

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

AMBER REINECK HOUSE,
COURTNEY ATSALAKIS, and
FAIR HOUSING CENTER OF
SOUTHEAST & MID MICHIGAN,
INC.,

Plaintiffs,

v.

CITY OF HOWELL, MICHIGAN,
NICK PROCTOR, individually and in
his official capacity as Mayor of the
City of Howell, Michigan, and
TIM SCHMITT, individually and in
his official capacity as Community
Development Director of the City of
Howell, Michigan,

Defendants.

Case No. 2:20-cv-10203-PDB-RSW
Judge Paul D. Borman

FIRST AMENDED COMPLAINT

Jury Trial Demanded

INTRODUCTION

1. On December 24, 2015, Plaintiff Courtney Atsalakis's sister, Amber Reineck, fatally overdosed on fentanyl, a synthetic opioid that has helped fuel the opioid crisis in Michigan and across the country in recent years. Two years after her sister's death, in 2017, Ms. Atsalakis founded a nonprofit organization, Amber Reineck House, in her sister's memory. Ms. Atsalakis is the President of Amber Reineck House (Ms. Atsalakis and Amber Reineck House will be collectively referred to in this Complaint as the "Amber Reineck House Plaintiffs").

2. Amber Reineck House is dedicated to acquiring affordable properties in Michigan to provide housing and support services for persons seeking long-term recovery from addiction.

3. Amber Reineck House’s mission is to provide affordable transitional housing for women with substance use disorders. Its vision is to reduce the stigma associated with substance use disorder by building a recovery-friendly community, providing education, and increasing acceptance and support. The organization seeks to achieve its mission by acquiring properties for this housing and partnering with established non-profits designated as “recovery partners” to manage the homes and offer support services to their residents.

4. The organization’s current focus is on opening a fully functional, long-term sober living home for women in Livingston County, Michigan. According to a 2019 study, Livingston County is one of 24 Michigan counties considered at “high-risk” for opioid overdoses.¹ Despite this, the only available sober living housing in the county is for men. There are no sober living homes in the county for women recovering from substance use disorders.

¹ Rebecca Haffajee *et al.*, *Characteristics of US Counties With High Opioid Overdose Mortality and Low Capacity to Deliver Medications for Opioid Use Disorder*, JAMA Network Open (2019), available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2736933>.

5. In early 2018, Ms. Atsalakis identified a house at 304 South Walnut Street (the “Walnut Street house”) in Howell, Michigan, the county seat of Livingston County, which was ideally suited to be Amber Reineck House’s first long-term sober living home for women recovering from substance use disorders who have completed rehabilitation but need continuing support to return to the community. In February 2018, Ms. Atsalakis purchased the Walnut Street house, a single-family residence, with the intent of promptly selling it to Amber Reineck House to open an affordable, eight-resident transitional living home for women in recovery from substance use disorders. Amber Reineck House intends for the Walnut Street house to be operated in partnership with Home of New Vision, which will manage the home and provide services to its residents. Home of New Vision, based in Ann Arbor, Michigan, is a highly regarded, 23-year-old non-profit organization that operates a number of recovery homes and related programs in Michigan.

6. Since April 2018, Defendant City of Howell (“Howell” or the “City”) and its officials, including Defendants Nick Proctor, the City’s Mayor, and Timothy Schmitt, the City’s Community Development Director (collectively, “Defendants”), have engaged in a concerted, ongoing effort to prevent Amber Reineck House from operating the Walnut Street house as a long-term recovery home. Defendants’ campaign has been in response to, and in concert with,

significant bias against individuals recovering from substance use disorders by Howell residents and the ensuing opposition to the Amber Reineck House Plaintiffs' plan to provide community-based sober living housing for such individuals.

7. The City was not a mere passive municipal participant refereeing a dispute between Amber Reineck House and City residents who opposed the plan to operate the Walnut Street house as a group home. Rather, the City and other Defendants took a leading role in elevating unfounded and discriminatory community opposition.

8. The barriers erected by Defendants to obstruct the Amber Reineck House Plaintiffs' plans have included imposing, and repeatedly extending, a moratorium on all special land use applications that would allow unrelated persons to live together in a single family home; rejecting the Amber Reineck House Plaintiffs' request for a reasonable accommodation exception from a special use permit requirement to permit it to operate in a neighborhood zoned for single-family residences; and, in direct response to the Amber Reineck House Plaintiffs' efforts to open the Walnut Street house, proposing an amended zoning ordinance that would subject group homes for people with disabilities to onerous, arbitrary, and discriminatory zoning requirements on this type of residence.

9. On March 9, 2020, at the recommendation of Defendants Proctor and Schmitt, the Howell City Council adopted Ordinance 929, which imposes onerous, arbitrary, and discriminatory zoning requirements on Amber Reineck House that bear no reasonable relationship to the needs of persons with disabilities. This ordinance, entitled “Transitional Housing and Special Accommodation Use Standards,” is highly suspect based on Defendants’ history and actions specifically aimed to thwart Amber Reineck House and belies Defendants’ unlawful reliance on unfair stereotypes and myths about persons with disabilities, rather than the particularized concerns and needs of the individuals with disabilities subjected to the new ordinance.

10. These overt and discriminatory acts by Defendants, taken because of the disabilities of the prospective residents of the Walnut Street house, have had and are continuing to have the purpose and effect of preventing Amber Reineck House from operating the Walnut Street house as a sober living home, and denying women in Livingston County recovering from substance use disorders the chance to live in supportive community-based housing.

11. Defendants’ actions have harmed and are continuing to harm Amber Reineck House by preventing it from fulfilling its mission of providing community-based recovery home options for women with substance use disorders in Livingston County, including but not limited to financial, operational, and

reputational harm, as well as depriving the organization of its rights under federal and state law. Defendants' actions have similarly caused, and are continuing to cause, financial, emotional, and reputational harm to Ms. Atsalakis.

12. Defendants' actions have also injured Plaintiff Fair Housing Center of Southeast & Mid Michigan, Inc. (the "Fair Housing Center"), a fair housing center dedicated to ending discrimination in housing and public accommodations and promoting accessible, integrated communities in Michigan, by forcing the organization to divert scarce resources to address Defendants' discrimination and frustrating the organization's mission of ensuring equal access to housing for all.

13. Plaintiffs Courtney Atsalakis, Amber Reineck House, and Fair Housing Center bring this civil rights action under the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, and Michigan's Persons with Disabilities Civil Rights Act, Mich. Comp. Laws §§ 37.1301–1303, 37.1501–1507, seeking a declaratory judgment, preliminary and permanent injunctive relief, and compensatory and punitive damages resulting from Defendants' discriminatory actions, as well as their reasonable attorneys' fees and costs.

PARTIES

14. Plaintiff Amber Reineck House is a 501(c)(3) nonprofit organization, founded in 2017 and incorporated in the State of Michigan.

15. Plaintiff Courtney Atsalakis is the President and Founder of Plaintiff Amber Reineck House. Ms. Atsalakis resides in Pinckney, Michigan.

16. Plaintiff Fair Housing Center of Southeast & Mid Michigan, Inc. is a 501(c)(3) nonprofit organization incorporated in the State of Michigan, with its principal place of business in Ypsilanti, Michigan. The organization is registered under the name Fair Housing Center of Washtenaw County, Inc. and does business as the Fair Housing Center of Southeast & Mid Michigan, Inc. Its mission is to end discrimination in housing and public accommodations and to promote accessible, integrated communities. It provides advice, advocacy, community education, investigative services, testing, conciliation, and attorney referrals.

17. Defendant City of Howell is a Michigan municipality and the county seat of Livingston County. The City of Howell is a public entity within the meaning of Title II of the Americans with Disabilities Act.

18. Defendant Nick Proctor is the Mayor of Defendant City of Howell. He is a resident of Howell, Michigan. Mayor Proctor is sued in his official and individual capacities.

19. Defendant Tim Schmitt is the Community Development Director of Defendant City of Howell. He is a resident of Howell, Michigan. Defendant Schmitt is sued in his official and individual capacities.

JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction of the federal claim asserted in this action under 28 U.S.C. § 1331 because the action arises under the laws of the United States, including the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and the Americans with Disabilities Act, 42 U.S.C. § 12132 *et seq.*

21. Under 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiffs' claims under Michigan law because those claims arise from a common nucleus of related facts and are so related to the federal claims within the original jurisdiction of this Court that they form part of the same case or controversy.

22. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201, 2202 and 1343, and by Rules 57 and 65 of the Federal Rules of Civil Procedure.

23. Under 28 U.S.C. § 1391(b), venue is proper in the Eastern District of Michigan because all events and omissions giving rise to Plaintiffs' claims occurred in this District and all parties reside in this District.

FACTS

Background on Amber Reineck House

24. Plaintiff Courtney Atsalakis's sister, Amber Reineck, died in December 2015 after overdosing on fentanyl, leaving behind her mother, father, stepfather, sister, four brothers, and two young daughters.

25. Like many others suffering from opioid addiction, Amber became addicted to opioids after being prescribed an opiate painkiller to treat a back injury and pinched nerve three years before her death. When her prescriptions were not renewed, Amber turned to illicit opioids, hiding her addiction from her family and friends.

26. After her sister's death, Ms. Atsalakis educated herself on the disease of addiction and the opioid crisis to which her Amber had fallen victim. Ms. Atsalakis learned that the disease of addiction carries significant stigma, discouraging individuals suffering from addiction from admitting they have a problem, seeking the help of family and friends, and seeking necessary support and services.

27. In September 2016, Ms. Atsalakis joined the Board of Directors of Home of New Vision, serving as the Board's vice president for the past two years. In her role as a board member, she has learned how difficult it is for Home of New Vision and other recovery support providers to acquire affordable transitional housing for persons in long-term recovery from addiction, particularly because of the widespread bias against these individuals.

28. Indeed, it is estimated that Michigan has less than five percent of the beds needed for individuals in long-term recovery, and that less than five percent of the available number of all recovery beds in the state are for women.

29. Sober living homes, also called recovery homes, help individuals recovering from addiction transition into the community in a supportive environment. It can be extremely challenging for individuals in early recovery to sustain that recovery if they return from treatment directly to their normal living environment. A recovery residence offers an intermediate step that provides the recovering individual with time to practice and solidify recovery in a safe, substance-free environment, and to develop healthy habits, activities, and connections to people and places that promote sustained recovery. They promote long-term recovery by connecting the residents with employment support services and mentorship.

30. Ms. Atsalakis's personal experience with the loss of a loved one to addiction—and her subsequent awareness about substance use disorders, the stigma associated with addiction, and the shortage of supportive sober living housing in Michigan—motivated her to form Amber Reineck House in December 2017. Ms. Atsalakis founded the organization to address the difficulty recovery support providers like Home of New Vision face in acquiring affordable housing to establish sober living homes, and the consequent dearth of supportive transitional housing for women in Livingston County.

Amber Reineck House's Plan to Provide Affordable Sober Living Housing for Women in Livingston County

31. Since its founding, Amber Reineck House has focused on acquiring a house to be used as a residence for women in recovery from substance use disorders in Livingston County, Michigan. This focus was motivated by the fact that the only other sober living homes in Livingston County serve men. No community-based residences in the City of Howell—or Livingston County—are available for women recovering from substance use disorders who have completed rehabilitation but need continuing support to return to the community.

32. Shortly after founding Amber Reineck House, on February 20, 2018, Ms. Atsalakis purchased the Walnut Street house for \$284,900, intending to sell it to Amber Reineck House for purposes of opening the organization's first sober living housing for women in recovery from substance use disorders. The Amber Reineck House Plaintiffs plan to open the home in partnership with Home of New Vision, with services to residents to be provided by Home of New Vision and other outpatient treatment providers. They originally intended for the home to serve as a residence for eight women recovering from substance use disorders, later modifying the plan to open the house as a six-resident sober living home in the face of opposition to the initial plan by the community and Defendants.

33. Recovery housing programs run by Home of New Vision following the following model, as explained on the organization's website:

A recovery residence offers an intermediate step that provides the recovering individual with time to practice and solidify recovery in a safe, substance-free environment, and to develop healthy habits, activities, and connections to people and places that promote sustained recovery.

Home of New Vision provides recovery housing for women and men who desire to live a life of recovery. Clients who are committed to recovery are provided with a safe, structured and supported living environment that fosters personal, spiritual and emotional growth. Clients must abstain from alcohol and illegal drug use while living in Home of New Vision's recovery residences.

The program provides peer-to-peer recovery support in a shared living environment, where residents develop and practice skills for living a clean and sober lifestyle while supporting each other, working, and attending 12-step or other recovery-based meetings. The program enables clients to build and develop resources that will support sustained recovery as they transition to living independently in the community.

34. The Amber Reineck House Plaintiffs' sober living home at the Walnut Street house would follow this same approach.

35. The Walnut Street house is well-suited to be a sober living home for women. The large, two-story, five-bedroom, single-family house is centrally located in Howell. It is within walking distance of various community health services, including a mental health services provider and a hospital; local businesses and public services, including the local library, post office, courthouse,

and 12-step recovery meetings and support groups; a grocery store; and a number of employment opportunities. The close proximity of these services and opportunities are vital to people in recovery seeking to transition back to the community.

36. The Amber Reineck House Plaintiffs hosted a fundraiser in Howell in February 2018, where they first announced their plans to open the Walnut Street house as a sober living home.

April 2018 Special Use Permit Application

37. The Walnut Street house is located in an area of the City zoned for occupancy as R-1, Single Family Occupancy.

38. Given the residential zoning designation, and unaware of her right to seek a reasonable accommodation to operate a sober living home in a residential zone, Ms. Atsalakis submitted an application for a Special Use Permit to the City's Planning Commission on April 9, 2018. The application requested the City's approval to use the Walnut Street house as a sober living home for eight residents.

39. On April 11, 2018, Defendant Tim Schmitt, the City's Community Development Director, sent a letter to Ms. Atsalakis on behalf of the City. The letter acknowledged receipt of the Special Use Permit application and advised Ms. Atsalakis that the review process of her request for a special use permit had begun

and would be considered at an upcoming meeting of the City's Planning Commission.

40. In the April 11 letter, Schmitt referred to "a great deal of information and misinformation in the community surrounding your application," including rumors that residents of the home had moved in already or would be moving in soon. Schmitt did not acknowledge that those rumors were patently false. The letter further stated that the property could only be used as a single-family home, and that occupancy of the house by anyone who is not on the deed or directly related to someone on the deed was therefore prohibited. In bold letters, Schmitt added, "**At this time, we want to be clear that no approvals have been granted for the use of the house as anything other than a single-family home for you and your immediate family's occupancy.**" The letter threatened to issue tickets and vacate the house "[i]f it is found that any person is residing in the house other than the owners of record."

41. The restrictions articulated in Schmitt's letter—that the Walnut Street House could not be used for any purpose other than the owner and her immediate family's use—stated an express and unlawful prohibition on siting or developing a sober living home setting in a residential zone, and placed additional restrictions and cost burdens on the Amber Reineck House Plaintiffs. The statements in his letter indicated a preference or limitation based on disability. It is well-established

under federal fair housing law that such restrictions are illegal, and that group homes for people with disabilities (including sober living homes) must be permitted to operate as a matter of right in residential zones. Despite this, Schmitt failed to inform Ms. Atsalakis that a special use permit was unnecessary.

Opposition to the Walnut Street House

42. Before and after her submission of a special use permit application to the City, Ms. Atsalakis received many hostile comments from neighbors of the Walnut Street house opposing the operation of Amber Reineck House's sober living home in the neighborhood.

43. On April 6, 2018, three days before Ms. Atsalakis submitted the special use permit application, a newspaper article in the *Livingston Daily* reported that the Walnut Street house "is already purchased and only needs zoning approval to house about eight women in recovery." This article triggered an outpouring of community opposition directed both at Ms. Atsalakis and at the City, including Defendant Schmitt.

44. Public comments focused on the purported harm to the neighborhood posed by the entry of persons in recovery from substance use disorders.

45. Similar complaints were contemporaneously expressed to the City's Planning Commission and to Defendant Schmitt, who then publicly discussed the opposition in City Council Meetings and adopted and endorsed the opposition

when communicating to Ms. Atsalakis in emails, letters, and phone calls about her application.

46. On April 11, 2018—the same day that he sent Ms. Atsalakis the letter from the City confirming receipt of her special use permit application—Schmitt separately emailed Ms. Atsalakis, stating that “the neighborhood is already up in arms over your request” and “strongly advis[ing]” that she not post about the project on social media, despite the fact that she had posted nothing about the Walnut Street house on social media. The next day, the City sent a letter to all residents within a 300-foot radius of the Walnut Street house underscoring that the City had issued no approvals for the property.

47. Several days later, on April 17, 2018, in direct response to community opposition, Schmitt emailed Ms. Atsalakis with a list of community members’ concerns that he asked her to address as part of the City’s review of her application. These included (1) residents’ concerns about the intake process and the treatment regimen of the individuals who would live there, which Schmitt stated was the “biggest question that has come up”; (2) whether the house would be remotely managed; (3) the guidelines for removal of residents; and (4) parking. None of those “concerns” were, or are, relevant factors in the City’s review of Ms. Atsalakis’s application. However, on information and belief, neither Schmitt nor other City staff explained to complaining residents that these were not valid issues

that the City could consider when reviewing the application. To the contrary, he needlessly burdened Ms. Atsalakis by demanding a response to these citizen complaints.

48. The next day, April 18, 2018, at a meeting of the City's Planning Commission, Schmitt informed the Commission and others in attendance that City staff had received many emails and phone calls from residents of properties near the Walnut Street house, and that he had relayed the questions to Ms. Atsalakis "for clarification." Schmitt also informed the Commission that Carlisle Wortman Associates, a planning firm, would review the Amber Reineck House Plaintiffs' application on the City's behalf.

49. The community opposition to the Amber Reineck House Plaintiffs' plans continued in a series of inflammatory public Facebook posts published throughout April and May of 2018, in which community members opposing Amber Reineck House's operation of the Walnut Street house called Ms. Atsalakis and her supporters "despicable," expressed concern that their homes would drop in value if in close proximity to "residential treatment centers" (which Amber Reineck House is not trying to establish), and expressed discriminatory statements based on stereotypes of people recovering from substance use disorders. One community member relayed an anecdote wherein a "crackhead" living at a transitional home attempted to steal a neighboring car before, insisting that "it's

best [transitional homes] are in the middle of nowhere.” Another vowed she will be “showing up to fight this” because she does not “need a house like this so close to my home with 2 very little kids.” One neighbor even falsely accused Amber Reineck House supporters of putting used syringes in her yard as part of a “hidden agenda,” which generated even more opposition to the Walnut Street house plan.

50. On information and belief, Defendant Schmitt and other City officials saw or were otherwise aware of these social media posts.

51. In May 2018, Carlisle Wortman, the City’s planning consultant, advised Schmitt and the Planning Commission that Ms. Atsalakis’s proposed use was similar to an adult foster care home, consistent with single-family residential use under the City’s zoning ordinance. Thus, if Amber Reineck House’s sober living home had six or fewer residents, its use of the Walnut Street house would be permitted as of right in the R-1 residential zone.

52. That same month, the City, through its attorneys, asked Home of New Vision to respond to a lengthy list of questions about how it would operate the Walnut Street house, including how it would compare to another sober living home in the City, whether there would be on-site management, whether on-site treatment would be provided at the house, what parking would be available, whether family members could live with residents, how long residents could reside at the house, and detailed information on Home of New Vision’s licenses. In its over two

decades of running sober living homes in Michigan, Home of New Vision has never been asked by a municipality to answer such questions as part of a zoning approval process.

53. After learning of Carlisle Wortman's conclusion, and in the face of the widespread opposition to her special use permit application by Howell residents, Ms. Atsalakis announced her intention to instead establish the Walnut Street house as a home for six residents instead of eight, which, under the City's zoning ordinance, does not require a special use permit if located in an R-1 zoning district. Accordingly, Ms. Atsalakis withdrew her special use permit application on or about June 11, 2018 through a letter from her attorney to the City.

54. Although the City's zoning ordinance does not require a special use permit for the amended proposed use as a home for six people, Ms. Atsalakis nevertheless requested that the City notify her if it took the position that such a permit was necessary for her proposed use.

55. This six-person restriction on the number of residents who may reside in a group home setting limits housing opportunities for people with disabilities unreasonably, and treats such homes differently from homes housing families.

56. The City's zoning ordinance does not contain a process for a reasonable accommodation for housing for people with disabilities. Accordingly, Ms. Atsalakis was unaware of her right to request a reasonable accommodation

from existing zoning requirements to operate a sober living home at the Walnut Street house. Defendants never informed her that she had the right to seek such an accommodation.

57. On June 15, 2018, Schmitt emailed Ms. Atsalakis's attorney, confirming receipt of the application withdrawal request. In that email, Schmitt stated that the City "will need to see a copy of the State license for the facility for it to qualify" for the exception from the single-family zoning requirement for homes with six or fewer residents similar to adult foster care homes, despite the fact that the State of Michigan does not require sober living homes to be licensed.

58. The City's Planning Commission was scheduled to discuss Ms. Atsalakis's special use application at its June 20, 2018 meeting, but removed discussion of the application from the meeting agenda after Ms. Atsalakis withdrew her application. Nevertheless, the City Council meeting packet distributed publicly before the meeting contained a copy of the June 11, 2018 letter from Ms. Atsalakis's attorney withdrawing her application, as well as a memorandum from Schmitt to the City Council stating that "the neighborhood was not supportive of the use at [the Walnut Street house] property," that City "staff has received substantial correspondence on the [Walnut Street house] project, with the majority of supportive comments coming from outside the City and majority of negative comments coming from inside the City," and predicting that "this matter

will continue to be discussed, as the applicant works towards a way to operate a recovery supportive services house at 304 South Walnut.” Schmitt’s memorandum also noted that all residents within a 300-foot radius of the Walnut Street house had been alerted, in writing, of the withdrawal of Ms. Atsalakis’s application.

59. A number of Howell residents attended the June 20 City Council meeting and voiced their opposition to the use of the Walnut Street house as a sober living home. During public comments, for example, one resident expressed his concerns about the number of group homes in Howell and the risk to children, stating that “the community is moving in the wrong direction for families.” Another resident, who lived close to the Walnut Street house, said she bought her home because it was in a single-family neighborhood and thought that there were “plenty” of multi-residential neighborhoods in Howell that would be “more appropriate” for sober living homes. A third resident told the Commission that four families who lived near the Walnut Street house had put their homes up for sale in response to the Amber Reineck House Plaintiffs’ plan to open a sober living home at that location.

60. At the meeting, no City official pushed back against or expressed disagreement with the opposition expressed by residents. Nor did any City official mention or explain the City’s legal obligations under federal and state fair housing

and disability rights laws in connection with its review of the Walnut Street house application or other group homes for individuals with disabilities.

61. Vocal community opposition to Amber Reineck House's plans continued throughout June and July. In local newspaper articles, Howell residents opposed to the Amber Reineck House Plaintiffs' proposed use of the Walnut Street house made multiple disability-related public statements expressing bias against individuals with disabilities, which included pernicious stereotypes about people recovering from substance use disorders. In a July 2, 2018 *Livingston Daily* article, for example, one community member said, "It's even worse because the relapse rate for opiate addiction is the highest of all drug addictions. . . . You'll have women living there in recovery and that involves relapses and that is generally disruptive to a single-family neighborhood." Another neighbor claimed, "Dealers will know this house and what is there and target that. . . . If there is a relapse and they get booted, they are now the City of Howell's problem because they are homeless and thrown to the curb. If they have a relapse in the parking lot, at the library or parks in the neighborhood, we are using city services to address those issues and worrying about our kids."

City's Moratorium on Special Use Permits

62. Despite Ms. Atsalakis's request that the City notify her if it took the position that a special use permit was required for a six-resident sober living home, Defendants never notified her of any such requirement.

63. In direct response to the ongoing community opposition to *any* sober living home at the Walnut Street house, however, Defendant Schmitt recommended to Defendant Proctor and the Howell City Council on June 22, 2018 that the City institute a one-year moratorium on applications for special land use permits in areas zoned R-1 and R-2 in the City.

64. In making this recommendation, Schmitt intended to obstruct the Amber Reineck House Plaintiffs' plan to open the Walnut Street house as a sober living home, and to appease and support the discriminatory community opposition. In his June 22, 2018 memorandum to Defendant Proctor and the City Council recommending the moratorium, Schmitt noted the impetus for the recommendation was Ms. Atsalakis's application and the "tremendous amount of public input on the . . . application, largely negative from Howell residents," that City staff had received in response to the plan. Schmitt warned that "[t]hese group living situations, either related to addiction recovery or some other situation, appear to be consolidating in the City of Howell," citing the concentration of jobs and services in the City. Schmitt wrote that, based on the "feedback" from the community to the

Walnut Street house, City staff determined that “[t]hese facilities are beginning to create a negative perception among some populations as opioids have become more of a focus of the homes,” and that “[t]here is a strong sense by some that the City of Howell is taking on more than our fair share of this housing type in the County or that specific neighborhoods are taking on more than their fair share within the Community.”

65. In a subsequent July 19, 2018 memorandum from Schmitt to Mayor Proctor and the City Council, Schmitt reiterated that the proposed moratorium was triggered by “a number of questions raised during the 304 South Walnut review that require substantial investigation to answer fully,” including, whether the City is “taking more than our fair share of these uses Countywide” and whether “there [are] gaps in our ordinances that are allowing or encouraging these uses to concentrate near downtown Howell.” Schmitt’s memorandum stated that the proposed moratorium was necessary “to further study group home/sober living facilities and regulations in the City,” and noted that the moratorium “will prevent any applications from being accepted that would require approval of a Special Land Use in the R-1 or R-2 zoning districts for unrelated persons to live together in a single-family home.”

66. Schmitt’s statements in these memoranda, which expressly linked community opposition to group homes and sober living homes for people with

disabilities, endorsed and ratified that community opposition, even though this opposition was not based on any lawful grounds for opposing the Amber Reineck House Plaintiffs' plan.

67. On July 23, 2018, the City Council accepted Schmitt's recommendation and unanimously approved a resolution adopting a 12-month moratorium, commencing on July 23, 2018 and terminating on July 22, 2019, on all applications in the R-1 or R-2 zoning districts requiring Special Land Use approval for unrelated persons to live together. This ordinance stopped all special land use actions that would have allowed unrelated persons to live together in a single-family home.

68. The purpose, intent, and effect of the moratorium was to delay Amber Reineck House's operation of the Walnut Street house as a sober living home while the City Council implemented a plan to amend its zoning ordinance to restrict zoning as of right for group homes, and to make it difficult, if not impossible, for Amber Reineck House or any other entity to open a sober living home in a residential zone in the City.

69. A year later, on June 10, 2019, the City Council voted to extend the moratorium for three additional months, to expire on October 23, 2019.

Proposed Revisions to Zoning Ordinance

70. A month before the expiration of the extended moratorium, on September 23, 2019, the City Council introduced a proposed amendment to the City's zoning ordinance, Ordinance No. 929 (the "September Proposed Ordinance"), to impose new restrictions on sober living homes.

71. Among other changes, the September Proposed Ordinance would prohibit any sober living homes from operating as of right in single family residential areas zoned as R-1 or R-2. The September Proposed Ordinance defined a sober living home as a "structure for containing a group of individuals recovering from a drug and/or alcohol addiction or substance use problem and who are considered disable [sic] under state or federal law," which would have had the effect of keeping sober living homes out of single-family residential neighborhoods and foreclosing the operation of an Amber Reineck House sober living home at the Walnut Street house.

72. One of the City's expressed needs for the September Proposed Ordinance was the purported proliferation of sober living homes in Howell, but a study commissioned by the City and conducted by Carlisle Wortman found that only three sober living homes operate in the city, all for men. The evidence does not support a claim that there are too many sober living homes in Howell.

73. The September Proposed Ordinance contained no provisions to justify the discriminatory application of zoning standards to sober homes in comparison to residential housing or to transitional housing for persons with other types of disabilities.

74. The September Proposed Ordinance contained extensive requirements as part of a proposed reasonable accommodation procedure that are burdensome, onerous, and a significant departure from the City's requirements for families living in a communal setting, including requiring the following:

- a. "Special Accommodation Use" applications to go through a public hearing and notice requirements;
- b. Housing providers seeking Special Accommodations Uses must obtain licenses and meet special licensing requirements;
- c. The submission of a concept plan containing information that is not otherwise required for families or non-disabled congregate living arrangements;
- d. Standards and requirements that are not otherwise required for families or non-disabled congregate living arrangements;
- e. Special design standards be met that are not otherwise required for families or non-disabled congregate living arrangements.

75. A separate ordinance, Ordinance No. 930 (the "Proposed Licensing Ordinance"), introduced by the City with the September Proposed Ordinance on

September 18, 2019, would establish a licensing and registry system for adult foster care homes and sober living homes.

76. The specific requirements in the September Proposed Ordinance and Proposed Licensing Ordinance bear no relationship to the unique needs of people with disabilities, including substance use disorders. None of the requirements are justified to protect the health or safety of residents with disabilities residing in group homes or sober living homes.

77. Those two ordinances, if enacted, would have limited and restricted sober living houses and treated them differently than residential housing serving people with other disabilities and residential housing for families. They were based on stereotypes and unfounded fears about people with disabilities, specifically people who are in recovery from substance use disorders, and include procedures and requirements that would restrict and burden the operation of housing for people with disabilities in residential settings.

Amber Reineck House's Reasonable Accommodation Request

78. On September 27, 2019, Ms. Atsalakis, on behalf of Amber Reineck House, submitted a letter to the City requesting two reasonable accommodations from City's zoning ordinances, based on the disabilities of the intended residents of the Walnut Street house, that would allow Amber Reineck House to begin operating the house as a sober living home. First, the request asked that the City

waive its current substantive and procedural requirements for special land uses to permit operation of the proposed six-resident sober living home as a reasonable accommodation for people with disabilities. Second, the request sought an exception to the moratorium as a reasonable accommodation to permit Amber Reineck House to begin sober living home operations at the Walnut Street house as an ordinary rental property allowed as of right under R-1 zoning in the City. This request also contained a lengthy list of the reasons under the Fair Housing Act why the City should grant these reasonable accommodations.

79. On October 3, 2019, in a letter signed by Schmitt, the City denied Ms. Atsalakis's request for these reasonable accommodations. Schmitt advised her that she would have to apply under the new proposed ordinance, after it was adopted, seeking approval for use as a sober living home or a special accommodation use. Schmitt further advised that both procedures would require a public hearing.

80. Since that date, Amber Reineck House and Ms. Atsalakis have received no formal notification from the City approving their request for reasonable accommodations, nor have they received any other formal notification that the City has removed the moratorium, approved the operation of Amber Reineck House, or otherwise been notified of actions that they must take to operate a sober living home at the Walnut Street house.

81. Granting these accommodations would not have fundamentally altered the nature of the zoning activities in the City. Indeed, as the City's own land use consultants concluded, the proposed use would have been substantially similar to an adult foster care home for six or fewer residents, which is permitted as of right under the City's zoning laws.

82. On October 9, 2019, in direct response to the Amber Reineck House Plaintiffs' reasonable accommodation request, Schmitt submitted a memo to Mayor Proctor and the City Council requesting an additional moratorium on special land use applications be instituted through November 15, 2019. Schmitt claimed that the moratorium was necessary because the City now faces "an applicant trying to circumvent the standards the ordinance would establish," an explicit and misguided reference to the Amber Reineck House Plaintiffs' lawful reasonable accommodation request.

83. Schmitt further attempted to justify the proposed moratorium by saying that it would "allow the [proposed] ordinance to be adopted, be published, and be fully implemented, before any potential applications are made." This action amounted to a denial of Ms. Atsalakis's request for reasonable accommodations, and constituted a further act of discrimination by having the purpose and effect of further delaying the operation of the Amber Reineck House's group recovery home at the Walnut Street house.

Fair Housing Center's Intervention

84. The Fair Housing Center regularly monitors zoning and land use matters in its service area, because it is aware that discriminatory laws, practices, and decisions limit housing choice for those protected under federal and state fair housing laws frustrate its mission of combating discrimination and expanding fair housing choice, including for people with disabilities.

85. When the Fair Housing Center became aware of the roadblocks the City was erecting to the establishment of the Walnut Street house in June 2019, it opened an investigation, contacted Ms. Atsalakis, and prepared to educate City officials and the public about the provisions of the Fair Housing Act and other civil rights laws that prohibit housing discrimination on the basis of disability.

86. On October 10, 2019, one week after Schmitt told Ms. Atsalakis that her reasonable accommodation request would be denied, the Fair Housing Center sent a letter to the City advising it that the two ordinances introduced in September 2019 violated the Fair Housing Act and other civil rights laws.

87. On October 28, 2019, the City Council postponed further action on its proposed zoning and licensing changes to an unspecified date. It did not withdraw the proposed measures. The Council also approved Mr. Schmitt's proposed October 9, 2019 moratorium extension request and extended the moratorium until November 15, 2019.

88. On November 5, 2019, Mr. Schmitt yet again asked the City Council to extend the moratorium in light of the October 10, 2019 letter from the Fair Housing Center. Mr. Schmitt requested the moratorium be extended until February 24, 2020. On November 11, 2019, the City Council approved the moratorium extension through February 24, 2020.

89. On January 9, 2020, Schmitt sent an email with the subject line “Group Housing Ordinance Changes” to all individuals who “either previously expressed an interest through email or in person regarding the property at 304 South Walnut and the sober living house that was proposed for the property in 2018.” The email, which Ms. Atsalakis received, attached a revised version of the September Proposed Ordinance (the “January Proposed Ordinance”). In the email, Schmitt noted that revisions were made in direct response to the Fair Housing Center’s October 10, 2019 letter.

90. Although Schmitt’s email represented that the January Proposed Ordinance had been “rework[ed] . . . to address the legal concerns that had been raised” by the Fair Housing Center, the January Proposed Ordinance, if approved, would continue to impose discriminatory restrictions on sober living homes and other group homes for people with disabilities.

91. Specifically, the January Proposed Ordinance singles out housing that would serve people with disabilities for unjustified and burdensome restrictions not

imposed on other types of housing. It would create a new category of housing, “transitional living facilities,” that would be subjected to arbitrary zoning requirements including requiring, *inter alia*, that an applicant submit a detailed concept plan (even for existing houses) containing information on the property, neighboring properties, water and sewer systems, and other information; that the “intensity of the use (e.g., number of residents in the residential facility) shall be the *minimum* required in order to achieve feasibility of the use” (emphasis added); and that the facility meet numerous design, construction, and use standards not applied to other rental homes.

92. By its own terms, the restrictive and onerous application requirements are intended by the City to “to ensure that such housing does not alter the fundamental character of the City,” prevent the “fundamental alteration in the nature of the Zoning District and neighborhood in which the property is situated,” and “regulating transitional homes in a manner that ensures that the use of land is situated in appropriate locations and with proper relationships particularly to the surrounding land uses.”

93. There is no demonstrable relationship between the requirements contained in the January Proposed Ordinance and the needs of residents or the type of housing setting that is appropriate for sober living homes. The January Proposed

Ordinance has the purpose, and would have the effect, of limiting the number and location of homes for people with disabilities in the Howell community.

94. At the January 15, 2020 public hearing on the January Proposed Ordinance, the Fair Housing Center, through its legal representative, addressed the Mayor and Planning Commission, advising them that the ordinance, if passed, would violate federal and state fair housing laws.

95. At the January 15 hearing, Mayor Proctor and several Planning Commission members expressed frustration and a desire to pass the January Proposed Ordinance anyway. Mayor Proctor, acknowledging a potential lawsuit, stated, “I’m in support of passing this and letting the legal people debate it should something happen, and we’ll see where it goes.” Emphasizing that the City proposed the amended ordinance in direct response to community opposition to the Amber Reineck House Plaintiffs’ zoning requests, Mayor Proctor added, “But we have listened to our constituents who had concerns, and I think this protects people in neighborhoods and also protects the rights for people with disabilities to get the care they need in a residential setting.”

96. At several points during the January 15 hearing, Mayor Proctor expressed his frustration with the legal protections for housing for individuals with disabilities. Referring to the comments made by the Fair Housing Center’s legal representative at the hearing, Mayor Proctor stated, “But if I were to summarize

counsel tonight is that cities, municipalities can't do a bloody thing. We have ordinances for people with non-disabilities in houses, but we can't touch anybody with a disability." Later, referring again to Howell residents without disabilities, he added, "We have considerations of other constituents that too are, that are blessed not having a disability that have raised legitimate concerns, and I think this ordinance accommodates those concerns."

97. At the same hearing, Defendant Schmitt noted that City staff had received some "pointed comments" from Plaintiffs' attorneys after the last Planning Commission hearing on the proposed ordinance, noting that the January Proposed Ordinance was revised in response to that earlier correspondence. Referring to the Amber Reineck House Plaintiffs' application and other sober living homes in the City, Schmitt added that "what we found is when this started, we didn't know where a lot of these types of facilities were," and said the purpose of the ordinance is "just trying to get the information so that we're aware of them from the public's perspective."

Current Status

98. On February 24, 2020, the City Council voted to extend the moratorium on sober living homes operating in areas zoned as R-1 or R-2 until March 23, 2020.

99. On March 9, 2020, the City Council voted to adopt an amended zoning ordinance, Ordinance 929.

100. As enacted, Ordinance 929 imposes conditions on sober living home applicants that impose significant financial and logistical burdens on those applicants, including requiring them to provide details and information readily available to the City, including the submission of a to-scale plan for the site showing existing land use designations of adjacent parcels and buildings not in the control of the applicant, a description of the water and sanitary drainage systems, and even the location and dimensions of public streets. These requirements, none of which are related to any specific needs of the intended residents, are wholly unrelated to the needs of persons with disabilities and not tailored to protect the interests of persons with disabilities.

101. The City has not granted Ms. Atsalakis's request for reasonable accommodations to operate the Amber Reineck House's sober living home at the Walnut Street house.

102. The City has not authorized the Amber Reineck House Plaintiffs to operate at the Walnut Street house.

103. Defendants' actions since April 2018 until the present have blocked the operation of the Amber Reineck House Plaintiffs' plan to open a sober living

home, denying women recovering from addiction community-based recovery residences in the City of Howell and Livingston County.

104. Defendants' actions have fostered the notion that relying on stereotypes and discriminating against individuals based on their disabilities is lawful and permissible, have rewarded discriminatory community opposition to sober living homes, and have placed the future residents of any sober living home in Howell at risk of stigma and intimidation.

105. Plaintiffs fear that the Walnut Street house and its residents face and will continue to face discriminatory backlash from the community members who have vocally, publicly, and falsely disparaged the home as a "drug house." This jeopardizes the security, privacy, and recovery of future Amber Reineck House clients.

INJURIES TO PLAINTIFFS

Injuries to the Amber Reineck House Plaintiffs

106. As a result of Defendants' unlawful actions, the Amber Reineck House Plaintiffs have suffered, continue to suffer, and will in the future suffer, great and irreparable loss and injury, including, but not limited to economic losses, injury to reputation, interference with Amber Reineck House's ability to carry out its mission to serve people recovering from substance use disorders in residential

settings, and deprivation of the Amber Reineck House Plaintiffs' ability to serve potential residents with disabilities in the City of Howell and Livingston County.

107. Defendants' actions have exposed the Amber Reineck House Plaintiffs both to community hostility and to adverse and false understandings of persons who are in recovery from substance use disorders that Amber Reineck House intends to serve at the Walnut Street house.

108. The Amber Reineck House Plaintiffs have experienced significant hardship due to Defendants' discriminatory hostility directed at their plans to open a sober living home for women in the City of Howell, Defendants' endorsement and ratification of disability-based community opposition to their plan, and Defendants' past and ongoing efforts to inhibit the Amber Reineck House Plaintiffs' proposed use of the Walnut Street house as a sober living home in direct response to this discriminatory community opposition. The Amber Reineck House Plaintiffs fear that a sober living home will not be permitted to open at the Walnut Street house—or in any residential area in Howell—without additional costs or burdensome application procedures.

109. As a result of Defendants' actions, Amber Reineck House and Ms. Atsalakis have had to forego operating the Walnut Street house as a sober living home for over two years, obstructing Amber Reineck House from fulfilling its mission and harming its ongoing operations to provide sober living services to

women needing sober living options in the City and elsewhere in Livingston County.

110. Defendants' efforts to preclude the operation of and undermine the Amber Reineck House Plaintiffs' attempts to establish a sober living home at the Walnut Street house have caused significant reputational harm to the Amber Reineck House Plaintiffs, putting them at a disadvantage with respect to future service contracts and charitable contributions.

111. As a result of Defendants' discriminatory actions, the Amber Reineck House Plaintiffs have incurred administrative and operational costs associated with the obstruction and delay of their plan to open the Walnut Street house as a sober living home, including countering Defendants' discriminatory conduct.

112. Ms. Atsalakis purchased the Walnut Street house for the express purpose of selling it to her organization, Amber Reineck House, to be operated as a sober living home for women. Because Defendants' discriminatory actions have prevented her from selling the house to the organization and using the house for its intended purpose, Ms. Atsalakis has suffered financial losses.

113. Because the moratorium has not been lifted and they have not received any formal notice or authorization from the City, the Amber Reineck House Plaintiffs are currently unable to operate the Walnut Street house as a sober living home.

114. Unless enjoined, Defendants and their agents will continue to engage in unlawful discrimination, with the purpose and effect of preventing the Amber Reineck House Plaintiffs from providing housing to individuals with disabilities in the City of Howell, preventing Amber Reineck House from fulfilling its central mission of providing sober living home options for women recovering from substance use disorders in Livingston County, and otherwise preventing or limiting the operation of sober living homes in the City, in frustration of the mission of Amber Reineck House.

Injuries to the Fair Housing Center

115. Defendants' actions have injured Plaintiff Fair Housing Center by frustrating its mission and forcing it to divert its scarce resources to address and counteract Defendants' ongoing discrimination.

116. To address Defendants' discrimination, the Fair Housing Center has committed resources to investigate the actions being taken by Defendants, monitor the community opposition to the Walnut Street house and Defendants' response to that opposition, counsel the Amber Reineck House Plaintiffs on how to respond to such community opposition and the unlawful barriers imposed by Defendants to opening a sober living home at the Walnut Street house, and increase its efforts to identify instances of municipal discrimination against community residences for people with disabilities in its service area.

117. In response to Defendants' discriminatory actions, the Fair Housing Center has worked to counteract these actions by advocating on behalf of the Amber Reineck House Plaintiffs in an effort to stop Defendants' discriminatory conduct, advising Defendants on how their conduct violates civil rights laws, and planning new trainings for local communities and housing providers for individuals with disabilities about discrimination in zoning.

118. In the absence of the Defendants' discriminatory conduct, the Fair Housing Center would have devoted its scarce time and resources to other activities. Specifically, the Fair Housing Center's staff have diverted time and resources from counseling individuals about housing discrimination, educating individuals who may be the victims of housing discrimination on their rights under federal and state fair housing laws, and educating individuals and entities planning to open community-based residences for individuals with disabilities in the organization's service area on applicable fair housing protections.

119. The public attention and opposition that has resulted from Defendants' unlawful and discriminatory practices has frustrated the Fair Housing Center's mission by encouraging, ratifying, and engaging in an open expression of discriminatory opposition to housing for people with disabilities; preventing people with disabilities from living in single-family residential neighborhoods; and

engaging in discriminatory practices that harm the organization's mission of eliminating unlawful discrimination across its service area.

120. Unless enjoined, Defendants and their agents will continue to engage in unlawful discrimination with the purpose and effect of frustrating the mission of the Fair Housing Center to promote, protect, and secure fair housing choices without discrimination and educating the public about unlawful behavior.

Injuries to All Plaintiffs and Amber Reineck House's Potential Clients

121. Defendants' discriminatory actions have denied women recovering from substance use disorders access to supportive, community-based sober living residences in the City of Howell and Livingston County.

122. Defendants continued extending the moratorium on sober living homes until the City adopted an amended zoning ordinance that unreasonably restricts housing opportunities for people with disabilities and hinders the operation of a sober living home anywhere in the City of Howell, notwithstanding the strong demand and need for such settings in Howell and Livingston County.

123. Plaintiffs have no adequate remedy at law and are now suffering, and will continue to suffer, irreparable injury from Defendants' discriminatory conduct unless relief is provided by this Court.

124. By making and endorsing statements indicating that people with disabilities should not live in residential neighborhoods, Defendants have

conveyed to people with disabilities and to the general public that discriminatory animus towards people with disabilities is legal and/or acceptable in the housing market.

125. Defendants, directly and through their representatives and agents, discriminated against Plaintiffs because of the disabilities of the residents that were expected to live in the Walnut Street house. By requiring a special use permit, refusing to accept an application for a special use permit for housing with up to six residents with disabilities, imposing a moratorium on siting group and sober living housing areas in the City of Howell zoned R-1 and R-2, and adopting the onerous and unnecessary requirements on sober living homes contained in Ordinance 929, Defendants have otherwise denied and withheld housing and excluded persons from participating in housing because of the disabilities of the potential residents.

126. In doing the acts or in failing to act as alleged in this Complaint, Defendants Proctor and Schmitt were acting in the course and scope of their actual or apparent authority granted by the City, or the alleged acts or omissions of each representative or agent were subsequently ratified and adopted by the City, as well as in their individual capacities.

127. Defendants' conduct was willful, intentional, wanton, and taken with reckless disregard for the civil rights, physical and emotional health, personal

safety, reputation, and dignity of Plaintiffs and the clients Amber Reineck House intends to serve.

128. As a proximate result of Defendants' conduct, the Plaintiffs have suffered, are continuing to suffer, and will in the future suffer irreparable loss and injury. Plaintiffs are therefore entitled to the relief requested herein.

129. Plaintiffs have no adequate remedies at law. They are now suffering and will continue to suffer irreparable injury from the City's acts and from its discrimination against them based on disability unless relief is provided by this Court. Accordingly, they are entitled to preliminary and permanent injunctive relief.

130. Defendants continue to engage in the discriminatory conduct alleged in this Complaint, so as to constitute a continuing violation against Plaintiffs.

FIRST CAUSE OF ACTION

Fair Housing Act, 42 U.S.C. §§ 3604, 3617

131. Plaintiffs reallege and incorporate by reference all above paragraphs, as if fully set forth herein.

132. Defendants' actions described in this Complaint amount to unlawful disability discrimination in violation of the federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.* In passing the Fair Housing Act, Congress explicitly called for an end to zoning restrictions that limit housing opportunities for people with

disabilities to live in communities and rejected the idea the assumptions and misunderstandings about people with disabilities who might reside there can serve as the basis for adverse action or exclusion.

133. The Fair Housing Act “is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion...” H.R. Rep. No. 711, 100th Cong., 2d Sess. 18 (1988), reprinted at 1988 U.S. Code Cong. & Admin. News 2173, 2179.

134. Plaintiffs are associated with individuals who have “handicaps” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(h).

135. Defendants injured Plaintiffs in violation of the Fair Housing Act by committing the following discriminatory practices:

- a. Discriminating or otherwise making housing unavailable because of a disability, in violation of 42 U.S.C. § 3604(f)(1);
- b. Discriminating in the terms, conditions, and privileges of the sale or rental of a dwelling, or in the provision of services or facilities

in connection with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);

- c. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B);
- d. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based handicap, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c); and
- e. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617.

136. Defendants' actions and omissions in violation of the Fair Housing Act caused Plaintiffs' injuries as detailed above.

137. Defendants' conduct were intentional, wanton, malicious, and done in reckless disregard of the civil rights of Plaintiffs and the clients that Amber Reineck House intends to serve.

SECOND CAUSE OF ACTION

Titles II and V of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12132, 12203

138. Plaintiffs reallege and incorporate by reference all above paragraphs, as if fully set forth herein.

139. Defendants' actions violate the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* and its implementing regulations, which require the City to administer all of its programs and activities—including its legislative, executive, zoning, and code enforcement functions—in a manner that does not discriminate on the basis of disability, and to “administer [its] services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” 28 C.F.R. § 35.130(d) (2016).

140. Defendants have injured Plaintiffs in violation of Title II of the Americans with Disabilities Act by committing the following discriminatory practices:

- a. Subjecting to discrimination or excluding a qualified individual with a disability, by reason of such disability, from participation in or denying that person the benefits of services, programs, or activities of a public entity in violation of 42 U.S.C. §§ 12131 and 12132; and
- b. Refusing to make reasonable accommodations or modifications in rules, policies, or practices, in violation of 42 U.S.C. §§ 12131 and 12132.

141. Defendants have injured Plaintiffs in violation of Title V of the ADA by committing the following discriminatory practices:

- a. Retaliating or otherwise discriminating against an individual because such person has opposed any act or practice made unlawful by the Americans with Disabilities Act or because such individual assisted or participated in any manner in an investigation, proceeding, or hearing under the Americans with Disabilities Act, in violation of 42 U.S.C. § 12203(a); and
- b. Coercing, intimidating, threatening, or interfering with an individual's exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or

enjoyment of, any right granted or protected by the ADA, in violation of 42 U.S.C. § 12203(b).

142. Defendants' actions and omissions in violation of the Americans with Disabilities Act caused Plaintiffs' injuries as detailed above.

THIRD CAUSE OF ACTION
Persons with Disabilities Civil Rights Act,
Mich. Comp. Laws §§ 37.1301–1303, 37.1501–1507

143. Plaintiffs reallege and incorporate by reference all above paragraphs, as if fully set forth herein.

144. Defendants have injured the Plaintiffs in violation of the Persons with Disabilities Civil Rights Act, Mich. Comp. Laws §§ 37.1301–1303, by committing the following discriminatory practices:

- a. Denying an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a public service because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids; and
- b. Printing, circulating, posting, mailing, or otherwise causing to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities,

privileges, advantages, and accommodations of a public service will be refused, withheld from, or denied an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.

145. Defendants have injured Plaintiffs in violation of the Persons with Disabilities Civil Rights Act, Mich. Comp. Laws §§ 37.1501–1507, by committing the following discriminatory practices:

- a. Subjecting to discrimination or excluding a qualified individual with a disability, by reason of such disability, from participation in or denying that person the benefits of services, programs, or activities of a public entity;

- b. Making, printing, circulating, and posting, or causing to be made or published a statement, advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect to a real estate transaction on the basis of disability;
- c. Refusing to make reasonable accommodations or modifications in rules, policies, or practices;
- d. Retaliating or otherwise discriminating against an individual because such person has opposed any act or practice made unlawful by the Act or because such individual assisted or participated in any manner in an investigation, proceeding, or hearing under the Act; and
- e. Coercing, intimidating, threatening, or interfering with an individual's exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Act.

146. Defendants' actions and omissions in violation of the Persons with Disabilities Civil Rights Act caused Plaintiffs' injuries as detailed above.

147. Defendants' conduct has been, and continues to be, intentional, wanton, malicious, and done in reckless disregard of the civil rights of Plaintiffs and the clients that Amber Reineck House intends to serve.

REQUEST FOR RELIEF

Based on the foregoing, Plaintiffs respectfully request that the Court grant them the following relief:

A. Enter a declaratory judgment that the foregoing actions of Defendants violate the Fair Housing Act, 42 U.S.C. §§ 3604, 3617, the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12132, 12203, and Michigan's Persons with Disabilities Civil Rights Act, Mich. Comp. Laws §§ 37.1301–1303, 37.1501–1507;

B. Enter preliminary and permanent injunctions, and all other affirmative relief necessary, enjoining Defendants and their affiliates, subsidiaries, agents, employees, and representatives from continuing the illegal conduct described above, and further directing Defendants to remedy the effects of their illegal, discriminatory conduct alleged in this Complaint and to prevent similar occurrences in the future. Such affirmative relief should include, but not necessarily be limited to, the elimination of any and all policies prohibiting Amber

Reineck House and Ms. Atsalakis from opening and/or operating a sober living home in the Walnut Street house or elsewhere in the City of Howell;

C. Award compensatory damages to Amber Reineck House in an amount that would fully compensate it for its economic losses, reputational harm, and interference with and frustration of its mission to provide community-based sober living housing for women recovering from substance use disorders, resulting from Defendants' unlawful and discriminatory conduct;

D. Award compensatory damages to Courtney Atsalakis in an amount that would fully compensate her for her economic losses, humiliation and embarrassment, emotional distress, and reputational harm, resulting from Defendants' unlawful and discriminatory conduct;

E. Award compensatory damages to the Fair Housing Center in an amount that would fully compensate it for the diversion of its resources and the frustration of its mission resulting from Defendants' unlawful and discriminatory conduct;

F. Award Plaintiffs punitive damages in an amount to be determined at trial that would punish Defendants for their intentional, malicious, willful, callous, wanton, and reckless disregard for the civil rights of Plaintiffs and the clients that Amber Reineck House intends to serve, and would effectively deter Defendants from engaging in similar conduct in the future;

- G. Award Plaintiffs their reasonable attorneys' fees and costs; and
- H. Order such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

DATED: March 17, 2020

Respectfully submitted,

/s/ Joseph J. Wardenski

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**Application to practice in the Eastern
District of Michigan forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2020, I electronically filed and served on all counsel of record a copy of the foregoing First Amended Complaint using the Court's CM/ECF electronic filing system.

/s/ Joseph J. Wardenski
Joseph J. Wardenski