



The Intersection between Fair Housing and Affordable Housing: NIMBY, Disabilities, and More

BY DAVID BAADE

NIMBYISM

There are several ways that Fair Housing and Affordable Housing concerns intersect. The highest profile may be the Not In My Back Yard activities that seek to limit or eliminate affordable housing developments. NIMBY opposition may sometimes have an adverse and disproportionate impact on one or more groups protected by the State and Federal Fair Housing Acts. Both acts prohibit discrimination in housing based on race, color, national origin, religion, sex, handicap, and familial status. In addition, the Florida Fair Housing Act—Section 760.26 F.S. makes it unlawful to discriminate in land use decisions or in the permitting of development based on the source of financing of a development or proposed development.”

If the only reason a land use or permitting request for an affordable housing development is denied is because the housing is subsidized, then a city or county commission’s decision will be in violation of the Florida Fair Housing Act; effectively making low-income persons a protect class whenever land use decisions by a local government impact affordable housing.

ZONING POLICES FOR GROUP HOMES

Many local governments still have antiquated rules and policies that have restrictive definitions of families, definitions of a person with a disability, the number of people unrelated by blood that can reside in one building, or the distances between properties.

MOBILE HOME PARK CLOSURES

Finally, consider the loss of current affordable housing as mobile home parks across Florida are rezoned to make way for the development of high rise housing projects or non-housing development. If it can be shown that the closure of a mobile home park will have an adverse and disproportionate impact on one or more groups protected by the Fair Housing Act, the Act may



Florida Fair Housing Continuum Executive Director, David Baade makes a workshop presentation at the Florida Housing Coalition’s Statewide Conference.

help prevent a park closure and preserve an important source of affordable housing.

INDIVIDUALS WITH DISABILITIES

Most people do not think about the need for both affordable and accessible housing until it affects them directly. By the time a person has the need, they may also have limited income to use to acquire reasonable accommodations or reasonable modifications that allow an equal opportunity to use and enjoy their dwelling.

The workshop reviewed the Rights and Responsibilities of both the housing seeker and

the housing provider, since this understanding is critical in avoiding misunderstandings, conflicts, and expensive litigation. One participant asked whether an assistive animal requires a certification. In some cases—such as for companion animals for depression—the animal will not have or require any certification. What if, however, the animal barks excessively or lunges and bites? If the animal poses a direct threat to other residents or guests, then it would not meet the guidelines of a Reasonable Accommodation and would not have to be allowed. The group considered the responsibility of a housing provider when a resident asks for a Handicapped Parking Space. The first step is to ask if the person needs a fully compliant handicapped space or if a reserved space close to the resident’s unit will meet his or her needs. A compliant handicapped space is wider, since it includes an access aisle as well. This may require the reduction of three general parking spaces into two handicapped spaces. If the complex has the required number of handicapped spaces already and all spaces are assigned to units, this may not be a reasonable accommodation. Also, it is important to recognize that anyone with a handicapped license plate or placard can park in a handicapped parking space. 

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