

Reasonable Accommodation Request Form

Name of Applicant: Margate Care for Heroes¹
c/o Miryam Jimenez
954 608 4067
miryamjimenez@vaqualityoflife.com

Address: 603 Melaleuca Drive, Margate, FL 33063

Address of housing or other location at which accommodation is requested:
603 Melaleuca Drive, Margate, FL, 33063

Describe qualifying disability or handicap:

The prospective patients of Margate Care for Heroes (“MCH”) suffer from post-traumatic stress disorder (PTSD) and other co-occurring disabilities, including substance abuse. Under the Fair Housing Act, 42 U.S.C. 3601-3631 (FHA) and the American with Disability Act, 42 U.S.C 12101 et seq (ADA), people who suffer from such disabilities are entitled to reasonable accommodations.

The ADA defines “disability” as: “(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.” 42 U.S.C. § 12102(1) (2009). Here, the patients of MCH suffer from PTSD, which is constitutes a mental impairment that substantially limits their major life activities. *See Rossbach v. City of Miami*, 371 F.3d 1354, 1357 (11th Cir.2004); *Forbes v. St. Thomas Univ., Inc.*, 768 F. Supp. 2d 1222, 1228–29 (S.D. Fla. 2010); *Singh v. Geo. Wash. Univ. Sch. of Med.*, 508 F.3d 1097, 1100 (D.C.Cir.2007). The phrase “major life activities” means important functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. *Cash v. Smith*, 231 F.3d 1301, 1305 (11th Cir. 2000).

Also under the FHA and ADA, persons in recovery from alcohol or other substance abuse use are considered disabled and thus entitle to the statutes’ protections. *Jeffrey O v. City of Boca Raton*, 511 F. Supp. 2d 1339, 1346-7 (S.D. Fla. 2007); *MX Group, Inc. v. City of Covington*, 293 F 3d 326, 336-340 (6th Cir 2002); *Innovative Health Sys v City of White Plains*, 117 F. 3d, 37, 48-49 (2d Cir. 1997); 42 U.S.C. 12210(b); and 28 C.F.R. 35.104(A)(ii) (listing “drug addiction” as a physiological impairment). Such persons are specifically included within the federal definition of “handicapped individual.” *See also* 42 U.S.C. 3602(h) and 24 C. F. R. 100.201(a)(2)

¹ Please be advised that the applicant concurrently submitted a Change of Zoning Application on June 2, 2020, and that said application is pending before the City.

Thus any person in active recovery and/or treatment from some form of addiction to substances and/or alcohol are therefore specifically included within the definition of “handicapped individual.” See 42 U.S.C. 3602(h) (Fair Housing Act) and 24 C.F.R. 100.201(a)(2) See also *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 115, S.Ct. 1776 (1995). The Fair Housing Act itself was amended to include handicapped individuals within its parameters, and to guarantee the ability of these individuals to live in the residence of their choice within the community. Congress intended the FHA to protect the rights of handicapped persons to live in a residence of their choice in the community.

Licensed services providers that propose to provide services to qualifying Individuals with disabilities, such as people in recovery for addiction and/or PTSD have standing as “person[s] alleging discrimination on the basis of disability” under the Americans with Disabilities Act. 42 U.S.C. 12133 and 28 C.F.R. 35.130(b)(6); *A Helping Hand, LLC v Baltimore County Md.*, 515 F.3d 356, 364, (4th Cir, 2008) Similarly, those who wish to provide housing for handicapped persons have standing under the Fair Housing Act. See, e.g., *Judy B. v. Borough of Tioga*, 889 F. Supp. 792, 797, (M.D. Pa. 1995); *North Shore-Chicago Rehab., Inc. v. Village of Skokie*, 827 F Supp. 497, 507 n.3 (N.D. Ill. 1993); *Horizon House Dev. Servs., Inc. v Twp. of Upper Southampton*, 804 F. Supp. 683, 692 (E.D. Pa. 1992) *aff’d mem*, 995 F.2d 217 (3d Cir. 1993).

Please note that it is illegal under the ADA and its implementing regulations to exclude treatment programs from zoning districts where other similar quasi-residential/medical uses are allowed, or to apply different standards for their approval. See *Pathways v. Town of Leonardtown*, 133 F. Supp. 2d 772, 777-78 (D. Md. 2001)(defendants’ interpretation of a psychiatric rehabilitation program as a “school” or “adult day care facility”, instead of an “office” and/or “medical office”, raised a triable issue of fact the Commission’s decision was due to impermissible discrimination).

Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought:

According to regulations on the Margate Zoning Code of Ordinance in January 2015 the Property was approved by resolution 15-010 as a Group Care Facility (GCF) (ALF) as in Section 2.2, which was able to provide residence and/or supervision and services for individuals who are handicapped, aged, disable or undergoing rehabilitation including nursing homes. Also, the regulations were, that, the property was to be located within 1,000 feet separation from another GCF to preserve the residential neighborhoods of the city while also ensuring that disable individuals inhabiting GCF experience a true neighborhood lifestyle. According to the Southern District of Florida’s Court order, the Property was not to be affected by the new zoning code of 2017 and that this (GCF)(ALF) can provide medical care and services that are

incidental to the approved use. Also, if one is to take this property to enforce the new Code of Ordinance modification in 2017, an ALF is described as a Long Term Care Facility that could provide housing and register nursing services to patients also allowing medical services in the facility.

We are requesting to reasonable accommodate the procedure and instead of using the Long Term Care Facility as an AFL to use this Long Term Care Facility as a Community Residential Treatment Facility to reasonable accommodate the Veterans that are suffering from Post-Traumatic Stress Disorder and Substance Use Disorder to be allowed to reside and to be treated for their Mental health issues.

The accommodation sought does not require a fundamental alteration of the City's Zoning Code, as various facilities that offer a mix of residential and medical services occupy properties with the same R-3 zoning category as MCH (see VIP Memory Care Pavilion). The proposed use is thus consistent with the City's current land use scheme. The Property and surrounding area are ideal to host MCH, as the facility is very close to West Atlantic Boulevard and a variety of different land uses. The facility is also close to other multi-family and single family residential properties, which would offer tranquility to the veterans as they recover. The facility is not a hospital, and will not offer the highly medical services found in hospitals. It will also generate far less traffic than the prior use in 2014 of 10 apartment units.

Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy housing or other service:

The proposed reasonable accommodation for the Property is necessary because there are no Veterans-only Community Residential Treatment Facilities in Broward county or Palm Beach County currently. Despite the dire need for such facilities in our community, the only such facility is located in Miami Dade County – 32.2 miles away and offers 36 beds, which are a part of the VA hospital:

Bruce W. Carter. Department of Veterans Affairs Medical Center.
1201 Northwest 16th Street
Miami, FL 33125-1624

See below the list of the local facilities which are all outpatient with limited hours of operations and some of them are closed due to the Coronavirus.

Facility Closed
2100 Southwest 10th Street
Deerfield Beach, FL 33442-7690

Limited services and hours

901 Meadows Road
Boca Raton, FL 33433-2300

Limited services and hours

4800 Linton Boulevard
Suite E300
Delray Beach, FL 33445-6597

Facility Closed

7369 Sheridan Street
Suite 102
Hollywood, FL 33024-2776

Facility Closed

3702 Washington Street
Suite 201
Hollywood, FL 33021-8283

Facility Closed

1492 West Flagler Street
Suite 102
Miami, FL 33135-2209

Limited services and hours

7305 North Military Trail
West Palm Beach, FL 33410-6400

The number of Veterans with PTSD varies by service era:

- **Operations Iraqi Freedom (OIF) and Enduring Freedom (OEF):** About 11-20 out of every 100 Veterans (or between 11-20%) who served in OIF or OEF have PTSD in a given year.
- **Gulf War (Desert Storm):** About 12 out of every 100 Gulf War Veterans (or 12%) have PTSD in a given year.
- **Vietnam War:** About 15 out of every 100 Vietnam Veterans (or 15%) were currently diagnosed with PTSD at the time of the most recent study in the late 1980s, the National Vietnam Veterans Readjustment Study (NVVRS). It is estimated that about 30 out of every 100 (or 30%) of Vietnam Veterans have had PTSD in their lifetime.

Other factors in a combat situation can add more stress to an already stressful situation. This may contribute to PTSD and other mental health problems. These factors include actions taking in wartime, the politics around the war, where the war is fought, and the type of enemy faced.

Another cause of PTSD in the military can be military sexual trauma (MST). This is any sexual harassment or sexual assault that occurs while in the military. MST can happen to both men and women and can occur during peacetime, training, or war.

Among Veterans who use VA health care, about:

- 23 out of 100 women (or 23%) reported sexual assault when in the military.
- 55 out of 100 women (or 55%) and 38 out of 100 men (or 38%) have experienced sexual harassment when in the military.

There are many more male Veterans than there are female Veterans. So, even though military sexual trauma is more common in women Veterans, over half of all Veterans with military sexual trauma are men.

One out of 10 veterans with PTSD also suffers from substance use disorders. Despite this fact, substance use disorders are commonly overlooked and undertreated among veterans. Whether this is due to the stigma around substance abuse disorders or because of possible repercussions from undertreated PTSD, substance abuse among veterans is on the rise, and when left untreated can be detrimental to everyday life. While military reports of illicit drug use among personnel have remained lower in number than civilian reports, abuse of alcohol and prescription drugs has skyrocketed among veterans.

The urgency for reasonable accommodation of the Property is due to the immediately need to obtain the City's approval of a zoning letter on City letterhead (example attached), which is required to obtain a license which takes a minimum of 30 day to process. **The deadline to submit a contract to participate in the Veterans Integrated Service Network (VISN 8) is July 20, 2020.** It is very important to obtain this contract because it will provide the budget to pay for patients' treatment in an inpatient facility from 30 to 120 days. Since this is a private facility the payment for treatment will start 30 days after the patients have been treated and does not include a budget for the setup or any accommodation of the facility. We urge the City leaders to support the veterans by speeding this process along in an effort to not to lose out on this contract. Together we can save lives.

Due to mental health issues such as PTSD and SUD, a disturbing number of veterans take their own lives in the U.S. On average, approximately 7,300 Veterans die from suicide each year. Despite significant efforts and billions of dollars invested by the state and federal governments across the nation, suicide rates among Veterans rose 26

percent from 2005 to 2016. In Florida alone, nearly 600 veterans die from suicide each year at a rate slightly higher than the national average.

Finding a solution to this public health crisis requires an aspirational, innovative, all-hand-on-deck approach—not government as usual. The VA alone cannot achieve an effective or lasting reduction in the Veterans’ suicide rate. To make a real impact, Federal, State, and Local providers of resources must partner together pool resources and coordinate care and delivered of services efficiently

In Florida we recognize these challenges and are taking proactive steps to break down bureaucratic barriers and requesting the City of Margate to work together to support our effort so that we are able to offer resources as a much needed Residential Treatment Facility to the Veterans in need of our help the most before they reach a crisis point

Name, address and telephone number of representative, if applicable.

Miryam Jimenez
5379 Lyons Rd Suite 154
Coconut Creek, FL, 33073
954 608 4067
miryamjimenez@vaqualityoflife.com

Signature of Disabled Individual or Representative, if applicable, or Qualifying Entity:

/s/ Miryam Jimenez
President of MCH
Date: June 5, 2020

Dear Ms. Jimenez,

Please allow this correspondence to serve as confirmation that your intended uses of the property located at 603 Melaleuca Dr, Margate, Florida (the "Property") as a DCF Licensed Residential Level 1 treatment facility and as an AHCA licensed Residential Treatment Facility are permitted uses at that location.