

# Nonprofit files complaint against Illinois, says state should not have blocked disability housing in Elgin

By Olivia Olander  
Chicago Tribune

A nonprofit provider for people with severe developmental disabilities is going to court against the state, arguing Gov. JB Pritzker's Department of Human Services improperly denied it permission to build a cluster of new homes in Elgin.

The denial related to rules that restrict building multiple homes for people with intellectual and developmental disabilities next to each other, according to court documents. And the state said the provider had gotten ahead of itself in asking to build multiple community-based homes before it had successfully run one.

The organization, Marklund, argued the state had leaned on arbitrary factors to nix its request at a time when hundreds of people with disabilities are seeking homes that are integrated into neighborhoods.

"They are stuck in the dark ages," Marklund President and CEO Gil Fonger said in an interview. "We're trying to innovate and the state, for whatever reason, has no appetite for innovation."

The complaint, filed late last week in Kane County Circuit Court, speaks to the challenges of opening new residential options that meet

the promise of community-integrated living without feeling like institutions, experts said this week.

The Department of Human Services didn't respond to a request for comment Thursday.

Marklund first proposed building seven four-bedroom "ranch homes" for people with disabilities six years ago, Fonger said.

Federal rules generally state that so-called community integrated living arrangements, or CILAs, can't be directly next to each other. The rules were put in place to prevent people with disabilities from being isolated from the communities in which they live, as they can be in an institutional setting.

Those rules also allow providers to request waivers, and Marklund submitted a request in June 2024, arguing, in part, that a cluster setting would allow them to more efficiently utilize staff for people with severe medical and behavioral needs, according to the legal complaint and attached documents.

But the state has repeatedly denied Marklund's waiver requests, according to court documents.

In the most recent denial, the state said Marklund couldn't open multiple homes under its current provisional license because

it hadn't yet opened or operated a single community-integrated living arrangement. An administrative law judge said existing rules limit the number of CILAs a provider can operate until it's fully licensed.

Marklund has said that, while they don't run a CILA, they operate other state-licensed residential facilities.

Earlier state denials included reasons that Marklund argued were arbitrary. IDHS at one point said it was only considering homes with three bedrooms, whereas Marklund was proposing homes with four bedrooms, for example, according to the complaint. The IDHS website defines a CILA as having eight or fewer residents.

State and federal rules for those operating CILAs are generally intended to ensure the safety of people with developmental disabilities while still allowing for a home-like setting, as many states, including Illinois, seek to provide more options outside of state-operated developmental centers, or SODCs.

Illinois has a troubled track record of transitioning residents to group homes, and supply remains low. At the same time, the number of people living in larger settings is smaller than the population of residents in smaller settings across the

state.

The Tribune reported earlier this year that hundreds of people living in Illinois' seven SODCs — close to 15% of the total population in those centers — were seeking options elsewhere, often in community-integrated settings.

Illinois has an impetus to help those who want to leave its SODCs. In 2011, the state fell under a consent decree to ensure it establishes a process for people living in the state facilities to have the opportunity to move to a community-based group home; the consent decree was an offshoot of a 2005 lawsuit filed on behalf of people with developmental disabilities who sought placement in community-based facilities.

Marklund is not opposed to going through the entire CILA licensing process, but leaders at the nonprofit want to know whether it will be eligible to build multiple homes, Fonger said. The provider is looking to specifically serve people with severe medical and behavioral needs who have few options otherwise, and it wouldn't be cost-effective to open just one home, he said.

"We're just puzzled that the state is fighting so hard against this," Fonger said. "Lead, follow or get the hell out of the way."