

Approved 1-29-87 Ivan Sand
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at
Chairperson

2:45 ~~xxx~~/p.m. on January 28, 19⁸⁷ in room 521-S of the Capitol.

All members were present except:

Representative Baker, Excused Representative Francisco, Excused
Representative Graeber, Absent Representative Sawyer, Absent
Representative Schauf, Excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Bill Edds, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Bob Ferguson, Chairman, Turner Recreation Commission, Turner USD 202
Joan Strickler, Kansas Advocacy & Protective Services for the Developmentally
Disabled, Inc.
Merilee Larson, Kansas Assoc. of Rehabilitation Facilities
Sue Steele, Support Services for Citizens with Autism, Inc.
Sister Christella Buser, Heartland, Inc.

Chairman Sand called the meeting to order.

Mr. Bob Ferguson testified in favor of HB 2051, stating that it requires annually audited books of nonprofit organizations, and that it requires the money generated to be spent only for the reason for its founding stated in the organizations' charter. He also stated that this is a statewide matter. (Attachment 1)

Mr. Richard Funk, Kansas Association of School Boards submitted written testimony opposing HB 2051, but did not speak before the committee. (Attachment 2)

The Chairman closed the hearings on HB 2051.

Mike Heim gave the committee an overview of HB 2063, stating that this bill authorizes group homes for the physically handicapped, mentally retarded, or other developmentally disabled persons to be located in any area where single family dwellings are permitted. (Attachment 3)

Representative Douville testified in favor of HB 2063, stating that the bill sets public policy for no discrimination for disabled persons by zoning.

Joan Strickler testified in favor of HB 2063, stating that it is desirable to make it possible for persons with handicapping conditions to live in the less restrictive and more normalized settings of our communities, and that it costs less than hospitals and institutions. (Attachment 4)

Merilee Larson testified in favor of HB 2063, stating that KARF recommends that the number of handicapped individuals who could be served in such a group home be increased from six to eight. (Attachment 5)

Sue Steele testified in favor of HB 2063, stating that a normal lifestyle should be available to the handicapped. (Attachment 6)

Sister Christella Buser testified in favor of HB 2063, stating that 38 states have less restrictive laws concerning zoning of group homes, and that it costs less to keep the handicapped in these homes than in institutions. (Attachment 7)

The Chairman announced that there will be a meeting tomorrow to continue the hearings on HB 2063, at 1:30 p.m., Room 521-S.

Meeting adjourned.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

My name is Bob Ferguson. I am Chairman of the Turner Recreation Commission of Turner U.S.D. 202 in Kansas City, Ks. I support HB 2051.

I would like to familiarize you with some of the reasons for my interest. HB 2051 speaks to the relationship between nonprofit organizations and Recreation Commissions. Nonprofit organizations operate throughout our society in many ways not relating to recreation matters. I would like to emphasize that my interest deals only with those matters that are recreation related.

In the fall of 1983 one of the nonprofit groups in our area, a baseball group, found that five thousand dollars cash which was then in the possession of their President was missing. My concern was that the baseball program continue, also I was concerned that our Recreation Commission might have some liability if they were unable to meet their bills. Several things came to light regarding nonprofit groups that I had not been aware of. It seems that when shortages occur, only the officers of the nonprofit group can request prosecution. Also, there is no requirement to keep books or have them audited. There is a form that must be filed with the Secretary of State each year. To my knowledge no supporting evidence is required. In addition, it seems to be possible to found such a group for one purpose, baseball for example, and yet spend the money generated for almost any purpose including hiring belly dancers if you are so inclined.

I believe HB 2051 to be good and necessary legislation. It does address two of the major concerns. One, it requires annually audited books, second, it requires the money generated to be spent only for the reason for its founding stated in the organizations charter. Both of these requirements apply only if the group uses funds or facilities under the control of a recreation commission.

I would like to see legislation which would make it possible to prosecute those who violate these requirements or otherwise misuse funds in a way which would be illegal if they happened in for-profit businesses. I know that I am prosecutable as a member of a Recreation Commission if I misuse funds in this manner. While I realize we are a local government entity and they are a private concern the fact remains that they fall under the definition of this law they are using tax supported funds and/or facilities to raise money for their group.

Thank you for your attention to this matter. I appreciate you giving me the opportunity to share my views with you.

Attachment 1
1-28-87

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

TESTIMONY ON H.B. 2051

by

Richard Funk, Assistant Executive Director
Kansas Association of School Boards

January 28, 1987

Mr. Chairman and members of the committee, we appreciate the opportunity to testify today on behalf of the 302 members of the Kansas Association of School Boards. KASB does not support the provisions found in H.B. 2051. We believe that content of this bill addresses a local matter and is not applicable to the large number of recreation commissions state-wide. We further believe that the limitations embodied in H.B. 2051 unduly restricts the operation of the recreation commission as outlined originally in 12-1903.

Attachment 2
1-28-87

MEMORANDUM

January 26, 1987

TO: House Local Government Chairman
FROM: Mike Heim, Kansas Legislative Research Department
RE: H.B. 2063

H.B. 2063 authorizes group homes for the physically handicapped, mentally retarded, or other developmentally disabled persons to be located in any area where single family dwellings are permitted. Any zoning ordinance or regulation of a city or county or restrictive covenant prohibiting group homes is declared invalid. Group homes shall be subject to all other nondiscriminatory regulations such as regulatory codes, subdivision regulations, special or conditional use permit regulations.

The physical structure of the group home must be generally compatible with the other physical structures in the surrounding neighborhood. No group home, after the effective date of the act, may be located within 1,000 feet of another group home in areas zoned exclusively for single family dwellings unless the governing body approves a closer location.

Group home is defined as any dwelling occupied by six or fewer physically handicapped, mentally retarded, or other developmentally disabled persons and may include two staff residents.

The bill is nearly identical to H.B. 2275 considered by the 1985 and 1986 Legislatures. The issue was a subject of an interim study and recommended for passage by the 1985 interim Special Committee on Local Government. It was killed by the Senate Local Government Committee in 1986.

HLGC.Mh/jsf

Attachment 3
1-28-87

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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*W. H. Weber
Topeka*

Liaison to the Governor

Robert Epps

Executive Director

Joan Strickler

TO: The House Committee on Local Government
Representative Ivan Sand, Chairperson

FROM: Kansas Advocacy and Protective Services
R. C. Loux, Chairperson

DATE: January 28, 1987

RE: H.B. 2063 - Zoning: Group Homes

As provided for by the Developmental Disabilities Act (P.L. 94-103 as amended) KAPS assists developmentally disabled children and adults in gaining access to the rights and services to which they are entitled. KAPS is a private, non-profit corporation created specifically to serve this role in Kansas. There are 56 other such agencies serving our states and territories.

The Kansas Long-Range Plan, addressing the needs of mentally retarded and other developmentally disabled persons, focuses upon the importance of maintaining our developmentally disabled citizens in their communities. Special education is intended to make it possible for children with disabilities to remain at home and to be educated in our public schools. Developmentally disabled adults can be served by community agencies providing residential and vocational services and which operate with county, state and federal funds. We can imply from these efforts that it is clearly the policy of the State of Kansas to maintain developmentally disabled persons, when at all possible, in the community. State institutions are no longer perceived of as permanent placements.

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The reasons for this growth of community based programs, 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 the less restrictive and more normalized settings of our communities.

-Financial. In general, it costs less to serve people in community settings rather than in hospitals and institutions.

The group homes addressed in H.B. 2063 would serve only 6 or fewer residents who would be assisted by two staff persons. The idea of the group home is to function as much as possible like the natural family. The residents share housekeeping responsibilities, meals, and recreational activities. They go to work or engage in structured activities away from the house during the day and come home to relax at night.

The basic purpose of the group home is to provide a place to live with ongoing supervision and support in a family-like setting for persons unable to live independently in the community. Group homes are not clinics, hospitals or boarding houses; they are family unit homes.

Many communities have absorbed group homes with little public attention. In some situations, however, members of a community have protested the development of such homes. Opposition to group homes generally fall into one or more of the specific following areas:

1. Fears of and prejudices toward the persons who would live in the homes.
2. Concerns about increased traffic.
3. Concerns that the home will be operated improperly.
4. Worries that property values will be affected adversely.

First, a look at the fears of and prejudices toward persons who would live in the homes.

There is no evidence to support fears that mentally retarded persons 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 are no more apt because of their "below normal" intelligence to become involved in criminality than non-mentally retarded persons".¹

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 registered by mentally retarded and other developmentally disabled residents of group homes.²

Neighborhood opposition which is based on unrealistic fears and prejudices should not be allowed to influence or determine who has a right to live in a neighborhood. Such prejudice or fear cannot be considered legitimate factors to determine valid zoning interests.

Second, there are the concerns of increased traffic.

Most people do not realize or consider that it is quite rare for developmentally disabled persons needing the help and support of a group home to drive cars. While staff probably will drive, it is unlikely that the group home will generate any more traffic than other homes in the neighborhood.

Third, there are worries that the home will be operated improperly.

H.B. 2063 provides that group homes shall be subject to all other building regulatory codes, subdivision regulations, special or conditional permit regulations or other nondiscriminatory regulations. The physical structure of the group home would have to be generally compatible with other physical structures in the surrounding neighborhood.

Generally, when we speak of group homes in Kansas, we see these operated by community developmental disabilities centers. These centers operate with local, state, and federal funds. Their governing boards would be appointed, or be under some direction of, county commissioners. These agencies are very sensitive to the needs and interests of their respective communities as well as to the needs and interests of their clients.

Fourth, there are worries that property values will be affected adversely.

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.³ 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 value 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.

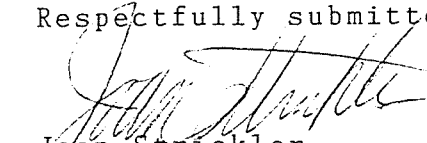
A substantial body of research conducted over the last 15 years supports the findings in that study. You will find a brief description of such studies attached to this testimony.⁴

The 1985 Legislative Interim Committee on Local Government concluded in its report on Proposal #46, Group Home Zoning, that there is a need for an overriding state policy in regard to the location of such group homes. The report states: "The Committee recognizes that there are sound fiscal reasons to support deinstitutionalization of these people as well as the more personal benefits that are bestowed on these individuals and their families by promoting more independent lifestyles".

A bill that was recommended by that Interim Study, and which is similar to the one before you, was approved by this Committee on Local Government as well as by the full House.

We request your support in recommending H.B. 2063 favorable for passage.

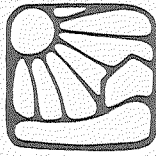
Respectfully submitted:



Joan Strickler
Executive Director

- 1) Stephens, G., Identifying, Handling and Treating the Developmentally Disabled Offender (Columbia: University Affiliated Facility, University of South Carolina, 1981).
- 2) 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).
- 3) 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)
- 4) See attached listing of studies relating to the impact of group homes on property values.

Studies that deal exclusively with group homes for developmentally disabled populations are: Suffolk Community Council, Inc., Impact of Community Residences Upon Neighborhood Property Values (July 1984)(compared sales 18 months before and after group homes opened in seven neighborhoods and comparable control neighborhoods without group homes; found no difference in property values or turnover between group home and control neighborhoods); L. Dolan and J. Wolpert, Long Term Neighborhood Property Impacts of Group Homes for Mentally Retarded People, (Woodrow Wilson School Discussion Paper Series, Princeton University, Nov. 1982)(examined long-term effects on neighborhoods surrounding 32 group homes for five years after the homes were opened and found same results as in Wolpert, *infra*); Minnesota Developmental Disabilities Program, Analysis of Minnesota Property Values of Community Intermediate Care Facilities for Mentally Retarded (ICF-MRs) (Dept. of Energy, Planning and Development 1982)(no difference in property values and turnover rates in 14 neighborhoods with group homes during the two years before and after homes opened, as compared to 14 comparable control neighborhoods without group homes); Dirk Wiener, Ronald Anderson, and John Nietupski, Impact of Community-Based Residential Facilities for Mentally Retarded Adults on Surrounding Property Values Using Realtor Analysis Methods, 17 Education and Training of the Mentally Retarded 278 (Dec. 1982)(used realtors' "comparable market analysis" method to examine neighborhoods surrounding eight group homes in two medium-sized Iowa communities; found property values in six subject neighborhoods comparable to those in control areas; found property values higher in two subject neighborhoods than in control areas); Montgomery County Board of Mental Retardation and Developmental Disabilities, Property Sales Study of the Impact of Group Homes in Montgomery County (1981)(property appraiser from Magin Realty Company examined neighborhoods surrounding seven group homes; found no difference in property values and turnover rates between group home neighborhoods and control neighborhoods without any group homes); Martin Lindauer, Pauline Tung, and Frank O'Donnell, Effect of Community Residences for the Mentally Retarded on Real-Estate Values in the Neighborhoods in Which They are Located (State University College at Brockport, N.Y. 1980)(examined neighborhoods around seven group homes opened between 1967 and 1980 and two control neighborhoods; found no effect on prices; found a selling wave just before group homes opened, but no decline in selling prices and no difficulty in selling houses; selling wave ended after homes opened; no decline in property values or increase in turnover after homes opened); Julian Wolpert, Group Homes for the Mentally Retarded: An Investigation of Neighborhood Property Impacts (New York State Office of Mental Retardation and Developmental Disabilities Aug. 31, 1978)(most thorough study of all; covered 1570 transactions in neighborhoods of ten New York municipalities surrounding 42 group homes; compared neighborhoods surrounding group homes and comparable control neighborhoods without any group homes; found no effect on property values; proximity to group home had no effect on turnover or sales price; no effect on property value or turnover of houses adjacent to group homes); Burleigh Gardner and Albert Robles, The Neighbors and the Small Group Homes for the Handicapped: A Survey (Illinois Association for Retarded Citizens Sept. 1979)(real estate brokers and neighbors of existing group homes for the retarded, reported that group homes had no effect on property values or ability to sell a house; unlike all the other other studies noted here, this is based solely on opinions of real estate agents and neighbors; because no objective statistical research was undertaken, this study is of limited value); Zack Cauklins, John Noak and Bobby Wilkerson, Impact of Residential Care Facilities in Decatur (Macon County Community Mental Health Board Dec. 9, 1976)(examined neighborhoods surrounding one group home and four intermediate care facilities for 60 to 117 mentally disabled persons; members of Decatur Board of Realtors report no effect on housing values or turnover).



Kansas Association of Rehabilitation Facilities

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

Marilee Loman

TO : House Local Government Committee

FROM: Kansas Association of Rehabilitation Facilities (KARF)

Re : H.B. 2063, AN ACT concerning zoning; relating to group homes

Date: January 28, 1987

1.0 Position Statement

- 1.1 KARF supports H.B. 2063 which establishes a statewide policy prohibiting exclusionary zoning practices with regard to group homes for six or fewer individuals with handicaps which may also include two resident staff members.
- 1.2 KARF recommends that the number of handicapped individuals who could be served in such a group home be increased from six to eight.

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 individuals with handicaps.
- 2.2 Currently there are over 1,500 individuals who are disabled living in group homes or apartment settings in Kansas. 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 the outcome of this bill.
- 2.4 National funding, philosophy, and regulations support community integration of our handicapped citizens.

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- 2.5 Over twenty-eight 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 KARF agencies believe that in this time of fiscal constraints that H.B. 2063 would be more responsive to the needs for fiscal responsibility if the bill were amended to allow for up to eight handicapped individuals and two resident staff members.
- 2.9 Overall, H.B. 2063 supports KARF's belief that services for the disabled should be available in the community to prevent institutionalization.



SUPPORT
SERVICES
FOR CITIZENS
WITH AUTISM, INC.

6119 HALLET
SHAWNEE, KANSAS 66216
(913) 631-6237

A NON-PROFIT CORPORATION DEDICATED TO BUILDING A BETTER LIFE

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MARK A. CORDER

January 28, 1987

To: House Committee on Local Government
From: Sue Steele
Re: HB 2063

I am the mother of a 23 yr. old man disabled by autism, a life-long developmental disability. Support Services for Citizens with Autism, Inc. is a group of concerned parents supported by concerned professionals. As chairperson of this group, I am here today to support HB 2063- an act concerning zoning; relating to group homes, by Rep. Douville.

Subsequent to passage of P. L. 94-142 (the Education of All Handicapped Children Act of 1975) our children have been served by the public school district and they have continued to live at home in the community. Many handicapped students cannot become self-supporting adults without extended community services. This includes residential services. The outcome of HB 2300, which was passed last spring, will be a statewide system for the transition of developmentally disabled students who are aging out of special education and entering adulthood. When implemented, this bill will be of great benefit to the young adult disabled by autism. Parents of these young adults realize that they, themselves are growing older. They have spent many years doing their best to see that their children get the training to help them be accepted in the community. The well being of their children, after they can no longer care for them, is of great concern to the parent. HB 2063

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specifically gives us the support we need for appropriate residential services for our children.

Our organization is in the process of developing a home, the first in Kansas, specifically for individuals disabled by autism and other developmentally disabled persons with communication and/or behavior disorders. In order for these individuals to fit into society and not stand out as being "different", a "normal" life style should be available. Every day activities which include, work, recreation, and home activities should be continued as it was done in their parents home. It will be important for their new home to be in a setting convenient to community services (transportation, shopping, church, parks, etc).

Soon, our organization begins the process of choosing the site for the home. In discussions with providers serving other developmentally disabled persons, the largest and most mentioned obstacle is zoning. This obstacle stands out more than in other types of housing developments because there is a lack of education and because of long standing false ideas of the impact that this type housing has on a single family residential neighborhood.

In closing, I ask that this committee support HB 2063 and help individuals with autism and other developmentally disabled persons live the quality of life to which they are entitled. Thank you.

January 28, 1987

To: KANSAS REPRESENTATIVES
Re: Local Government HB 2063
From: Sister Christella Buser

I am a native Kansas, and executive director of L'Arche (Ark, a place of refuge), an organization in the Kansas City area which worked for three years to establish a home for four moderately mentally disabled adults and three staff members who live and work together as a family.

I am a proponent of HB 2063 and hopefully after my testimony you will understand the struggles of many of us who seek to provide a family environment for mentally disabled adults. I urge you to move this Bill to its passage so that we can join 38 other States who already have passed a Bill with less restrictive zoning laws.

PERSONAL EXPERIENCE I have lived and worked with mentally disabled persons for the past ten years. The various homes in which I lived are located in residential areas of town and cities of various sizes, some in Canada and some in the U.S. In no instance has there been a serious problem between one of our group homes and the surrounding neighbors involved, due to our life style, our group activities or the actions of any individual person living in one of our homes.

To speak more directly to the issue, we have nine homes in the U.S. They are in Syracuse, NY; Erie, PA; Tacoma, WA; Cleveland, OH; Boston, MA; Washington, DC; Mobile, AL; Seattle, WA; and Clinton, IA. The quality of life and the interaction with local neighbors in these towns and cities give ample evidence that mentally disabled citizens can live in private homes and have lives of human dignity when such living is structured to meet the needs of all, those in the home and those in the neighborhood.

LOCAL ZONING LAWS For nearly three years I dealt with local municipalities in the Kansas City area in my quest for a small group home. At every turn I met with doubt, discouragement and resistance. Let me give you a few examples.

1. OLATHE, KS In the Fall of 1984 I found a suitable home in Olathe. The owner was willing to sell. I began the process of obtaining a special use permit as required by current zoning laws. After delays in meetings scheduled before the Olathe Planning Commission and the City Commission, in the Spring of 1985, my application was rejected. The Olathe Planning Commission had overwhelmingly voted in favor (6-1), but the City Commission rejected the application (3-2). Local city elections tied in with a neighborhood protest played a significant role in deciding the issue.

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(Sister Christella Buser's testimony continued)

2. JOHNSON COUNTY During the Fall of 1985 and Spring of 1986, as suggested to me by a Johnson County legislator, I visited with a number of mayors and planning and city commission members of various municipalities in the county. In some cases I was told that it would be very difficult to get a special use permit for our desired home in "their" towns. In one place I would be required to pay a \$650 non-refundable application fee, and the opinion was expressed that I would almost surely be turned down by the City Commission of that particular municipality.

3. MISSION, KS I also applied for a special use permit from the city of Mission for a home in that area. I had to pay a \$100 non-refundable application fee. 21 neighbors around my intended home had to be notified. I had to put up a large sign in the front yard of the property. Again the Planning Commission on March 10 approved our request, but on March 26 the City Commission refused our request because of a neighborhood petition.

4. OVERLAND PARK, KS I signed, sealed a contract to purchase a house in Overland Park when the neighbors caused such an uprising that the owner retracted the contract saying she decided not to sell the house. However, the very next day another FOR SALE sign was placed in front of the house.

After other attempts to purchase a house we decided on a duplex. The City Planning Commission said that we would have to use the duplex as two residences and could not connect them to be used as a home. If we did this and kept our number of residents under four on each side we would not have to go through the zoning. This was an alternative but not an alternative that we really desired as it cuts our home in half since we cannot by law put a door between the two sides. However, we knew we could not wait any longer to pursue our dream and purchased the duplex.

SUMMARY Current zoning laws surely require a long torturous path to follow in the quest for a small group seeking to purchase a home in a residential (R-1) area in order to enjoy the good life in Kansas.

If left entirely in the hands of local municipal officials, the current zoning laws will continue to be discriminatory in excluding mentally disabled persons from residential neighborhoods.

I really feel that this is not a local issue but a state issue as it concerns the whole state of Kansas. Kansas officials estimate that 3,000 retarded adults now living with elderly parents need to be placed in a residential setting.