

Approved March 20, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

9:10 a.m. ~~XXXX~~ on March 18, 1987 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Arden En sley, Emalene Correll and Lila McClaflin

Conferees appearing before the committee:

Kevin Davis, League of Kansas Municipalities
Marla J. Howard, Public Affairs Officer, City of Wichita
Marylin J. Swartley, Mayor of Olathe, Ks.
Scott Lambers, City of Overland Park, Ks.
Janet Stubbs, Executive Director, Home Builders Assn. of Ks.
Karen McClain, Kansas Board of Realtors
Sandy Praeger, Mayor, City of Lawrence
Price Banks, Planning Division, City of Lawrence

The Chairman stated a handout had been distributed from John Kelly, Executive Director, of Kansas Planning Council on Developmental Disabilities Services. Mr. Kelly supports the passage of H.B. 2063.
(ATTACHMENT I)

The hearing for the opponents of H.B. 2063, group home zoning, was opened.

Kevin Davis presented testimony prepared by E. A. Mosher, Executive Director of the League. The League took the position of "No Position" on the original H.B. 2063. With the House deletion of the provision (line 66) relating to "special or conditional use permit regulation," the Governing Body of the League took action to oppose the bill, unless this language is restored. They also recommended several amendments. (ATTACHMENT II)

Janet Stubbs opposed H.B. 2063 based not upon the proposed inhabitants of the group homes, but rather on the strong belief in home rule powers currently afforded local units of government.
(ATTACHMENT III)

Marla J. Howard stated the City of Wichita does not base its special use permit decision on the type of factors that supporters of this bill stated yesterday. The existing non-discrimination law and local zoning regulations are working for them. (ATTACHMENT IV)

Marylin J. Swartley stated as you debate the legislation before you, I hope you will consider the appropriateness of restoring local control over the establishment of group homes. There is some misconception about Olathe's willingness to have these facilities in the community. Olathe supports their local homes and believes they have a good track record in providing living facilities for those who especially need them. They encouraged the Committee to reinstate the conditional use permit if they pass the bill. (ATTACHMENT V)

Scott Lambers urged the reinstatement of the special use permit or some kind of similar process.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

room 531-N, Statehouse, at 9:10 a.m./~~p.m.~~ on March 18, 1987

Karen McClain asked that the current zoning rules be kept intact and unaltered. (ATTACHMENT VI)

Sandy Praeger stressed that Lawrence has not prohibited group homes but they feel the public hearing process is an important part of the planning efforts in any community. (ATTACHMENT VII) They oppose the deletion of that process and they support the amendments proposed by the League.

Price Banks stated without the hearing process they would have to oppose the bill.

Representative Douville was recognized. He stated over the years he has seen a need to have this process. The special permit process is only good for one or two years and group homes need assurance that once in place they can stay.

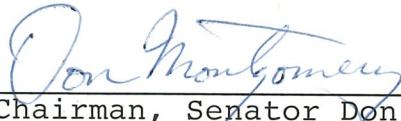
Senator Bogina stated it is always a selling process to get a special permit. He did not think that if this bill passed there would automatically be more group homes. It's not a matter of zoning that stops them it is appropriations, it's a matter of money.

Dr. Gerald Hannah stated if you make more money available for care of persons in group homes, you'd see more applications, you would see more frequency of homes being denied. We have a better chance of placing homes if this bill is passed.

Senator Allen asked for a list of the places where group homes have been denied.

Senator Salisbury asked Rep. Douville if he objected to including the homes for mentally ill in the bill. Rep. Douville stated he was not very encouraged to do so at this time.

The meeting adjourned at 10:01 a.m., next meeting will be on March 19, 1987.


Chairman, Senator Don Montgomery

Date: MARCH 10, 1987

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

NAME	ORGANIZATION	ADDRESS
M. K. New	—	Topeka
M. Hoover	Cap. Inv	Topeka
Jan Strubbe	KAPS	Manhattan
Hannes Fehrmann	City of Lawrence	Lawrence
Janet Stubbbs	NBAK	Topeka
RICE BANICS	CITY OF LAWRENCE	LAWRENCE
Sandra K. Praeger	City of Lawrence	Lawrence
Kevin Davis	League of Ks Munic	Topeka
Bary Condra	Residential Alternatives	Lawrence
Arthur Dourille	Legislature	State Capitol
John Conard	Governor's Office	Topeka
Jim Sullinger	KC STAR	Olathe
Billy M. Gibson	Red Wing Homes Inc	Leawood, Ks
Lila Paslay	ARC Kansas	Topeka
Elton Turner	Red Wing Homes, Inc -	Prairie Village, Ks
Kevin Hill	—	Topeka
Bernad T Hannah	MHRS	Topeka
Marylin Swartley	City of Olathe	Olathe
Don Seifert	City of Olathe	"
SCOTT LAWRENCE	CITY OF OURLAND PARK	OURLAND PARK



KANSAS PLANNING COUNCIL

on DEVELOPMENTAL DISABILITIES SERVICES

Fifth Floor North
State Office Building
Topeka, Kansas 66612
VOICE-TTY
(913) 296-2608

JOHN KELLY
Executive Secretary

Senate Committee on Local Government
Concerning House Bill 2063

March 17, 1987

Thank you Senator Montgomery and members of the Senate Committee on Local Government for the opportunity to appear before you concerning House Bill 2063.

My name is John Kelly and I am the Executive Secretary to the Kansas Planning Council on Developmental Disabilities. The Council is a 15-member body whose members are appointed by the Governor under K.S.A. 74-5501. The Council's mission is to improve the quality of life, maximize the developmental potential, and assure the participation of citizens who are developmentally disabled in the privileges and freedoms available to all Kansans. We support House Bill 2063 as introduced by Representative Douville.

In spite of the changes in philosophy, technology, and "best practice" for individuals with severe disabilities, state law still contains an "institutional bias" and thereby continues to exclude persons with developmental disabilities from the benefits of single family residential living options.

Persons who oppose this legislation indicated last year that state law does not specifically restrict this population from community group home living. However, without a clear state policy, which this bill provides, to not exclude persons with disabilities from residing in certain zoned areas, there will continue to be ordinances, resolutions, regulations or restrictive covenants that impede integrating persons with disabilities to community settings. In addition, conferees made comment that the property values would be affected, that the stability of the neighborhood would somehow be unduly altered and the danger of criminal activity would be increased.

(ATTACHMENT I) LOCAL GO 3/18/87

A recent study undertaken in Illinois, which is in the mail on the way to me, shows that there is no effect on property values, that the stability of the neighborhood is not affected by the placement of a group home in a community and that there is little to no participation by the residents of a group home in criminal activity.

Presently, the number of persons seeking community residential placement far exceeds the available community placements. (See attachments provided by Mental Health and Retardations Services). Parents in their sixties, seventies, and eighties who have always had their son/daughter with disabilities living at home are being told they may need to wait three to five years for a community living arrangement. Concurrently, Mental Health and Retardation Services has proposed and is working to reduce the institutional residential population and the community waiting list by the year 1991. (See attachment). Additionally, Rehabilitation Services was given the lead role in coordinating a transition system assisting persons with severe disabilities from special education into the realm of employment which most assuredly includes housing.

Where are these people going to go if the community does not presently have the capacity to accept their greater responsibility?

The Council understands that all will not be corrected with the passage of this bill, but encourages your favorable recommendation out of committee of a bill that will provide the opportunities to achieve the benefits of single family residential living, encourages the dispersion of group homes within a municipality and limits the occupancy of group homes to six or fewer persons. This bill will also bring the state in line with the thirty-six other states which have enacted state zoning laws. I call your attention to the attached January 1985 state zoning legislation survey undertaken by the State of Wisconsin. A January 1986 update of that survey will be distributed to you as soon as it becomes available. Reducing the institutional population, reducing the number of persons on community waiting lists and the transition of persons into independence will greatly strain the present overburdened system. The passage of this bill will assist in providing needed community options especially when assisted by the adoption of the recommendations provided by the Special Committee on Public Health and Welfare concerning Proposal No. 25. Which among other issues seeks increased resources for community residential living.

Local Government Committee-3
January 28, 1987

I encourage the members of this committee to approve House Bill 2603 and as members of the whole, to take a close look at the special committee recommendations which would move this state closer toward addressing the hard realities now facing persons with disabilities who are not able to live in the community without assistance.

John F. Kelly
Kansas Planning Council on
Developmental Disabilities
Services

296-2608

Wednesday, January 1987

**Overview of Reduction
of Average Resident Population
at State Mental Retardation Institutions
FY 1987 - 1991**



**Office of the Secretary
March 1986**

Kansas Department of Social and Rehabilitation Services

**Summary of Plan to Reduce State MR Institutions
(State General Fund Only)**

	1987	1988	1989	1990	1991	TOTAL
# Resident Moved	118	110	65	25		318
Institutional Cost Savings	0	\$382,607	\$840,108	\$1,111,697	\$1,520,988	\$3,855,400
Additional Community Costs	\$1,062,050	\$2,701,999	\$4,010,316	\$4,759,657	\$5,035,166	\$17,569,188

PROPOSED REDUCTION IN BUDGETED ADC ACROSS MR INSTITUTIONS

ASSUME NO REDUCTION IN ADC: ADC

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	390	390	390	390	390
Norton	141	141	141	141	141
Parsons	285	285	285	285	285
Winfield	490	490	490	490	490
TOTAL	1,306	1,306	1,306	1,306	1,306

ASSUME A 218 REDUCTION IN ADC: ADC

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	390	390	358	326	301
Norton	141	120	108	108	108
Parsons	285	285	285	285	265
Winfield	490	427	394	394	394
TOTAL	1,306	1,222	1,145	1,113	1,088

PROPOSED REDUCTION IN ADC: ADC REDUCTIONS

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	TOTAL
KNI	0	0	32	32	25	89
Norton	0	21	12	0	0	33
Parsons	0	0	0	0	0	0
Winfield	0	63	33	0	0	96
TOTAL	0	84	77	32	25	218

PROPOSED REDUCTION IN BUDGETED ADC ACROSS MR INSTITUTIONS

ASSUME NO REDUCTION IN ADC: EXPENDITURES REQUIRED

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	\$16,545,396	\$17,372,666	\$18,241,299	\$19,153,364	\$20,111,032
Norton	\$6,526,615	\$6,852,946	\$7,195,593	\$7,555,373	\$7,933,141
Parsons	\$11,811,467	\$12,402,040	\$13,022,142	\$13,673,249	\$14,356,912
Winfield	\$19,316,415	\$20,282,236	\$21,296,348	\$22,361,165	\$23,479,223
TOTAL	\$54,199,893	\$56,909,888	\$59,755,382	\$62,743,151	\$65,830,309
SGF ONLY	\$27,744,085	\$28,454,944	\$29,877,691	\$31,371,576	\$32,940,154

ASSUME A 218 REDUCTION IN ADC: EXPENDITURES REQUIRED

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	\$16,545,396	\$17,372,666	\$17,816,521	\$18,248,180	\$18,453,175
Norton	\$6,526,615	\$6,259,828	\$6,271,530	\$6,585,107	\$6,914,362
Parsons	\$11,811,467	\$12,737,914	\$13,727,478	\$14,413,852	\$15,134,544
Winfield	\$19,316,415	\$19,774,265	\$20,259,637	\$21,272,619	\$22,336,250
TOTAL	\$54,199,893	\$56,144,673	\$58,075,167	\$60,519,758	\$62,838,332
SGF ONLY	\$27,744,085	\$28,072,336	\$29,037,583	\$30,259,879	\$31,419,166

PROPOSED REDUCTION IN ADC: EXPENDITURE SAVINGS
(CUMULATIVE)

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	\$0	\$0	\$424,778	\$905,184	\$1,657,857
Norton	\$0	\$593,118	\$924,063	\$978,266	\$1,018,779
Parsons	\$0	(\$335,874)	(\$785,335)	(\$748,682)	(\$777,632)
Winfield	\$0	\$587,971	\$1,036,711	\$1,088,546	\$1,142,973
TOTAL	\$0	\$765,215	\$1,680,216	\$2,223,394	\$3,041,977
SGF ONLY	\$0	\$382,607	\$840,108	\$1,111,697	\$1,520,988

NOTE: Figures in parenthesis represent increases rather than decreases.
Assume a 5% inflation rate per year.
State General Fund (SGF) at 50%.

PROPOSED REDUCTION IN BUDGETED ADC ACROSS MR INSTITUTIONS

ASSUME NO REDUCTION IN ADC: FTE REQUIRED

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	748.5	748.5	748.5	748.5	748.5
Norton	283.0	283.0	283.0	283.0	283.0
Parsons	478.5	478.5	478.5	478.5	478.5
Winfield	855.0	855.0	855.0	855.0	855.0
TOTAL	2,365.0	2,365.0	2,365.0	2,365.0	2,365.0

ASSUME A 218 REDUCTION IN ADC: FTE REQUIRED

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
KNI	748.5	748.5	723.5	697.5	665.5
Norton	283.0	248.0	232.0	232.0	232.0
Parsons	478.5	498.5	518.5	518.5	518.5
Winfield	855.0	823.0	793.0	793.0	793.0
TOTAL	2,365.0	2,318.0	2,267.0	2,241.0	2,209.0

PROPOSED REDUCTION IN ADC: FTE REDUCTIONS

Institution	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	TOTAL
KNI	0.0	0	25	26	32	83
Norton	0.0	35	16	0	0	51
Parsons	0.0	(20)	(20)	0	0	-40
Winfield	0.0	32	30	0	0	62
TOTAL	0.0	47.0	51.0	26.0	32.0	156

NOTE: Figures in parentheses represent increases rather than decreases.

RESIDENTIAL/DAY PROGRAM/MEDICAL

	Institutional Release						Community Placements					
	1987	1988	1989	1990	1991	Total	1987	1988	1989	1990	1991	Total
ICF-MR	*											
Cost	--	314,068	705,803	1,087,586	1,218,160	3,325,617						
Persons	29	20	17	16	--	82						
Group Living												
Cost	611,100	1,431,349	1,677,394	1,727,726	1,780,245	7,227,814	294,300	707,480	1,145,108	1,286,685	1,286,685	4,720,258
Persons	50	47	--	--	--	97	25	25	25	--	--	75
Supervised Apartment												
Cost							108,000	185,400	292,808	327,821	337,653	1,251,682
Persons							9	8	8	--	--	25
Therapeutic Foster Care												
Cost	60,650	250,213	580,141	916,751	1,067,781	2,875,536						
Persons	5	10	15	9	--	39						
Total Cost	671,750	1,995,630	2,963,338	3,732,063	4,066,186	13,428,967	402,300	892,880	1,437,916	1,614,506	1,624,338	5,971,940
Total Persons	84	77	32	25	--	218	34	33	33	--	--	100
SGF	659,750	1,809,119	2,572,400	3,145,151	3,410,828	11,597,248	402,300	892,880	1,437,916	1,614,506	1,624,338	5,971,940

*Includes medical costs at \$50 per month in 1987, then 3% per year increase each year thereafter.

Office of the Secretary
Social and Rehabilitation Services
February 27, 1986

**COSTS: ANNUAL AND CUMULATIVE
(RESIDENTIAL SERVICE ONLY)**

	Institutional Release					Community Placements				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
ICF-MR										
--87	No Cost	-	-	-	-	-	-	-	-	-
--88	(See 33)	\$ 304,798	\$ 418,144	\$ 430,700	\$ 443,621	-	-	-	-	-
--89	-	-	266,810	366,095	377,077	-	-	-	-	-
--90	-	-	-	258,656	354,899	-	-	-	-	-
Group Living										
--87	\$588,600	808,548	832,806	857,790	883,524	\$294,300	\$404,274	\$416,403	\$428,895	\$428,895
--88	-	570,026	782,838	806,323	830,512	-	303,206	416,403	428,895	428,895
--89	-	-	-	-	-	-	-	312,302	428,895	428,895
Supervise Apartment										
--87	-	-	-	-	-	108,000	111,240	114,577	118,015	121,555
--88	-	-	-	-	-	-	74,160	101,846	104,903	108,049
--89	-	-	-	-	-	-	-	76,385	104,903	108,049
Therapeutic Foster Care										
--87	59,150	122,184	125,852	129,630	133,517	-	-	-	-	-
--88	-	121,849	251,704	259,260	267,034	-	-	-	-	-
--89	-	-	188,261	388,889	400,551	-	-	-	-	-
--90	-	-	-	116,347	240,331	-	-	-	-	-
Total	\$647,750	\$1,927,405	\$2,866,415	\$3,613,690	\$3,930,549	\$402,300	\$892,880	\$1,437,916	\$1,614,506	\$1,624,338

- Assumptions:
1. In the first year of placement, the actual length of placement will average 9 months, except in Therapeutic Foster Care, where it will average 6 months.
 2. 9 months = 274 days; 6 months = 182 days.
 3. The 29 ICF placements for 1987 are already in the 1987 base cost budget and therefore, no costs are added for these in any year.

NUMBER OF PLACEMENTS AND RATES

Placed to		Institutional Releases					Community Placement				
		FY 87	FY 88	FY 89	FY 90	Total	FY 87	FY 88	FY 89	FY 90	Total
ICF-MR	N	29	20	17	16	82					
	R/D	54.00	55.62	57.28	59.00	XXXX					
Group Living	N	50	47			97	25	25	25	--	75
	R/M	1308.00	1347.58	1388.01	1429.65	XXXX	1308.00	1347.58	1388.01	1429.65	XXXX
Supervise Apartments	N						9	8	8	--	25
	R/M	1000.00	1030.00	1060.90	1092.73	XXXX	1000.00	1030.00	1060.90	1092.73	XXXX
Therapeutic Foster Care	N	5	10	15	9	39					
	R/D	65.00	66.95	68.96	71.03	XXXX					
Total	N	84	77	32	25	218	34	33	33	--	100

N = Number of placements
(R/M) Rate/month
(R/D) Rate/day
Rates assume 3% inflation per year

Office of the Secretary
Social and Rehabilitation Services
February 27, 1986



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: E.A. Mosher, Executive Director
DATE: March 18, 1987
SUBJECT: HB 2063--Group Homes, Zoning and Restrictive Covenants

The League took the position of "No Position" on the original HB 2063. That position was consistent with a convention-adopted League Statement of Municipal Policy provision, which states as follows:

1-8d. Group Homes. We recognize the social and psychological value of the location of group homes for the handicapped and developmentally disabled persons in residential neighborhoods. We encourage cities to review their regulations and eliminate provisions which unreasonably and unnecessarily restrict the location of group homes. Cities should not be prohibited from requiring conditional use permits for the use of dwellings for group homes and other non-single family uses in areas zoned exclusively for single family uses.

With the House deletion of the provision (line 66) relating to "special or conditional use permit regulations," the Governing Body of the League took action to oppose the bill, unless this language is restored.

The thrust of HB 2063 is that the state, not local governments nor locally-elected governing bodies, makes the decision as to where group homes may be located. While we are supportive of this bill's special objective, as indicated by our convention action, we have concerns as to whether this fundamental change from local decision making to state decision making in local planning and zoning matters may be extended to other areas in the future. However, the restoration of the "special or conditional use permit regulations" language would at least permit the continuation of some process of local decision making. It would permit the local governing body to respond to community and neighborhood concerns that can be legitimately addressed--but still permitting the use of a dwelling as an eligible group home. For example, the city might require that no alterations be made in the design of the building which renders it incompatible with surrounding dwellings, or that any fire escape not be attached to the front of the building. Under the existing bill, such conditional use regulations would still have to be "nondiscriminatory" (see line 67).

Thus, we request the restoration of the stricken language in line 66.

There are three other amendments that we would suggest for Committee consideration, as follows:

(ATTACHMENT II) LOCAL GO 3/18/87

- (1) The bill relates to restrictive covenants, as well as zoning; see lines 27-28 and line 60. The title of the act should reflect this fact.
- (2) In the definition of "municipality," line 40, the word "township" should be inserted after the word "city." There are townships in Kansas which have the statutory authority to enact zoning regulations, and have done so.
- (3) The Committee may want to consider changing the phrase "For the purpose of protecting the development of the area," beginning on line 67. A more appropriate phrase is: "For the purpose of preserving the single family residential character of the area." The word "development" is misleading, since the area may well be fully developed. The words "single family residential surroundings" are consistent with language used in line 26.

Frankly, we have concerns about the home rule principles involved in the bill, despite its noble intent. The amendments could make it workable, more acceptable at the local level, and still not impede achieving the state policy objective in Section 1.

TESTIMONY FOR
SENATE LOCAL GOVERNMENT

MARCH 18, 1987

BY

JANET STUBBS, EXECUTIVE DIRECTOR
HOME BUILDERS ASSOCIATION OF KANSAS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: MY NAME IS JANET STUBBS AND I AM THE EXECUTIVE DIRECTOR FOR THE HOME BUILDERS ASSOCIATION OF KANSAS.

WE APPEAR TODAY IN OPPOSITION TO HB 2063. OUR OPPOSITION IS NOT BASED UPON THE PROPOSED INHABITANTS OF THE GROUP HOMES, BUT RATHER ON THE STRONG BELIEF IN HOME RULE POWERS CURRENTLY AFFORDED LOCAL UNITS OF GOVERNMENT.

AS A GROUP WHICH MUST SEEK APPROVAL AND WORK WITH LOCAL OFFICIALS BEFORE BEING PERMITTED TO DEVELOP AND CONSTRUCT A PROJECT IN ACCORDANCE WITH PLANS AND RESTRICTIONS ESTABLISHED BY THE GOVERNING BODY OF THE CITY, WE BELIEVE PROPERTY OWNERS OF LAND ADJACENT TO A PROJECT SHOULD HAVE THE OPPORTUNITY TO VOICE THEIR CONCERN, OPPOSITION OR APPROVAL OF A ZONING MATTER WHICH AFFECTS THEIR NEIGHBORHOOD AND PROPERTY. HB 2063 REMOVES THAT RIGHT FROM PROPERTY OWNERS OF THE AREA WHEN A DEVELOPER FOR A GROUP HOME DECIDES

(ATTACHMENT III) LOCAL GO 3/18/87

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HB 2063 - JANET STUBBS

TO LOCATE HIS PROJECT IN A NEIGHBORHOOD. THIS IS THE VERY RIGHT SO STRONGLY PROTECTED IN THE ANNEXATION LEGISLATION OF 1986.

IN THE PAST, PROPONENTS OF SIMILAR LEGISLATION HAVE STATED IT IS NECESSARY IN ORDER TO PREVENT TIME DELAYS CAUSED BY NEIGHBORHOOD HEARINGS WHICH ARE USUALLY TENSE AND SOMETIMES HOSTILE. IT HAS BEEN FURTHER STATED THAT NEIGHBORHOOD RESENTMENT SUBSIDES AFTER A GROUP HOME IS LOCATED IN A NEW RESIDENTIAL AREA.

HOWEVER, MANY OTHER DEVELOPERS BELIEVE IT IS BENEFICIAL TO HAVE AN OPEN FORUM WITH RESIDENTS OF AN AREA IN WHICH THEY PLAN TO LOCATE A PROJECT. IF A DEVELOPER DOES HIS HOMEWORK PRIOR TO HEARINGS AND CONDUCTS HIMSELF PROPERLY DURING A HEARING, IT IS ADVANTAGEOUS TO EVERYONE INVOLVED. IN THE INSTANCE OF GROUP HOMES, ESPECIALLY TO THE FUTURE RESIDENTS OF THE HOME.

ONE PROPONENT YESTERDAY STATED THEY DID NOT WANT TO CREATE A SITUATION WHICH MIGHT BE ADVERSE TO THE INHABITANTS. HOWEVER, WE BELIEVE THIS IS WHAT THE EFFECT OF THIS PROPOSAL WILL BE.

ARE THERE CITIES IN KANSAS WHICH WILL NOT PERMIT A GROUP HOME?

PAGE 3

HB 2063 - JANET STUBBS

OR ARE YOU BEING ASKED TO ACT BECAUSE THE CITIES ARE EXERCISING THEIR HOME RULE POWER AND GOVERNING THEMSELVES AND A DEVELOPER DOES NOT BELIEVE HIS PROJECT SHOULD BE SUBJECT TO THE SAME REQUIREMENTS OF OTHER PROJECTS DUE TO THE PROPOSED INHABITANTS.

PROponents OF HB 2063 SEEK TO LOCATE IN A SINGLE FAMILY ZONED AREA WHEREAS THEY MAY ALREADY LOCATE A FACILITY IN A MULTI-FAMILY ZONED AREA. LIVING IN A MULTI-FAMILY ZONED AREA IS NOT CONSIDERED INFERIOR OR ABNORMAL LIVING CONDITIONS BY THOUSANDS OF KANSAS RESIDENTS. LIVING IN A MULTI-FAMILY ZONED AREA DOES NOT MEAN THAT YOU MUST RESIDE IN AN APARTMENT BUILDING. MANY AREAS ARE ZONED MULTI-FAMILY AND CONTAIN STRUCTURES IN WHICH ONLY ONE (1) FAMILY RESIDES AND SHOULD NOT IMPLY AN INFERIOR OR DIFFERENT LIFESTYLE WHICH IS LESS DESIRABLE FOR THE MENTALLY OR PHYSICALLY HANDICAPPED.

IN CONCLUSION, WE URGE YOU TO RECOGNIZE THIS AS A ZONING DISPUTE WHICH YOU ARE BEING ASKED TO RESOLVE AT THE STATE LEVEL BECAUSE IT INVOLVES AN EMOTIONAL SOCIAL ISSUE.

WE BELIEVE THERE ARE OTHER SOCIAL ISSUES AND ZONING ISSUES WHICH YOU WILL BE ASKED TO ADDRESS IN A SIMILAR MANNER, IF YOU TAKE THIS

ACTION ON GROUP HOMES FOR THE PHYSICALLY AND MENTALLY HANDICAPPED. AS AN EXAMPLE, WE BELIEVE INDIVIDUALS WHO BELIEVE STRONGLY THAT THERE IS A NEED FOR HOUSING FOR INDIVIDUALS BEING REHABILITATED FOR ALCOHOL AND DRUG ABUSE WILL ASK YOU TO INTERVENE ON THEIR BEHALF WITH CITIES AND COUNTIES SO THEY CAN LOCATE FACILITIES WITHOUT PRIOR AUTHORIZATION. THERE WOULD PROBABLY BE OTHERS SUCH AS THOSE ATTEMPTING TO LOCATE SHELTER FOR INDIVIDUALS WHO HAVE BEEN RELEASED FROM A PENAL FACILITY.

ONCE AGAIN, I WOULD LIKE TO REITERATE OUR POSITION ON HB 2063:

1. WE SUPPORT THE HOME RULE POWERS OF THE CITIES TO PLAN AND ZONE THEIR COMMUNITIES WITHOUT STATE INTERVENTION. WE URGE THIS COMMITTEE TO RECOGNIZE THIS IS A ZONING ISSUE WHICH IS COMPLEX BECAUSE IT INVOLVES A VERY EMOTIONAL SOCIAL ISSUE WHICH IS BEING STRESSED BY THE PROPONENTS OF THIS LEGISLATION.

2. WE SUPPORT QUALIFIED CARE OF THE HANDICAPPED, AS WELL AS COMFORTABLE AND PLEASANT LIVING ACCOMMODATIONS FOR THESE INDIVIDUALS. WE HAVE NEVER STATED THAT THE

MENTALLY RETARDED OR PHYSICALLY HANDICAPPED ARE NOT OUR PROBLEM, AS STATED BY A PROPONENT.

FURTHERMORE, I DO NOT UNDERSTAND HOW ANYONE COULD SAY THE MENTALLY ILL OR THE ELDERLY OR OTHER SUCH "GROUPS" SHOULD NOT BE INCLUDED IN THE PROVISIONS OF HB 2063. IF YOU TRULY BELIEVE THE STATE OF KANSAS SHOULD FORMULATE A POLICY OF THIS NATURE, THEN IS ONE GROUP MORE DESERVING THAN ANOTHER? ISN'T THIS DISCRIMINATION ALSO?

3. CONFEREES DURING INTERIM STUDY 2 YEARS AGO STATED THEIR SUPPORT BECAUSE OF TIME DELAYS CAUSED BY HEARINGS. THESE TYPE HEARINGS ARE THE VERY ISSUE WHICH HAVE BEEN STRONGLY PROTECTED BY SO MANY DURING THE ANNEXATION CONTROVERSY. ARE THE RESIDENTS OF NEIGHBORHOODS WHERE GROUP HOME OPERATORS CHOOSE TO LOCATE LESS DESERVING OF THEIR RIGHT TO BE HEARD THAN AREAS WISHING NOT TO BE ANNEXED.

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HB 2063 - JANET STUBBS

4. SHOULD "DEVELOPERS" OF GROUP HOMES HAVE ADVANTAGES NOT AFFORDED OTHER "FOR PROFIT" DEVELOPERS BECAUSE OF THE PROPOSED INHABITANTS OF THEIR PROJECTS?

HBAK OPPOSES PASSAGE OF HB 2063.

THE CITY OF WICHITA

PUBLIC AFFAIRS OFFICE
CITY HALL — THIRTEENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4351

March 18, 1987

TO: Chairman Montgomery and Members of the Senate Local
Government Committee

FROM: Marla J. Howard, Public Affairs Officer

RE: HB 2063, Group Home Zoning

Chairman Montgomery and Members of the Committee:

The City of Wichita wishes to express its opposition to House Bill 2063.

Over the last five years, the City of Wichita has processed 24 Board of Zoning Appeals cases for group homes. Of these cases, only one application was denied because of location problems. The home was located directly on a street heavily trafficked, particularly by trucks. In addition, there were no sidewalks along the street and the nearest bus stop was at least one-quarter of a mile away. In this particular case, almost all of the people planning to live in the home were dependent upon public transportation.

In addition, the City of Wichita has provided City-owned land for a nominal fee and bond money for construction of several group homes in a single family neighborhood.

Zoning uses, regulations and procedures exist for the protection of all residents. When an exception is requested before the Board of Zoning Appeals, whether for a group home or something else, consideration is given to all of the factors and parties involved based on each individual situation. The special use permit process also gives the people already living in the neighborhood a chance to be heard. In Wichita, we feel this is beneficial for providing neighborhood residents with information. These residents are

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naturally concerned with what occurs in their neighborhood and should be allowed the same rights of representation as everyone else.

I think you can see by our track record that we have found group home use in single family neighborhoods to be acceptable, while still providing for proper conditions and allowing neighborhoods appropriate input. We do not believe we are discriminating against handicapped people. These zoning regulations apply to everyone equally. We do not allow anyone else to build multifamily, commercial or industrial uses on land zoned for single-family use without going through the same procedure. Neither do we allow different zoning uses of existing structures without the hearing process and approval.

I have heard comments from supporters of this bill that opponents are afraid the home occupants will be dangerous, that property values will go down, and traffic will increase. The City of Wichita does not base its special use permit decisions on these types of factors.

The existing non-discrimination law and local zoning regulations are working for us and the City of Wichita urges your opposition to HB 2063. Thank you.



CITY COMMISSIONERS

MARYLIN J. SWARTLEY, MAYOR
FORD BOHL, VICE-MAYOR
HERMAN CLINE
LARRY HUCKLEBERRY
LOIS TAYLOR

March 17, 1987

Senator Don Montgomery, Chairman
Senate Local Government Committee
State Capital Building
Room 503-N
Topeka, Kansas 66612

Dear Senator Montgomery and committee members:

Because the Senate Local Government Committee is debating legislation pertaining to group homes, I would like to take this opportunity to set the record straight about Olathe's position regarding this matter. The City of Olathe welcomes group homes within the community and has eight such facilities serving special populations. Only once has the city declined to accept a group home; two years ago the City Commission rejected a request for a local home for retarded citizens because the zoning was deemed incompatible with existing neighborhood zoning. A list of the eight group homes that already exist in Olathe neighborhoods is included below.

In Olathe we fully realize the need many citizens have for supervised living, and we support the theory that such living accommodations should provide the least restrictive environment appropriate for the individual's needs. Such reduced restrictions have been found to be therapeutic and cost effective. We applaud the move toward deinstitutionalizing special segments of our population that do not require institutional housing and supervision.

As evidence that the City of Olathe supports the concept of small unit, community-based residential living facilities for those requiring supervision, please consider the following group homes located in Olathe.

1. Cedar House--A transitional living home helping those who have been institutionalized readjust to community life. The city has contributed financially to rehabilitation of this home.

2. Pilot House--A home for troubled teenage girls. This home also has received city funds for rehabilitation.

3. TLC (Temporary Lodging for Children) Home--A home that provides short-term living arrangements for abused or abandoned children who have been taken from their parents by the courts.

4. Faith Village--Two separate facilities providing a home setting for mentally retarded adults.

5. Living Inc. (LINC)--A transitional living home for citizens readjusting to community life after institutionalization.

(ATTACHMENT V) LOCAL GO 3/18/87

6. Live and Learn--A controlled home environment for troubled boys.
7. Johnson County Detention Center--a correctional institution for juvenile offenders.
8. Safe homes--Homes for battered wives.

In addition to these homes, the city has been recognized nationally for its non-residential programs for the disabled and other special groups.

In general, Olatheans endorse the following beliefs about group homes:

1. Citizens requiring supervision should be cared for as near their homes as possible so that they might obtain aid and support from family and friends.
2. Community-based residential facilities should be spread geographically throughout the community so that they do not overwhelm a neighborhood or unduly tax public facilities in any particular part of the city. I personally believe that these facilities should not be located closer than 2,500 feet unless a local government opts to adopt a lesser distance.
3. Group homes should be required to be licensed by the local unit of government where they are located. A license should not be denied as long as the facility meets the spacing requirements and local building and housing code requirements. The license should specify the client group to be served, and the facility should not be permitted to change client groups without requesting a new license.
4. For a community-based residential facility to be truly successful, the client group should be accepted into the neighborhood. To accomplish this, each home should be required to establish an advisory board to be drawn from the neighborhood to identify and resolve problems that may involve the facility.
5. At the 18-month anniversary of the community-based residential facility, the planning commission should hold a public hearing to receive any complaints the neighborhood might have about the facility. If the home's existence has upset the tranquility of the neighborhood, the facility can be ordered closed and the resident relocated within 90 days.
6. All citizens, regardless of disability, should be accorded the maximum education from which they can benefit through the public school system. If the costs for extraordinary services required by special students exceed the norm for the community, funding should be provided from state sources.
7. We agree with the Kansas League of Municipalities that legislation regarding establishment of group homes should contain a clause allowing for local special use provisions.



Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/267-3610

TO: SENATE LOCAL GOVERNMENT COMMITTEE
FROM: KAREN MCCLAIN, DIRECTOR, GOVERNMENTAL AFFAIRS
DATE: MARCH 18, 1987
SUBJECT: HB 2063, GROUP HOMES

On behalf of the Kansas Association of REALTORS®, I appear here today in opposition to HB 2063.

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 for the protection of the rights of private property owners in this state and country. 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 those powers.

HB 2063 would take away a property owner's right to participate in the decision of whether a group home should be placed in their neighborhood. 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 for property owners to participate in the decision about changing the way homes are occupied in their neighborhood.

(ATTACHMENT VI) LOCAL GO 3/18/87

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 property owners and the city should be involved in this decision making process. Under the current system they are. Under HB 2063 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.

It is stated by group home advocates that the people who are trying to place group homes in a neighborhood are met with opposition by the neighbors during 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.

What would be the benefit of placing group homes in neighborhoods where they are clearly not wanted? Surely that is not conducive to a healthy 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 time for property owners to participate in a public hearing. It seems that such a process is a fair balance between all property owners. To place a law such as this on the books only places a dangerous precedent for other groups to come in and expand this provision.

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

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GROUP HOMES

IN LAWRENCE GROUP HOMES ARE TREATED EXACTLY AS IF THEY WERE SINGLE-FAMILY RESIDENCES. FOUR OR FEWER INDIVIDUALS MAY LEGALLY SHARE A SINGLE-FAMILY DWELLING UNIT. A GROUP HOME OF FOUR OR FEWER DISABLED OR HANDICAPPED INDIVIDUALS MAY LEGALLY SHARE A SINGLE-FAMILY DWELLING UNIT.

LARGER GROUP HOMES ARE "USES PERMITTED SUBJECT TO REVIEW" IN THE LAWRENCE ZONING ORDINANCE.

GROUP HOME STRUCTURES WILL NOT ALWAYS BE USED AS GROUP HOMES. THEY WILL SOMEDAY BE SOLD AND CONVERTED TO ANOTHER USE. A GROUP HOME BUILT TO HOUSE 8 ADULTS PLUS 2 STAFF RESIDENTS WILL LIKELY HAVE 6 TO 10 BEDROOMS AND WILL HAVE A MUCH GREATER FLOOR AREA AND MORE BATHROOMS AND COMMON AREAS THAN MOST SINGLE-FAMILY HOMES. A STRUCTURE OF THIS CONFIGURATION CAN BECOME A WHITE ELEPHANT IN A NEIGHBORHOOD. IT CAN CREATE PRESSURES FOR CONVERSION TO A MULTIPLE FAMILY STRUCTURE OR TO SOME NON-RESIDENTIAL LAND USE.

LAWRENCE HAS LONG RECOGNIZED THE NEED AND THE SOCIAL VALUE OF LOCATING GROUP HOMES FOR THE HANDICAPPED AND DEVELOPMENTALLY DISABLED PERSONS IN RESIDENTIAL AREAS.

WE HAVE SUCCESSFULLY LOCATED A NUMBER OF LARGER GROUP HOMES IN OUR NEIGHBORHOODS. WE HAVE BEEN SUCCESSFUL BECAUSE:

1) WE HAVE INTRODUCED THE CONCEPT INTO OUR NEIGHBORHOODS WITH PUBLIC HEARINGS WHERE CITIZENS' CONCERNS WERE ADDRESSED, QUESTIONS WERE ANSWERED, AND FEARS WERE LAID TO REST.

2) WE HAVE REVIEWED EACH REQUEST TO ASSURE THAT COMMUNITY FACILITIES AVAILABLE CAN SERVE THE FACILITY, AND THAT THERE WILL BE APPROPRIATE PARKING, PEDESTRIAN CIRCULATION AND LANDSCAPING ON THE SITE.

3) WE HAVE REVIEWED THESE HOMES TO DETERMINE IF THEIR LOCATION PROVIDES FOR THE HEALTH, SAFETY AND GENERAL WELFARE OF THE OCCUPANTS OF THE HOME AS WELL AS THE RESIDENTS OF THE IMMEDIATE NEIGHBORHOOD.

IT IS IMPERATIVE THAT LOCAL LAND USE DECISIONS BE MADE AT THE LEVEL OF GOVERNMENT THAT IS CLOSEST AND MOST ACCESSIBLE TO THOSE PERSONS WE ARE TRYING TO PROTECT. LAND USE DECISIONS MUST BE MADE LOCALLY, IN AN OPEN PUBLIC HEARING WHERE CITIZENS CAN LEARN, AND EXPRESS THEIR VIEWS.

WE MUST STRESS THAT IN LAWRENCE, AND WE BELIEVE THE REST OF THE STATE, LARGER GROUP HOMES HAVE NOT BEEN PROHIBITED. THE PROPONENTS WANT TO CIRCUMVENT THE PUBLIC HEARING PROCESS, A PROCESS WE FEEL IS AN IMPORTANT PART OF THE PLANNING EFFORTS IN ANY COMMUNITY.

Sandra K. Praeger
Mayor
City of Lawrence
3-18-87