

Approved March 19, 1986
Date

MINUTES OF THE Senate COMMITTEE ON Local Government

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

9:00 a.m./~~xxx~~ on March 17, 1986 in room 531-N of the Capitol.

All members were present except: Senators Allen and Steineger who were excused

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

Conferees appearing before the committee:

Janet Stubbs, Home Builders Association of Kansas
Karen McClain, Director, Governmental Affairs, Kansas Association of Realtors
Gerry Ray, Johnson County Board of Commissioners
Bill Ramsey, City of Olathe, Olathe, KS

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

Janet Stubbs presented written testimony in opposition to H.B. 2275. Her organization supports the home rule powers of cities to plan and zone their communities without state intervention. (Attachment I)

Karen McClain appeared in opposition to the bill. She stated the current system is working, it does not absolutely prevent group homes from being placed in single family residential neighborhoods. There is a process which must be followed before that can happen even if the statutes were changed acceptance of the value of group homes wouldn't happen overnight. Her organization requested the zoning rules be kept intact. (Attachment II)

Ms. Stubbs and Ms. McClain responded to questions from the committee members.

Gerry Ray stated they were not opposed to the concept of group homes, there are many group homes located in Johnson County. They are opposed to the diminished authority of local officials to exercise the self determination in the matter of zoning, local authorities need to have this. Local authorities were giving home rule powers several years ago and they cannot exercise this authority in a reasonable matter if it is continually eroded. The right to be heard is a basic democratic right of the people and should not be denied.

Bill Ramsey, a representative of the City of Olathe, stated they have had group homes in their city for years. They are not opposed to group homes. In response to a question concerning why the recent one in Olathe was denied, he stated the home was to be in an older neighborhood with retired individuals mostly living there and they did not think it was in the best interest for the residents of that neighborhood or the residents of a group home to place it there. Olathe uses the special permit in allowing group home placement and it is based on the present neighborhood and the surrounding neighbors and they are approved accordingly. They believe local officials should make these decisions and that they should not be mandated by the state.

The next meeting will be at 9:00 a.m., March 18. The meeting adjourned at 9:45.


Senator Don Montgomery

TESTIMONY BEFORE
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 17, 1986
BY
JANET STUBBS
HOME BUILDERS ASSOCIATION OF KANSAS

Mr. Chairman and Members of the Committee:

My name is Janet Stubbs, Executive Director of the Home Builders Association of Kansas. I am appearing today in opposition to HB2275.

Our position is not based upon a lack of understanding or empathy for the handicapped or ignorance of the need for the care of the mentally impaired.

Quite frankly, I resent the implication by some supporters of HB2275 that opponents are functioning in the "Dark Ages" and with "Blinders".

HB2275 does not just "allow" group homes in single family zoned areas, it removes the power of a city to use its police power for placement or zoning of this specific type of housing.

It is the removal of the Home Rule of cities to which we object. We have appeared before this and other Legislative Committees in opposition to other bills for the same reason.

The members of my association who develop land and construct structures of various types, must appear before and gain approval of planning and zoning boards and city commissions. They are faced with what they perceive to be unfair decisions or requests at times and

(Attachment I) S. LG
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must submit proposals and suffer time delays which also cost them a great deal of money.

The alternative is to abolish zoning laws and function as the city of Houston operates.

Current zoning practices donot prohibit group homes. It permits cities to control the placement just as they do commercial locations and apartment or multi-family dwelling placement.

Proponents of HB2275 feel it unfair that they may now be required to locate in areas zoned for multi-family. Wouldn't it be better for the handicapped to be located in a receptive multi-family zoned area. (This is currently permitted.) I doubt that these individuals view their surroundings "abnormal".

Individuals serve on the Board of HBAK who also have served on group homes Boards or worked to locate such homes. I have had personal, first hand experience with the issue. We made an informed decision based upon philosphy and the consideration of all citizens and property owners in Kansas.

If group homes in some Kansas Communities have a satisfactory relationship with their community, the reported stigma will disappear.

This committee spent some 2 weeks on the issue of annexation, debating the proper method of protecting the property owners rights of petition and protest. HB2275 removes that very right from individual property owners.

Once again, I would like to reiterate our position on HB2275:

1. We support the Home Rule powers of the cities to plan and zone their communities without state intervention.

2. We support qualified care of the handicapped, as well as comfortable and pleasant living accommodations for these individuals.
3. We believe an exemption will only bring the same request from other groups. Should the state mandate location of group homes in single family residential areas for both juvenile and adults being rehabilitated from prison as well as individuals being rehabilitated from drug and alcohol abuse? There is a need for these facilities in "normal" surroundings also.
4. We support local leadership addressing the needs of their own community and it's citizens. If that pressure is too great, they should not hold office.

We oppose passage of HB 2275.



KANSAS ASSOCIATION OF REALTORS

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TO: SENATE LOCAL GOVERNMENT COMMITTEE
FROM: KAREN MCCLAIN, DIRECTOR, GOVERNMENTAL AFFAIRS
DATE: MARCH 17, 1986
SUBJECT: HB 2275, GROUP HOMES

On behalf of the Kansas Association of REALTORS®, I appear here today in opposition to HB 2275.

I do not come here with the claim that group homes decrease the value of property. I am not here because REALTORS® will somehow be personally injured by the effects of this bill. REALTORS® have long stood up for the protection of the rights of private property owners in this country and in this state. It is for that protection that I appear today.

The Kansas Association of REALTORS® recognizes the need for housing for the handicapped in communities. However, this need must be balanced by another factor. Historically, it has been within the decision making powers of cities and their property owners to decide how the city should be arranged and zoned. The piece of legislation proposed here is in direct circumvention of that power.

HB 2275 would take away a city's power to decide where group homes should be placed in the community. Currently those desiring to build group homes must obtain a variance of the zoning laws in order to have a home for up to eight persons. This may create an inconvenience. However, this process protects the right and need of a city and its property owners to decide the appropriate number of homes needed and the places for the homes to be built.

The proper placement of the group homes within a city can only increase the benefits of the homes for both its occupants and the community; therefore the city and the property owners should be involved in this decision making process.

(Attachment II)

3/17/86

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Under the current system they are. Under HB 2275 they would not. A state statute, rather than a city ordinance, will determine the outcome.

Again, we agree with the purpose trying to be accomplished here. However, we do not agree that this is the appropriate means by which to achieve the purpose. There is a bill which was heard in the House Local Government Committee a few weeks ago that prohibits cities and counties from making special zoning regulations for mobile and modular homes. Under that bill, like this one, there would never be an opportunity for individual landowners to let their city and county officials know, at a public hearing, what they think about what is happening to their neighborhood. A state statute would eliminate it. Once again, a bill that is introduced with the best intentions, but has the long term potential for long erosion of the power that individual property owners have, by the removal of certain zoning powers for cities and counties.

It was stated by the proponents that the people who are trying to place group homes within the community often provide educational, informational programs for the potential neighbors who speak in opposition to the variance. This is done because of the current public hearing process which is required for a zone variance. If the requirement for hearing is removed, a group home can go into a neighborhood without any educational process for the neighbors, and it is likely that even more prejudice by the neighbors will be present. Why would these people want to place a group home in a neighborhood where they are clearly not wanted? Surely that is not conducive to a healthful environment for the home or its residents.

The current system does not absolutely prevent group homes from being placed in single family residential neighborhoods. There is a process which must be followed before that can happen. Acceptance of the value of group homes won't happen overnight if this state statute is passed. The current process provides time for the education of neighbors whose property is effected, and for city and county commissions. It seems that such a process is a fair balance between all property owners.

Accordingly, the Kansas Association of REALTORS® asks that the current zoning rules be kept in tact and unaltered. Thank you.