

Connecticut City and Fire Department to Pay \$271,000 in Judgments and Fees in Disability Case

Oxford House, a group home for recovering addicts in New Haven, Connecticut, received a \$37,000 judgment and more than \$234,000 in legal fees and costs following an eight-day trial in the United States District Court, District of Connecticut. According to a 70-page ruling by District Judge Gerard L. Goettel, the City of West Haven and the First Fire District of the City of West Haven violated the Fair Housing Amendments Act (FHAA) by enforcing its regulations and codes and not granting a reasonable accommodation.

Beverly Tsombanidis, a homeowner using her home as a group home for recovering alcohol and drug addicts, Oxford House, Inc., and a group of disabled residents all alleged that the city and fire district violated the FHAA and Title II after the City and Fire District began fining Tsombanidis and ordering her to reduce the number of residents at Oxford House. The plaintiffs filed disability discrimination claims alleging intentional discrimination, disparate impact, and failure to accommodate.

Neighbors complained of "criminals and perverts"

In 1997, neighbors of Oxford House complained to West Haven officials that "criminals and perverts" had been moved into their neighborhood without their consent. A West Haven building inspector visited Oxford House in the weeks following the complaints. He ordered Tsombanidis to make repairs and reduce the number of residents in the home and allegedly remarked that he "wouldn't want addicts" in his neighborhood, either. Then, the City began imposing fines of \$99 a day, alleging that Tsombanidis was running an "illegal boarding house." Representatives of Oxford House's national office wrote an extensive request for a reasonable accommodation to allow the house in New Haven to remain open. That request and subsequent letters were ignored.

The city had argued that it was exempt from the FHAA, but the court found otherwise. Judge Goettel found that the city intentionally discriminated against the plaintiffs by enforcing its regulations and codes and by ignoring the plaintiffs' request for a reasonable accommodation.

The City had attempted to shut down Oxford House by classifying it as a "boarding house" or "rooming house" in a neighborhood zoned for single-family homes. Judge Goettel ruled that this disparately impacted the residents of Oxford House, who are protected by the FHAA. The City failed to show that its actions furthered a legitimate governmental interest and that no alternative would have served that interest. The apparent bias of neighbors and public officials, the judge found, also provided sufficient evidence to establish intentional discrimination in violation of the FHAA had taken place. In his ruling Judge Goettle explained, "When the benefits of allowing recovering alcoholics and drug abusers to live in a single-family neighborhood are weighed against the financial and administrative burdens to the city, the benefits to the plaintiffs far outweigh the burdens to the city."

City's actions were motivated by discrimination

Steve Polin, general counsel for Oxford House International, was one of the attorneys that represented the West Haven house in its federal lawsuit. "These guys were just looking for a place to put their lives back together," Polin said. The court's decision is important, he says, because it says that the city's behavior was motivated by discrimination. "If the city decides to unleash all of its police powers on unpopular disabled residents," he said, "the Fair Housing Act and the ADA will be there to provide a remedy." Polin recommends that group homes facing the same kind of opposition mobilize quickly, communicate with the local government that their rights are protected under federal law, and put a detailed request for reasonable accommodation in writing at the earliest opportunity. That letter should include a request that enforcement actions be held in abeyance. "Once that letter is sent, the

ball is in the city's court," he said. "If it does nothing to respond, that's a violation of the law." Oxford House is a 25-year-old organization that has started more than 900 self-help houses nationwide. The residents pay their own rent and live by democratic self-rule. Anyone who uses drugs or alcohol is expelled.

Tsombanidis v. City of West Haven
Case No. NO. 3:98CV01316(GLG)
180F. Supp.2d 262 (D. Conn. 2001)
Steve Polin of Oxford House and members
of the law firm of Zeldes, Needle & Cooper;
Attorneys for Plaintiffs

NOTE:

Upon appeal to the United States Court of Appeals, Second Circuit (see attached decision), the Federal court:

- upheld the \$271,000 in judgments and fees
- upheld the District Court's original ruling of intentional discrimination, affirming the City of West Haven violated the FHAA and ADA
- affirmed the lower court's ruling that the City of West Haven had failed to grant a reasonable accommodation for the group of recovering alcoholics and addicts to live as a single family and were thus in violation of the FHAA and ADA

Because the City of West Haven did not appeal the lower court's finding of disparate impact in violation of the FHAA and ADA, that decision stood.