

Bond Case Briefs

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Socal Recovery, LLC v. City of Costa Mesa

United States Court of Appeals, Ninth Circuit January 3, 2023 - 56 F.4th 802 - 2023 Daily Journal D.A.R. 54

Sober living home operators brought actions alleging that city's denial of their applications for special use permits and reasonable accommodation requests violated Fair Housing Act (FHA), Americans with Disabilities Act (ADA), and California Fair Employment and Housing Act (FEHA).

The United States District Court for the Central District of California entered summary judgment in city's favor, and operators appealed. Appeals were consolidated.

The Court of Appeals held that:

- Operators had standing to bring actions;
- Operators were not required to present individualized evidence of actual disability of their residents;
- As matter of first impression, operators can satisfy "actual disability" prong of disability discrimination claim on collective basis; and
- Operators were not required to show that city subjectively believed that their residents were disabled.

Sober living home operators had standing to bring actions alleging that city's denial of their applications for special use permits and reasonable accommodation requests violated Fair Housing Act (FHA), ADA, and California Fair Employment and Housing Act (FEHA), even though they were not disabled or "handicapped," and some residents may not have been disabled; city ordinances' requirement that sober living homes be located at least 650 feet away from any other sober living home or any state-licensed drug and alcohol treatment center prevented operators from conducting their normal business operations.

Sober living homes and other dwellings intended for occupancy by persons recovering from alcoholism and drug addiction were protected by Fair Housing Act (FHA), ADA, and California Fair Employment and Housing Act (FEHA) from illegal discrimination against disabled without need for home operators to present individualized evidence of actual disability of their residents; operators only had to establish—through house rules, admissions requirements, or testimony of house employees and residents—that they had policies and procedures to ensure that they served or would serve those with actual disabilities and that they adhered or would adhere to such policies and procedures.

Sober living home operators can satisfy "actual disability" prong of disability discrimination claim under Fair Housing Act (FHA), ADA, and California Fair Employment and Housing Act (FEHA) on collective basis by demonstrating that they serve or intend to serve individuals with actual disabilities.

In determining whether city regarded sober living home residents as disabled, for purposes of ADA,

home operators were not required to show that city subjectively believed that all of their residents—or some specific residents—were disabled.