



## Foreword

I am pleased to offer a brief foreword to this fine book, coauthored by Brian Connolly, a planner and rising star in the land use bar, and Dwight Merriam, someone I have known for more than 35 years and whom I trust so much that I selected him to be the lead coauthor of the land use law casebook *Planning and Control of Land Development: Cases and Materials* (8th ed. 2011), first published in 1979.

*Group Homes* fills a critical gap in the literature by analyzing and applying federal antidiscrimination law to the practical problems of planning for and regulating group homes for people with disabilities. As society has become more knowledgeable and sensitive to the wide range of capabilities of people—with and without disabilities—and the need to provide each and every person with the full range of housing opportunities without discrimination, we have come to realize how important good planning and defensible regulation are for such housing.

Call this book the GPS for group homes if you wish, because it guides us over an exceptionally broad area—from the practical background of the population of people with disabilities, through the law relating to housing for people with disabilities, and into the planning and regulatory approaches that can and should be applied to group homes—in a way that no publication has previously accomplished.

First, this book provides historical and statistical background relating to the pressing and expanding need to provide group homes for so many people. The first chapter is a primer on the types of housing, the people who live there, and why we need to meet our obligations in this critical area of housing.

This book also contains one of the best-written and most concise summaries of fair housing law you will ever find, providing the basic knowledge necessary to appreciate the obligations imposed and opportunities provided

by federal antidiscrimination law. The organization of the book allows the reader to understand the law, its application to local governments, and the legal issues of enforcement under the Fair Housing Amendments Act, focusing on challenges that will force local governments, where necessary, to do the right thing. The authors evenhandedly describe how advocates for group home development might seek to exercise their rights under the federal law, as well as the many defenses available to local governments when their land use decisions are challenged.

Connolly and Merriam meld the factual background of group home development with the legal landscape and apply it in the context of planning and regulation, which is really the heart of their effort. Readers will come away with a much greater appreciation of how difficult it can be to plan for and regulate group homes in a way that minimizes legal challenges and provides the housing so desperately needed.

The business of planning for group homes is also a focus for the authors. Because much of the group home conflict has arisen out of ad hoc, site-by-site decision-making coupled with inevitable legal challenges, the book is logically organized to provide the legal analysis at the beginning and the planning recommendations near the end; however, planning first is the recommended course of action. We are only now, in the last couple of decades, beginning to realize how important planning is to make sure that the group home locational decisions are as good as we can make them. When readers finish this book, they will understand how critically important it is to have a commitment to good planning from the get-go. That is, indeed, a principal lesson that one takes away in reading this book: all of the unmet needs for group homes, all of the zoning disputes over group homes, all of the litigation—they all lead to the logical conclusion that we could do a much better job if we started with good planning, recognizing needs, determining the best locations, and enacting and applying regulations that will get us the results we want. In their last chapter, “Regulatory Strategies,” Connolly and Merriam provide solid, practical advice that advocates for group homes and local governments can put to work. This is a fitting conclusion to the rest of the book. It should not be read alone and can be fully appreciated only if the reader has completed the prior six chapters.

Overall, this book is probably more practical than theoretical, though there is enough case law and legal analysis to satisfy any lawyer practicing in the field. The effort in writing *Group Homes: Strategies for Effective and Defensible Planning and Regulation* is exactly what a reader would expect from these two authors, who have worked so well together in writing this book. Connolly, with the relatively fresh experience of law school and serious study of the case law, and Merriam, with three and a half decades of practical experience including representing numerous developers of group homes, have together researched and written a masterful guide to a relatively new area of law and planning. At the same time, the strong factual material and articulate analysis of how the law works in this area of housing development will benefit those who have no legal training and little interest in some of the more arcane aspects of the law.

In the end, like most of these difficult issues of public policy played out on the land, housing for people with disabilities and the provision of adequate group living facilities can be successfully addressed only with good planning and regulation, all under the rule of law, remembering that when we work to provide group homes, we acknowledge the rights of everyone to have fair access to housing appropriate to meet their needs.

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