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Sober house moratorium denied by Hailey City Council

Express staff Oct 23, 2018

A last-ditch request for an “emergency moratorium” on sober houses in Hailey was denied by the Hailey City Council on Monday.

Men’s Second Chance Living, a sober house recovery home for men, is expected to open its doors on Nov. 1, despite a legal effort by neighbors to stop or stall it.

Attorney Michael Pogue launched an appeal last month of an August city staff decision to allow the facility, on the grounds that its inhabitants could be felons or sex offenders as well as addicts, and therefore pose a danger to the neighborhood.

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Pogue lost the appeal last week and applied for the moratorium in time for a City Council meeting Monday, citing state law that he said allows the city to regulate the homes because they would pose “imminent peril to public health, safety and welfare.”

Acting City Attorney Jim Phillips said at the meeting Monday that prohibiting sober houses as a “selected class” of permits would be illegal and that the city has no conditional-use process to regulate them.

Phillips added that the federal Fair Housing Act prohibits discrimination against anyone because they have a disability, yet does have a provision that allows a person to be denied housing if he or she “clearly demonstrate a danger to others.”

A letter sent to the city by legal counsel for the Association of Idaho Cities states that people in recovery from addiction are considered to have a disability.

Phillips said it would be “very complicated” for the city to draft an ordinance prohibiting or regulating sober houses and that no group of people could be prohibited from seeking housing based on religion, sex or disability.

“That would be a step too far,” Phillips said. “There can be no categorical prohibition, but only on a case-by-case basis.”

For full coverage of this story, check the Wednesday, Oct. 24, edition of the Idaho Mountain Express.