

CC Sober living letter of support SB 529.pdf

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Position: FAV



THE MARYLAND GENERAL ASSEMBLY
LEGISLATIVE DISTRICT 5
CARROLL COUNTY

February 28, 2023

The Honorable Melony Griffith
Finance Committee
Miller Senate Office Building, 3 East
11 Bladen Street
Annapolis, Maryland 21401

RE: **Carroll County Senators Letter of Support**
Senate Bill 529 - Carroll County – Sober Living Houses - Authorization

Dear Chairman Griffith, Vice Chair Klausmeier, and members of the Finance Committee,

The Carroll County Senate Delegation would like to notify the Finance Committee of their support for Senate Bill 529 – Carroll County – Sober Living Houses – Authorization.

The above referenced bill was considered by the Carroll County Senate Delegation and was subjected to a bill hearing. The Carroll County Senators and Delegates voted unanimously in favor of the bill.

Sincerely,

A handwritten signature in black ink that reads "Justin Ready".

Senator Justin Ready
Chair, Carroll County Senate Delegation

SB529 Carroll County Sober Living Homes Written Te

Uploaded by: Justin Ready

Position: FAV

JUSTIN READY
Legislative District 5
Carroll County

MINORITY WHIP
Finance Committee



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Annapolis, Maryland 21401
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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 28, 2023

Senator Justin Ready

SB 529 – Carroll County – Sober Living Houses - Authorization

Chair Griffith, Vice Chair Klausmeier and members of the Finance Committee:

As amended, Senate Bill 529 would allow Carroll County to put a sober living element into the county comprehensive master plan to give guidance on how many can be in a certain area. It would give our county flexibility in ensuring an orderly, safe, and fair distribution of these kinds of group homes. The amendment changes the authorization language to not mandatory.

The density of location of these types of facilities was the main concern brought to me and the entire Carroll delegation's attention by the people of the Fairfield neighborhood community in Westminster. An aggressive property management firm based out of Pennsylvania began purchasing homes and then contracting with a Maryland-based recovery center, incorporated only in 2021 to establish Drug/Substance Abuse Recovery Center Group Homes in this neighborhood. Working in tandem, these two entities purchased three (3) properties from September 2021 to August 2022 and converted them from single-family dwellings to corporate-owned Sober Living/Substance Abuse Recovery Center Group Homes in this neighborhood. This was done without the neighborhood's knowledge or any notice while adding to one other previously established group home set up as a Female Sober Living Recovery residence, which has had several problems in the past eight years. What has followed is continual disruptions all hours of the day and night and no real accountability from the owners.

According to the testimony of multiple residents, it is not unusual to hear an ambulance at any time of day, foot and car traffic has increased dramatically, cars broken into, an increase in water/sewer/trash usage- increasing overall concerns for the safety and wellbeing of homes, property, and children.

Let me be clear before proceeding - the community members – the people that I've spoken with - are not opposed to having a sober living home in their community but having four in one small neighborhood - which seems to have been targeted because they do not have a Homeowner's Association - is too much.

This is a non-conforming type of use for a home in this neighborhood and residents were never provided notice of such use. Unfortunately, current state law does not allow any regulation of the placement of group homes. This bill is simply trying to allow our county the ability to have some regulation on the number of group homes in a particular area and some control over the process. Hand- shake leases between a property management company and a provider of health services do not provide the kind of oversight needed for any county planning and zoning board. Current law does not even provide for any kind of public or community notification requirements.

SB 529 simply asks for flexibility to allow our county to have some ability to organize and control the density and location of these needed services. The Carroll Senate and House Delegation voted unanimously in favor of SB 529, a letter of support and voting sheet are also included.

I respectfully request a **favorable** vote on Senate Bill 529.

SB529 Sober Living Voting Sheet.pdf

Uploaded by: Justin Ready

Position: FAV

Carroll County Delegation Meeting

Zoom

Thursday February 23, 2023 9:00am

Voting on Bill

SB529 - Sober Living Bill - Authorization

Sen Ready	Yes	No
Sen West	Yes	No
Del Rose	Yes	No
Del Tomlinson	Yes	No
Del Bouchat	Yes	No
Del Stonko	Yes	No

SB529_SponsorAmendment

Uploaded by: Justin Ready

Position: FAV



SB0529/903721/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

21 FEB 23
15:21:41

BY: Senator Ready
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 529
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “requiring” and substitute “authorizing”.

AMENDMENT NO. 2

On page 2, in line 20, strike “SHALL” and substitute “MAY”; after line 26, insert:

“(D) IF THE PLANNING COMMISSION FOR THE COUNTY INCLUDES A SOBER LIVING HOUSE ELEMENT IN THE COMPREHENSIVE PLAN:”;

in lines 27 and 30, strike “(D)” and “(E)”, respectively, and substitute “(1)” and “(2)”, respectively; in line 27, strike “A” and substitute “THE”; in line 29, strike the period and substitute “;AND”; and in line 30, strike “A” and substitute “A”.

SB0529 Final Testimony.pdf

Uploaded by: Leslie Dickinson

Position: UNF

SB0529 - Land Use Article - Carroll County – Sober Living Houses – Authorization

Hearing before the Senate Finance Committee

Feb. 28, 2023

POSITION: OPPOSE

The undersigned individuals and organizations **OPPOSE** SB 529.

Senate Bill 529 would provide a State sanctioned pathway for Carroll County government to discriminate against people with disabilities through its planning and zoning powers, a violation of the federal Fair Housing Act, Maryland Civil Rights laws, and the Americans with Disabilities Act.

SB 0529 would amend the Md. Land Use Article, § 3-102, specific to Carroll County, which would require the County’s Planning Commission to include a Sober Living House element in the County’s comprehensive plan. SB 0529 would further amend the Land Use Article, Title 9, subtitle 6 (creating § 9-605), adding procedures by which the planning commission would incorporate this new element.

Under the proposed § 9-605, the Carroll County planning commission would be tasked with proposing “the most appropriate and desirable patterns for the general location, character and concentration of sober living houses adjacent to or in close proximity to a residential zone.” This proposal should be completed “on a schedule that extends as far into the future as reasonable.” In addition, a sober living house could not be authorized or constructed in the County until the planning commission approved the location and character as consistent with the comprehensive plan. SB 0529 would also require approval of a special exception prior to authorizing the establishment of a sober living house in Carroll County.

The federal Fair Housing Act (FHA) as amended in 1988, prohibits housing discrimination on the basis of “handicap,” (or “disability”) which is defined as: “(1) a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.” *See* 42 U.S.C. § 3602(h). Congress enacted the Rehabilitation Act a few years prior to the FHA and clearly included “Individuals who have a record of drug use or addiction” in their definition of “disabled” under the Act. Because Congress incorporated many terms of the Rehabilitation Act into the FHA, courts have included drug and alcohol addiction in their definition of “physical or mental impairment” under the FHA.

By targeting a specific protected class of people with disabilities, and disallowing them from living in any residential community - no matter the number of occupants proposed to live in a particular sober living house - SB0529 appears on its face to discriminate against people with disabilities yet serves no legitimate government interest. *See Potomac Group Home Corp. v.*

Montgomery County, Md., 823 F.Supp.1285, 1295 (D.Md.1993), citing *Horizon House, Developmental Services, Inc. v. Township of Upper Southampton*, 804 F.Supp. 683, 693 (E.D.Pa.1992). See also, *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 115 S. Ct. 1776 (1995), in which the Court held that a zoning code section that did not cap the number of people who may live in a dwelling (as long as they were related by “genetics, adoption, or marriage”) was not a maximum occupancy restriction exempt from the FHA under 42 U.S.C. § 3607(b)(1).

Moreover, as the Act’s legislative history indicates, the disability provisions of the FHA were intended to reach a wide array of discriminatory housing practices, including licensing laws which purport to advance the health and safety of communities. While state and local governments have authority to protect safety and health, and to regulate use of land, that authority has sometimes been used to restrict the ability of individuals with handicaps to live in communities. This has been accomplished by such means as the enactment or imposition of health, safety or land-use requirements on congregate living arrangements among non-related persons with disabilities. Since these requirements are not imposed on families and groups of similar size of other unrelated people, these requirements have the effect of discriminating against persons with disabilities. See *Potomac Group Home Corp.*, 823 F.Supp. at 1294, citing H.R.Rep. No. 100–711, 100th Cong., 2d Sess. 24, reprinted in 1988 U.S.Code Cong. & Admin.News at 2173, 2185. The Court further states, “Recognizing the purpose and breadth of provisions of the FHAA, courts have consistently invalidated a wide range of municipal licensing, zoning and other regulatory practices affecting persons with disabilities.” See, e.g., *Marbrunak, Inc. v. City of Stow*, 974 F.2d 43, 47 (6th Cir.1992) (striking down discriminatory fire and safety codes); *Stewart B. McKinney Foundation, Inc. v. Town Plan and Zoning Comm'n*, 790 F.Supp. 1197, 1219 (D.Conn.1992) (invalidating special exception process). *Potomac Group Home Corp.*, 823 F.Supp. at 1295.

Similarly, SB 0529 would violate the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* (“ADA”), and its implementing regulations, which require the County to administer all of its programs and activities—including its legislative, executive, zoning and code enforcement functions—in a manner that does not discriminate on the basis of disability, and further require the County to “administer [its] services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” 28 C.F.R. § 35.130(d). In *Olmstead v. L.C.*, the Court noted that Congress explicitly identified unjustified segregation and isolation of persons with disabilities as a “for[m] of discrimination. *Olmstead*, 527 U.S. 581, 600 (1999). Additionally, “[u]nder the ADA, local governments are explicitly prohibited from administering zoning procedures in a manner that subjects persons with disabilities to discrimination on the basis of their disability.” *Tsombanidis v. City of West Haven, Conn.*, 129 F.Supp.2d 136, 151 (D.Conn.2001); see also, *Bay Area Addiction Research and Treatment*, 179 F.3d 725, 732 (9th Cir.1999)(holding that the ADA applies to zoning). See *Pathways Psychosocial v. Town of Leonardtown, MD*, 133 F.Supp.2d 772, 790 (D.Md.2001).

There is some indication that SB 0529 may be a response to requests for an increase in beds or space for those in recovery in Carroll County. If the State of Maryland partakes in Carroll County’s discrimination by making housing unavailable in the County on the basis of disability,

the State and the County may expose themselves to liability which could include both compensatory and punitive damages, as happened to the Town of Cromwell, Connecticut. *See Gilead Community Services v. Town of Cromwell, Connecticut*. No. 3:17-cv-00627 (D.Conn.).

For the reasons set forth above, we urge an unfavorable report on SB 0529.

Respectfully submitted,

Organizations

City Advocates in Solidarity with the Homeless

Disability Rights Maryland

IMAGE Center

Independence Now

Legal Action Center

Main Street Housing, Inc.

NAMI Maryland

National Federation of the Blind of Maryland

On Our Own of Maryland

Patient Providers, LLC

Peer Wellness & Recovery Services, Inc. (PWRS)

People on the Go

Public Justice Center

Shared Support Maryland, Inc.

The Freedom Center, Inc.