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ABSTRACT

The Illinois General Assembly enacted the Community Residence Location Planning Act (CRLPA) to provide assistance to the state's 110 home rule municipalities to help bring their zoning ordinances into compliance with 1988 amendments to the U.S. Fair Housing Act. This report presents the results of this effort and offers recommendations to the General Assembly regarding the type of legal zoning treatment for Illinois communities to adopt to regulate community residences for individuals with disabilities. The report discusses group homes and their impact on property values, property turnover, and neighborhood safety. It discusses federal and Illinois legislation relating to housing for individuals with disabilities and analyzes specific zoning restrictions on community residences to determine their level of compliance with the legislation. The report's findings note that, of the 110 home rule municipalities in Illinois, 99 submitted a plan to the Illinois Planning Council on Developmental Disabilities as required by the CRLPA. Of the 99 plans, 81 were considered to be adequate while the remaining 18 plans contained questionable provisions or substantial violations of fair housing requirements. Appendices contain a copy of the Community Residence Location Planning Act, a sample plan review form, citations of statewide zoning laws for group homes, a summary of a study on the impacts of group homes on property values and safety, and a 20-item bibliography. (JDD)

This report was approved for submission to the Illinois General Assembly by the Illinois Planning Council on Developmental Disabilities (IPCDD). The IPCDD staff member who supervised the project and contributed to this report was Ms. Kerry Flynn. This report was prepared under a grant from the IPCDD by attorney Daniel Lauber, President of Planning/Communications, a city planning consulting firm that specializes in zoning and land-use law.

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Corrections

Two paragraphs in this report contain typographical errors which should be brought to the reader's attention. Please note these corrections in your copy of this report. We apologize for the inconvenience.

Page 3: The word "started" was misspelled in the following paragraph:

2. **To further the goal of integration and continue the momentum started by this project, the State of Illinois should continue to provide technical assistance on compliance with the Fair Housing Act regarding community residences for people with disabilities to both home rule and non-home rule municipalities and counties.**

Pages 17-18: Several numbers in this paragraph were not changed to reflect the latest findings. Please replace the final paragraph on page 17 that continues onto the top of page 18 with the following corrected paragraph:

Plans and ordinances submitted

Of the 110 home rule municipalities covered by the Community Residence Location Planning Act, 99 submitted plans to change their zoning ordinances or actual zoning amendments to provide for community residences for people with developmental disabilities or mental illness and who may also have physical disabilities. Of these 99, the Illinois Planning Council on Developmental Disabilities found 81 to be "adequate" (using the act's language). Of these 81, 59 cities had actually adopted zoning ordinance amendments by the end of 1990 while nine had set dates for adoption in January or February 1991, and three had set a date later in the year. The IPCDD could not learn the intentions of the remaining 10 municipalities with "adequate" plans. Of the 18 cities that submitted "inadequate" plans, four had already adopted zoning amendments by the end of the year while seven had scheduled dates for adoption in 1991. The intentions of the remaining seven villages could not be ascertained. See Table 1 in the Appendix which identifies each home rule municipality's proposed or adopted zoning provisions.

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State of Illinois

January 31, 1991

Chapter 1:

Executive Summary

In 1988 the national Fair Housing Act was amended to add people with disabilities to its coverage. The Congressional report accompanying the 1988 amendments make it clear that the amendments prohibit zoning practices that exclude group homes for people who have disabilities from single-family residential districts. People with disabilities want and need to live in the community -- which is reflected in both national and state policies to integrate people with disabilities into communities.

By adding people with disabilities to the coverage of the Fair Housing Act, Congress attempted to level the playing field to remove unjustifiable zoning barriers that have excluded community residences from municipalities throughout the country.

The Illinois General Assembly enacted the Community Residence Location Planning Act to provide assistance to the state's 110 home rule municipalities to help bring their zoning ordinances into compliance with these 1988 amendments to the nation's Fair Housing Act.

This report presents the results of this effort and offers recommendations to the General Assembly regarding the type of legal zoning treatment for Illinois communities to adopt to regulate community residences for individuals with disabilities.

Findings

Of the 110 home rule municipalities in Illinois, 99 submitted a plan to the Illinois Planning Council on Developmental Disabilities (IPCDD) as required by the Community Residence Location Planning Act. Of these 99 plans, 81 ultimately were found to be "adequate." As explained in Chapter 3, an evaluation of "adequate" does not necessarily mean that the zoning fully complies with the 1988 amendments to the Fair Housing Act. Many of these ordinances contain one provision of questionable legality. Each of the remaining 18 plans either contained several questionable provisions or contained at least one provision that constituted a clear, substantial violation of the 1988 amendments to the nation's Fair Housing Act.

People with disabilities have a basic right to live in the community

All people with disabilities have the fundamental right to live, work, and spend their leisure time in natural community settings where friendships and other relationships can occur. They are citizens of local communities who, like citizens without disabilities, have the right to choose how, where, and with whom they wish to live.

A wide variety of housing options exists for people who have disabilities including living in a house of their own, their family's house, apartment, condominium, or a group home operated by a non-profit or for-profit agency.

Group homes, also called community residences, offer people with disabilities who are unable to live more independently, a permanent home in a family-like environment in the community, similar or identical to that of persons without disabilities.

Group homes, however, do not constitute the only way people with disabilities can live in the community. Many people who have disabilities live in their own homes within the community on a more independent basis: on their own or with one or two friends. Both people living more independently and those living in group homes receive an array of individually-tailored support services to promote their involvement and integration into community life, independence in daily living, and economic self-sufficiency. Some of the customized supports and services designed to meet each individual's needs, preferences, and strengths, include skills training, personal assistance, supervision, employment-related services, transportation, and other assistance that is needed to live and work successfully in the community.

Local zoning ordinances rarely affect people with disabilities who live more independently on their own or with one or two friends. However, zoning ordinances have greatly affected the opportunities available for people with disabilities to live with more than just one or two friends in a community residence or group home. Illinois' Community Residence Location Planning Act addresses the question of how local zoning affects the availability of group homes for people with disabilities.

Recommendations for state action

The Community Residence Location Planning Act required the Illinois Planning Council on Developmental Disabilities to review information it has received from the submitted plans and public hearings and submit recommendations to the General Assembly, "including suggestions for legislative action, concerning the provision of an adequate number of sites for community residences within this State."

1. **Since over 80 of the 110 home rule municipalities have started on the road to changing their zoning to comply with the 1988 amendments to the Fair Housing Act -- in just one year -- there is no need for state legislation *at this time.***

2. **To further the goal of integration and continue the momentum strated by this project, the State of Illinois should continue to provide technical assistance on compliance with the Fair Housing Act regarding community residences for people with disabilities to both home rule and non-home rule municipalities and counties.**

3. **The State of Illinois needs to monitor municipal and county zoning treatments of community residences to ascertain the level of compliance with the Fair Housing Act and should consider state legislation if evidence shows continued zoning obstructions to community residences for people with disabilities locating in single-family residential neighborhoods.**

4. **To help all people with disabilities enjoy their fundamental right to live, work, and spend their leisure time in natural community settings where friendships and other relationships can occur, the State of Illinois should adopt policies and provide the resources necessary to support individuals with disabilities to live more independently than in a group home, to live in their own home or with one or two friends, as well as have the choice of living in a community residence.**

It's time for the State of Illinois to join the national mainstream and assure that people with disabilities have the opportunity and choice to live in the natural community just like people without disabilities, whether it be in a community residence or more independently in a home of their own, or somewhere in-between.

For a detailed discussion, complete with source citations, of the issues raised in this Executive Summary, please read Chapters 2 and 3.

The Appendix to this report includes a copy of the Community Residence Location Planning Act, a summary of zoning for community residences for each of Illinois' 110 home rule municipalities, summaries of studies on the impacts of community residences on the surrounding neighborhood, and copies of material used in conjunction with the Illinois Planning Council on Developmental Disabilities' project to implement the Community Residence Location Planning Act.

Chapter 2:

The challenge facing Illinois

Who lives in group homes

People with disabilities include persons with mental retardation, other developmental disabilities or mental illness and who may have a physical disability. Their common thread is that the physical or mental disabilities affecting their capacity to live independently result in their need for a level of support services that may be met in a community residence or group home in the community.

Why group homes

All people with disabilities have a fundamental right to live, work, and spend their leisure time in natural community settings where friendships and other relationships can occur. They are citizens of the local community, who like citizens without disabilities have the right to choose how, where, and with whom they wish to live.

Some people who have disabilities are unable to live with their parents while growing up, or on their own upon reaching adulthood. Some people have disabilities that require them to receive support services so they can live in the community. With these support services, many elect to live on their own, others choose to live with one or two roommates, and still others opt for living in the family-like group home or community residence with other people who have disabilities.

What group homes are

A community residence is a home like any other home. Structured like a family, it is comprised of individuals who have disabilities plus support staff. A community residence constitutes a ***functional family*** where residents share responsibilities, meals, and recreational activities like any family. Residents learn the same daily living skills taught in a typical family household, such as personal hygiene, shopping, cleaning, cooking, laundry, how to take public transportation, how to handle money, how to use community facilities, etc. Residents share the chores around the house in addition to attending school or work during the day.

Although many residents of group homes eventually master the skills they need to live independently, residency in these group homes is generally permanent because it is their home, in contrast to the short-term residency in a halfway house for recovering alcoholics or drug abusers.

A group home is both physically and operationally very different from a boarding, rooming, or lodging house. A group home looks like any other house on the street. The whole idea of a group home is to blend into the neighborhood. There is no flashing orange neon sign that announces that a particular house or apartment is a group home. The functions of a group home and its residents' social needs are quite different than room and board arrangements. Unlike these other land uses, the group home is a home-like environment in a residential neighborhood. While a rooming house can successfully locate in a former hotel or commercial structure in a business district, the very nature of a group home requires it to locate in a house or apartment building in a safe residential neighborhood. The

same neighborhood characteristics that make a neighborhood desirable to a typical family makes the neighborhood a proper location for a group home.

In Illinois, the primary mechanism for supporting community residences is the Community Integrated Living Arrangements (CILA) program. CILA offers an array of customized support services to meet the individual needs of a person who has disabilities: skills training, personal assistance, employment training, transportation, and supervision. These services include providing a permanent home in the community if the individual chooses not to live in his existing home which may be with relatives, a nursing home, or an institution. One of the alternatives an individual may choose is a community residence or group home as described here. Another alternative is to live more independently in the community on one's own or with just one or two roommates and without the level of staff support furnished in a community residence. These more independent living arrangements are rarely limited by the municipal zoning regulations discussed in this report.

Impacts of group homes

The impacts of group homes have probably been the subject of more research than the impacts of any other small land use. Over 40 studies, including several conducted in Illinois, have examined their impacts on property values, property turnover, and neighborhood safety. Every one of these independent studies has found that group homes have no effect on the value of neighboring property -- including adjacent houses -- and do not cause any change in the rate of property turnover. Every study that examined neighborhood safety found that persons with physical disabilities, mental illness, or developmental disabilities living in group homes posed no threat to the safety of their neighbors. For example, while the crime rate for the general Illinois population was 112 per 1000 population in 1985, the crime rate among group home residents with developmental disabilities was 18 per 1000 population, just 16 percent of the general population's crime rate!

These studies also found that group homes were nearly always among the best maintained properties on a block and otherwise indistinguishable from other residences. The studies have universally found that group homes do not create parking problems or generate substantial traffic or noise. In fact, group homes fit into neighborhoods so well that two studies have found that only about half of the residents on the same block as a group home, and one block away, knew it existed. They found that only about a third of the people who lived two blocks away from group home knew it existed. Most telling is that for each distance, 75 percent of those who knew the group home existed, knew of it ***not*** because they saw it functioning as a group home, but because they heard about it from the media or were asked to sign a petition against it. The bottom line: a large body of research has found that group homes simply make good neighbors.

The appendix to this report includes the executive summary and conclusions of the 1986 study Planning/Communications completed for the Illinois Planning Council on Developmental Disabilities, ***Impacts on the Surrounding Neighborhood of Group Homes for Persons with Developmental Disabilities***. Also in the appendix is the study's an-

notated bibliography of over 25 other studies of the impacts of group homes on property values and neighborhood stability.

Although these studies have found that group homes located within two or three blocks of each other generated no adverse impacts, clusters of four or five group homes on a single block could reduce property values and undermine the ability of neighboring group homes to function properly. Such clustering is unusual since group home operators recognize that it is important for group homes to locate in a "normal" residential neighborhood where their able-bodied neighbors will serve as role models for the group home residents. The zoning treatments the Illinois Planning Council on Developmental Disabilities suggested in its ***Community Residence Location Planning Act Compliance Guidebook*** and newsletters illustrate how to legally prevent such clustering in accord with the 1988 amendments to the Fair Housing Act.

Why group homes encounter difficulties

Most zoning ordinances were written well before state governments and the federal government adopted policies to promote the integration, independence, and productivity of people with disabilities in the community. Consequently, very few local zoning ordinances actually provided for community residences, and even fewer provided for them to locate in the single-family residential districts in which they belong. Most of those that allowed community residences in single-family districts required a special use permit. Often, fears and myths fueled by one or two people, are spread throughout a neighborhood before the operator of a proposed group home can explain to residents what the group home is, how it operates, and who would live there. Only relatively recently have state and national policies sought to integrate people with disabilities into natural environments with necessary support.

Throughout the country, the zoning ordinances of many municipalities did not permit community residences for people with disabilities to locate in residential zoning districts, particularly single-family zones. This type of exclusionary zoning has frustrated the ability of states to implement their policies to deinstitutionalize people with disabilities. In 1977, only five states had adopted statewide laws to limit how local zoning can restrict where community residences locate. By 1990, 40 states plus the District of Columbia had adopted such laws.[1] Illinois is one of the ten states that has not. To give the state's 110 home rule municipalities an opportunity to bring their individual zoning ordinances into compliance with the 1988 amendments to the Federal Fair Housing Act, the Illinois General Assembly passed the Community Residence Location Planning Act, Public Act 86-638, in 1989.

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1. ***See*** Marion V. Bates, ***State Zoning Legislation: A Purview***, January 1991. Copies are available from the Wisconsin Council on Developmental Disabilities. In 1977 only California, Colorado, Minnesota, Montana, and New Jersey had adopted some form of statewide zoning for community residences. By the end of 1990, only Illinois, Alaska, Georgia, Massachusetts, Mississippi, New Hampshire, Pennsylvania, South Dakota, Washington, and Wyoming had ***not*** adopted some form of statewide zoning regulation for group homes for people with disabilities.

Illinois' Community Residence Location Planning Act

The Illinois Community Residence Location Planning Act required all 110 home rule municipalities to submit a plan to the Illinois Planning Council on Developmental Disabilities that details the measures the municipality would take to bring its zoning into compliance with the 1988 amendments to the federal Fair Housing Act and provide sites for community residences for people with disabilities in single-family zoning districts. The act required the Illinois Planning Council on Developmental Disabilities (IPCDD) to submit this report to the General Assembly by January 31, 1991. This report is based on the plans and zoning ordinances submitted to the IPCDD as well as the public hearings the Act required the IPCDD to conduct this past autumn on the plans that had been deemed "inadequate" and on the cities that had failed to submit a plan. During the course of the hearings, 18 cities revised their "inadequate" plans sufficiently to change their evaluation to "adequate." In determining whether a plan was "adequate," the Illinois Planning Council on Developmental Disabilities recognized that are some unsettled issues of interpretation of the 1988 amendments to the Fair Housing Act and the IPCDD did not find a plan "inadequate" because it included just one or two of these questionable zoning practices. Consequently, as the courts further interpret the Fair Housing Act as it applies to group homes, the provisions of some of the zoning plans that were found "adequate" may be found to violate the Fair Housing Act.

State government responses

Forty states and the District of Columbia have answered local opposition that has frustrated their policies of deinstitutionalization by enacting legislation that sets statewide zoning standards for group homes for specific service dependent populations -- a not altogether unreasonable response since the state grants zoning powers to localities, either through its constitution or by state zoning enabling act.[2]

Where state legislation has not already pre-empted them, most municipalities fail to provide for group homes in their zoning ordinances, require special use permits for them without objective standards, or impose unjustifiably large spacing requirements between group homes. Most municipalities -- and some of the pre-emptive state statutes -- have failed to live up to the U.S. Supreme Court's mandate that in order for zoning restrictions to treat group homes differently than other residential uses permitted in the same district, the zoning treatment must bear a rational relationship to some legitimate state purpose. ***City of Cleburne v. Cleburne Living Center.***[3] Even fewer comply with the basic test for

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2. Many of these state laws need to be reviewed to determine whether they comply with the 1988 amendments to the nation's Fair Housing Act.

3. 105 S.Ct. 3249 (1985). Some observers believe that the 1988 amendments to the federal Fair Housing Act were intended to codify much of the Supreme Court's decision in **Cleburne.**

validity for zoning restrictions on community residences: any zoning restriction must actually achieve a legitimate government interest and be the least drastic means necessary to achieve that legitimate government interest.[4]

National government's response

In 1988, Congress and President Reagan enacted amendments to the federal Fair Housing Act that added persons with disabilities to the list of persons protected against discrimination in housing. While the act itself does not specifically mention zoning, the report on the act prepared by the Judiciary Committee of the House of Representatives makes it abundantly clear that the Fair Housing Act's prohibition on discrimination against persons with handicaps is intended to "apply to zoning decisions and practices. The Act is intended to prohibit the application of special requirements through land-use regulations, restrictive covenants, and conditional or special use permits that have the ***effect*** of limiting the ability of such individuals to live in the residence of their choice in the community."[5]

In the very next paragraph the committee report strongly suggests that zoning restrictions based on hard facts and research are permissible:

> Another method of making housing unavailable has been the application or enforcement of otherwise neutral rules and regulations on health, safety, and land-use in a manner which discriminates against people with disabilities. Such discrimination often ***results from false or over-protective assumptions*** about the needs of handicapped people, as well as ***unfounded fears of difficulties*** about the problems that their tenancies may pose. These and similar practices would be prohibited.[6]

This language from the committee's report very strongly suggests that cities ***cannot*** provide for group homes **primarily** by special or conditional use permits.

Even before the 1988 amendments went into effect in March, 1989, there was no legal justification to require a special use permit for a group home. The special use permit is a flexible zoning device to allow for those land uses that may have detrimental effects or be appropriate or desirable in certain zoning districts only with adequate safeguards to mitigate likely adverse impacts. But the extensive body of research on the impacts of group homes very conclusively demonstrates that as long as group homes are licensed and not clustered together, they almost certainly will not generate adverse impacts.

Chapter 3 of this report reviews a range of zoning options that appear to meet the requirements of the 1988 amendments to the federal Fair Housing Act. As of this writing there have been few court decisions under

4. ***Familystyle of St. Paul, Inc., v. City of St. Paul***, No. 3-89 CIV 459, slip op. (D. Minn. Jan. 18, 1990).

5. House of Representatives Committee Report, H.R. Rep. No. 100-711 at 24 (June 17, 1988). Emphasis added.

6. ***Ibid.*** Emphasis added.

1988 amendments. Consequently, the courts have not set many precise interpretations of the amendments as applied to zoning. However, the few decisions that have been issued, the legislative history of the amendments, and basic zoning law would suggest which of these zoning options are certainly legal under the Fair Housing Act, which ones are almost certainly legal, which ones probably illegal, and which ones are certainly illegal.

Illinois' response

Prior to the beginning of this technical assistance project conducted under the Community Residence Location Planning Act, few home rule Illinois municipalities had amended their zoning ordinances to comply with the 1988 amendments to the nation's Fair Housing Act. Some municipal officials had expressed the concern that if they amend their zoning ordinance to legally provide for group homes, their community may be inundated with group homes because their neighboring cities have not amended their zoning to legally provide for group homes. However, none of the Illinois municipalities with legal zoning provisions for group homes has been swamped with community residences. A few municipalities' elected officials have said that if their neighboring communities will also amend their zoning, then they will amend theirs.

The General Assembly and Governor Thompson enacted the Community Residence Location Planning Act in 1989 to advance the adoption of legal zoning provisions for group homes by each of Illinois' 110 home rule municipalities. Under this act, each home rule community was required to submit a plan to the Illinois Planning Council on Developmental Disabilities (IPCDD) by July 1, 1990. This plan was to detail "the measures that the municipality has taken and will take to assure the adequate availability of sites for community residences [group homes] within the municipality. Such plan shall, at a minimum, demonstrate that adequate provisions are being made to:

① provide sites for community residences serving persons with disabilities in areas otherwise zoned primarily for single family residential use; and

② comply with the provisions of the federal Fair Housing Amendments Act of 1988, 102 Stat. 1619 (1988)."

This statute did not require each city to adopt new zoning provisions by July 1. It did, however, require that the corporate authorities submit a plan to the IPCDD by July 1. Under the act, the IPCDD was to evaluate each plan and assess its "adequacy" or "inadequacy" according to the two minimum criteria just stated above.

The IPCDD continued to accept plans and actual zoning ordinance amendments through December, 1990. As of the date this report went to press, 81 home rule municipalities (74 percent) submitted plans deemed "adequate," 11 had failed to submit a plan (10 percent), and 18 submitted plans found to be "inadequate" (16 percent).

During 1990, the IPCDD, using a Request for Proposal process, awarded a grant to Planning/Communications, legal and planning consultants, to provide technical assistance to the state's home rule

municipalities. In close consultation with the staff of the IPCDD, the consultant conducted a survey of the 110 home rule municipalities to identify current zoning practices for group homes. Based on the findings of that survey, the consultant conducted seven regional workshops throughout the state to which the chief elected official, municipal attorney, planning director, and city manager of each home rule municipality was invited. These three-hour workshops examined the requirements of the 1988 amendments to the Fair Housing Act in detail, explained what community residences are and how they work, defined what "disabilities" means under the 1988 amendments, and explained a range of zoning options that could bring communities into compliance with the Fair Housing Act.

In early May, the IPCDD distributed three copies of its ***Community Residence Location Planning Act Compliance Guidebook*** to officials in all 110 home rule municipalities. In June, the IPCDD distributed to all home rule municipalities the first issue of the ***Community Residence Location Planning Act News*** which contained answers to questions that had been raised by local officials during the workshops.

The IPCDD's legal consultant and IPCDD staff conducted a detailed review of all plans submitted before and after July 1. In early August, the IPCDD's legal consultant sent a letter to each municipality that submitted a plan with a detailed preliminary consultant's assessment of where the plan fell short of compliance and what changes would bring the plan into compliance with the Fair Housing Act. In mid-August, a second newsletter to all home rule municipalities was disseminated. This newsletter contained model zoning ordinance amendments for each of the acceptable zoning approaches to community residences. This model language had been reviewed by the American Bar Association's Subcommittee on Group Homes and Congregate Living.

The final standards for determining plan "adequacy" were designed so that a plan could contain several provisions that were questionable and still be ranked "adequate." Consequently, a ranking of "adequate" does not necessarily mean that the municipality's zoning plan for community residences would result in zoning that complies with the 1988 amendments to the federal Fair Housing Act.[7] However, if the plan contained provisions that clearly violated the Fair Housing Act, it was rendered "inadequate."

The scope of Illinois' Community Residence Location Planning Act specifically excluded residences for persons with alcohol or substance addictions, or for people who have a contagious disease -- all of whom are covered by the 1988 amendments to the Fair Housing Act. Fewer than a dozen of the home rule communities proposed zoning provisions that provide for the halfway houses and hospices in which people with these disabilities frequently live.

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7. There are some zoning practices that are clearly outlawed by the 1988 amendments to the Fair Housing Act. The validity or invalidity of some other zoning practices is not so clear. The Illinois Planning Council on Developmental Disabilities sought to take these gray areas into account when reviewing submitted plans for "adequacy." See the "Findings" section of Chapter 3 for a discussion of the gray areas and the review system that enabled some plans to be found "adequate" even though they may not fully comply with the 1988 amendments to the Fair Housing Act.

Throughout this project, the IPCDD's publications, staff, and legal consultant have reminded representatives of home rule municipalities that to fully comply with the Fair Housing Act, their zoning ordinances should also allow halfway houses and hospices for these people with these disabilities as a special use in all residential districts.

By September 28, 1990, the IPCDD sent notices to 51 municipalities that they would be subjected to a public hearing: 38 for submitting an "inadequate" plan and 13 for not submitting a plan at all. The IPCDD, however, continued to accept plans. By the time the public hearings ended on November 1, the plans of just 21 home rule cities still were "inadequate" and 13 still needed to submit a plan. Five of those 13 cities had started working on a plan or actual zoning ordinance amendments.

Beginning last March, the IPCDD's legal consultant provided expert testimony and/or drafted zoning ordinance amendments for over 30 home rule municipalities that requested these services. In addition, the IPCDD's legal consultant and IPCDD staff furnished technical assistance to more than 60 municipalities by phone, by mail, and in meetings with village staff. Throughout the year, the IPCDD's staff provided technical assistance and consultation to dozens of home rule communities and some non-home rule villages.

The IPCDD appreciates the fine efforts undertaken by local officials and their municipal staff that resulted in three-quarters of the home rule municipalities adopting zoning provisions that were assessed as "adequate."

Chapter 3:

Findings

Which zoning restrictions on community residences comply with the Fair Housing Act?

With the 1988 amendments to the Fair Housing Act only two years old, there is some uncertainty concerning how much zoning can restrict the location of community residences for people with disabilities. At one end of the spectrum are the attorney generals of Maryland, Virginia, Delaware, and Kansas who have issued legal opinions holding that the 1988 amendments essentially prohibit local zoning to treat community residences for persons who have disabilities differently than biologically-related families. Several out-of-court settlements have results in municipalities agreeing to treat community residences for people who have disabilities the same as families.[8] At the other end of the spectrum are a handful of municipal attorneys who question what the 1988 amendments have to do with group homes or zoning.[9]

The courts and out of court settlements approved by the U.S. Department of Justice come down somewhere in the middle of the spectrum of opinions -- and these obviously count the most. The Illinois Planning Council on Developmental Disabilities and its legal consultant's interpretation of what types of zoning comply with the 1988 amendments to the Fair Housing Act were based on the following factors which set some clear, and some not so clear guidelines for zoning for community residences:

① the Fair Housing Amendments Act of 1988 which became effective March 12, 1989 and amended Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-3619 (1982);

② Report No. 100-711 of the House Judiciary Committee interpreting the amendments;

③ the HUD regulations implementing the amendments, 24 C.F.R. Sections 100-121 (January 23, 1989);

④ recent case law interpreting the amendments relative to community residences; and

⑤ over 40 studies on the impacts of community residences for persons with disabilities that have universally found that as long as a community residence is licensed and not clustered on the same block with other community residences, it has no effect on property values, property turnover rates, neighborhood safety, visibility, or neighborhood character.

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8. See, for example, ***O'Connor v. Borough of McKees Rocks***, No. 89-0749 (W.D. PA. 5-15 90) and ***Zimmer v. Moon Township***, No. 89-1139 (W.D. PA. 3-19-90).

9. Despite requests, these attorneys have been unable to furnish any case law or legal scholarship that supports their position.

The basic court test to determine if a zoning restriction on where and how a community residence is located requires that the court be able to answer "yes" to each of these four questions:

① Is the zoning restriction intended to achieve a legitimate government purpose?
② Does the zoning restriction actually achieve the intended legitimate government purpose?
③ Is the zoning restriction the least drastic means necessary to achieve the intended legitimate government purpose?
④ Is the zoning restriction based on actual facts rather than unfounded fears and myths about people with disabilities?

Certainly legal zoning

Given these judicially-set standards, there is no question that making community residences a permitted use in all residential districts with no restrictions is legal. Several Illinois communities and a number of states have adopted this approach.

Almost certainly legal zoning

There is also is little doubt that it is legal to establish community residences for people with disabilities as a permitted use in all residential districts subject to receiving an administrative occupancy permit or certificate of zoning compliance based on meeting two criteria:

❶ The applicant or sponsoring agency is licensed or certified to operate the proposed community residence; and
❷ The proposed community residence is located at least 600 feet from any existing community residence as measured from lot line to lot line.

An administrative occupancy permit or certificate of zoning compliance is issued administratively. If the applicant demonstrates that the two criteria are met, the zoning official must issue the permit or certificate. The zoning official has no discretion. No public hearing is held. The question of how many people can live in the community residence is settled by applying the community's building code just as the community applies it to all residences. Most building codes in Illinois require a minimum amount of square feet of bedroom space per resident. The Building Officials and Code Administrators Code (BOCA), which is the most widely used code in Illinois, requires a minimum of 70 square feet of bedroom space if an individual occupies a bedroom and 50 square feet of bedroom space per person if more than one person occupies a bedroom.

In addition, the zoning ordinance should require any proposed community residence which does not meet both criteria for an occupancy permit is eligible to seek zoning approval via a special use permit.

This zoning approach meets all four court-set criteria for validity. From all the research on community residences, we know that as long as they are licensed and not clustered on a single block (usually 660 feet), they do not produce any adverse impacts and normalization of their residents can occur. Requiring an administrative occupancy permit for which a license

and supportable spacing are necessary, is the least drastic means needed to assure that licensing and spacing standards are met. A special use permit would be too drastic a means.

Although requiring a license and spacing distance are discriminatory, the courts have found that these requirements serve compelling government interests of assuring that people with disabilities receive adequate support services and enabling normalization to occur by preventing clustering of community residences.[10]

However, if a proposed community residence does not meet both criteria for an administrative occupancy permit, then it would be most appropriate to require a special or conditional use permit. Each of these two criteria helps assure that the proposed community residence will not produce adverse impacts. However, when one or both criteria is not met, the safety valve provided by meeting these criteria is missing and the extra scrutiny of a special use permit is warranted. The special or conditional use permit zoning device was created for this precise situation.

Possibly legal zoning

If a community lacks a building code or simply wants to set a cap on the number of people in community residences allowed as permitted uses in all residential districts, it could treat group homes differently based upon the number of residents in them (excluding staff). Smaller homes for up to eight residents with disabilities plus staff could be made a permitted use (with or without an administrative occupancy permit) in all residential districts. Larger group homes for nine to 15 residents plus staff could be made a special use in low density districts and a permitted use in higher density single-family and in multi-family districts. The rationale for this differential treatment is that the greater number of people who would live in these larger community residences would ***substantially*** exceed the density of population normally expected to live in the less dense residential districts and would justify the extra scrutiny offered by the special use permit process.

Caution. The IPCDD does not know if this approach would be upheld in court. Its major defect lies in having the zoning ordinance set a cap on the number of residents plus staff for community residences that would be a permitted use in all residential districts. Suppose a city sets its cap at five and refuses to let a community residence for six people with disabilities to locate in a house the building code says is big enough for a family of six to occupy. A court would want to know what possible legitimate government interest would be served by not allowing six people with disabilities to live there when the building code says the house is large enough for a family of six non-handicapped people to occupy it? Try as one might identify some legitimate government interest, there appears to be none.

Certainly illegal zoning

Requiring a special use permit for the smaller community residences of, say, four to eight residents plus staff to locate in a single-family zoning district, even the least dense district, is almost certainly illegal under the Fair Housing Act. The act's legislative history is very clear that the 1988

10. ***Familystyle of St. Paul, Inc., v. City of St. Paul***, No. 3-89 CIV 459, slip op. (D. Minn. Jan. 18, 1990).

amendments were adopted to prohibit this type of zoning which would appear to be based on unfounded myths and unsubstantiated fears about people with disabilities since nobody, during the course of this project, has been able to identify any legitimate government interest served by imposing such a low limit on the number of people in group homes allowed as a permitted use in single-family zoning districts.[11]

In addition, requiring a special use permit may effectively deny accommodations to those people with disabilities who can live in the community only in a community residence. A municipality's special use permit process can take several months to complete. The sale contract for agricultural, commercial, industrial, and large-scale multi-family property commonly makes the sale contingent on obtaining any zoning changes the buyer needs. It is very difficult, if not impossible, to find someone selling a single-family house or small apartment building who is willing to make the sale contingent on the buyer obtaining special use permit approval. Consequently, the net effect of using a special use permit approach as a city's primary vehicle for group homes is almost certainly to have an illegal discriminatory effect.

Even without the 1988 amendments, it would probably be illegal to require a special use permit for smaller group homes of eight or fewer residents plus staff. Some land uses may generate adverse impacts or be appropriate in certain zoning districts only with adequate safeguards. Service stations, funeral homes, day care centers, power stations, and drive-ins frequently fall into the category. The special use permit was created to give the zoning ordinance the flexibility to provide for these uses.[12] But as noted earlier in this report, group homes have been studied for their impacts more than any other small land use and found to produce no adverse impacts as long as they are licensed and not clustered together on a block. Consequently, as long as these two conditions are met, it is hard to conceive of any legitimate government purpose that is served by requiring a special use permit in single-family districts for group homes for people with disabilities.

Today, many experts on group home living arrangements generally favor having no more than three or four people with disabilities live together in a group home. However, under the Fair Housing Act, zoning ordinances should allow people with disabilities to make the choice of how large a group with which they wish to live -- and in many instances, financial considerations as well as individual needs and preferences make group homes for five, six, seven, or eight people with disabilities the only way they can live in the community.

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11. House of Representatives Committee Report at 24. However, as discussed immediately above, the special use permit can almost certainly be required for proposed group homes that do not meet the criteria for issuing an administrative occupancy.

12. Robert M. Leary, "Zoning," in William I. Goodman and Eric C. Fruend, eds., ***Principles and Practices of Urban Planning*** 439 (International City Management Association, 1968).

Licensing or certification

As noted earlier in this chapter, the courts have upheld state licensing for community residences. However, there is considerable question whether a municipality can require its own license for a community residence already licensed by the state. Since the State of Illinois already licenses or certifies group homes and group home operators, it is hard to identify any legitimate government interest to justify double-licensing by a municipality also licensing or certifying these community residences. It is possible that a local licensing law could be justified if applied only to group homes (or group home operators) not subject to state licensing or certification, or if the municipality requires all residences to be licensed or certified like Park Forest does.

Areas of uncertainty

While the law is pretty clear on the zoning issues just discussed, there are some gray areas still to be fully resolved. For example, while **spacing distances** of 600 to maybe as much as 1,000 feet between community residences can be factually justified as necessary to enable normalization of people with disabilities, larger spacing distances are questionable. In the two court decisions that involved spacing distances, the courts ruled that spacing distances are legal, but they sidestepped the question of whether the specific spacing distances were valid.[13] However, several attorney general opinions have found specific spacing distances to be illegal.[14] A number of out of court settlements of Fair Housing Act cases have resulted in municipalities agreeing to drop their spacing requirements.[15] Consequently, although the courts have found that spacing distances can be required between community residences, distances greater than, say, 600 feet in normal neighborhoods are questionable. It is possible that spacing distances of up to 1,500 feet, could be justified in zoning districts that require a minimum lot size of at least one acre.

It is pretty much settled that the Fair Housing Act requires communities to allow as a permitted use in all residential districts community residences that house more people than a city's zoning definition of "family" allows unrelated people to live together. The IPCDD has consistently recommended that it is inappropriate for the zoning ordinance to determine how many people with disabilities can live in a community residence. This size question is most properly addressed by applying the local building code's minimum requirements of bedroom floor area to a group home. However, the elected officials of most Illinois home rule municipalities preferred to

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13. See ***Familystyle*** at 22, and ***Tullurian U.C.A.N. v. Goodrich***, slip op. (Dane County Cir. Ct. Case No. 89 CV 5583 Dec. 15, 1989) at 4.

14. Opinion of the Attorney General of Delaware, Opinion No. 90-I001, invalidated a 5,000 foot dispersion requirement; the Opinion of the Attorney General of Maryland, Opinion No. 89-026 (Aug. 7, 1989) and the Opinion of the Attorney General of Kansas, Opinion No. 89-99 (August 1, 1989) both invalidated 1,000 foot spacing distances; and in a letter to a State Senator dated September 26, 1989, the Attorney General of Virginia stated that the Fair Housing Act invalidated the state's dispersion requirements. 5 ***Fair Housing-Fair Lending Reporter*** 6 at 11 (1989).

15. For example, see the settlement in ***Zimmer v. Moon Township***, No. 89-1139 (W.D. PA. 3-19-90) where a one-mile spacing distance was dropped.

set a limit in the zoning ordinance on how many people can live in a community residence that is allowed as a permitted use. The gray area concerns how high a city must set this cap. The IPCDD's legal consultant has consistently recommended that this cap be set at no less than eight residents plus staff for the reasons that follow.

A lower limit would effectively exclude group homes from most Illinois municipalities. The rise in housing values in Illinois requires many group home operators to establish homes for more than four people, even though they would prefer to keep the number of residents down. Most of the states that have set a cap on the number of residents in permitted use group homes, have set it at eight or more persons with disabilities plus support staff.[16] Most licensing programs for group homes have set upper limits of eight or more residents. In Illinois, the most widely used state licensing program (Community Integrated Living Arrangements, CILA) sets eight as the limit on the number of people with disabilities, plus support staff, who can live in the group homes it sanctions. Other state licensing programs allow as many as 15 residents plus support staff. Setting a lower limit would have the effect of discriminating against those people with disabilities who, for whatever reason, need a group home with as many as eight residents, plus support staff, to be able to live in the community.[17] For example, a few years ago in Oklahoma, funding formulas for group homes made it nearly financially unfeasible to operate community residences for fewer than nine residents plus staff. In such a situation, a zoning ordinance that did not allow group homes for nine residents plus staff in all residential districts as a permitted use could effectively deny accommodations to people with disabilities in violation of the 1988 amendments. Remember, however, that group home operators prefer to house together as few people with disabilities as possible and that most community residences will be relatively small.

Findings

Plans and ordinances submitted

Of the 110 home rule municipalities covered by the Community Residence Location Planning Act, 99 submitted plans to change their zoning ordinances or actual zoning amendments to provide for community residences for people with developmental disabilities or mental illness and who may also have physical disabilities. Of these 99, the Illinois Planning Council on Developmental Disabilities found 81 to be "adequate" (using the act's language). Of these 81, 59 cities had actually adopted zoning ordinance amendments by the end of 1990 while nine had set dates for adoption in January or February 1991, and three had set a date later in the year. The IPCDD could not learn the intentions of the remaining 13

16. See Bates, ***infra***. note 1.

17. As noted in the Executive Summary of this report, many people who have disabilities are able to live more independently than in a community residence: on their own or with one or two friends in a house or apartment. They receive an array of support services in accord with their needs, preferences, and strengths. Zoning rarely poses an obstacle to these more independent living arrangements.

municipalities with "adequate" plans. Of the 18 cities that submitted "inadequate" plans, four had already adopted zoning amendments by the end of the year while seven had scheduled dates for adoption in 1991. The intentions of the remaining eight villages could not be ascertained. See Table 1 in the Appendix which identifies each home rule municipality's proposed or adopted zoning provisions.

Since early last year, the IPCDD has been pr. ed technical assistance to help the home rule municipalities prepare a plan to show how each intended to change its zoning to bring it into compliance with the 1988 amendments to the Fair Housing Act, or to write actual zoning ordinance amendments that conform to the Fair Housing Act's limitations on zoning for community residences for people with disabilities.[18] Prior to the July 1 statutory deadline for submitting a plan, the IPCDD conducted seven three-hour workshops across the state for municipal officials. It published an in-depth analysis of the requirements of the Fair Housing Act and court decisions under it in its 47-page ***Community Residence Location Planning Act Compliance Guidebook*** which it supplemented in June with the first edition of a newsletter that answered frequently asked questions about how to comply with both the Illinois and national laws. In mid-August, the IPCDD published a second newsletter that contained model zoning ordinance provisions for each of the zoning approaches discussed earlier in this chapter along with a detailed commentary that explained the rationale for each zoning provision.

The IPCDD's legal consultant prepared a preliminary assessment of each municipality's submission and sent a detailed evaluation to each city in early August. Each evaluation pinpointed potential problem areas and suggested specific solutions. City officials were advised that the IPCDD would continue to receive revised plans or zoning amendments until late September at which time a list of cities subject to public hearings in October would have to be prepared.

Throughout this period the IPCDD continued to provide technical assistance to home rule municipalities through council staff and its legal consultant. This assistance included reviewing and recommending changes to draft plans and zoning amendments, meeting with municipal officials, appearing as an expert witness before Plan Commissions on proposed zoning amendments, and writing complete zoning ordinance amendments for nine home rule municipalities (Berwyn, Chicago Heights, Cicero, Dolton, Muddy, Norridge, Peoria Heights, Sesser, Stickney), and substantially revising Chicago's amendments. In addition to furnishing specific zoning amendments, the IPCDD's legal consultant prepared a short report for each of these cities that explained the amendments and included a sample form to be used for administrative occupancy permit applications.

The Community Residence Location Planning Act required the IPCDD to conduct public hearings on home rule municipalities that failed to sub-

18. The IPCDD staff and its legal consultant also provided technical assistance to a handful of non-home rule municipalities that requested it. The IPCDD knows of six non-home rule municipalities that have expressed interest in changing their zoning to bring it into compliance and one, Morton, that has done so. It is likely that some other non-home rule communities have amended their zoning to comply, but they have not notified the IPCDD of their actions.

mit a plan or submitted a plan the IPCDD assessed as "inadequate."[19] To determine adequacy as fairly and uniformly as possible, the IPCDD devised a set of objective standards for evaluating submitted plans and ordinances and a point system where a score of 20 points or more triggered a rating of "inadequate." The standards were designed so that a clear violation of the Fair Housing Act would warrant 20 points. However, because this is a developing area of the law with some gray areas in interpreting the 1988 amendments, the scoring system was formulated so that a zoning ordinance or plan would have to include at least two or three provisions in these gray unsettled areas that might be contrary to the 1988 amendments to the Fair Housing Act. See the sample IPCDD final plan review form in the appendix of this report which illustrates how the IPCDD sought to take these uncertain gray areas into account. Since the 1988 amendments to the Fair Housing Act constitute an evolving area of the law, it is possible that some of the zoning provisions that fall into these presently unsettled gray areas may be be found to be illegal as case law unfolds.

In early October, notices of the public hearings were sent to the chief elected official and the IPCDD's contact person in each of the 38 cities with an "inadequate" plan and each of the 13 municipalities that had not yet submitted a plan. Included with the notice was a copy of the IPCDD's review of the city's plan and its score. The cover letter explained the reason for the hearing and informed the city that the IPCDD would still accept new plans or revisions until the date of the hearing. By the end of the hearings on November 1, 18 of these cities submitted revised plans that were found "adequate," which left 21 cities with "inadequate" plans and 12 that had not submitted a plan at all. Following the conclusion of the public hearings and through the end of the year, two more cities revised their plans or ordinances to bring them close enough into compliance with the Fair Housing Act to be rated "adequate" and one submitted an ordinance for the first time.

Twenty of the plans initially submitted complied with the 1988 amendments to the Fair Housing Act. Another 64 cities revised their plans based on advice from the IPCDD staff and its legal consultant, including nine cities that had the IPCDD's legal consultant write zoning ordinance amendments for them. Of these 81 plans, 43 fully comply with the Fair Housing Act to the extent that the Community Residence Location Planning Act requires. Of the remaining 38 "adequate" plans, six set caps on the number of residents in community residents allowed as permitted use in single-family zones that fell in the slightly gray area below eight. Twelve set spacing distances in at least one zoning district that exceeded 1,000 feet -- a gray area that could violate the Fair Housing Act. Six of these municipalities with "adequate" plans did not allow for at least 15 people in a community residence as a special or permitted use in all residential districts -- another possible violation of the Fair Housing Act. Sixteen of the "adequate" plans did not provide a special use permit back-up for when a proposed community residence fails to meet all criteria for an administrative occupancy permit -- a possible, but as yet unsettled, conflict with the Fair Housing Act.

19. Community Residence Location Planning Act, Public Act 86-638, Section 4

Most of the 18 plans that were found "inadequate" earned that evaluation because they continued to require a special use permit for community residences.[20] Eleven allowed community residences as permitted uses only if the number of residents did not exceed the number of unrelated people allowed under the zoning ordinance definition of "family." Three allowed more than the number of unrelated people in group homes as permitted uses, but still limited the maximum size below eight. Five excluded community residences for as many as eight persons from at least one single-family district. Two excluded community residences for more than eight persons plus staff from at least one single-family district while another five excluded them from all single-family districts. Two municipalities totally excluded community residences for up to 15 people.

In contrast, the zoning plans of 18 municipalities called for the building code, rather than zoning ordinance, to determine number of residents in a community residence allowed as a permitted use. These are the cities identified by the notation "None"in Table 1 in the Appendix under the column headed "cap in SF zones." As explained earlier in this report, the IPCDD identified this technique as the "most legal" zoning approach.

Only 12 of the cities require that a proposed community residence be at least 1,320 feet from any existing community residence as one of the requirements for the occupancy permit necessary for a permitted use. Thirteen impose no spacing distance at all in either single-family or multiple family zoning districts. In single-family districts, 20 municipalities require spacing distances of 600 feet or less, eight use a spacing distance of 601 to 999 feet, and 36 prescribe 1,000 feet. In multiple-family districts, 28 require a spacing distance of 600 feet or less, six use 601 to 999 feet, and 32 prescribe 1,000 feet between community residences.

Two neighboring municipalities required their own local licensing just for community residences in addition to state licensing. Only two cities in Illinois sought to include resident staff in counting the number of people allowed in a community residence. In two other villages that submitted "adequate" plans, community residences must obtain a local license that is required for residences in general and a wide variety of land uses besides community residences, practices which do not appear to be discriminatory.

Six of the cities with "inadequate" plans failed to include a special use back-up provision. Three communities submitted plans that contained blanks for the spacing and size questions. And as of the end of the year, 10 home rule cities -- 9 percent -- never submitted a plan or ordinance.

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20. In ***Ardmore, Inc. v. City of Akron, Ohio***, No. 90-CV-1083, slip op. at 10 (N.D. Ohio, Eastern Div. , Aug. 2, 1990), the trial court issued an injunction to prohibit enforcement of the city's requirement of a special use permit for group homes that house more residents than the number of unrelated people allowed to live together under the city's zoning definition of "family." The court found that Congress had an "explicitly stated legislative intent [in the 1988 amendments to the federal Fair Housing Act] to prohibit the requirement of conditional use permits [special use permits]" for community residences.

Public Hearings

The Illinois Planning Council on Developmental Disabilities conducted a series of five public hearings on those home rule communities that either failed to submit a plan at all or submitted an "inadequate" plan. Evening hearings were conducted in: Homewood (October 24), Skokie (October 25), Mount Vernon (October 28), Bloomington-Normal (October 30), and Rolling Meadows (November 1). To accommodate local needs, cities were allowed to switch hearing dates. Press releases announcing the public hearings were distributed to 78 newspapers, television stations, and radio stations prior to the hearing dates.

IPCDD staff member Ms. Kerry Flynn, who served as the IPCDD's coordinator for this project, conducted each public hearing on behalf of the IPCDD. A member of the IPCDD Board opened most of the hearings. At each hearing, Ms. Flynn explained how the hearing would proceed and described the federal and state statutes that led to these hearings being conducted. She explained that most zoning ordinances had were written long before group homes ever existed and acknowledged the unsettled, gray areas in interpreting the federal Fair Housing Act. Daniel Lauber, the IPCDD's legal consultant, explained the basis for the IPCDD's evaluation of submitted plans including the standards for compliance with the federal Fair Housing Act. He also addressed the gray areas in interpreting the 1988 amendments to the Fair Housing Act and how the evaluation system took these into account. Both he and Ms. Flynn reminded attendees that full compliance with the federal act entailed going a few steps beyond what the Illinois Community Residence Location Planning Act required home rule cities to address in their plans.

Next representatives of the municipalities subject to the public hearings had the opportunity to address the hearing concerning their municipalities' plans, or lack thereof. Afterwards, the floor was opened to citizens to make their statements. Finally, the floor was opened for a free-form question and answer period.

Few municipalities subject to the hearing chose to have their representatives address the hearing. Those who did speak voiced several concerns. At every hearing, at least one municipal spokesperson questioned why only home rule communities were subject to the Community Residence Location Planning Act since all municipalities are covered by the national Fair Housing Act. Several representatives of communities that limited the number of residents in group homes that are permitted uses in single-family zones to the same number of unrelated people as the zoning definition of "family" objected to the IPCDD evaluating such practices as illegal under the Fair Housing Act (although they could offer no case law or other legal arguments to counter the IPCDD's interpretation). These community representatives wanted to continue to limit the number of people allowed in a group home to the same number of unrelated people allowed to live together under their municipalities' definition of "family," and require a special use permit for group homes that house a greater number of people.[21]

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21. According to the House Judiciary Committee's report, this is exactly the sort of zoning practice that has been used to exclude community residences and is banned by the 1988 amendments to the Fair Housing Act. ***See House of Representatives Committee Report***, H.R. Rep. No. 100-711 at 24 (June 17, 1988).

A spokesperson for one community with a large college population noted that his city council could not understand how, if it allowed community residences for up to eight persons with disabilities plus staff as a permitted use in single-family districts, it could still limit the number of unrelated persons, primarily college students, who can live together in a single-family district. In response, the IPCDD's legal consultant explained the long line of court decisions that have allowed cities to limit the number of people who can live together under a city's definition of zoning ordinance "family," but have ordered that group homes for more people than the definition of "family" allows to live together, to be allowed as a permitted use in single-family zoning districts.[22] The IPCDD's legal con-

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22. **See** the long line of cases that includes: ***Berger v. State***, 71 N.J. 206, 364 A.2d 993, 1002 (1976) (definition of "family" limiting households to related or adopted person not enforceable under due process against group home for eight to 12 multi-handicapped children and two foster parents). Construing a restrictive "family" definition that limited a family to relations by blood or marriage, New York's highest court unanimously found that, under New York law, a group home for ten foster children constituted a family for zoning purposes. ***City of White Plains v. Ferraioli***, 34 N.Y.2d 300, 357 N.Y.S.2d 449, 313 N.E.2d 756 (1974). The court concluded that the group home was "structured as a single housekeeping unit, and is to all outward appearances, a relatively normal, stable, and permanent family unit...." ***Id.*** at ___, 357 N.Y.S.2d at ___, 313 N.E.2d at 758. ***See also City of Vinta Park v. Girls Sheltercare, Inc.***, 664 S.W.2d 256, 259 (Mo.App. 1984)(group home conforms to spirit of "family" definition); ***Township of Pemberton v. State of New Jersey***, 178 N.J.Super. 346, 429 A.2d 360 (N.J. Super. Ct. App. Div. 1981)(group home for juvenile delinquents functions as family unit); ***Linn County v. City of Hiawatha***, 311 N.W.2d 95 (1981)(group home for developmentally disabled is single housekeeping unit under "family" definition); ***Washington Township v. Central Bergen Community Mental Health Center, Inc.***, 156 N.J.Super. 388, 383 A.2d 1194, 1209 (1978)(group home for former mental patients presents "a picture very much akin to that of a traditional family....").

In ***Ferraioli***, the New York court also found that the group home is deliberately designed to conform with the zoning ordinance's aim of promoting the family environment. ***Id.*** at ___, 357 N.Y.S.2d at ___, 313 N.E.2d at 758. "So long as the group home bears the generic character of a family unit as a relatively permanent household and is not a framework for transients or transient living, it conforms to the purpose of the [zoning] ordinance.... Indeed, the purpose of the group home is to be quite the contrary of an institution and to be a home like other homes." ***Id.*** See Daniel Lauber, ***Zoning for Family and Group Care Facilities*** (American Society of Planning Officials, 1974) for a copy of the full opinion in ***Ferraioli***.

Since ***Ferraioli***, many courts have applied this "functional family" standard to find that group homes of no more than 15 residents, particularly for the developmentally disabled, meet zoning ordinance definitions of "family." The key concern appears to be that the "group home mirrors the stability and structure of a traditional family unit - resident adults supervising dependent children." Martin Jaffe, "Group Homes and Family Values," 34 ***Land Use Law and Zoning Digest*** 4, 6 (March 1982). When the group home residents are adults, the courts have construed zoning definitions of "residential use" to allow the group home. Jaffe ***supra*** at 7. ***See Incorporated Village of Freeport v. Association for the Help of Retarded Children***, 60 A.D.2d 644, 400 N.Y.S.2d 724 (2d Dept 1977)(group home for retarded adults functions as a family). ***See also Crowley v. Knapp***, 288 N.W.2d 815 (1980); ***Douglas County Resources, Inc. v. Daniel***, 280 S.E.2d 734 (1981): ***Oliver v. Zoning Commission***, 31 Conn.Supp. 197, 326 A.2d 841 (1974). Although the adult developmentally disabled is not a child in terms of age, her role in the group home is that of the "child" as beneficiary of the adult supervision furnished by staff.

Decisions in at least 11 other states reflect the reasoning of the New York courts. These include: Georgia, Iowa, Louisiana, Minnesota, Missouri, New Jersey, Pennsylvania, and Rhode Island. For a detailed list of cases, ***see*** 2 Rathkopf, ***Law of Zoning and Planning***, at 17A-27, n.23 (4th ed. 1984 & 1984 Cumulative Supp.). For a thorough discussion of this line of cases ***see supra*** Jaffe at 6; Marsha Ritzdorf-Brozovsky, ***Impact of Family Definitions in American Municipal Zoning Ordinances***, 15-87 (1983); and Rathkopf, ***supra*** at ¶17A.04[3], at 17A-15.

sultant reminded those present that college students are not covered by the 1988 amendments to the Fair Housing Act and that provisions regarding community residences applied only to people with disabilities, not other populations covered prior to enactment of the 1988 amendments.

Two representatives of home rule villages suggested that the IPCDD should not even attempt to suggest what kind of zoning for group homes is legal until there is a "definitive " U.S. Supreme Court decision that specifies how much zoning can regulate community residences.[23]

Spokespersons for three municipalities said they set their limits on the number of people in group homes as a permitted use at four or less because at least one service provider in their area told them that they prefer to house no more than three or four persons in a community residence. While that may be the preference of that particular service provider, such a limit fails to meet the court tests for validity under the 1988 amendments to the Fair Housing Act according to the IPCDD's legal consultant.

A number of citizens testified at the five hearings. They emphasized the need for zoning ordinances to adequately accommodate the great need for community residences for people with disabilities in Illinois. Represen-

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Courts in Alabama, Maine, and Texas have construed the definition of "family" very narrowly to exclude any group home where the operators are compensated financially or a contract exists between the state and the operators to, for example, furnish meals, even though the residents themselves prepare them. ***Civitans Care, Inc. v. Board of Adjustment***, 437 So.2d 540, 542 (Ala. Civ. App. 1983); ***Penobscot Area Housing Development Corp. v. City of Brewer***, 434 A.2d 14 (Me. 1981)(group home for six retarded adults with rotating staff supervision barred from single-family zone where single-family household defined as "existence of a traditional family-like structure of household authority," including one or more "resident authority figues" similar to parents); ***Shaver v. Hunter*** 626 S.W.2d 574 (Tex. Civ. App. 1981)(group home of unrelated severely handicapped single women did not constitute "single family" so as to allow them to use the property under restrictive covenant).

Courts in Colorado, Michigan, and Ohio have produced a mixed record. For example, ***see Saunders v Clark County Zoning Department***, 66 Ohio St.2d, 421 N.E.2d 152 (1981)(foster care and rehabilitation facility for ten youths and married couple allowed in single-family district); ***contra Garcia v. Siffrin Residential Association***, 63 Ohio St.2d 259, 407 N.E.2d 1369, 1376 (1980)(group home not a family, just a group that has come together primarily to share rooming, dining, and other facilities).

The few courts that refuse to accord residential status to group homes base their decisions on formalisms rather than careful functional analysis. For example, in ***Civitans Care, Inc. v. Board of Adjustment***, 437 So.2d 540 (Ala. Civ. App. 1983), the court relied on ***City of Guntersville v. Shull***, 355 So.2d 361 (Ala. 1978), where the Alabama Supreme Court held that a halfway house for former mental patients was a rooming or boarding house, which is excluded from single-family and multifamily dwelling districts. Both courts based their decisions largely on two factors. First, the homes' operators would receive compensation to support their program. Second, the ***Shull*** court considered that the preparation and serving of meals was evidence of a boarding house. In ***Civitans***, the court ruled that because the state's contract with the operators of the proposed group home required the operators to provide the residents with meals, the proposed home was a boarding house where "for compensation meals are provided for three or more persons." ***Civitans*** at 543. The court completely ignored how the group home would be used, and the fact that the residents themselves would prepare and serve the meals, just like a conventional family.

23. It should be noted that the U.S. Supreme Court has yet to issue a "definitive" decision interpreting the Fair Housing Act in the quarter century since it was adopted. However, both the State of Illinois and dozens of Illinois municipalities have adopted their own fair housing laws even in the absence of any "definitive" U.S. Supreme Court decision.

tatives of the League of Women Voters of Illinois, and for several local leagues, testified that studies conducted by the League of Women Voters have found the housing needs of people with mental illness are largely unmet in Illinois.

A representative of Housing Options for the Mentally Ill, based in Evanston, testified that Evanston's licensing law for group homes makes it impossible to establish a group home in Evanston. In fact, no group home has opened in Evanston since the city adopted its lengthy licensing ordinance.

Several people who have developmental disabilities testified that they wished to live in community residences rather than the nursing homes in which they currently reside.

Representatives of groups that advocate on behalf of people with disabilities testified that the zoning approaches for community residences suggested in the model zoning amendments distributed by the IPCDD were too restrictive and that the evaluation criteria used by the IPCDD resulted in zoning that is too restrictive under the Fair Housing Act to be rated "adequate." They testified that the definition of "disability" should include "impairs their ability to live independently."[24] In their view, there are not so many gray areas in interpreting the 1988 amendments to the Fair Housing Act. They suggested that all the zoning plans that limited the number of residents in a community residence as a permitted use in single-family zoning districts to less than eight should have been rated "inadequate."

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24. The legal consultant to the Illinois Planning Council on Developmental Disabilities notes that one of the underlying principles for community residences is that they are specifically for people whose ability to live independently has been impaired and the group home is often the best type of residence that enables such a person to dwell in the community rather than in an institutional setting.

Appendix

Table of contents

Community Residence Location Planning Act

[redacted]

AN ACT to insure the availability of sites for community residences for persons with disabilities in this State. Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. This Act may be cited as the Community Residence Location Planning Act.

Section 2. As used in this Act:

(a) "Disability" means any person whose disability:
  (1) is attributable to mental, intellectual or physical impairments or a combination of mental, intellectual or physical impairments; and
  (2) is likely to continue for a significant amount of time or indefinitely; and
  (3) results in functional limitations in three or more of the following areas of major life activities:
    (A) self care;
    (B) receptive or expressive language;
    (C) learning;
    (D) mobility;
    (E) self direction;
    (F) capacity for independent living;
    (G) economic self-sufficiency; and
  (4) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of a life-long or extended duration.

(b) "Community residence" means a group home or specialized residential care home serving unrelated persons with disabilities which is licensed, certified or accredited by appropriate local, state or national bodies. Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse, or persons whose primary reason for placement is treatment of a communicable disease.

(c) "Home rule municipality" means a city, village or incorporated town that is a home rule unit.

(d) "Council" means the Illinois Planning Council on Developmental Disabilities, created by Executive Order.

Section 3. Not later than July 1, 1990, the corporate authorities of each home rule municipality shall submit to the Council a plan that details the measures that the municipality has taken and will take to assure the adequate availability of sites for community residences [group homes] within the municipality. Such plan shall, at a minimum, demonstrate that adequate provisions are being made to:

① provide sites for community residences serving persons with disabilities in areas otherwise zoned primarily for single family residential use; and

② comply with the provisions of the federal Fair Housing Amendments Act of 1988, 102 Stat. 1619 (1988).

Section 4. The Council shall conduct public hearings relating to the adequacy of sites for community residences in communities situated in home rule municipalities that have failed to submit plans as required under Section 3 or that have submitted plans that the Council determines are inadequate.

Section 5. The Council shall review information that it has received from the plans that have been submitted to it and the public hearings that it has conducted. Not later than January 31, 1991, the Council shall submit its recommendations to the General Assembly, including suggestions for legislative action, concerning the provision of an adequate number of sites for community residences within this State.

Section 6. This Act is repealed July 1, 1991.

Section 7. This Act takes effect upon becoming law.

Signed into law: September 1, 1989.

Table 1:

Zoning for community residences by home rule municipality

In order to evaluate the plans submitted in this project, the Illinois Planning Council on Developmental Disabilities (IPCDD) kept detailed records of zoning provisions each home rule municipality submitted. The also sought to identify whether a city had actually adopted the zoning changes it submitted.

The table that begins on the next page presents information about the zoning proposed or actually adopted by each of the 110 home rule municipalities. The table is accurate as of January 1, 1991. To obtain updated information, contact the Illinois Planning Council on Developmental Disabilities.

Explanation of categories and abbreviations in Table 1:

Zoning for group homes is adequate or inadequate: A score of 20 or more points resulted in rating a plan "inadequate." See the text of this report for an explanation of the rationale for the scoring system. Also see the sample IPCDD evaluation form in this appendix. As noted in the text of this report, an assesment of "adequate" does not necessarily mean that the city's zoning for community residences is legal and in compliance with the 1988 amendments to the nation's Fair Housing Act.

Date of zoning amendment adoption: If the proposed zoning amendments were not actually adopted as of January 1, 1991, the date city officials anticipate adoption is given. A blank indicates that the anticipated date of adoption, if any, is unknown.

Spacing: Most zoning ordinances will allow a community residence to locate in residential zoning districts as a permitted use as long as it is no closer to any existing community residence than the distance indicated in these two columns of the table. If different spacing distances are used in different zoning districts, the range of distances is given.

Family: This figure is the number of unrelated persons allowed to live together in a dwelling unit under the definition of "family" in the municipality's zoning code.

Cap in SF zones: This figure is the maximum number of people with disabilities that the zoning ordinance allows to live in a group home as a permitted use in single-family zones.

<=8 exclude from SF: If a zoning ordinance does not allow group homes for at least eight residents plus support staff in any single-family districts, these districts are indicated in this column. If the zoning ordinance requires a special use permit for community residences for up to eight residents plus staff, this column identifies the districts with the acronym SUP.

Larger Group Homes: These columns indicate the maximum number of residents allowed in larger community residences in single-family districts and in multiple-family zones. P = permitted as of right; PA = permitted by administrative occupancy permit; SUP = special use permit required

SUP Back-up: If a city provides a special-use back-up for community residences that fail to meet spacing or licensing requirements, this column is blank. If the special use permit back-up is only for community residences seeking to locate within a spacing distance, the code "L" is used. If no special use back-up is provided at all, the code "N" is used.

Other problems: L = requires license for community residences
S = special difficulties unique to that municipality

TABLE 1: STATUS OF HOME RULE MUNICIPALITIES' PLANS FOR ZONING FOR COMMUNITY RESIDENCES

See page A-2 for an explanation of the terms and abbreviations used in this table.

NOTE: The information in this table is accurate as of this date and is therefore subject to change as cities adopt zoning amendments for group homes. Contact the Illinois Planning Council on Developmental Disabilities for updated information on the status of each city.

Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones CAP	Larger Group Homes in Single-Family Zones P, PA, or SUP	Larger Group Homes in Multiple-Family Zones CAP	Larger Group Homes in Multiple-Family Zones P, PA, or SUP	SUP Back-up L=no license N=none at all	Other problems
Addison	Adequate	1/91	1000 ft.	1000 ft.	4	8		16	SUP	16	SUP		
Alton	Adequate	Adopted	0 ft.	0 ft.	3	4	R1-R2 SUP	15	SUP	15	P in R4, SUP others		
Arlington Heights	Inadequate	3/91	0 ft.	1200 ft.	4	4	>4 SUP	None	SUP	None	SUP		
Aurora	Adequate	7/91	1320 ft.	1320 ft.	3	8		16	SUP	16	PA		
Bedford Park	Adequate	1/91	600 ft.	600 ft.	?	6	7-8 SUP	None	SUP	None	SUP		
Belleville	Adequate	Adopted	600 ft.	600 ft.	3	8		10	Excluded	10	PA		
Berwyn		No plan	ft.	ft.									
Bloomington	Inadequate	1/91	3/block ft.	3/block ft.	2	4	5-10 excluded: R1A-C	10	No R1A-B-C; R2: SUP	10	PA	N	
Bolingbrook	Adequate	1/91	1000 ft.	1000 ft.	4	8		16	SUP	16	SUP		
Bryant		No plan	ft.	ft.									
Buffalo Grove	Adequate	1/91	1000 ft.	1000 ft.	2	8		15	SUP	15	SUP	N	

NOTE: The information in this table is accurate as of this date and is therefore subject to change as cities adopt zoning amendments for group homes. Contact the Illinois Planning Council on Developmental Disabilities for updated information on the status of each city.

Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Burbank	Adequate	Adopted	1000 ft.	1000 ft.	3	8		9+	SUP	9+	SUP		
Burnham Village	Adequate	12/90	1000 ft.	1000 ft.	?	8		15	SUP	15	SUP	L	
Calumet City	Adequate	Unknown	1000 ft.	1000 ft.	5	None		None	PA	None	PA		
Calumet Park	Adequate	Adopted	0 ft.	0 ft.	No limit	None		None	P	None	P		
Carbondale	Adequate	Adopted	800 ft.	800 ft.		8		None	R1: SUP R2: PA	None	PA		
Carol Stream	Adequate	Adopted	1000 ft.	1000 ft.	?	8		15	9-10: PA; 11-15: SUP	15	SUP		
Champaign	Adequate	Adopted	0 to 1000 ft.	0 to 1000 ft.	4	8		15	P + 1000 ft	15	P		
Channahon	Adequate	Adopted	1000 ft.	1000 ft.	?	8		16	SUP	16	PA	L	
Chicago	Adequate	4/91	600 ft.	600 ft.	0	8		15	SUP	15	SUP		
Chicago Heights	Adequate	Adopted	1000 ft.	1000 ft.	?	8		15	SUP	15	SUP		
Cicero	Adequate	Unknown	1000 ft.	1000 ft.	?	8		15	SUP	15	SUP		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Countryside	Adequate	Adopted	1000 ft.	1000 ft.	5	None		None	PA	None	PA		
Danville	Adequate	1/91	1000 ft.	600 ft.	3	15		15	PA	15	PA	N	
DeKalb	Adequate	Adopted	1000 ft.	1000 ft.	3	8		None	SUP	None	PA		
Decatur	Adequate	Adopted	1000 ft.	1000 ft.	8	8		None	SUP	None	SUP; PA in R6	N	
Deerfield	Inadequate	Unknown	1320 ft.	1320 ft.	5	5	6-8 SUP	None	SUP	None	SUP	N	
Des Plaines	Adequate	Adopted	1000 ft.	1000 ft.	3	8		15	Totally excluded	15	PA	L	
Dolton	Adequate	Adopted	900 ft.	900 ft.	5	8		15	SUP	15	SUP		
Downers Grove	Adequate	Adopted	500 ft.	500 ft.	3	8		None	SUP	None	SUP		
East Hazel Crest	Adequate	Adopted	600 ft.	600 ft.	2	6		15	SUP	15	SUP		
East St. Louis		No plan	ft.	ft.									
Elgin	Adequate	Adopted	600 ft.	600 ft.	?	8		15	SUP	15	SUP		
Elk Grove Village	Adequate	Adopted	1000 ft.	1000 ft.	3	8		15	SUP	15	SUP		
Elmhurst	Adequate	Adopted	600 ft.	600 ft.	4	8		14	SUP	14	SUP	L	
Elmwood Park	Adequate	Adopted	1000 ft.	1000 ft.	2	8		15	PA	15	PA		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Evanston	Inadequate	4/91	900 ft.	900 ft.	3	8		15	SUP	15	PA	N	L
Evergreen Park	Adequate	Adopted	1000 ft.	1000 ft.	?	8		15	SUP	15	SUP		
Flora	Adequate	Adopted	None ft.	None ft.	?	None		None	P	None	P		
Freeport	Inadequate	Adopted	1320 ft.	1320 ft.	4	4	5-8 need SUP	15	SUP	15	SUP	L	
Galesburg	Adequate	Adopted	None ft.	None ft.	2	8		None	Excluded	None	P		
Glendale Heights	Adequate	Adopted	1000 ft.	1000 ft.	3	8		15	SUP	15	SUP		
Glenview	Adequate	Adopted	600 ft.	600 ft.	3	8		15	SUP	15	SUP		
Glenwood	Adequate	Adopted	600 ft.	600 ft.	5	None		None	PA	None	PA		
Golf	Inadequate	Unknown	B ft.	ft.		B		B				L	
Granite City	Adequate	1/91	600 ft.	600 ft.	?	8		15	SUP	15	SUP		
Hanover Park	Adequate	1/10/91	950 ft.	950 ft.	5	8		None	Excluded	None	SUP	N	
Harvey	Inadequate	2/91	Densi ft. ty	Dens ft. ity	None	4	>4 excluded	None	Excluded	None	PA	N	
Highland Park	Inadequate	1/91	0 ft.	0 ft.	5	5	Requires SUP for 6+	6+	SUP	6+	SUP		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Hoffman Estates	Adequate	Adopted	1000 ft.	1000 ft.	None	None		None	PA	None	PA		
Joliet	Adequate	Adopted	2500-1000 ft.	1000-500 ft.	3	6	SUP for 7-8 in R1-R2-R2A	16	Variance	16	SUP		
Kankakee	Adequate	Adopted	1000 ft.	1000 ft.	8	8		15	SUP	15	PA		
Lansing	Inadequate	Adopted	600 ft.	600 ft.	4	4	5-8 totally excluded	15	Excluded	15	5-10: PA; 11-15: SUP	L	
Lincolnshire	Adequate	Adopted	1000-1500 ft.	500-800 ft.	3	6	7-8 SUP	12	SUP	12	SUP	L	
Mascoutah	Adequate	Adopted	1000 ft.	1000 ft.	3	8		15	Excluded	15	SUP-MR1; PA MR2 & 3	L	
Maywood	Adequate	2/91	600 ft.	600 ft.	?	8		15	SUP	15	PA		
McCook	Adequate	Adopted	500 ft.	500 ft.	?	8		None	SUP	None	SUP		S
Moline	Adequate	Adopted	1000 ft.	1000 ft.	5	8		None	Excluded	None	SUP	L	
Morton Grove	Adequate	Adopted	990 ft.	660-330 ft.	3	9		None	SUP	None	SUP		
Mound City		No plan	ft.	ft.									
Mount Prospect	Adequate	Adopted	1000 ft.	1000 ft.	5	8		15	SUP	15	PA		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Mt. Vernon	Inadequate	Adopted	1000 ft.	1000 ft.	4	4	R1-excluded; R2-SUP	20	R1-excluded; R2-SUP	20	SUP	L	
Muddy	Adequate	Adopted	400 ft.	400 ft.	4	8		15	SUP	15	PA		
Naperville	Adequate	Adopted	0 ft.	0 ft.	2	None		None	P	None	P		
Naples		No plan	ft.	ft.									
National City	Adequate	Adopted	ft.	ft.									
Niles	Adequate	Adopted	1300 ft.	1000 ft.	3	8		16	SUP	16	SUP		
Normal	Inadequate	Unknown	0 ft.	0 ft.	SF-2; MF-4	3	>3 totally excluded	None	Excluded	None	R2-No,R3A-SUP,R3B-P	N	
Norridge	Adequate	Unknown	600 ft.	600 ft.	0	None		None	PA	None	PA		
North Chicago	Adequate	Adopted	1000 ft.	600 ft.	?	8		15	SUP	15	PA		
Northbrook	Inadequate	1/91	1500 ft.	1500 ft.	3	4		?	Excluded	?	SUP	N	
Oak Forest	Adequate	Adopted	1320 ft.	1000 ft.	4	8		15	SUP	15	8-10: PA; 11-15: SUP		
Oak Lawn	Adequate	Adopted	1200 ft.	1200 ft.	?	8		20	SUP	20	PA		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Oak Park	Adequate	3/91	1000 ft.	1000 ft.	4	6		15	SUP	15	SUP	L	
Orland Park	Adequate	Adopted	1000 ft.	600 ft.	5	8		12	SUP	15	SUP		
Palatine	Adequate	Adopted	1000 ft.	1300 ft.	3	8		None	SUP	None	SUP		
Park City		No plan	ft.	ft.									
Park Forest	Adequate	Adopted	1200 ft.	600 ft.	3	8		None	SUP as nursing home	None	SUP as nursing home	L	L
Park Ridge	Adequate	Adopted	1320 ft.	1320 ft.	5	None		None	PA	None	PA	L	
Pekin	Adequate	Adopted	850 ft.	400 ft.	3	None		None	PA	None	PA		
Peoria	Adequate	Adopted	300 ft.	300 ft.	3	8		15	SUP	15	SUP		
Peoria Heights	Inadequate	Unknown	? ft.	? ft.	5	5	6-8 excluded	None	Excluded	None	Excluded		
Peru		No plan	ft.	ft.									
Quincy	Adequate	Unknown	0 ft.	0 ft.	3	4	5-8 SUP	None	SUP; excluded NR-1	None	SUP		
Rantoul	Adequate	1/91	500 ft.	500 ft.	?	8		15	SUP	15	SUP		
Rock Island	Adequate	Adopted	1000 ft.	1000 ft.	5	None		None	PA	None	PA		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Rockdale	Inadequate	12/90	1000 ft.	1000 ft.		8		15	SUP	15	SUP	L	
Rolling Meadows	Adequate	Unknown	1000 ft.	1000 ft.	4	8		None	SUP	None	SUP	N	
Rosemont	Adequate	Adopted	1000 ft.	600 ft.	5	9		10-15	SUP	10-15	PA	L	
Sauget		No plan	ft.	ft.									
Schaumburg	Inadequate	Unknown	0 ft.	0 ft.	3	3	>3 SUP	None	SUP	None	SUP		
Sesser	Adequate	Adopted	600 ft.	600 ft.	?	8		None	SUP	None	SUP		
Skokie	Adequate	Adopted	600 ft.	300 ft.	?	None		None	PA	None	PA	L	
South Barrington	Adequate	1/91	2500 ft.	2500 ft.	?	8		15	SUP	None	No MF zones	L	
South Holland	Inadequate	12/90	1360 ft.	1360 ft.	4	4	>4 SUP	15	SUP	15	SUP	L	
Springfield	Adequate	Adopted	600 ft.	600 ft.	5	8		15	PA	15	PA		
Standard		No plan	ft.	ft.									
Stickney	Adequate	Unknown	600 ft.	600 ft.	?	8		None	SUP	None	SUP		
Stone Park	Adequate	Adopted	None ft.	None ft.	No limit	None		None	P	None	P		

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Home Rule Municipality	Zoning for group homes is adequate or inadequate	Date of zoning amendment adoption	Spacing: Single-Family districts	Spacing: Multi-family districts	Family	Cap in SF zones	<=8 exclude from SF	Larger Group Homes in Single-Family Zones		Larger Group Homes in Multiple-Family Zones		SUP Back-up L=no license N=none at all	Other problems
								CAP	P, PA, or SUP	CAP	P, PA, or SUP		
Streamwood	Adequate	Adopted	1000 ft.	1000 ft.		6	7-8 SUP	12	SUP	12	SUP		
Thornton	Adequate	Adopted	1000 ft.	1000 ft.	5	8		15	SUP	15	SUP		
Tinley Park	Adequate	Adopted	800 ft.	600 ft.	4	None		None	PA	None	PA		
University Park		No plan	ft.	ft.									
Urbana	Inadequate	1/91	1500 ft.	1000 ft.	3	4	5-8 excluded R1; SUP R2	15	Excluded	15	PA	L	S
Watseka	Adequate	Adopted	0 ft.	0 ft.	No limit	None		None	P	None	P		
Waukegan		No plan	ft.	ft.									
Wheaton	Adequate	Adopted	700 - 500 ft.	500 ft.	4	8		15	SUP	15	SUP	N	
Wheeling	Adequate	1/2/91	0 ft.	0 ft.	4	8		15	SUP	15	SUP		
Wilmette	Inadequate	Adopted	1320 ft.	1320 ft.	3	5	6-8 excluded	5	Excluded	5	Excluded	N	L
Woodridge	Adequate	Adopted	None ft.	None ft.	3	12		12	P	12	P		

Number of cities that have adopted or set date for adopting actual zoning ordinance amendments: 110
Number of cities that changed plan/ordinance in response to IPCDD suggestions: 63
Number of cities that submitted a plan or zoning ordinance: 99

Sample IPCDD final plan review form

The Illinois Community Residence Location Planning Act requires the Illinois Planning Council on Developmental Disabilities (IPCDD) to assess the adequacy of the plans and zoning ordinances the act required to be submitted to the IPCDD by July 1, 1990. The IPCDD has continued to accept plans and zoning amendments submitted after the statutory deadline without any penalty. The assessment scoring described here is based on the current state of the law under the 1988 amendments to the federal Fair Housing Act. The scoring points were allocated so that plans would be found "inadequate" only if they contain sufficiently serious legal deficiencies based on our legal consultant's interpretation of current Fair Housing law regarding community residences (group homes). As a reading of the criteria below reveals, the scoring system was designed so that plans with only one or two minor deficiencies in gray areas would be found "adequate."

Those deficiencies indicated below apply to the plan or ordinance your municipality submitted to the IPCDD. The number of points assigned appear in the left margin. The publications referred to are: ***Community Residence Location Planning Act Compliance Guidebook*** distributed to home rule municpalities in May, 1990, and the ***Community Residence Location Planning Act Compliance News***, issues 1 and 2 mailed to home rule municpalities in June and August respectively. These were shipped to each home rule municipality's chief elected official, planning director, and municipal attorney. Additional copies are available free from the IPCDD.

Total Points ☐

A plan or zoning ordinance amendment that receives 20 or or more points, is considered "inadequate." A plan or ordinance found "inadequate" can be revised and made "adequate" by meeting the standards stated below.

___ **Limits on the number of residents in group homes that are permitted uses in single family zones.** While there is considerable doubt if a city can legally regulate the number of residents in a community residence through zoning, the Council wanted to be as flexible as possible to take into account any gray areas. No points were scored if the building code -- and not zoning -- sets the number of residents in group homes just as it does for conventional families, or if community residences for at least eight persons with disabilities plus support staff are a permitted use (with or without spacing and licensing requirements) in all residential districts. There is, however, no question that limiting the number of residents in group homes in single-family districts to the same number of unrelated people a city allows to live together under its zoning code definition of "family" is a violation of the Fair Housing Act. Such zoning warrants **20 points**. Treating as a permitted use group homes for more than the number of unrelated persons allowed under the city's definition of "family," but less than eight, warrants **10 points**. This is a slightly gray area, but municipal officials are cautioned that it is very possible that such a limitation may be found illegal if challenged in court. See the August 17 newsletter for a detailed discussion of these issues. If a municipality included resident staff in counting the number of residents in a community residence, it was assigned **7 points**. When state licensing sets the maximum number of residents, it counts only people with disabilities and not staff. Local building codes still limit the total number of residents.

___ Zoning that totally excludes community residences for at least eight residents plus support staff from any single-family zone (whether as a permitted use or even by special or conditional use permit) is not a gray area. It certainly violates the Fair Housing Act and warrants **20 points**.

___ There is little legal doubt that municipalities must at least provide the opportunity for larger community residences of more than eight plus support staff in all residential districts, although a special or conditional use permit may be required in single-family zones. However, it's a gray area when it comes to determining the maximum size of the larger homes in single-family and multiple-family zones. Illinois has several licensing programs that allow for as many as 15 residents (although few group homes are that large). Since this maximum size question is unsettled, points are assigned as follows: **15 points** if a city totally excludes community residences for more than eight residents plus support staff from all residential districts; **10 points** if group homes for more than eight plus support staff are excluded from at least one single-family district; **7 points** if homes for at least 15 are excluded from any single-family district but are allowed by special use permit or as of right in all other residential districts.

___ **Spacing requirements.** So far the courts have ruled that spacing distances can be required between community residences, although they have not validitated any specific distances. Out of court settlements have resulted in cities dropping their spacing distances greater than 1,000 feet. As the Planning Council's publications have explained, distances of up to 600 (length of a typical urban/suburbuan block) and as much as 1,000 feet can be factually supported. Distances between 1,000 and 1,320 feet are a slightly gray area since the leading court case in which a spacing distance of 1,320 feet was at issue was decided with the court ruling that spacing distances could be used, but refusing to rule on whether 1,320 feet itself was valid (***FamilyStyle*** -- see pages 33-34 of the compliance guidebook). In some cities with very large minimum lot sizes that result in very long blocks with relatively few houses on them, it could be argued that a spacing distance of more than 1,000 feet is reasonable for those blocks (albeit not in other districts with shorter blocks). If a plan established a spacing distance over 1,000 feet in some districts and less than 1,000 feet in others, it was assigned **7 points**. If spacing over 1,000 feet was required in all residential districts, **13 points** were assigned.

___ **Density limits.** There is little legal doubt that zoning cannot directly limit how many people with disabilities can live in a geographic area. For example, zoning or other local regulations that established a density limit on the number of people with disabilities living in community residences within a certain radius of an existing community residence warrant **20 points**.

___ **Insufficient information.** If a plan or ordinance called for the use of spacing distances and using zoning to limit the number of residents allowed in a community residence in single-family districts as a permitted use, but failed to specify the distances and the size of the zoning cap, the Council had no choice but assign the plan or ordinance **20 points** and find it "inadequate." Villages that submitted such plans have had nearly two months to fill in the blanks since the Planning Council's consultant sent them a letter in early August asking them to provide this essential missing information.

___ **Definition.** If a proposed definition of the population that can occupy community residences was narrower than the Fair Housing Act requires, the plan must be found "inadequate" and assigned **20 points**.

___ **Special use permit back-up.** As the Planning Council's publications have explained, the Foir Housing Act probably does not allow a municipality to totally exclude community residences that seek to locate within spacing distances between group homes. Such proposed group homes should be able to seek a special use permit where the burden is on the applicant to show that even though the home would locate within the spacing distance, its presence would not generate adverse impacts on the existing community residene or the surrounding neighborhood. Failure to include this provision warranted **7 points**. (To fully comply with the Fair Housing Act, zoning should also offer this special use back-up option for group homes for which the state does not require a license or certification. However, no points were assigned for not including this provision because the Illinois Community Residence Location Planning Act required cities to provide only for licensed community residences.)

___ **Local licensing.** If a locality requires a license for other types of residential uses as well as community residences, no points were assigned. However, there appears to be no legitimate government interest served if a town requires its own license for group homes already licensed or certified by the state. Since this is a slightly gray area, **7 to 10 points**, depending on the degree to which the licensing appears to be discriminatory, were assigned. A local license that requires a public hearing and has the effect of requiring a special use permit is clearly illegal and warranted **20 points**.

___ **Parking regulations.** Like other regulations of community residences, requirements for off-street parking must be based on fact and not unfounded myths or misconceptions about people with disabilities. Since community residence residents rarely, if ever, have access to a car or drive, any parking regulations that differ from those for similar structures in the zoning district, should be based on parking needs generated by staff, not group home residents. Requirements for off-street parking that can not be rationally justified were assigned **7 points**.

___ **Other difficulties.** Zoning provisions that include discriminatory criteria for issuing certificates of occupancy or special use permits received from **7 to 10 points** depending on the degree to which these provisions discriminated. These included requirements for information on the operator's finances and insurance which are not required of applicants to establish other residential uses.

Citations of statewide zoning laws for group homes

Note that many of these state laws need to be reviewed to determine whether they comply with the 1988 amendments to the national Fair Housing Act.

State	Statutory Citation
Alabama	Act 86-430, 4/29/86
Arizona	Title 36, Chapter 5,2 Revised Statutes
Arkansas	Act 611, Laws of 1987 (4/4/87)
California	Welfare and Institution Code ¶¶5115-5116
Colorado	Revised Statutes ¶30-28-115, ¶27-10.5-133
Connecticut	Chapter 124 Sect. 8-3e, Connecticut Code
Delaware	Chapter 390, Laws of 1979, amending Title 9, Chapts. 26, 49, 68, and Title 3, Chap.3, Delaware Code
District of Columbia	Zoning Commission Regulations, 7/9/81, pursuant to D.C. Code Sect. 5-413, et seq.
Florida	HB 1269, Laws of 1989: Sect. 163, ¶3177(6)(f), Florida Statutes
Hawaii	Chapter 46, Hawaii Rev. Stat., 1982 Supplement
Idaho	Chapter 65, Title 67, Sections 6530-6532
Indiana	Section 16-10-2.1, Indiana Code
Iowa	Chapters 358A.25 and 414.22, Code of 1983
Kansas	HB 2063, 7/1/88
Kentucky	HB 294, 1990; Kentucky Revised Statutes 100
Louisiana	Chapter 4, Title 28, Sections 381, 475-478 Revised Statutes
Maine	Chapter 640, Laws of 1982
Maryland	Art. 50A, Ann. Code, 1977 Replacement Vol. and 1977 Supplement
Michigan	Public Act Numbers 394-396 Public Acts of 1976 (1/3/77)
Minnesota	Chapter 60 ¶11.2702
Missouri	Section 89.020, Missouri Revised Statutes, 1978
Montana	Revised Code ¶11.2702
Nebraska	Section 18-1744-47, Revised Statutes, 1980 Supplement
Nevada	Chapter 154, Laws of 1981
New Jersey	Chapter 159, ¶40:55D, Laws of 1978
New Mexico	House Bill 472 (4/7/77)
New York	Chapter 468, Sect. 41.34, Laws of 1978
North Carolina	Chapter 168 of General Statutes, as amended by Senate Bill 439, 1981 Session (6/12/81)
North Dakota	Chapter 26-16-14, N.D. Century Code
Ohio	Senate Bill 71 (8/1/77)
Oklahoma	Title 60, Sections 860-865, Oklahoma Statutes
Oregon	House Bill 2289, 1989 New Laws, p. 1369
Rhode Island	Senate Bill 918 (5/13/77)
South Carolina	Section 1A of Act 653 of 1976, as added by Act 449 of 1978 (4/4/78) as amended 6/13/83
Tennessee	Senate Bill 894 and House Bill 777 (4/78)
Texas	Senate Bill 940 (6/85)
Utah	Sections 10-9-2.5 and 17-27-11.5, Utah Code Annotated 1953
Vermont	H. 698 (3/24/78) 24 V.S.A. 4409(d)
Virginia	Senate Bill 279, 1990 New Law, p. 1965
West Virginia	Chapter 8, Art. 24, Sect. 24-50b; and Chapter 27, Art. 17, Sect 2 Code, 1931, as amended
Wisconsin	Chapter 205, Laws of 1977 (3/28/77)

Impacts of group homes

In 1986, Planning/Communications completed an extensive study of the impacts of group homes for persons with developmental disabilities on residential property values, turnover, and safety in the neighborhoods that surrounded 14 group homes in a variety of Illinois municipalities. Reproduced here are the executive summary and findings of the study and its annotated bibliography of over 25 other studies.

The complete study, ***Impacts on the Surrounding Neighborhood of Group Homes for Persons with Developmental Disabilities*** (September 1986) is available free from the Illinois Planning Council on Developmental Disabilities.

Executive Summary

The Issue

As the nation continues to shift the care of persons with developmental disabilities to family-like settings in group homes located in our cities and villages, there are citizens who fear that group homes will adversely affect their neighborhoods. Most frequently voiced are concerns that a group home will reduce property values, upset neighborhood stability, and jeopardize safety in the surrounding neighborhood.

Most citizens are unaware that the findings of more than 20 studies conducted around the country show that these concerns are unfounded. (Appendix D lists the studies on property values and turnover.) Motivated by these fears, neighbors of proposed group homes have often opposed efforts to open group homes in the safe, residential neighborhoods in which they belong.

Because none of these studies examines the effects of group homes on Illinois communities, the Governor's Planning Council commissioned this study to:

① Determine what effect, if any, group homes for persons with developmental disabilities have on property values in the surrounding community in different types of municipalities;

② Determine what effect, if any, group homes for persons with developmental disabilities have on neighborhood stability in different types of municipalities; and

③ Determine what effect, if any, group homes for persons with developmental disabilities have on safety in the surrounding neighborhood.

Purpose of This Study

This study provides the concrete evidence local officials need at zoning hearings to identify the actual effects of group homes on the surrounding community. According to the United States Supreme Court, a municipality does not have to conduct its own studies of the impacts of a land use to arrive at conclusions or findings as to what that use's effects are. Instead, it can base its findings of the proposed land use's impacts on studies conducted in other communities. (See ***City of Renton v. Playtime Theatres, Inc.***, 106 S.Ct. 925 (1986).) Consequently, zoning boards can use this study's findings - and those of the other studies on the effects of group homes - to arrive at conclusions as to the impacts a proposed group home would have on the surrounding neighborhood.

Similarly, local officials can rely on these findings when they revise their zoning provisions for group homes to comply with the standards set by the Supreme Court that require governments to zone for group homes in a rational manner. (See ***City of Cleburne v. Cleburne Living Center***, 105 S.Ct. 3249 (1985).)

This study can also be used to fully inform the neighbors of a proposed group home what effects, if any, the proposed group home would actually have on their neighborhood. By presenting this information to prospective neighbors well before any zoning hearing, group home operators can alleviate concerns based on unfounded myths.

Findings and Conclusions

This study tracked the sales of 2261 residential properties in the immediate neighborhoods surrounding 14 group home sites and 14 control neighborhoods (each control neighborhood was similar to the corresponding group home neighborhood except there was no group home in the control neighborhood) to determine whether group homes for persons with developmental disabilities have any effect on the value of neighboring properties or on the rate at which properties are sold in the immediate neighborhood.

The data conclusively showed that:

❶ **Group homes do not affect the value of residential property in the surrounding neighborhood, and**

❷ **Group homes do not affect the stability of the surrounding neighborhood.**

This study also tracked, over a three year period, the activities of over 2200 persons with developmental disabilities who live in Illinois community residences, including group homes, to identify any criminal activities in which they may have participated.

This exhaustive survey of all operators of residences for persons with developmental disabilities conclusively found that:

The crime rate for persons with developmental disabilities who live in Illinois group homes is substantially lower than the crime rate for the general Illinois population. These group home residents pose no threat to safety in the neighborhood surrounding the group home.

This study's findings comport with those of more than 20 other studies of the impacts of group homes. Together they form one of the most exhaustive bodies of research on any specific land use. They offer sound evidence that group homes do not adversely affect the surrounding community.

Bibliography of studies on impacts of group homes on property values and turnover

I. Populations with developmental disabilities only

Studies that deal exclusively with group homes for developmentally disabled populations are:

D. Lauber, ***Impacts on the Surrounding Neighborhood of Group Homes for Persons With Developmental Disabilities***, (Governor's Planning Council on Developmental Disabilities, Springfield, Illinois, Sept. 1986) (found no effect on property value or turnover due to any of 14 group homes for up to eight residents; also found crime rate among group home residents to be a small fraction of crime rate for general population).

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 persons with mental disabilities; members of Decatur Board of Realtors report no effect on housing values or turnover).

II. Studies covering additional special populations

Several studies covered the effects of group homes for persons with developmental disabilities and for other special populations, as well as halfway houses and foster care homes (other populations studied appear in parentheses). Using the same types of research techniques employed in the first set of studies above, these all found that the group homes and other residential facilities they examined had no effect on property values or turnover.

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).

Metropolitan Human Services Commission, ***Group Homes and Property Values: A Second Look*** (Aug. 1980) (Columbus, Ohio) (halfway house for persons with mental illness; group homes for neglected, unruly male wards of the county, 12-18 years old).

Christopher Wagner and Christine Mitchell, ***Non-Effect of Group Homes on Neighboring Residential Property Values in Franklin County*** (Metropolitan Human Services Commission, Columbus, Ohio, Aug. 1979) (halfway house for persons with mental illness; group homes for neglected, unruly male wards of the county, 12-18 years old).

Tom Goodale and Sherry Wickware, ***Group Homes and Property Values in Residential Areas***, 19 Plan Canada 154-163 (June 1979) (group homes for children, prison pre-parolees).

City of Lansing Planning Department, ***Influence of Halfway Houses and Foster Care Facilities Upon Property Values*** (Lansing, Mich. Oct 1976) (adult ex-offenders, youth offenders, ex-alcoholics).

One study grouped residential homes for all populations together with nonresidential human service facilities (such as job counseling, nursing homes, adult education and day care, and drug detoxification services). Using this broader group of human service facilities, it found that in Oakland, California, these facilities for adults had an adverse effect on property values in the nonwhite housing submarket, but a positive effect in the white submarket. It found that these facilities for juveniles adversely affected property values in the white submarket, but had a positive effect in the nonwhite submarket. Stuart Gabriel and Jennifer Wolch, ***Spillover Effects of Human Service Facilities in a Racially Segmented Housing Market*** 19 (March 1983) (available from Wolch, University of Southern California, School of Urban and Regional Planning, Los Angeles). This study is unique, not only for its findings, but for its methodology of segmenting the housing market by race.

The authors' methodology is radically different from that of the other studies noted here. The other studies used a number of techniques which basically compared the sales prices (or a reasonable surrogate) for houses within a specific radius of a group home both before and after the group home opened. In addition, most of the other studies also compared these

figures to sales figures for control areas with relevant characteristics nearly identical to the areas surrounding the group homes under study, except that there was no group home in the control areas (the more vigorous studies used regression analysis to control for extraneous variables). Gabriel and Wolch did not make these kinds of comparisons. Instead they examined property sales at a single point in time. The value of their study is to show that there is a **possibility** that human service facilities may have different effects in white and nonwhite housing submarkets. But because the study mixes residential and nonresidential facilities, its application to the question at hand -- the effect of group homes on property values -- is highly problematic.

III. Studies not covering homes for persons with developmental disabilities

A third group of studies examined the effects of group homes and halfway houses only for populations that neighbors might view as more threatening than persons with developmental disabilities, such as prison pre-parolees, drug addicts, alcoholics, juvenile delinquents, and former mental patients. None of these studies could find any effect on property values or turnover.

Michael Dear and S. Martin Taylor, ***Not on Our Street*** 133-144 (1982) (group homes for persons with mental illness have no effect on property values or turnover).

John Boeckh, Michael Dear, and S. Martin Taylor, ***Property Values and Mental Health Facilities in Metropolitan Toronto***, 24 The Canadian Geographer 270 (Fall 1980) (residential mental health facilities have no effect on the volume of sales activities or property values; distance from the facility and type of facility had no significant effect on price).

Michael Dear, ***Impact of Mental Health Facilities on Property Values***, 13 Community Mental Health Journal 150 (1977) (persons with mental illness; found indeterminate impact on property values).

Stuart Breslow, ***The Effect of Siting Group Homes on the Surrounding Environs*** (1976) (unpublished) (although data limitations render his results inconclusive, the author suggests that communities can absorb a "limited" number of group homes without measurable effects on property values).

P. Magin, ***Market Study of Homes in the Area Surrounding 9525 Sheehan Road in Washington Township, Ohio*** (May 1975) (available from County Prosecutors Office, Dayton, Ohio).

Eric Knowles and Ronald Baba, ***The Social Impact of Group Homes: a study of small residential service programs in first residential areas*** (Green Bay, Wisc. Plan Commission June 1973) (disadvantaged children from urban areas, teen-age boys and girls under court commitment, infants and children with severe medical problems requiring nursing care, convicts in work release or study release programs).

For an updated bibliography of studies

Since this bibliography was prepared, at least another 15 studies have been published -- all finding that community residences have no effect on property values or any other aspect of the surrounding neighborhood. The Mental Health Law Project maintains an frequently updated annotated bibliography of these studies on the impacts of group homes and halfway houses. Write to the Mental Health Law Project, Suite 800, 2021 L Street, NW, Washington, DC 20036-4909 (phone: 202/467-5730) for a copy. For ten cents a page, the MHLP can send you a photocopy of any study it has.