

MINUTES OF THE Senate COMMITTEE ON Local Government

The meeting was called to order by Senator Don Montgomery at
Chairperson

8:30 a.m./~~p.m.~~ on Wednesday, April 3, 1985 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Theresa Kiernan, Lila McClafflin, Emalene Correll

Conferees appearing before the committee: Kim Dewey, Sedgwick County, Wichita
John Koepke, Kansas Assn. of School Boards
Craig Grant, Kansas Nat'l Education Assn.
Bill Dirks, Wichita Public Schools, Wichita
Gerry Ray, Johnson County Commissioners
Onan Burnett, Topeka Public Schools, Topeka
Chris McKenzie, League of Kansas Municipalities
Jim Kaup, League of Kansas Municipalities
Representative Dennis Spaniol
Bob Anderson, Mid Continent Oil and Gas, Ottawa
Glen E. Dockery, City of Wichita, Wichita
Representative Marvin Barkis, Louisburg
Joan Strickler, KS. Advocacy & Protective Services
for the Developmentally Disabled, Inc.
Joan Wesselowski, Ks. Assn. of Rehabilitation
Facilities, Newton
Merilee Larson, Sheltered Living, Inc. Topeka
Howard Snyder, President Kansas Families for
Mental Health, Prairie Village, KS.
Red Turnbull, Professor of Special Education
and Law, K.U., President elect., American Assn.
on Mental Deficiency

The chairman called the meeting to order.

Senator Allen moved to approve the three sets of minutes, March 29, April 1 and 2, with the correction of Rep. Nancy Brown's name, page 2 of the March 29 minutes. Senator Mulich seconded the motion. The motion carried.

The following committee action was taken:

H.B. 2383, Senator Mulich moved to accept the amendment offered by the League of Ks. Municipalities (attachment 1). The amendment would add the language in Section 1, line 47, "The use of such real estate or property shall be subject to all zoning regulations, subdivision regulations and building code regulations of the city." Senator Steineger seconded the motion. The motion carried.

Senator Mulich moved to pass the bill as amended. Senator Steinegar seconded the motion. The motion carried.

H.B. 2179, Jim Kaup, League of Kansas Municipalities, withdrew the amendment that included H.B. 2291, and offered his original amendment which is noted in the minutes of April 2, 1985. Senator Gaines moved to accept the amendment. Senator Ehrlich seconded the motion. The motion carried. Senator Gaines moved to pass the bill as amended. Senator Mulich seconded the motion. The motion carried.

H.B. 2160, Senator Gaines moved to report the bill favorably. Senator Mulich seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,
room 531-N, Statehouse, at 8:30 a.m. ~~XXX~~ on Wednesday, April 3, 1985.

The hearing on H.B. 2225 was opened. Staff reviewed the bill. The bill prohibits considering the franchise receipts derived from utility services provided to any county, school district, or other political or taxing subdivision in computing the fixed charges to be paid by the utility to the city. The bill further prohibits any portion of this charge from being assessed against these local units. It would be effective after January 1, 1987.

Rep. Dennis Spaniol spoke in support of the bill, it was introduced at the request of the Sedgwick County Delegation.

Kim Dewey, Sedgwick County, spoke in support of the bill. He stated it is not the intend of this bill to cut these revenues to the cities or cause a burden to shift to city property taxpayers. They feel it is timely legislation that most cities will be experiencing substantial windfall franchise tax collections due to increase utility rates when Wolf Creek comes on.

John Koepke, Kansas Assn. of School Boards, spoke in support of the bill. He stated it has been a long standing tradition of local units not to tax one another. Every dollar they can save is of great concern to them.

Craig Grant, KNEA, stated with tighter budgets in our school districts anything they can do to release funds for schools helps with other expenses. They support the bill.

Bill Dirks, Wichita Public Schools, presented written testimony in support of the bill (attachment 2) of these minutes.

Gerry Ray, Johnson County Commissioners, stated since our most populated areas will be effected by the Wolf Creek rate hike, we feel our cities will not have significant problems because of the exemption. The Johnson County Commission request support for H.B. 2225.

Onan Burnett, Topeka Public Schools, stated they wholeheartedly support the bill.

Chris McKenzie, spoke in opposition to the bill. They do not think Wolf Creek rate hike or any other increase will create a windfall for any cities, most cities are located outside of Wolf Creek. County and school governments receive many benefits by being located in city limits, these benefits are paid for by the cities.

Bob Anderson, Mid Continent Oil and Gas, Ottawa, stated the original franchise charge to the cities was for the use of the public streets and easements and is passed on to the utility rate payer, which, a lot of you have a reputation as trying to guard.

Glen E. Dockery, City of Wichita, presented written testimony in opposition to the bill. His written testimony is apart of these minutes (attachment 3).

This concluded the hearing on H.B. 2225.

The hearing for H.B. 2275 concerning zoning; relating to group homes was opened.

Rep. Marvin Barkis was present and stated why the bill was introduced and how he had became interested in this problem while trying to get some zoning changed in Paola, KS. We are restricting the rights of those kinds of persons to live in our communities. You can usually win a zoning change but it is an expensive process and it creates hard feelings in small communities where it should not have to happen. I think the State of Kansas should allow this kind of zoning. There is a case in the Supreme Court now, questioning if you can zone group homes out of residential areas. It is almost

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,
room 531-N, Statehouse, at 8:30 a.m. ~~xxx~~ on Wednesday, April 3, 1985

a necessity that retarded adults live in group homes, where they can pool their resources and have help from a resident couple. We feel strongly that this would be a step forward for Kansas. Rep. Barkis was asked if he had an objection to reinstating mentally ill. He stated he did not.

Joan Strickler spoke in favor of the bill her written testimony is (attachment 4) of these minutes.

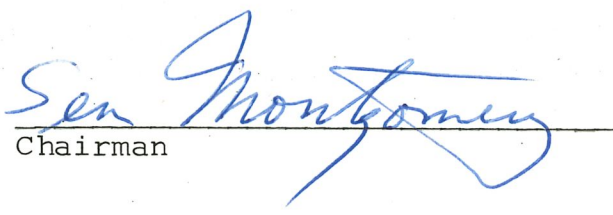
Joan Wesselowski, Ks. Assn. of Rehabilitation Facilities, and Merilee Larson, Executive Director, Sheltered Living, Inc. both spoke in behalf of the bill, their written testimony and information regarding their agencies is apart of these minutes (attachment 5).

Howard Snyder, Prairie Village, President, Kansas Families for Mental Health, testified in support of H.B. 2275, if it is amended to include the mentally ill. His written testimony is (attachment 6).

Red Turnbull, Professor of Special Education and Law, K.U., spoke in favor of the bill. He said it is what the mentally deficiency of Kansas deserve. He is to write a memo to the committee chairman regarding the Federal Supreme Court case. The chairman also, asked Mike Heim, if he could get a copy of the Supreme Court case.

The committee time was up and the chairman announced that the hearing on H.B. 2275 would have to be continued at another time.

The meeting adjourned at 10:00 a.m.


Chairman

Date: April 3, 1985

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

NAME	ORGANIZATION	ADDRESS
Jim Kaup	League of Municipalities	Topeka
Kim C. Newey	Seawick County	Wichita
Gerry Ray	Johnson County	Olathe
Paul M. Klotz	ASSOC. OF CMHC's OF Ks, Inc.	Topeka
Ric Silber	D.O.B.	
D. WAYNE ZIMMERMAN	THE ELECTRIC CO's ASSOC. OF KS.	TOPEKA
DAN R. MCGEE	WESTERN POWER / CENTEL	GREAT BEND
Mitch Cooper	Topeka Resource Center for the Handicapped	Topeka
Jean Ann Summers	Kansas DD Council Univ. of Kansas	Lawrence
H. R. TURNBULL	Am. ASSN ON MENTAL DEFICIENCY	Lawrence
Lyville Rayson	Sheltered Living Inc.	KARF Topeka
Janice Messelback	Topeka Rehab. Ctr.	Lawrence
Patrice Schmitz	LAKEMARY CENTER & KARF JAAM	PAOLA
Bill Murks	U.S. dl. 259	Wichita, Kansas
Kathy Payne	Ks. Parent Assoc. for Deaf-Blind / Multiply Handicapped	Tecumseh, Ks.
Chanel Barnett	USD 581	Topeka
JANET STUBBS	HBAK	"
Robert G. Gardner	Midwest Oil & Gas	O'Lawo
Glen Slobson	City of Wichita	Wichita, Ks.
Judy Anderson	City of Wichita	Wichita, Ks.
Craig Grant	H-WEA	Lawrence
Samuel Snyder	Ks Families For Mental Health	Prairie Village



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Senate Committee on Local Government
FROM: Chris McKenzie, Attorney/Director of Research *CM*
DATE: April 1, 1985
SUBJECT: HB 2383, As Amended

In its current form, the League of Kansas Municipalities has no objection to HB 2383, as amended by the House Committee on Local Government. The House added amendment would provide that the approval of a city governing body of a county IRB issue is not necessary if the facilities financed with the IRBs are located on real estate which is titled to the county. The League does have one concern about this bill, however, which we would appreciate the Committee addressing by adopting the attached amendment.

During the hearing on HB 2383 before the House Committee on Local Government, it was indicated that county IRB financed facilities within city corporate limits would be subject to any applicable zoning and other land use regulations. After the House Committee approved the bill, certain members of that Committee asked me to research this question. I have been unable to find any cases in which either the Kansas Supreme Court or the Kansas Court of Appeals directly considered whether uses of county-owned property in cities must comply with city land use regulations. A 1978 decision by the Kansas Court of Appeals which dealt with the applicability of county zoning regulations to the use of land by an agency of the State of Kansas, however, does provide some guidance in this area. In that case, Brown v. Kansas Forestry, Fish and Game Commission, 2 Kan. App.2d 102, the Kansas Court of Appeals concluded that in the absence of a clear expression of legislative intent concerning whether one governmental agency is subject to the land use regulations of another depends on an inference of legislative intent derived from an overall evaluation of all relevant factors. I believe it is likely that if a similar question arose in the local government context, that the same basic test would be applied.

In view of the uncertainty of this question, the League recommends that HB 2383 be further amended to make clear that such property shall be subject to all zoning regulations, subdivision regulations and building code regulations of the city. Such an amendment would, in our opinion, avoid the need for litigation in the future to settle this question.

(attachment 1)

4/3/85

HOUSE BILL No. 2383

By Representative Peterson

2-13

Suggested amendments by the League of Kansas Municipalities

0018 AN ACT relating to revenue bonds for economic development;
0019 concerning issuance of such bonds by counties; amending
0020 K.S.A. 12-1741b and repealing the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 12-1741b is hereby amended to read as
0023 follows: 12-1741b. (a) Subject to the provisions of K.S.A. 12-
0024 1744a and 12-1744b, as amended, any county shall have power to
0025 issue revenue bonds, the proceeds of which shall be used for the
0026 purpose of paying all or part of the cost of purchasing, acquiring,
0027 constructing, reconstructing, improving, equipping, furnishing,
0028 repairing, enlarging or remodeling of facilities for agricultural,
0029 commercial, hospital, industrial, natural resources, recreational
0030 development and manufacturing purposes. Any county shall also
0031 have the power to enter into leases or lease-purchase agreements
0032 by resolution with any person, firm or corporation for the facili-
0033 ties. Except as otherwise provided in subsection (b) of this
0034 section, the facilities may be constructed within the county or its
0035 environs without limitation as to distance, providing the board of
0036 county commissioners declares that the facility, if in being,
0037 would promote the welfare of the county.

0038 (b) No county shall issue revenue bonds authorized herein to
0039 finance facilities located ~~within the corporate limits of a city or~~
0040 ~~within three miles of the corporate limits of a city or within the~~
0041 ~~corporate limits of a city or within three miles of the corporate~~
0042 ~~limits of a city or within another county without the issuing~~
0043 ~~county having first received approval of the governing body of~~
0044 ~~the city or city or county in which the facility is to be located.~~
0045 Approval of a city governing body shall not be required to

2

0046 finance the construction of facilities located on real estate, the
0047 title to which is in the county issuing the revenue bonds.

0048 Sec. 2. K.S.A. 12-1741b is hereby repealed.

0049 Sec. 3. This act shall take effect and be in force from and
0050 after its publication in the ~~statute book~~ Kansas register.

The use of such real estate or property shall be subject to all zoning regulations, subdivision regulations and building code regulations of the city.

WICHITA PUBLIC SCHOOLS
Educational Services Building
640 North Emporia
WICHITA, KANSAS 67214

March 18, 1985

*Division of Research, Planning,
and Developmental Services
(316) 268-7882*

TESTIMONY FOR THE SENATE LOCAL GOVERNMENT COMMITTEE

HOUSE BILL 2225

I am Bill Dirks representing U.S.D. 259.

Thank you Mr. Chairman and members of the Committee for the opportunity to speak in favor of H.B. 2225.

Attached to this testimony is a listing of utility costs by budget category for the current year and the predicted increase for the following school year. It is readily apparent that with the marked escalation of utility costs, a franchise tax becomes a "windfall" tax and a combination of either increased uage, or increased costs provides the receiver of franchise taxes additional revenue. Our district with anticipated \$7,223,000. dollar expenditure for 1985-1986 utilities could expect about 5% or \$386,155. of that budgeted amount would be franchise taxes.

U.S.D. 259 objects, as a governmental unit, to being required to pay a tax to another governmental unit. H.B. 2225 alleviates this condition and you are respectfully requested to support H.B. 2225.

Thank you for the opportunity to appear before the Committee and I will be pleased to respond to questions at your discretion.

(attachment 2.)

4/3/85

1984-85 BUDGET

UTILITIES

Categories	General Fund Budget	Voc Fund Budget	Spec. Ed. Budget	Transportation Budget	Food Service Budget	Adult Ed. Supp. Budget	Total
Telephone	\$ 907,847	\$ 48,000	\$11,550	\$2,000	\$ 8,000	\$12,000	\$ 989,397
Electricity	3,295,160	20,000	\$56,190	-----	75,800	-----	3,447,150
Gas & Fuel	1,960,570	6,600	24,500		7,700		1,999,370
TOTAL	\$6,163,577	\$74,600	\$92,240	\$2,000	\$91,500	\$12,000	\$6,435,917

Projected for 1985-86 (20 percent increase)

\$7,723,100

Less 5% franchise

\$ 386,155

TESTIMONY FOR THE SENATE LOCAL GOVERNMENT COMMITTEE
HOUSE BILL 2225 (AS AMENDED BY HOUSE COMMITTEE)

First of all, Mr. Chairman and members of the committee, I would like to express to you my thanks for allowing me to appear before you this morning for purpose of presenting to you the City of Wichita's opposition to House Bill 2225.

I would like to mention at the outset, the information provided to you this morning relates to the City of Wichita's budget and the fiscal implications to the City if House Bill 2225 were approved. The information presented relates to the City's 1985 adopted budget.

From a total overview standpoint, the City expects to receive in franchise fees as a general fund revenue in 1985 approximately \$16.5 million. The \$16.5 million does not include expected revenues from our cable television franchise or the Wichita Water Department (that pays an in lieu of tax payment to the City's General Fund).

To put the franchise fee revenues and their importance to the City of Wichita in proper perspective, it should be noted that the general fund property tax levy for the 1985 budget totals \$10,631,884.

Total taxes to support our budget for 1985 were levied in the amount of \$39,637,000. Consequently, the expected franchise fees for KG&E, Southwestern Bell, ARKLA, and Gas Service amount to approximately 42% of the total taxes levied to support the 1985 budget.

The franchise fee receipts would be equivalent to approximately 18.392 mills in property taxes for citizens and taxpayers within the City of Wichita.

EFFECT OF HOUSE BILL 2225

In previous testimony before the House Local Government Committee, the Board of Education indicated that the five percent franchise fee in 1985 would total approximately \$400,000 expense to the Board of Education. Testimony presented by Sedgwick County indicates their five percent payment for the franchise fee in 1985 would total \$121,895.

In addition to the \$521,895 franchise fee received from the Board of Education and Sedgwick County to our general tax fund, the City of Wichita also pays the five percent franchise fee. Based on budgeted utility expenditures in 1985, the tax-supported activities of the City would pay approximately \$281,250 in franchise fees to the general fund, while nontax-supported activities such as special revenue funds and the City's utility funds would pay \$253,300. The following table provides a total of franchise fees credited to the City's General Tax Fund from the above sources.

Budget & Management Division
The City of Wichita
April 3, 1985

(attachment 3)

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Paid by USD 259	\$ 400,000
Paid by Sedgwick County	121,895
Paid by City tax-supported activity	281,250
Paid by City nontax-supported activity	253,300
	<hr/>
Total	\$1,056,445

EFFECT ON GENERAL FUND EXPENDITURES

Obviously, the City's expenditure budget would be decreased by the amount of the five percent franchise fee in the total amount noted above for City activities. It must be noted, however, the tax-supported portion of the expenditures, financed from the general fund, would only be reduced \$281,250 while the loss in revenue to the general fund would amount to \$1,056,445.

EFFECT ON MILL LEVY

It would appear, based on previous testimony provided by USD 259 and Sedgwick County, that the mill levy requirement for each governmental unit, respectively, to pay the franchise fee would amount to .416 mills for the Board of Education and .094 mills for Sedgwick County.

However, inasmuch as the City of Wichita would lose \$1,056,445 in revenues to the general fund, less an expenditure reduction of \$281,250, the net tax requirement increase to offset the revenue lost within the general fund would total \$775,195, which is equivalent to .832 mills.

Therefore, taxpayers within the City would experience a mill levy increase to offset the revenue loss amounting to .832 mills while the USD 259 mill levy could conceivably be decreased .416 mills and Sedgwick County's mill levy could be decreased by .094 mills.

Glen E. Dockery
 Budget & Management Division
 City of Wichita
 April 3, 1985

Kansas Advocacy & Protective Services for the Developmentally Disabled, Inc.



Suite 2, the Denholm Bldg.
513 Leavenworth
Manhattan, KS 66502
(913) 776-1541

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Wichita*

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Ottawa*

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*W. H. Weber
Topeka*

Liaison to the Governor

Robert Epps

Executive Director

Joan Strickler

TO: The Senate Committee on Local Government
Senator Don Montgomery, Chairperson

FROM: Kansas Advocacy and Protective Services
for the Developmentally Disabled, Inc.
R.C. Loux, Chairperson

DATE: April 3, 1985

RE: H.B. 2275

KAPS assists developmentally disabled children and adults in gaining access to the rights and services to which they are entitled. As provided for by the Developmental Disabilities Act (P.L. 94-103 as amended by P.L. 95-602 and P.L. 98-527), each state designates an independent agency with authority to pursue legal, administrative and other appropriate remedies to insure the rights of persons with developmental disabilities. There are 54 such agencies in our states and territories. KAPS is a private, non-profit corporation created specifically to serve this role in Kansas.

As knowledge of the nature of disabilities has grown, parents and communities are no longer being encouraged to place retarded or other developmentally disabled children and adults in institutional settings. Instead, more normalized settings within the community are being sought and developed. The Kansas Long-Range Mental Retardation Plan reports that, as of 1980, there were more than 750 community-based residential placements for mentally retarded and other developmentally disabled citizens in Kansas. More have been developed since that time. As part of its basic philosophy and purpose, the Kansas Plan states "...that all persons, including those who happen to be mentally retarded, have the same basic need - the need to be appreciated and respected as human beings of personal worth and dignity. Further

(attachment 4)

4/3/85

that mentally retarded persons have both the right and capacity to be assisted in their development - physically, emotionally, intellectually, spiritually and socially, preferably in or near their home community."

State institutions are no longer perceived of as permanent placements. In the last decade we have observed the growth of community-based centers providing services for mentally ill as well as developmentally disabled adults.

The reason for these changes - for this shift from institutions to the community are basically two.

- Philosophical. It is desirable to make it possible for persons with handicapping conditions to live in less restrictive and more normalized settings in the community.
- Financial. In general, it costs less to serve people in community settings rather than hospitals and institutions.

Most communities have absorbed group homes with little public attention. In some situations, however, members of the community have expressed reservations. Their fears generally fall into two categories - concerns of property values and concerns of safety. These fears can result in public hearings that subject disabled persons and their families to humiliation and pain without justification.

Group homes for developmentally disabled persons have been built throughout Kansas and the nation, and experiences in running such homes tend to diminish these fears.

First a look at property values.

In 1978, at the request of the State of New York, Princeton University conducted a study of what happens when a group home is placed in a neighborhood.¹ The study focused on 42 communities in which sales of 754 homes took place which were located next door, or across the street, from group homes for persons with developmental disabilities. At the same time, the study looked

at the sales of 826 homes in 42 similar communities that had no group residences. The following are some of the very clear findings that came from that study.

- The presence of group homes had no impact upon property values at all. The values of homes increased (or decreased) similarly to houses in communities where no group homes existed.
- The proximity of a house to a group home had no effect upon the market value. Even homes immediately next door to group homes did not decline in value.
- The establishment of a group home did not generate a higher degree of property turnover than that found in communities without such homes.
- The group homes, were, in fact, found to have a better appearance than the average home. The repair and maintenance was better, and even the lawns, bushes, and trees were better cared for.

All reported studies concerning the effect of group homes on property values have shown that these residences do not adversely affect the worth of real estate.²

Second - a look at safety.

There is no evidence to support fears that mentally retarded people are dangerous to society. Gene Stephens, an authority on criminal justice and developmental disabilities has written "...there has never been support for the hypothesis that there is a significant positive relationship between mental retardation and criminality - that is, mentally retarded people are no more apt because of their "below normal" intelligence, to become involved in criminality than non-mentally retarded persons."³

In fact, evidence suggests it might be safer to be a neighbor of a group home. A recent study found that the arrest rate of 60 per thousand per year for adults in the general population, is significantly higher than the 3 per thousand rate registered by mentally retarded and other developmentally disabled residents of group homes.⁴

According to a report prepared by the Government Accounting Office, once residents have moved into group homes, and the neighborhood has become more familiar with the purpose and operation of the homes, community opposition becomes minimized.⁵

There are some considerations that I wish to bring to your attention.

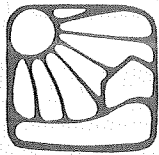
- Group homes are always staffed when any of the residents are present in the home.
- Developmentally disabled adults lead lives similar to other working people. They spend their days in a sheltered workshop or work activities center and come home to have dinner and relax.
- Licensing standards guarantee a level of quality for residences.
- Neighbors can monitor residential programs. For example, if a neighbor observes anything improper about the abilities of the staff members, the adequacy of upkeep of property or the treatment of the residents, they have the right to communicate their concerns to any of a number of persons or agencies. These might include the staff members themselves, the agency responsible for the home, responsible elected officials, or state licensing agencies.

One fact to remember is that the people who live in group homes are like you and me in every way except one - they have a developmental disability. They need the help and support of others to meet some of their basic needs so that they can live much as the rest of us.

Respectfully submitted,


Joan Strickler
Executive Director

- 1) Julian Wolpert, Group Homes for the Mentally Retarded: An Investigation of Neighborhood Property Impacts (Albany: New York State Office of Mental Retardation and Developmental Disabilities, August 31, 1978.)
- 2) Wolfensberger, W., The Origin and Nature of Our Institutional Models, (Human Policy Press, 1975) p. 16
- 3) Stephens, G., Identifying, Handling and Treating the Developmentally Disabled Offender (Columbia: University Affiliated Facility, University of South Carolina, 1981).
- 4) Lubin et al., The Likelihood of Police Contacts with Developmentally Disabled Persons in Community Residences 5 (unpubl. report: New York State Office of Mental Retardation and Developmental Disabilities Feb. 1982).
- 5) An Analysis of Zoning and Other Problems Affecting the Establishment of Group Homes for the Mentally Disabled (GAO/HRD-83-14, August 17, 1983).



Kansas Association of Rehabilitation Facilities

TownCenter Building 120 West Sixth, Suite 110
Newton, KS 67114 316-284-2330

TO : Senate Local Government Committee
FROM: Kansas Association of Rehabilitation Facilities (KARF)
Re : H.B. 2275, AN ACT concerning zoning; relating to group homes
Date: March 25, 1985

1.0 Position Statement on H.B. 2275, an Act concerning zoning, relating to group homes.

1.1 KARF supports H.B. 2275 that establishes a statewide policy to allow group homes in all areas permitting single family dwellings if amended to include:

- 1.1.1 existing group homes and those under construction would be exempted from the provisions of this bill**
- 1.1.2 group homes which conform to existing, less stringent, local density regulations and zoning regulations shall continue to be permitted**
- 1.1.3 group homes be 1,000 feet apart in all areas where single families are permitted unless the governing board of the municipality approves a closer location by a majority vote thereof**

2.0 Justification

2.1 Current zoning ordinances and regulations vary significantly from municipality to municipality in Kansas and create obstacles to the development of group homes for the handicapped

(attachment 5)

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- 2.2 Currently there are over 1,500 individuals who are disabled living in group homes or apartment settings. It is projected that approximately 3,000 other individuals will need to be provided living situations in the next 5 to 10 years. It would help to have a statewide policy to assist with this process.
- 2.3 Approximately 18,000 Kansas family members will be affected by this policy
- 2.4 National funding, philosophy, and regulations support community integration of our handicapped citizens, e.g. HUD Section 202 Loan Program for the Elderly and Handicapped
- 2.5 Twenty-six other States have legislation which prohibits exclusionary zoning practices with regard to group homes for handicapped individuals
- 2.6 The Kansas Legislature has previously recognized the need for adequate planning, coordination, and funding in order to meet the demand for community-based residential services for the handicapped
- 2.7 This policy statement supports KARF's belief in integrating individuals with disabilities into the community
- 2.8 This policy statement supports KARF's belief that services for the disabled should be available in the community to prevent institutionalization



Special Attention of:
All Regional Administrators and
Directors, Offices of Housing
and Administration
All Field Office Managers, Chiefs,
and Directors of Housing Development
and Management

Notice

H 84-6

Issued: 1/13/84

Expires: 9/30/84

Cross References: Handbook 4571.1 REV 2

Subject: Clarification for Processing Group Home Projects
Under Section 202

1. **PURPOSE.** This Notice is to provide clarification of outstanding instructions for processing group home projects financed under the Section 202 program. It incorporates the provisions of Notice H 83-26, dated 5/17/83, which expired 11/30/83.
2. **BACKGROUND.** Group home projects are primarily intended to provide housing for the developmentally disabled or the chronically mentally ill, and HUD's policy is to limit its approval for such housing to small group homes. Although group homes for up to 15 persons per site are now permitted, facilities for six to eight persons are preferable in order to provide a more normal and home-like non-institutional environment.

A developmentally disabled person is defined as an individual with a severe, chronic disability which --

- (A) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (B) is manifested before the person attains age twenty-two;
- (C) is likely to continue indefinitely;
- (D) results in substantial functional limitations in three or more of the following areas of major life activity:
(i) self-care, (ii) receptive and expressive language,
(iii) learning, (iv) mobility, (v) self-direction,
(vi) capacity for independent living, and (vii) economic self-sufficiency; and
- (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

HMMD: Distribution: W-3-1, W-2(H), W-3(H), R-1, R-2, R-3, R-3-1(H), R-3-2,
R-3-3, R-6, R-6-6, R-6-2, R-7, R-7-1, R-7-2, R-8, R-8-1

FOREWORD

This Handbook deals with the Section 202 Direct Loan Program for Housing for the Elderly or Handicapped and the use of Section 8 Housing Assistance Payments in such housing. Together, they have played a significant role in the resurgence of this different and increasingly important segment of housing and community development.

Housing the elderly or handicapped requires that special consideration be given to such factors as location and site, architectural and special design features, and the inclusion of a wide range of services and programs. As discussed below, these factors are linked together to help offset the problems which tend to accompany the aging process: reduced incomes; loss of spouses, relatives and friends; dispersal of families; declining health, and how to use vast increases in leisure time. When these factors are melded together, they can help the elderly to remain independent and prevent their premature institutionalization. For the handicapped, proper consideration of these same factors can mean escape from virtual imprisonment in their own homes, or in many cases release from the curse of institutional living.

Given these concerns, sites are selected to avoid steep inclines, noxious odors and the like. Architectural barriers, such as steps and narrow doorways are eliminated to assure ingress and egress, liveability of units and access to all areas by all residents. Buildings are designed to meet special safety requirements, wider corridors are included, nonslip flooring is installed, shelves and electric outlets are lower than usual and grab-bars are provided. Private kitchens and bathrooms are included, with or without provisions for central dining. These are the kinds of requirements which generally are apt both for the elderly and the handicapped.

Other problems also must be considered. Because the elderly face declining physical capacities and health, a variety of health and medical facilities and services should be available in the community. Lower than average incomes combined with lessened energy make reasonable rents and convenience to transportation, shopping, personal and other services critical to the residents of these projects. Opportunities for meaningful involvement in voluntary services and other community affairs, part-time employment, and participation in a variety of recreational activities need to be available and encouraged. Aging often is accompanied by the loss of one's spouse, as well as other relatives and friends. Children grow up, move and raise their own families. Thus, older people may need new friends and new companions as an offset to their departure. The handicapped, too, have similar, if not the same problems, and they too, need to be given careful and humane consideration and attention.

Although these problems cannot be eliminated entirely, the combination of special architectural considerations and design features with a variety of services and activity programs can help offset them to a very significant degree. In any event, it is particularly important that such housing not be viewed as simply another institution among institutions, or as the last stop in life. Rather, it offers wider choices of where and how to live and opportunities for new friendships. This is housing in the community which challenges its residents to engage in meaningful activities as they wish, to seek and enjoy new adventures---to get fun out of life---all while retaining their own self-identification as independent, contributing members of society.

4-18. LOCATION ANALYSIS. Site location is of the utmost importance in the success of any housing development. Proper site location can greatly influence the success or failure of housing for the elderly or handicapped.

a. Remote or isolated locations are to be avoided.

(1) It is essential that residents of projects for the elderly or handicapped have ready access to religious institutions, hospitals or clinics, and other community services, shopping, recreational facilities, and public transportation.

(2) Shopping facilities for day-to-day necessities such as groceries and drugs should be within walking distance, or delivery at reasonable cost must be available.

(3) Convenience of location to others upon whom the residents of the project may depend also is important. The location should be readily accessible to project employees, some of whom may require public transportation.

(4) Steep and uneven topography should be avoided, and sites should be barrier free.

b. The site criteria set forth in this paragraph represent the ideal situation. However, it should be recognized that all characteristics, such as, proximity to religious, medical, community services, shopping, recreational facilities, and public transportation, will not always be present. These criteria are not intended to rule out housing in rural areas or any metropolitan area which is rural in character. Other factors, such as, the Sponsor's and Borrower's willingness, capacity, and plan to provide needed services to compensate for the lack of facilities in rural areas also should be considered.

c. The appraiser's overall analysis with regard to acceptability of the location(s) for housing for the elderly shall be made in compliance with the Site and Neighborhood Standards, (Section 880.206(a)(e)(q)(h) and (j)) set forth in Items (1)-(5), below, as well as the Flood Plain Management and Wetlands Protection Requirements set forth in Items (6) and (7), respectively, below.

FACT SHEET

Identity of Kansas Association of Rehabilitation Facilities (KARF)

KARF is an Association of 34 Rehabilitation Facilities throughout Kansas providing Vocational/Day Activity Programs, Community Living Programs, Children's Services Programs, Individual Support Programs, and Medical Rehabilitation Programs (enclosed membership profile).

The facilities provide programs/services to over 8,000 individuals with disabilities throughout the year with an average daily census being approximately 3,200 individuals.

Definition of Habilitation/Rehabilitation Programs for Individuals with Disabilities

Habilitation/Rehabilitation is the process by which an integrated program of services is provided to help a person disabled at birth or by illness or injury, gain a higher level of function. Such services address vocational, community living, medical, education and support needs. The goal of the rehabilitation process is to help the person become capable of self support by enabling him or her to engage in employment, live as independently as possible, exist outside institutional settings, or otherwise improve his or her situation.

ASSOCIATION MISSION, BELIEFS AND VALUES

Mission

The purpose of the Kansas Association of Rehabilitation Facilities is to serve its membership in developing and promot-

ing quality programs for individuals with disabilities and to communicate essential information between its membership and its publics.

Beliefs and Values

The Association is founded upon certain shared beliefs and values which are an expression of our mission and pur-

pose as individuals, as professionals, as facilities and as a voluntary organization.

We believe in the inherent dignity of the individual with disabilities.

We believe that no applicant or participant in services, employment or housing should be discriminated against on the basis of race, color, national origin, religion, sex, age, or handicap.

We believe in the community's right and responsibility to provide services that are reasonably accessible and available on a local or regional basis to individuals with disabilities.

We believe that it is the responsibility of government to address the needs of individuals disabled at birth, or by illness or injury; and provide needed support and reimbursement for services needed to assist them to live as independently as possible.

We believe in integrating individuals with disabilities into community programs/services, business and industry, and social settings without compromising the quality of service needed to meet each person's needs.

We believe that government should provide incentives to business and industry to promote employment and other opportunities for individuals with disabilities.

We believe that transitional living support, and medical and vocational rehabilitation should be provided by the private sector (insurance) to prevent long term government support through SSI, SSDI and long term care.

We believe that services should be available in the community to prevent institutionalization.

KARF MEMBERSHIP

Facility	Vocational	Residential	Medical	Children's Services	Independent Living
Arrowhead West, Inc.	X	X		X	X
Bethany Rehabilitation Center			X		
Big Lakes Development Center	X	X		X	
Brown Co. Sheltered Workshop	X				
Cerebral Palsy Research, Inc.		X		X	X
Chikaskia Area Training Ctr.	X	X		X	
CLASS, Ltd.	X	X			X
COF Training Service, Inc.	X	X			
Continuing Care, Inc.		X			
Cottonwood, Inc.	X	X		X	
Dev. Services of NW Kansas	X	X		X	X
Early Childhood Dev. Center				X	
Futures Unlimited, Inc.	X	X			
Gardner Community Med Ctr.			X		
Goodwill Industries	X				
Johnson County MR Center	X	X		X	X
KU Rehab Medicine Assoc.			X		
KS Elks Training Center	X	X			
Lakemary Center, Inc.	X	X		X	
McPherson Co. Div. Services	X	X		X	
MR Gov. Board/Wyandotte Co.	X	X		X	
Menninger Foundation/Rehab	X				
Nemaha Co. Training Center	X	X			
Northview Developmental Ctr.	X	X		X	
Occupational Ctr./Central KS	X	X		X	X
St. Joseph Medical Center			X		
Sheltered Living, Inc.		X			
SW Developmental Services, Inc.	X	X			
SRS, Div. VR and KVRC	X	X			
Starkey Developmental Ctr.	X	X		X	
Sunflower Training Center	X	X		X	
TECH, Inc.	X	X		X	X
Terramara, Inc.	X	X			
Tri-Ko, Inc.	X	X			
Tri-Valley Dev. Center	X	X			
Wesley Medical Center			X		

STATEWIDE POLICY RELATING TO ZONING GROUP HOMES

DISCUSSION OF ISSUE:

Currently, each municipality in Kansas has its own ordinances and regulations relating to the number of unrelated persons who may live together as a group in single family residential areas. In some cities, ordinances specify four or fewer; while in others, five or fewer unrelated persons may live together. In yet others, group homes may only be established via special use permits.

Community-based social services systems for persons with mental retardation, other developmental disabilities, and physical handicaps have been developed over the past ten to twelve years through a combination of federal, state and local funding. Licensing and monitoring of such community-based programs is primarily the responsibility of the Kansas Department of Social and Rehabilitation Services and/or the Kansas Department of Health and Environment utilizing statewide standards/regulations.

Expansion of community-based residential programs for persons with such handicapping conditions is urgently needed as illustrated in the Kansas Long Range Mental Retardation Plan.

Since it is widely accepted that persons with such handicaps should be served in the least restrictive environment possible, e.g. community-based vs institutional placement, agencies/ providers are seeking: 1.) to meet the growing demand for services, and 2.) to integrate persons with handicaps with the community and its resources. This process has typically required that agencies/providers spend vast amounts of resources (time and dollars) to obtain properly zoned real estate for the purpose of establishing group homes to serve individuals with handicaps.

RECOMMENDATIONS FOR CHANGE:

KANSAS ASSOCIATION of REHABILITATION FACILITIES recommends the following changes:

1. That statewide policy be established through H.B. 2275 to allow group homes for eight or fewer persons with handicapping conditions in single family residential areas
2. That, in order to protect the integrity of neighborhoods and to encourage appropriate integration of handicapped persons within the community, group homes used for this purpose should be separated by an appropriate distance from other such group homes
3. That H.B. 2275 be amended as follows: to exempt or "grandfather" existing group homes or those under construction; to allow the establishment of group homes which conform to existing, less stringent, local density regulations and zoning regulations

K.F.F.M.H.

Kansas Families For Mental Health

1268 Western
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HB 2275

April 3, 1985

My name is Howard Snyder, and I'm from Prairie Village. I'm testifying today as President of KFFMH in qualified support of HB 2275. KFFMH is a state-wide organization of family support groups made up of families who have long term mentally ill family members. We represent approximately 300 families in Kansas. There are local chapters in Lawrence, Topeka, Johnson County, Kansas City, Wichita, Hiawatha, Concordia, Manhattan, Hutchinson, Newton, McPherson, Winfield, Emporia and Phillipsburg.

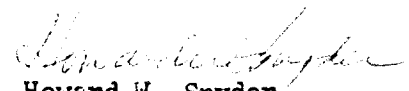
I am testifying today in support of HB 2275, if it is amended to include the mentally ill, who were amended out of the bill in the House Local Government Committee. In 1984 SCR 1645 was passed which deemphasized hospital placement and emphasized community placement. This is a keystone in the effort to move people from the hospital to the community. People coming out of the hospital, particularly those who have been in treatment for a long period of time, lose their daily living skills. These are skills we take for granted, such as writing a check, budgeting, buying the groceries, paying the telephone bill and hundreds of others. Many people leaving the hospital need a structured group home where they can relearn these skills and move toward independence and productive living.

In the last 20 years the state has moved to reduce the hospital population of the mentally ill. For instance, in the Osawatomie State Hospital the capacity has been reduced from 2000 to 400 but in the communities served by Osawatomie Hospital only 405 of the 1600 lost beds have been replaced. Of this 405 only 15 beds are in group homes. There are probably 50 people that could come out of Osawatomie State Hospital if they had a group home to live in.

Part of the reason for the severe shortage of group home beds is the lack of state funding. Most of the money saved by closing the 1600 beds at Osawatomie has gone into other areas of political interest such as roads, bridges and schools. But another reason there are so few group homes is community resistance. It is likely that no group homes will be started as long as ill informed, prejudiced, fearful communities are able to shout them down. Where are these people going to live? Any why should the state continue to spend as much as \$110.00 a day for a person in a hospital when that person could be living in the community for \$40.00 a day. That makes little economic sense.

I have a 26 year old son who is mentally ill. He became ill at age 19. Prior to that time he was a healthy, happy teenager who was a foreign exchange student, an eagle scout, a budding geologist and was named top Freshman in Earth Science at the University of Arizona. While he was an exchange student he became fluent in French. Since he became ill he has tried to finish college but is unable to because of his disordered thoughts. Someday when he is ready to leave the State Hospital and there is no place for him to go how will I answer him when he asks why he can't leave? How will I answer him when he finds out he can't live on a residential street like everyone else? There is no answer to that question. He is not a dangerous person. He is only an ill person, and our society is supposed to be set up to care for it's ill.

In the House Local Government Committee testimony was heard that if you allow this exemption where will it all end. I would like to counter argument with a proposition that if you allow the vocal majority to discriminate against and zone out this minority where will that end?


Howard W. Snyder
President