suit has progressed, the reason for the delay in seeking intervention, and any prejudice to the existing parties because of the delay." *Blue Cross/Blue Shield of Rhode Island v. Flam*, 509 N.W.2d 393, 396 (Minn. App. 1993), review denied (Minn. Feb. 24, 1994). But posttrial intervention is disfavored. *Id.* Appellants noticed their intervention during summary-judgment briefing and sought no changes to the scheduling orders.² LWBC does not assert any prejudice resulting from the delay, and we conclude that, under the circumstances of this action, appellants timely sought intervention.

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With respect to the fourth criteria, appellants "carry the minimal burden of showing that the existing parties may not adequately represent their interests." *Faribo Farms*, 464 N.W.2d at 570 (quotations omitted).

[I]f [the applicant's] interest is similar to, but not identical with, that of one of the parties, a discriminating judgment is required on the circumstances of the particular case, but [the applicant] ordinarily should be allowed to intervene unless it is clear that the party will provide adequate representation for the [applicant].

Costley v. Caromin House, Inc., 313 N.W.2d 21, 28 (Minn. 1981) (quotation omitted). The district court reasoned that appellants' interests would be adequately represented even if the county chose not to appeal the EIS determination because appellants can participate in the new EAW determination. But this analysis disregards the remedy sought by appellants at the district court. The remedy sought by appellants was affirmance of the county's decision to require an EIS. Moreover, "[t]he fact that an intervenor may have another remedy does not preclude intervention." Avery v. Campbell, 279 Minn. 383, 389, 157 N.W.2d 42, 46 (1968).

LWBC asserts that appellants face a heightened burden in seeking to intervene in an action already defended by a government entity, citing a *parens patriae* doctrine that has been applied by the federal courts. See, e.g., *Mausolf v. Babbitt*, 85 F.3d 1295, 1303 (8th Cir. 1996) (explaining that "when one of the parties is an arm or agency of the government, and the case concerns a matter of sovereign interest, the bar is raised, because in such cases the government is presumed to represent the interests of all its citizens") (quotations and alterations omitted). LWBC does not assert that either the

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Minnesota Supreme Court or this court has adopted this doctrine. And even if the doctrine applied, we conclude that it should not bar intervention under the facts of this case.

The Eighth Circuit has recognized that the doctrine does not bar intervention in all cases

involving the government. *Id.* The court has explained that, "when the proposed intervenors' concern is not a matter of 'sovereign interest,' there is no reason to think the government will represent it." *Id.* (citing *Mille Lacs Band of Chippewa Indians v. State of Minn.*, 989 F.2d 994, 1001 (8th Cir. 1993); *United States v. Union Elec. Co.*, 64 F.3d 1152, 1170 (8th Cir. 1995)). Put another way, if the interests of the putative intervenors are narrower than, and cannot be subsumed into, the government entities' interests, then the presumption of adequate representation does not arise. *Mille Lacs Band*, 989 F.2d at 1000.

In *Mille Lacs Band*, the Eighth Circuit applied this analysis to a dispute over tribal hunting and fishing rights and concluded that both a group of Minnesota counties and a group of individual landowners had interests in the litigation that were not subsumed by those of the State of Minnesota. *Id.* at 1000-01. With respect to the landowners, the court focused on the landowners' property values, which might be affected by diminished fish and game stocks if tribal rights were recognized, explaining that their "interests are narrower and more parochial interests than the sovereign interest the state asserts in protecting fish and game." *Id.* at 1001. The court concluded: Because the counties and the landowners seek to protect local and individual interests not shared by the general citizenry of Minnesota, no presumption of adequate representation arises. The proposed

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intervenors need only carry a minimal burden of showing inadequate representation. *Id.* And the court went on to explain that the minimal burden was met by the potential for conflict among the parties' positions:

Although the Band notes that the counties' and landowners' proposed answers are almost identical to the answer filed by the state, there is no assurance that the state will continue to support all the positions taken in its initial pleading. Moreover, if

the case is disposed of by settlement rather than by litigation, what the state perceives as being in its interest may diverge substantially from the counties' and the landowners' interests. For example, although the state's interest in natural resources may lead it to seek no more than that endangered species are protected and that wildlife stocks are preserved at certain levels, the counties and the landowners will be more concerned with ensuring that any settlement does not impair their property values. A potential conflict of this sort is sufficient to satisfy the proposed intervenors' minimal burden of showing that representation of their interests by the existing parties may be inadequate.

Id. The intervenors' interests in this case are comparable to those in *Mille Lacs Band*, and for similar reasons, the *parens patriae* doctrine should not apply. We conclude that appellants have met their minimal burden of demonstrating that the county does not adequately protect their interests in this action.

Because appellants have met the criteria for intervention, we conclude that the district court erred by denying intervention. Despite the district court's ultimate denial of intervention, however, appellants were able to participate to some extent in the district court proceedings and are not seeking a remand for further proceedings in district court. Rather, at this stage of the proceedings, appellants seek intervention only to appeal the

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district court's orders on the merits. We conclude that appellants have the right to intervene and therefore have standing to appeal the district court's orders on the merits.

Challenges to merits of district court's order

Both appellants and the county challenge the district court's reversal of the county's determination that an EIS is required, arguing that McLynn's participation did not render the decision arbitrary and capricious, and challenging the district court's restrictions on McLynn's participation in future proceedings.³ In preparing an EAW, an "RGU applies certain criteria laid out in Minn. R. 4410.1700, subp. 7, to determine whether the project has potential for significant environmental effects." *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 824 (Minn. 2006) (quotation omitted). "If, after reviewing the EAW, the RGU decides that the project does have the potential for significant environmental effects, the RGU is required to issue a 'positive declaration' indicating that an EIS must be completed." Id. (citing Minn. R. 4410.1700, subps. 1, 3).

This court reviews a county's positive declaration for an EIS "independently without according any special deference to the same review conducted by the district court." Id. at 832. But we defer to the county, limiting our role to determining whether the county took a "hard look at the problems involved, and whether it has genuinely

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engaged in reasoned decision-making." Id. Nevertheless, a reviewing court should reverse the county's positive declaration if it reflects an error of law, is arbitrary and capricious, or unsupported by substantial evidence. Id.

LWBC argues, and the district court found, that the board's decision to require an EIS was arbitrary and capricious because McLynn failed to approach the decision impartially. A decision is arbitrary and capricious if, among other things, it reflects the decisionmaker's will rather than its judgment and if it considered facts not intended by the legislature. In *re Valley Branch Watershed Dist.*, 781 N.W.2d 417, 423 (Minn. App. 2010); see also *Chanhassen Chiropractic Ctr., P.A. v. City of Chanhassen*, 663 N.W.2d

559, 562 (Minn. App. 2003) (recognizing that "constitutional due process protections include the right to an impartial decisionmaker" (quotation omitted)).

The record in this case supports the district court's finding that McLynn's actions reflect partiality that affected the decisionmaking process, making the board's decision arbitrary and capricious. McLynn's comments and proposed edits to the EAW demonstrate that she failed to approach the EAW process with the neutrality required in this quasi-judicial matter. McLynn approached the EAW/EIS process in a biased manner from the beginning. She accepted as fact the assertions of project opponents in their submissions to the board. And she uniformly rejected any contrary opinions reached by experts engaged to assist the county in preparing the EAW and by Ross, the consultant assigned by WSN to exercise independent judgment and expertise in assisting the county's preparation of the EAW. The record supports the finding that McLynn's

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conduct demonstrated bias and that her ability to alter the EAW to reflect her bias rendered the decisionmaking process arbitrary and capricious.

Appellants assert that McLynn's conduct was proper because an RGU is "responsible for the completeness and accuracy of all information" in an EAW. Minn. R. 4410.1400 (2011). Plainly, the RGU must independently evaluate the statements proposed to be included in an EAW. But, as the district court found, McLynn's conduct in this case does not reflect an independent evaluation of the EAW draft. McLynn insisted on and obtained input from opponents of the project in shaping the conclusions contained in the EAW even before the draft was released for public comment, and she was adamant in changing conclusory statements in the EAW to reflect the bias of project opponents.

Appellants also assert that this court should affirm the county's decision because there is sufficient evidence in the record to support a

positive declaration requiring an EIS. The district court found that the EAW as approved could support either a positive or a negative declaration, and that, without McLynn's vote, there was not the majority vote required in order for the board to issue the positive declaration. We agree that, on this record, the district court's decision to remand for a new EAW, drafted without input from a biased decisionmaker, is the appropriate remedy. See *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721, 732-33 (Minn. 2010) (explaining that remand is the appropriate remedy if the same decision under an appropriate standard would not necessarily be arbitrary).

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We also agree with the district court that further proceedings before the board should be conducted without McLynn's participation. See *Cinderella Career & Finishing Schs., Inc. v. Federal Trade Comm'n*, 425 F.2d 583, 592 (D.C. Cir. 1970) (remanding for the commission's reconsideration of the issue without participation of the commissioner who had prejudged facts); *Texaco, Inc. v. Federal Trade Comm'n*, 336 F.2d 754, 760 (D.C. Cir. 1964) (stating that when partiality of a commissioner is the only infirmity, the appropriate remedy is remand for reconsideration without that commissioner), vacated and remanded on other grounds, 381 U.S. 739, 85 S. Ct. 1798 (1965); *Prin v. Council of Monroeville*, 645 A.2d 450, 452 (Comm. Ct. Pa. 1994) (remanding zoning decision for reconsideration without participation of the councilman who had advocated against the proposed project in his district).⁴

Affirmed in part, reversed in part, and remanded; motion denied.

Notes:

⁴ The EQB addressed the request to reassign the matter at its June 18, 2012 meeting and voted to table the matter until this court issues a ruling.

² The court's scheduling orders did not include a deadline for joining additional parties.

³ The county does not appeal the district court's decision but, without objection from LWBC, challenges the district court's decision on the merits both in briefing and at oral argument. The county concedes that it takes no position contrary to appellants. Because we conclude that the county's failure to appeal precludes consideration of its

arguments on the merits, we address only the arguments of appellants. But we note that the county's position that it does not represent all of the interests of the intervenors.

⁴ This issue may be rendered moot if the EQB does not reappoint the county board as the RGU.

(The following is transcription of part of a DVD labeled "NM Council Mtg., 6-17-13, Part I, RT: 1:00:04." Transcription begins at approximately time code 25:25.)

* * * *

MAYOR DEHEN: All right. Next one is for you, Mr. City Attorney. Mike, do you want to comment on the -- the Belle House?

MR. KENNEDY: I'll do that. I see that Mr. Grabitske is here today. There he is. He's counsel for Belle House, and he'll correct me if I make any errors on what I state here.

There was a application approximately a year ago by Belle House, and through their -- Belle House, LLC, through Darcy Weens -- Wennes; I'm sorry -- and -- applying for reasonable accommodation.

And everyone on the council, with the exception of Mr. Spears, was on the council at that time, as I recall. And the council at that time had a hearing, and we -- we set it as a two-hour time limit. Tried to get it done within that period of time, and had a hearing, gave notice to all the parties that we believe were required to have a hearing notice, and took testimony, and then after the testimony was complete, then we attempted to put together a -- findings of fact in support of whatever position majority of the council took.

A majority of the council took the position that there was not a -- grounds for a reasonable accommodation. In other -- and the request was to allow eight unrelated persons to live in this residence. It's an R-1 rate -- area zoning under the state law. Under our zoning, six is the number that they can have in there without requesting a reasonable accommodation.

So we made that decision. It was not appealed at that time.

It's now almost a year later. I can't remember exactly when it was last year that their request was made, but we handled it in the summer. We now received another request. I am dating the date of the request from May 21, 2013, at the letter from attorney Grabitske, and we're using that as the date going forward for purposes of the 60-day rule.

What the council had to decide last year, and still has to decide this year, is, before you even look at the merits of the case, you have to look at the procedure of how it's going to be handled. My advice is, you have two options in this case.

One is to do the same thing you did last time, which is to have a hearing that is conducted in front of the council; and that is, you'll be the primary takers of evidence, you will make findings, and you will vote and decide whether or not the case has been made for a reasonable accommodation that would allow eight unrelated persons with disabilities to reside in this specific property that it -- that Belle House owns. It's referenced in their request. It's at 2107 North Ridge Drive in North Mankato.

Or you could decide that the hearing is going to be held at an administrative level. That was not a choice that was made last time. We had an interim city administrator, and we -- again, we talked about that possibility last time; we talked about some other staff member handling it. We talked considerable amount the -- about the planning commission being the body that would do it.

The planning commission declined, and it has not been brought back to them on -- on this particular matter. But it's -- most of the makeup of the planning commission is the same, so I would not recommend going to them and asking what they want to do.

I think the council here has to decide whether they want to be the ones who have the actual hearing and listen to all the evidence that is given and all the testimony or if they want it to be done at the administrative level; and if you do it at the administrative level, then you simply instruct the city administrator to appoint someone within the city administration to be the one to hear that. Then we would -- if that's the case, either way, then notice has to go out to the public, notice has to --

It's quite easy for the applicant, because we know who the applicant is; we know who the applicant's attorney is. There was some -- not completely organized, but some organized opposition before, led primarily by one neighbor, but others came forward as well. They did not have legal counsel that time. Whether they would this time or not, I can't tell -- or don't know.

So if we -- if we set this, we would have to try to give as much notice as possible of the date of the hearing; we would want to do it as part of a council meeting when we set that, if possible; we would want to give notice to the neighbors, at least the area that we would normally give of any kind of conditional-use permit, anything of that nature; and -- and those who have appeared previously, we -- I think we would at least give them notice as well, special notice, that this is going to happen.

If it happens at a staff level, if either -- if any party is aggrieved by the decision of the staff member, and the staff member -- there are only limited people that could be -- I mean, it could be the city administrator, it could be the city planner; it could not be me, because I advocate on behalf of the city at such a hearing.

But if that person -- whoever makes that determination at a staff level, if that happens, they have to make findings of fact, just like you would do as a council, to

support their decision to grant the request or to deny the request, and then that would be a final determination, except that if it's done at the staff level, the -- if a party feels aggrieved, they could petition to the council to have it reviewed.

And the council wouldn't hear everything all over again. The council would make a decision, however, whether to affirm or whether to reverse the decision of the staff. You would get a copy of whatever their findings are, you would get a summary of what they heard and what evidence was submitted, I would expect you'd get a copy of any documents that were received at the hearing, but you would not be taking testimony. You would be hearing this as an appellate group, and you would then vote on whether or not to uphold the staff decision, whatever it is, or to overturn the staff decision, whatever it is.

My own preference -- I -- I think under the law we're safe if the decision at the staff level, if you decide to go that way, is made within the 60 days; my own preference would be to have the whole process done within 60 days, which means by around the 20th of -- of July.

And so we're -- we're almost halfway through the time -- the 21st of May being the date the 60 days started -- if we don't take a final action -- and I -- again, I think a final action, even at the staff level, is a final action; an appeal doesn't extend the time for the 60 days -- but I -- just to be on the safe side, I'd like to have it all done by the -- by the 21st of July, if at all possible, so keep that in mind when you're determining how to go about doing this.

And if you -- if you set it up for the staff to do it -- I mean, if you simply tell Mr. Harrenstein, "You take care of getting somebody on the staff to do it," there's nothing

else for the council to do. The staff would have to set a date; the staff would have to do the notifications and do all the things that I spoke about.

So the -- one question that came up right away -- well, it's two things, actually.

One thing that's a little different in this petition than the one we had last year -- last year, the petition was through Mr. Wennes himself, and he did it on behalf of the occupants. This time the application is Jane Doe 1, 2, 3, 4, 5, and 6. They're all resident -- they are all people who are under the authority of the Americans with Disability Act and the Fair Housing Act. They are disabled individuals. They are not named; they don't have to be named.

That's a more traditional way of presenting a claim like this. I -- I waived that on the first time around, knowing that it was simply a matter of another piece of paper from Mr. Wennes to -- to give us, you know, Jane Doe 1, 2, 3, 4, 5, 6 as the owner of the building. And based on research I'd done, I thought it was fine to go ahead with what we did in terms of not -- not objecting to his petition. But this time he went that extra step and -- and did the petition in that way.

And there was another thing, and I forgot what it was now. But that's basically the procedure that --

Oh, the other thing was, and it -- and the question was raised, How can he bring it back up so quickly? Didn't we just go through all this? Didn't we just spend a bunch of time, and didn't we just -- you know, is there a lot of fact-circumstance difference?

There's a slight difference in the make of the council, and -- and, you know, they has -- they have different petitioners; some argument's been made that there's (indiscernible) different circumstances.

But the bottom line is, I researched this, and there is no statutory prohibition about bringing this back to us. You know, certainly if they'd have come back a month later and said, "Do it all again," we probably could have just said no. But it's been almost a year, and under the circumstances, I have found no prohibition on them bringing the request, and I'm suggesting and I'm giving my opinion to the council that we do need to honor the request and we need to make a decision on it.

MAYOR DEHEN: All right. Thank you, Mike.

MR. KENNEDY: Yep.

MAYOR DEHEN: All right. So there -- they have a request before us.
Discussion on how the council wants to handle it.

MR. STEINER: Well, my opinion is that we have done this before, and we did grant them three times the allotted number of individuals that -- in that type of R-1 district, and I would -- I think that we made the decision at that time, and I would stand by what we -- what we decided at that time.

MR. KENNEDY: Well, what we have to decide at this point isn't what --

MR. STEINER: (Indiscernible.)

MR. KENNEDY: -- we have to decide --

[MALE SPEAKER]: Who -- what --

MR. KENNEDY: -- if -- is there going to be another hearing --

MR. STEINER: Right. Okay.

MR. KENNEDY: -- and should the hearing be in front of you as an entire group, or should the staff, through the city administrator, designate someone and have them do a

hearing where they actually hear the testimony, get the evidence, and make the findings?
And then if someone's not happy, they can --

I mean, it's -- it's final unless somebody objects. But if somebody objects, then they can bring it on before the council; then you review it and decide whether or not you wish to affirm it or to reverse it.

MR. STEINER: Okay.

MR. KENNEDY: And so it's really the procedure at this point that --

MR. STEINER: Okay.

MR. KENNEDY: -- you have to look at.

MAYOR DEHEN: So the -- the choice, then, is --

MR. STEINER: -- is whether --

MAYOR DEHEN: -- do we hear it, or do we defer it to this -- the administrator to manage?

Do I have . . .

MR. SPEARS: Ultimately, if we turn it to staff and then there's -- contested, which, in something like this, it's very likely that there might be, then it's going to wind before the council anyways to at least review the evidence. We won't hear testimony, but we'll review the evidence. We might as well just eliminate the middleman and decide it as a council again.

MR. KENNEDY: One -- one of the issues is that -- again, that we had two hours of testimony before, and if the council does it, I would recommend doing the same kind of procedure, same kind of schedule as we had before.

If you review the matter, it likely would -- you know, it could take two hours of discussion at the council level, but the most likely scenario is that it would come to you, and you would spend 15 to 30 minutes in terms of discussion.

So it -- it's kind of a matter of -- of how the council wants to spend their time. But again, it came before the council before as an entire council, and so you have a pretty good idea. And I know -- Councilmember Spears, I -- I'm sure, was at the hearing, because you didn't miss any other meetings, so I didn't miss that one, so --

MR. SPEARS: Didn't miss that one.

MR. KENNEDY: -- didn't miss that one.

So you all are familiar with how the procedure goes and -- and how we go about doing it, and -- so -- you've got more information than you had last time, really.

MR. SPEARS: I move that we hear this at the council level.

MAYOR DEHEN: Okay. I have a motion.

MS. NORLAND: Second.

MAYOR DEHEN: I have a second.

Discussion?

MR. HARRENSTEIN: May I ask a question before we proceed? To Mr. Kennedy.

As I understand the issue, the first time around, it was a appeal regarding a zoning issue. Is that -- is that correct or not?

MR. KENNEDY: No. No, it's not -- it's not a zoning issue at all.

By -- by state statute, we are required to allow up to six -- we're -- they're -- it's a mandatory that we allow residential treatment centers in R-1 districts, and that the statute

specifies that six are the minimum. They don't use the word "minimum," but six are allowed. We don't have any choice about that. There's some question whether six was the minimum and the maximum, and again, we have memos about that.

The -- the request by the applicant here is that the six is not -- and I think they have grounds that -- at least in -- in the petition that they submitted, that -- that we need to provide reasonable accommodation so that eight people can be -- now, no -- they don't want it unlimited; they want eight -- that eight peoples -- people with disabilities can be accommodated in this particular facility. And -- and --

You know, so it isn't a zoning issue. We're not rezoning. This is an R-1 zone, and we are -- there can be units with six of -- six people with disabilities in every kind of zone in -- in Mankato -- in North Mankato.

And so it -- it -- you know, the Americans -- (indiscernible) part -- you know, a lot of what we did last time -- the reasonable accommodation -- you know, we were looking at the Fair Housing Act; we were looking at the Americans with Disabilities Act. You know, we have to make a determination if the applicants are disabled persons who are receiving -- who are alcoholic and are receiving treatment post -- for alcoholism, and I think that was primarily what we saw last time, is what the -- people that were being housed at this facility. So it really --

MR. HARRENSTEIN: Am I incorrect to assume, Mike, that be -- R-1 prohibits x number of people from living in a house, that --

MR. KENNEDY: Well, we -- we have all kinds of --

MR. HARRENSTEIN: Right.

MR. KENNEDY: -- rules that limit --

MR. HARRENSTEIN: And -- and so really --

MR. KENNEDY: -- the number of un--

MR. HARRENSTEIN: -- the ADA request is regarding an exception to a zoning or subdivision regulation. Is that correct?

MR. KENNEDY: There is a state law --

MR. HARRENSTEIN: Okay. So it's --

MR. KENNEDY: -- that says they can be anywhere they want, any zoning -- I mean, and it's a state law that supersedes local zoning codes.

MR. HARRENSTEIN: Mm-hmm.

MR. KENNEDY: It's just like, you can put a church in an R-1. You can put a number of things in an R-1 that are just mandated that way. But treatment facilities in particular can be -- are mandated that they can be there.

In -- in higher-zoned areas, there -- my recollection is, can be up to 14. Mean, there's different numbers. But in an R-1, it's a -- it's a -- a residential-zoned area -- and that clearly an R-1 is a residential-zoned area; six is the number that is mandatory and that we have -- when we went through this before, there was no argument about that six. They -- they put six people in there the day they opened business.

MR. HARRENSTEIN: Right. Okay. Thank you.

MR. KENNEDY: (Indiscernible.)

MAYOR DEHEN: All right. So the -- again, the question is, it's been moved to have this heard by the council rather than directing it to staff.

Any further discussion on the procedure?

If not, Nancy, please call the roll.

MS. GEHRKE: Spears?

MR. SPEARS: Yes.

MS. GEHRKE: Steiner?

MR. STEINER: Yes.

MS. GEHRKE: Norland?

MS. NORLAND: Yes.

MS. GEHRKE: Freyberg?

MR. FREYBERG: Yes.

MS. GEHRKE: Dehen?

MAYOR DEHEN: Yes. Okay. All right.

MR. KENNEDY: And then the next part is, you -- now, then, as long as it's going to be the council, you should set the hearing date.

MAYOR DEHEN: All right.

MR. KENNEDY: And -- and keep in mind that we need to make a decision on this within the 60 days, so we got a month. It doesn't have to be your next --

MAYOR DEHEN: -- council --

MR. KENNEDY: -- council meeting, but that would be preferable.

MR. SPEARS: Nancy, would two council meetings be adequate for notification?

MS. GEHRKE: Two council meetings would be adequate for notification --

MR. KENNEDY: What's the date of the second council meeting in July?

[UNKNOWN SPEAKER]: (Indiscernible.)

MS. GEHRKE: I'm --

[MALE SPEAKER]: 15th --

MS. GEHRKE: The second council meeting is --

[MALE SPEAKER]: Yes.

MS. GEHRKE: -- the 15th of July.

MR. KENNEDY: We meeting on the 1st and the 15th?

MS. GEHRKE: Yes.

MR. KENNEDY: Okay. As long as --

MS. GEHRKE: I believe that's correct.

MR. KENNEDY: -- Mr. -- as long as Mr. Grabitske is still here, Paul, I don't want to put you on the spot, but the letter that I got that made the request here was dated May 21, 2013.

Is that your recollection of when you made the request for the reasonable accommodation?

MR. GRABITSKE: I believe it is, but I think your 60 days is going to start from City receipt, so probably three days or so later --

MR. KENNEDY: Okay.

MR. GRABITSKE: -- city's got a date stamp --

MR. KENNEDY: Okay. Well, again, we're -- you know, you're not -- you're trying to get this on the merits; you're not trying to do it on a --

MR. GRABITSKE: Well --

MR. KENNEDY: -- technicality. And -- but if we were to miss the 60 days, the application automatically is granted. That -- so that you understand that.

I would -- my preference would be, depending on the schedule of the council, simply to have it at the second meeting, only because it gives time for the word to get out

there; there -- again, time if -- and, you know, it gives Mr. Grabitske time to prepare, it gives whatever opposition there is time to prepare, and --

But you should then plan -- what we did last time was set aside two hours of that time. And I've tried to remember if we started early --

MAYOR DEHEN: We did not do it -- in my recollection, we did not do it on the night of a --

MR. KENNEDY: Didn't do it --

MAYOR DEHEN: -- council meeting --

MR. KENNEDY: -- on a council-meeting night.

MAYOR DEHEN: We did it on a separate evening.

MR. KENNEDY: On an alternating -- on an alternate Monday.

MAYOR DEHEN: Right.

MR. KENNEDY: Well, that might --

MS. GEHRKE: So we could do it on the 8th or the 22nd of July.

MAYOR DEHEN: 22nd would be after --

MR. KENNEDY: 22nd --

MS. GEHRKE: Yeah.

MR. KENNEDY: -- would be --

MS. GEHRKE: So it would need to be the 8th, then, unless you'd do it on a different night of the week.

MR. KENNEDY: Well, the 8th -- all of you got to keep in mind --

MS. GEHRKE: Oh.

MR. KENNEDY: -- if you got plans for the Fourth of July weekend --

MS. GEHRKE: Well, the 8th also is our annual port authority meeting at 7 p.m.

MAYOR DEHEN: So that's probably --

MS. GEHRKE: So that's not a good night.

MAYOR DEHEN: So we could do it --

MR. STEINER: Let's do it before a council meeting.

MR. KENNEDY: You could do it at 5 o'clock on a --

MR. STEINER: Yeah.

MR. KENNEDY: -- council-night meeting --

MR. STEINER: Let's do that.

MR. KENNEDY: -- if that works, for that second meeting of the month.

MR. SPEARS: I move that we have this hearing at 5 o'clock on July 15 before
the regular council meeting.

MAYOR DEHEN: Okay.

MR. STEINER: Second.

MAYOR DEHEN: All right. We have a motion and second --

MR. STEINER: (Indiscernible.)

MAYOR DEHEN: Further discussion?

If not, Nancy, please call the roll.

MS. GEHRKE: Spears?

MR. SPEARS: Yes.

MS. GEHRKE: Steiner?

MR. STEINER: Yes.

MS. GEHRKE: Norland?

MS. NORLAND: Yes.

MS. GEHRKE: Freyberg?

MR. FREYBERG: Yes.

MS. GEHRKE: Dehen?

MAYOR DEHEN: Yes. Ah, no. I'm going to be out of town -- no -- am I out of town that day? The 15th is a . . .

Hmm. I'm scheduled to be gone that day for something else, so -- I'll say no, but that's all right. The motion will carry.

MR. KENNEDY: And you aren't going to be there?

MAYOR DEHEN: I will have to see what I can do.

MR. KENNEDY: Okay.

MAYOR DEHEN: All right.

MR. KENNEDY: What -- what you need to keep in mind, not -- as you go forward, then, is, the -- one of the issues is going to -- and I'll have to research this somewhat more, but counsel, I'm sure, will do it, is, who has the burden of proof? Again, you know, it appears that the application is being made and a motion is being made, and an argument can be made that you then have to have a majority of the council to pass it; have to have three. 2-2 vote would be a defeat. But I'll have to research that more before that evening --

MAYOR DEHEN: Well --

MR. KENNEDY: -- just in case -- I mean, someone else could be gone too. I mean --

MAYOR DEHEN: Yep.

MR. KENNEDY: -- people get sick and things happen, so --

MAYOR DEHEN: I'll see what I can do to accommodate that.

MR. KENNEDY: Okay.

(Transcription concludes at approximately time code 44:24.)

Grabitske
Law Firm, PLC

403 South Broad Street, Suite 20 ◊ Mankato MN 56001
(507) 779-7012 ◊ www.grabitskelaw.com

July 2, 2013

Mr. Michael Kennedy
Kennedy & Kennedy Law Office
99 Navaho Avenue, Suite 104
PO Box 3223
Mankato, MN 56002-3223

RE: Belle, House LLC
Attorney-in-fact for Jane Does
Application for Reasonable Accommodation

Dear Mr. Kennedy,

I write concerning the application for Belle House's reasonable accommodation and seek to discuss and come to an agreement as to the proper legal standard to be applied by the North Mankato City Council. A prior application by Belle House, LLC on its own resulted in what we believe to be an improper instruction on the burden of proof. In that instruction, you advised the North Mankato City Council "the burden is upon the claimant to prove by preponderance of the evidence the elements required for an accommodation." We believe that to be inaccurate and misleading.

Minnesota has adopted the modified burden shifting analysis. *See Hinneberg v. Big Stone County Housing and Redevelopment Authority* 706 N.W. 2d. 220 (Minn. 2005). In that case Minnesota Supreme Court said all the requesting party must do is make a "prima facie showing that the accommodation [he] seeks is reasonable on its face." The Plaintiff's burden is merely a prima facie showing that the request for an accommodation is linked to their disability, necessary and possible to implement. Once the Plaintiff makes that prima facie showing, the burden then shifts to those opposing the accommodation.

Under the Fair Housing Act Amendment and Americans with Disabilities Act, those opposing the accommodation are limited in the types of proof that they may offer. The issue is whether the request for an accommodation poses a substantial cost for the governing entity or is a substantial and fundamental change in the policy or program. Here that would leave the opponents of Belle House's accommodation to prove the unreasonableness of the request for accommodation by showing 1) a substantial negative impact on the city's finances; or 2) a fundamental change to the North Mankato

zoning ordinance. The opinions, questions, or concerns presented by neighbors are not evidence and should not be accepted as evidence. The applicants for the request of accommodation specifically request that the North Mankato City Council grant a Motion in Limine to prohibit the introduction by those in opposition to the request of accommodation of opinions, guesses, and mere concerns.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul E. Grabitske', with a large, stylized flourish at the end.

Paul E. Grabitske
paul@grabitskelaw.com

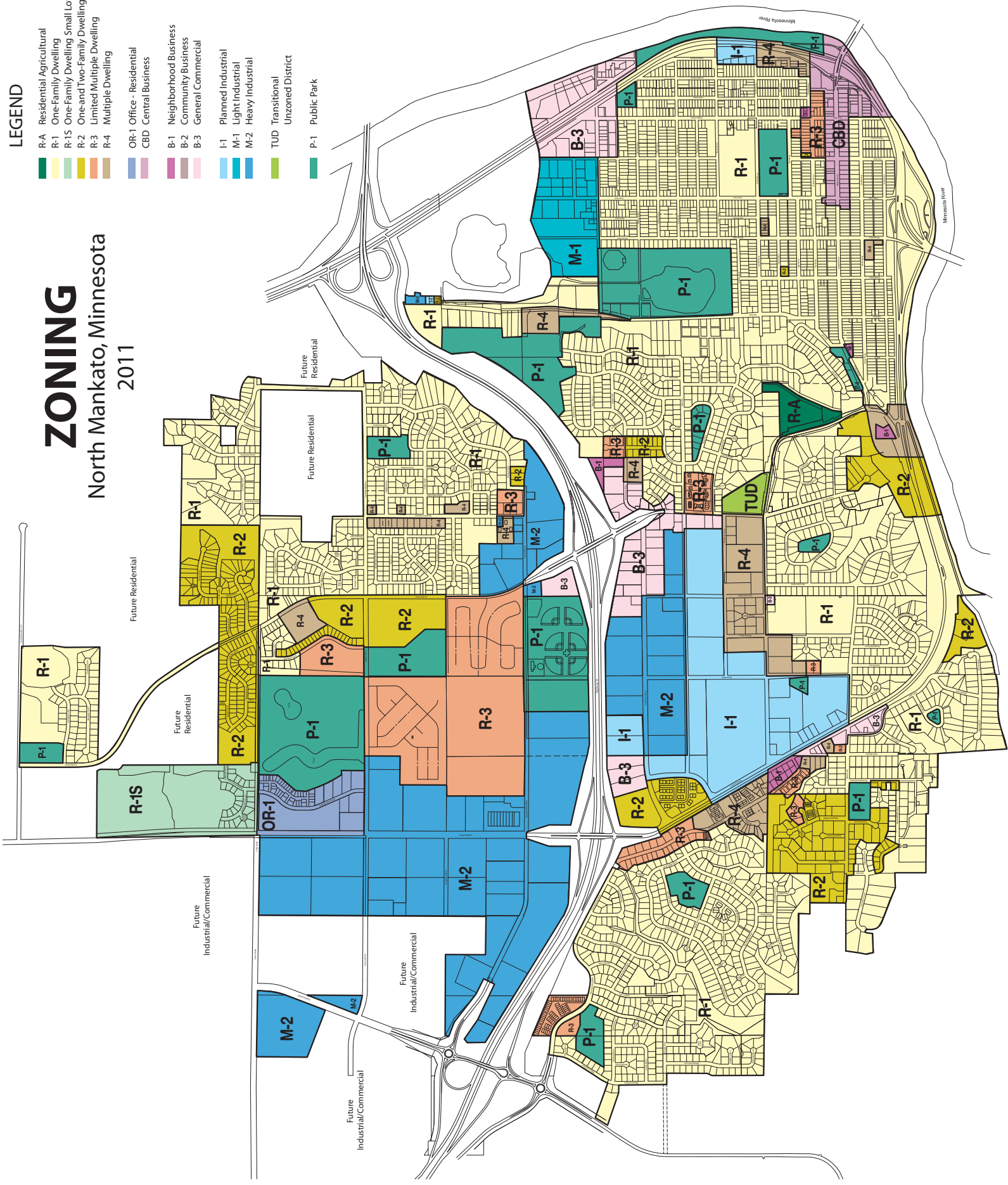
cc: Belle House, LLC

LEGEND

- R-A Residential Agricultural
- R-1 One-Family Dwelling
- R-1S One-Family Dwelling Small Lot
- R-2 One-and Two-Family Dwelling
- R-3 Limited Multiple Dwelling
- R-4 Multiple Dwelling
- OR-1 Office - Residential
- CBD Central Business
- B-1 Neighborhood Business
- B-2 Community Business
- B-3 General Commercial
- I-1 Planned Industrial
- M-1 Light Industrial
- M-2 Heavy Industrial
- TUD Transitional
- Unzoned District
- P-1 Public Park

ZONING

North Mankato, Minnesota 2011



Declaration of Belle House, LLC Resident

I, Jane Doe # 1 (one), under penalty of perjury, do state and follows:

1. I am disabled as defined in the Fair Housing Act and Americans with Disabilities Act.
2. The physical or mental impairment that limits one or more of my major life activities is:
 - Alcoholism
 - Drug addiction
 - _____
3. I am not currently abusing drugs or alcohol. I am in recovery from my addiction.
4. I currently reside at 2107 Northridge Drive, North Mankato, MN with other non-abusing individuals who are recovering from their addiction. The psychological and emotional support provided by others in their recovery is crucial to my own recovery.
5. Eight residents are necessary to ensure that the viability of this residence, and accommodate my disability. When six or fewer residents are living in the house, the chances of relapse increase. Eight residents will allow a stable group of individuals to mutually help all residents with their recovery.
6. I am requesting that the City of North Mankato provide a reasonable accommodation to me by allowing up to eight unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, Nicollet County, Minnesota.
7. I appoint Belle House, LLC, as my attorney-in-fact to pursue the requested reasonable accommodation on my behalf.

Date:

May 3, 2013

Jane Doe

Jane Doe # ONE

Declaration of Belle House, LLC Resident

I, Jane Doe # 2, under penalty of perjury, do state and follows:

1. I am disabled as defined in the Fair Housing Act and Americans with Disabilities Act.

2. The physical or mental impairment that limits one or more of my major life activities is:

Alcoholism

Drug addiction

3. I am not currently abusing drugs or alcohol. I am in recovery from my addiction.

4. I currently reside at 2107 Northridge Drive, North Mankato, MN with other non-abusing individuals who are recovering from their addiction. The psychological and emotional support provided by others in their recovery is crucial to my own recovery.

5. Eight residents are necessary to ensure that the viability of this residence, and accommodate my disability. When six or fewer residents are living in the house, the chances of relapse increase. Eight residents will allow a stable group of individuals to mutually help all residents with their recovery.

6. I am requesting that the City of North Mankato provide a reasonable accommodation to me by allowing up to eight unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, Nicollet County, Minnesota.

7. I appoint Belle House, LLC, as my attorney-in-fact to pursue the requested reasonable accommodation on my behalf.

Date: 4*5-3-13

Jane Doe # 2
Jane Doe # 2

Declaration of Belle House, LLC Resident

I, Jane Doe # 3, under penalty of perjury, do state and follows:

1. I am disabled as defined in the Fair Housing Act and Americans with Disabilities Act.
2. The physical or mental impairment that limits one or more of my major life activities is:
 - Alcoholism
 - Drug addiction
 - bipolar
3. I am not currently abusing drugs or alcohol. I am in recovery from my addiction.
4. I currently reside at 2107 Northridge Drive, North Mankato, MN with other non-abusing individuals who are recovering from their addiction. The psychological and emotional support provided by others in their recovery is crucial to my own recovery.
5. Eight residents are necessary to ensure that the viability of this residence, and accommodate my disability. When six or fewer residents are living in the house, the chances of relapse increase. Eight residents will allow a stable group of individuals to mutually help all residents with their recovery.
6. I am requesting that the City of North Mankato provide a reasonable accommodation to me by allowing up to eight unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, Nicollet County, Minnesota.
7. I appoint Belle House, LLC, as my attorney-in-fact to pursue the requested reasonable accommodation on my behalf.

Date: 5-3-13

Jane Doe # 3
Jane Doe # 3

Declaration of Belle House, LLC Resident

I, Jane Doe # 4, under penalty of perjury, do state and follows:

1. I am disabled as defined in the Fair Housing Act and Americans with Disabilities Act.

2. The physical or mental impairment that limits one or more of my major life activities is:

Alcoholism

Drug addiction

~~ADD~~ ADHD, Depression, Anxiety

3. I am not currently abusing drugs or alcohol. I am in recovery from my addiction.

4. I currently reside at 2107 Northridge Drive, North Mankato, MN with other non-abusing individuals who are recovering from their addiction. The psychological and emotional support provided by others in their recovery is crucial to my own recovery.

5. Eight residents are necessary to ensure that the viability of this residence, and accommodate my disability. When six or fewer residents are living in the house, the chances of relapse increase. Eight residents will allow a stable group of individuals to mutually help all residents with their recovery.

6. I am requesting that the City of North Mankato provide a reasonable accommodation to me by allowing up to eight unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, Nicollet County, Minnesota.

7. I appoint Belle House, LLC, as my attorney-in-fact to pursue the requested reasonable accommodation on my behalf.

Date: 8-3-13

Jane Doe # 4
Jane Doe # _____

Declaration of Belle House, LLC Resident

I, Jane Doe # 5, under penalty of perjury, do state and follows:

1. I am disabled as defined in the Fair Housing Act and Americans with Disabilities Act.

2. The physical or mental impairment that limits one or more of my major life activities is:

Alcoholism

Drug addiction

3. I am not currently abusing drugs or alcohol. I am in recovery from my addiction.

4. I currently reside at 2107 Northridge Drive, North Mankato, MN with other non-abusing individuals who are recovering from their addiction. The psychological and emotional support provided by others in their recovery is crucial to my own recovery.

5. Eight residents are necessary to ensure that the viability of this residence, and accommodate my disability. When six or fewer residents are living in the house, the chances of relapse increase. Eight residents will allow a stable group of individuals to mutually help all residents with their recovery.

6. I am requesting that the City of North Mankato provide a reasonable accommodation to me by allowing up to eight unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, Nicollet County, Minnesota.

7. I appoint Belle House, LLC, as my attorney-in-fact to pursue the requested reasonable accommodation on my behalf.

Date: 5/3/13

Jane Doe #5
Jane Doe # 5

Declaration of Belle House, LLC Resident

I, Jane Doe # 6, under penalty of perjury, do state and follows:

1. I am disabled as defined in the Fair Housing Act and Americans with Disabilities Act.

2. The physical or mental impairment that limits one or more of my major life activities is:

Alcoholism

Drug addiction

3. I am not currently abusing drugs or alcohol. I am in recovery from my addiction.

4. I currently reside at 2107 Northridge Drive, North Mankato, MN with other non-abusing individuals who are recovering from their addiction. The psychological and emotional support provided by others in their recovery is crucial to my own recovery.

5. Eight residents are necessary to ensure that the viability of this residence, and accommodate my disability. When six or fewer residents are living in the house, the chances of relapse increase. Eight residents will allow a stable group of individuals to mutually help all residents with their recovery.

6. I am requesting that the City of North Mankato provide a reasonable accommodation to me by allowing up to eight unrelated individuals to reside together at 2107 Northridge Drive, North Mankato, Nicollet County, Minnesota.

7. I appoint Belle House, LLC, as my attorney-in-fact to pursue the requested reasonable accommodation on my behalf.

Date: 5-3-13

Jane Doe #6
Jane Doe # 6



Search results

These results are based on the following search criteria:

- City: North Mankato

Instructions:

To view the details of a particular provider, select the provider's name to view its profile. The following is the color legend:

"operating"

"not operating"

Search Results: 86
Licenses

[Ahearn Paul J](#) Active

909 S Ave
North Mankato, MN
56003
(507) 344-3700
Nicollet County

License number: 1025974

Type of service: Child Foster Care

[Amani Care](#) Active

1725 Colette Dr
North Mankato, MN
56003
(507) 387-7650
Nicollet County

License number: 1053042

Type of service: Residential Habilitation Services
County(ies) of Service: Nicollet

[Beiswanger Elizabeth C](#) Active

409 Nicollet Ave
North Mankato, MN
56003
(507) 387-1495
Nicollet County

License number: 191014

Type of service: Family Child Care

[Brandel Alanna A](#) Active

22 Deerwood Ct
North Mankato, MN
56003

License number: 1049466

(507) 385-0345
Nicollet County Type of service: Family Child Care

[Braun Denise](#) Active

2226 Northridge Dr
North Mankato, MN License number: 237320
56003

(507) 351-5910
Nicollet County Type of service: Family Child Care

[Browne Patti](#) Active

408 Tyler Ave
North Mankato, MN License number: 208100
56003

(507) 625-6977
Nicollet County Type of service: Family Child Care

[Caron Enter Tessa M](#) Active

1605 Clare Court
North Mankato, MN License number: 1053672
56003

(507) 327-7056
Nicollet County Type of service: Family Child Care

[Crossview Covenant Church](#) Active

2000 Howard Dr
North Mankato, MN License number: 800574
56003

(507) 388-2222
Nicollet County Type of service: Child Care Center

[Davis Kelly J & Davis Jonathan W](#) Active

1765 Northway Dr
#302 License number: 1058229
North Mankato, MN

56003
(507) 345-4982 Type of service: Family Child Care
Nicollet County

[Derksen Randee M & Derksen Timothy J](#) Active

2233 Fairbanks Dr
North Mankato, MN License number: 1064251
56003

(507) 351-3577
Nicollet County Type of service: Child Foster Care

[Dolph Barbara L](#) Active

119 Kings Ct License number: 103642
North Mankato, MN
56003
(507) 387-6972 Type of service: Family Child Care
Nicollet County

[Elm Care Inc](#) Active

533 Range St License number: 230767
North Mankato, MN
56003
(507) 389-9871 Type of service: Adult Foster Care
Nicollet County

[ELM Homes Inc](#) Active

1550 Edgwood Blvd
Attn Miller Eugene L License number: 223668
North Mankato, MN
56003
(507) 344-8870 Type of service: Adult Foster Care
Nicollet County

[Elm Homes, Inc.](#) Active

16 Edgewood Court License number: 1015501
North Mankato, MN
56003
(507) 344-1114 Type of service: Adult Foster Care
Nicollet County

[Falgren Lisa A](#) Active

27 Benson Trail License number: 1065116
North Mankato, MN
56003
(507) 380-9924 Type of service: Family Child Care
Nicollet County

[Freed Susan R](#) Active

2416 North Ridge Dr License number: 1000585
North Mankato, MN
56003
(507) 625-2820 Type of service: Family Child Care
Nicollet County

[Golden Heart Child Care Center](#) Active

1825 Commerce Dr License number: 800905
North Mankato, MN
56003
(507) 625-1454 Type of service: Child Care Center

Nicollet County

[Habilitative Services Inc](#) Active

925 Wall St
North Mankato, MN 56003
(507) 388-3951
Nicollet County

License number: 1014086

Type of service: Adult Foster Care

[Haefner Sheila K](#) Active

928 Range Street
North Mankato, MN 56003
(507) 388-7176
Nicollet County

License number: 105787

Type of service: Family Child Care

[Hauer Mona A & Hauer Russell J](#) Revoked

49554 Old River Bluff
Road
North Mankato, MN 56003
(507) 625-2014
Nicollet County

License number: 1035421

Type of service: Child Foster Care

[Haugbeck Support Services Inc](#) Active

40122 496th St
North Mankato, MN 56003
(507) 344-0462
Nicollet County

License number: 1054683

Type of service: Adult Foster Care

[Heitner Erin L](#) Active

637 Page Ave
North Mankato, MN 56003
(507) 720-0637
Nicollet County

License number: 1066067

Type of service: Family Child Care

[Hickok Cynthia](#) Active

2283 Aspen Lane
North Mankato, MN 56003
(507) 345-6117
Nicollet County

License number: 1019216

Type of service: Family Child Care

[Hill Linda C](#) Active

1700 Pleasant View

Dr #104 License number: 1056803
North Mankato, MN
56003
(507) 344-1387 Type of service: Family Child Care
Nicollet County

[Homer Angela R](#) Active

1726 Lilac Lane License number: 1052345
North Mankato, MN
56003
(507) 388-9989 Type of service: Family Child Care
Nicollet County

[Hoppe Stephanie](#) Active

2116 1/2 Northridge
Dr License number: 1042019
North Mankato, MN
56003
(507) 344-1061 Type of service: Family Child Care
Nicollet County

[Horizon Homes Inc](#) Active

430 South Ave H-5 License number: 1055023
North Mankato, MN
56003
(507) 345-6824 Type of service: Adult Foster Care
Nicollet County

[Jacobs Adella](#) Active

1235 Lake Street License number: 208344
North Mankato, MN
56003
(507) 625-4402 Type of service: Adult Foster Care
Nicollet County

[Jacobs Julie A & Jacobs Raymond L](#) Active

1120 Lake St License number: 105819
North Mankato, MN
56003
(507) 387-3548 Type of service: Family Child Care
Nicollet County

[Jakes Lori A](#) Active

2125 Red Tail Lane License number: 217200
North Mankato, MN
56003
(507) 387-3221

Nicollet County Type of service: Family Child Care

[Jarveis Patricia A & Jarveis Patricia L](#) Active

40425 520th St
North Mankato, MN
56003 License number: 107424

(507) 387-3278
Nicollet County Type of service: Family Child Care

[Jensen Amy J & Jensen Jacob M](#) Active

10 Fox Trail
North Mankato, MN
56003 License number: 1043501

(507) 625-1737
Nicollet County Type of service: Child Foster Care

[Jesus Loves Me Learning Center](#) Active

304 Monroe Ave
North Mankato, MN
56003 License number: 808597

(507) 345-7707
Nicollet County Type of service: Child Care Center

[Jesus' Lambs at Peace Preschool](#) Active

2090 Commerce Dr
North Mankato, MN
56003 License number: 1040884

(507) 385-7752
Nicollet County Type of service: Child Care Center

[Kaiser Mary J](#) Active

1715 Kathleen Dr
North Mankato, MN
56003 License number: 212121

(507) 625-2743
Nicollet County Type of service: Family Child Care

[Kerich Nathan K](#) Closed

537 McKinley Ave
North Mankato, MN
56003 License number: 1048456

(507) 720-0837
Nicollet County Type of service: Adult Foster Care

[Kerich Sarah J](#) Active

1725 Colette Dr
North Mankato, MN License number: 1057318

56003
(507) 387-7650 Type of service: Adult Foster Care
Nicollet County

[Kremer Leah A](#) Active

938 Range St License number: 1049727
North Mankato, MN
56003
(507) 382-6672 Type of service: Family Child Care
Nicollet County

[Kriehn Sara K](#) Active

419 Webster Ave License number: 1036148
North Mankato, MN
56003
(507) 386-0347 Type of service: Adult Foster Care
Nicollet County

[Krueger Kimberly A](#) Active

605 McKinley Ave License number: 1033151
North Mankato, MN
56003
(507) 344-0152 Type of service: Family Child Care
Nicollet County

[Larson-Hicks Kari K](#) Active

16 Goldfinch Court License number: 1044399
North Mankato, MN
56003
(507) 344-0987 Type of service: Family Child Care
Nicollet County

[Leiferman Darcy J & Chapman Nathan K](#) Active

418 McKinley Ave License number: 1064363
North Mankato, MN
56003
(507) 382-5577 Type of service: Child Foster Care
Nicollet County

[Lifeworks Mankato](#) Active

1804 Commerce Dr License number: 1005947
North Mankato, MN
56003 Type of service: Day Training and Habilitation
(651) 454-2732 Services
Nicollet County County of Service: Nicollet

[Little Lambs Preschool](#) Active

[New search](#)

[Glossary of terms](#)

[Terms/conditions of use, DHS disclaimers and notices](#)

[Feedback](#)

Version: 3.1.3
Released: 01/03/2013

2101 Lor Ray Drive License number: 1059364
North Mankato, MN
56003
(507) 388-4336 Type of service: Child Care Center
Nicollet County

[Living Links](#) Active

411 Pierce Ave License number: 118489
North Mankato, MN
56003
(507) 345-8583 Type of service: Adult Foster Care
Nicollet County

[Living Links](#) Active

2175 Arlington Lane License number: 1038655
North Mankato, MN
56003
(507) 345-4153 Type of service: Adult Foster Care
Nicollet County

[LivingLinks Inc](#) Active

2080 Haughten Ave License number: 1060623
North Mankato, MN
56003
(507) 345-8589 Type of service: Adult Foster Care
Nicollet County

[Mann Jessica J](#) Active

2150 Dakota Trail License number: 1010459
North Mankato, MN
56003
(507) 388-1627 Type of service: Family Child Care
Nicollet County

[Maxwell Sara J](#) Active

2290 Balsam Dr License number: 1049467
North Mankato, MN
56003
(507) 386-1078 Type of service: Family Child Care
Nicollet County

[McConville Marcia I](#) Active

1637 Nottingham Dr License number: 1054800
North Mankato, MN
56003
(507) 345-7583 Type of service: Adult Foster Care
Nicollet County

[Meyer Jodi L](#) Active

2155 Snowbird Lane
North Mankato, MN 56003
(507) 327-5580
Nicollet County

License number: 1058567

Type of service: Family Child Care

[Miller Frederick J & Steiff Judy A](#) Active

345 Wheeler Ave
North Mankato, MN 56003
(507) 388-8203
Nicollet County

License number: 118459

Type of service: Adult Foster Care

[Montessori Learning Center](#) Active

1500 Edgewood Blvd
North Mankato, MN 56003
(507) 388-6859
Nicollet County

License number: 801572

Type of service: Child Care Center

[Moody Denise Marie & Moody Michael Scott](#) Active

1785 LaMar Dr
North Mankato, MN 56003
(507) 934-8570
Nicollet County

License number: 1057945

Type of service: Child Foster Care

[Olson Kristy R](#) Active

1536 Peggy Lane
North Mankato, MN 56003
(507) 625-7695
Nicollet County

License number: 1006379

Type of service: Family Child Care

[Olson Loree](#) Active

430 Harrison Ave
North Mankato, MN 56003
(507) 345-3207
Nicollet County

License number: 112241

Type of service: Family Child Care

[Padilla Betty M](#) Active

905 Belvista Drive
North Mankato, MN 56003
(507) 625-6414

License number: 112425

Type of service: Adult Foster Care

Nicollet County

[Patenaude Nedra Ann & Patenaude Dana John](#) Active

1543 Meyer Lane
North Mankato, MN 56003
(507) 345-8641
Nicollet County

License number: 1056770

Type of service: Child Foster Care

[Petersen Patricia R & Petersen Stanley A](#) Active

636 Page Ave
North Mankato, MN 56003
(507) 381-5058
Nicollet County

License number: 112741

Type of service: Family Child Care

[Peterson Cheryl](#) Active

1518 Nottingham Dr
North Mankato, MN 56003
(507) 387-2283
Nicollet County

License number: 112756

Type of service: Family Child Care

[Peterson Mary A](#) Active

2020 Winchester Way
North Mankato, MN 56003
(507) 388-6206
Nicollet County

License number: 1032215

Type of service: Family Child Care

[Pipes Amanda M](#) Active

407 McKinley Ave
North Mankato, MN 56003
(507) 388-6990
Nicollet County

License number: 1038761

Type of service: Family Child Care

[REM Heartland Inc](#) Active

2186 Arlington Lane
Attn Julie M Devens
North Mankato, MN 56003
(507) 388-8885
Nicollet County

License number: 235399

Type of service: Adult Foster Care

[REM Heartland Inc](#) Active

533 Marie Lane Attn

Devens Julie M License number: 1001748
North Mankato, MN
56003
(507) 387-3920 Type of service: Adult Foster Care
Nicollet County

[REM Heartland, Inc. - Orchid](#) Active

1725 Orchid Drive
South License number: 1001747
North Mankato, MN
56003
(507) 386-1554 Type of service: Adult Foster Care
Nicollet County

[Remund Danielle M](#) Active

14 Arlington Court
North Mankato, MN License number: 1065459
56003
(507) 520-6337 Type of service: Family Child Care
Nicollet County

[Rewitzer Erica V](#) Active

2102 Blackhawk Dr
North Mankato, MN License number: 1053717
56003
(507) 382-8863 Type of service: Family Child Care
Nicollet County

[Richardson Catherine](#) Active

1731 N Orchid Dr
North Mankato, MN License number: 1006382
56003
(507) 625-6527 Type of service: Family Child Care
Nicollet County

[Robyn's Nest](#) Active

1759 Commerce Dr
North Mankato, MN License number: 1056505
56003
(507) 388-8595 Type of service: Child Care Center
Nicollet County

[Sheldon Susan M](#) Active

1825 Pleasantview
DR License number: 1000277

North Mankato, MN
56003
(507) 387-7072 Type of service: Family Child Care
Nicollet County

[Sieberg Larry F & Sieberg Christine A](#) Active

2124 Eagle Ridge Dr License number: 1057333
North Mankato, MN
56003
(507) 387-4540 Type of service: Child Foster Care
Nicollet County

[Skala Paula](#) Active

801 S Ave License number: 1053434
North Mankato, MN
56003
(507) 387-4200 Type of service: Child Foster Care
Nicollet County

[Skala Paula J](#) Active

801 South Ave License number: 221177
North Mankato, MN
56003
(507) 387-4200 Type of service: Family Child Care
Nicollet County

[Sorenson Nancy K](#) Active

1625 Northridge Lane License number: 115462
North Mankato, MN
56003
(507) 388-1942 Type of service: Family Child Care
Nicollet County

[Steffen Amy L & Steffen Christopher J](#) Active

2106 Coventry Lane License number: 1061863
North Mankato, MN
56003
(507) 720-6033 Type of service: Child Foster Care
Nicollet County

[Stenger Deborah A](#) Active

614 Lakeview Ave License number: 115743
North Mankato, MN
56003
(507) 345-1088 Type of service: Family Child Care
Nicollet County

[Stoltzman Shanda](#) Active

203 S Lake St
North Mankato, MN 56003
(507) 340-6426
Nicollet County

License number: 1065920

Type of service: Family Child Care

[Thate Tiffany C](#) Active

1525 Countryside
Drive
North Mankato, MN 56003
(507) 625-5518
Nicollet County

License number: 1013821

Type of service: Family Child Care

[Therese K Sexton Home-South](#) Active

2050 Haughton Ave
North Mankato, MN 56003
(507) 345-8588
Nicollet County

License number: 802805

Type of service: Residential Services, ICF/DD certified

[Tisdell Stephanie K](#) Active

306 Page Avenue
North Mankato, MN 56003
(507) 382-4418
Nicollet County

License number: 1063049

Type of service: Adult Foster Care

[Torvick Briana L](#) Active

126 Cross St
North Mankato, MN 56003
(320) 224-7799
Nicollet County

License number: 1056769

Type of service: Family Child Care

[Trinity Daycare and Preschool LLC](#)

Revocation Order
Issued/Under
Appeal/May Operate

1027 Sherman Ave
North Mankato, MN 56003
(507) 388-7761
Nicollet County

License number: 1055311

Type of service: Child Care Center

[Wills' Family Foster Care](#) Active

2346 Abbywood Lane

License number: 1037137

North Mankato, MN
56003

(507) 385-1994 Type of service: DOC-Child Foster Care
Nicollet County

[Winkler Sarah J](#) Active

809 Lyndale Ave License number: 1044400
North Mankato, MN
56003

(507) 344-0252 Type of service: Family Child Care
Nicollet County

[Wolfe Shawna L](#) Active

2116 North Ridge
Drive License number: 1001414
North Mankato, MN
56003

(507) 344-0205 Type of service: Family Child Care
Nicollet County

[Zellmer Lisa L](#) Active

1707 James Ct License number: 1046800
North Mankato, MN
56003

(507) 351-1511 Type of service: Family Child Care
Nicollet County



License details

[← Back to search results](#)

Freed Susan R **License status:** Active

2416 North Ridge Dr

North Mankato, MN 56003

(507) 625-2820

Nicollet County

License number: 1000585

License holder: Susan R Freed

License status: Active

Type of service: Family Child Care

Initial effective date: October 5, 1999

Current effective date: October 1, 2012

Expiration date: October 1, 2014

Licensed to serve

Age for group family day care: licensed capacity of 10 children, with no more than 8 children under school age, of these 8 children, a combined total of no more than 3 children shall be infants and toddlers. Of these three children, no more than 2 children shall be infants.

Capacity: 10

Restrictions: None

Setting: Residential dwelling

Services licensed to provide

Family Child Care

Additional information

Licensing authority: Nicollet County Social Services

License holder lives onsite: Yes

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01/03/2013

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PO Box 64242
St. Paul, MN
55164-0242
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fax: 651-431-
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License details

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Braun Denise **License status:** Active

2226 Northridge Dr

North Mankato, MN 56003

(507) 351-5910

Nicollet County

License number: 237320

License holder: Denise Braun

License status: Active

Type of service: Family Child Care

Initial effective date: August 3, 1999

Current effective date: August 1, 2012

Expiration date: August 1, 2014

Licensed to serve

Age for group family day care: licensed capacity of 10 children, with no more than 8 children under school age, of these 8 children, a combined total of no more than 3 children shall be infants and toddlers. Of these three children, no more than 2 children shall be infants.

Capacity: 10

Restrictions: None

Setting: Residential dwelling

Services licensed to provide

Family Child Care

Additional information

Licensing authority: Nicollet County Social Services

License holder lives onsite: Yes

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License details

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Meyer Jodi L **License status:** Active

2155 Snowbird Lane

North Mankato, MN 56003

(507) 327-5580

Nicollet County

License number: 1058567

License holder: Jodi L Meyer

License status: Active

Type of service: Family Child Care

Initial effective date: August 18, 2010

Current effective date: August 1, 2011

Expiration date: August 1, 2013

Licensed to serve

Age for group family day care: licensed capacity of 10 children, with no more than 8 children under school age, of these 8 children, a combined total of no more than 3 children shall be infants and toddlers. Of these three children, no more than 2 children shall be infants.

Capacity: 10

Restrictions: None

Setting: Residential dwelling

Services licensed to provide

Family Child Care

Additional information

Licensing authority: Nicollet County Social Services

License holder lives onsite: Yes

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License details

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Hoppe Stephanie **License status:** Active

2116 1/2 Northridge Dr

North Mankato, MN 56003

(507) 344-1061

Nicollet County

License number: 1042019

License holder: Stephanie Hoppe & Stephanie J Claybaugh

License status: Active

Type of service: Family Child Care

Initial effective date: May 15, 2006

Current effective date: May 1, 2013

Expiration date: May 1, 2015

Licensed to serve

Age for group family day care: licensed capacity of 12 children, with no more than 10 children under school age, of these 10 children, a combined total of no more than 2 children shall be infants and toddlers. Of these two children, no more than 1 child shall be an infant.

Capacity: 12

Restrictions: None

Setting: Residential dwelling

Services licensed to provide

Family Child Care

Additional information

Licensing authority: Nicollet County Social Services

License holder lives onsite: Yes

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License details

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Wolfe Shawna L **License status:** Active

2116 North Ridge Drive

North Mankato, MN 56003

(507) 344-0205

Nicollet County

License number: 1001414

License holder: Shawna L Wolfe

License status: Active

Type of service: Family Child Care

Initial effective date: October 13, 1999

Current effective date: July 1, 2011

Expiration date: July 1, 2013

Licensed to serve

Age for group family day care: licensed capacity of 12 children, with no more than 10 children under school age, of these 10 children, a combined total of no more than 2 children shall be infants and toddlers. Of these two children, no more than 1 child shall be an infant.

Capacity: 12

Restrictions: None

Setting: Residential dwelling

Services licensed to provide

Family Child Care

Additional information

Licensing authority: Nicollet County Social Services

License holder lives onsite: Yes

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Sorenson Nancy K **License status:** Active

1625 Northridge Lane

North Mankato, MN 56003

(507) 388-1942

Nicollet County

License number: 115462

License holder: Nancy K Sorenson

License status: Active

Type of service: Family Child Care

Initial effective date: October 23, 1990

Current effective date: October 1, 2012

Expiration date: October 1, 2014

Licensed to serve

Age for group family day care: licensed capacity of 12 children, with no more than 10 children under school age, of these 10 children, a combined total of no more than 2 children shall be infants and toddlers. Of these two children, no more than 1 child shall be an infant.

Capacity: 12

Restrictions: None

Setting: Residential dwelling

Services licensed to provide

Family Child Care

Additional information

Licensing authority: Nicollet County Social Services

License holder lives onsite: Yes

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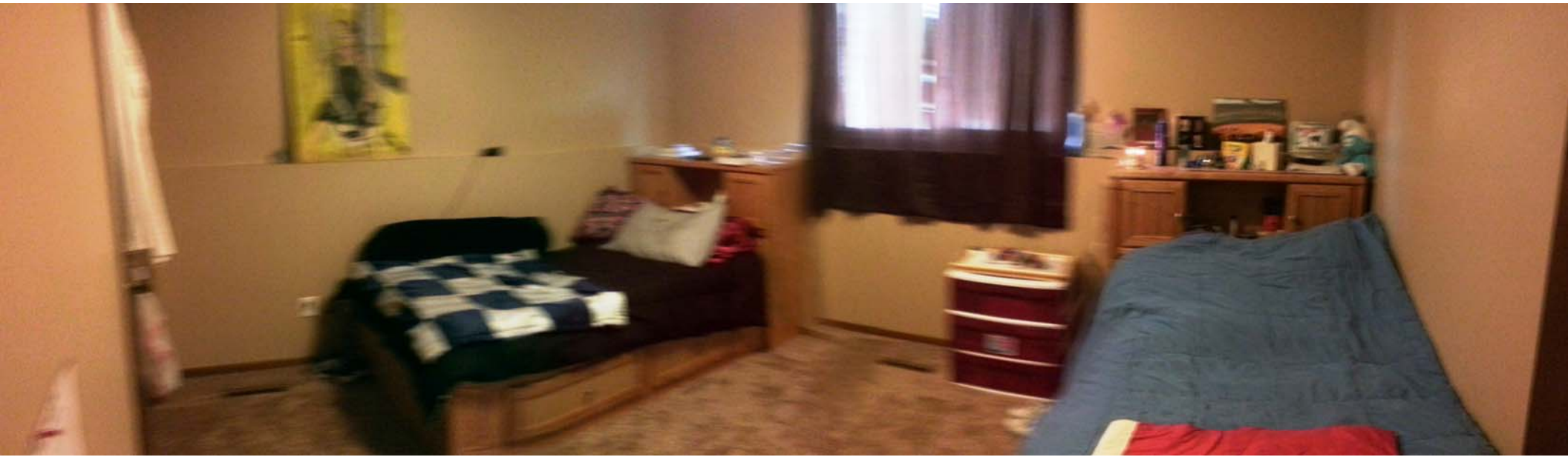






































154-HX0

The Relationship Between Neighborhood Criminal Behavior and Oxford Houses

Jeffrey Deaner, Leonard A. Jason, Darrin M. Aase
and David G. Mueller

ABSTRACT: The present study investigated crime rates in areas surrounding 42 Oxford Houses and 42 control houses in a large city in the Northwestern United States. A city-run Global Information Systems' (GIS) website was used to gather crime data including assault, arson, burglary, larceny, robbery, sexual assault, homicide, and vehicle theft over a calendar year. Findings indicated that there were no significant differences between the crime rates around Oxford Houses and the control houses. These results suggest that well-managed and governed recovery homes pose minimal risks to neighbors in terms of criminal behavior.

Introduction

One form of aftercare treatment that has been gaining popularity is the Oxford House model (Jason, Ferrari, Davis & Olson, 2006). Oxford Houses were started in 1975, and have grown to include over 1,300 Houses in the United States, Canada, and Australia. They are recovery homes that offer a sober living environment for individuals recovering from alcohol and/or substance abuse. The three main requirements for living in an Oxford House are to remain abstinent from substance use, fulfill financial obligations to the House (e.g. rent), and to contribute to the House through chores and other agreed-upon activities (Oxford House Manual, 2006). Oxford Houses are run democratically with members of each House (typically seven to twelve individuals) holding elected positions and making decisions on a majority-rule basis. Oxford Houses differ from traditional recovery homes by using exclusively mutual accountability for sobriety, financial responsibilities, and the enforcement of house rules (Polcin, 2009). Traditional recovery environments, such as therapeutic communities, have professional staff that provide services and typically have limitations on length-of-stay. These are the key differentiating features of Oxford Houses, which do not limit duration of residence and do not include professional staff (Oxford House Manual).

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The residents of an Oxford House are accountable for their own financial responsibilities and deviating from these requirements, along with disruptive behaviors or resuming the use of drugs and/or alcohol, are all grounds for dismissal from the House (Jason, Olson, Ferrari & Lo Sasso, 2006). Oxford Houses are self-supporting entities, as each member is responsible for his or her portion of the House rent and expenses, and no outside funding is used to sustain the House. With regard to the neighborhoods that Oxford Houses are located in, they tend to be in middle-class areas with low drug-trafficking and criminal activity (Jason, Davis, Ferrari & Bishop, 2001; Ferrari, Jason, Blake, Davis & Olson, 2006).

There have been several recent evaluations of the Oxford House model. For example, Jason, Davis, Ferrari and Anderson (2007) found that only 18.5% of the participants who left Oxford House reported any substance use over the course of a year. Furthermore, Jason et al. (2006) reported findings from another study that recruited 150 individuals who completed treatment at alcohol and drug abuse facilities in the Chicago metropolitan area. Half of the participants were randomly assigned to live in an Oxford House while the other half received community-based aftercare services (Usual Care). At a 24-month follow-up, positive outcomes were evident in terms of substance use (31.3% of participants assigned to the Oxford House condition reported substance use at 24 months compared to 64.8% of Usual Care participants), employment (76.1% of Oxford House participants versus 48.6% of Usual Care participants reported being employed at the 24-month assessment) and days engaged in illegal activities during the 30 days prior to the final assessment ($M=0.9$ for Oxford House and $M=1.8$ for Usual Care participants).

Jason, Roberts and Olson (2005) found that the vast majority of neighbors that lived next to an Oxford House had positive views of these recovery homes. Despite the positive attitudes of neighbors toward Oxford House, some communities have expressed concern about the introduction of recovery homes to their neighborhoods. Lawsuits have been filed around the country in efforts to reduce the ability of these houses to enter middle-class neighborhoods (Jason et al., 2008). Some local governments have expressed a 'not in my back yard' (NIMBY) attitude toward recovery homes in general. The National Law Center (1997) polled 89 supportive housing programs and found that 41% had experienced the NIMBY opposition from neighbors and governments. The most prevailing fears of recovery homes being brought into neighborhoods are declining property values and increased crime.

Homes that have individuals in recovery for substance abuse may face more neighborhood resistance because of potential past criminal activity in the prior lifestyles of the residents, and also due to stigma that is associated with substance abuse recovery. There is little available evidence to determine if neighborhood residents' concerns regarding crime are legitimate. The present study was conducted to examine crime rates in urban neighborhoods with Oxford Houses. We hypothesized that there would not be a significant difference in crime rates for neighborhoods with Oxford Houses versus neighborhoods without Oxford Houses.

Method

Procedure

The Oxford House website was used to locate the addresses of Oxford Houses in Portland, Oregon. This study utilized a yoked-control design involving 42 Oxford Houses and 42 control houses. Each Oxford House was plotted into the geospatial mapping program Google Earth, and then a control house was randomly selected by moving a quarter mile to the west of the Oxford House. We chose a quarter of a mile as a distance, as we believed it would provide enough distance to allow for separate areas of crime statistics while still remaining in the same general neighborhood.

A global information systems' (GIS) website controlled by the City of Portland (Portland Maps), was used to gather crime data including assault, arson, burglary, larceny, robbery, sexual assault, homicide, and vehicle theft. We selected the time period of 1 January 2005 to 31 December 2005. Only houses within Portland were used because crime data were not available for neighborhoods outside of city limits. A two block radius was mapped around both the experimental and control houses. Only crimes that occurred within this two block radius were included in the data collection. A two block radius was used because it was thought that this was where most of the criminal impact would occur if members of these houses were involved in criminal activity.

Table 1: Types of crime comparing areas with Oxford Houses (OH) versus controls

Crime	OH Mean (<i>SD</i>)	Control Mean (<i>SD</i>)	t	p
Assault	0.50 (0.97)	0.31 (0.60)	1.08	.28*
Arson	0.07 (0.34)	0.10 (0.30)	-.34	.73
Burglary	1.07 (0.87)	1.10 (1.16)	-.11	.92
Larceny	2.07 (1.37)	2.64 (1.81)	-1.64	.11*
Robbery	0.24 (0.49)	0.20 (0.51)	.44	.66
Sexual	0.00 (0.00)	0.00 (0.00)	--	--
Homicide	0.02 (0.15)	0.00 (0.00)	1.00	.32*
Vehicle Theft	0.90 (0.96)	0.81 (1.13)	.42	.68
Total Crime	4.83 (3.00)	5.22 (3.16)	-.57	.57

* Due to a violation of Levene's test, equal variances were not assumed.

Results

An independent samples t-test was used when comparing the 42 Oxford Houses with the 42 control houses, which were not group homes. We analyzed the

following data: assault, arson, burglary, larceny, robbery, homicide, and vehicle theft. Sexual assault was not included in the analysis due to the fact that no sexual assaults occurred in the two block radius of any of the 42 Oxford Houses or control houses. The results showed that there was no significant difference in the amount of any of the tested crimes that occurred in the area of the Oxford Houses versus the control houses. Table 1 reports the means and standard deviations for each type of crime, as well as the statistical results.

Discussion

With all of Portland's Oxford Houses included in the analysis, there was no difference in the amount of crime committed around Oxford Houses and control houses. This suggests that the presence of a recovery home, more specifically an Oxford House, is not associated with higher crime. These findings suggest that well-managed self-governed recovery homes, such as Oxford Houses, pose a minimum risk to neighbors in terms of criminal behavior.

One of the potential reasons that low crime levels were found is that Oxford House members are actively involved in their communities. Jason, Schober and Olson (2008) found that Oxford House residents reported spending around 10.6 hours per month on neighborhood involvement. Their study found that large percentages of Oxford House residents were involved in activities such as community support groups, participating in anti-drug campaigns, and working with community organizations, among many other activities (Jason, Schober & Olson, 2008). Because of this high level of involvement in anti-drug campaigns and involvement in the community, it is possible that these activities could potentially facilitate reductions in crime rates. These findings suggest that not only do residents help themselves stay abstinent by living in the Oxford Houses (Jason et al., 2006), but important contributions are made by Oxford House members to their neighborhoods and communities.

Of course, these results may not transfer to all other types of recovery homes. Because Oxford Houses discipline their members if they break the rules and will dismiss House members if they engage in illegal activity or begin using substances again, they may have lower crime rates as a result of these contingencies. Many recovery homes tend to house larger numbers of individuals and some even allow for substance use, and these practises could very well result in different findings.

There were some limitations in this study. For example, because we relied on publicly available data, we were unable to evaluate some potentially important variables that could have explained the outcomes. These might have included specific neighborhood involvement among Oxford House residents, other institutions attracting substance abusers to the neighborhood, or other neighborhood characteristics not quantified by the GIS program. As the data were collected in 2005, we also were unable to use features that were not in existence, or examine crime data that were not available that may have been relevant (e.g. prostitution, DUIs, substance-related crimes).

Future studies in this area might involve longitudinal data collection in order to examine crime rates within an area before the establishment of Oxford Houses and then compare them to the crime rates after the Houses had been introduced to the blocks or communities. In future studies, it would also be useful to compare the crime rates over longer periods of time. As advances in GIS technology provide more information about neighborhood characteristics and crime data, investigators can examine more variables that may influence crime rates. Finally, other researchers might use these methods to evaluate crime rates in other recovery settings in neighborhoods. Even with the limitations in the current study, findings do suggest that Oxford Houses do not increase crime levels, and this outcome has important policy implications for the acceptance of Oxford Houses within communities.

Authors' Note

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COUNTERACTING "NOT IN MY BACKYARD": THE POSITIVE EFFECTS OF GREATER OCCUPANCY WITHIN MUTUAL-HELP RECOVERY HOMES

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Group homes sometimes face significant neighborhood opposition, and municipalities frequently use maximum occupancy laws to close down these homes. This study examined how the number of residents in Oxford House recovery homes impacted residents' outcomes. Larger homes (i.e., eight or more residents) may reduce the cost per person and offer more opportunities to exchange positive social support, thus, it was predicted that larger Oxford Houses would exhibit improved outcomes compared to smaller homes. Regression analyses using data from 643 residents from 154 U.S. Oxford Houses indicated that larger House size predicted less criminal and aggressive behavior; additionally, length of abstinence was a partial mediator in these relationships. These findings have been used in court cases to argue against closing down larger Oxford Houses.
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GROUP HOMES AND "NOT IN MY BACKYARD"

Since the 1960s, many institutional settings have been replaced with community-based programs for persons with mental illnesses, developmental disabilities, and substance abuse disorders (Michelson & Tepperman, 2003). An example of a community-based, mutual-aid recovery home for individuals dealing with substance abuse problems is

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Oxford House (OH; Jason, Ferrari, Davis, & Olson, 2006a). Oxford House has grown since 1975 to over 1,200 homes across the United States, 30 in Canada, and 8 in Australia. All homes are single-sex (i.e., men only or women only), and some Houses sheltering women allow children of minor age to live with their mothers. Individuals are typically referred to Oxford Houses by treatment facilities or through word-of-mouth, and new residents are admitted based on an 80% House vote. Regarding the operation and maintenance of Oxford Houses, no professional staff is involved, enabling residents to create their own rules for communal governance (Oxford House, 2002). Residents are held accountable to abstain from substance use or disruptive behavior; find and maintain a job; complete chores; and pay for rent, food, and utilities. Failure to comply with these rules along with any disruptive/criminal behavior or substance use is grounds for expulsion, and all rules are enforced by the house residents. As long as rules are followed, residents are allowed to stay indefinitely. In addition, residents are required to hold house positions (e.g., president or treasurer) elected for 6-month intervals by an 80% majority vote. A randomized study found that at 2-year follow-up, the Oxford House participants had lower substance use (31% vs. 65%, respectively), higher monthly income (\$989 vs. \$440), and lower incarceration rates (3% vs. 9%) compared to usual-aftercare participants (Jason, Olson, Ferrari, & Lo Sasso, 2006).

There are numerous theoretical reasons why group homes such as Oxford Houses should be located in residential areas (Seymour, n.d.). For example, group homes in residential communities may allow for community integration, an active ingredient in the treatment of substance abuse and many other disorders. Group homes might also serve to educate the community about stigmatized populations (e.g., people with substance abuse problems, developmental disabilities, or mental illnesses). Finally, group homes can be a deterrent to crime because residents are generally required to maintain positive behaviors (e.g., sobriety) and are often vigilant. The Oxford House national organization dictates that new Houses be established in safe, low crime, economically stable neighborhoods with minimal opportunities for relapse (Oxford House, 2002). Regardless of geographic location, Oxford Houses are typically situated in low-drug, low-crime communities in which residents have access to resources and amenities that enable autonomy and substance-free lifestyles (Ferrari, Jason, Blake, Davis, & Olson; 2006; Ferrari, Groh, Jason, & Olson, 2007).

Nonetheless, group homes in residential areas sometimes face significant opposition (Zippay, 1997), with neighbors' concerns relating to property values, traffic, noise, inappropriate behavior (Cook, 1997), and safety (Schwartz & Rabinovitz, 2001; Solomon & Davis, 1984). This phenomenon is commonly referred to as the "Not in My Backyard" syndrome (NIMBY; e.g., Dear, 1992; Kim, 2000; Low, 1993). Oxford Houses are certainly not immune to NIMBY; for instance, a North Carolina Oxford House was protested and vandalized by neighbors before it opened. In addition to neighborhood opposition, municipalities employ several techniques to legally regulate, restrict, or even close down group homes (Gathe, 1997). To start out with, cities sometimes decline to provide the required license to prevent the opening of a recovery home. Other regulatory tactics involve density limitations, which may include the Fair Housing Act and Landlord-Tenant Laws (e.g., group homes cannot remove substance-using or disruptive residents without a court order), prohibiting more than one recovery home within a certain radius, and maximum occupancy rules—the focus of the current investigation (i.e., too many unrelated people living in the same dwelling).

Despite the resistance faced by these homes, group homes actually have very little impact on their surrounding neighborhoods and generally blend into the community (Cook, 1997). Community members frequently expect to have more problems with group homes than really occur (Cook; McConkey, Walsh, & Conneally, 1993), and residential facilities do not tend to affect public safety negatively (Center for Community Corrections, 2002). In fact, contrary to popular fears, literature reviews suggest that these settings may actually increase property values in their neighborhoods (Aamodt & Chiglinksy, 1989; Center for Community Corrections, 2002). Similar patterns have been demonstrated for Oxford House recovery homes. Local communities reported Oxford House residents blended well into the neighborhood and made good neighbors (Jason, Roberts, & Olson, 2005). The majority of Oxford House neighbors interviewed had either gained resources, friendships, or a greater sense of security following contact with the Oxford House residents. Furthermore, no evidence of property devaluation was found for neighborhoods containing Oxford Houses; community members who knew of the Oxford House actually saw an increase in property value over an average of 3 years.

Several studies investigated factors that influence the reception of group homes in residential areas. The Center for Community Corrections (2002) interviewed community members and found that neighbor acceptance of community justice facilities and halfway homes was enhanced by an engaged public, a well-run program with access to substance abuse treatment and job development, community input and continuing involvement, discernible contributions to the community, and a careful assessment of the community prior to entry. Additionally, the more a facility resembles the neighborhood in which it resides and the more autonomous the facility residents, the more likely residents will integrate into the community (Makas, 1993). Further, research indicates that closer proximity (Gale, Ng, & Rosenblood, 1988) and increased contact (Butterfield, 1983) between community members and group home residents has a positive effect on the reception of the homes. Jason and colleagues (2005) revealed that residents who lived adjacent to an Oxford House, as opposed to a block away, had significantly more positive attitudes towards the need to provide a supportive community environment for those in recovery, allow substance abusers in a residential community, and the willingness to have a self-run home on their block.

In an attempt to reduce the amount and level of concern related to Oxford Houses and other group homes, educational efforts might be developed such as documenting the effects of group homes on property values, having facility residents maintain friendly rapport with neighbors, and residents becoming more familiar with their surroundings to address neighbors' fears (Cook, 1997). For example, staff at a residential facility implemented educational measures to inform the neighborhood about the opening of the home (Schwartz & Rabinovitz, 2001). Significant interactions were found between neighbors visiting these facilities and decreases in dissatisfaction. Finally, it has been suggested that researchers should focus on developing ways that the public can become more familiar with halfway houses and other group homes (Center for Community Corrections, 2002).

Group Home Size

To implement educational efforts, this research study focused on one NIMBY threat to group homes: house size. Although very little research exists on this topic, one study (Segal & Sawyer, 1996) found that within sheltered care facilities for individuals with

mental illness, although home size did not relate to levels of management, larger homes were less restrictive in their rules and procedures. Larger homes also spent more on program activities for their residents, and their residents were more involved in facility-based activities. It is possible that these greater occupancy facilities were able to provide more of an opportunity for residents to develop a sense of community. However, this type of sheltered care facility is fairly different from Oxford House recovery homes.

It is suggested that a sufficient number of residents in each home might be a necessary component in the effectiveness of Oxford House through the mechanism of social support. Individuals recovering from addictions should be surrounded by a community in which they feel they belong and are able to obtain sobriety goals (Jason & Kobayashi, 1995). Oxford House residents rated "fellowship with similar peers" the most important aspect of living in an Oxford House (Jason, Ferrari, Dvorchak, Groessl, & Malloy, 1997). The Oxford House experience also provides residents with abstinent-specific social support networks consisting of other residents in recovery (Flynn, Alvarez, et al., 2006). Individuals who spent more time in an Oxford House had a greater sense of community with others in recovery, less support for substance use (Davis & Jason, 2005), and more support for abstinence (Majer, Jason, Ferrari, Venable, & Olson, 2002). Oxford Houses with more residents might have greater opportunities for members to provide and receive these vital social resources. It is believed that larger Houses will promote recovery through their ability to promote larger (Zywiak, Longabaugh, & Wirtz, 2002), more supportive social networks (MacDonald, 1987) that include sober others in recovery (Hawkins & Fraser, 1987; Zywiak et al.), constructs linked to sober living.

In addition to increased levels of social support, there are other hypothesized benefits to larger Oxford Houses. For instance, rent may be lower in larger homes because residents can split the costs. Additionally, having more residents allows members to learn from each other and increases opportunities for diversity. In this study, we examined the effects of House size on criminal and aggressive behaviors among Oxford House residents, two areas of significant concern to communities containing group homes (Cook, 1997; Schwartz & Rabinovitz, 2001; Solomon & Davis, 1984). Oxford House has been found to promote positive outcomes regarding both criminal activity (Jason, Olson, et al., 2006; Jason, Davis, Ferrari, & Anderson, 2007; Jason, Olson, et al., 2007) and self-regulation (Jason Olson, et al., 2007), which relates to aggression. Therefore, it was hypothesized in the present study that residents of larger Houses (with eight or more members) would exhibit fewer criminal and aggressive behaviors as measured by the Global Appraisal of Individual Needs-Quick Screen than residents of smaller Houses.

METHOD

Procedure

Data included in the present study were from the baseline data collection (completed between December 2001 and April 2002) of a community evaluation of residents living in one of 213 U.S. Oxford Houses (see Jason, Davis, et al., 2007 for details). Participants from this institutional review board-approved study were recruited and

surveyed using two strategies. The majority of participants ($n = 797$) were recruited through an announcement published in the monthly Oxford House newsletter that provided contact information for the study. We then contacted Oxford Houses via letters to House Presidents, conducted follow-up phone calls to the Houses, and where possible, members of the research team arranged to visit Houses. Of the 189 Oxford Houses that were approached, 169 (89.4%) had at least one individual who agreed to participate in the study, and the average number of individuals per House choosing to participate in the study was 4.7. For the second method, 100 individuals were randomly selected to fill out the baseline questionnaires at an annual Oxford House Convention attended by 300 residents and alumni. Analyses revealed no difference in demographic or outcome variables between the two recruitment groups.

In each case, the nature, purpose, and goals of the study were explained to the potential participants. As part of the consent process, staff members explained that participation was entirely voluntary and that withdrawal from the study was possible at any time. Payments of \$15 were made to participants following the survey. These data were gathered by research staff who primarily administered questionnaires in person to the participants. Some data were collected by telephone, which was often the case for those who had left Oxford House. No significant differences were found based on data collection method.

In addition, an environmental survey (assessing House size) was mailed to the House Presidents of all 213 Oxford Houses. No identifiable information about any House resident was requested, and confidentiality was maintained for all data. Most often the survey was completed by the House President (60.2%) or another House officer (31.6%), such as the Secretary or Treasurer. The survey then was returned by mail, and a small package of coffee was subsequently sent to the House for participation. Pilot testing indicated that it would take less than 20 minutes to complete and mail the survey; surveys were collected over a 4-month period.

Participants

For this investigation, we only included participants from the 154 Houses for which we had data on House size, representing 72.3% of Houses in the larger study. On average, Houses had about seven total members ($M = 7.1$, $SD = 2.0$, $Mdn = 7$), and Houses in this study ranged in size from 3–18 residents. Regarding geographic region within the United States, 27.7% of Houses were located in the West, 18.4% were in the Midwest and Texas, 28.3% were in the Northeast, and 25.7% were in the Southeast.

This present baseline sample consisted of 643 Oxford House residents, including 227 women (35.3%) and 416 men (64.7%). The sample was ethnically diverse, with 62.5% European American, 29.2% African American, 3.9% Hispanic/Latino, and 4.4% others. At baseline, the average age of the sample was 38.3 ($SD = 9.2$), and the average education level was 12.7 years ($SD = 2.0$). Regarding marital status, 50.4% were single or never married, 45.4% were divorced/widowed/separated, and 4.2% were married. With respect to employment, 67.4% reported being employed fulltime, 14.2% part-time, 13.3% unemployed, and 5.1% retired or disabled, and the average monthly income of the sample was \$965 ($SD = 840$). The average participant had stayed in an OH for 1.0 years ($SD = 1.4$). The mean length of sobriety was 1.7 years ($SD = 2.4$) for alcohol and 1.9 years ($SD = 3.2$) for illicit drugs. Regarding recent substance use, participants on average consumed alcohol on 2.3 days ($SD = 9.1$) and drugs on 5.1 days ($SD = 18.3$) in the past 90 days. Concerning legal status, 30% of participants were

currently on probation, and 14% claimed that their entry into OH was prompted by the law. Regarding lifetime data, the average participant was charged with a crime 9.9 times ($SD = 14.0$) and were incarcerated a total of 15.9 months ($SD = 36.8$).

Measures

Baseline demographic information (e.g., gender, race, substance disorder typology) was obtained from items on the Addiction Severity Index-lite, fifth edition (ASI; McLellan et al., 1992). The ASI assesses common problems related to substance abuse: medical status, drug use, alcohol use, illegal activity, family relations, and psychiatric condition. The ASI has been used in a number of alcohol and drug use studies over the past 15 years and has been shown to have excellent predictive and concurrent validity (McLellan et al.).

The Form-90 (Miller & Del Boca, 1994) was administered to obtain a continuous record of alcohol and drug consumption and intensity within a 90-day time span. This measure gathers information related to employment, health care utilization, incarceration, and alcohol and other drug use over a 90-day retrospective (which provides a reliable time frame for abstinence assessment; Miller & Del Boca, 1994).

The number of residents per Oxford House was determined using a brief version of a reliable environmental audit developed and utilized by Ferrari and colleagues (Ferrari, Jason, Blake, et al., 2006; Ferrari, Jason, Davis, Olson, & Alvarez, 2004; Ferrari, Jason, Sasser, Davis, & Olson, 2006) for use with group recovery settings. This survey requested responses to forced choice and frequency items in a number of domains, including information about the House setting such as the percentage of residents in recovery from alcohol, drugs, and polysubstances, along with the number of inhabitants within a House. Other sections of this audit gathered information on the interior and immediate exterior House characteristics, amenities found within a two-block radius of the House, and characteristics of the surrounding neighborhood.

The Global Appraisal of Individual Needs-Quick Screen (GAIN-QS; Dennis & Titus, 2000) is a self-report, clinical screening tool examining whether or not a psychological or substance abuse symptom has occurred in the past 12 months according to the criteria outlined in the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV)* (American Psychiatric Association, 1994). Although the GAIN-QS is not a diagnostic tool, it has been utilized within clinical screening contexts to identify problem areas and psychological symptoms that warrant further explanation. For the purposes of this study, two subscales from the GAIN-QS were used as the outcome variables measuring aggressive and criminal behaviors: conduct disorder/aggression subscale (six items; Cronbach's $\alpha = .78$, mean score = 1.34) and the general crime index subscale (four items; Cronbach's $\alpha = .69$; mean score = .29).

RESULTS

House Size and GAIN-QS Subscales

The average House size in this study was about seven members ($M = 7.1$, $Mdn = 7$). Because a pending court case attempted to make it illegal for Oxford Houses to house eight or more residents, we decided to compare seven or fewer members in a House

(i.e., smaller Houses) with eight or more residents of an Oxford House (i.e., larger Houses). Regression analyses¹ determined that this dichotomized House size variable significantly predicted the GAIN-QS subscales of conduct disorder/aggression, $\beta = -.10$, $t(632) = -2.52$, $p = .01$, and general crime index, $\beta = -.10$, $t(634) = -2.44$, $p = .02$. House size accounted for 0.8% of the variance in general crime scores and 1.9% of the variance in conduct disorder/aggression scores. Larger Houses had fewer problems related to conduct disorder/aggression, and criminal activity. Smaller Houses had a general crime index mean score of 0.34 and a conduct disorder/aggression index mean score of 1.43, whereas the respective scores for larger Houses were 0.21 and 1.16 (lower scores indicate fewer problem symptoms in each area).

House Size and Demographic Analyses

Next, one-way ANOVA and chi-square analyses were run to determine whether large and small Houses (seven or less vs. eight or more residents) differed on demographic variables. Results indicated that the groups only differed on one key demographic variable: larger House residents had been abstinent from drugs and alcohol longer than individual from smaller Houses, $F(1,637) = 4.42$, $p = .04$. Residents in smaller Houses had 298.1 ($SD = 458.6$) cumulative days of abstinence on average, compared to 379.5 ($SD = 476.5$) days for residents of larger Houses. This indicates that individuals living in larger Houses maintained abstinence for about 81 days longer. Because larger Houses had significantly longer lengths of cumulative abstinence, we ran correlations to determine if this variable also related to the GAIN-QS subscale scores. Among participants for whom we have House size data, cumulative days sober did significantly and negatively correlate with the GAIN-QS subscales of conduct disorder/aggression, $r(633) = -.26$, $p = .000$, and general crime, $r(631) = -.30$, $p = .000$.

Mediational Analyses

We next examined whether the variables in the House size and GAIN-QS subscore regression analyses were only significant because individuals in larger Houses had been sober for longer periods of time. To evaluate this possibility, we utilized Baron and Kenny's (1986) framework for testing of mediation. In Baron and Kenny's model, the influence of variable A (the initial variable) on variable B (the outcome) may be explained by a third variable known as variable C (the process variable). Complete mediation occurs when variable A no longer affects B after C has been controlled. Partial mediation occurs when the path from variables A to B (the total effect) is diminished in total size, but is still different from zero after the mediating variable is controlled. The mediational model is a causal one; therefore, the mediator is presumed to bring about the outcome and not vice versa.

We used Baron and Kenney's (1986) framework to determine whether cumulative days sober mediated the relationship between House size and conduct disorder/aggression [A = House size (seven or less vs. eight or more residents), B = cumulative days sober, and C = conduct disorder/aggression]. As demonstrated earlier with linear regression analyses, House size significantly predicted conduct disorder/aggression.

¹ Although participants were nested within Oxford Houses, we decided not to focus on Hierarchical Linear Modeling results because we wanted to test for mediation, which can be done using regression but not HLM. However, we did run HLM analyses and found that House size (as a level 2 group variable) significantly predicted individually-assessed level 1 *General Crime Index* scores ($t[144] = -2.18$, $p = .03$) but not level 1 *Conduct Disorder/Aggression* scores ($t[144] = -1.17$, $p = .25$).

House size also significantly predicted cumulative days sober, $A \rightarrow B$; $\beta = .08$, $t(637) = 2.10$, $p = .04$; $r^2 = .007$, and cumulative days sober predicted conduct disorder/aggression, $B \rightarrow C$; $\beta = -.30$, $t(630) = -7.86$, $p = .000$; $r^2 = .089$. Finally, when both House size and cumulative days sober were put in the model predicting conduct disorder/aggression (A and $B \rightarrow C$), House size maintained significance, but less than earlier, House size: $\beta = -.08$, $t(628) = -2.11$, $p = .04$; cumulative days sober: $\beta = -.29$, $t(628) = -7.69$, $p = .000$; $r^2 = .096$. Therefore, House size is related to conduct disorder/aggression, and cumulative abstinence is a partial mediator in this association. These two variables (i.e., House size and cumulative abstinence) explained almost 10% of the variance in conduct disorder/aggression scores.

We again employed Baron and Kenney's (1986) framework to determine whether cumulative days sober mediated the relation between House size and general crime index [A = House size (seven or less vs. eight or more residents), B = cumulative days sober, and C = general crime index]. As reported earlier, House size was a significant predictor of general crime index, and House size significantly predicted cumulative days sober. Regarding new analyses, cumulative days sober predicted general crime index ($B \rightarrow C$; $\beta = -.26$, $t[631] = -6.77$, $p = .000$; $r^2 = .068$). Finally, with both House size and cumulative days sober as predictors of general crime index (A and $B \rightarrow C$), House size retained significance, but less so than before, House size: $\beta = -.08$, $t(630) = -2.04$, $p = .04$; cumulative days sober: $\beta = -.25$, $t[630] = -6.60$, $p = .000$; $r^2 = .074$. Thus, House size is related to general crime index scores, and cumulative sobriety is a partial mediator in this relationship. These two variables (i.e., House size and cumulative abstinence) explained more than 7% of the variance in general crime index scores.

DISCUSSION

The objective of the present investigation was to examine how the number of residents in an Oxford House impacted outcomes related to aggression and crime among residents. Regression analyses supported our hypotheses that larger House size (i.e., eight or more residents) would predict less criminal and aggressive behavior. However, an unexpected result was that length of abstinence was a significant mediator in these relationships. House size lost a fair amount of significance when the mediator of cumulative days sober was entered into the models predicting GAIN subscale scores, and the addition of cumulative sobriety to the models greatly increased the amount of variance explained. Cumulative sobriety partially explained the relationships between House size and general crime index and House size and conduct disorder/aggression. Thus, greater House size leads to greater cumulative abstinence, which, in turn, leads to less criminal activity and aggression; however, House size does have some independent impact of its own on these outcomes. It is clear that having more residents in a House is beneficial to residents' recovery from alcohol and drug abuse.

These findings have important policy implications regarding the future of recovery homes. It is argued that local governments allow Oxford Houses immunity from maximum occupancy regulations due to the great need in many communities for these settings. It is very difficult for individuals lacking stable living environments to maintain a sober lifestyle following residential treatment (Milby, Schumacher, Wallace, Feedman, & Vuchinich, 1996). As the cost of housing continues to rise, many individuals leaving inpatient facilities are unable to find affordable housing. Without

Oxford House or other recovery home options, former addicts frequently have no choice but to return to their old negative environments and fall back into their pretreatment habits, which frequently include antisocial activities such as substance use and criminal activity. Regardless of how successful a client has been in treatment, this progress can be reversed through residence in an environment that promotes crime and drug use (Polcin, Galloway, Taylor, & Benowitz-Fredericks, 2004). As demonstrated in this study, a sufficient number of House residents is a factor in the ability of Oxford House to promote these outcomes that benefit local communities.

Furthermore, it is suggested that maximum occupancy regulations that apply to recovery homes are often based on false beliefs and fears. Neighbors often oppose recovery homes because they fear increased crime and violence (Cook, 1997; Schwartz & Rabinovitz, 2001; Solomon & Davis, 1984; Zippay, 1997), and to appease these residents, cities frequently use maximum occupancy laws to close the group homes (Gathe, 1997). This pattern is quite ironic given that the Houses being closed (i.e., larger homes) should actually give neighbors less reason for concern. It seems obvious that laws based on these misconceptions should be eliminated. Overall, Oxford Houses have positive (not negative) effects on local communities (Jason et al., 2005), and residents of larger Houses appear to be highly desirable community members (i.e., who engage in less criminal and aggressive behaviors).

This investigation provides one more step in the movement to improve the reception of Oxford Houses and other group homes in local communities. Although second-order change alters the systems that cause the problems (Dalton, Elias, & Wanderman, 2001), "Not in My Backyard" typically serves to inhibit this type of change. Changing the attitudes of mental health professionals, community members, and policy makers may break down the barriers to second-order change (Olson et al., 2002). Educational efforts along with successes in the court room may promote a more positive social climate and set legal precedents. Finally, researchers have argued that social scientists should explore ways that the public can become more familiar with residential facilities (Center for Community Corrections, 2002). We hope that these efforts and the efforts of other researchers, individuals in recovery, treatment providers, lawyers, and political activists are successful in reducing the opposition to group homes in residential areas.

Concerning limitations, our findings might not apply to other group homes or residential facilities, which can vary greatly in focus, procedures, setting, and size. For instance, a large Oxford House setting (i.e., greater than seven members) might be very small in comparison to other residential settings, which may accommodate several dozen residents. It is actually possible in these cases that somewhat smaller settings are more effective. In addition, we were typically not able to collect data from all members within a House; thus, some Houses have more representation than others in this sample. Future studies in this area should acquire information from all members of a House if possible. Furthermore, data analyzed in this study were self-report; therefore, it may have been useful to obtain House size estimates using data from other sources such as Oxford House Inc., the national body that oversees Oxford Houses. Also, alcohol and drug use had little variability within this sample because all participants were recruited from Oxford Houses instead of treatment or detoxification centers (suggesting a later stage in recovery), and because residents caught using a prohibited substance can be evicted. Perhaps future research assessing occupancy levels of recovery homes should consider a sample with more variability with regards to substance use. A final limitation is our use of regression analyses as opposed to

hierarchical linear modeling (HLM) due to the nested nature of the data; however, we wanted to test the mediational model, which can be done using regression, but not HLM. Nonetheless, future researchers assessing group home size may want to seriously consider the use of HLM.

To improve the reception of Oxford Houses in local communities and counteract the NIMBY syndrome, the Oxford House Research Team has provided expert testimony in court cases, sent information to legislators, disseminated research findings with policy implications, collaborated with community partners and state-level agencies, and worked with the media to change the image of recovery homes (see Jason, Davis, Ferrari, & Bishop, 2001). In particular, the DePaul University research team has been involved in several court cases over the past several years on the behalf of Oxford Houses. Recently, municipalities located in Kansas, Iowa, and North Carolina have attempted to close down Oxford Houses or similar recovery homes due to too many unrelated individuals living in one dwelling. Findings from the present study were used in these court cases, and at the present time, the Oxford House organization has won every court case.

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From: **Darcy Wennes** <bellehousemn@gmail.com>
Date: Tue, Aug 21, 2012 at 3:10 PM
Subject: Re: 2107 Northridge
To: 709@nmpd.org

Thank you officer Howe for keeping me informed. I'm glad to hear there were no laws being broken, and am always willing to cooperate with North Mankato Police in anyway I can.

On Tue, Aug 21, 2012 at 3:07 PM, Darcy Wennes <bellehousemn@gmail.com> wrote:
More correspondence regarding the last email I sent you.

----- Forwarded message -----
From: **Sandy Howe** <709@nmpd.org>
Date: Thu, Aug 16, 2012 at 5:36 AM
Subject: 2107 Northridge
To: bellehousemn@gmail.com

Darcy -

Police were called to 2107 Northridge because there were reports of males entering the residence after 10PM. The callers stated males could not be there past 10 PM. When NMPD arrived we could not hear any loud voices from the street nor while in the driveway. We walked to the back of the house and all we heard were voices talking in a normal conversational tone. One male was observed on the deck. NMPD did NOT make contact due to no laws or ordinances were being broken.

OFFICER SANDY HOWE #709

E-MAIL CONFIDENTIALITY NOTICE:

The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information. If you are not the intended recipient of this message or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and any attachments. If you are not the intended recipient, you are notified that any use, dissemination, distribution, copying, or storage of this message or any attachment is strictly prohibited.

From: darcywennes@gmail.com [mailto:darcywennes@gmail.com] **On Behalf Of** Darcy Wennes
Sent: Monday, August 20, 2012 9:48 PM

To: Sue Serbus
Subject: Re: Belle House

I just got back from the house. I had to discharge another client for allowing males into the facility on repeated occasions. She left the house extremely upset, slammed the door, and stated she would come back to get her things when she figures out where to live. The other women were concerned that she had a key, and knew the code to the garage. I assured them that I got the key from her and unplugged the garage door opener.

Anyway, long story short, I informed the discharged client she could get her belongings at 4:30 tomorrow because the other clients wanted me there when she collected her belongings.

I've learned a lot of good lessons in the first three months, and on days like today I wonder why I put myself through this- and then I remember the 6 women (and hopefully 8) that have a place to live and didn't before.

From: Darcy Wennes [mailto:bellehousemn@gmail.com]

Sent: Sunday, August 19, 2012 10:33 AM

To: Mark Dehen; Sean Webb

Cc: Chris Boyer

Subject: Re: Belle House

To all concerned:

In my absence Michelle Dick, MSW was my proxy at BH. She checked in on the clients and insured that all BH rules were followed in my absense. When Michelle was informed of the male at the facility mowing the lawn and after hours, she immediatly went to BH and established a house meeting. After easily determining the guilty parties, Ms.Dick promptly discharged the consumers who broke the house rules. They packed and immediatly left the facility.

As I stated to Mr.Webb, Northridge drive residents, and the city council- I cannot promise that all BH residents will follow house rules, but I can promise their immediate discharge if they don't. I am pleased that in my absence Ms.Dick maintained house rules and did exactly what I would have done.

I am in Long Beach, CA and will be boarding a flight to MSP- arriving at 6pm MN time. I can return any other calls or emails at that time or tomorrow 8/20/12 during business hours.

Again, I apologize for any inconvienece my vacation or BH residents may have caused this past week, and want to assure you that all rules will always be followed at BH.

Thank you for your patience!

Most sincerely,

Darcy Wennes

Sent from Darcy's mobile































JANE DOE #'S 1 - 6

*Request for
Reasonable Accommodation*



Requested Accommodation

- Jane Doe's #1 through 6 request that the City of North Mankato grant a reasonable accommodation in the form of allowing up to eight unrelated individuals who are recovering addicts to reside together on the premises at 2107 Northridge Drive, North Mankato, Minnesota.

Application for Reasonable Accommodation

- Disabled Person
- Reasonable
- Necessity

- Opponents must prove either:
 - Fundamental change to city zoning; or
 - Substantial negative impact to city finances.

Reason for Request:

- North Mankato City Code 156.003 reads in part:

“**DWELLING, SINGLE FAMILY.** A dwelling designed for and used for occupancy by one family.

* * *

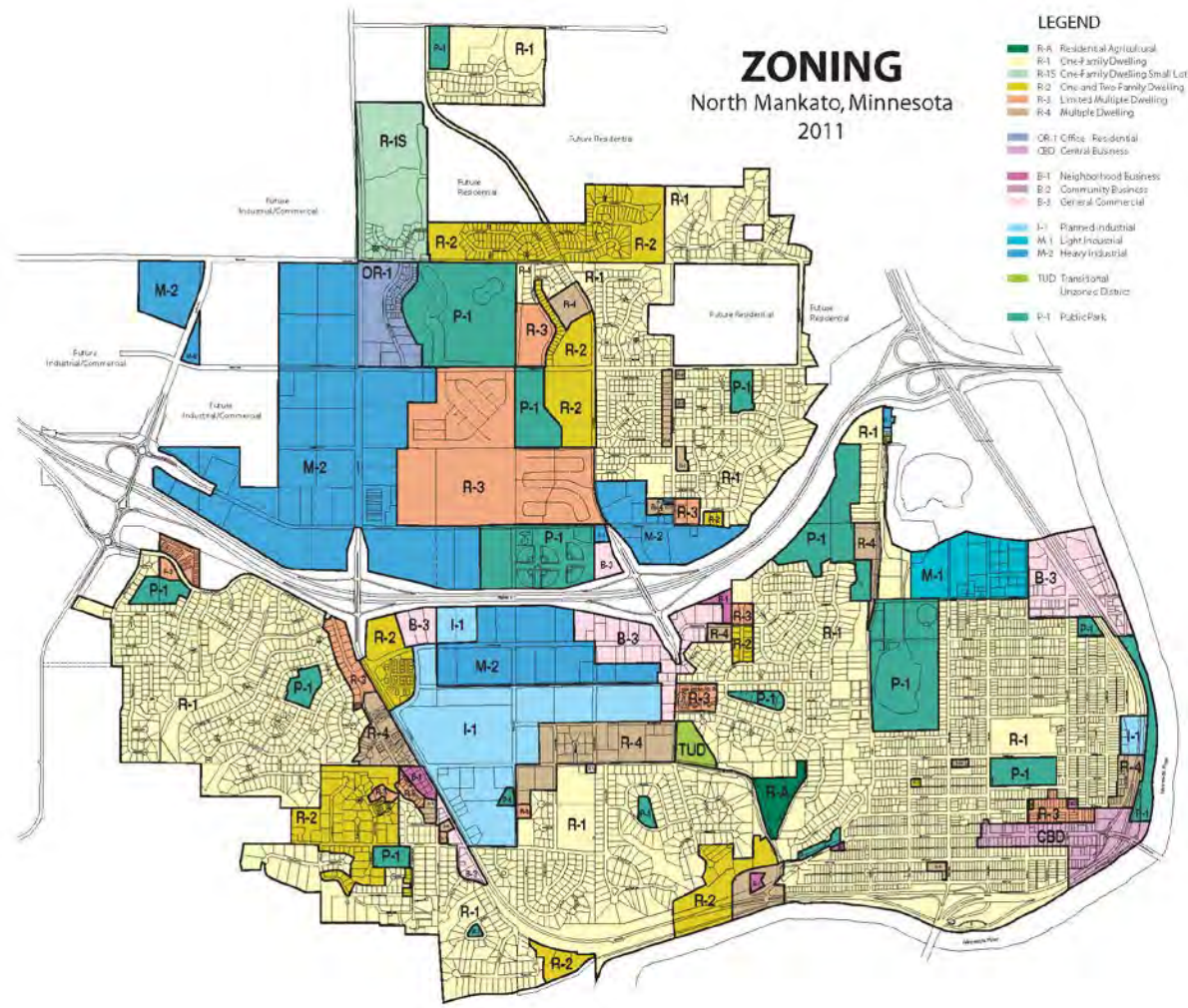
FAMILY. An individual or 2 or more persons related by blood, marriage, or adoption, or a group of not more than 5 unrelated persons, living together as single housekeeping unit within a dwelling unit as distinguished from individuals or a group occupying a hotel, motel, club, lodge, sorority, fraternity, or dormitory.”

- North Mankato City Code 156.037 reads in part:

“*Permitted uses.* The following are permitted uses:

- (1) Single family detached dwellings. * * * ”

2107 Northridge Drive is zoned R-1



Disabled Persons

Law

- Non-abusing, recovering alcoholics and drug addicts are disabled persons and protected under the FHAA and ADA

Affidavits

- Jane Doe's are residents of 2107 Northridge Drive
- Jane Does are recovering addicts

Meet Darcy Wennes (owner)

- Masters in Social Work
- Licensed Graduate Social Worker
- Chemical Dependency Counselor
- More than ten years of experience in chemical dependency recovery in Mankato



REASONABLENESS OF THE REQUESTED ACCOMMODATION

Reasonableness “is akin to merely showing that the accommodation is feasible or plausible for the [City of North Mankato] to implement.” *US Airways, Inc. v. Barnett*, 535 U.S. 391, 122 S.Ct. 1516, 152 L.Ed.2d 589 (2002)

Requested Accommodation is a policy change

ADA Title II Technical Assistance Manual provides examples of reasonable accommodations:

- A variance from zoning setbacks to accommodate an entrance ramp for disabled customers is a reasonable accommodation.
- Allowing use of golf carts on the public roads in contravention to an ordinance is a reasonable accommodation.

- "[D]iscrimination includes * * * a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B)
- "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(b)(7)

Reasonableness check

- North Mankato Zoning Ordinance
 - Family is defined as “An individual or 2 or more persons related by blood, marriage, or adoption, or a group of not more than 5 unrelated persons, living together as single housekeeping unit within a dwelling unit”
- Exceptions by statute that must be allowed:
 - Certain state licensed facilities serving 6 or fewer persons (include child foster care);
 - licensed day care facility serving 12 or fewer persons;
 - group family day care facility to serve 14 or fewer children

Brief Minnesota History on Accommodations for the Disabled

- Minnesota first adopts mandatory accommodation for a minimum of 6 disabled adults to live together in a single family home in 1975.
- Civil Rights Act of 1968 (Fair Housing Act) omits disability as protected class.
- 1988 Amendments include disability as protected class.
- 1990 Americans with Disabilities Act

Uses in zoning district

Authorized

- Churches
- Public and private schools
- Community centers
- Recreation centers

Conditional

- Bed and Breakfast (defined as owner occupied single family home that provides meals and lodging to an unregulated number of guests).
- Government

Current DHS Licensees in North Mankato

- 39 current DHS licensees in R-1 Districts in North Mankato that fit statutory exception and exceed occupancy allowed by North Mankato Zoning Ordinance.
 - 4 active DHS licenses that exceed zoning ordinance occupancy limit within 400 feet of 2107 Northridge Drive
 - 3 of those 4 authorize up to 12 beyond family
 - 1 of those 4 only authorizes up to 10 beyond family
 - 6 total (including 4 within 400 feet) active DHS licenses that exceed zoning ordinance occupancy limit within 0.4 miles of 2107 Northridge Drive
- Depending on identity of occupants, another 14 DHS licensees in R-1 Districts may exceed zoning occupancy limit.

Plausible to Implement?

- Lower impact than a Bed & Breakfast (Conditional Use).
 - Less vehicle traffic
 - Less parking problems
- Lower impact than school, community or recreational center (Authorized Use).
 - Less traffic
 - Less vehicle traffic
 - Less noise
 - No employees in accommodation
- Lower impact than daycares (Authorized use by statute).

Implementation is as easy as the City Council voting to allow the accommodation.

There would be nothing else that the City of North Mankato would be required to do.

NECESSITY

Necessity is the linkage between the requested accommodation and the opportunity to use housing of the disabled individuals choice.

Necessity

Necessity under the FHAA and ADA has been defined to include enhancing quality of life.

Here the academic research shows that residents of homes like Belle House have a higher rate of employment, and be involved in less criminal activity.

- Academic Research - At two years those in a supportive housing environment like Belle House tend to have
 - much lower relapse rate (31% vs. 65%);
 - higher employment rates (76% vs. 49%)

Necessity (Continued)

Necessity in terms of the FHAA and ADA includes ameliorating the effects of disability.

Here the academic research favors larger homes as residents tend to stay longer and be sober longer.

- More Academic Research
 - Study shows residents in similar homes with 8 or more residents have on average 81 more days of continuous sobriety than those with 7 or fewer residents.

Necessity: Data from the First Year at Belle House

To fulfill the mission of Belle House, population transitions will occur as residents maintain sobriety and integrate into the community.

Based upon current data, authorization for up to 8 unrelated residents will generally result in a population at Belle House of between 5 and 6 residents at any one time.

- Occupancy averages 67%
- With more than 4 total residents, all seven (7) discharges were the result of a successful transition by a sober client
- With less than 4 residents, 70% of discharges are a result of relapse

Necessity: Financial

- **Necessity under FHAA & ADA includes financial**
- Belle House residents are generally GRH funded
- At current state funding levels, 6 occupants will result in an operating loss
- At current state funding levels, 8 occupants with full occupancy projects to a small operating profit

Applicants are not asking for anything unusual as a reasonable accommodation

Requested Accommodation

- Only asking for eight unrelated residents

Court Holdings

- 9 residents is common. See *U.S. v. City of Taylor*, Mich., 872 F. Supp. 423 (E.D. Mich., 1995); *Oxford House-Evergreen v. City of Plainfield*, 769 F. Supp. 1329 (D. N.J. 1991); *Oxford House-A v. City of University City*, 87 F.3d 1022, fn 2 (8th Cir. 1996)

OPPONENTS BURDEN OF PROOF

“There are two ways [an opponent] can satisfy its burden of proving that the requested accommodation would result in undue hardship. The [opponent] can either show that the proposed accommodation would impose undue financial or administrative burdens or that the accommodation would require ‘fundamental’ or ‘substantial’ modifications to its program.”

Hinneberg v. Big Stone County Housing, 706 N.W.2d 220 (Minn. 2005)

Fundamental or Substantial Change?

Standard

“So long as the group home bears the generic character of a family unit as a relatively permanent household, and is not a framework for transients or transient living, it conforms to the purpose” of a single family zone within a zoning ordinance. *City of White Plains v. Ferraioli*, 34 N.Y.2d 300, 357 N.Y.S.2d 449, 313 N.E.2d 756 (1974)

Accommodation vs. Legal Standard

- Proposed use must be incompatible with surrounding uses for there to be a fundamental change to city zoning. *Schwarz v. City of Treasure Island*, 544 F.3d 1201 (11th Cir. 2008).
- Where density, architecture and design features of the proposed development are comparable to that of the surrounding community, there is no fundamental change. *Hovsons, Inc. v. Township of Brick*, 89 F.3d 1096 (3d Cir. 1996)
- Minn. Stat. 462.357, Subd. 7 has stated that use is allowed in single family zones since 1975.
- 4 other properties within 400 feet currently exceed zoning ordinance occupancy limit.
- Minimum of 39 other properties in R-1 Districts that exceed zoning ordinance occupancy limit.
- No change to the density, architectural or design features of the existing building is requested.

General Reminder of Neighborhood Occupancy

- 4 DHS licensees within 400 feet
 - 3 of those 4 authorize up to 12 beyond family
 - 1 of 4 only authorizes up to 10 beyond family
- 6 DHS licensees within 0.4 miles of the property
- 2107 Northridge Drive
 - Authorized for minimum or 6 by state statute
 - Requesting authorization for 8; which by occupancy history will generally mean an expected occupancy of about 5 or 6 persons at any one time.

Belle House's Neighborhood



Belle House
2107 Northridge Drive



2108 Northridge Drive

Neighbors

- To the East



2101 Northridge

- To the West



2109 Northridge

Comparison of Homes

Belle House

- Split level home
- Two vehicle garage
- Currently no residents have a vehicle; maximum of 2 vehicles owned by residents at any time in first year
- No plans to change exterior

Neighborhood

- Many split and multi-level homes
- Most have two or more car garages
- Multiple motor vehicles
- Many have RV's and boats parked adjacent to their garages.

Opponents Burden of Proof (cont.)

Additional Costs to the
City of North Mankato
for the Accommodation:

Public Safety: \$0

Streets: \$0

Parks: \$0

**Reminder: Any
administrative or
financial burden must
be an “undue burden”
in order to warrant
denial of the requested
accommodation.**

Financial Burden to City of North Mankato

An accommodation is reasonable where it “would not cause undue financial burden to the City”. *Oxford House-Evergreen v. City of Plainfield*, 769 F.Supp. 1329 (D.N.J. 1991).

A home that is well maintained and does not burden the City or alter the residential character of the neighborhood weighs towards a finding of no cost to the governmental entity. *Oxford House, Inc. v. Town of Babylon*, 819 F.Supp. 1179 (E.D.N.Y. 1993).

Belle House and Public Safety

Operational history

**NO CRIMES
COMMITTED BY ANY
RESIDENTS SINCE
BELLE HOUSE
OPENED.**

Belle House LLC has cooperated with North Mankato Police Department at all times.

Officer Howe's investigation of dispatch to premises found no laws or ordinances being violated.

Belle House has more restrictive rules for its' residents than single family rental units.

- Academic Research
 - Houses of 8 or more residents have a lower crime index score than houses of 7 or less. (Leonard A. Jason et. al., Counteracting NIMBY)
 - More limited studies in Portland, Oregon show no statistically significant difference in neighborhood crime rates. (Jeffrey Deaner et. al, Relationship Between Neighborhood Criminal Behavior)

Some Court holdings:

- A home that is well maintained and does not burden the City or alter the residential character of the neighborhood weighs towards a finding of no cost to the governmental entity. *Oxford House, Inc. v. Town of Babylon*, 819 F.Supp. 1179 (E.D.N.Y. 1993).
- Generally, a group home would “subject the neighborhood to less traffic, fewer parking problems and fewer disruptions” than business and commercial uses. *Judy B. v. Borough of Tioga*, 889 F.Supp. 792 (M.D. Pa. 1995).

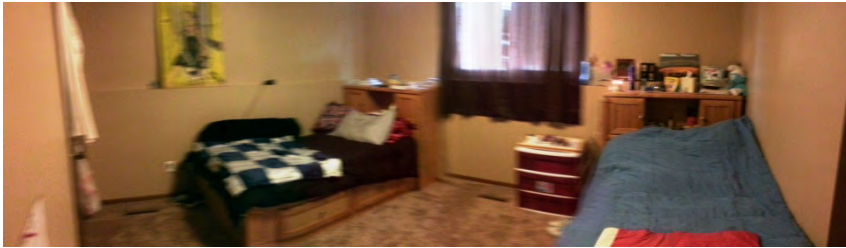
Brief Tour of Property



Brief Tour of Property continued



Downstairs Bedroom, Living Room and Kitchen



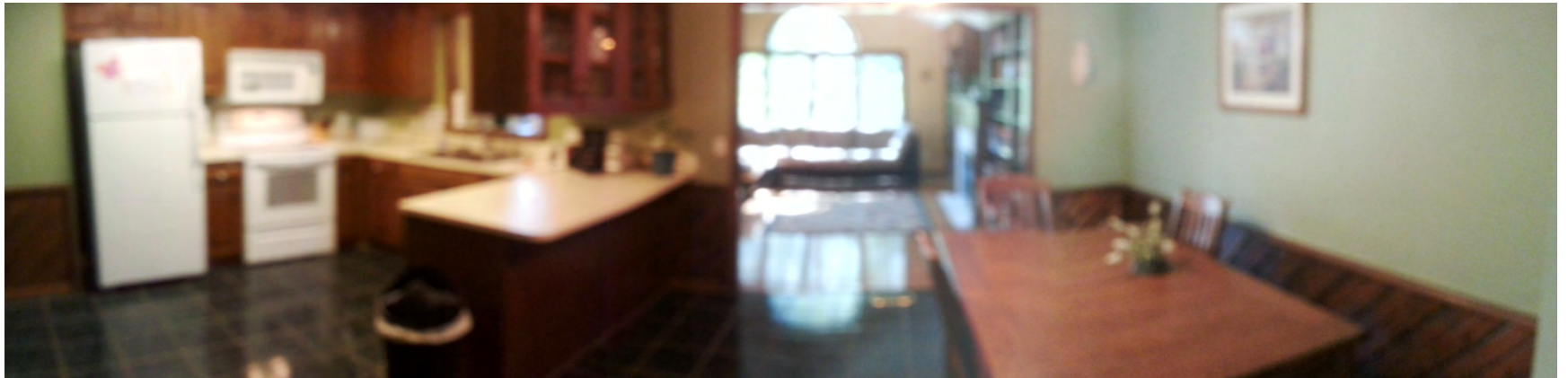
Serenity Room



Upstairs Bedrooms and Living Room



Upstairs Kitchen



SUMMARY

- ❑ Same house; same neighborhood; merely different disabled occupants
- ❑ At 8 residents, current data and academic research shows longer sobriety, less crime, and higher employment of residents
- ❑ Owner is professional involved in chemical dependency treatment.

Review of Evidence

- Applicants Burden
 - Disabled
 - Reasonable (i.e. plausible to implement)
 - Necessary (i.e., nexus with disability)

Only requires a prima facie case
- Disabled
 - All recovering addicts
- Facial Reasonableness
 - Easy to implement
 - No cost or burden to City
- Necessary
 - Longer resident sobriety
 - Greater opportunity for recovery from addiction

Review of Evidence (cont.)

- Opponents Burden

- Undue
 - Financial; or
 - administrative burdens

- Accommodation requires

- Fundamental; or
- Substantial modifications

- Evidence

- No financial burden
- No administrative burden

Fundamental or substantial change?

- To what?

- Zoning
- Neighborhood

- Zoning

- Minimum of 39 other DHS licensees in R-1 zones exceed zoning occupancy limit.
- Use already authorized by statute.
- No evidence of zoning change.

- Neighborhood

- Same home, same neighborhood
 - House fits architectural style
 - Property maintained
- 4 other DHS licensees within 400 feet currently exceed zoning ordinance occupancy limit from which applicants seek accommodation.

Jane Doe's #1 – 6 request that the
City of North Mankato
grant their reasonable accommodation
request

Proposed Instructions

The Applicant must make a “prima facie” showing that the accommodation sought is reasonable on its face, i.e. ordinarily or in the run of cases.

As a matter of law, an accommodation is reasonable unless it requires “a fundamental alteration in the nature of a program” or imposes “undue financial and administrative burdens.”

Once the Applicant makes a prima facie showing of reasonableness, the burden shifts to those opposing the accommodation to demonstrate undue hardship in the particular circumstances. It is the burden of those opposing the accommodation to prove through the introduction of evidence, either documentary or testimonial, that there is a fundamental alteration in the nature of a government program, such as zoning laws, or that the application presents an undue financial or administrative burden to the City of North Mankato.

Special Verdict Form

1. Are the Jane Doe applicants disabled?

Yes _____ No _____

2. Did the Jane Doe applicants make a prima facie showing of reasonableness of the proposed accommodation?

Yes _____ No _____

3. Is the accommodation necessary in that there is a nexus between the requested accommodation and the disability of the Jane Doe applicants?

Yes _____ No _____

4. Did those in opposition to the proposed accommodation prove through the introduction of evidence that the requested accommodation is “a fundamental alteration in the nature of a program”.

Yes _____ No _____

If “yes”, state the fundamental alteration in the nature of a program

proved: _____

5. Did those in opposition to providing the accommodation prove through the introduction of evidence that the requested accommodation imposes “undue financial and administrative burdens.”

Yes _____ No _____

If “yes”, state the undue financial and administrative burdens

proved: _____

If Questions 4 and 5 are answered “No”, it is a vote to grant the requested accommodation.