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Human rights tribunal to examine city restrictions on group homes

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TORONTO - Ontario's human rights tribunal will weigh a challenge to Toronto's zoning rules that experts say could affect how municipalities across the country integrate housing for people with mental illness or disabilities.

City lawyers had asked the tribunal to throw out a complaint against rules that restrict the number and location of group homes, residential care facilities and other types of supportive housing.

The complaint was filed two years ago by a housing advocacy group called The Dream Team, which said the city's bylaws discriminate against people with disabilities by limiting the areas in which they can live.

In a decision released earlier this month, the tribunal refused to dismiss the case and called for a hearing to determine whether the rules contravene the province's human rights code.

The case could have widespread repercussions, since many municipalities have similar regulations, said Michael Shapcott, housing director for the Wellesley Institute, a policy think tank in Toronto.

"Almost certainly, what happens in Toronto will have an impact on every other municipality not only in Ontario but across Canada," he said.

"So this is a legal case that a lot of municipalities are looking at very closely."

Provincial human rights codes across the country prohibit discrimination based on a number of protected grounds, including disability.

Yet only recently have human rights concerns been raised in opposing bylaws that limit supportive housing, said Barbara Hall, chief commissioner of the Ontario Human Rights Commission. The commission is intervening in the Toronto case.

Last year, the Ontario Municipal Board struck down a zoning bylaw in Kitchener that restricted supportive housing in a neighbourhood, citing human rights concerns.

Meanwhile, the Ontario communities of Sarnia and Smiths Falls have pledged to review their bylaws to ensure they don't violate human rights laws.

Hall said most municipalities don't want to discriminate, but simply don't realize the full impact of their regulations.

"You may have a situation where a certain number of people ... with disabilities are unable to find housing in a particular community" because there aren't enough group homes or other facilities available, she said.

Sometimes the restrictions are put in place following pressure from community groups who want to keep "certain kinds of housing" out of the area, she said.

"It's very much a response to 'We don't want those people in our neighbourhood,'" she said.

The commission plans to publish a guide next month to help municipalities navigate human rights issues related to zoning.

Among the issues it will tackle are the minimum separation requirements at the heart of the Toronto challenge.

Municipalities adopted the regulations en masse after the province shuttered several psychiatric hospitals in the 1960s and 70s, said Kenneth Hale, legal director of the Advocacy Centre for Tenants Ontario.

Communities were convinced to allow group homes in residential neighbourhoods, but tried to reassure residents by ensuring they would be spaced out, Hale said.

Toronto's bylaws impose a minimum distance of 250 metres between group homes, residential care facilities and other types of supportive housing.

The Dream Team alleges the rules "have a fundamental and negative impact on their dignity, treatment and ability to participate as members of the community," according to the decision.

The group has members who say they face mental health issues and may need supportive housing now or in the future.

City lawyers have argued there is no proof the group's members have suffered discrimination as a result of the regulations.

In their submissions, they also say the tribunal has no jurisdiction over zoning bylaws.

Antonella Ceddia, who represents the city, said she and her team are reviewing the tribunal's decision.

A hearing date has not been set.