

Approved March 20, 1989
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Robert D. "Bob" Miller at
Chairperson

1:38 a/m./p.m. on March 14, 1989 in room 521-S of the Capitol.

All members were present except:

Representative Williams, excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Theresa Kiernan, Revisor of Statutes' Office
Connie Smith, Committee Secretary

Conferees appearing before the committee:

Paul Klotz, Exec. Director of Association of Community Health Centers of KS
Marnett Hatchett, Executive Director, Meadowlark Homestead, Newton, KS
Howard Snyder, representing Kansas Alliance for the Mentally Ill
Joan Strickler, Director of Kansas Advocacy & Protective Services, Inc.
Ray Petty, Topeka Ind. Living Resource Center
Jim Kaup, general counsel, League of Kansas Municipalities
Ronald A. Williamson, President of Kansas Chapter of the American Planning Assn.

Chairman Miller called for hearings on SB 17 and due to the amount of conferees asked Committee to hold their questioning until all had testified.

SB 17 - An Act concerning zoning; relating to group homes for mentally ill persons.

Mike Heim, staff, gave an in-depth overview of SB 17 and the changes the Senate had made.

Paul Klotz, Exec. Director of Association of Community Health Centers of Kansas, testified in support of SB 17. (Attach. I)

Marnett Hatchett, Exec. Director of Meadowlark Homestead, testified in support of SB 17. (Attach. II)

Howard Snyder, representing Kansas Alliance for the Mentally Ill, testified in support of SB 17. (Attach. III)

Joan Strickler, Director of Kansas Advocacy & Protective Services, Inc. appeared in support of SB 17. (Attach. IV)

Vice-Chairman Brown called on Ray Petty, Topeka Ind. Living Resource Center. Mr. Petty stated that the public safety protections that were drafted in the Senate Committee addressed most of the concerns about persons who are dangerous to others. Mr. Petty feels that the Committee should study the Federal Housing Act Amendment of 1988. The 1,000 ft. variance or spacing requirement seems to be in direct conflict with the federal law. With this amendment he would urge the Committee to pass the bill favorably. (No written testimony)

The Chairman called the Committee's attention to written testimony submitted by Chip Wheelen, Kansas Psychiatric Society, in support of SB 17. (Attach. V)

Vice-Chairman Brown called on the opponents to testify.

Jim Kaup, League of Kansas Municipalities, testified as an opponent to SB 17. (Attach. VI)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,
room 521-S, Statehouse, at 1:38 a./p.m. on March 14, 1989

Ron Williamson, President of Kansas Chapter of the American Planning Association, testified in opposition to SB 17. (Attach. VII)

After extensive discussion, the Chairman closed the hearings on SB 17. The Chairman thanked the conferees and Committee for the excellent discussion on group homes.

Meeting was adjourned at 3:00 p.m.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE March 14, 1989

NAME	ADDRESS	REPRESENTING
Art Davis	—	City of Leavenworth
Linton Bartlett	—	City of Kansas City
Low Snyder	4811 W 77th Pl., Prairie Village, 66208	Kansas AMI
Howard Snyder	" " "	" "
Gordon West	Topeka, Ks.	" "
Sam Mynogue	O. P. Ks	" "
Howard Snyder	Prairie Village	Kansas AMI
Marvette Hatchett	Newton, Ks	KARF & Meadowbrook
Christina Coates	Topeka, Ks	KARF
John Strubbe	Topeka	KAPB
Carol Bennett	1222 Kilian ^{Russell}	City of Russell
Louise E. McCord	59 Jay, Russell	Russell Chamber of Commerce
Barbara Jan	AP	
William Powell	P.O. Box 266 Columbus Ks	KS Assn Rehabilitation Facilities
Yo Bestgen	JAWHAWK TOWER	KS Assn Rehab Facilities
Tom Kohnstube	FUTURES UNLIMITED	KARF
Elizabeth Hughes	FUTURES UNLIMITED	KARF
Ron Williamson	5521 W. 85th St. O.P. Ks 66207	Kansas Chapter American Planning Association
Jim Kauf	Topeka	League of Municipalities
PATRICIA HENSHALL	TOPEKA	SUP. CT. / OJA
RAY PETTY	TOPEKA	TOPEKA IND. LIVING RESOURCE CENTER
Yo Bestgen	Topeka	KARF
David M. King	Topeka	Assoc. of PMHCs of Ks, Inc.



Association of Community

Mental Health Centers of Kansas

835 S.W. Topeka Ave., Suite B/Topeka, Kansas 66612/913 234-4773

Paul M. Klotz, Executive Director

POSITION STATEMENT ON S.B. 17 MARCH, 1989

This Association supports the legislative policy expressed in current law and Senate Bill 17. Mental Health Centers are increasingly asked to provide services in the community that heretofore have been provided at a state institutional level. This means that community living space will need to be found for Kansans suffering from mental illness. Many of these citizens are already successfully living in the community on an individual or group basis. We agree with passage of existing law relative to group homes and zoning. We support passage of S.B. 17 in that it adds a population in need of similar attention and treatment.

Thank you!

CONTACT: Paul M. Klotz
Executive Director

JK
3-14-89
attach. I

Kermit George
President

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Vice President

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Pam Bachman
Bd. Memb. at Large



Meadowlark Homestead

HELPING PEOPLE LEARN
TO LIVE AGAIN.

My name is Marnette Hatchett. I am from Newton, Kansas, and am the Executive Director of Meadowlark Homestead. Meadowlark is a psycho-social rehabilitation center for adults with long term psychiatric disabilities. This afternoon I am representing both Meadowlark and the Kansas Association of Rehabilitation Facilities. KARF is a state wide organization which provides a network for its not-for-profit member agencies. These agencies provide rehabilitation services to 5,000 individuals with disabilities. KARF members work with preschool children who have developmental delays and with adults who experience a wide range of disabilities, including developmental disabilities, mental illness and physical disabilities.

I am here to speak in support of Senate Bill 17 which relates to group homes for persons with mental illness. Currently Meadowlark provides four distinct residential alternatives for 33 persons, additionally we provide vocational services for 30 people. Some of the people we work with are involved in both our residential and vocational programing.

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ATTACH II

24th and Spencer
P.O. Box 703
Newton, Kansas 67114

(316) 283-2570

The single largest diagnosis carried by people at Meadowlark is schizophrenia. Schizophrenia is a brain disease. It is a scientific and biological entity as clearly as diabetes, multiple sclerosis, or cancer are scientific and biological entities. Like cancer it very likely has more than one cause. Some of the symptoms of the disability include impairment of thinking, delusions, hallucinations, changes in emotions and changes in behavior. While the disability is not curable with present technology, it is treatable. For the majority of people, the symptoms can be controlled by the use of drugs. With medications and structure most people who have schizophrenia are able to live in some degree, a normal life.

I believe that all of us share in the responsibility to assure that persons with disabilities are not further handicapped through isolation and segregation from the opportunities experienced in normal community life. The passage of SB17 is critical in making sure that such segregation does not take place.

I understand that the issue of "public safety" has been of concern to some people as this bill has been debated. I wish to make a few comments in regard to this issue. First of all, "public safety" is also of concern to me as someone who works with a community facility. Our purpose at Meadowlark is to facilitate changes that enable men and women with disabilities to function as responsibly and productively as possible.

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Because of this, our staff work closely with group home candidates and very often with their families to assure that the person moving into the group home environment is ready to assume the responsibility that accompanies community life.

In my opinion, the possibility of someone to behave in a manner that is harmful to someone else is much greater if they are experiencing extreme stress in their life and are not receiving any support or treatment for the distress they are encountering. I further believe that it is more frequent that persons with long term emotional illness end up as victims as opposed to perpetrators of crimes.

Not very long ago a young man who is in our program told me that prior to his being hospitalized and consequently being referred to Meadowlark, he was simply "out on the street". People stole from him, he often went without food, and his fears were so overwhelming that he could not trust anyone enough to ask for help. He said he just walked and walked, hearing strange voices in his head and feeling constant fear. When his behavior was finally noticed and he was hospitalized his shoes were worn through and his feet had deep cracks and were sore and bleeding. Another young woman currently in our program, relates similar experiences, including being the victim of a rapist. Today both of these people are looking forward to a time in the next few months when they will be able to move from our Main Center which provides a highly structured and supervised living environment, into one of our group homes or apartments.

JD
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All too often people who experience long term mental illness are treated in ways that deny their humanity and limit the contributions they have to give others. I believe strongly that the opportunity to grow as a responsible member of society, to be assured that needed support services will be available if needed, and the availability of employment are all enhanced when an individual with a disability experiences community life. For these reasons I support passage of SB17 and ask for your support as well.

Thank you for the opportunity to express my views on this matter. I would be happy to respond to any questions you might have.

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Kansas AMI

Kansas Alliance For The Mentally Ill

4811 W. 77th Place
Prairie Village, Kansas 66208
913-642-4389

SB 17

March 14, 1989

My name is Howard Snyder, and I'm from Prairie Village. I'm testifying today as Past President of Kansas AMI. Kansas AMI is a state-wide organization of family support groups made up of families who have long term mentally ill family members. We represent approximately 400 Kansas families. There are local chapters in Lawrence, Topeka, Johnson County, Kansas City, Wichita, Concordia, Manhattan, Hutchinson, Newton, Winfield, Emporia, Phillipsburg, Marion, Leavenworth, Humboldt, Bird City, Kingman, Garden City, Great Bend, Greensburg, Salina and Ottawa.

I am the father of a 30 year old son who suffers from schizophrenia.

When I first testified in February , 1985 for the passage of a bill that would exempt group homes for the disabled from the barriers of single family residential zoning, there were several issues to be resolved:

1. Local control of zoning-this legislature resolved this issue by the passage of HB 2063 in 1988 which exempts group homes for the physical disabled, the mentally retarded and the developmentally disabled. By passing that bill, the decision was made that the needs of these groups overrides the local ability to establish zoning barriers to group homes.
2. The need for group homes-the passage of HB 2063 indicated the state's recognition of the need for such facilities.
3. Negative effect on surrounding property values-I am a professional real estate appraiser. I have never seen or heard of any study that gives any credence to this irrational fear. Again, the passage of HB 2063 indicates that the state does not consider this a viable issue.
4. Dangerous occupants-there are several amendments in this bill which are designed to provide protection. The truth is that persons suffering from the severe and disabling mental illnesses are no more violent than the rest of the population. In fact they tend to be reclusive and vulnerable, and more often end up as victims rather than aggressors.

The only real issue left is prejudice-the reluctance, for whatever reason, to extend the rights to a needed home environment to a small segment of Kansans, when those rights have been given to everyone else except convicted felons. Mentally ill people are not criminals, and must not be treated as such. They are only ill, and some are disabled. They did not seek their illnesses, and do seek only the best life possible. Even at best, their lives will not be as satisfying as ours.

Rep. Brown, you appeared before the Governor's Task Force on Mental Health Reform, of which I am a member. You asked that the Task Force and the state consider the need for expanded mental health services for the mentally ill who are also hearing impaired. There is certainly a great need for these services. As a member of the governing board of the Johnson County Mental Health Center, I'm pleased to report that our center has taken the lead, with the support of a grant for which you were responsible, in the beginning steps to establish these needed services all over the state. But, as with all other persons suffering from

mentally illness, the most critical need of a person requiring mental health services is a place to live.

Finally, there is a critical economic issue. Consider that it costs approximately \$130 per day (mostly state money) to treat someone in a state hospital, a maximum of \$47 per day reimbursement (all state money) for someone in an ICFMH, and approximately \$35 per day (SSI, SSDI and state general Assistance) for someone to live in a staffed group home. The primary access to federal funds is at the group home level. The hospitals are full. The ICFsMH are full and for the past few years a moratorium on additional beds has been in effect. The result is that people are stacking up in the hospitals, because of a lack of ICFMH beds, and people are stacking up in the ICFsMH, because of a lack of other community facilities-including group homes. This means that for some mentally ill people, we are spending nearly 3 times as much as we should.

In the name of justice, fairness, common humanity, and economics, I strongly urge you to support the passage of SB 17.



Howard W. Snyder

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Kansas Advocacy & Protective Services, Inc.



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

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R. C. (Pete) Loux
Wichita

Vice Chairperson

Robert Anderson
Ottawa

Secretary

Neil Benson
El Dorado

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Sen. Norma Daniels
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Sen. Ross O. Doyen
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Hugoton

James Maag
Topeka

W. Patrick Russell
Topeka

Rep. Jack Shriver
Arkansas City

Raymond L. Spring
Topeka

W. H. Weber
Topeka

Liaison to the Governor

Jose A. de la Torre

Executive Director

Joan Strickler

TO: The House Committee on Local Government
Representative R. D. Miller, Chairperson
FROM: Kansas Advocacy and Protective Services
R. C. Loux, Chairperson
DATE: March 14, 1989
RE: S.B. 17

As the agency designated to administer two federal programs in Kansas, protection and advocacy as provided for by the Developmental Disabilities Act {P.L. 94-103 as amended} and the Protection and Advocacy for Mentally Ill Individuals Act {P.L. 99-319 as amended}, KAPS assists disabled children and adults in gaining access to the rights and services to which they are entitled. KAPS also administers the Kansas Guardianship Program. We are a private, non-profit corporation created for the specific purpose of providing these services for Kansas.

As Kansas addresses the needs of disabled persons, the focus is upon the importance of maintaining people in less restrictive situations 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. Adults with disabilities are served by community agencies providing residential and vocational services and 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 disabled persons, when at all possible, in the community. State institutions are no longer perceived of as permanent placements.

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.

JS
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attach. II

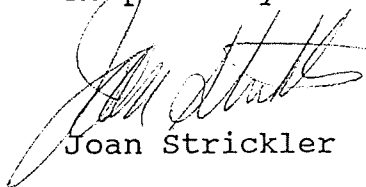
-Financial. In general it costs less to serve people in community settings rather than in hospitals and institutions.

The group homes addressed in S.B. 17 serve only eight or fewer residents who would be assisted by two staff persons. The idea of a 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 availability of such homes to serve persons disabled by long-term mental illness is essential if Kansas is to divert people from costly, more restrictive hospitalization in state institutions. It is important that Kansas develop a system of community residential services for persons with long-term mental illness, which would be similar to those services now provided persons with developmental disabilities.

As an issue of good public policy, and as an issue of fairness, persons disabled by mental illness should receive the same protections provided other disabled persons under this Act.

Respectfully Submitted,



Joan Strickler

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3-14-89
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Kansas Psychiatric Society

1259 Pembroke Lane
Topeka, KS 66604
Telephone: (913) 232-5985
or (913) 235-3619

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Public Affairs Contact
Telephone: (913) 235-3619

March 14, 1989

TO: House Local Government Committee
FROM: Kansas Psychiatric Society *Chip Wheelen*
SUBJECT: Senate Bill 17, As Amended by Senate Committee

Thank you for the opportunity to express our endorsement of SB 17. The Kansas Psychiatric Society concurs with the conclusion of the 1988 interim committee which studied the subject of mental health services. It is extremely important that state and local officials adopt policies which encourage the re-integration of mentally ill persons into their home communities.

Members of the psychiatric profession are generally opposed to any governmental policies which discriminate against victims of mental illness. Such policies are usually the product of fears that mentally ill persons may somehow be dangerous to others. Such fears are unfounded and reflect the public's lack of knowledge about the nature and affects of mental illness. The amendment at lines 58-81 represents the Senate Committee's method of dealing with the political reality of this situation.

Advances in scientific knowledge have produced modalities of therapy that make it possible to treat even the most debilitating forms of mental illness. Proper diagnosis and treatment can result in a stabilized patient who may return to a productive lifestyle. A conducive environment can be an essential element of the patient's program of therapy.

We apologize that a representative could not be present for your hearing and do appreciate your consideration of this written statement. We urge you to recommend SB 17 for passage.

CW:lg

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3-14-89
Attach. V



**League
of Kansas
Municipalities**

**Municipal
Legislative
Testimony**

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

TO: House Committee on Local Government
 FROM: Jim Kaup, General Counsel
 RE: SB 17 -- Group Homes for the Mentally Ill
 DATE: March 14, 1989

I. League Position on SB 17. The League of Kansas Municipalities opposes SB 17 as an encroachment upon the Home Rule principle of local self-government. We further suggest that it is a bill that purports, without evidence, to provide a "solution" to an undefined "problem."

Members of this Committee will recall the stress and strain which ultimately gave rise to HB 2073 in the 1988 Session. HB 2073 was the law which invalidated local zoning laws that did not specifically provide for group homes for the physically handicapped, mentally retarded and other developmentally disabled persons as permitted uses in areas zoned for single-family residences. The League's opposition to HB 2073 was consistent with our longstanding commitment to oppose legislation that interferes with matters of local affairs and government. It had nothing whatsoever to do with the merits of an articulated state policy to deinstitutionalize the mentally ill and mentally retarded, and to promote community residential services.

Some members of this Committee will also recall that the League moved from "opposition" to "no position" on HB 2073 last session after certain accommodations were agreed to -- one of which was removing the mentally ill from the scope of that bill.

The League's opposition to HB 2073 in 1987 and 1988, like our opposition to SB 17 today, is based upon our steadfast belief that the governing of public affairs should be as close to the people as possible. The Legislature should respect the need for locally-elected officials to retain the means to solve local problems in ways most appropriate to local needs and conditions. Rather than remove local authority to act, as SB 17 does, the Legislature should encourage and promote the exercise of authority and assumption of responsibility by locally-elected, locally-responsible governing bodies. We believe it vital that both the law and spirit of home rule be preserved and strengthened and that attempts to diminish this prerogative of local self-determination be vigorously resisted.

II. Municipal Land Use Authority. Land use is, unquestionably, a matter of local affairs and government. Zoning is one of the most commonly-employed means of regulating the use of property for purposes of promoting the public health, safety and welfare. Zoning regulations which protect and promote the residential character of a single-family neighborhood -- by excluding all other uses of property other than single-family residential -- are generally upheld as being within the scope of a local unit's police

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Attach IV*

*President: Douglas S. Wright, Mayor, Topeka * Vice President: Irene B. French, Mayor, Merriam * Past President: Carl Dean Holmes, Mayor, Plains
 * Directors: Margo Boulanger, Mayor, Sedan * Nancy R. Denning, Commissioner, Manhattan * Ed Eilert, Mayor, Overland Park * Greg Ferris, Councilmember, Wichita * Frances J. Garcia, Commissioner, Hutchinson * William J. Goering, City Clerk/Administrator, McPherson * Jesse Jackson, Commissioner, Chanute * Richard U. Nienstedt, City Manager, Concordia * David E. Retter, City Attorney, Concordia * Judy M. Sargent, City Manager, Russell * Joseph E. Steineger, Mayor, Kansas City * Bonnie Talley, Commissioner, Garden City * Executive Director: E.A. Mosher*

power to promote the general welfare. Obviously non-residential uses may be excluded from such areas, as well as alternative residential uses that might negatively impact either property values or the overall quality of the residential living environment. A great many courts have examined the rationale for single-family zoning. Among those decisions we note a 1924 Massachusetts case where the court said it may be "reasonable" to assume "that the health and general physical and mental welfare of society would be promoted by each family dwelling in a house by itself." Use of the police power to protect the happiness, comfort and general well-being of residents in single-family neighborhoods generally has been held to be an important and legitimate public purpose for either excluding or regulating land uses deemed incompatible with the family character of such areas.

Some courts view protection of the residential and family character of neighborhoods of detached homes as the foremost purpose for zoning. A California court as early as 1925 held:

We think it may be safely and sensibly said that justification for residential zoning may, in the last analysis, be rested upon the protection of the civic and social values of the American home. The establishment of such districts is for the general welfare because it tends to promote and perpetuate the American home. It is axiomatic that the welfare, and indeed the very existence, of a nation depends upon the character and caliber of its citizenry. The home and its intrinsic influences are the very foundation of good citizenship and any factor contributing to the establishment of homes and the fostering of home life doubtless tends to the enhancement, not only of community life, but of the life of the nation as a whole.

III. Identification of the "Problem" SB 17 Seeks to Address. The League is in the position of having to defend the status quo. We ask the Committee whether it has been offered hard facts and figures to support changing the status quo. Have the proponents for SB 17 shown either that (1) the State has experienced difficulties in establishing group homes for the mentally ill in residential neighborhoods (i.e. that a "problem" does exist) or (2) that the invalidation of local zoning laws serves a legitimate public interest (i.e. that SB 17 will help to "solve" that "problem")? The League believes it is significant that nothing it has seen so far in the 1989 legislative record relating to SB 17 indicates that the location of a group home for the mentally ill has been prevented due to local zoning laws.

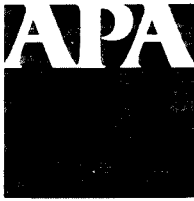
The League reviewed the "Preliminary Recommendations" (dated November 28, 1988) of the Governor's Task Force on Mental Health Reform, the Legislative Post Audit report "Improving the System for Providing Mental Health Programs and Services in Kansas" which was presented to the 1988 Interim Committee that recommended SB 17, as well as testimony presented on January 31 to the Senate Local Government Committee by proponents of SB 17. Not once has any reference been made to any case where a proposal for a group home for the mentally ill was turned down by a local unit of government because of zoning regulations. Rather, it appears to the League that Legislative Post Audit and the Governor's Task Force simply noted (1) that some other states have laws similar to SB 17; (2) that many zoning regulations do not specifically allow for group homes in single-family zoned areas, then put (1) and (2) together and concluded, in the words of Post Audit, that Kansas law should be

amended "to prevent restrictive zoning and similar exclusionary practices against group homes for those with mental illness."

We resent the innuendos. Where have cities or counties refused to rezone property or to issue special use permits so as to allow group homes in single-family neighborhoods? In sum, where and what is the "problem" and how is passage of SB 17 going to work towards its "solution"?

IV. Clarification of State Policy. The League urges this Committee to identify precisely what state objective is being furthered by legislation such as SB 17 and the 1988 legislation on group homes for the mentally retarded (HB 2073), and to clarify when that state objective can be expected to prevail, in the future, over locally-enacted laws. In short, is mental health the common thread between SB 17 and HB 2073, or is it a desire to remove persons from state institutions? Notwithstanding the damage bills such as SB 17 do to Home Rule, the League understands that subjects do exist where statewide interests should prevail over local interests. If this Committee believes that, on balance, SB 17 furthers the state's objective of ensuring placement for the mentally ill and mentally retarded in areas zoned for single family residences and that residential placement is a critical component of those persons' treatment program, then the League accepts that decision. However, if SB 17 represents something broader -- if its true objective is to ensure that local laws will not impede the state's efforts to empty out its institutions, then SB 17 is fundamentally at odds with the Home Rule principle. We do not take lightly the state's invalidation of laws passed by locally-elected officials in response to local needs and conditions. We submit to you that such state preemption should occur only where clear evidence exists that only by eliminating local laws can legitimate state objectives be accomplished.

While we may differ whether the argument for a statewide mandate for single-family neighborhood placement for the mentally ill has been specifically made before this Committee, we concede there may be the basis for such an argument. We do not, however, find such a basis for the forced introduction into single-family neighborhoods of group homes for persons now housed in correctional facilities. Because of this critical concern, the League asks this Committee to place into the record some indication of the precedential worth of SB 17. We know SB 17 is contrary to Home rule -- regardless of its merit. The real question for us is how much does it erode Home Rule? Does it represent the end of the road regarding state invalidation of local zoning laws, or is it just another step along a path towards state domination of land use?



KANSAS CHAPTER
AMERICAN PLANNING ASSOCIATION

Ronald A. Williamson, AICP
Chapter President
5521 W. 85 St.
Overland Park, KS 66207

March 14, 1989

Local Government Committee
House of Representatives
Statehouse
Topeka, KS 66612

Re: SB-17 Zoning; Group Homes for Mentally Ill

Dear Committee Members:

The Kansas Chapter of the American Planning Association consists of approximately 250 members, which includes professional planners, planning commissioners and elected officials from cities and counties throughout the state. The Chapter has a standing Legislative Committee that reviews proposed legislation that relates to planning and makes recommendations to the Executive Committee of the Chapter. The Legislative Committee recommended that the Chapter oppose SB-17 and the Executive Committee adopted that recommendation at its meeting on February 3, 1989.

The basis for the opposition is that the bill continues to erode local home rule powers and addresses a specific land use. The Chapter also was opposed to the original group home law, Section 12-736, that was adopted last year. It must be emphasized that the Chapter is not opposed to group homes for the developmentally disabled or mentally ill, but is opposed to the precedent that is being established. This is the only instance where state planning law mandates that a particular use of land be permitted in local zoning laws.

Most cities and counties have not yet incorporated the provisions of the 1988 group home law in their local regulations and many cities and counties are not even aware that the law exists. This proposed amendment to a law that is less than a year old illustrates the concern that the Chapter has about legislation that is too specific. Last year, mentally ill persons were specifically excluded and this year they are proposed to be included. Next year a new idea may be conceived that would require another amendment. Each amendment to the state statute in turn requires an amendment to the local laws and this includes public notices, public hearings and the adoption of ordinances and resolutions. It is an expensive and time consuming proposition at the local level.

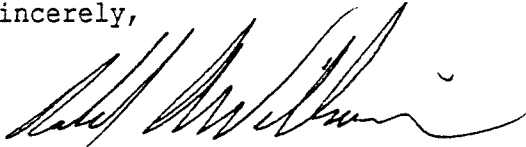
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Local Government Committee
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Page Two

Group homes are an important land use issue but there are many other land use issues of equal importance and it simply is not necessary to have volumes of planning enabling legislation. The planned unit development "PUD" legislation, Section 12-725, is a perfect example of legislation that is too specific. The PUD concept is a tremendous planning tool but the legislation is so complicated that very few cities and counties use it.

In summary, the Chapter shares the concerns with all involved regarding the equality of specific land uses but favors dealing with them at the local level through the home rule powers. We appreciate the opportunity to address the Committee and hope that our input has been helpful.

Sincerely,



Ronald A. Williamson, AICP
Chapter President

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