

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on February 17, 1995, in Room 531-N of the Capitol.

All members were present except:

Committee staff present: Theresa Kiernan, Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Gerry Ray, City of Overland Park  
Don Moler, League of Kansas Municipalities

Others attending: See attached list

The minutes of February 14 and 16 were approved.

**Continued hearing on SB 224--Concerning cities; prohibiting issuance of certain certificates of occupancy or otherwise permitting occupancy of certain dwellings.**

Gerry Ray, Legislative Liaison for the City of Overland Park, testified in opposition to the bill. (Attachment 1)

The Chairman informed the committee that the Senate President had notified him that Senator Vancrum has had drafted two more pieces of legislation that might help home owners such as those testifying yesterday. One bill would address the problem through the UCCC. The other involves the setting up of a fund for relief.

Senator Ramirez commented that by the time the temporary occupancy permit is issued, it is too late to discover flaws in the basic structure. There should be an ongoing inspection during the construction of the entire home. Ms. Ray responded that the city of Overland Park has only ten inspectors which is not enough to inspect every phase of the construction.

Senator Reynolds stated that although it has been indicated that **SB 224** will not solve the problem, it seems as if the city does not care about the plight of those people testifying. She feels there should be more inspectors hired instead of "glossing over" the situation. Ms. Ray responded that she did not intend to convey that the city does not care because it does. The city does its best, but the inspectors cannot be there to see everything done during the construction of a home.

Senator Downey commented that the occupancy permit gives the buyer a false sense of security of a high level of perfection. She indicated that perhaps these permits should not be issued to builders or, if they are issued, it should be explained clearly to the consumer that the inspection indicates only minimum codes have been met. She also feels the home builders's group should address the need for insuring responsibility of their membership. Senator Ranson reiterated that addressing the problem through the temporary permit as in **SB 224** will not solve the problem with unscrupulous home builders.

Janet Stubbs, representing the Kansas Home Builders Association, stood to inform the committee that she has learned that in Wichita temporary permits are issued only in cases where the cause for delay was due to the weather, not because of failure to meet the city codes. Also, in other areas of the state, a ten year warranty program is offered by home builders. Finally, she feels that licensure of home builders will not address the work ethic.

It was the consensus of the committee to hold **SB 224** as it is not the solution to the problem, and Senator Vancrum will introduce legislation to better address the problem.

Attention was turned to **SB 219--Concerning zoning; relating to group homes.** Continued

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on February 17, 1995.

testimony began with the testimony of Don Moler, League of Kansas Municipalities, in support of the bill. (Attachment 2)

Senator Ranson noted the bill is prohibiting the sale of homes to whomever one chooses. Mr. Moler was in agreement but added that it would be a local option and is similar to what was done for the zoning of bars to prevent them being clustered too close together. It is clearly a policy issue where, in this case, an attempt is being made to preserve historic old homes.

Senator Downey expressed the fear that the bill could give cities the power to disallow group homes. Mr. Moler responded that he feels most cities would act responsibly.

Gerry Ray, representing the City of Overland Park, testified in support of **SB 219**. (Attachment 3) With this, the hearing was concluded.

Senator Gooch made a motion to report **SB 219** favorable for passage, Senator Langworthy seconded for the purpose of discussion.

It was the consensus of the committee that the bill could be used for good purposes or for bad purposes. Also, it was concluded that cities have laws which could require that the group homes be kept in good repair and appearance.

Upon a call for a vote on Senator Gooch's motion, the motion failed.

The Chairman called attention to **SB 79**, relating to watermarks at fords, which had been previously heard. He reminded the committee that a suggestion had been made to amend the bill to provide that a township install signs indicating "Impassable Under High Water." A short discussion followed as to the possibility that some counties may not comply. There being no further time, discussion was continued to next week.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for February 21, 1995.



The City of  
**Overland  
Park**  
KANSAS

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February 17, 1995

TO: Senate Local Government Committee

FROM: Gerry Ray, Legislative Liaison  
City of Overland Park

SUBJ: Senate Bill 224

Although the City of Overland Park had not planned to present testimony on SB 224, after hearing some of the statements made yesterday, it was felt that we should try to clarify several of the issues brought forth.

In consideration of the committees time and interest level, I do not intend to respond to the allegations point for point. Rather I would like to just provide you some information and the perception of the situation from the city's viewpoint.

4,915 residential permits were issued in the period from 1991 through 1994. Of that number the city was made aware of ten or less problem residences. During 1994 the city codes inspectors conducted a total of 33,911 inspections of residential and commercial buildings.

Last year two additional inspectors were hired based on the volume of construction taking place within the city. This brought the inspection staff to a total of ten. Of those, eight have undergraduate degrees in construction science from a four year college. The Inspection Division possesses approximately 62 certifications from professional organizations based on code knowledge and skills.

We must remember building codes are intended to be only minimum standards. The city's role is to help assure that the builder or contractor constructs to that minimum standard. It is important to note that as with any universal standard, conformance does not guarantee the end product. Problems can occur in a fully compliant structure and conversely the existence of a code violation may not negatively impact the owner's use or occupancy.

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2-17-95  
Attachment 1

In testimony yesterday, it was questioned, why when the owners reported problems in the structure, the city did not revoke the Certificate of Occupancy. Based on legal opinion, the city was advised that no recourse was available to force action by the builder. The Certificate was not revoked because at that point it would only have resulted in the owners being required to vacate the property. The only one who could then take action would be the builder thus putting the property owner out of the house and at the mercy of the builder. The owner would continue to be liable to make payments on the unoccupied house as well as paying the cost of their temporary shelter.

Temporary Certificates of Occupancy (TCO) are issued only in those instances when the city is satisfied that there are no known building code violations and only if the dwelling can be safely occupied. They are usually issued upon the request of the builder, however possession is a separate issue and is at the option of the purchaser. The request is usually based on a need of the purchaser to move out of a house they have sold and the new owner is taking possession or a lease that is terminating. Under a Temporary Certificate the interior is generally 100% complete and the dwelling can be safely occupied.

Overland Park officials feel that Temporary Certificates should not be prohibited because they can be not only a convenience to an owner but in many cases are an urgent need. The problems that have been expressed by the earlier conferees will not be addressed by SB 224, because it is directed at the city rather than the people who constructed the house. The city opposes SB 224 and asks the Committee to consider all aspects of the bill before taking action.



**League  
of Kansas  
Municipalities**

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**LEGISLATIVE TESTIMONY**

**TO:** Senate Local Government Committee

**FROM:** Don Moler, General Counsel

**RE:** Support for SB 219

**DATE:** February 16, 1995

The League would like to thank the Committee for allowing us to appear in support of SB 219. SB 219 would amend K.S.A. 12-736, the statute establishing rules concerning group homes in Kansas. The original group home statute was passed in 1988 and has been amended several times since its original enactment. SB 219 is a permissive bill which would allow a municipality to adopt regulations otherwise permissible under any other law that would restrict the location of a group home within 1,000 feet of the location of another group home or any other type of group residential facility. We believe this gives needed flexibility to the group home statute and provides a workable alternative for cities which are afraid that an entire neighborhood will be inundated with group homes. We believe this could be the case given the fact that people who operate group homes may be operating more than one and that for their own convenience will locate them adjacent to one another or on the same street or in the same neighborhood. We believe this could prove to be a problem in that residential area. We do not believe it is overly restrictive to have a 1,000 foot distance requirement in a city which has determined that there is a potential problem.

We do not believe that SB 219 significantly inhibits the placement of group homes in residential districts nor do we believe that its spirit contradicts the spirit and intent of the original group homes statute. We support this initiative and believe it adds needed flexibility to a very restrictive law.

*Senate Local Gov't  
2-17-95  
Attachment 2*



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February 16, 1995

TO: Senate Local Government Committee  
FROM: Gerry Ray, Legislative Liaison  
City of Overland Park  
SUBJ: Senate Bill 219

Mr. Chairman, members of the Committee, my name is Gerry Ray, representing the City of Overland Park and appearing today in support of SB 219. The bill allows a municipality to adopt regulations that restrict the location of a group home within 1000 feet of another group home or any other type of group residential facility.

Several years ago the Legislature adopted a statute that removed the authority of municipalities to impose local zoning restrictions for the location of group homes. Therefore, there is no input or oversight by local officials in the placement of such facilities. SB 219 would allow a minimal amount of involvement at the local level, by permitting the imposition of a limitation on the number of group homes within a given area. Each community has its own individual characteristics and preferences and we believe some consideration should be given to what works best in that community. The passage of this bill should not adversely affect group home placement since the local officials have no authority to prohibit or restrict their location. In reality it may provide groups homes and their occupants a benefit, by providing a means to safeguard that they will be integrated into a residential neighborhood and not congregated together within a confined area.

The City of Overland Park asks the Committee to seriously consider the positive aspects of HB 219 and recommend it for passage.

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2-17-95  
Attachment 3