



City of Broken Arrow

Request for Action

File #: 17-2838, Version: 1

**Broken Arrow City Council
Meeting of: 12-05-2017**

To: Mayor and City Council
From: Office of the City Attorney
Title:

Consideration, discussion, and possible approval of a reasonable accommodation for the Oxford House located at 113 West Norman Street, Broken Arrow, Oklahoma 74012, to allow unrelated residents to live as the functional equivalent of a family and waive the limitation on the number of unrelated persons who may reside together for this residence

Background:

Oxford House is an entity that provides an opportunity for recovering alcoholics and substance abusers to maintain their sobriety in a supportive living environment that does not require the provision of treatment or counseling services. The City of Broken Arrow has an Oxford House located at 113 West Norman Street, Broken Arrow, Oklahoma 74012, within a residential neighborhood. Their representatives have indicated that they believe that Oxford House is entitled to a reasonable accommodation to the City's zoning ordinance which would allow it to remain in a residential neighborhood. The accommodation would be to allow eleven (11) unrelated people to reside together in the Oxford House.

Information from Oxford House indicates that it provides safe and sober housing for persons in recovery from alcoholism and substance abuse. In this regard, Oxford House, Inc., the national organization, assists in establishing housing for recovering addicts and alcoholics that is financially self-supported, democratically run, and immediately expels anyone who uses drugs or alcohol, inside or outside the house. There is no paid staff, counseling, therapy, or house manager involved in the operation of the house. In Oxford house, the group behaves like any family and makes group decisions based on democratic procedures. Oxford House is nothing more than a single-family residence.

Oxford House residents are encouraged to rent single-family dwellings located in good neighborhoods. This means Oxford Houses are usually located in areas zoned for single-family dwellings. They are not rooming or boarding houses, substance abuse centers, halfway houses, shelters or community care facilities. There is no treatment, counseling, therapy, or any type of health care service provided. Oxford Houses are not generally licensed by the State, although in Oklahoma they are licensed. In an Oxford House, as opposed to a halfway house, residents live there by choice. There is no house manager, paid staff or other type of institutional personnel involved in the supervision or management of the house. All decisions relating to the functioning of an Oxford House are made democratically. An Oxford House manages its own finances and has its own bank account.

The present residence was the subject of questions by both nearby residents and elected officials. When Staff made contact with Oxford House representatives, they indicated their intent to seek an

Accommodation request to be treated as a family. Under the federal Fair Housing Act, it is a discriminatory housing practice to refuse to make “a reasonable accommodation in rules, policies, practices or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling.” 42 U.S.C. Sec. 3604(f)(3)(B); *Groome Resources, Ltd. V. Parish of Jefferson*, 234 F.3d 192 (5th Cir. 2000) *Smith & Lee Assocs. V. City of Taylor*, 102 F.3d 781, 790 (6th Cir. 1996); *Wisconsin Correctional Serv. V. City of Milwaukee*, 173 F. Supp. 2d 842 (E.D. Wisc. 2001); *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F.3d 775, 787 (7th Cir. 2002); *ReMed Recovery Care Centers v. Township of Willistown*, 36 F. Supp. 2d 676, 683 (E.D. Pa. 1999); *Tsombanidis v. City of W. Haven*, 180 F. Supp. 2d 262, 283, *rev’d other grounds*, 352 F. 3d 565180 (2nd Cir. 2003).

Under the Fair Housing Amendments Act of 1988, a municipality may not act to prevent those with handicaps from living in recovery housing within its boundaries. A reasonable accommodation in this instance would be for a municipality to accept the residents of Oxford House as the functional equivalent of a family and waive the limitation on the number of unrelated persons who may reside together under the municipality’s zoning code, and apply all building and fire codes in the same manner as it applies to single-family dwellings for single-family purposes. In other words, Oxford House seeks to be treated as a family under the express terms of municipalities’ definition of family. *See, Oxford House, Inc. v. City of Baton Rouge*, 932 F. Supp. 2d 683, 693 (M.D. La. 2013)

Staff recommends, based upon the case law, that the City should grant the Oxford House a reasonable accommodation by allowing them to live as a family without the restriction to only 3 unrelated persons being allowed to live in a single-family household. A refusal to accommodate these types of houses would be a violation of the Federal Fair Housing Act and the Americans with Disabilities Act.

Cost: \$0

Prepared By: Beth Anne Childs, City Attorney

Reviewed By: Russell Gale, Assistant City Manager-Administration

Approved By: Michael L. Spurgeon, City Manager

Attachments: None

Recommendation:

Grant the Oxford House reasonable accommodation in accordance with the Federal Fair Housing Act and the Americans with Disabilities Act by allowing more than three unrelated residents of 113 West Norman Street to reside together.