

# Pikesville methadone clinic staying open under ruling by appeals court

By Laura Barnhardt | Sun reporter

*February 13, 2008*

A methadone clinic in Pikesville that prompted Baltimore County Council members to pass regulations aimed at keeping drug treatment facilities from operating in neighborhoods will be allowed to remain open, a federal appellate court ruled yesterday.

But the opinion issued by the judges sitting one level below the Supreme Court leaves some question about whether the county's 2002 law prohibiting state-licensed medical facilities from opening within 750 feet of homes violates the Americans with Disabilities Act.

The opinion issued by the 4th U.S. Circuit Court of Appeals vacates an injunction issued by District Judge Catherine C. Blake last year prohibiting the county from enforcing its law on the location of clinics. But the appellate court decision also allows the clinic, A Helping Hand, to request a new trial on the ADA questions.

County officials and the American Civil Liberties Union of Maryland found reason to be pleased with the opinion of the judges.

"The appeals court basically agreed that it is an appropriate function for local governments to regulate what types of businesses can be located," said County Executive James T. Smith Jr.

Both the lead attorney for the ACLU of Maryland and the owner of A Helping Hand read the opinion differently.

"Our main objective was to protect the clinic and its ability to serve the public," said Deborah A. Jeon, legal director for the ACLU of Maryland, which was a party to the clinic's lawsuit against the county in federal court.

The three appellate judges found that the clinic's due-process rights had been violated because it had received county and state permits to open hours before the County Council passed the law prohibiting it from doing so.

The due-process conclusions by Judges Diana Gribbon Motz, Allyson K. Duncan and Leonie M. Brinkema, a federal District Court judge sitting on the appellate panel, allow the clinic to stay open, both sides agree.

Whether the county law on clinics' locations violates the ADA is an "open question," Jeon said.

Yesterday's opinion says, in part, that "the district court erred in holding, as a matter of law, that the clinic had established that its clients were 'regarded as' disabled." The legal distinction was used to apply the ADA protections.

The question should have been left for a jury to decide, the judges wrote in the opinion.

The ACLU and clinic owner Joel Prell said they were evaluating whether to request a new trial.

"I feel we have a victory for the clinic," Prell said. But, he said, the litigation also sought to "take away barriers to treatment" elsewhere.

Some health officials and legal experts say the Baltimore County case has implications for other local governments and drug treatment programs.

A Helping Hand opened in 2005 and, with the agreement of the county, has remained in operation during the litigation.

Methadone clinics are permitted in areas zoned for manufacturing in Baltimore County.

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