



Association of Developmental  
Disabilities Providers

*Community for Living. Community for Life.*

June 17, 2019

Walter White, Chairman  
Architectural Access Board  
Office of Public Safety and Inspections  
Division of Professional Licensure  
1000 Washington Street, Suite 710  
Boston, MA 02118

Dear Chairman White,

As the President and CEO of the statewide association, the Association of Developmental Disabilities Providers (ADDP), I represent approximately 125 community-based providers throughout Massachusetts who provide critically needed services to individuals with intellectual and/or developmental disabilities including Autism, and people with brain injuries. ADDP's mission is to promote and ensure the strength of community-based providers so they can be successful in improving the access, quality and value of services in the community where individuals served can live with independence and dignity.

In the late 1970's, the Commonwealth of Massachusetts began to implement the public policy of deinstitutionalization. Deinstitutionalization meant that many individuals who lived in large, state institutions would now be provided with the opportunity to live in the community in group homes of 4 or 5 individuals which were staffed around the clock. As our state institutions' census has declined, more than two decades later, there are now 2,276 group homes across the Commonwealth which are funded by the Department of Developmental Services (DDS) alone. It is important to note that there are many more group homes across the Commonwealth funded by other state agencies such as the Department of Mental Health, Department of Youth Services, Department of Children and Families and the Massachusetts Rehabilitation Commission.

The residential services and supports our members provide focus on the development of skills that persons with intellectual and/or developmental disabilities need to enable them to live in the community in the most independent setting possible. Living in a group home affords an individual with disabilities the same rights of living in the community that non-disabled individuals experience. For example, an individual gets up in the morning, gets dressed, has breakfast, goes to work or their day program, comes home, prepares dinner, manages their own money, does their own banking or grocery shopping, goes to the gym, goes out to dinner and/or to the movies with friends or family members, like any other nondisabled individual who lives in the community.

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**Association of Developmental Disabilities Providers**

1671 Worcester Rd., Suite 201, Framingham, MA 01701 ▪ TEL: (508) 405-8000 ▪ [www.addp.org](http://www.addp.org)

The single largest purchaser of these services is the Department of Developmental Services. The Commonwealth reimburses providers for residential services and supports and housing for those individuals who reside in group homes.

ADDP is strongly opposed to the position taken by the Building Commissioner of the City of Fitchburg that group homes operated or licensed by DDS with five or fewer residents be subject to regulations applicable to “public buildings”. Group homes are not “public” buildings in any practical or legal sense. These privately owned or leased one and two-family homes serve as the permanent place of residence for individuals who could not otherwise live on their own. They may not be family related by blood or marriage, but they are certainly a household, sharing in the daily activities and chores of living together. The residents of each home visit with family members and friends as is the case for individuals without disabilities who live in a private home. As such, group homes are private residences. They are not open to the public. The individuals with intellectual and/or developmental disabilities living there have an equal right to privacy as persons without disabilities.

On November 10, 2016, the Department of Housing and Urban Development and the Department of Justice issued a Joint Statement entitled “State And Local Land Use Laws And Practices And The Application Of The Fair Housing Act.” On page 7 of that statement, it states that, “The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.”

Accordingly, it is the view of ADDP that this Board cannot impose upon a household of persons with disabilities any requirement or condition that is not imposed upon a household of persons without disabilities. That includes regulations designed to make *public buildings and facilities* accessible to, functional for, and safe for use by persons with disabilities. ADDP cannot emphasize strongly enough, that persons with intellectual and/or developmental disabilities have an equal right to privacy as persons without disabilities. That means they have the right to exclude members of the public from entering their home.

ADDP agrees with the position of Stephen Saunders of the Department of Developmental Services that the Conciliation Agreement entered into in 2011 between the U.S. Department of Housing and Urban Development and the Commonwealth of Massachusetts, exempts group homes licensed by the Department for five or fewer individuals from the provisions of the Special Use and Occupancy codes and instead need only comply with conventional use categories.

As providers committed to serving individuals with disabilities, the members of ADDP are acutely aware of the need to adapt or alter any one or two-family home to make it as barrier free as appropriate to the particular individuals that will be residing in that home. Further, the Office of Quality Enhancement – the licensing division of DDS – is responsible for assessing and ensuring the accessibility of group homes.

Finally, to require group homes to comply with 521 CMR would constitute a “new governmental mandate” that the Secretary of Health and Human Services would have to take into account when establishing rates of payment for social services programs. Section 13C of Chapter

118E of the General Laws, also known as Chapter 257, provides that when *establishing rates of payment for social service programs, the Secretary of the Executive Office of Health and Human Services shall adjust rates to take into account factors, including, but not limited to the reasonable cost to social service program providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority.*

A decision by this Board to consider group homes as “public buildings” and subject to its regulations, would be considered a “governmental mandate” and require the Legislature to appropriate millions of dollars of additional annual funding for developmental services, without which, providers – who are primarily non-profit entities – would be financially unable to continue to operate such residences.

That would be no less than a tragic, unfair and unnecessary result for the thousands of individuals with intellectual and/or developmental disabilities throughout Massachusetts who would be deprived of the joy and right to live independently in the community as productive and contributing members of society.

Should you have any additional questions or require additional information, please feel free to contact me at [ellenattaliades@addp.org](mailto:ellenattaliades@addp.org) or (508) 422-7156.

Thank you for your consideration.

Sincerely yours,



Ellen Attaliades  
President / CEO