

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**NEW BEGINNING SANCTUARY, a
Missouri not-for-profit corporation,
JAAM PROPERTIES LLC, a Missouri
limited liability company, and ALON
FISCH, an individual,**

Plaintiffs,

v.

**KANSAS CITY, MISSOURI,
A Missouri municipal corporation,**

Defendant.

Civil Action No. 23-cv-00262-BP

JURY TRIAL DEMANDED

COMPLAINT

NOW COMES Plaintiffs NEW BEGINNING SANCTUARY, a Missouri not-for-profit corporation ("NBS"), and JAAM PROPERTIES, LLC, a Missouri limited liability company ("JAAM"), and ALON FISCH, an individual (collectively "Plaintiffs") by and through the undersigned attorneys for its complaint against Defendant, KANSAS CITY, MISSOURI, a Missouri municipal corporation ("Defendant" or "City") alleges as follows:

INTRODUCTION

1. This matter arises pursuant to the Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 et seq. ("FHA") and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. ("ADA").

2. The City prohibited Plaintiffs from operating a recovery home with ten residents in recovery from drug or alcohol addiction based on disability. The City claimed the recovery home was prohibited from operating in a R-7.5 Zone, regardless of its number of residents, because it is

a "halfway house" under the City's zoning code. The City classified the home as a halfway house because the residents who occupy the home are in recovery from drug and alcohol abuse. This determination effectively precludes any supported housing for persons with the disability of substance use disorder from living in most, if not all, single-family residential districts in the City.

3. The City denied Plaintiffs' request for a reasonable accommodation under the FHA and ADA following opposition from neighbors and the local school district who opposed the recovery home.

4. Accordingly, the City discriminated based on disability, including refusing to provide a reasonable accommodation, violating the FHA, 42 U.S.C. § 3604(f). Further, the City's zoning ordinance discriminates on its face and disparately impacts disabled individuals.

5. Defendant's aforementioned actions now threaten Plaintiffs and the residents of the recovery home, who are disabled pursuant to the FHA and ADA, with eviction based on discriminatory means. To prevent such a result, Plaintiffs ask this Honorable Court for declaratory and injunctive relief to halt the City's discrimination based on disability in violation of the FHA and ADA, respectively. Additionally, Plaintiffs seek monetary damages, including compensatory and punitive damages, costs, and reasonable attorneys' fees.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343; 42 U.S.C. §§ 12133 and 12134; and 42 U.S.C. § 3613. Appropriate declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

7. Venue is proper in the United States District Court for the Western District of Missouri, Western Division, as all acts complained of occurred within this District.

PARTIES

8. Plaintiff New Beginning Sanctuary is a Missouri not-for-profit corporation operating in Kansas City, Missouri. It provides affordable recovery housing and support for individuals with disabilities, including those recovering from substance abuse and/or alcoholism. NBS operates the recovery home at issue in this litigation, located at 9501 Manchester Ave, Kansas City, Missouri ("9501 Manchester" or " Manchester House").

9. Plaintiff JAAM Properties is a Missouri limited liability company that operates in Kansas City, Missouri. JAAM owns the home at 9501 Manchester Ave, Kansas City, Missouri, and leases it to NBS.

10. Plaintiff Alon Fisch is the founder and executive director of NBS.

11. Defendant is a political subdivision of the State of Missouri. Defendant is responsible for the acts of its agents and employees, including the Board of Zoning Adjustment, and the enactment, enforcement, and application of the City Code ("Code") of Kansas City, Missouri.

STATUTORY AND REGULATORY FRAMEWORK

12. In 1988, Congress amended the FHA to extend the guarantee of fair housing to disabled individuals. Congress also authorized the Secretary of the United States Department of Housing and Urban Development to promulgate regulations to implement the FHA.

13. Under the FHA, a person is subject to a "handicap" if she or he has a "physical or mental impairment which substantially limits one or more of such person's major life activities, a record of such an impairment, or being regarded as having such an impairment." 42 U.S.C. § 3602(h).

14. The term "physical or mental impairment" includes "alcoholism" and "drug

addiction (other than addiction caused by current, illegal use of a controlled substance)." 24 C.F.R. § 100.201. The ADA uses similar terminology to define a "disability." See, e.g., *Tsombandis v. West Haven Fire Dept.*, 352 F.3d 565 (2d. Cir. 2003).

15. The legislative history of the proposed amendments to the Fair Housing Act highlights the need to protect individuals in recovery and the absurdity of permitting housing discrimination against recovering alcoholics and addicts:

[I]ndividuals who have a record of drug use or addiction but who do not currently use illegal drugs would continue to be protected [by the FHA] if they fell under the definition of handicap. The Committee does not intend to exclude individuals who have recovered...or are participating in a treatment program or a self-help group ... Just like any other person with a disability, such as cancer or tuberculosis, former drug-dependent persons do not pose a threat to a dwelling or its inhabitants simply on the basis of status. Depriving such individuals of housing, or evicting them, would constitute irrational discrimination that may seriously jeopardize their continued recovery.

H.R. REP. 100-711, 22, 1988 U.S.C.C.A.N. 2173, 2183.

16. Under the FHA, it is unlawful to discriminate against or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of that buyer, renter, or person residing in, or intending to reside in, that dwelling after it is sold, rented, or made available. 42 U.S.C. § 3604(f)(1).

17. The FHA further provides that it is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, based on a handicap of such person residing in or intending to reside in that dwelling after it is sold, rented, or otherwise made available. 42 U.S.C. § 3604(f)(2).

18. The federal regulations implementing the FHA further make it unlawful "to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking,

negotiating for, buying or renting a dwelling so as to . . . discourage or obstruct choices in a community, neighborhood or development" because of a handicap. 24 C.F.R. § 100.70(a).

19. The federal regulations implementing the FHA prohibit the provision of municipal services in a different manner based on a handicap and define any such provision of services as a discriminatory activity. 24 C.F.R. § 100.70(d)(4).

20. The legislative history of the FHA makes plain that Congress sought to prohibit the application of state and local zoning and land use laws in ways that limit access to housing by people with disabilities:

The Committee intends that the prohibition against discrimination against those with handicaps apply to zoning decisions and practices. The Act is intended to prohibit the application of special requirements through land use regulations, restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community.

H. Rep. No. 100-711, at 24 (1988), reprinted in, 1988 U.S.C.C.A.N. 2173, 2185.

21. The Act prohibits intentional discrimination, the failure of municipal officials to reasonably accommodate the needs of persons with disabilities, as well as the enforcement of zoning laws which, although neutral on their face, have a disparate impact on persons with disabilities.

22. The ADA requires that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, program, or activities of a public entity or be subjected to discrimination by any municipal entity. 42 U.S.C. § 12132.

23. The federal regulations implementing the ADA prohibit a public entity from administering a licensing program or establishing certain requirements for the activities of a licensee in a manner that subjects qualified disabled individuals to discrimination on the basis of

their disability. 28 C.F.R. § 35.130(6).

24. The federal regulations implementing the ADA also make it unlawful for a public entity, in determining the site or location of a facility, to make selections that have the purpose or effect of excluding individuals with disabilities, denying them the benefits of certain locations, or otherwise subjecting them to discrimination. 28 C.F.R. § 35.130(4)(I).

STATEMENT OF FACTS

A. Substance Use Disorder¹

25. Substance Use Disorders ("SUDs") are treatable, chronic diseases characterized by a problematic pattern of use of a substance or substances leading to impairments in health, social function, and control over substance use.

26. A SUD is a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite harmful consequences.

27. SUDs are treatable, chronic diseases that can affect anyone – regardless of race, gender, income level, or social class.

28. One in seven Americans, aged 12 or older, reports experiencing a SUD.

29. A SUD diagnosis can be applied to the following classes of drugs: alcohol; cannabis; hallucinogens; inhalants; opioids; sedatives, hypnotics, or anxiolytics; stimulants; tobacco (nicotine); and other (or unknown) substances.

30. SUDs can lead to significant problems in all aspects of a person's life, including

¹ The clinical and statistical information quoted in this section is supported by various clinical studies and community resources. See Substance Use Disorders, Centers for Disease Control and Prevention, <https://www.cdc.gov/dotw/substance-use-disorders/index.html>; The Science of Addiction, National Institute on Drug Abuse, <https://nida.nih.gov/publications/drugs-brains-behavior-science-addiction/treatment-recovery>; Show Me Recovery Housing Program, DMH, [https://ded.mo.gov/sites/default/files/RHP%20Action%20Plan%2010.7.21%20Public%20Comm](https://ded.mo.gov/sites/default/files/RHP%20Action%20Plan%2010.7.21%20Public%20Comment%20Draft.pdf)

work, school, or home life.

31. The relapse rate for SUD is approximately 40-60%.
32. Relapses can be very dangerous and, in many instances, deadly.
33. According to CDC data, Missouri's 2019 age-adjusted drug overdose death rate was 26.9 per 100,000 individuals compared to the national average of 21.6.
34. The five hardest-hit counties in 2019 and the first three quarters of 2020 were: St. Louis County, St. Louis City, Jackson County, St. Charles County, and Jefferson County.

B. Recovery Homes²

35. Recovery housing is an intervention designed to address the recovering person's need for a safe and healthy living environment while supplying the requisite recovery and peer supports.
36. Recovery homes, also known as sober homes, are safe, healthy, and sober living environments that support individuals in recovery from substance use disorder and help residents build skills vital to sustaining long-term recovery in a home-like setting.
37. While recovery residences vary widely in structure, all center on peer support and a connection to services that promote long-term recovery.
38. Transitioning from active addiction into lasting recovery is often a difficult and emotionally trying journey for people with SUD.

² The clinical and statistical information quoted in this section is supported by various clinical studies and community resources. See Recovery Housing: Best Practices and Suggested Guidelines, Substance Abuse and Mental Health Services Administration (SAMHSA), <https://www.samhsa.gov/resource/ebp/recovery-housing-best-practices-suggested-guidelines>; see also A real-time examination of context effects on alcohol cognitions, Monk RL, & Heim D, <https://doi.com/10.1111/acer.12504>; Recovery Houses, Missouri Department of Mental Health, <https://dmh.mo.gov/media/pdf/recovery-housing-flyer>.

39. Specifically, the leap from a structured primary treatment environment to the autonomy associated with returning to their former lives in the community can be too great without support.

40. The first 12 months of the transitional period before the onset of sustained remission, sometimes referred to as early recovery, is a crucial period during which people contend with family history, unresolved trauma, grief and loss, emotional immaturity, low frustration tolerance, and other factors that make them susceptible to relapse.

41. Recovery houses are uniquely qualified to assist individuals in all recovery phases, especially those in early recovery, by furnishing social capital and recovery supports.

42. Community support is a critical aspect of achieving and maintaining recovery.

43. A support network of individuals not abusing substances, peers with lived experience, trained recovery housing staff, and access to clinical support and community resources is essential to helping people maintain recovery.

44. Community, camaraderie, empathy, and guidance are necessary ingredients in helping somebody remain on track as they navigate their way into a healthy recovery lifestyle.

45. A lack of a stable alcohol- and drug-free living environment can seriously hinder sustained abstinence.

46. Many individuals who complete substance abuse treatment are released back into the community without the social, psychological, and environmental support needed for long-term recovery.

47. After-care is essential for increased success in long-term recovery once treatment ends. For many individuals, sober living in a recovery home is the last step between treatment and going home.

48. Unfortunately, there are not enough recovery home beds in the state of Missouri to meet the demand of the community.

C. New Beginning's Mission and Program

49. In response to the clear need for recovery homes, Plaintiff New Beginning Sanctuary launched a program for sober living homes for recovering alcoholics and addicts who need support transitioning from a rehabilitation program back into society.

50. NBS has been in operation since August 2013.

51. NBS' mission is to provide a structured and supportive environment necessary for successful long-term recovery from substance and alcohol use by offering multiple pathways that empower participants to become healthy, self-sufficient, productive members of the community.

52. NBS is a certified recovery housing provider by the National Association of Recovery Residences ("NARR"). NARR establishes the national standard for recovery residences and only certifies affiliates that meet that standard.

53. NBS operates 12-month or more sober living programs, including faith-based and secular recovery programs.

54. NBS operates 25 recovery homes across the state of Missouri.

55. Residents move into NBS recovery homes to stabilize and strengthen their sobriety foundation. Over time, they start to restore relationships with family and friends.

56. NBS' sober living program provides daily structure, personal accountability, and community support needed to maintain sobriety.

57. NBS' program combats the relapse rate by relying heavily on accountability and support.

58. To ensure residents of the home are sober, NBS also employs both scheduled and

random drug testing.

59. In these scheduled and random tests, NBS uses various drug panel tests (6, 12, and 18-panel tests), blood alcohol readers (BAC), a 72-hour alcohol test (ETG), and fentanyl test strips, among other things. NBSs also has a narcotics K9 specifically trained to detect illicit drugs.

60. If any resident fails a substance test or refuses to participate in a required test, NBS requires them to vacate the recovery home.

61. NBS' program rules require the residents to complete a daily chores list. Residents must keep their areas neat, clean, and well-organized. In addition, they clean the home's common areas, both inside and outside, daily. They also participate in weekly neighborhood clean-up events.

62. All NBS residents must be out of bed by 6 A.M. and remain so until 3 P.M. Monday thru Friday unless authorized by a staff member.

63. NBS residents who do not work must leave the recovery home by 8 A.M. in search of employment and turn in at least five applications daily before returning home.

64. If a resident receives Social Security Disability or any other Disability payment and is unemployed, they must be up between 8 A.M. and 3 P.M. to ensure active participation in their recovery.

65. Residents must attend at least three scheduled meetings/groups per week, including at least one sobriety/support-related (i.e., Alcoholics Anonymous, Narcotics Anonymous) meeting each week.

66. Residents must also attend the mandatory classes outlined by NBS' staff and the weekly house meeting.

67. Each resident is subjected to a nightly curfew and is not permitted to leave the

recovery home overnight unless they have earned the privilege of an overnight pass.

68. The program rules and chores requirements exist so the residents can learn to function as sober individuals in a family environment before returning home.

D. 9501 Manchester Ave.

69. On August 24, 2022, NBS signed a lease with JAAM Properties, LLC to occupy a private residence at 9501 Manchester Avenue in Kansas City. NBS leased the property to use as a recovery home.

70. NBS also leases 8128 E 74th Street in Kansas City from JAAM, which it also uses as a recovery home.

71. Manchester House and 8128 E 74th Street are both located in a R-7.5 zone.

72. Both recovery homes should house at least ten residents, comprising at least eight general program members and two House Leaders.

73. House Leaders provide structure and accountability to the residents and ensure compliance with the house rules.

74. 9501 Manchester Ave. is approximately 2,559 square feet and has five bedrooms.

75. The home is meant to look like any other home. From the outside of the home, you would never know it is a sober living home.

76. NBS does not accept residents at Manchester House or any of its recovery homes unless they are in recovery from alcohol or drug abuse.

77. All past and present residents of 9501 Manchester Ave are individuals with a SUD.

78. SUD is a disability that impacts the residents' decision-making processes and their ability to concentrate and stay on task.

79. Because of their disability, all past and present residents of the home have difficulty caring for themselves and sustaining healthy relationships with friends and family.

80. Even though residents are actively in recovery, their underlying addictions substantially limit their ability to live independently in the community without suffering a relapse.

81. While treatment eventually helps to ameliorate the symptoms of SUD, the underlying disease never goes away.

82. The relapse rate for individuals with SUD is significant without structure, accountability, and support.

83. The residents live at 9501 Manchester Ave by choice. The residents choose to live there because they do not want to relapse into drug or alcohol use again.

84. Manchester House is not a lockdown facility. NBS requires residents to work, both paid and volunteer, and attend classes, groups, meetings, and/or church services regularly. Each resident's schedule is highly structured and contains strict daily and weekly chore requirements.

85. 9501 Manchester Ave residents live together as a family and make group decisions based on democratic procedures.

86. They eat together, go out together, and attend meetings together.

87. The residents learn living tools through their interactions with each other to help them transition out of the sober home and back into their communities.

88. The residents' mutual emotional support and bonding are equivalent to the type of love and support received in a traditional family.

89. The relationships the 9501 Manchester Ave residents maintain are vital to their sobriety.

90. The success of each resident is highly dependent on community, structure, and support.

91. The length of each resident's stay is determined by the resident's continued need for supported living.

92. Most residents stay approximately 12 months, but some lengths vary depending on the resident's independent recovery process.

93. NBS enables the residents to recover from alcoholism and substance abuse at their own pace, which ameliorates the effects of the disease.

E. Critical Mass

94. Manchester House requires ten residents to reach a critical mass necessary to achieve the optimal therapeutic benefits of NBS' program.

95. Manchester House requires ten residents to effectively provide residents with increased social support, which is necessary to enable residents to overcome addiction.

96. Having ten residents in Manchester House provides greater opportunities for social connections, which sustains recovery and decreases the risk of relapse.

97. Each resident comes to NBS' program with their own experiences and personality. Operating a program with ten people increases the likelihood that the residents will find another program member with whom they can connect.

98. Manchester House, which is 2,559 square feet and has five bedrooms, requires ten residents to prevent isolation or loneliness.

99. Filling the home to its critical mass of ten residents mitigates the concern that any particular resident will find himself at home alone and at risk of relapse.

100. For the program to function optimally, the residents must share a room to ensure accountability and social integration. As such, 9501 Manchester requires ten residents for each resident to share a room.

101. It costs NBS approximately \$5,300.00 a month to run 9501 Manchester Ave. This sum includes the mortgage payment, taxes, insurance, internet and cable, utilities, trash, pest service, and a portion of staff salaries. This sum also includes some savings set aside each month for improvement projects and unexpected home expenses.

102. Each resident generates an average of \$560.00 a month.

103. NBS requires the occupancy of ten residents to achieve financial viability.

F. Kansas City's Zoning Enforcement

104. The City's Zoning Code governs zoning and land use policy in Kansas City, Missouri.

105. Soon after NBS leased 9501 Manchester and 8128 E 74th St., the City cited NBS and JAAM, asserting Plaintiffs:

Did own, lease, or maintain a residential building being used as a Group Living Facility in a district zoned R-7.5. This use is first permitted in an R-1.5 zoned district with a Special Use Permit.

Chapter 88, Code of Ordinances of the City of Kansas City, Missouri – 88-110, Table 88-110-1, 88-350, 88-615, & 88-805-02-B

106. The City first identified Manchester House as a Group Home, which is defined as a type of Group Living Facility by 88-805-02-B. of the Zoning Code as follows:

A single dwelling occupied on a permanent basis by a group of unrelated persons with disabilities. Group homes may also be occupied by paid staff and caregivers. Group homes are typically operated for the care of developmentally disabled persons. It expressly excludes halfway houses for alcoholics, drug addicts, prisoners or juvenile delinquents, or any facility for individuals under court-mandated supervision. Group homes for 8 or fewer mentally or physically handicapped persons, with up to two additional persons acting as houseparents or

guardians, are considered "households" and are allowed as-of-right in all districts that allow household living uses.

107. After the City inspected both properties, it modified the citations, asserting

Plaintiffs:

Did own, lease, act as agent, or maintain a premises which allows the operation of a Halfway House in a district zoned R-7.5. This use is first permitted in an R-80 zoned district with a Special Use Permit approved by the Board of Zoning Adjustment.

Chapter 88, Code of Ordinances of the City of Kansas City, Missouri – 88-615; 88-352-01, 88-805-03-E & TABLE 110-1

108. On October 29, 2022, Plaintiffs advised the City by letter that the 9501 Manchester and 8128 E 74th St. residents are disabled under the FHA and ADA and therefore protected by the same.

109. Plaintiffs further advised the City that NBS was operating recovery homes at 9501 Manchester and 8128 E 74th St. and not two halfway homes as determined by the City.

110. Plaintiffs asked the City to grant a reasonable accommodation pursuant to the FHA and ADA and to treat NBS' use of the homes as a single-family use.

111. Plaintiffs also informed the City that excluding individuals in recovery from drug and alcohol addiction from its definition of Group Home discriminated based on disability type.

112. For instance, the Zoning Code permits a Group Home for people with developmental disabilities to live "as-of-right in all districts that allow household living uses" but severely limits where individuals with a SUD can live.

113. Plaintiffs appeared by counsel at the three hearings conducted by the City's Board of Zoning Adjustment ("BZA") on Plaintiffs' request for a reasonable accommodation.

114. At no point did the City inform Plaintiffs they should apply for a special use permit or take any other action to have their request heard and adjudicated by the City.³

115. Plaintiffs, through counsel and the testimony of NBS Founder and Executive Director Alon Fisch, provided testimony and documentation supporting their request for a reasonable accommodation at the hearings held by the BZA on January 10, 2023⁴, February 14, 2023⁵, and April 11, 2023⁶.

116. At the hearings, Mr. Fisch testified about the family atmosphere of the recovery homes. He also told the BZA that NBS did not accept sex offenders in its programs.

117. Mr. Fisch talked about the residents' disabilities and the impact of community living on long-term sobriety.

118. Since they opened, Mr. Fisch told the board that the neither home had been cited for any nuisance, criminal, or parking violations.

119. The City did not provide any evidence at the hearings that allowing 9501 Manchester and 8128 E 74th St. to continue operating according to their reasonable accommodation request would effect a fundamental change in the neighborhood or present an undue financial or administrative burden to the City.

³ Although, during the February 14, 2023 hearing a board member informed Plaintiffs, on the record, that she believed a Federal Court would be the more appropriate venue for Plaintiff's request.

⁴ KCMO City Planning and Development Department YouTube Channel, January 10, 2023 BZA Live Stream, <https://www.youtube.com/live/Mrjk6-L83aU?feature=share>.

⁵ KCMO City Planning and Development Department YouTube Channel, February 14, 2023 BZA Live Stream, <https://www.youtube.com/live/N1eKp2g6TV0?feature=share>.

⁶ KCMO City Planning and Development Department YouTube Channel, April 11, 2023 KC BZA Live Stream, <https://www.youtube.com/live/g4ilqoyJm6E?feature=share>.

120. At the February 14, 2023 hearing, the City granted Plaintiffs' request for a reasonable accommodation to allow 8128 E 74th St. to operate in a R-7.5 district so long as the home limited its occupants to 8 general program members and 2 House Leaders.

121. The City continued considering Plaintiff's identical reasonable accommodation request for 9501 Manchester to April 11, 2023, so the Hickman Mills School District could submit a brief in opposition to Manchester House's request.

122. On April 11, 2023, after hearing significant opposition to Manchester House's request for a reasonable accommodation from the school district and members of the public, the BZA denied Plaintiffs' request for a reasonable accommodation.

123. The opposition primarily took the form of fears based on stereotypes of individuals with substance use disorder and unsubstantiated claims of property devaluation and safety concerns.

124. The opposition essentially stated that sober homes might be necessary – just not in their backyard.

125. Plaintiffs told the City that the "NIMBY" rationale has been used historically to mask discrimination of all kinds and is not a valid defense to the FHA or ADA.

126. Plaintiffs' warned the City, to no avail, that basing its decision on such views could subject it to significant punitive damages. *Gilead Community Services v. Town of Cromwell, Connecticut*, No. 3:17-cv-00627 (VAB), 2022 U.S. Dist. LEXIS 95922 (D. Conn. May 27, 2022).

127. The City, however, failed to heed Plaintiffs' warnings and denied the accommodation.

CAUSES OF ACTION

COUNT ONE: FAIR HOUSING ACT:

Failure to Accommodate

128. The allegations listed above are incorporated herein by reference.
129. Plaintiffs performed or participated in all conditions precedent to the filing of this complaint.
130. Manchester House meets the definition of "dwelling" within the meaning of 42 U.S.C. § 3602(b).
131. The residents of the home are "handicapped" within the meaning of 42 U.S.C. § 3602(h).
132. The residents of the home are regarded as "handicapped" within the meaning of 42 U.S.C. § 3602(h).
133. Defendant has acted under color of the law of the State of Missouri, enforcing the Code with the purpose and effect of discriminating against Plaintiffs and the residents solely because of their handicap and disability.
134. Defendant's actions described above constitute:
- a. discrimination in the sale or rental, or otherwise making unavailable or denying a dwelling because of disability in violation of the FHA, 42 U.S.C. §3604(f)(1);
 - b. a refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford a person an equal opportunity to use and enjoy a dwelling in violation of the FHA, 42 U.S.C. §3604(f)(3)(B); and

- c. interference with the rights of persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged persons with disabilities in the exercise of enjoyment of rights granted or protected by the FHA in violation of 42 U.S.C. §3617.

135. Defendant's actions described above were intentional and taken with willful disregard for Plaintiffs' rights.

136. Plaintiffs are aggrieved persons, as defined in 42 U.S.C. § 3602(i), who have suffered economic loss, emotional distress, and loss of their civil rights as a result of Defendant's conduct.

137. Plaintiffs are without an adequate remedy at law.

138. Plaintiffs will suffer irreparable harm if Defendant refuses to grant their requested accommodation to permit continued operation of Manchester House.

139. WHEREFORE, Plaintiffs pray that this Court enter an ORDER:

- a. Declaring the Defendant's actions violate the Fair Housing Act;
- b. Granting a preliminary and permanent injunction enjoining Defendant to grant Plaintiffs' request for a reasonable accommodation or whatever action necessary to permit continued operation of Manchester House and to refrain from eviction proceedings against residents of the Manchester House during the pendency of this proceeding;
- c. Awarding Plaintiffs such damages as would fully compensate them for their injuries caused by Defendant's discriminatory housing practices, including compensatory and punitive damages;
- d. Awarding Plaintiffs their costs, expenses, and attorney's fees; and

- e. Granting any additional relief as the Court deems just and proper.

COUNT TWO: FAIR HOUSING ACT

Disparate Treatment

140. The allegations listed above are incorporated herein by reference.

141. The City Zoning Code and related city statutes and regulations illegally discriminate against individuals with disabilities and those associated with them in violation of the Fair Housing Act. Further, the Zoning Code illegally discriminates based on type of disability because the City treats individuals with SUD differently than other types of disability.

142. WHEREFORE, Plaintiffs pray that this Court enter an ORDER:

- a. Declaring the Defendant's actions violate the Fair Housing Act;
- b. Granting a preliminary and permanent injunction enjoining Defendant from enforcing the discriminatory sections of the Zoning Code, including, but not limited to, the Code's exclusion of individuals in recovery from alcohol and drug addiction from its definition of Group Home;
- c. Awarding Plaintiffs such damages as would fully compensate them for their injuries caused by Defendant's discriminatory housing practices, including compensatory and punitive damages;
- d. Awarding Plaintiffs their costs, expenses, and attorney's fees; and
- e. Granting any additional relief as the Court deems just and proper.

COUNT THREE: FAIR HOUSING ACT

Disparate Impact

143. The allegations listed above are incorporated herein by reference.

144. The City Zoning Code and related city statutes and regulations illegally discriminate against individuals with disabilities and those associated with them in violation of the

FHA because, even if facially neutral, they have the effect of reducing the housing opportunities available to individuals with disabilities and segregating the same from the community.

145. WHEREFORE, Plaintiffs pray that this Court enter an ORDER:

- a. Declaring the Defendant's actions violate the Fair Housing Act;
- b. Granting a preliminary and permanent injunction enjoining Defendant from enforcing the discriminatory sections of the Zoning Code;
- c. Awarding Plaintiffs such damages as would fully compensate them for their injuries caused by Defendant's discriminatory housing practices, including compensatory and punitive damages;
- d. Awarding Plaintiffs their costs, expenses, and attorney's fees; and
- e. Granting any additional relief as the Court deems just and proper.

COUNT FOUR: AMERICANS WITH DISABILITIES ACT

146. The allegations listed above are incorporated herein by reference.

147. The residents of the home are "qualified individuals with a disability" within the meaning of 42 U.S.C. § 12131(2) and 28 C.F.R. § 35.104.

148. The residents of the home are "regarded as" individuals with a disability within the meaning of 42 U.S.C. § 12131(2) and 28 C.F.R. § 35.104.

149. Defendant is a "public entity" within the meaning of 42 U.S.C. § 12131(1).

150. Defendant's zoning activities, including the enactment of zoning ordinances; administrative processes, hearings, findings, and recommendations by either its Zoning Administrator or its Planning and Zoning Commission; and decisions by the BZA, are "services, programs, or activities" of a public entity within the meaning of 42 U.S.C. § 12132.

151. Defendant's actions described above:

- a. constitute discrimination in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. Part 35;
- b. exclude qualified individuals with disabilities from participation and deny them the benefits of the services, programs, or activities of a public entity on the basis of disability in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. § 35.130(a);
- c. afford qualified individuals with disabilities an opportunity to participate in or benefit from the services of a public entity that are not equal to those afforded others in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. § 35.130(b)(1)(ii);
- d. otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. § 35.130(b)(1)(vii);
- e. fail to make reasonable modifications in policies, practices, or procedures necessary to avoid discrimination on the basis on disability in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. § 35.130(b)(7);
- f. utilize methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination of the basis of disability in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. § 35.130(b)(3);

- g. exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. § 35.130(g); and
- h. interfere with an individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the ADA in violation of Title V of the ADA, 42 U.S.C. § 12203(b)

152. Defendant's actions described above were intentional and taken with willful disregard for Plaintiffs' rights.

153. Plaintiffs are "person[s] alleging discrimination on the basis of disability" within the meaning of 42 U.S.C. § 12133 who have suffered harm and damages by Defendant's actions described above.

154. Plaintiffs are without an adequate remedy at law.

155. Plaintiffs will suffer irreparable harm if Defendant refuses to their request for a reasonable accommodation to allow continued operation of Manchester House.

156. WHEREFORE, Plaintiffs pray that this Court enter an ORDER:

- a. Declaring the Defendant's actions violate the Americans with Disabilities Act and its implementing regulations;
- b. Granting a preliminary and permanent injunction enjoining Defendant to grant Plaintiffs' request for a reasonable accommodation or whatever action

necessary to permit continued operation of Manchester House and to refrain from eviction proceedings against residents of the Manchester House during the pendency of this proceeding;

- c. Awarding Plaintiffs such monetary damages as would fully compensate them for their injuries caused by Defendant's discriminatory housing practices;
- d. Awarding Plaintiffs their costs, expenses, and attorney's fees; and
- e. Granting any additional relief as the Court deems just and proper.

JURY DEMAND REQUESTED.

Date: April 19, 2023

Respectfully submitted,

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